

**MINUTES OF PUBLIC HEARING AND REGULAR TELEPHONE
CONFERENCE/VIDEO MEETING
FEBRUARY 9, 2021
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
	Carol Langley	City Council Place # 1
	Kevin Lacy	City Council Place # 2
	T.J. Wilkerson	City Council Place # 3
	Julie Davis	City Council Place # 4
	Tom Cronin	City Council Place # 5

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

INVOCATION

T.J. Wilkerson gave the Invocation.

PLEDGE OF ALLEGIANCE TO 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.

There were no comments submitted.

PUBLIC HEARING(S):

Convene into Public Hearing:

1. **Public Hearing** -- for the purpose of reviewing the need to continue City of Montgomery, Juvenile Curfew Ordinance 2018-03, Codified in Division 2 of Chapter 62 of the Code of Ordinances of the City of Montgomery, Texas in accordance with Section 370.002 of the Texas Local Government Code, and to determine whether the City shall abolish, continue, or modify the ordinance.

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

Mayor Countryman asked if there was anyone that would like to speak on this matter.

There were no comments made.

2. **Adjourn Public Hearing**

Mayor Countryman adjourned the Public Hearing at 6:04 p.m.

Convene into Regular Meeting

Mayor Countryman reconvened into the Regular Meeting at 6:04 p.m.

CONSENT AGENDA:

3. Matters related to the approval of minutes of the January 26, Regular Meeting.

Julie Davis moved to accept the minutes as presented. Carol Langley seconded the motion.
The motion carried unanimously. (5-0)

CONSIDERATION AND POSSIBLE ACTION:

4. Consideration and possible action regarding adoption of the following Ordinance:
AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY,
TEXAS, RENEWING THE JUVENILE CURFEW ORDINANCE CODIFIED IN

DIVISION 2 OF CHAPTER 62 OF THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS, IN ACCORDANCE WITH SECTION 370.002, OF THE TEXAS LOCAL GOVERNMENT CODE, AFTER A PUBLIC HEARING ON THE NEED TO CONTINUE THE ORDINANCE; CONTINUING THE JUVENILE CURFEW ORDINANCE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; DECLARING COMPLIANCE WITH TEXAS OPEN MEETINGS ACTS; AND PROVIDING AN EFFECTIVE DATE AFTER PUBLICATION.

Mr. Tramm said the City is required to review and readopt if it desires the Juvenile Curfew Ordinance every three years. Mr. Tramm said the Public Hearing was called at the City Council meeting of January 12, 2021, and the notice was published in the Conroe Courier as required. Mr. Tramm said the Public Hearing was conducted at 6:00 p.m. on February 9, 2021, prior to this meeting. Mr. Tramm said this ordinance was last reviewed in 2018 and is due for review and readoption this year 2021. Mr. Tramm said Police Chief Anthony Solomon has reviewed the ordinance and is satisfied that it should be renewed in its current form. Mr. Tramm said the administrative staff had reviewed the ordinance and they are satisfied with its current form. Mr. Tramm said both the City Attorney and Police Chief Solomon are present tonight should there be any questions.

Kevin Lacy moved to keep the City of Montgomery's Juvenile Ordinance as presented. T.J. Wilkerson seconded the motion, the motion carried unanimously. (5-0)

5. Consideration and possible action regarding adoption of the following Ordinance:
AN ORDINANCE AMENDING CHAPTER 6 OF THE CITY OF MONTGOMERY CODE OF ORDINANCES EXPANDING THE AREA AND TIME FOR ALLOWING THE PUBLIC TO WALK WITH ALCOHOLIC BEVERAGES IN A DEFINED AREA IN DOWNTOWN MONTGOMERY.

Mr. Tramm said this item was discussed at the City Council meeting on January 12, 2021, and at that time the intent was to bring it back to Council for possible action and approval at this meeting.

Mr. Tramm said the amendments to be considered are: 1) Removal of the wording “at special events” within the fourth WHEREAS clause on page 1, and 2) Replacing Section 6-57(b) (1) with a written description of the area contained in the Proposed Boundary Map, and 3) Replacement of the item labeled Existing Area Map and the current ordinance with the item labeled Proposed Boundary Map.

Mr. Tramm said staff has considered the changes in the area map covered by the current ordinance and made updates to the proposed area map to provide greater clarity and uniformity in the designated boundary. Mr. Tramm said they also discussed the proposed expansion of dates from just special events throughout the year to apply throughout the year and still being limited by the same time and days of the week listed. Mr. Tramm said it is just that it would not need a special event to apply. Mr. Tramm said they have discussed these changes with both the City Attorney and Police Chief and neither had objections to the modifications.

