

MINUTES OF PUBLIC HEARINGS and REGULAR MEETING

March 10, 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
John Champagne, Jr. City Council Place # 2
T.J. Wilkerson City Council Place # 3
Rebecca Huss City Council Place # 4

Absent: Vacant City Council Place # 1
Tom Cronin City Council Place # 5

Also Present: Richard Tramm City Administrator
Alan P. Petrov City Attorney
Susan Hensley City Secretary

INVOCATION

John Champagne 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** – By the City Council, acting as the Zoning Board of Adjustment, regarding a 25-foot front building line variance request instead of the required 35-feet for the proposed Heritage III development along SH 105 west of the Louisa Street intersection (21227 and 21265 Eva Street, Montgomery), as submitted by Cheatham Management.

Since there was not a supermajority of City Council members present, Rebecca Huss moved to postpone Items 1, 2, 3, 11 and 14 until the next regularly scheduled City of Montgomery City Council Meeting on March 24, 2020, at 6 p.m. at 101 Old Plantersville Road, Montgomery, Texas. T.J. Wilkerson seconded the motion, the motion carried unanimously. (3-0)

Adjourn Public Hearing.

2. **Receive Final Report** from the Planning and Zoning Commission resulting from their two (2) Public Hearings held on February 24, 2020, and March 3, 2020, regarding rezoning the following property from R-1-Single-Family to B-Commercial: for Lot 16, Area D, Montgomery Townsite Section Four, as submitted by Cheatham Management. (A 0.576-acre tract of land adjacent to 21123 Eva Street, Montgomery, Texas.)
3. **Convene into Public Hearing** – Rezoning the following property from R-1-Single-Family to B-Commercial: for Lot 16, Area D, Montgomery Townsite Section Four, as submitted by Cheatham Management. (A 0.576-acre tract of land adjacent to 21123 Eva Street, Montgomery, Texas.)

Adjourn Public Hearing.

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.

CONSENT AGENDA:

4. Matters related to the approval of minutes of the Regular Meeting held on February 25, 2020.
5. Consideration and possible action regarding street closures for the annual Freedom Festival.
6. Consideration and possible action regarding street closures for the annual Wine and Music Festival.
7. Consideration and possible action regarding completion of a one-year warranty period for the Buffalo Springs Drive Waterline Bridge Crossing Project.

8. Consideration and possible action regarding approval of an Escrow Agreement by and between the City of Montgomery and Tony Cook for the proposed Montgomery Townhomes Development (Dev. No. 2001).
9. Consideration and possible action regarding the annual renewal of the Mobile Home Park Application for Cedar Crest Mobile Home Park.
10. Consideration and possible action regarding the correct spelling of McCown Street.

Rebecca Huss advised she had a comment on Agenda Item 6, stating that she wanted to point out with this being the second time they are needing a waiver of the City paved and leased parking lot. Rebecca Huss said they are compounding what she thinks is the error of amending their 20-year lease contract for that parking lot, and entering into a personal vendetta or supporting a personal vendetta between the owner of the underlying land and various events in the City. Rebecca Huss said she did not think there was anything that they can do about it because as an event, the two events that have come before City Council she has obviously supported and they are very important for the community and the organizations they support. Rebecca Huss said she does not think it is right for some events to be supported and some not supported at the whim of the person underlying the property when the City is the one with the 20-year lease on the property. Rebecca Huss said the City is supporting this little personal vendetta and she did not think it was an appropriate action that she did not see any way out of. Rebecca Huss said she voted against the amendment to the lease because she did not think they were in a position where they had to do so. Rebecca Huss said she thinks it is wrong that a sitting City Council member gets a benefit from the City in that way, and these are the consequences that were foreseeable at the time, and she feels it is inappropriate and unfortunate.

John Champagne commented on Item 7, asking about the one-year warranty on the Buffalo Springs Bridge, and said he just happened to go over the Bridge earlier and the asphalt approaches on either side, but the one on the north side seems in disrepair and asked if that was part of the warranty. Mr. Roznovsky advised that was not part of this project, but they are aware of that and they have contacted the contractor for that repair, which was a previous repair that had been done. Mr. Roznovsky said the contractor made that repair on their one-year warranty, which has failed, so he has been contacted to come back out and repair the asphalt. John Champagne said it looks like there have been remediation repairs done, with squares cut

