

**MINUTES OF REGULAR MEETING OF
MONTGOMERY CITY COUNCIL
March 08, 2022, at 6:00 PM**

CALL TO ORDER

Mayor Sara Countryman called the meeting to order at 6:00 p.m. Mayor Countryman stated for the record that all Council are present this evening.

Present: Sara Countryman Mayor
Carol Langley City Council Place #1
Kevin Lacey City Council Place #2
T.J. Wilkerson City Council Place #3
Julie Davis City Council Place #4
Byron Sanford City Council Place #5

Also Present: Richard Tramm City Administrator
Dave McCorquodale Assistant City Administrator
Nici Browe City Secretary & Director of Administrative Services
Alan Petrov City Attorney

INVOCATION

Mayor Pro Tem 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.

CONSENT AGENDA:

1. Approval of the minutes of the Regular City Council Meeting of February 22, 2022

Councilmember Byron Sanford moved to approve the Consent Agenda as presented. Councilmember Kevin Lacey seconded the motion, the motion carried unanimously. (5-0).

DEPARTMENTAL REPORTS:

No departmental reports for this meeting.

CONSIDERATION AND POSSIBLE ACTION:

2. Approval of an ordinance that allows for on-premises sale and consumption of alcohol in conjunction with the approval of an application for a Wine and Malt Beverage Retail Dealers

On-Premises Permit & Food and Beverage Permit for “The Montgomery Grove,” located at 22016 Eva Street, Montgomery, Texas 77356.

Mr. Tramm provided City Council with the background for this item to include that the owner was seeking an "on-premises" alcohol permit, however the building for this permit needs to be rehabilitated. He added that the owner intends while the construction is ongoing to operate from a mobile unit.

Mr. Tramm informed City Council that the Code of Ordinances does not allow the consumption of alcohol onsite with a mobile unit and it is not practical for the consumption off site.

Staff, spent time consulting with legal counsel and where the application is at today is that City Council can grant an exception in order for the owner to continue to operate and sell alcohol on site, while they bring the current existing building up to the current code.

Mr. Tramm advised Council that today they have the option to :

1. Deny the application/permit outright.
2. Postpone the permit request.
3. Grant the permit by passage of an ordinance; or
4. Grant the permit by passage of an ordinance and impose additional conditions to the ordinance so long as the conditions are not “arbitrary, oppressive, or capricious” and the conditions are “substantially related to the protection of the general health, safety, or welfare of the public”.

Mr. Tramm also stated that the additional hand out they have is the information that has been submitted by Code Enforcement.

Councilmember Kevin Lacey addressed the business owner and asked when they anticipated to open.

Josh Chetham (applicant and co-owner) stated that as soon as they have received all the required permits, they intend to begin operations.

Councilmember Byron Sanford inquired when they applied for their permit.

Josh Chetham stated the alcohol permit was February 2, 2022.

Mike Anderson, applicant, and co-owner stated that originally, they had submitted permit applications to the City in November and December by their third-party agent. He explained that there appeared to be a lot of back and forth with the city at the end of November.

Mayor Countryman, stated so is it that the city is being the bottleneck?

Mr. Tramm responded that staff had received their application in January, but it had taken a lot of research and work with the legal counsel to find an appropriate way for this business to operate while not in compliance with the current ordinance.

Mayor Countryman stated that she is in receipt of all of the emails from Ms. Harrison the third party concerned, and she is rightly frustrated. The mayor inquired why the City could not have submitted a response or an email of some kind acknowledging receipt and that staff is working on the permit. The mayor added that it appears that there is a big lack of communication.

Police Chief, Anthony Solomon stated that there has been a lot going on behind the scenes and its not about who did what or did not do, prior to this the city did not have a Code Enforcement person, however, we do now and there are certain steps to be taken and codes to be adhered to

for this to get approved. TABC requires certain items, and the way the City's Ordinance is written isn't easy to interpret or enforce on this situation.

Mayor Countryman thanked Police Chief for his input, but still felt that during this time, a brief email would have been sufficient to inform the applicant that staff is working through the issues.

Police Chief, Anthony Solomon stated that going forward and with the new Code Enforcement Officer, communication will be stepped up.

Councilmember Byron Sanford inquired about the church next door and TABC permits, he was asking how that measured.

