

**MINUTES OF PUBLIC HEARING AND REGULAR TELEPHONE  
CONFERENCE/VIDEO MEETING  
March 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:

Also Present:	Richard Tramm	City Administrator
	Dave McCorquodale	Assistant City Administrator
	Susan Hensley	City Secretary
	Alan Petrov	City Attorney

Mayor Countryman stated she would need to leave at 6:45 p.m. and T.J. Wilkerson will be taking over the meeting.

**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.

Mayor Countryman read an email to Montgomery City Hall and staff from Byron Sanford dated March 2, 2021:

*“As a homeowner at the Hills of Town Creek, I would like us to consider correcting a hazardous situation in our neighborhood. On school days several cars are parked along the curb at our only entrance. The problem can be reconciled if the curbs on both sides were painted red, as currently only one side is painted red. This is perplexing because there is a fire hydrant directly across from where these cars park and I cannot see how emergency vehicles could properly maneuver. Of course, the police would need to monitor the area, but at least with the red paint, they would have the leverage to issue citations to put a stop to the practice. There have already been several near misses particularly at the Brock’s-Emma’s Way intersection where people make that right-hand turn. Given that we are about to add another 30-plus families or so the problem will only get worse as traffic flow continues to arise.*

*Thank you for all you do to keep our City moving in the right direction.”*

Mr. Tramm said he did speak with Mr. Sanford earlier today and has forwarded looking into what the City can do to address the item to our Development, Public Works, and Police staff. Mr. Tramm said he will also follow up with Mr. Sanford when they have some answers.

Mayor Countryman said she requested to speak. Mayor Countryman said at the last meeting Mr. Armando Nino had brought up a subject regarding the Dobbin and Dacus families that were out of water after the storm. Mayor Countryman said she wanted to give thanks to Mr. Mike Muckleroy, Public Works Director for reaching out to him after the meeting. Mayor Countryman said Mr. Muckleroy was able to find a few of the parts that were needed and he was able to get them up and running. Mayor Countryman said she wanted City Council to know the issue has been resolved and thanked Mr. Muckleroy and the Public Works Department for helping out our neighbors.

#### **PUBLIC HEARING(S):**

##### **Convene into Public Hearing:**

1. Receive Planning and Zoning Commission Report of Findings regarding a Special Use Permit Application by Cornerstone Community Church requesting an "I"-Institutional land use in suites "K" & "L" of the Montgomery Trace Shopping Center, a "B"-Commercial Zoning District.

Mr. Tramm said City Council will consider a Special Use Permit for Cornerstone Community Church later in this meeting. Mr. Tramm said prior to considering the Special Use Permit request, City Council must do two things. Mr. Tramm said first City Council must receive the Planning & Zoning Commission's Report and then must hold a Public Hearing for public input. Mr. Tramm said City Council does have the ability to discuss this, but that discussion comes later on the regular Agenda item.

Kevin Lacy moved to receive the Planning & Zoning Commission's Report. T.J. Wilkerson seconded the motion, the motion carried unanimously. (5-0)

2. Public Hearing - regarding a Special Use Permit Application by Cornerstone Community Church requesting an "I"-Institutional land use in suites "K" & "L" of the Montgomery Trace Shopping Center, a "B"-Commercial Zoning District

Mayor Countryman convened into the Public Hearing at 6:06 p.m.

There were no comments made.

#### Adjourn Public Hearing

Mayor Countryman adjourned the Public Hearing at 6:06 p.m.

#### Convene into Regular Meeting

Mayor Countryman reconvened into the Regular Meeting at 6:06 p.m.

#### CONSENT AGENDA:

3. Matters related to the approval of minutes of the February 23, 2021, Regular Meeting.

4. Consideration and possible action regarding adoption of the following Resolution:  
RESOLUTION AMENDING THE AUTHORIZED REPRESENTATIVES WITH  
TEXPOOL.