out, and those are not looking good either. Mr. Roznovsky said that was what he was talking about, the contractor did those repairs in September or October and they are failing, and all of them are having issues, with the main one being closest to the State Farm building, that has a noticeable pothole, so they contacted the contractor and they are researching exactly what happened. Mr. Roznovsky said that Agenda Item is not part of that project, it is only the waterline that is hanging off the bridge and connects to the ends to close the loop. Mr. Roznovsky said it was a different contractor and a different contract for the asphalt. Mr. Tramm said the action item on the Agenda is a different item, but what was brought up is at the same location. Mr. Tramm said he would talk to Mr. Roznovsky at a different time outside of the meeting regarding the timeline for the repairs. Rebecca Huss said they had specifically brought that issue up because they did the one-year warranty discussion several meetings ago. Mr. Roznovsky said they had discussed that at a meeting in January 2020. Rebecca Huss said City Council had been assured those issues were addressed. Mr. Roznovsky said they were addressed but not sufficiently, which they had recognized. John Champagne asked about the warranty time for the asphalt repair. Mr. Roznovsky said he will need to go back and see how the contract had been written because it is a little bit of a gray area since it was a repair that was done to a one-year warranty, but they still believe it is pretty clear the contractor repaired the area, but the repair did not hold up and within four or five months something went wrong. John Champagne asked if the contractor was subbed through the City or the contractor that did the bridge work. Mr. Roznovsky said the underlying contractor was Glenn Fuqua, who the City had a contract with, and he subbed the paving to Larry Young Paving. John Champagne said the warranty would fall on the general contractor. Mr. Roznovsky said that is correct, and said they are going through Glenn Fuqua because this is what they believe is their responsibility to make the repair. Mr. Roznovsky said the item on the Agenda is a separate contractor from that issue.

Mayor Countryman asked to clarify if the contractor repairs the road and then it fails in another four months, would it then be outside the one-year warranty and would it now be on the City or does that continue to be on Glenn Fuqua. Mr. Roznovsky said these are issues they are going to have to continue to work out because if this is a reoccurring issue, they need to get to the bottom of it. Mr. Roznovsky said the repair they did was obviously not sufficient, and there is an underlying issue going on that was not repaired the first time, which is why they are doing more investigating to see what needs to be done to get the road repaired correctly so this does

not keep occurring. Mayor Countryman said the work was done originally and then it was repaired, and then they asked the same contractor to repair the road and then will they go back to the same contractor a third time, and if that fails when will they stop doing that. Mr. Roznovsky said he thinks it will come down to time and if this repair is done correctly and differently and holds up. Mayor Countryman asked how long the repair must hold up. Mr. Roznovsky said they do not have that lined out, so that is one of the issues they have to work out with the contractor, and they will need a guarantee that if they keep on repairing the asphalt and the day they leave it is over, they need to work it out. Mayor Countryman said it almost seems like they need a one-year warranty from the date of the repair itself. Mr. Roznovsky said they are working through that and they are aware and know it is a top priority to get that repaired.

John Champagne asked when the County did road work that Public Works oversaw, were there specifications for that repair. Mr. Roznovsky said there was. John Champagne asked if they were meeting those specifications. Mr. Roznovsky said that is what they are going back to confirm. Mr. Roznovsky said on the north side of the bridge there were areas where they only did a top coat of asphalt and other areas where they did a full base, where it is washed out, and this is right near that area, which is why they are going back to the photos to see if this is a base failure or did they do the work that should have put the base back that is failing. Mayor Countryman asked if Mr. Roznovsky anticipated an answer soon or in days. Mr. Roznovsky said yes, he did expect to hear something.

Rebecca Huss moved to accept the Consent Agenda as presented. T.J. Wilkerson seconded the motion, the motion carried unanimously. (3-0)

CONSIDERATION AND POSSIBLE ACTION:

11. Consideration and possible action, by City Council Acting as the Zoning Board of Adjustment, regarding a 25-foot front building line variance request instead of the required 35-feet for the proposed Heritage III development along SH 105 west of the Louisa Street intersection (21227 and 21265 Eva Street, Montgomery), as submitted by Cheatham Management.

This item was postponed under Item 1.

12. Consideration and possible action regarding a proposed 11-foot vegetative buffer instead of the required 25-foot buffer for the proposed Heritage III development.

Mr. Tramm presented the item, stating the subdivision ordinance requires a vegetative setback of at least 25-feet for commercial property when it abuts a single-family residential area. Mr. Tramm said the developer is requesting a variance from this requirement and per the ordinance, the City Council is the one who authorizes the variance. Mr. Tramm said this item was referred to the Planning and Zoning Commission and City Engineer for their opinions, which are included.

