

NOTICE OF PUBLIC HEARING AND REGULAR MEETING

May 14, 2019

MONTGOMERY CITY COUNCIL

STATE OF TEXAS

AGENDA

COUNTY OF MONTGOMERY

CITY OF MONTGOMERY

NOTICE IS HEREBY GIVEN that a Public Hearing and Regular Meeting of the Montgomery City Council will be held on Tuesday, May 14, 2019 at 6:00 p.m. at the City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas for the purpose of considering the following:

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE TO FLAGS

CONSIDERATION AND POSSIBLE ACTION:

1. Consideration and possible action to adopt the following Ordinance:
AN ORDINANCE CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE CITY OF MONTGOMERY GENERAL ELECTION HELD ON MAY 4, 2019, FOR THE PURPOSE OF ELECTING THREE (3) COUNCIL MEMBERS, PLACES 1, 3 AND 5, TO THE CITY COUNCIL FOR THE CITY OF MONTGOMERY, TEXAS.
2. Mayor Countryman will administer the Oath of Office to the following duly elected officials from the May 4, 2019, City of Montgomery General Election:

Jon Bickford - City Council Place 1
T.J. Wilkerson – City Council Place 3
Tom Cronin – City Council Place 5
3. Consideration and possible action electing the Mayor Pro Tem for the term of one (1) year as provided by Texas Local Government Code §22.037(b).

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:

4. **Receive Final Report** from the Planning and Zoning Commission dated May 13, 2019 resulting from their Public Hearing held on May 13, 2019 regarding a request from Candace Welsh for a Special Use Permit for the property located at 401 College Street, Suite 110-B, Montgomery, Texas 77356 for a microblading tattoo business, exclusively for eyebrows and eye shade, as an accessory use of an otherwise approved and permitted use.
5. **Convene into Public Hearing** – Regarding the following:
A request from Candace Welsh for a Special Use Permit for the property located at 401 College Street, Suite 110-B, Montgomery, Texas 77356 for a microblading tattoo business, exclusively for eyebrows and eye shade, as an accessory use of an otherwise approved and permitted use.

Adjourn Public Hearing.

Convene into Regular Meeting

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:

6. Matters related to the approval of minutes of the Regular Meeting held on April 23, 2019 and Special Meeting held on April 27, 2019.
7. Consideration and possible action regarding adoption of an Escrow Agreement by and between the City of Montgomery and Christian Brothers Automotive Corporation.

CONSIDERATION AND POSSIBLE ACTION:

8. Consideration and possible action regarding adoption of the following Ordinance:
AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS, GRANTING A SPECIAL USE PERMIT TO CANDACE WELSH FOR USE OF A PORTION OF THE PROPERTY LOCATED AT 401 COLLEGE STREET, SUITE 110-B, MONTGOMERY, TEXAS 77356, FOR A MICROPIGMENTATION TATTOO BUSINESS; ESTABLISHING CERTAIN TERMS, CONDITIONS AND LIMITATIONS; PROVIDING FOR PENALTY, SEVERABILITY, AND EFFECTIVE DATE.
9. Consideration and possible action regarding acceptance and award of bid for relocation of Lift Station #1.
10. Consideration and possible action regarding acceptance and award of bid for placement of an 18" Gravity Sewer Line in the area around Wastewater Treatment Plant.
11. Consideration and possible action regarding paving of gravel parking lots in the City.

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.

12. 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 551.074 (personnel matters) related to City Administrator selection; and
 - b) Section 551.071 (consultation with attorney) Pending Litigation.
13. Reconvene into Open Session.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

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

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.

ADJOURNMENT



Susan Hensley, City Secretary

I certify that the attached notice of meeting was posted on the bulletin board at City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas, on the 10th day of May, 2019 at 3:55 o'clock p.m. I further certify that the following news media was notified of this meeting as stated above: The Courier

This facility is wheelchair accessible and accessible parking spaces are available. Please contact the City Secretary's office at 936-597-6434 for further information or for special accommodations.

Montgomery City Council
AGENDA REPORT

Meeting Date: May 14, 2019	Budgeted Amount:
Department: Administrative	
Prepared By: Susan Hensley, City Secretary	Exhibits: Ordinance to Canvass the May 4, 2019 City Election Results
Date Prepared: May 9, 2019	

Subject

Adoption of Ordinance Canvassing the Results of the May 4, 2019 City Election.

Recommendation

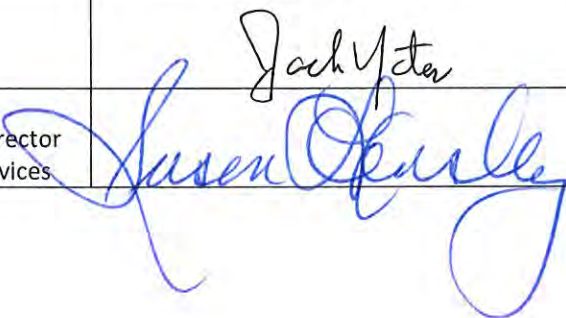
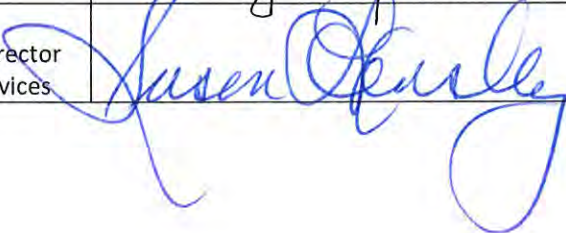
Adopt the Ordinance Canvassing the Election Results of the May 4, 2019 City Election.

Discussion

The Montgomery County Elections Administrator Suzie Harvey has advised the Early Voting Ballot Board will convene for its final meeting on May 13, 2019. The Early Voting Ballot Board will finalize all official canvassing reports that afternoon and the following morning. Suzie Harvey will email the reports when they are completed, but no later than the morning of Tuesday, May 14, 2019.

In the City of Montgomery Election, one provisional ballot was cast, and there are no outstanding eligible late mail ballots.

Upon receipt of the official canvassing reports, they will be provided to you at the meeting and will be attached to the Ordinance as Exhibit "A."

Approved By		
City Administrator		Date: May 9, 2019
City Secretary and Director of Administrative Services		Date: May 9, 2019

ORDINANCE NO. 2019-_____

AN ORDINANCE CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE CITY OF MONTGOMERY GENERAL ELECTION HELD ON MAY 4, 2019, FOR THE PURPOSE OF ELECTING THREE (2) CITY COUNCIL MEMBERS, PLACES 1, 3 AND 5, TO THE CITY COUNCIL FOR THE CITY OF MONTGOMERY, TEXAS.