Tom Cronin moved to accept both items on the Consent Agenda. Kevin Lacy seconded the motion, the motion carried unanimously. (5-0)

#### **CONSIDERATION AND POSSIBLE ACTION:**

5. Consideration and possible action regarding adoption of the following Ordinance:  
AN ORDINANCE OF THE CITY OF MONTGOMERY GRANTING A SPECIAL USE  
PERMIT FOR CORNERSTONE COMMUNITY CHURCH REQUESTING AN "I"-  
INSTITUTIONAL LAND USE IN SUITES "K" & "L" OF THE MONTGOMERY TRACE  
SHOPPING CENTER, A "B"-COMMERCIAL ZONING DISTRICT; ESTABLISHING  
CERTAIN TERMS, CONDITIONS, AND LIMITATIONS; PROVIDING A SAVINGS  
CLAUSE; AND PROVIDING AN EFFECTIVE DATE UPON PASSAGE.

Mr. Tramm said the common elements of all Special Use Permits are granted to a specific person, business, or organization; granted for a specific property or location; granted for a specific use including specific conditions and requirements.

Mr. Tramm said should any one of these elements change, the Special Use Permit can be revoked by City Council. Mr. Tramm said the draft of the Special Use Permit Ordinance is being presented for review and additional conditions could be added to the Ordinance.

Mr. Tramm said this is an area normally zoned for commercial business. Mr. Tramm said allowing a non-commercial business as a church to go in there removes this area from potentially generating sales tax revenue. Mr. Tramm said these units have been unoccupied for a long time so they are not talking about conversion from a business that generates sales tax revenue to one that does not. Mr. Tramm said the passage of this item would allow the owners of the property to generate revenue for that use. Mr. Tramm said staff also believes the additional traffic generated from people going to the church brings additional people to the location that is potentially going to generate additional revenue and tax revenue for the

businesses that are in that area that do generate sales tax revenue. Mr. Tramm said from that point of view, they consider this a potential positive, not a negative.

Mr. Tramm said City Council has the option to adopt the Ordinance with conditions that City Council may deem appropriate to add, adopt the Ordinance with no additional conditions, or take no action which means the Ordinance is not adopted.

Mr. Tramm said staff recommends adopting the Ordinance.

Tom Cronin asked what if a business that serves alcohol in that plaza decided to leave and someone wanted to buy the business and serve burgers and beer, are they precluded from doing that with the 300-foot rule. Mr. Tramm said they have agreed they will not have any objections to that. Mr. Tramm said that could be provided as a condition of the Special Use Permit. Tom Cronin asked Mr. Alan Petrov, City Attorney if he was okay with that. Mr. Petrov said as long as it is included in the Special Use Permit, yes. Mr. Tramm said that would be something City Council would want to add with their approval. Mr. Petrov said yes. Mr. Petrov said Mr. Cronin is correct in that the general rule is 300 feet, but they could require that it be waived in the Special Use Permit. Mr. Cronin said two businesses do serve alcohol so he wants to make sure they protect them.

Julie Davis said her only concern is if the church ends up needing more space and that is not feasible in the shopping center, this has a 10-day caveat of renewal so is there a way to attach a lease agreement to it and have the lease agreement determine how long it will be set for or how often it is renewed so it follows their lease agreement versus a 10-day renewal window. Mr. Dave McCorquodale, Assistant City Administrator said his understanding is if they change the actual space they are occupying that would require a modification of the Special Use Permit which in technical terms is a new Special Use Permit.

Kevin Lacy moved to adopt the Ordinance as presented with the condition of the 300-foot alcohol waiver.

Mr. Petrov said they can word it that way in the document.

Julie Davis said if Mr. McCorquodale thinks it is sufficient on the renewal then she is fine. Julie Davis said her concern was that it would roll over as industrial use even after the church would move out and the building owner would continue to get a reduced tax rate if he leased it to someone else when the church moved out. Julie Davis said her only concern was the City losing tax revenue if the church left because of expansion or decrease and they needed to relocate. Mr. McCorquodale said the property will not receive a tax exemption because the use itself is institutional and the Special Use Permit does not change the underlying zoning that is commercial, which will be taxed at the same rate. Mr. McCorquodale said in terms of expanding space if the church moves beyond suites K and L they would need to amend the Special Use Permit, which in effect is a new Special Use Permit. Mr. McCorquodale said if they grew to the point of needing to add space adjacent to that, they would need a new Special Use Permit.