Mr. Tramm said staff believes this to be a boost to several local businesses in the Historic Downtown area as well as other shops in the area that could benefit from additional customers who are mobile through the downtown area. Mr. Tramm said since they discussed this item with Council, City staff discussed this item with the City of Navasota Police Chief and Assistant City Administrator who reported no significant negative public issues related to their similar ordinance. Mr. Tramm recommended approval to City Council.

Julie Davis asked if the law Governor Abbott was working on would supersede this one or this would supersede the Governor’s regarding open carry for alcoholic beverages because she knows as a State they are working on one. Julie Davis asked if this ordinance would control it just to the designated City blocks or would the Governor’s rule supersede it to open carry wherever you want as long as you are walking. Mr. Tramm said it is always possible that a new State law could supersede what is in the City and with legislation just coming into session, they have a process they would need to go through to set a new State law into motion. Mr. Tramm said if Governor Abbott does anything unilaterally, he is not sure what his direct authorities

are, but he believes it is just limited to emergencies. Mr. Tramm said with any legal opinion beyond that, he would defer to Mr. Petrov. Mr. Petrov said a new State law could certainly supersede City ordinances. Julie Davis asked even if they set this as a City block station that you cannot go outside of this area and Governor Abbott's law goes through it would not matter on a set area as they could go wherever. Mr. Petrov said he has not seen the language of the Governor's proposal but assuming that it allows a greater area, then yes that is possible. Kevin Lacy said to be clear Governor Abbott's new law he's proposing is regarding not walking around the City with alcohol, it's to continue making alcohol a to-go item as it is not necessarily where you can walk around with it but that a person can purchase alcohol to-go. Kevin Lacy said he assumes "to-go" means you can take it wherever you want but he does not believe it addresses where you can have it in public. Mr. Petrov said if that is the case and it is just to-go, it would have to be in a sealed container similar to alcoholic beverages you can pick up from restaurants now as long as it has a lid on it you can take it, but you cannot walk outside and start drinking it on the sidewalk.

Mr. Tramm said for greater clarity when he referred to alcoholic beverages before, in the ordinance it is specific to the consumption of beer and wine, not mixed drinks. Mayor Countryman said she thinks it is great an additional area was included. Mr. Tramm said City staff looked at the map and thinks it is a sign of how some of the things have changed since the original ordinance was drafted. Mr. Tramm said assuming this may be passed by Council if there are future changes he thinks those are things they would probably bring back to Council at the appropriate time.

Tom Cronin asked where the appropriate container comes into play because he does not think it would be acceptable for someone to walk around with a bottle of beer, but maybe a cup of beer or a cup of wine. Tom Cronin said he knows that does not enter into the ordinance, but will City staff come up with some recommendations. Mr. Tramm said that was one thing in their discussions with the City of Navasota they considered and did not include in their ordinance, and their recommendation was to leave that to the discretion of the police who were monitoring the public and might have enforced the ordinance. Mr. Tramm said they discussed it internally and thought

the same in keeping the ordinance worded as they have it. Mr. Tramm said if they try to start defining it by a certain amount then they are essentially trying to police that through the ordinance and taking it out of the hands of the police officers, and thus they are giving them the maximum discretion while they patrol that area. Mr. Tramm said if Council would prefer to review this and provide specific limits, that is certainly input they can look at and bring back to City Council. Tom Cronin said he has no problem with that. Chief Solomon said having worked hundreds of these festivals, actual beer containers such as bottles seem to work better for police to recognize because sometimes you will have people who have specific cups and that is when it becomes how to determine alcoholic mixed beverages such as bourbon and things of that nature. Chief Solomon said it gives the police officer better sight when you have bottles. Chief Solomon said he knows that could be an issue but that is why in those areas trash containers are made available for disposal of those bottles. Tom Cronin said that was a good point.

Mayor Countryman asked Tom Cronin what he does for festivals and if he uses a clear plastic cup. Tom Cronin said they use to but does not do that anymore since his license changed and he cannot sell outside the door. Mayor Countryman asked if he sold bottles and the short glasses of wine and if that was just easier. Tom Cronin said at one time yes they did bottles, cans, whatever it came in and then the wine was in a plastic nine-ounce cup.