WHEREAS, a General Election was held in the City of Montgomery, Texas on May 4, 2019, for the purpose of electing three (3) City Council Members to the City Council, Places 1, 3 and 5; and

WHEREAS, said election was duly and legally held in conformity with the election laws of the State of Texas, and the results of said election have been verified and returned by the proper judges and clerks; and

WHEREAS, it appears that a total of _____ ballots were cast in such election; now, therefore **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS:**

Section 1. The facts set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The official canvass of the returns of the General Election held on May 4, 2019, reflects that the following named persons received the number of votes set opposite their names in the respective positions to be filled:

CITY COUNCIL, PLACE 1

<u>Candidate</u>	<u>Votes Received</u>
Jon Bickford	130

CITY COUNCIL, PLACE 3

<u>Candidate</u>	<u>Votes Received</u>
Nick Haddad	80
T.J. Wilkerson	105

CITY COUNCIL, PLACE 5

<u>Candidate</u>	<u>Votes Received</u>
Thomas Cronin	113
David Brown	68

Section 3. The Certified Official Final Results, as prepared by Suzie Harvey, Montgomery County Elections Administrator, of the General Election held on May 4, 2019 is attached as heretofore as Exhibit "A" showing that the following persons were duly elected to their respective positions as follows:

City Council Place 1
Jon Bickford

City Council Place 3
T.J. Wilkerson

City Council Place 5
Thomas Cronin

PASSED AND APPROVED this the 14th day of May, 2019.

Sara Countryman, Mayor

ATTEST:

Susan Hensley, City Secretary

APPROVED AS TO FORM:

Larry L. Foerster, City Attorney

Montgomery City Council
AGENDA REPORT

Meeting Date: May 14, 2019	Budgeted Amount:
Department: Administrative	
Prepared By: Susan Hensley, City Secretary	Exhibits:
Date Prepared: May 9, 2019	

Subject

Oath of Office for Newly Elected City Council Members, Places 1, 3 and 5

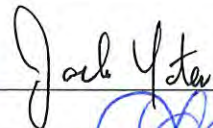
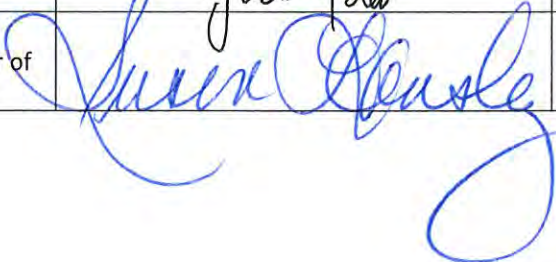
Recommendation

Discussion

Mayor Sara Countryman will administer the Oath of Office to the newly elected City Council Members, Places 1, 3 and 5:

Place 1 – Jon Bickford
Place 3 – T.J. Wilkerson
Place 5 – Tom Cronin

Approved By

City Administrator		Date: May 9, 2019
City Secretary & Director of Administrative Services		Date: May 9, 2019

Montgomery City Council
AGENDA REPORT

Meeting Date: May 14, 2019	Budgeted Amount:
Department: Administrative	
Prepared By: Susan Hensley, City Secretary	Exhibits:
Date Prepared: May 9, 2019	

Subject


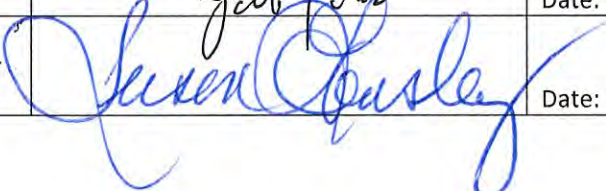
Annual election of Mayor Pro Tem as provided by Texas Local Government Code § 22.037(b).

Recommendation

Appointment of Mayor Pro Tem is for a one year term.

Discussion

T.J. Wilkerson is the current Mayor Pro Tem. City Council makes the appointment.

Approved By		
City Administrator		Date: May 9, 2019
City Secretary and Director of Administrative Services		Date: May 9, 2019

Montgomery City Council
AGENDA REPORT

Meeting Date: May 14, 2019	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits:
Date Prepared: May 8, 2019	

Subject

This is to be given the final report of the Planning Commission regarding this Special Use Permit.

Description

This is the presentation of the Planning Commission Final Report regarding this Special Use Permit.

Since the Planning Commission meeting on the subject is May 13, it will be provided the final report at this Council meeting.

Recommendation

No action required,

Approved By

City Administrator	Jack Yates	Date: May 8, 2019
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Montgomery City Council
AGENDA REPORT

Meeting Date: May 14, 2019	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: E-mail of a request, Special Use Application, Procedure for special use permits, Proposed special use permit ordinance
Date Prepared: May 7, 2019	

Subject

This is the public hearing regarding the request from Candace Welsh for a Microblading (placing a tattoo on the eyebrows or on the eyelid) at ~~401~~ College Street, Suite ~~101~~ - B. 401

110

Description

This is the public hearing—an opportunity for the public to comment on the request. Council members should make little or no comment.

Recommendation

Listen to and consider any public comment.

Approved By

City Administrator	Jack Yates	Date: May 7, 2019
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4/3/2019

The City of Montgomery Mail - Special use permit



Yates, Jack <jyates@ci.montgomery.tx.us>

Special use permit

1 message

Cory Welsh <cory.welsh27@yahoo.com>
To: jyates@ci.montgomery.tx.us

Fri, Mar 29, 2019 at 1:03 PM

Hello my name is Candace Welsh. I am starting up a new business called Studio C Brows. I would like to apply for a special use permit so that I may do Microblading in Montgomery. Microblading is a semi permanent technique used to enhance the eyebrows.

The location I would like to have my business is in the Westmont Building

Address

14375 Liberty St.

I plan to open my business May 1st. I would like to request to be put on the agenda. Please let me know if you have any questions.

Thank you,
Candace Welsh

Sent from my iPhone

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CITY OF MONTGOMERY
P.O. BOX 708
MONTGOMERY, TX 77356
PHONE: 936-597-6434 FAX: 936-597-6437

SPECIAL PERMIT APPLICATION

Name: Candace Welsh
Address: 20060 Big Oak
Montgomery TX 77356
Phone #: 713 817. 8037

Class of permit: (check one)

Temporary Structure _____
Width _____ height _____

Special Use _____

Misc. _____

Burn _____

Length of time requested? 1 YR.

