

MINUTES OF REGULAR MEETING

February 25, 2020

MONTGOMERY CITY COUNCIL

CALL TO ORDER

Mayor Sara Countryman declared a quorum was present and called the meeting to order at 6:00 p.m.

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

Absent: John Champagne, Jr. City Council Place # 2
Vacant City Council Place #1

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

INVOCATION

T.J. Wilkerson gave the Invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

Mr. Christopher Ward, with Boy Scout Troop 161 of Willis, led the Pledge of Allegiance to the Flags.

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. City 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.

Mr. Ward advised he was participating in the meeting as part of earning his community badge and becoming an Eagle Scout. Mr. Ward said he had lived in Willis and moved to Montgomery about a year ago, though

he decided to stay with his Troop in Willis and continue with earning his badge. Mayor Countryman asked if this was his first City Council Meeting. Mr. Ward said it was his first Council Meeting in Montgomery. Mayor Countryman welcomed Mr. Ward to the meeting.

CONSENT AGENDA:

1. Matters related to the approval of minutes of the Regular Meeting held on February 11, 2020.
2. Consideration and possible action regarding Certificate of Acceptance for the FEMA Atkins Creek Water, Sanitary Sewer, and Storm Sewer Repairs Project.

Tom Cronin moved to accept the Consent Agenda as presented. Rebecca Huss seconded the motion.

Discussion: Rebecca Huss thanked the City Secretary for the thoroughness of the minutes, stating she thought it captured particularly the discussion on the MUD issue, which they will probably circle back to at some point so it will be nice to have that so well represented.

The motion carried unanimously. (3-0)

CONSIDERATION AND POSSIBLE ACTION:

3. Consideration and possible action on Department Reports.
 - A. Administrator's Report – Mr. Tramm presented his report to City Council, stating that due to the amount of work on the agenda, he has asked all the Department Heads to keep their reports brief, but if City Council has questions they are available to answer them. Mr. Tramm advised they will have the active shooter training for City staff at 9 a.m. tomorrow, stating that City Council is more than welcome to attend. Mr. Tramm also noted the annual audit is nearing completion, but it was not done in time for this meeting. Mr. Tramm said he is expecting to present the audit at the next meeting. Mr. Tramm said Saturday, March 21, 2020, the City is asking residents and businesses to display the Texas Flag because the City is trying to challenge the Spirit of Texas Bank for the second year. Mayor Countryman said the flags are being sold at City Hall. Mr. Tramm said they have several boxes of flags and they are selling them for \$5.00 each.

Rebecca Huss asked about the audit, and whether they were still adhering to the schedule that was set out because the City's bond rating is very important to us. Rebecca Huss said

providing a timely unqualified audit, with no issues, is an important component of keeping the City's bond rating. Mr. Tramm said it is his understanding that they are on schedule at this point but said he would be having that conversation with the auditor. Mr. Tramm said there were no significant items that have been brought to his attention. Rebecca Huss said there are no items because there are no issues, but the overall market relies on the audit and the timeliness of the audit is very important. Mr. Tramm said he understood.

- B. Public Works Report – Mr. Mike Muckleroy presented his report to City Council, with no additional comments.

- C. Police Department Report – Police Chief Solomon presented his report to City Council. Mayor Countryman said she had received a text today from a citizen curious about patrol on SH 105 in the 35 miles per hour zone, and said they feel it is not being adhered to. Mayor Countryman said she sees officers at that location often but said if they can, put a little bit more attention there. Mayor Countryman said she also received a telephone call from a citizen about Lone Star Bend and it seems we are having high school students speeding. Chief Solomon said it is interesting that Mayor Countryman mentioned both of those areas because he had a citizen call today about a citation that they received in the SH 105 area going 58-60 miles an hour in the 35 miles per hour zone. Chief Solomon said Sergeant Hernandez's job is to do traffic initiatives, and those are the areas that he is working on. Mayor Countryman said the officers are doing an excellent job. Mayor Countryman said she did want to speak to Mr. Muckleroy about doing speed humps or something around Lone Star Bend if the Chief thinks that would be something they could consider. Chief Solomon said he did not think speed humps were the answer and asked the Mayor to give them a chance to be out there and work the area to see if it works.