Mr. Chetham, (applicant) stated that it is with a Church the boundary measurements are front door to front door, however, with a school its property line to property line.

Councilmember Kevin Lacey stated he is excited for the grand opening and is looking forward to its successes.

Councilmember Byron Sanford stated that he knows that they have a great reputation and hope that the city and its processes do not hinder them any further.

Mr. Chetham and Mr. Anderson both explained that they want to do things the right way, as they have a long history with Montgomery and wish to pay back to the community by providing a safe family friendly entertainment venue, unlike anything else in the city or surrounding area.

Mayor Countryman agreed with Councilmember Byron Sanford and felt that City Hall processes are broken, there needs to be communication.

Councilmember Julie Davis asked if this action to be taken tonight is changing the ordinance. The handout felt like that's the action being asked of Council.

Mr. Tramm explained that it would not change the ordinance, the action if taken, would be an exception to the ordinance granting the applicant the ability to operate while construction and rehabilitation of the existing and permanent building took place. The handout is all of the steps that are required by Code Enforcement to bring the building into compliance with our ordinance.

Councilmember Byron Sanford asked the applicant that if they were to approve this with item #4 in the handout, would the timeline of 12 months be sufficient for them to do their building.

Mr. Chetham and Mr. Anderson agreed that timeline would be perfect.

Mayor Countryman addressed some of the steps in the handout, in particular the lighting.

"Tilley" the City's Code Enforcement Officer addressed City Council and explained the requirement of the lighting candle footprint.

Councilmember Julie Davis made a motion to approve the item with the requirement of step #3. Councilmember Byron Sanford seconded the motion. The motion passed unanimously. (5-0).

3. Announce the residential and commercial winners of the Texas Flag Celebration contest held on March 5, 2022.

Mayor Countryman spoke about the competition that was held in conjunction with Flag Day in the City and that there were some winners to receive their awards in chambers this evening.

Amy Brown, Events Coordinator announced the winners and runner-up's and presented them with a trophy and checks from the City and the Spirit of Texas Bank.

Commercial

3rd Place - Rustic Cashmere

2nd Place - The Rancher's Daughter

1st Place - The Montgomery Fire Department.

Residential

3rd Place - Angela Love

2nd Place - Randy Burleigh

1st Place - Scott Howard.

4. Consideration and possible action regarding award of the Sanitary Sewer & Drainage Improvements on Dr Martin Luther King Jr Drive (GLO CDBG-DR Contract No. 19076-017-B366 – Sewer Facilities) and authorization for the City Administrator to execute the Contract.

Chris Roznovsky, PE (WGA) City Engineer presented the City Council with information regarding the bids received for this project. He gave a brief overview of the intent of the project and declared that the recommendation to go with PM Construction & Rehab, LLC as they came in under budget and satisfied the GLO requirements.

Council Discussion

Council expressed their desires for helping the location with culverts and flow and discussed what the intended deadline is, as the GLO funds expire at a given time. Concerns were raised that work already taken place at that location would not have to be tore back up.

The Engineer responded that the completion is estimated to be 180 days. (November) and confirmed that existing work would not be affected.

Councilmember Byron Sanford made a motion to approve the award to PM Construction & Rehab, LLC for the Sanitary Sewer & Drainage Improvement on Dr. martin Luther King Jr. Drive. Councilmember Kevin Lacey seconded the motion. The motion passed unanimously. (5-0).

5. Consideration and possible action regarding award of the Water Plant No. 3 Generator Addition (GLO CDBG-DR Contract No. 19076-017-B366 – Water Facilities) and approval of the authorization for the City Administrator to execute the Contract.

Chris Roznovsky, PE (WGA) City Engineer presented this item to City Council and reminded them that this item is also being funded through GLO funds. He provided Council with the scope of work and that with the purchase of this generator that all equipment at the water plant will have back up power.

He provided a note that he had reached out to the GLO as all bidders were expressing concerns as to the availability in a timely manner for the Generators, given the global supply issue.

He recommended that the bid should be awarded to McDonald Municipal & Industrial who also came in under budget with a lead time of 225 days for completion of the project, which is right at the deadline for GLO.

Council Discussion

Council discussed that to accept an alternative bidder would be futile as it is a global supply issue, they also expressed their concerns that the completion time is critical for funding and urged the Engineer to continue to reach out to the GLO.

