

**MINUTES OF PUBLIC HEARING and REGULAR MEETING**

**January 14, 2020**

**MONTGOMERY CITY COUNCIL**

**CALL TO ORDER**

Mayor Sara Countryman declared a quorum was present and called the meeting to order at 6:01 p.m.

Present: Sara Countryman Mayor  
John Champagne, Jr. City Council Place # 2  
T.J. Wilkerson City Council Place # 3  
Rebecca Huss City Council Place # 4  
Tom Cronin City Council Place # 5

Absent: Jon Bickford City Council Place # 1

Also Present: Richard Tramm City Administrator  
Larry Foerster City Attorney  
Susan Hensley City Secretary

Mayor Countryman advised that Council Member Jon Bickford was on his way and would be running late.

**INVOCATION**

T.J. Wilkerson gave the Invocation.

**PLEDGE OF ALLEGIANCE TO FLAGS**

**PUBLIC HEARING(S):**

**Convene into Public Hearings for the purpose of giving all interested persons the right to appear and be heard regarding the following:**

1. **Convene into Public Hearing – Regarding the replat of Gulf Coast Estates Section Two, located at the end of Baja Street, as submitted by Walker Montgomery CDC. The replat would include the request for variances to allow flag lots and 31-foot minimum lot widths instead of the required 75-feet.**

Mayor Countryman convened into the Public Hearing at 6:03 p.m.

Mr. Tramm advised staff mailed out certified letters of notification of the public hearing to the property owners within 200-feet of this property.

Rebecca Huss asked Mr. Tramm for a recap of this item for the public. Mr. Tramm stated this was related to a property where there are three lots on Baja Street and they are trying to turn one large lot into two lots. Mr. Tramm said the reference to the 31-minimum frontage is to create a driveway space for two lots, it does not go all the way back, it widens as it goes back. Mr. Tramm said this will allow the larger lot to turn into two lots. Mr. Tramm said part of the reason for this action is most of the lot runs away from the road. Mr. Tramm said the property owner did approach an adjoining property owner to try and negotiate access from the back end of the lot to the road and the other property owner would not agree to access.

Rebecca Huss said this is a low-income housing project and the people working on the construction of the homes are unskilled workers learning trades. Mr. Tramm said that is the mission of the Walker Montgomery CDC.

T.J. Wilkerson asked if there was a starting price on the homes that they are going to construct. Mr. Tramm said he was not familiar with the price of the homes.

There were no other comments.

**Adjourn Public Hearing.**

Mayor Countryman adjourned the Public Hearing at 6:05 p.m.

**VISITOR/CITIZENS FORUM:**

Any citizen with business not scheduled on the agenda may speak to the City Council. Prior to speaking, each speaker must be recognized by the Mayor. Council may not discuss or take any action on an item, but may place the issue on a future agenda. The number of speakers along with the time allowed per speaker may be limited.

There were no comments made.

**CONSENT AGENDA:**

2. Matters related to the approval of minutes of the Public Hearings and Regular Meeting held on December 10, 2019.
3. Consideration and possible action regarding adoption of the Election Services Agreement by and between the City of Montgomery and Montgomery County Elections for the May 2, 2020 Election.
4. Consideration and possible action regarding adoption of the Joint Election Agreement by and between the City of Montgomery and Montgomery County Elections for the purpose of sharing jointly conducting elections to be held on May 2, 2020.