Mr. McCorquodale said regarding Mr. Cronin's point, the condition is that they waive any objection to any new or renewing alcohol permits of any kind from TABC. Mr. Cronin said that was correct.

Tom Cronin 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 COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING ITS MUNICIPAL BUDGET FOR THE FISCAL YEAR 2019-2020, BUDGET AMENDMENT NO. 3; PROVIDING A REPEALING CLAUSE AND A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Mr. Tramm said regarding last year's audit, there are a couple of minor notes in the audit related to budget items. Mr. Tramm said it was discussed at that point during the audit process those notes could be avoided if the budget was amended before the audit. Mr. Tramm said City Council requested they come back that way with the next audit and they are at that point now. Mr. Tramm said as they are wrapping up the 2019-2020 audit and after the discussion with the City Auditor, it was found that three of the budget accounts needed an amendment for finalization. Mr. Tramm said these changes are attached to the agenda report and they will properly allow these accounts to be completed in the audit without a management note provided by the auditor for these items. Mr. Tramm said these amendments were prepared in discussion with the auditor. Mr. Tramm said Mr. Lasky, Senior Accounting Clerk will explain these items to City Council.

Mr. Lasky said these are items he discussed with the auditor to make sure everything on their side was

to avoid any language in that section. Mr. Lasky said there were only three accounts affected which needed to be modified. Mr. Lasky said to close out the 2019-2020 audit they would need to make those three changes.

Julie Davis moved to accept the changes as written. Kevin Lacy seconded the motion, the motion carried unanimously. (5-0)

7. Consideration and possible action regarding annual review of Grounds Maintenance and Right-of-Way Mowing and Lift Station Weed Control Contracts with Cody's Lawn Service, LLC, regarding level of service and service costs.

Mr. Tramm said these contracts were signed March 13, 2020, between the City and Cody's Lawn Service. Mr. Tramm said item 13 of the contract states that City Council shall review and authorize renewal annually regarding cost and level of service for the three-year contract.

Mr. Tramm said a meeting was held with Mr. Cody Skyvarna to discuss any additional needs such as new streets or facilities. Mr. Tramm said it was concluded there is not a need to increase the level of service at this point. Mr. Skyvarna is asking for a basic inflation/fuel increase of three percent to cover the rising cost of fuel. Mr. Tramm said the full price of both contracts combined for the year is \$109,140 which would add a maximum increase of \$3,274.20. Mr. Tramm said services for Grounds Maintenance were performed 33 of 36 times this year and Lift Station Weed Control was performed six out of a possible 12 times. Mr. Tramm said the total of the contracts was \$3,900 less than the amount budgeted. Mr. Skyvarna has been given the directive to use his discretion on whether to spray for weeds and he does not perform this task if it is not needed. Mr. Tramm said the City finds that Mr. Skyvarna's services have been exceptional to this point and communication levels are always great.

Mr. Muckleroy said the communication is great and Mr. Skyvarna does a great job. Mr. Muckleroy said Cody's Lawn Service has been the best contractor the City has had since he has been here. Mr. Muckleroy said he is completely on board with giving him the three percent fuel surcharge for each.

Mr. Tramm said staff recommendation is to award the renewal of both contracts with the three percent fuel surcharge increase for each in accordance with the contract for the services provided.

Tom Cronin asked if the normal term is annual or three-year reviewed annually. Mr. Tramm said this is a three-year contract with an annual review. Mr. Tramm said it does need to be reviewed by City Council to be considered.

Mayor Countryman said she has never had more good compliments on the City's lawn service. Mayor Countryman said Mr. Skyvarna and his team do a good job.