Councilmember Byron Sanford made a motion to accept the award of the bid from McDonald Municipal & Industrial. Mayor Pro Tem T.J. Wilkerson seconded the motion. The motion was passed unanimously. (5-0).

6. Consideration and possible action on calling a Public Hearing for April 12, 2022, at 6:00 p.m. regarding a Special Use Permit Application by Mr. Kenneth Pitre and Mr. Tony Jackson to allow continuation of firewood sales on property adjacent to 22868 FM 1097 East Montgomery, Texas 77356, an "R1"-Single Family Residential Zoning District.

Mr. Tramm provided City Council with details on the application for a Specific Use Permit from the applicant to sell Firewood from his current location. He provided some language from the current ordinance and the local government code on the posting requirements for Public Hearings. The proposed Public Hearing would be April 12, 2022.

Mayor Countryman inquired if while we wait on the public hearing, he could continue to sell firewood, event though it is not a permitted use as it stands today.

Mr. Tramm responded that he had been advised that the applicant could continue.

Council Discussion.

Mayor and Council discuss and express their concerns that allowing the applicant to continue to sell, when it is not permitted, just is not right, why make someone go through the Specific Use Permit if the City is just going to allow them to continue as they are.

Mr. Tramm stated that the agenda item was not about continuation or not today, but about setting a Public Hearing.

Councilmember Kevin Lacey made a motion to approve setting the Public Hearing for April 12, 2022, at 6:00 p.m. Councilmember Carol Langley seconded the motion. Motion passed unanimously. (5-0).

7. Acceptance of resignation letter from Allyson Clark from the Planning and Zoning Commission.

Mr. Tramm explained that he had been in receipt of the resignation of one of the current Planning and Zoning Commission members. He would like to post on the website and submit a flyer in the utility bills for new interested parties.

Councilmember Byron Sanford made a motion to accept the resignation of Allyson Clark from the Planning & Zoning Commission. Councilmember Julie Davis seconded the motion. The motion passed 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 moved into Executive Session 6:39 p.m.

8. 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)
 - b) Section 551.072 (deliberation regarding real property)

CITY COUNCIL RECONVENED AT 8:07 p.m.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

9. Consideration and possible action on real property matters discussed in Executive Session.

Councilmember Byron Sanford made a motion to direct Administration and Legal Counsel to execute the real property purchase agreements. Councilmember Carol Langley seconded the motion. The motion passed unanimously (5-0)

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 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.

Councilmember Byron Sanford inquired if when the city is given notice of water shut offs that people who run businesses are given more than a day's notice so they can adequately prepare.

Mr. Tramm responded that he will get with the Public Works Department to make sure that happens, unless of course it is an emergency.

Mayor Pro Tem, T.J. Wilkerson explained that he had met with visitors from another State and had wanted to give them something that signifies Montgomery, he was unable to find anything.

Mr. Tramm stated that he was working on prototypes, a small Christmas ornament with several images like the flag goat, Texas flag and other historic items.

Councilmember Kevin Lacey requested that there be a selection of items that do not have the goat on them.

Mayor Countryman asked for clarification on how the purchase of a goat works, and if the money charged is covering staff time.

Mr. Tramm responded that they typically wait to collect more than just one goat. Then the team will collect them from the maker and take to the person buying or to the location for any paint that has been requested. He assured the Mayor and Council that the cost of pick up/delivery has been accounted for in the pricing.

Mr. Tramm responded to Council Inquiry on numbers of goats sold thus far: approximately 15.

Mr. Tramm raised the potential ideal date for the Capital Improvement Plan Workshop as March 28, 2022 but would work individually with anyone who cannot make that workshop.

Mayor Pro Tem, T.J. Wilkerson welcomed the new City Secretary, Nici Browe. Mayor and Council congratulated and welcomed her to the City of Montgomery.

ADJOURNMENT

Councilmember Kevin Lacey made a motion to adjourn. Councilmember Byron Sanford seconded the motion. The motion passed unanimously (5-0).

ADJOURNMENT 8:43 P.M.

Submitted by: _____

Date Approved: _____

Nici Browe, City Secretary & Director of Administrative Services.

Sara Countryman, Mayor.