Rebecca Huss asked if the developer would rather do all these items at one time. Mr. White, Engineer for the developer, stated a few of the items were taken off because of the number of the quorum and will be presented later this month. Mr. White said they would not mind presenting what they have today because they are two different variances since they are different parts of the ordinances and the others are going through different approval processes. Mr. White said what they would be proposing is their screening, and this item is specific to the vegetative buffer between the commercial development and the adjacent residential development. Mr. White said the actual encroachment of that is going to be a parking structure.

Mr. White presented some renderings of the building and said it will look very similar to the other buildings Mr. Cheatham has built in the City as Heritage Place 1 and 2. Mr. White said they wanted to do some type of living wall system but the details are not quite worked out yet of exactly what system they are going to use, and how it is going to be placed. Mr. White said the idea and likely the most economical solution will be placing this on the parking garage structure itself and allowing the vine system to grow up and create a more pleasing esthetic in the back of the parking structure. Mr. White said the idea would be that the living wall would come from the bottom of the structure all the way to the top. Mr. White said they had discussed sheeting on the top deck but thought they would just do the greenery all the way to the top of the building so that would be what the residents would see. Mr. White said they drove by the property today and noticed there were one or two nice large trees on the residential lot itself that would already provide a little vegetation. Mr. White said what they were proposing was screening. Mr. White said since they would be taking up a lot of the back of the property with the parking structure, a lot of the vegetation will be in the front in planter boxes which Mr. White said the landscape package would be submitted to the City and said their goal is to exceed what the City ordinance requires.

Mayor Countryman asked who would be responsible for maintenance and replanting of the living wall and getting the greenery up, and said they also wanted some vines at that location. Mr. White said Mr. Cheatham's goal is to continue to own and lease the property and not sell the property. John Champagne asked if the building would be facing the south. Mr. White said it would be facing the residents. Rebecca Huss said the picture with the tower looks like they have alternating a section of vines and then a section of windows, and asked if they intended to alternate light, and then dark? Mr. White said the photo was more to represent the vine system and said that part has not been worked out. Rebecca Huss said the 100% screening would make it really dark inside but would provide a lot of privacy to the neighbors. Mr. White said the structure would likely be more steel construction and steel fabricated with the vine system hanging on to that structure. Mr. White said they did not want it to be just a piece of metal.

Rebecca Huss said before City Council started acting as the Board of Adjustments, the Board of Adjustments as a separate group provided variances with specific language in it to ensure they were not just giving a blanket statement that provided for whoever owns the land or whatever they decided to do, and asked if there was language that would cover this type of building that would give City Council confidence that a type of structure that created this type of result would be built if they provided the 11-foot vegetative buffer instead of the 25-foot vegetative buffer. Mr. White said what they have asked for is that with the variance being approved they would propose doing a living wall system as that screening. Mr. White said the type of system and location of the system would still be determined, but they would do some living wall system that would provide screening between the structure of 11-feet where the setback would be placed and the current property line. Mr. White said something along the lines of that language would be something they would propose. Rebecca Huss asked if it would be the entire height of the parking structure. Mr. White said he did not think that would be an issue, he thought if they came back with an equal alternative that would go against that then they would present that back. John Champagne asked if they were talking about the property line. Rebecca Huss said no, she was just saying that if City Council acting as the Board of Adjustments, they were going to give a variance contingent upon the developer providing a living wall system as a screening method to cover a parking structure in its entirety up to the top of the structure.

John Champagne said they have not had a public hearing on this information. Mr. McCorquodale said it is out of the subdivision ordinance, which does not require a public hearing. Mr. McCorquodale said this information has been to the Planning and Zoning Commission last night and they have attached their opinion with the information along with the City Engineer's detailed

opinion. Mr. McCorquodale said he felt it was a prudent approach to take the information to the Planning and Zoning Commission. Mr. White said they still must have the public hearing for the building line setback in the front.

John Champagne moved to approve the variance request for an 11-foot vegetative buffer instead of the required 25-foot buffer for the proposed Heritage III development. T.J. Wilkerson seconded the motion.

Discussion: Rebecca Huss said she would like to offer an amendment that this is contingent upon the developer creating a living wall system as screening covering the entire south portion of the parking structure or an approved equal system. John Champagne asked Rebecca Huss if that would preclude if there was a better or alternative system that might be better than this one. Rebecca Huss said she stated approved or an equal system. John Champagne said they can amend the motion. Rebecca Huss said she thought that was the language that Mr. White suggested that they were comfortable with. John Champagne said that was broad. Rebecca Huss said it provides City staff to decide whether the Planning and Zoning Commission needs to bring it back, and gives them certainty that should the mattress, oil or telephone selling guys do a corporate raid on Mr. Cheatham, but they don't have an 11-foot back buffer. T.J. Wilkerson seconded the amended motion.