John Champagne moved to approve the Consent Agenda Items 2, 3 and 4 as presented. Tom Cronin seconded the motion, the motion carried unanimously. (4-0)

**CONSIDERATION AND POSSIBLE ACTION:**

5. Consideration and possible action regarding the replat of Gulf Coast Estates Section Two, located at the end of Baja Street, as submitted by Walker Montgomery CDC, which would include variances to allow flag lots and 31-foot minimum lot widths instead of the required 75-feet. (Tabled at the December 10, 2019 Meeting)

Mr. Tramm noted there were several exhibits with this item, including the City Engineer's letter offering no objections to the variances and felt it was not a detriment to the community. Mr. Tramm said the Planning and Zoning Commission Report of Findings is also included, which states they unanimously support the project. Mr. Tramm said there are also two drawings attached to the documents showing the current property without action and the other drawing shows the changes that will create driveway space with 31-feet on the front of the property. Mr. Tramm said this item has two primary considerations, 1) the variance request, if approved, the developer will need to proceed with the replat drawings; 2) if the variance requests are not approved, there will be no need for further action. Mr. Tramm said if City Council grants the variances, City Council can authorize staff to approve the replat drawings without them having to come back to City Council. Mr. Tramm advised if it were not for the variances, this plat would not have to come before City Council for action.

Mr. Tramm asked if the developer could respond to T.J. Wilkerson's question regarding the cost of the homes. Ms. Donna Glass, with Walker Montgomery CDC, advised the houses will run between \$110,000 and \$140,000 and they will stack assistance on them, which they have one with Easter Seals that gives you \$14,500 and then they get different agencies to stack on top of that.

Council Member Jon Bickford arrived at 6:10 p.m.

Ms. Glass advised these are low-income houses, with three bedrooms and two baths and said they were not making a lot of money on anything, they are practically breaking even and practically all of the money goes back into the projects to make more affordable housing. Ms. Glass said if the variances are granted, they will build four homes, and if not, there will only be three homes. T.J. Wilkerson asked if the homes would be brick or Hardie Plank. Ms. Glass said they would be Hardie Plank. Mayor Countryman confirmed the homes would be 100% Hardie Plank. Ms. Glass confirmed that they would be 100% Hardie Plank.

Rebecca Huss moved to accept the replat of the Gulf Coast Estates, Section Two, located at the end of Baja Street as submitted by Walker Montgomery CDC to include the variances for flag lots and 31-foot minimum lot width, instead of the 75-feet required, as well as approving staff approval for the replatted drawings. T.J. Wilkerson seconded the motion, the motion carried unanimously. (5-0)

6. Consideration and possible action regarding adoption of the following Ordinance:

AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS, PROVIDING FOR THE HOLDING OF A GENERAL ELECTION TO BE HELD ON MAY 2, 2020, FOR THE PURPOSE OF ELECTING A MAYOR AND TWO (2) CITY COUNCIL MEMBERS, PLACES 2 AND 4; APPROVING ELECTION SERVICE AGREEMENTS WITH MONTGOMERY COUNTY, TEXAS; AND PROVIDING DETAILS RELATING TO THE HOLDING OF SUCH ELECTION.

*Consideración y posible acción respecto a la adopción de la siguiente Ordenanza:*

UNA ORDENANZA DE LA CIUDAD DE MONTGOMERY, TEXAS, PROPORCIONANDO EL FINANCIAMIENTO PARA LLEVAR A CABO UNA ELECCIÓN GENERAL A REALIZARSE EL DÍA 2 DE MAYO DE 2020, CON EL PROPÓSITO DE ELEGIR A UN ALCALDE Y A DOS (2) MIEMBROS DEL CONCEJO MUNICIPAL, PUESTOS 2 Y 4; APROBAR ACUERDOS DEL SERVICIO DE ELECCIÓN CON EL CONDADO DE MONTGOMERY, TEXAS; Y PROPORCIONAR DETALLES EN RELACIÓN CON LA CELEBRACIÓN DE DICHA ELECCIÓN.

John Champagne moved to adopt the Ordinance calling the May 2, 2020, City General Election. Rebecca Huss seconded the motion.

Discussion: Rebecca Huss asked the City Secretary if she had somebody edit the Spanish translation. Ms. Hensley advised the language was prepared by a Certified Translator.

