

**City Council Regular Meeting  
MINUTES**

**June 13, 2023, at 6:00 PM**

**CALL TO ORDER**

Mayor Byron Sanford called the meeting to order at 6:00 p.m.

Present:        Byron Sanford        Mayor  
                  Carol Langley        City Council Place #1  
                  Casey Olson            City Council Place #2  
                  Sara Countryman       City Council Place #3  
                  Cheryl Fox             City Council Place #4  
                  Stan Donaldson        City Council Place #5

Also Present: Gary Palmer        City Administrator  
                  Nici Browe             City Secretary & Director of Administrative Services  
                  Katherine Vu          WGA, City Engineer

**CALL TO ORDER**

Mayor Byron Sanford called the meeting to order at 6:00 P.M.

**INVOCATION**

Mayor Byron Sanford provided the Invocation.

**PLEDGE OF ALLEGIANCE TO FLAGS**

**VISITOR/CITIZENS FORUM:**

Kevin Smith, 205 Nathan Court, Montgomery, TX addressed the Council with his serious concerns with respect to the pool at his property. A copy of Mr. Smith's speech is attached hereto.

Stephanie Clevenger, resident stated she does not have any complaints she is here to see if the committee has had any movement on the "Hometown Hero Banners".

Mr. Palmer responded that he would find out and get with her.

Julie Dennison, 114 Anna Springs, Montgomery, TX stated she is here in respect of the Special Use Permit under consideration this evening and is her third time speaking on this. She added she thinks it is bad for the homeowners there and if this happens it will be in her backyard. She cautioned the council that if you let this person do this then the next person down the road will do the same and so on. Some of those places will get sold on, I don't want a beer joint or strip club in my backyard, she continued.

Ms. Dennison stated that it is going to ruin their property values and personally if that was back there when she came to buy, she would not have bought the property and in fact bought it with the understanding that it is a residential only area, and if this gentleman didn't do the proper homework, she cannot help that and

is sorry for his loss, he is a real estate man and should have known. She concluded her time by stating she is against it as well as several of her neighbors.

### **CONSENT AGENDA:**

1. Approval of the following minutes:
  - (a) City Council & Board of Adjustment Meeting 05-09-2023
  - (b) City Council Workshop 06-05-2023

Councilmember Casey Olson moved to approve the Consent Agenda as presented. Councilmember Sara Countryman seconded the motion. **Motion Passed (5-0).**

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

2. Consideration and possible action on calling a Public Hearing related to a Special Use Permit application for 14640 Liberty Street as submitted by Evan Ballew.

Mr. Dave McCorquodale introduced this item and explained that this the same applicant that requested a rezoning request which was subsequently denied, therefore, he has now applied for a Special Use Permit with the only action required by the City Council is to call the Public Hearing.

Councilmember Sara Countryman stated that she too lives in that neighborhood and is not in favor of this right now, she went on to state that she is ware at some point in the future this will change and maybe it will be moved towards houses and boutiques, but in her mind today is not that day.

Councilmember Carol Langley moved to schedule the Public Hearing on the Specific Use Permit is July 11, 2023, at 6:00P.M. Councilmember Cheryl Fox seconded the motion.

Councilmember Casey Olson inquired what would happen and what would be the next step if the council denied the public hearing.

Alan Petrov, Legal Counsel stated that he would prefer that the council did not deny the hearing as this is the due process that should occur and at that time you get to make the decision if you wish to approve the Special Use Permit.

**Motion Passed (5-0).**

3. Consideration and possible action on: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING CHAPTER 64 PEDDLERS, SOLICITORS AND VENDORS OF THE CITY CODE OF ORDINANCES; REPEALING CHAPTER 64 IN ITS ENTIRETY AND ADOPTING THE LANGUAGE HEREIN, PROVIDING A SEVERANCE CLAUSE AND TEXAS OPEN MEETINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Mr. Gary Palmer stated this this ordinance was first reviewed the week of April 11<sup>th</sup> and again June 5<sup>th</sup>. He went on to say that he took all comments and edits received by the council and incorporated it into the final draft that is in their packet today.

Mr. Palmer went on to state that they have refined the definitions in line with state law, and in which zones they can operate within, if they wish to operate within a Historic area then permission from the City Council is required.

Mr. Palmer stated that they have also cleaned up the exemptions and read through some of the changes, for instance an ice cream truck cannot solicit from a stationary location, they need to be roaming.