- D. Court Department Report – Mrs. Kimberly Duckett, Court Administrator, presented her report to City Council. Mrs. Duckett advised they had 184 cases with \$23,063.40 in collections.

John Champagne arrived at the meeting at 6:09 p.m.

- E. Utility/Development Report – Mr. Tramm presented the Utility/Development Report to City Council. Mr. Tramm said they have done some minor category changes to the report to provide a better explanation, so they have less miscellaneous items. Mr. Tramm said

one of the larger items that had been previously included in the miscellaneous category was escrow agreement funds. Mr. Tramm said when the escrow payments come in, they can be \$5,000 or more dollars, so that made the miscellaneous figure look unusually high. Mr. Tramm said for this month there were no escrow account payments.

Rebecca Huss asked what reimbursements included. Mr. Tramm said reimbursements are when an employee had to provide payment back to the City, such as an employee that was out for workers comp who had to pay child support and possibly health insurance coverage.

Mr. Tramm said under the arrear's category, the number of accounts in the 60-day range is growing because they have discovered, with the new utility clerk, there were some issues with those accounts. Mr. Tramm said while the number of accounts grew, the dollar amount associated with them did not and they are getting those items cleared up. Mr. Tramm said he thought both numbers will go down. Mr. Tramm said there were some accounts that had been allowed to collect fees even though there was no service being provided, so those are in the process of getting cleared up. Mr. Tramm said under the 120+Days category, he has received guidance from the auditor and when they finish the audit, they will be finishing this, which will show up in the March Report.

Rebecca Huss asked if Mr. Tramm would discuss the 200+ late notices sent out even though we knew that we were not getting mail. Mr. Tramm said the primary issue they had was the Post Office getting all the City's mail forwarded. Mr. Tramm said they have requested that the utility billing go out and reflect the new mailing address for the City. Mr. Tramm said before they forwarded the mail from the Post Office Box to City Hall, we were assured by the Post Office that this would be a seamless process. Mr. Tramm said after they had the mail switched to the new address, it has worked out to be far less seamless than it should have been. Mr. Tramm said they have been telling people as we have talked to them, if they mailed their payment and it just has not gotten to the City through no fault of their own, the City will be waiving the late charges. Rebecca Huss said it seems like 200 late notices are such a large number of late notices compared to our outstanding collections normally, and why did those notices even go out, why did we waste the stamps. Mayor Countryman asked if they were automatic, or how does the City not know they are doing 200 late notices. Mr. Tramm said that it is an automated process and they also have a new clerk, so it might have been they just did not have the education curve on that. Mr. Tramm said he would take the hit on that.

Tom Cronin asked about the Community Building and if Mr. Tramm had noticed a decline in free rentals since the City started charging everyone for use of the facility. Mr. Tramm said they have had some requests for discounting the use fee, which they have declined and said he felt they have had less actual requests, while they still have some groups they are still working with that have been there in the past and they understand there is a new policy. Mr. Tramm said now that they have taken on Cedar Brake Park, they are seeing those rentals.

Mayor Countryman commented that she has received compliments on the new person at the Utility window.

F. Water Report – Mr. Michael Williams, with Gulf Utility Service, Inc., presented his report to City Council. Mr. Williams said the water accountability was still at 96% and all the plants were in compliance. Rebecca Huss said she thought that was from 2019 year-to-date, and we are in 2020. Mr. Williams said that was correct, the permit was for the calendar year of 2019 and 2020 starts a new permit. Mr. Williams said that was requested by City Council to see how we did on the permit over the course of the year and then they can use that information for 2020. Rebecca Huss said they could have looked at it in December and found that information, but they will just have it here as a marker. Mr. Williams said that was correct.