Full description of merchandise to be sold:
Semi-permanent cosmetic makeup
microblading / shading

Signature of Applicant Candace Welsh
Date of Application 4/3/2019
Approved/City Employee _____

Procedure for Special Use Permit Application:

1. **Application** – Written application is submitted by the property owner stating the description of the property use along with the request for a Special Use Permit. The applicant will pay \$500 permit fee to determine property ownership for notice and legal cost for preparation of associated documents.

2. **Procedure for Special Use Permit:**

- Request from property owner is submitted to City Council for review, and if determined appropriate, forwarded to the Planning and Zoning Commission.

- Planning and Zoning Commission schedules a Public Hearing to be held after legal notice and notice by mail:

- § Legal Notice in the City's official newspaper (Conroe Courier), published one time at least 15 days prior to the public hearing; and

- § Legal Notice by mail to all property owners within 200 feet of the property, as indicated by the most recently approved municipal tax roll, requesting the Special Use Permit at least 10 days prior to the public hearing. The property owner will provide information detailing the property owners within the 200 feet.

This information regarding the surrounding property owners will be obtained and provided by the applicant. To obtain this information, please contact the Montgomery County Tax Office at 400 N. San Jacinto Street, Conroe, TX 77301 and (936) 539-7897. <http://www.mctx.org>.

- The Planning and Zoning Commission will conduct the Public Hearing and prepare the Final Report for submittal to City Council.

- The City Council will conduct a Public Hearing after receiving the required Final Report from the Planning and Zoning Commission, and legal notice and notice by mail as follows:

- § Legal Notice in the City's official newspaper (Conroe Courier), published one time at least 15 days prior to the public hearing; and

- § Legal Notice by mail to all property owners within 200 feet of the property, as indicated by the most recently approved municipal tax roll, requesting the Special Use Permit at least 10 days prior to the .

- City Council will then take official action on the Special Use Permit. The amendment, supplement or change shall not become effective except by a three-fourths vote by City Council. The City Attorney will prepare the ordinance for consideration and adoption by City Council.

- If approved, City Council will adopt an Ordinance stating the specific information regarding the Special Use Permit.

- The Special Use Permit can be revoked by the City for noncompliance with the specific requirements of the permit.

- The Special Use Permit can also have an expiration and/or renewal as provided by City Council.

ORDINANCE NO. 2019-

AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS, GRANTING A SPECIAL USE PERMIT TO CANDACE WELSH FOR USE OF A PORTION OF THE PROPERTY LOCATED AT 401 COLLEGE STREET, SUITE 110-B, MONTGOMERY, TEXAS 77356, FOR A MICROPIGMENTATION TATTOO BUSINESS; ESTABLISHING CERTAIN TERMS, CONDITIONS AND LIMITATIONS; PROVIDING FOR PENALTY, SEVERABILITY, AND EFFECTIVE DATE.

WHEREAS, the City of Montgomery has received a request from Candace Welsh for a special use permit pursuant to Section 98-33 of the Code of Ordinances of the City of Montgomery, Texas, authorizing the use of a portion of the herein below referenced real property as a micropigmentation tattoo business; and

WHEREAS, the matter was referred to the City of Montgomery Planning and Zoning Commission for consideration and recommendation, and the Planning and Zoning Commission, after due notice, did consider and conduct a Public Hearing held on May 13, 2019 and make a final report on the request for the special use permit, as provided by Section 98-33 (a) of the Code of Ordinances; and

WHEREAS, the City Secretary caused to be issued and published the notice of public hearing required by the City of Montgomery Zoning Ordinance and laws of the State of Texas applicable thereto; and

WHEREAS, the City Council, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the proposed special use permit, on the 14th day of May, 2019; and

WHEREAS, the City Council, after determining that all legal requirements of notice and hearing have been met, is of the opinion and finds that the requested special use of the property described herein is authorized by Section 98-33 of the Code of Ordinances; and

WHEREAS, the City Council further finds that the granting of a special use permit to Candace Welsh will not have an adverse effect on the City's comprehensive zoning plan or on the character and development of the neighborhood in which the property is situated, so long as the City imposes appropriate conditions and safeguards;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, THAT:

SECTION 1. Grant of Permit. A special use permit is hereby granted to Candace Welsh to use that portion of the property located at 401 College Street, Suite 110-B, Montgomery, Texas 77356 (the "Premises"), for micropigmentation tattoo business for eyebrows and eye shade, as an accessory use of an otherwise approved and permitted use. The

special use permit is granted upon and subject to the terms, provisions and limitations specified in Section 2.

SECTION 2. Terms, Provisions and Limitations. The special use permit herein granted is expressly subject to the following terms, provisions and limitations, each of which is hereby deemed to be a condition precedent to the grant and continued effectiveness of the permit:

- (a) All the services shall be conducted on the Premises.
- (b) Micropigmentation tattoo business on the Premises shall only be conducted during the term of the permit.
- (c) The Premises shall be kept clean and attractive, and shall not create a nuisance in any regard.
- (d) Candace Welsh has previously submitted, and shall continuously maintain a detailed letter at the City detailing the safety standards that will be adhered to regarding her micropigmentation tattoo business on the Premises. A copy of the safety standards letter is attached hereto and incorporated herein by reference as Exhibit "A." Candace Welsh shall adhere to and comply with all the standards set forth in this letter.
- (e) No more than one additional person, other than residents residing on the Premises, shall be employed or engaged in the micropigmentation tattoo business of eyebrows and eyeshades.
- (f) The permit is limited to only eyebrows and eye shade micropigmentation tattoo business.
- (g) No equipment or process shall be used in connection with the micropigmentation business which creates noise, vibrations, glare, fumes, odors or electrical interference detectable to the normal senses outside of the Premises. No equipment or process shall be used which creates visible or audible interference in any radio or television receivers off the Premises.
- (h) No articles or materials used in connection with the micropigmentation business shall be stored outside of the Premises.
- (i) Candace Welsh shall be bonded and insured, and shall maintain general liability insurance in an amount of \$1,000,000 as required by the City during the entire term of the permit. A certificate of such insurance shall be provided to the City.
- (j) The City shall have the authority to inspect the Property from time to time to confirm Candace Welsh's compliance with the terms and conditions of this special use permit.
- (k) This special use permit does not waive, amend, abrogate or affect any law,

rule or regulation, including any ordinance of the City of Montgomery. Candace Welsh shall comply with all ordinances of the City of Montgomery.