The motion carried unanimously. (5-0)

7. Consideration and possible action regarding appointment of the Montgomery EDC Board of Directors for a two-year term currently held by: Cheryl Fox, Bill Hanover and Tom Cronin.

Mayor Countryman asked Council Member Tom Cronin to recuse himself from this item because there is pending litigation with one of the candidates, and to be fair and show there is no bias, he might want to step aside.

Mr. Foerster said Tom Cronin is a candidate and if his name is under consideration, it would probably be prudent for him to step down for that one vote.

Tom Cronin asked what the pending litigation was. Mayor Countryman asked Mr. Cronin if he had pending litigation with any of the candidates. Tom Cronin said no he did not. Mayor Countryman asked if there were any lawsuits in general. Tom Cronin said not currently. Mayor Countryman said she understood that differently. Mr. Foerster said he was not aware of any litigation.

Ms. Wendi-Marie Hunter, Attorney with the Hopkins Law Firm, advised they are the attorneys that are representing Kristen Billingsley. Ms. Hunter stated there is pending litigation with Tom Cronin, and that he just has not been served with process at this time. Ms. Hunter said there is a case filed with Montgomery County. Ms. Hunter said she feels that Tom Cronin absolutely needs to abstain for there to be all fairness. Ms. Hunter said there has been an ongoing issue both ways. Ms. Hunter said Tom Cronin has an issue and has hired an attorney, but has not filed suit, but has apparently accelerated on his end of it. Ms. Hunter said they have filed suit on the case.

Mayor Countryman asked for assistance from the City Attorney because she does see the application for consideration from Kristen Billingsley. Mr. Foerster asked if Ms. Billingsley was the plaintiff. Ms. Hunter advised that Ms. Billingsley was her client and the plaintiff in the pending lawsuit. Mr. Foerster asked to confirm that Ms. Billingsley is an applicant for a position on the MEDC Board. Ms. Hunter said that was correct. Mr. Foerster said he would think under those circumstances it would be his recommendation for Tom Cronin to step down with regard to this

issue only. Tom Cronin said he has not been served. Mr. Foerster said they are on notice that he is going to be served. Ms. Hunter advised that Tom Cronin has been in contact with them on multiple occasions. Mr. Foerster said under the circumstances his recommendation to the Mayor and City Council would be for Tom Cronin to recuse himself only with regard to this MEDC selection.

Mayor Countryman asked if they were doing places or all three seats in totality. Mr. Foerster said that is a process City Council can decide, they can make three nominations of positions, or they can do them as they choose. Rebecca Huss said there are two separate types because somebody must be from the governing body, so that must be done separately. Rebecca Huss said they want Tom Cronin to step down from consideration of his position, but there is the consideration of the other two positions. Mr. Foerster said he was not saying that Tom Cronin must step down as a candidate. Mr. Foerster said City Council will have to choose who they want to serve on the MEDC Board from City Council. Ms. Hunter said she was only asking for abstention with respect to Ms. Billingsley specifically, nothing else.

Mr. Foerster said his suggestion to the Mayor and City Council would be to proceed with the other two vacancies and then a separate discussion on the selection for the member on City Council, with regard to the two vacancies, he asked how Tom Cronin felt about stepping down, stating there was nothing in Chapter 171 or 176 of the Local Government Code that addresses this particular issue, but it would be his recommendation that he simply choose not to participate in the selection of the other two candidates. Tom Cronin said he had no problem doing that. Tom Cronin asked about him completing his term on the MEDC Board. Mr. Foerster said Tom Cronin was certainly qualified to do that. Rebecca Huss said City Council can reappoint Tom Cronin or not, but the terms for the three positions are up as of December 2019, and if he gets reappointed his term would start up again.