G. Financial Report and Sales Tax Report – Mr. Tramm advised that Mrs. Cathy Branco, Financial Consultant with Municipal Accounts would be presenting the Financial Report. Mr. Tramm said Mrs. Branco has been working on the City's financial items for roughly 15-years and she is retiring from Municipal Accounts, so she wanted the opportunity to address City Council.

Mrs. Branco said she had a couple of items to bring to City Council's attention. Mrs. Branco said a CD came due on February 1, 2020, and that CD was reinvested at Third Coast Bank at 1.8% and will come due on July 30, 2020. Mrs. Branco said the debt service is due on March 1, 2020, and those payments that are due will be transferred to the checking account tomorrow and those payments will go out no later than Friday morning, which she will have signed and ready to go.

Mrs. Branco said she wanted to tell City Council that she has enjoyed working with all of them and it has been a fun trip, adding that she wished she did not have to leave, but it is that time. Mrs. Branco said she has a bucket list and she is trying to find something that both she and her husband can do because her husband is a disabled veteran so she wants to make sure it is something that he will be comfortable and not have to walk too much. Mrs. Branco said she is thinking about doing a train trip.

Mayor Countryman thanked Mrs. Branco for her service. Rebecca Huss thanked Mrs. Branco and said she had taken the City through some tough times when the finances were not always so rosy and said she has been a steady rock through some really tough times. Rebecca Huss said she appreciated Mrs. Branco's professionalism and dedication to the City, not just as a third party, but as a member of our community. Mrs. Branco thanked everyone and said Montgomery has been a wonderful family that has taken good care of her.

John Champagne asked about the year-to-date budget on sales tax and actual, on page 10 of the report, page 69 of the agenda pack. John Champagne said he wanted a brief explanation on a disparity. Mr. Tramm said he could not specifically give an answer without looking at the information. John Champagne said he was not causing any alarm; it is just there is a reason. Rebecca Huss said January is not a quarterly reporting period for the grocery stores, which are big, and the \$733,000 is the total amount of the quarter percent of sales tax in lieu of ad valorem tax, so for whatever reason, they are not including that part and has not been allocated in there. John Champagne said ad valorem was accounted for above that figure. Rebecca Huss said correct, but that was the extra ¼ percent of the sales tax, and she does not know why that is not in there. John Champagne said what he was hearing is we have a disparity of \$733,000 because of grocery stores. Rebecca Huss said no, what she was saying is they should have 1/4 percent of the sales tax that is either included in line item 14600 or it is just not included at all, so they either have a discrepancy of \$640,221.22 or just the \$92,788.78 that could be a quarterly reporting problem. John Champagne asked Mr. Tramm to provide an email later in the week with the explanation. Mr. Tramm said he would get with the Financial Consultant and get a better answer for City Council.

Mr. Tramm said with Mrs. Branco leaving, the City's contractor Municipal Accounts is working with us to provide another person to transition over. Mr. Tramm advised they are

also bringing on as of March 16, 2020, a financial professional on staff to take over the bulk of the work, and they will start transitioning to have less done by Municipal Accounts. Mr. Tramm said he was not sure exactly where that would end, but Municipal Accounts is aware that is going to happen.

Mr. Tramm said the Sales Tax Report was not available when the agenda packs went out, but they received the report yesterday, so it has been provided.

- H. Engineer's Report – Mr. Chris Roznovsky, City Engineer, presented his report to City Council. Mr. Roznovsky advised the two Baja Projects are finally complete as far as what was in the grant. Mr. Roznovsky said he has gotten the initial pricing for where Baja and MLK meet to fill in the corner, so it will be flat versus having the steep drop off there at the corner. Mr. Roznovsky said they did receive the pricing for closing out the timeline on the grant part of it, and then getting back out there. Mayor Countryman asked if the berm down Baja was going to happen as well. Mr. Roznovsky said it is the same as the other one. Mayor Countryman said she wanted to make sure that it did not get left off. Mr. Roznovsky said the bulk of the work is done, with those items still outstanding so they are working on the final closeout documents for the grant.