- (l) This permit shall expire five (5) years from the date of its issuance, subject to the City Council's right to renew the permit upon request by Candace Welsh. In the event of a violation by Candace Welsh of the terms and provisions of this special use permit, and the continuation of such violation after ten (10) days written notice from the City to Candace Welsh, at the option of City Council, this permit shall be revoked and shall be of no further force or effect. Such revocation will be effective and final, immediately upon action by City Council.

- (m) This permit is issued only to Candace Welsh and is not assignable without City Council permission.

SECTION 3. Any person, firm, or corporation violating a provision of this Ordinance, upon conviction, is guilty of an offense punishable as provided in the Montgomery Code of Ordinances, as amended, by a fine not to exceed two thousand dollars (\$2,000.00); and each day or portion thereof during which the violation is committed, continued or permitted shall be a separate offense.

SECTION 4. It is the intention of the City Council that this Ordinance, and every provision thereof, shall be considered severable and the invalidity of any section, clause or provision or part or portion of any section, clause, or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

SECTION 5. This Ordinance shall become effective immediately upon its passage.

PASSED AND APPROVED this 14th day of May, 2019.

CITY OF MONTGOMERY, TEXAS

By: _____
Sara Countryman, Mayor

ATTEST:

By: _____
Susan Hensley, City Secretary

APPROVED AS TO FORM:

By: _____
Larry Foerster, City Attorney

MINUTES OF REGULAR MEETING

April 23, 2019

MONTGOMERY CITY COUNCIL

CALL TO ORDER

Mayor Pro-Tem T.J. Wilkerson declared a quorum was present, and called the meeting to order at 6:02 p.m.

Present: Sara Countryman Mayor
Jon Bickford City Council Place # 1
T.J. Wilkerson City Council Place # 3
Rebecca Huss City Council Place # 4
Tom Cronin City Council Place # 5

Absent: John Champagne, Jr. City Council Place # 2

Also Present: Jack Yates City Administrator
Larry Foerster City Attorney
Susan Hensley City Secretary
Chris Roznovsky City Engineer

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. 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 said she had received one Citizen Comment sheet that would be saved for Item 6. There were no comments made.

CONSENT AGENDA:

1. Matters related to the approval of minutes of the Regular Meeting held on April 9, 2019 and Special Meeting held on April 13, 2019.

Rebecca Huss moved to approve the minutes of the Regular Meeting held on April 9, 2019 and Special Meeting held on April 13, 2019, as presented. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

CONSIDERATION AND POSSIBLE ACTION:

2. Consideration and possible action on Department Reports.

A. Administrator's Report - Mr. Yates presented his report to City Council. Mr. Yates said that he has worked with TxDOT regarding the FM 149 right hand turn lane, Atkins Creek, and TxDOT's schematic design construction request for Lone Star Parkway and FM 2854 widening. Mr. Yates said he met with several developers during the month, regarding the property behind Jim's Hardware, The Shoppes of Montgomery, Chick-Fil-A and Christian Brothers Automotive Repair Shop. Mr. Yates said Christian Brothers has contacted him about the property immediately west of the new car wash that is open. Mr. Yates said Christian Brothers is a mechanic shop, with a very nice building and a clean operation.

Mr. Yates advised he had also worked with staff on a variety of issues including coordinating the Police Chief selection and the City Administrator application process. Mr. Yates said he had one meeting regarding a prospective film project in the City. Mr. Yates said he worked with the City Auditor, completed the backflow prevention device installation at 100% placement.

Mr. Yates said the Grease Trap and Gravel Parking Lot reports are attached to his report. Mr. Yates said he intends to contract with Gulf Utility Services. Rebecca Huss said that was what they had discussed at the last Council Meeting to have the service professionally done, and a more comprehensive set of matrix than what they are currently using. Mr. Yates said that is what they are about to do. Rebecca Huss said that will also free up the Public Works employees from doing that service, so they can be doing things that have a

higher value. Mr. Yates said he will work with the City Attorney to get an additional ordinance or fee placement for the second inspection of failed grease trap inspections.

Mr. Yates said, regarding the unpaved areas in the City, the issue there is, primarily, approximately ten gravel parking lots that are inside the City that were all here prior to his arrival in December 2015. Mr. Yates said he was asking for some direction from City Council. Mr. Yates said there are three or four ways of doing this. One is to let the economics of the world work, meaning most of these properties were here prior to the ordinance going into effect and they have just been gravel for decades. Mr. Yates said as the properties are sold, and are developed, they will have to pay. Mr. Yates said another option is to treat it as a nonconforming use, where if the building is vacant for 18 months, they would have to get another Certificate of Occupancy. Mr. Yates said they could also wait until the property is sold, which would probably require another ordinance, and would require the new owner to comply. Mr. Yates said the last option would be every time the use changed by a tenant, you could require paving before the new Certificate of Occupancy was issued.

Mr. Yates said his suggestion would be to let economics rule unless otherwise directed by City Council. Jon Bickford said he wanted to make sure he understood that letting the economics rule and saying if the property changes hands, then they could invoke the building and parking lot be brought up to Code before it could be occupied. Mr. Yates said that was correct. Jon Bickford said that seems like the least disruptive of the four options. Mr. Yates said as the City grows and they become more and more urban, the propensity would be to pave the property to increase the property value before you sold the property. Mayor Countryman said they could stay grandfathered in, or the second step. Mr. Yates said the grandfather includes the vacancy of the use, which is not very practical. Mayor Countryman said it would be perpetual. Rebecca Huss said it is practical for several reasons, if they have already forgotten the lessons of Hurricane Harvey, which is basically you cement over your entire City, then the water goes somewhere and fortunately we are at the top of the watershed. Rebecca Huss said they talked about trying to be a little bit more responsible about detaining water and not paving over everything and trying to not make the city send their water somewhere else. Rebecca Huss said having gravel allows water to soak into the land, and for properties that don't have a high volume of users, that is not necessarily an onerous situation on the neighbors. Mr. Yates said he would say that none of these are onerous situations as far as creating dust. Jon Bickford said the point is