Kevin Lacy moved to award the yearly renewal of both contracts with a three percent fuel surcharge for each in accordance with the contract for the services provided. Julie Davis seconded the motion, the motion carried unanimously. (5-0)

8. Consideration and possible action regarding approval of the Final Plat for the Hills of Town Creek Section Four.

Mr. Tramm said the City Engineer is present to discuss this item and review his written recommendation.

Mr. Chris Roznovsky, City Engineer said this did go to the Planning and Zoning Commission last week for review and they did not offer any objection to it and recommended approval. Mr. Roznovsky said the one thing to note on this is with it being in a Final Plat, they are required to put up a performance bond with the City, and the Ordinance requires it is 100 percent of the remaining construction costs of the contract. Mr. Roznovsky said what is left is paving and some site work. Mr. Roznovsky said the estimated cost at the time was around \$100,000 to complete that work. Mr. Roznovsky said the actual bond they provided was for the full contract amount and we are added as an additional obligee to the bond so we are more than covered for the amount of the bond. Mr. Roznovsky said the purpose of that is if the City agrees with the plat and subdividing the property that gives the ability to sell off those individual pieces and if in the meantime the developer defaults and disappears, the City then has the ability to call that bond and finish out the project so the lots can still be delivered after it is subdivided.



Mr. Roznovsky said one thing they discussed during the preliminary plat stage was the green space off of the Park which is shown in the report. Mr. Roznovsky said there was one small adjustment made, which does not affect anything, but they added a utility easement on one lot for Midsouth for electricity.

Mr. Roznovsky said one of City Council's conditions of the plan approval was to approve a Park Plan by staff so it is not just an empty field and also for there to be a Maintenance Agreement in place for the HOA and property owner of that detention pond to ensure it is kept and remains an amenity. Mr. Roznovsky said both items are in the works and have seen draft agreements and also drafted the plans. Mr. Roznovsky said that was not a condition for the plat but a condition for the final acceptance of the plans in and of the infrastructure which will come within the next month.

Mr. Roznovsky said their recommendation is to go ahead and approve the Final Plat.

Julie Davis moved to accept and approve the Final Plat for Hills of Town Creek, Section 4, as presented. T.J. Wilkerson seconded the motion.

Discussion: Mr. Roznovsky said one comment he did have was to make sure the City Attorney is okay with the form of the bond. Mr. Petrov said he did look at it and the form is good.

The motion carried unanimously. (5-0)

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

A RESOLUTION OF THE CITY OF MONTGOMERY REQUESTING STREET CONSTRUCTION, REPAIR, AND MAINTENANCE BY MONTGOMERY, TEXAS.

Mr. Tramm said the existing Interlocal Agreement the City has with Montgomery County requires the City to adopt a Resolution when requesting street repair work which is done by Precinct 1 personnel. Mr. Tramm said College and Caroline Street repairs were previously approved by City Council and an estimate was provided by former Precinct 1 Commissioner Mike Meador. Mr. Tramm said the approval was put on hold due to the COVID-19 budget reductions last year. Mr. Tramm said they want to obtain City Council's approval to go ahead

and approach the County of Precinct 1 to get this work done. Mr. Tramm said the budget estimate around that time was around \$60,000 to repave both streets from FM 149 to the western ends. Mr. Tramm said they have approximately \$80,000 left in the Contract Labor-Streets budget item that would be sufficient to cover it and would like to request City Council adopt the Resolution.

Julie Davis asked if Mr. Tramm foresees any additional costs since it has been a year it was estimated. Mr. Tramm said that is always possible but they have around a 33 percent buffer of those costs that are still within the budget item. Mr. Tramm said unfortunately concerning road issues where costs could go up and delaying them would only cause the costs to be significantly higher. Mr. Tramm said the streets are in near similar conditions they were a year ago and he does not see a significant change in cost. Mr. Muckleroy did review those roads and believes the estimate is in the same ballpark at this time. Mr. Muckleroy said this is the process that is needed to get started. Mr. Muckleroy said they are not committed to having to do the road from start to finish and if the estimates were to come in higher they can always recall what they decide to do later.

Julie Davis moved to adopt the Resolution as presented. Kevin Lacy 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.

#### **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 the 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 inquiries from City Council.