Mr. Roznovsky said the Downtown Waterline Replacement Project is currently bidding and they held a pre-bid meeting this morning. Mr. Roznovsky said the bids will be received on March 16th, so they will be presented at the second meeting in March.

Mr. Roznovsky said they have received the comments from the Water Development Board regarding the Water Plant Improvements. Mr. Roznovsky said the TORC has reviewed the information and they will be meeting next week to go through the comments.

Mr. Roznovsky said the Sanitary Sewer Lift Station Replacement Project is approximately 78% complete by time and 34% complete by value as of January 27, 2020, and they have a contract end date of March 7, 2020, so they will be late and they don't expect to be substantially complete until May 2020. Mr. Roznovsky said the whole City is currently on bypass, which it has been since this started, and is designed to handle everything in the City, so this does not affect the ability to develop.

Mr. Roznovsky said they have one new development, which is Starbucks, who is coming into The Shoppes Center, where they will have CVS, Chick-Fil-A, a retail center and Starbucks.

Mr. Roznovsky said Emma's Way had their one-year warranty inspection this past month and they are going to get their punch list items addressed. Mr. Roznovsky said the Hills of Town Creek, Section 3 and Emma's Way are two separate projects, so this project covers from Emma's Way where it ended to the new ending and a sewer line that wraps all the way around. Mr. Roznovsky said they also had the bridge waterline one-year warranty inspection, where no punch list items were found.

Mr. Roznovsky said the turn lane on SH 105, TxDOT has stated they received the appraisal and they are reviewing the appraisal and preparing the legal documents. John Champagne asked who they received the appraisal from. Mr. Roznovsky said TxDOT hired an appraiser to provide an appraisal for TxDOT of that corner piece that the City wants to donate.

Rebecca Huss said, as a note, regarding the financials, the MEDC Budget that is only sales tax, is running \$40,000 over budget and the sales tax assumptions for MEDC are driven completely by the City's sales tax assumptions. Rebecca Huss said MEDC is over budget on a simple one-line item, then the City sales tax number should not be under budget by a large number. Rebecca Huss said there is something missing in the City sales tax number. John Champagne asked when Rebecca Huss says over budget, does that mean they have a surplus. Rebecca Huss said that is correct, instead of the budget being \$194,500, which is what the original assumption was, MEDC is at \$234,867. John Champagne asked if they were over budget in revenue. Rebecca Huss said that was correct. Rebecca Huss said MEDC's revenue is the exact same sales tax that is calculated for the City. Mr. Tramm said he will go over with Mrs. Branco regarding that information because it certainly seems like something is missing.

Rebecca Huss moved to approve the Departmental Reports as presented. Tom Cronin seconded the motion, the motion carried unanimously. (4-0)

4. Consideration and possible action regarding the award of the Contract for IT Provider Services for the City of Montgomery and authorize the City Administrator to execute the contract.

Mr. Tramm advised the City sent out RFP's for IT Services, which four responses were received, while they did have one company that came out to tour the property chose not to submit a proposal. Mr. Tramm advised a staff committee consisting of the City Administrator, Assistant City Administrator, and City Secretary reviewed the submissions. Mr. Tramm said the review included their base service, response times, staff sizing, ability to properly handle the City's software and hardware needs and rates for included services and hourly services. Mr. Tramm said in looking at the billing done by the outgoing IT Provider, it was their determination, as a collective group, that Optimum Computer Solutions, Inc. was the best match for the City's needs for IT Services.