the City has an ordinance, so they may not want to pave over the entire City, but the ordinance was passed and indicates when you have a commercial property, you have to have it concreted. Jon Bickford said they either need to change the ordinance, or enforce the ordinance. Rebecca Huss said they could choose to continue to provide variances. Jon Bickford said they either need to change the ordinance or enforce the ordinance, so they need to do one or the other. Mr. Yates said he would say that they have already enforced the ordinance, and these are just the remnants of many years of building. Mr. Yates said since he has been at the City, there has only been two, one being a gravel parking area north of the Community Center, which the City Council and Montgomery EDC approved. Mr. Yates said the other is the Hodge Podge Lodge which he needs to speak to because they have added a restaurant and it has created the need for more parking area. Mr. Yates said Hodge Podge Lodge came to City Council approximately a year ago for a grid system of paving. Jon Bickford said he would offer what is the best recommendation of the four options, and what is the most reasonable and logical to follow, and maybe they propose that at the next meeting so City Council can look it over. Jon Bickford said the other thing is whether they should practically change the ordinance so they don't have to have variances all the time, which does not make sense to him. Mr. Yates said they have only had one parking variance request. Mayor Countryman said the other ones are grandfathered in, so she did not think they would have a lot of variance. Jon Bickford said the number of parking spots and whether or not they have to pave the surface is two different subjects, so he did not want to mix the two topics.

Rebecca Huss said she would like to point out that in the rush to pave all the City stuff, they should also consider that one of the reasons for graveling north of the Community Center was to protect the Oak trees that are close to the wall at that location, which is another consideration of the historic characteristic of the City and the feel of the City. Rebecca Huss said there are reasons for variances, and one of them was brought up several years ago, stating the ordinance is the bare minimum, but if you need to provide a variance to acquire a better outcome than the bare minimum would provide, that would be why you would allow a variance. Rebecca Huss said if they killed the historic Oak trees that are on the Community Center property, then they irrevocably change the character and nature of historic downtown Montgomery. Mayor Countryman asked to move on and now that they know this matter is up for topic, they can think about it and bring some ideas to Mr. Yates. Jon Bickford said maybe there are some ideas that Mr. Yates can think of also.

Rebecca Huss asked Mr. Yates to explain the situation of the concrete block at the Blue Wave Carwash and asked if this was like PVC pipe being painted purple so you can stick two pieces together, and asked if they were planning on stuccoing the façade as per the corridor enhancement requirements. Mr. Yates said he would have to check on that matter. Rebecca Huss said this looks pretty permanent to her, and it seems like this was something that slipped through the process, which means that this is a permanent de-enhanced appearance to the gateway of Montgomery. Mr. Yates said he would have to check on the matter to see what he needs to do. Rebecca Huss said what she would like by the next meeting is a plan to eliminate this type of mistake. Rebecca Huss said she would like to have some type of permanent review process where they are looking at the corridor enhancement, historical and sign requirements and they go through either another Committee of dedicated citizens and other employees who have this information at their fingertips, so they don't have something that is permanently ugly and not according to the ordinance, which did not receive a variance. Rebecca Huss said they have already given the car wash an encroachment agreement, which is the one thing that could have held them up. Rebecca Huss said they could have told them if they want the Encroachment Agreement they would have to do stucco, so now they have no more leverage and it is permanently ugly. Mr. Yates said he needed to look into the matter. Rebecca Huss said by the next meeting she would like a plan to fix this gap of approvals. Mr. Yates said he understood.

- B. Public Works Report - Mr. Mike Muckleroy, Director of Public Works, presented his report to City Council. Mr. Muckleroy advised they completed seven work orders for endpoint maintenance issues, eight water leaks, seven water issues and 21 water taps. Mr. Muckleroy reported for wastewater they marked the new boundary of Stewart Creek Wastewater Treatment Plant, continued the pumping in Terra Vista, and completed 18 sewer taps.

Mr. Muckleroy said they performed line stripping on Buffalo Springs Drive from SH 105 to Lone Star Parkway, cleaned and trimmed locations at Lone Star Parkway and Lone Star Bend, installed "No trailer parking" signage at two public parking lots, and repaired one pothole at McCown Street and Caroline Street. Mr. Muckleroy said they have completed sixteen work orders for general City Hall maintenance.

Mr. Muckleroy said they completed 15 work orders for maintenance for park issues, repaired the Crane Cabin porch, and changed the irrigation lock box at Memory Park for employee access only. Mr. Muckleroy advised the Fernland docents reported 1,126 visitors and provided 64 tours, due to the 7th grade Texas History project.

Mr. Muckleroy said in the general section they completed 18 work orders for maintenance-garbage issues and 32 work orders for general maintenance issues. Mr. Muckleroy said they completed and cleaned up for the heavy trash event. Mr. Muckleroy said they had a couple of repairs on trucks. Mr. Muckleroy advised they attended a meeting with the County Commissioner, City Administrator and Mayor, attended a TORC Meeting, Public Works Director's Meeting in Conroe, web site training by Municode for the web site, and they attended a meeting with Magna Flow and Gulf Utility.

Mr. Muckleroy said Mr. Yates asked him to quickly touch on their sanitary smoke testing procedures, and they have come up with a pretty aggressive plan for the month of May, with Gulf coming in during the first week of May to do the manhole inspections, and they have five sections lined out for one week each, weather depending, to get at least the testing completed in May. Mr. Muckleroy said they will have to go over the results and see what repairs need to be done.

Mr. Muckleroy said they are going to do their first Annual Public Works Open House during the week of National Public Works Week on May 21 starting at 1:30 p.m., where everyone can come to their facility to see what they do and where they are at. Mr. Muckleroy advised they would be sending out a flier in the water bill that went out today.

Rebecca Huss asked how Mr. Muckleroy is keeping track of all the work orders because it seems like he is excessively busy. Mr. Muckleroy advised they have a good work order program, and at the end of the month he performs a query for each type and gets an overview of what they did during the month. Rebecca Huss asked if it was expensive. Mr. Muckleroy said no it was \$2,200 for the year, \$550 a quarter and said it was a good system. Rebecca Huss asked if Mr. Muckleroy was the only one that does the program or does staff send the work orders. Mr. Muckleroy said staff can send work orders. The Police Department, City Secretary and Utilities have a link, it is just a catalog of the work order types. They can go in and put what needs done and it comes directly to them. Mr.

Muckleroy said the Park does repair requests when they need them. Rebecca Huss said it sounds very efficient. Mr. Muckleroy said it works very well.