He advised the council that the fees have changed to reflect the permit requirements and administration thereof, Food trucks operating under an event will be under the event permit and not required to come into City Hall for each event. Food trucks acting individually will require to pay the fees of Week \$25.00; Month \$100.00 and 6 Month \$600.00.

Councilmember Sara Countryman asked about those that went to the local event on Thursday, they would be under the event permit. Mr. Palmer responded that they would be under the Street Festival Permit, the organizer.

Mayor Byron Sanford thanked Mr. Palmer, staff, current and former city councilmember as well as the Planning & Zoning Commission for bringing this to the table and collaborating with each other to make this happen. This has been the missing piece and Mr. Palmer is bringing everyone to the table.

Councilmember Sara Countryman moved to approve the ordinance as presented in its entirety. Councilmember Casey Olson seconded the motion. **Motion Passed (5-0).**

4. Consideration and possible action on: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING CHAPTER 98 ZONING, ARTICLE III DISTRICTS AND ZONING MAP, DIVISION I GENERALLY, SECTION 98-88 TABLE OF PERMITTED USES AND SPECIAL USES OF THE CITY CODE OF ORDINANCES; REPEALING SECTION 98-88 IN ITS ENTIRETY AND ADOPTING THE LANGUAGE HEREIN, PROVIDING A SEVERANCE CLAUSE AND TEXAS OPEN MEETINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Mr. Gary Palmer informed the council that this ordinance is related to the item we just approved, in the regulation there is a permitted use by zone and therefore we have added the uses within this table.

Councilmember Casey Olson moved to approve the ordinance amending chapter 98-88 table of permitted uses as presented. Councilmember Stan Donaldson seconded the motion. **Motion Passed (5-0).**

5. Call for City Council Workshops for the Remainder of 2023

Mr. Gary Palmer introduced this item and informed the Council that he has prepared a calendar list of workshops as he has discussed with them previously. The first four workshops are for budget and the rest are general workshops. He added that these are beneficial to the efficiency of local government as items can be discussed and worked on prior to a council meeting.

Mayor Sanford requested that the September 11 workshop meeting be changed to 5 P.M start.

Councilmember Sara Countryman thanked Mr. Palmer for planning this out and giving as much advance notice as he can, it greatly helps.

Councilmember Cheryl Fox moved to approve the list of workshops with the changes as discussed. Councilmember Sara Countryman seconded the motion. **Motion Passed (5-0).**

6. Discussion Regarding the City of Montgomery and Montgomery County Interlocal Governmental Agreements for the Town Creek Bridge and Lonestar Parkway Buffalo Springs Intersection Improvements.

Mr. Gary Palmer stated that this item has been placed on as a discussion item only at the request of the council.

Councilmember Sara Countryman spoke in regard to the Lone Star Bridge and stated that in the agreement on page 2 it states the city responsibility is 50% of design with construction cost not to exceed \$100,000.00. Section 2 discusses the terms of payment and has a question, as the way she is reading it says *“that the city would pay \$100,000 and PLUS whenever the project is finished with, within 30 days of completion of the project the county shall submit to the city for approval of final accounting of the project cost, including the final cost of city share and the city shall remit payment for the city’s share to the county on or before 45 days of receipt of such final accounting and invoice. The final city’s share shall be based on all project costs incurred to date of the project”* she asked for clarification from legal counsel as to her she believes they (county) are saying once they award/accept the bid they will send us an invoice for \$100,000 but the next sentence states 30 days of completion therefore she thinks it will be more as the county will submit an invoice for whatever the final amount is for the city share.

Mr. Alan Petrov, Legal Counsel stated that is not a correct interpretation, however, he completely understands her thought with that language, but the city’s share is a defined term which is always the city share of \$100,000.00 and the “final accounting including the city’s share” does in fact mean the same \$100,000.00. Therefore, the final payment is still only the defined city share. He added they may go over that amount or even under, however, the city’s share is \$100,000.00.

Councilmember Casey Olson stated he is in agreement with Councilmember Countryman, specifically with the last sentence of that paragraph, reading it at face value, the punctuation in it does not make it a defined amount.

Mayor Byron Sanford stated that of the three remaining members on council, he can assure everyone that was one thing that was very defined, they did not want to go one dime over the \$100,000.00.

Mr. Alan Petrov responded that he does not believe the city is obligated to pay beyond \$100,000.00.

Councilmember Cheryl Fox asked Mr. Petrov to look at the item where it states the city’s share is \$250,000.00.