10. Discussion regarding lowering the Montgomery Economic Development Corporation expenditure limit that requires City Council approval from \$10,000 to \$5,000 as requested by Council Member Kevin Lacy.

Kevin Lacy said he wants to identify and ask Mr. Petrov if this is something City Council wished to lower to possibly the \$5,000 mark if they could enforce it or is there a way which they cannot enforce it.

Mr. Petrov said the statute requires City Council approval for items over \$10,000 and it is silent under \$10,000 and does not say City Council has any authority to say no to items less than \$10,000. Mr. Petrov said he does not think City Council could require or prohibit a straight-out expenditure of less than \$10,000 without City Council approval. Mr. Petrov said City Council does have ultimate authority over MEDC through the appointment process. Mr. Petrov said in the section that mentions appointments, it gives City Council the right to remove or replace a board member at any time with or without cause. Mr. Petrov said City Council has full discretion to replace board members if so desired. Mr. Petrov said City Council can adopt policies of sorts that would require some type of limitation and the teeth in them would not be that the expenditure would be flat out disallowed, but if the MEDC chose not to follow whatever policy or guidelines the City Council adopts, your stick is to remove and replace the MEDC members so City Council would always have that authority to act as a sort of deterrent to enforce that policy.

Tom Cronin said even though funds might have been spent that City Council may or may not have disagreed with. Tom Cronin said they are rectifying the situation after it took place. Mr. Petrov said yes, it is an after-the-fact situation.

Kevin Lacy said City Council can agree or disagree on anything MEDC may be working on whether it be a goat costume or a function downtown, the citizens should attend the MEDC meetings and voice their opinions.

Tom Cronin asked Mr. Petrov what the process is. Tom Cronin said Mr. Petrov mentioned with or without cause, is it an agenda item added to the next agenda. Mr. Petrov said that is correct.

Mr. Tramm asked Mr. Petrov what the process was if City Council wants to go through this process from his point of view is this something they put on the next agenda for having City Council submit their input together so they craft the right policy for them to consider. Mr. Tramm asked how that is done because this is something he is not familiar with and needs Mr. Petrov's guidance. Mr. Petrov said he would say yes that if City Council is going to go down that path, you probably want to develop some guidelines or policies to give MEDC Board Members stating the limits City Council wants adhered to and would be adopted in the form of a Resolution. Mr. Petrov said to create that he thinks Mr. Tramm is exactly correct, they would want City Council to give feedback so they can put together something the majority of City Council is desiring.

Kevin Lacy said it goes back to the fact that if there are some things City Council agrees or disagrees on that MEDC may or not be working on, as citizens, seek to attend those meetings and make your point made known there.

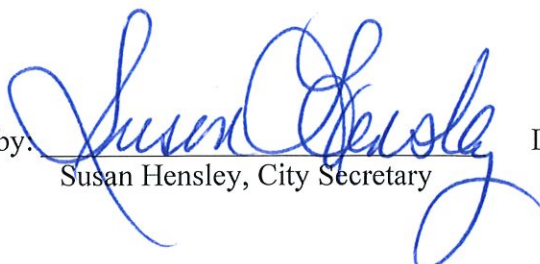
Mayor Countryman said concerning the \$10,000 goat costume, she knows there is something to be voted on but does not think it comes near that cost and yet it has not even been spent. Mayor Countryman asked if City Council is trying to put a hiatus on something that has not even been approved. Kevin Lacy said he is not aware at this point if that is it.

Mayor Countryman said most companies give authority for members on boards a threshold to spend so they do not get bogged down on anything over the low-end amount, so the business can continue to be consistent and not get nit-picked and stair-stepped on everything. Mayor Countryman asked if all questions had been answered. Kevin Lacy said his questions were answered.

## **ADJOURNMENT**

Kevin Lacy moved to adjourn at 6:39 p.m. T.J. Wilkerson seconded the motion, the motion carried unanimously. (5-0)

Submitted by:

  
Susan Hensley, City Secretary

Date Approved:

03/23/21



  
Mayor Sara Countryman