Tom Cronin moved to amend Chapter 6 of the City Code of Ordinances pertaining to alcoholic beverages specifically the removal of the wording at special events within the fourth WHEREAS clause on page 1, replacing Section 6-57. (b)(1) with a written description of the area contained in the attached proposed boundary map, and replacement of the existing area map with the proposed boundary map. Kevin Lacy seconded the motion, the motion carried unanimously. (5-0)

6. Consideration and possible action regarding approval of construction plans for Town Creek Crossing Section One.

Mr. Tramm said the City's Engineer's memo is included with this agenda item and Mr. Roznovsky from Jones & Carter Engineering is available for any questions and he will provide a quick review of the item. Mr. Tramm said staff has no objections to the Engineer's recommendation to approve the construction plans.

Mr. Roznovsky said this is located at the corner of Buffalo Springs and Lone Star Parkway and is one of Mr. Philip LeFevre's developments. Mr. Roznovsky said it is the first of two phases and includes approximately 100 homes over this area. Mr. Roznovsky said they have gone through a handful of reviews including the drainage analysis for the project and are mostly complete and the plans are ready to go. Mr. Roznovsky said on the drainage analysis they have a few minor comments they are currently addressing, but it does not change the outcome, just the documentation. Mr. Roznovsky said they referenced a calculation, and they want them to provide that backup in the report versus just referencing it.

Mr. Roznovsky said they did present this to Planning and Zoning Commission last week and they recommend approval. Mr. Roznovsky said one of the questions that came up was regarding the amenities they are providing because that was a part of it with the splash pad, pickleball court, gazebos, and green space. Mr. Roznovsky said there is a Preliminary Park Plan and they have hired a landscape architect who is putting that together. Mr. Roznovsky said that is not part of this approval but it is in the works and still in the plans.

Mr. Roznovsky said the one condition they had in their approval was since this does have an impact on the creek and there is an existing floodplain that needs to be modified on the maps, so they need to go through the Conditional Letter of Map Revision ("CLOMR") and then subsequent Letter of Map Revision process through FEMA. Mr. Roznovsky said before they officially allow them to do work within the floodplain, they have submitted a CLOMR document to the City for review and approval, and that Starts the process and then it gets submitted to FEMA. Mr. Roznovsky said what that represents on this project is only the back portion of three or four lots that are in the floodplain and all the other floodplain issues are going to be in Section Two.

T.J. Wilkerson asked if the apartments have any effect on that. Mr. Roznovsky said they do, and they are included in the analysis for the drainage and part of their impact on the stream and this development's impact on the stream is also in the same analysis which is being sent to FEMA to get the floodplain maps revised.

T.J. Wilkerson asked if these were townhomes or apartments. Mr. Roznovsky said they are more like apartments than townhomes. Mr. Roznovsky said their name has changed a couple of times and is now Eagles Nest Apartments. Mr. Roznovsky said it is more of an apartment complex than individual townhome units. T.J. Wilkerson said they did not have to come back to Council for changing from townhomes to apartments. Mr. Roznovsky said they did not and noted this is in the PDD (Plan and Development District) that Mr. LeFevre has with the City and zoning multi-use, commercial, and single-family are all allowed within the PDD boundaries, so they did not need to do a rezoning to come to the City.

Mayor Countryman said she does not know if they knew that when they approved the other apartments as Council typically had in the past and they were at peak with multi-family housing. Mayor Countryman asked if all the property there is subject to the PDD. Mr. Roznovsky said yes. Mayor Countryman asked if all the property between FM 149 and Buffalo Springs is subject to PDD. Mr. Roznovsky said for the most part and it is bound by both sides of Plez Morgan, FM 1097 to the north and goes all the way down to SH 105 and includes everything on the opposite corner and then the Kroger property, and that whole area is covered by the PDD boundary. Mayor Countryman said they could have more apartments than houses in the City limits. Mr. Roznovsky said yes. Mr. Roznovsky said you will see the plans when it does include public infrastructures and public streets in a subdivision going in. T.J. Wilkerson said they could have started that and turned it into a motel. Mr. Roznovsky said he would need to look at the specific language of the PDD to see what limitations are.

Mayor Countryman asked if it was low-income or subsidized or market value. Mr. Roznovsky said he believes it is market value and he has never had any discussions because typically if it is a subsidized or tax credit type development there are documents they want from the City and that was never provided or requested. T.J. Wilkerson asked if all the property falls behind Kroger also. Mr. Roznovsky said it does and everything in light blue

on the map is what is in the PDD zoning. Mr. Roznovsky said there are a couple of overlapping agreements. Mr. Roznovsky said the PDD developments in the blue, the LeFevre Development Agreement extends to a portion of the property on SH 105 where Kroger is on that side between Buffalo Springs and Lone Star Parkway. Mr. Roznovsky said depending on which version of the agreement he thinks there are two or three different years that the agreement was modified, and it changes slightly depending on where you are but that whole area falls within the LeFevre Development Agreement that has different sets tied to the 2004 ordinances. Mr. Roznovsky said for example the Tree Preservation Ordinance and Land Ordinance do not apply to these properties because of the 2004 agreement. Mr. Roznovsky said it does have a 20-year term for the three different agreements that would then revert to the ordinances of today.