Councilmember Sara Countryman stated that is for the round-a-bout the other project. However, on that project on the last line an absolute amount but not on the first one and stated she didn’t understand why there was a difference. Mr. Petrov responded that on the other one we needed to make it 100% clear and the share is still only \$100,000.00.

Mayor Byron Sanford stated it seems there is a consensus that we need clarity, and he would highly recommend that legal counsel fashion a statement over the bridge and state clearly to make sure we are not out any additional costs.

Councilmember Sara Countryman stated that of all the bids they received, \$100,000.00 is not half the bid, just a little over a quarter of the bid, her concern is when the county accepted the bid they took the lowest at \$400,000 and their highest was \$1.2 million – a huge delta therefore, most likely there will be change orders and wants to make sure we are not on the hook for those.

Mr. Petrov stated that under the agreement we are only on the hook for a \$100,000.00 but we can make the county readily aware of that.

Councilmember Sara Countryman asked how we could do that, is it by resolution.

Mr. Petrov responded that the council have already made their intent clear and he will follow up with a letter to remind the county of our obligation under this agreement.

Councilmember Stan Donaldson stated the agreement had already been signed back in October, his question is why it took the county so long to execute their side of it.

Mayor Byron Sanford stated humorously, welcome to city government.

Councilmember Sara Countryman asked for the roundabout agreement, was it our first draft that we sent over. Mr. Palmer stated that it was edited and sent back with those edits, the county has not yet responded.

Councilmember Sara Countryman said she was wondering as she saw that we signed it, but if it's our agreement why would we sign it before the County if we were still awaiting edits. Mr. Palmer responded that we are all done on our end.

Councilmember Sara Countryman stated that the county is now trying to put a light there, but a round about is definitely what the city desire is and is best for today's congestion and that of the future. The last traffic study was two and half years ago, Commissioner Walker was surprised at the results of the study, over 15,000 cars go through that intersection. She went on to say that she is sure there is a significant uptick since that study, she is not sure if the city has any say with that new traffic count, but believes it is definitely worth revisiting. The city needs to showcase the need for a roundabout and quickly.

Councilmember Countryman went on to say she did call Bleyl after the commissioner's court and they say that the City and the County couldn't agree on an amount. She added that she told them the city was very clear what the amount was. They are putting together a new bill of sales of what it would like, and it is her assumption that the city would get a copy of that and would like to have a seat at the table whenever others are doing work in our city. She added that we in the city do not want a light, we want a roundabout.

Councilmember Countryman informed Mr. Palmer that when she first talked to them about the intersection the roundabout made the most sense as there wasn't enough right of way for lights.

Mayor Byron Sandford stated he can clearly say this, I have had a meeting with the top officials at the school district, a few weeks ago we approved some parking variance there for vocational trades, less than a quarter mile from that intersection, he strongly urge us to insist on a roundabout, not a shoddy one either, that the county join up with us to make a hard swing out as the vocational trades also includes AG vehicles and trailers, he has been working with Congressman Latrelle and is expecting a phone call back, light just won't work.

Mayor Sanford went on to say that he wants staff to get us all at the table, we need to take care of our needs and clearly a roundabout is the best solution. We need to be firm and insistent, and Will Metcalf is on this side, he just called him back today, so let's stick to our guns and use the school district who has a vested interest.

Councilmember Sara Countryman stated they may partner with us if we consider undertaking the cost of maintaining it, as we don't get a lot of attention over here, rather than waiting in line. Mayor Byron Sanford stated the EDC is well equipped to handle the "bells and whistles" as the county called it for the roundabout.

Councilmember Casey Olson stated if the county tells us to pound sand on the roundabout how fast can we make them put in the light.

Mr. Chris Roznovsky, City Engineer responded that they have already bid on and procured equipment for the installation in October. He also stated the first they got wind of this was when they asked about plans for electrical.

Councilmember Sara Countryman asked, so if they have already put the bid out and procured the equipment are we stuck with the lesser effective route, the cheapest route.

Mayor Byron Sanford stated it's time to get all of the help we can from commissioners, TxDOT, Congressman to get what we need. Mr. Gary Palmer stated he would meet with the Mayor and Engineer and strategize going forward.

7. Consider Removal of Montgomery Economic Development Committee Director/President

Mr. Gary Palmer introduced this item and explained that with them in their packets they have the MEDC Bylaws and that the City Council has the authority to remove any board director. He added that he will not be labor the point in public, but the council has the council report and the recommendation.