John Champagne asked about the group that came out and assessed visually and chose not to submit a bid and asked if they said why. Mr. Tramm said they stated they did not feel they had the experience with the criminal justice software, which was the reason they choose not to bid. Mr. Tramm said there are separate servers for City and Police. Mr. Tramm said he did respect them for choosing not to submit a bid. Rebecca Huss asked if there are any services being provided that the City did not previously have. Mr. Tramm said Optimum pulls all their services into their base rate, which we were paying hourly. Mr. Tramm said with GTIN they could pay up to \$500 for a new computer set up. Mayor Countryman asked if anyone has had any experience with Optimum or if they talked to any other municipalities that had worked with them. Mr. Tramm said the City Secretary has had some direct experience with Optimum. Mayor Countryman said she was assuming that feedback was positive. Mr. Tramm said yes.

John Champagne moved to authorize the City Administrator to execute an IT Service Agreement with Optimum Computer Services LLC. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

5. Consideration and possible action regarding requesting an opinion from the Planning and Zoning Commission and City Engineer for the following variance requests to the Subdivision Ordinance for the proposed West Lakes residential development along Old Dobbin-Plantersville Road, in the City's ETJ, as submitted by Promocon USA, LLC:
 - a. a lot width variance request of 50-feet instead of the required 75-feet; and
 - b. a minimum lot size of 6,000 square feet instead of the required 9,000 square feet.

Mr. Tramm said there are two separate items there, one is the lot width variance and lot size. Mr. Tramm said with variance requests to the Subdivision Ordinance there is no public hearing required. Mr. Tramm said he could review the lengthy description if City Council so chooses.

Rebecca Huss said what they did not include was the fact that we have discussed this in the past, and the City Engineer provided information on this and we discussed at length the issues involved with not being the providers of water to residents of the City that we were responsible for in all other respects and morally. Rebecca Huss said she has serious qualms about the issue and she is not comfortable, and with all of these variances aside, to her, the most important issue is she is not going to be comfortable with this subdivision under any circumstances unless they come to the City with the CCN where the City is the water provider. Rebecca Huss said she did not see the logistical issues being something that she would want to deal with and the safety issues of having citizens that we are not the provider of their water quality. Rebecca Huss said we are not providers of their safety in terms of water pressure in the case of an emergency or the water quality that people would like in terms of turning the water for their showers and the pressure that they prefer. Rebecca Huss said they would have no ability, as the City has, for customer service to do anything about it. Rebecca Huss said if someone called City Hall and says they are a resident and want the City to do something about it, we would have to say we are sorry and tell them to call the provider.

Mayor Countryman said she too has a concern, if there is a fire, because there have been fires out there, and there is no way to get water or they have low water pressure, these houses are so dense, Mayor Countryman said this is a serious question and a serious issue.

Mr. Tramm said what he could say from his personal experience in the past, he has experience with utilities overlapping. Mr. Tramm said it does lead to confusion on the part of the bill payer because the customer feels that they are contacting the City about their bill or complaint with regards to the water, and in this particular development, they would not provide water service, which can leave a customer feeling the City was not caring about their concerns, as opposed to trying to point them to another entity because we would not provide that service. Mr. Tramm said where he worked previously some of the customers that received water through another provider, they were always arguing about who was providing what service, and the customer ended up feeling like they were caught in the middle and they are the ones paying the bill.

Rebecca Huss said there is the other issue of what if the City does not get accurate information about water consumption, should they go through with this idea and then they can't build the homes, the City would be providing service for free because we can't send out a bill. Rebecca Huss said what if the City billed them a flat rate where everyone gets a bill for \$150, that does not seem very fair because if somebody does not have a very high usage they would still pay the highest rate that is on average of what we think it will cost to provide service. Rebecca Huss said what if we are wrong, then the rest of our residents pay for the shortfall, which is something that we have tried to have our prices set to the point of having customer bills reflect the cost of providing service, so if we are making an average assumption, some will be paying too much and some will not be paying enough. Rebecca Huss said this is something the developer does not care about because they will be putting houses in place, then the City will have to sort out the problems and the developer will be gone, and our residents will not be happy. Rebecca Huss said she is not willing to go forward until they have the CCN and we are all on the same page where the City provides the water and sewer, and accountable for their safety and health, which is what we do for all of our residents.