Mr. Roznovsky said this allows them to go ahead and approve the plans they plan to receive bids to do the infrastructure work later this month, and hopefully move to new construction in March as they have already done a lot of the clearing and grading work out there. Mr. Roznovsky said as far as the utilities and the streets they have three different builders lined up to start. Mr. McCorquodale said that is correct and thinks to meet their timing they were looking at a mid-June lot delivery date. Mayor Countryman said that is a lot for the City, especially opening up the franchise for CenterPoint and then for LDC. Mayor Countryman said she knows he is under a 30-year agreement with LDC and was told the 30-years started in 2004. Mr. Roznovsky said City Council will see this development a handful of times and noted this is the construction plans. Mr. Roznovsky said they still have to come back for final plat approval, acceptance of the infrastructure and the start of their warranty period.

Mr. Tramm said the action for Council tonight is to consider approval of construction plans and then the developer can take this to the next steps.

T.J. Wilkerson moved to approve the construction plans for Town Creek Crossing Section One. Tom Cronin seconded the motion. The motion carried unanimously. (5-0)

7. Consideration and possible action on calling a Public Hearing for March 9, 2021, at 6:00 p.m. regarding a Special Use Permit Application by Cornerstone Community Church to

request an "P"- Institutional land use in suites "K" and "L" of the Montgomery Trace Shopping Center, a "B"- Commercial Zoning District.

Mr. Tramm said this action item is to call the Public Hearing for March 9, 2021, and if ultimately approved, this item will allow the church to meet in what has been vacant and erected space within the shopping center. Mr. Tramm said staff recommends calling the Public Hearing for the Special Use Permit. Mr. Tramm advised the Planning and Zoning Commission has heard them and will issue a report to City Council prior to the Public Hearing.

Julie Davis moved to accept the consideration and possible action on calling a Public Hearing for March 9, 2021, at 6:00 p.m. regarding a Special Use Permit Application by Cornerstone Community Church. T.J. Wilkerson seconded the motion, the motion carried unanimously. (5-0)

8. Consideration and possible action regarding adoption of the following Resolution:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, DENYING THE PROPOSED RATES OF LDC, LLC FOR NATURAL GAS; DIRECTING THE CITY SECRETARY TO SEND A COPY OF THE RESOLUTION TO LDC; DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS PASSED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; AND ESTABLISHING AN EFFECTIVE DATE.

Mayor Countryman said she spoke with Mr. Tramm concerning this and it is not necessary and it can be removed from the agenda. Mr. Tramm said yes this has become a moot point because it is already being referred to the Railroad Commission and there is no action needed from the City. There was no action taken by City Council on this item.

9. Consideration and possible action regarding adoption of the following Resolution:

A RESOLUTION OF THE CITY OF MONTGOMERY, TEXAS AUTHORIZING THE SIGNORS ON CITY COUNCIL FOR ALL CITY OF MONTGOMERY BANKING ACCOUNTS.

Mr. Tramm the Resolution names the specific City banking accounts and names the signors which are Mayor Countryman, City Council members, and himself, the City Administrator. Mr. Tramm said as a reminder all of the checks require two signatures. Mr. Tramm said they are recommending this as the formal resolution so the bank can prepare the signature cards.

Julie Davis moved to accept the consideration and action as written. T.J. Wilkerson 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. (There are no items at this time.)

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.

T.J. Wilkerson asked Mr. Roznovsky and Mr. Tramm if they took a look at the riprap put in at Town Creek because it looked like they could have put more in there. Mr. Roznovsky said he did talk with TxDOT and they are scheduling to bring in different equipment and place more in because what they had was a short reach and put it right next to the bridge, but they did not get the banks, so they will come back and do the banks that are exposed from the bridge. T.J. Wilkerson said he had people call him and meet him down there and they were disappointed in the work that was done. Mr. Roznovsky said he talked to TxDOT last week and they are scheduling a time to come back out with the right equipment to do more work. Mayor Countryman asked if that timeline would take months, weeks, or days. Mr. Roznovsky said they have been vague, but he will ask again, and it will depend on if they

use the material they receive because that is what they were waiting on so long last time. T.J. Wilkerson said the other Council members should ride by the location when they can to take a look.