Jon Bickford said there are no other candidates from City Council, and they are required to have at least one member from City Council on the MEDC Board. Tom Cronin said he was not sure what he was having to abstain from. John Champagne said the only thing that Tom Cronin is abstaining from, at his choice, is not to evaluate Ms. Billingsley. Mayor Countryman said he is also needing to abstain from discussion of the other candidates as well. John Champagne asked why he had to abstain from the discussion. Mayor Countryman said because it is in totality that they vote. John Champagne asked to confirm that Mr. Foerster has suggested that Tom Cronin recuse himself from the evaluation of the individual that has pending litigation. Mr. Foerster said that is correct.

Rebecca Huss said she thought it was for the whole discussion. Mr. Foerster said there is a pool of candidates for two positions, and it would be his recommendation, and he thinks that Tom Cronin has agreed to do this, is to simply step down from participating or recuse himself from participating in the selection of those two candidates, except in part from his willingness to serve on the MEDC. John Champagne said he did not understand why he must do that. Mr. Foerster said it was because of the appearance of bias. John Champagne asked how that bias transfers to another person, which is what he is missing, and how does the potential bias for this individual transfer to another person. John Champagne asked why there would be another bias from Tom Cronin to another person that is being suggested. Mr. Foerster said that is a decision this City Council must determine. Mr. Foerster said from what he is understanding, Tom Cronin is willing to step down. Tom Cronin asked in what regard is he stepping down. Mr. Foerster said regarding the selection of the other two individuals for the MEDC Board.

Jon Bickford said there is one spot that needs to be covered by a City Council member, so as far as he is concerned there is one spot left. Rebecca Huss said there are two spots remaining. Jon Bickford said there are three positions and they have six candidates. Jon Bickford said he thinks the concern is Tom Cronin might choose not to support somebody, and it could be perceived that Tom Cronin might not support one candidate over someone else because of a pending issue. John Champagne said Tom Cronin has potential litigation with one person who is running for one of the two positions. Mayor Countryman said Ms. Billingsley is not up for one specific spot, she is up for the two spots, which is the discussion in totality. Mayor Countryman said it is common practice that City Council members recuse themselves, especially if it can impact us directly and there is a relationship or pending event. Rebecca Huss said this City Council has been very careful about that, such as when T.J. Wilkerson recused himself when they voted for tax abatements for over 65, even though that had a much wider pool and the benefits were quite small, and she did it for the VA benefits and Jon Bickford was always very open about Dana Bickford's participation regarding Fernland. Rebecca Huss said they have always been very careful to be more open and more cautious than maybe other bodies have been.

Mr. Foerster said he wanted to clarify that he was not saying that if Tom Cronin were to vote it would be illegal, what he is saying is it would avoid the appearance of impropriety, which is something that he thinks Tom and everyone else on the City Council is sensitive to, which is what Rebecca Huss was stating. Rebecca Huss said Tom, to be completely fair, has been the first one to say he doesn't need to vote for Item 7. Tom Cronin asked if he was being asked to recuse from both the discussion and participation for Item 7. Mr. Foerster said yes it would be both. Tom

Cronin said he had no problem doing that if he was not eliminating himself from consideration for the position on the MEDC Board. Mr. Foerster said he would like a formal vote on that matter.

Mayor Countryman stated there are three seats available, with Tom Cronin remaining in his seat on the Board and the other two seats available, and they have several candidates that are viable for those two seats.

Mr. Foerster asked that City Council go ahead and vote on the City Council position on the MEDC Board.

Rebecca Huss moved to reappoint Tom Cronin to the position held by the member from the Governing Body. Jon Bickford seconded the motion, the motion carried (4-0), with Tom Cronin abstaining from voting.

Rebecca Huss said for the other two positions for years they have talked about how they wished they would have candidates that were in the City limits so that we would have the opportunity to have decisions on tax dollars allocated or spent by people who lived in the City limits. Rebecca Huss said she was happy with the four candidates they have for the two remaining spots who live within the City limits and are small business owners and excellent candidates.

Jon Bickford moved to nominate Arnette Easley for a position on the MEDC Board. John Champagne seconded the motion, the motion carried (4-0), with Tom Cronin abstaining from voting.