Mr. Tramm said this is being presented and if City Council desires to move forward with the process and wants to give him that kind of direction, he will be happy to go back to the developer. Mayor Countryman said that would be all services or nothing direction.

John Champagne asked if in the ETJ Dobbin Plantersville will provide the water service. Mayor Countryman said yes. Mr. Tramm said this area is in the ETJ, while there are certain requirements for the City, they fall outside of the City's water service area. Mr. Tramm stated they are in the Dobbin Plantersville Water Company service area. John Champagne asked to confirm that Dobbin Plantersville wants to provide water services. Mr. Tramm said he has not discussed that with Dobbin Plantersville. Rebecca Huss said the developer wants to be annexed into the City. John Champagne asked what the value to them was to be annexed into the City if we are not providing water services. John Champagne said he would assume that we are not going to provide the sewer services. Rebecca Huss said the City will have to provide the sewer service. John Champagne asked to confirm the biggest concern was, besides the morality of it, the variances. Rebecca Huss said no, to her the practicality and morality are her biggest issues, the variances come later. Rebecca Huss said there is no point in discussing variances until you know whether you can put together something that even lets you take that first step.

John Champagne asked what the problem would be in letting the Planning and Zoning Commission look at this development. Rebecca Huss said it would be a waste of everyone's time and money

because the developer must go through the process, and we are spending staff time. John Champagne asked why we would not be able to charge them for the sewer they are using. Rebecca Huss said it would not be our meter, there would be no meter unless Dobbin Plantersville gives it to the City, and they are using meters that are compatible with the City's system. Rebecca Huss said the City has Badger meters, so they do not have to do manual meter reads. John Champagne asked if Rebecca Huss did not believe the cost and benefit would be worth it. Rebecca Huss said no she did not see the point of it until they come to the City with a CCN, then morality won't be an issue and most of her practical issues will go away, then it will be an issue of whether it fits with Planning and Zoning Commission map for the City where they have higher density housing.

Mr. Foerster said apparently, they have not gone back to the Dobbin Plantersville Water Company to try and negotiate this issue. Rebecca Huss said it was not the City's job to do that it is the developer's job because it is their development. Mr. Foerster said he understood that, but maybe we need to be telling them what they need to do. Rebecca Huss said that is what they are telling Mr. Tramm to do. Mr. Tramm said whatever City Council decides, that will be what he is taking from this discussion as his direction. Mayor Countryman said they need to get the CCN.

Rebecca Huss asked if that directive would take care of Agenda Items 5 and 6. Mr. Tramm said he believed it would. Mayor Countryman said they would strike Item 6.

6. Consideration and possible action regarding calling a Public Hearing of the City Council, acting as the Board of Adjustment, for the following variance requests to the Zoning Ordinance for the proposed West Lakes residential development along Old Dobbin-Plantersville Road, in the City's ETJ, as submitted by Promocon USA, LLC:
 - a. a minimum side yard setback of 5-feet instead of the required 10-feet; and
 - b. a side yard setback of 10-feet for corner lots instead of the required 15-feet.

No action was taken on this item.

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 Ste of Texas.

7. 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); and
 - c) Section 551.074 (personnel matters) Interview City Attorney Candidates.

Mayor Countryman adjourned the meeting to go into Executive Session at 6:43 p.m.

Reconvene into Open Session.

Mayor Countryman reconvened the meeting at 8:57 p.m.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

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

Rebecca Huss moved to direct the City Administrator to retain the legal services of the law firm of Johnson Petrov and request an Engagement Letter to be submitted to said City Administrator. Tom Cronin seconded the motion, the motion carried unanimously. (4-0)

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.

Mayor Countryman and City Council thanked the attorneys for being present.

ADJOURNMENT

John Champagne moved to adjourn the meeting at 9:00 p.m. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

Submitted by: Susan Hensley
Susan Hensley, City Secretary

Date Approved: 09/10/2020

Sara Countryman
Mayor Sara Countryman