Mayor Countryman asked if it would be alright for TxDOT to do the original work and then come back in two or three months and complete the additional work. Mr. Roznovsky said the risk is that now if we get heavy rain and it causes erosion where it is not protected so the sooner the better. Mr. Roznovsky said definitely before we get to hurricane season and the April and May time frame when we traditionally have those large rain events. Mr. Roznovsky said he will follow-up with TxDOT and get a timeline.

T.J. Wilkerson asked if Mr. Tramm or Mr. Roznovsky contacted TxDOT regarding lowering the speed limit on FM 1097. Mr. Roznovsky said he has not, but he has a follow-up call with TxDOT next week to discuss the Atkins Creek Project and he will bring it up at that time. Mr. Roznovsky said if you remember a couple of meetings ago that TxDOT put the project off until 2026 and then out of the blue they asked where we were at on acquiring the easements. Mr. Roznovsky said they told them to stop and TxDOT said that things have changed and now they have funding and want to do it this year. Mr. Roznovsky said they have a follow-up next Wednesday and he will add that to the list. T.J. Wilkerson said a lot of times when they have funerals people park up on the road and drivers are still going 55 mph or more through that area and that is a hazard in itself. Chief Solomon said he has some studies they have done from SH 105 and FM 1097 and would like for T.J. Wilkerson to take a look at them. Chief Solomon said there are also speed trailers out there in that location but thinks T.J. Wilkerson will be surprised by what those studies are saying, and they are getting those studies from the speed trailer. Chief Solomon said he will have the Lieutenant deliver those studies to him tomorrow. Mayor Countryman asked Chief Solomon and T.J. Wilkerson if there is a funeral can they have an officer out there to have a presence to help slow people down on the road. Chief Solomon said they can always put an officer in the area if you have a funeral and he knows there is a cemetery there and the people probably park on the side of the road. Chief Solomon said they can put an officer there during that time. T.J. Wilkerson suggested they could also set up orange cones in that area and that will get people to slow down. Mr. Roznovsky said TxDOT currently has a lot of safety money they are needing to spend so maybe there is a potential there and some leftover from all the other projects they are working on that includes curbs and raising medians from FM 2854 to Conroe and rumble strips are something else in that area to help slow people down and they can add certainly ask. Chief Solomon said they finally got TxDOT out to take a look at the Buffalo Springs and SH 105 area for a traffic light which

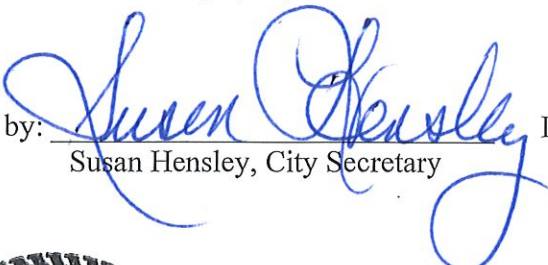
they were looking at last week as well. Julie Davis mentioned that road humps do not work. Chief Solomon agreed. Julie Davis said there is however a noticeable improvement in patrolling on Old Plantersville Road. Julie Davis said if there is safety money they need it for Old Plantersville and Womack Cemetery and the ditches need retrenched so the kids stay out of them. Mr. Roznovsky said this is TxDOT money so it will not get them too far. Mayor Countryman said she would love to see what the TxDOT money includes and if they have money where the City can qualify. Mr. Roznovsky said with the timeline TxDOT is on they have to have all their projects bid by July of this year and that is where this big SH 105 improvement is going on. Mr. Roznovsky said they might be able to add on some maintenance funds with this and it is certainly worth asking. Mr. Roznovsky said he has a follow-up call with them tomorrow on the SH 105 Project so he can inquire about that as well.

Mayor Countryman advised Starbucks opened. T.J. Wilkerson asked if they are going to close the Starbucks store inside Kroger. Mr. Tramm said they will typically keep those open. Mr. Tramm said Starbucks has an interesting model where they are one of the few businesses that can have two locations close together and do more than twice the business of a single store. Mr. Roznovsky said in downtown Houston where they are literally on opposite corners of each other, two free-standing Star Bucks on opposite corners so people do not have to cross the street, but they can make it work. Mr. Tramm said they get so many people who do not want to get out of their car or wait in a line that is too long, so they will put a lot of people through. Mr. Tramm said they are looking forward to Starbucks doing good business.

ADJOURNMENT

Tom Cronin moved to adjourn the meeting at 6:44 p.m. T.J. Wilkerson seconded the motion, the motion carried unanimously. (5-0)

Submitted by:


Susan Hensley, City Secretary

Date Approved:

02/23/2021




Mayor Sara Countryman