Rebecca Huss said the remaining three City residents are Cheryl Fox, Dan Walker, and Kristen Billingsley. Rebecca Huss said Cheryl Fox is a long-time resident and small business owner who has served on the MEDC Board for a long time. Rebecca Huss said Kristen Billingsley is a newer resident with experience in heavy industry and has a small business, and Dan Walker has a variety of experience particularly in development, which is something the MEDC needs experience in. Rebecca Huss said all of them would be excellent candidates.

Jon Bickford moved to nominate Dan Walker for the third position. Rebecca Huss seconded the motion, the motion carried with 3-Aye votes and 1-Nay vote by T.J. Wilkerson (3-1). Tom Cronin abstained from voting.



8. Consideration and possible action regarding appointment of the Planning and Zoning Commission Board Members for a two-year term currently held by: Place 1 – Arnette Easley, Place 3 – Carol Langley and Place 5 – Jeffrey Waddell.

Rebecca Huss stated that Arnette Easley is now on the MEDC Board of Directors and he can't serve on both. Rebecca Huss asked if anyone had looked at Britnee Ghutzman's application because she has incredible experience and is a relatively new resident to the City.

Rebecca Huss nominated Britnee Ghutzman for Place 1 on the Planning and Zoning Commission. John Champagne seconded the motion, the motion carried unanimously. (5-0)

T.J. Wilkerson nominated Carol Langley for Place 3 on the Planning and Zoning Commission. Rebecca Huss seconded the motion, the motion carried unanimously. (5-0)

Jon Bickford nominated Jeffrey Waddell for Place 5 on the Planning and Zoning Commission. John Champagne seconded the motion, the motion carried unanimously. (5-0)

**EXECUTIVE SESSION:**

The City Council reserves the right to discuss any of the items listed specifically under this heading or for any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding real property), 551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Government Code of the State of Texas.

9. Adjourn into Closed Executive Session as authorized by the Texas Open Meetings Act, Chapter 551 of the Government Code, in accordance with the authority contained in the following:
  - a) Section 551.071 (consultation with attorney); and
  - b) Section 551.072 (deliberation regarding real property).

Mayor Countryman adjourned into Closed Executive Session at 6:37 p.m.  
Reconvene into Open Session.

Mayor Countryman reconvened into Open Session at 7:02 p.m.

**POSSIBLE ACTION FROM EXECUTIVE SESSION:**

10. Consideration and possible action(s), if necessary, on matter(s) deliberated in Closed Executive Session.

No action was taken.

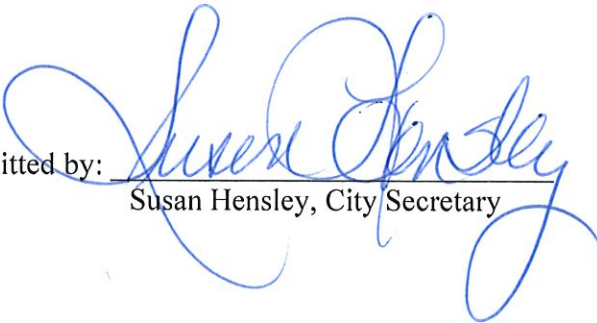
**COUNCIL INQUIRY:**

Pursuant to Texas Government Code Sect. 551.042 the Mayor and Council Members may inquire about a subject not specifically listed on this Agenda. Responses are limited to recitation of existing policy or a statement of specific factual information given in response to the inquiry. Any deliberation or decision shall be limited to a proposal to place on the agenda of a future meeting.


No comments were made.

**ADJOURNMENT**

Rebecca Huss moved to adjourn the meeting at 7:02 p.m. T.J. Wilkerson seconded the motion, the motion carried unanimously. (5-0)

Submitted by:   
Susan Hensley, City Secretary

Date Approved: 01/28/20

  
Mayor Sara Countryman