- C. Police Department Report – Sergeant George Hernandez presented the report to City Council. Sgt. Hernandez said they answered 1,722 calls during the month of March, with a total of 32 reports/investigations, six narcotics arrests, two DWI arrests and 13 other type of reports that were generated. Sgt. Hernandez said they had a total of 237 citations issued and 247 warrants issued. Sgt. Hernandez said Officer Thompson attended Crisis Intervention Training on March 11, 2019, which is to educate law enforcement about issues pertaining to crisis intervention techniques, especially with communicating with persons with mental illness, which has gotten very active in general for law enforcement. Jon Bickford asked if there was any indication as to why that is picking up. Sgt. Hernandez said there is more knowledge about it now, and now they are more able to characterize mental situations. Mayor Countryman asked if they are seeing a trend with age groups. Sgt. Hernandez said it is varied. Sgt. Hernandez said Sgt. James Bracht had an issue recently regarding a ten year old that was having an episode. Rebecca Huss asked if we have County resources to help us, or are the officers doing it on their own. Sgt. Hernandez said they do have County resources, but they like to keep most of it in house. Sgt. Hernandez said Montgomery County Precinct 1 has a unit assigned for CIT, which is Crisis Intervention Type. Sgt. Hernandez said our officers have the same authority as they do, which in an emergency they can detain them. Rebecca Huss asked if they wanted to keep it in house because they generally know the people, and feel that they can help them better than someone they don't know. Sgt. Hernandez said just in general, but if he is dealing with a citizen that he is familiar with, he would rather take care of it himself rather than someone that does not deal with them.

Sgt. Hernandez advised on March 28, 2019 they hosted a Standardized Field Sobriety Testing class at City Hall in the Council Chambers, which worked out well with the 10 officers that attended the free course.

Sgt. Hernandez reported that Officer Carswell had a fleet accident. Sgt. Hernandez advised that Officer Carswell was not at fault and was not injured. Sgt. Hernandez stated that he was hit by a USPS truck, which violated the stop sign and right turn only sign. Jon Bickford asked if the officer and Postal drivers were okay. Sgt. Hernandez said both drivers were okay and nobody got hurt. Sgt. Hernandez said the officer went to the hospital to get

checked out and took the rest of the day off, returning to work the next day. Sgt. Hernandez said the officer was a little sore. Mayor Countryman said the officers were doing a good job. Jon Bickford said to be safe out there.

- D. Court Department Report – Mrs. Kimberly Duckett, Court Administrator, presented her report to City Council. Mrs. Duckett said during the month of March, the citations collected were 264 with the total revenue of \$47,550 collected for the Court. Mrs. Duckett said the Court did lose Deputy Court Clerk April Dupree and gained new Deputy Court Clerk Mrs. Christy Reed. Mrs. Duckett stated that Mrs. Reed has been here for two weeks, and said she started on the night of Court so she could see the functions of the Court. Mrs. Duckett advised Warrant Officer Trent Lozano is doing an amazing job. Mrs. Duckett said he was trying different strategies on how to collect the warrants before they go to collections. Mrs. Duckett said she has been letting Officer Lozano make the phone calls, and for the month of March he was able to address a minimum of 340 calls during his part-time position. Mrs. Duckett said the warrant revenue for March was \$15,000, which is included in the \$47,550 amount. Mrs. Duckett said Officer Lozano is on the phone while he is on duty, and if they are wanting to pay the fee right then, he will transfer them to the Court. Mrs. Duckett said if Officer Lozano is not able to collect the fee, then they transition them over to collections to help. Mayor Countryman said nice strategy and way to step outside the box. Mrs. Duckett said Officer Lozano gets a list of the local warrants they have on file and he will have them for the night officers, and if they are able to run local warrants during their free time, they try to help them out as well. Mrs. Duckett said Officer Lozano is working 18 hours per week. Mrs. Duckett said Officer Lozano is doing a great job. Mrs. Duckett said Officer Lozano is one of the City's Reserve Officers. Rebecca Huss said Officer Lozano used to work for the City full time. Mayor Countryman said nice work.
- E. Utility/Development Report – Mr. Yates presented the report to City Council. Mr. Yates said utilities had \$162,924 collections for March, permits revenue was \$51,962, revenue for the Community Building rental was \$1,160, and miscellaneous general fund revenue was \$15,702. Mr. Yates advised there were 32 new water accounts for March, with 18 disconnected accounts, and the total number of active water accounts is 742. Mr. Yates said the amount in arrears for 60 days is \$508, and for 90 days it is \$303. Mr. Yates said there were a total of 109 permits for the month, with 12 –commercial, 13-residential, 21-plumbing, mechanical-12, backflow preventers-13, and 6-vendor. Mr. Yates said there

were 596 calls to the office. Mayor Countryman asked if they should make that a full time position. Mr. Yates said it is a full time position. Mayor Countryman said she understood that she was here full time and said that was not her only duty. Mayor Countryman asked if she thought they were getting to the point where permits is its own department. Mr. Yates said permits take up to 60% of the time, which is why they have hired a part-time person to help in the front office.

Jon Bickford commented on the arrears, stating there was \$41,000 that is 120-days in arrears. Mr. Yates said that is the one that City Council keeps telling him, and he just needs to check with the Auditor on how they can write that off and satisfy the Auditor.

Mr. Yates said the water account consumption is about normal, except for Memory Park that went up to 115,000 gallons. Mayor Countryman asked why the consumption was so high. Mr. Muckleroy said they had a major leak at Memory Park, where the two inch line that feeds all of Memory Park busted loose. Mr. Muckleroy said they were notified the next day by the Beacon System and they immediately shut it down, but it was about 99,000 gallons that leaked out. Rebecca Huss said it only rained less than two inches during March.

- F. Water Report – Mr. Michael Williams, with Gulf Utility Service, Inc., presented his report to City Council. Mr. Williams advised there was one district alert the evening of March 12, 2019. Mr. Williams said the Wastewater Treatment Plant 2 and Lift Station 5 got called out for no power, they arrived on site and all three facilities had power, so it must have been a temporary outage. Mr. Williams said they monitored the plants and everything was normal.

Mr. Williams advised the wastewater flow for the month of March was 4,343,000 gallons, with the daily peak flow on March 11, 2019 at 221,000 gallons, and the average daily flow was 155,100 gallons. Mr. Williams stated the effluent monitoring report showed all samples were within compliance for the month of March and there was a total rainfall for the month of 1.96 inches.