The motion carried unanimously. (3-0)

13. Update on the Montgomery Music & Mudbugs Festival to be held on March 21, 2020.

Mr. Tramm advised the festival would be held on March 21, 2020, between the hours of 2 p.m. to 10:00 p.m. and will be held near the intersection of C.B. Stewart Drive and Clepper Street at Ransom's Steakhouse. Mr. Tramm said he spoke with the promoter, Charlie Diggs Entertainment earlier and they are still intending on moving forward with the event, with the current COVID-19 issues in the area. Mr. Tramm said they are going to provide additional hand washing and sanitizing stations for the public. Mr. Tramm said they are looking forward to having a great event here in Montgomery.

John Champagne asked if there would be crawfish. Mayor Countryman said that was correct. Rebecca Huss said they are subject to any directives given by the County Health Department. Mayor Countryman said it looks like there are quite a few sponsors for the event. Mr. Tramm said

there seems to be a lot of public interest in the event, and they are looking forward to bringing those people to Montgomery. Mayor Countryman said there is also the Fly the Texas Flag Challenge with the Spirit of Texas Bank that morning and honoring the veterans with breakfast at 9:00 a.m. at Spirit of Texas Bank.

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

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS AMENDING THE ZONING CLASSIFICATIONS AS DEFINED IN THE CITY CODE OF ORDINANCES CHAPTER 98, "ZONING," FOR LOT 16, AREA D, MONTGOMERY TOWNSITE SECTION FOUR FROM "R-1" SINGLE-FAMILY AND "B" COMMERCIAL ZONING DISTRICTS, AS FOUND ON THE CITY'S OFFICIAL ZONING MAP TO "B" COMMERCIAL ZONING DISTRICT CLASSIFICATION; AND TO AMEND THE OFFICIAL ZONING MAP; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE UPON PASSAGE AND PUBLICATION.

15. Consideration and possible action regarding award of the following contract(s):

- a) Grounds Maintenance; and
- b) Right-of-Way Mowing and Lift Stations Weed Control.

Mr. Muckleroy presented the information stating they went out for bids as City Council had requested, they reviewed the bids and did some reference checks and they are making a recommendation to go with Cody's Lawn Service for both the grounds maintenance and the right-of-way mowing together. Mr. Muckleroy said they split the bids to see if they would get a better deal on the grounds maintenance and get a little more attention to detail with a smaller company. Mr. Muckleroy said Cody's Lawn Service bid on both of the items and was the lowest on the grounds maintenance and second place bidder on the right-of-way mowing, but the lowest bidder was the contractor they elected to go away from three years ago, so they did not make that recommendation.

John Champagne moved to authorize the City Administrator to execute the contract for grounds maintenance and right-of-way mowing and lift stations weed control to Cody's Lawn Service, LLC. Rebecca Huss seconded the motion, the motion carried unanimously. (3-0)

Rebecca Huss thanked Mr. Muckleroy for doing the extra work to split the contract.

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.

The City Administrator advised there were no items to be discussed in Executive Session.

16. 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:

Section 551.071 (consultation with attorney); and
Section 551.072 (deliberation regarding real property).

Mayor Countryman adjourned into Executive Session at 6:30 p.m.

Mr. Tramm advised there were no items to be discussed in Executive Session.

Reconvene in Open Session.

Mayor Countryman reconvened into Open Session at 6:31 p.m.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

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

No action was taken on this item.

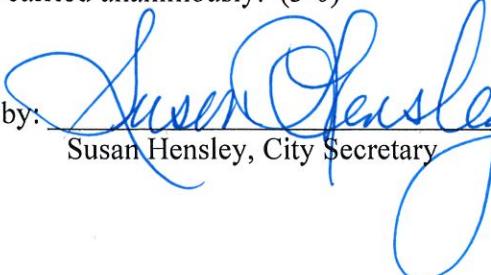
COUNCIL INQUIRY:

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.

There were no comments made.

ADJOURNMENT

John Champagne moved to adjourn the meeting at 6:31 p.m. T.J. Wilkerson seconded the motion, the motion carried unanimously. (3-0)

Submitted by:  Date Approved: 4/14/2020
Susan Hensley, City Secretary


Mayor Sara Countryman