Councilmember Casey Olson moved to remove the MEDC President Ms. Rebecca Huss effectively immediately. Councilmember Cheryl Fox seconded the motion.

Councilmember Sara Countryman inquired if there is a specific reason for this removal. Councilmember Casey Olson responded that he didn't want to go into detail however, he will say that comments and the treatment of citizens in recent meetings is unacceptable and there is no room for personal agendas, time we took the MEDC in a new direction.

**Motion Passed (4-1)** Councilmember Sara Countryman voted against.

### **EXECUTIVE SESSION:**

Adjourn into Closed Session in compliance with Section 551.01 etseq. Texas Government Code, to wit:

Sections 551.071 (consultation with attorney: Redbird Meadows Development Agreement)

551.072 (deliberation regarding real property)

**The City Council convened into Executive Session at 6:42 P.M.**

**The City Council reconvened into Regular Session at 7:21 P.M.**

### **POSSIBLE ACTION FROM EXECUTIVE SESSION:**

No motions were made.

### **COUNCIL INQUIRY:**

Mayor Sanford informed the Council and the public that June 24<sup>th</sup> the new VFW located at 14264 Liberty St will be hosting a fundraiser.

Mayor Sanford reminded everyone that the Lone Star Street Dance will be held Saturday 16<sup>th</sup> June and that is FREE.

### **ADJOURNMENT**

Councilmember Casey Olson moved to adjourn the meeting. Councilmember Sara Countryman seconded the motion. **Motion passed (5-0).**

**ADJOURNED: 7:26 P.M.**

Submitted by: Nici Browe  
Nici Browe TRMC, City Secretary

Date Approved: 6-27-2023

Byron Sanford  
Byron Sanford, Mayor

Hello everyone, my name is Kevin Smith, 205 Nathanael Court, Montgomery Texas

With your undivided attention for the next 3 minutes you & I can solve a mystery & potentially save people's lives.

I am a simple homeowner who knows nothing about pools, moved into a city because of regulations not into the country where anything goes.

This is not vindictive & I am not attempting to be mean or make enemies, I am simply stating facts.

I love my city & I am only here to make it better!

In 2020 I had a pool installed that had 3 LED lights.

A licensed electrician put 2 lights in that had an electrical line that was too short.

I told them the manufacturer has the same light with a longer line.

I was told the lights are low voltage & 8 butt splices were put in plastic conduit & buried.

The pool failed final inspection due to other circumstances & to this date has never passed final inspection but has passed electrical inspection.

We hired an expert witness to evaluate our pool.

He noted the electrical work had major issues, it is not bonded or ground properly, conduit & junction box violations, butt splices & should have never passed electrical inspection.

In November 2022 a licensed electrician was putting in lights in my neighbors pool & I casually mentioned the long light lines he was using & asked if he ever used butt splices.

He spun around like I had insulted his wife & said that's a \$5,000 fine for each one & you have 8, the electrician should lose their license & you could electrocute anyone using your pool.

I immediately pulled the lights out myself & plugged the holes.

I contacted the Texas Department of Licensing & Regulations & a case is currently being investigated with their inspectors & prosecutors.

I contacted the city, who is aware of issues with my pool & brought special attention to this butt splice issue & TDLR case.

I was told by city officials & I quote, "What was observed met the requirements of the building code."

The city goes on & I quote, "The underground splices for the pool lights would not have met code but were not visible during inspection."

"Good luck in your pursuit of holding the electrical company accountable."

With all that as background now we get to the part where I can really use your help.

We pay good money for permits in this city.

The city inspector, whose job it is to inspect for potentially deadly work & keep me & my family safe, so I thought!

I emailed city officials & I quote. "So let me get this straight, a state licensed electrician can violate code, bury it, never call for an open ditch inspection

& the city inspector doesn't demand anything be uncovered to see with his own eyes and the city inspector passed the electrical inspection?!"

The safety nets I & every other resident in the city of Montgomery Depend Upon, have let me down.

I hope the city council is the final safety net that will help we citizens out!

Here is the mystery you can help me solve as no one from the city will answer this after repeatedly being asked.

Let's say my granddaughters were electrocuted & killed in my pool. Who is responsible? Me, the electrician, the city inspector, city administrators?

How many other potentially deadly jobs are laying hidden & approved via passed inspections waiting to kill our residents.

I look forward to you solving this mystery for me!

Thank you!

Kevin Smith