Mr. Williams said the water report showed they pumped a total of 7,016,000 gallons, flushed a total of 469,000 gallons, and sold a total of 6,162,000 gallons, bringing them to a 95% accountability. Jon Bickford asked about the percentage of accountability, saying 100,000 gallons probably leaked out at Memory Park. Mr. Williams said that was

accounted for because it went through the meter. Jon Bickford said he was going to ask how they calculated that. Jon Bickford said that is still 300,000 gallons that we do not know where it went. Mr. Williams said it was 300,000 gallons plus the 469,000 accounted for flushing. Jon Bickford said they can account for the flushing so they know, but 300,000 gallons is lost and they have no way of accounting for it and do not know where it went. Mr. Williams said that is correct. Jon Bickford said that seems like a lot of water to be missing. Jon Bickford said it is about seven or eight swimming pools worth of water that just disappeared. Mr. Williams said they do have some loss through the meters, because they are not 100% correct, they typically range 98-101%, so there is typically some loss even with a new meter. Rebecca Huss asked how much loss is from evaporation at the cooling tower. Mr. Muckleroy said that was accounted for. Mr. Williams agreed that water was accounted for. Jon Bickford asked where you measure the source from. Mr. Williams said you measure from the wells. Jon Bickford said if the water is evaporating out of the tank, how would they account for it. Mr. Williams said he would not expect them to have too much evaporation out of the tank and said they are covered. Mayor Countryman said there has to be a leak somewhere. Jon Bickford said 300,000 gallons is a lot of water. Mr. Roznovsky said they had the Boretex contractor on March 15, 2019 have a break, so that could help account for some of the loss. Mayor Countryman said except the contractor turned everything off thinking he had it on, so there was no water flow.

Mr. Muckleroy said they are continuing to have problems with boring contractors, stating that he caught one stealing water two weeks ago, when he just happened to be in during the weekend and witnessed a tank leaving a job site and he followed him where he pulled in, so he called the Police Department. Mr. Muckleroy said it happens a lot more than they see. Mayor Countryman said there is a fine when they catch them and said maybe they need to step up their efforts. Jon Bickford said maybe they need to start arresting people for theft. Mr. Muckleroy said he contacted the Fire Marshal's office last week to get his thoughts on installing hydrant locks because some of the research that he has done shows there are a lot of cities that have put the locks on the meters, to have the Fire Marshal come behind them and make them take the locks off. Mr. Muckleroy said they are talking to Chief Edwards and the Fire Marshal to see how they feel about it, and if they are okay, then they will start looking at the possibility of doing that. Mr. Muckleroy said he did not want to spend any time on it in-house, even doing research, if they were going to shoot it down. Mayor Countryman said if that is not a viable option, what would be another option.

Mr. Muckleroy said it would be to hire a lot more Police Officers, but there is no way they could be everywhere, so public awareness. Mr. Muckleroy said they have had a developer that has caught people and has called him on the phone to report it. Mr. Muckleroy said that is only to account for some of it. Jon Bickford asked if those trucks hold about 1,000 gallons, which would be a lot of trips. Mr. Muckleroy said they use a lot of water. Mr. Williams said there could be a lot of small leaks that have not surfaced. Rebecca Huss said they know where one leak is, under the parking lot by the Steakhouse, which is still there. T.J. Wilkerson said on Martin Luther King Jr. Drive, there is a ditch that stays wet. Mr. Muckleroy said that was an elevation issue with the ditch. T. J. Wilkerson said he was talking about the ditch in front of the last fire hydrant on the left, and said the location was probably 1001 in that area on the same side as the hydrant. Mr. Muckleroy said he would check it because he has not noticed water at that location. T.J. Wilkerson said the ditch stays wet. Mr. Muckleroy said he knew that the house that sits off of the road, the yard has always held a lot of water. T.J. Wilkerson said the owner told him the ditch is holding a lot of water. Mayor Countryman said there is standing water down there. Jon Bickford said 300,000 gallons with 742 active accounts, is a little over 400 gallons per tap that they were losing on average. Rebecca Huss said Mr. Ed Shackelford told them several years ago, cities are happy with 80%, which she thought was terrible, but they are chasing the number at 95%. Mr. Williams said over two years ago the City was in the upper 70%, so it is a good change. Mr. Muckleroy said 95% and above is considered good. Rebecca Huss said they could still do better if they think about places that they can chase it down. Mr. Muckleroy said in the Hills of Town Creek, Section 3, a developing contractor was taking water off of the blow off, but they fixed it so he could not do that anymore. Mr. Muckleroy said they did not catch the person.

Mr. Williams said the City had a 78% return to the wastewater treatment plant. Mr. Williams said they hardly had any rain this month, but people are beginning to irrigate more. Rebecca Huss said they have been calibrating the machine. Mr. Williams said they did recalibrate the machine, but the calibration was off only a minor amount.

- G. Engineer's Report – Mr. Roznovsky presented his report to City Council. Mr. Roznovsky advised regarding the Baja Road Project the letter of intent to terminate the contract with Boretex was sent on March 27, 2019, and the contractor had 10 days to respond and he did not respond, so the final termination notice was sent on April 9, 2019. Mr. Roznovsky said the bonding company has hired a consulting engineer and construction manager that has

been involved now to bring in additional contractors to put together a price to finish the work. Mr. Roznovsky said the project is moving along and hopefully they will have some action and they will have a meeting this week. Jon Bickford asked if there was any information on their schedule. Mr. Roznovsky said there was not, and said when they spoke at this time yesterday, their goal is to set up a meeting by the end of the week with everyone. Jon Bickford asked if they could push them for a schedule. Mr. Roznovsky said he would, and what they are asking for is 30 days, because it was a 60 day contract and he was about 50% complete, and it took Boretex a whole lot longer than 60 days to get 50% completed. Mayor Countryman asked if Mr. Roznovsky was sure about the 50%. Mr. Roznovsky said 40-50%. Rebecca Huss asked if they could select any contractor at this point, or does it still have to be from the list of approved contractors. Mr. Roznovsky said he believed they would still have to meet the federal requirements. Mr. Roznovsky said the City will be working with the bonding company, the bonding company will have the contractor. Rebecca Huss asked if the contractor they chose could or could not be Boretex. Mr. Roznovsky said it could be Boretex, but the bonding company has given no indication that it is, and they have never mentioned that they would be used. Mayor Countryman asked if they could request that they not use Boretex. Mr. Roznovsky said they could request it, and the bonding company asked for a list of contractors in the area, six or seven that he could reach out to. Mr. Roznovsky said they submitted names of contractors that they would want to work with. Jon Bickford said the bonding company is not going to want to pay for this project twice. T.J. Wilkerson said he had a person ask him if they should look at the weather and not start it when it is raining and wet and muddy. Mr. Roznovsky said Boretex made that argument a lot and complained about working in the ditch. Mr. Roznovsky said Boretex knew that when they got the contract, and there are ways with the equipment they were using they could still be productive when it is not wet. Mr. Roznovsky said they are now hitting May time frame and it will start getting hot and dry.

Mr. Roznovsky said they have a couple items bidding next week. Lift Station 1 Relocation Project bids next Thursday, along with the 18-inch Sewer Line Phase II, and they finally are in the final steps of getting the project worksheet for the FEMA Atkins Creek Project, so that will bid next Thursday too. Mr. Roznovsky said the Atkins Creek bids will be held until the signed project worksheet is in hand, and then they will proceed with construction on that job.

Rebecca Huss asked about the Lift Station No. 1 Replacement categorical exclusion, and asked what it was. Mr. Roznovsky said it is environmental clearance. Mr. Roznovsky said when the project was originally scoped and was replaced on the site that it is today, the categorical exclusion is saying that it is going on a place that is already disturbed, so if it is an existing plant site or easement or something like that, it has to be redone again since it is being moved to the Wastewater Treatment Plant. Mr. Roznovsky said it is still an exclusion from meeting environmental clearance because it is an existing Wastewater Treatment Plant site. Rebecca Huss asked if it would be cheaper and faster. Mr. Roznovsky said correct, there are still no environmental worries with the new location because it is within the boundaries of the old Plant, not the expanded.

Mr. Roznovsky said the GLO Projects, which is the next big round of project, are still waiting for the State to send the contract. Mr. Roznovsky said all of Martin Luther King Jr. Drive, Community Center Drive, Baja Road and McGuiness is included in the rehab of the sewer system part of the GLO project.

Mr. Roznovsky said they had quite a month for plan reviews, and said they received one for Phase III of the Heritage Apartments last week, and said they are sending the comments back this week.

Mr. Roznovsky said they are still working with Dobbin Plantersville, and said they do not have good maps, so they are trying to figure out exactly where their lines are to propose a location. Mr. Roznovsky said they will be meeting again with TORC on Thursday. Jon Bickford said one of the members of TORC asked him a question about getting information that they need from you, and asked if Mr. Roznovsky felt that he was keeping up with that information or do they have outstanding information. Mr. Roznovsky said he thinks they are up to date now, there was a period, especially when they were going through the projection stuff that they were going back and forth on, but now that is behind them and things have been moving a whole lot quicker. Jon Bickford asked when Mr. Roznovsky meets with TORC on March 24, 2019, could he make sure they have all the information they need, and if there is something missing, to let City Council know. Mr. Roznovsky said he would do that.

- H. Financial Report – Mr. Yates presented the Finance Report to City Council, advising that this was a summary report because Mrs. Cathy Branco is in the hospital today. Mr. Yates

said the general fund is doing well as far as the revenue, and said he did not think the sales tax figures were in the report, so the figures should be about the same as last month. Mr. Yates said the balance in the general fund is about the same, and last month it was \$309,000 surplus. Mr. Yates said they would probably stay at \$275,000. Mr. Yates said sales tax is up, but it is not as much as he predicted for the year, but the expenses are down quite a bit. Mr. Yates said the utility fund is also doing quite well, and he figured it had gained about \$70,000 this past month, which is at \$868,908. Mr. Yates said general fund has \$1,238,407, construction fund has \$2,939,000 and MEDC has \$942,000 for a total of \$6,414,000. Mr. Yates said they budgeted about \$129,000 in contract for streets, which was their surplus for general fund revenue over expenditures. Mr. Yates said there are several things that have been eating away at that \$129,000, such as \$15,000 will be going for the paving of Caroline Street and Mason Street, and there have been two car accidents and they only got \$15,000 on each of the cars, with the replacement costs at \$30,000. Mr. Yates said both police vehicles were totaled. Mr. Yates said he also had the financial accounting at \$50,000 and it is not going down at all. Jon Bickford asked if they were self-insured. Ms. Hensley advised they are insured with TML, and said that they were depreciated because the vehicles were 2013 and 2015. Mr. Yates said they only got \$14,500 on the 2013 and the 2015 they will get \$15,500. Jon Bickford asked how much a new vehicle is going to cost. Mr. Yates advised they are approximately \$30,000. Ms. Hensley advised the insurance does cover the equipment that was inside the vehicle and the decals and lights on the outside. Ms. Hensley advised the deductible for each accident is \$500.

Rebecca Huss asked if Mr. Yates could get the back up for the Financial Report because it should have been provided last week. Rebecca Huss said she finds the bank balances very useful. Ms. Hensley said Mrs. Branco had a glitch in her company's software, so she was not able to complete the report and she said that the transfers had not been done yet. Mr. Yates said he will get the full report as soon as he can and he will send that information out, because we are only a couple months away from starting the budget process.

Jon Bickford said if they are not seeing the sales tax revenue at the rate they thought they would, are we starting to think about looking at what budgets they can prepare to cut. Mr. Yates said they are doing all right now because the property tax is in and sales tax has been good, plus our expenses are being kept low, and no one has gone out and bought anything. Mr. Yates said they are about to spend funds on police vehicles. Mr. Yates said when he gets the full print out he will have some projections and recommended changes. Mr. Yates

said the permits are going out the roof. Jon Bickford said that should be extra, not that they need the money. Mr. Yates said the building permits were \$220,000 for the year. Rebecca Huss said some of those fees go right back out again for inspections and things like that, so the net is much smaller and depending on what is in there, some of that should actually go into capital funds and not be spent on supplies. Mr. Yates said they have not been doing that, which is the reason they are doing as well as they are.

Jon Bickford moved to accept the Departmental Reports as presented. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

3. Consideration and possible action regarding Street Closures:

- a. College Street from eastern McCown to Maiden, McCown from College to north side of Montgomery Steakhouse northern parking area on August 28, 2019 from 8:00 a.m. until 8:00 p.m.--Whitley Winery; and
- b. C.B. Stewart from Clepper Street to SH 105, northernmost lane of Eva Street (SH105) from C.B. Stewart to Liberty Street (FM149) north, Liberty Street from Eva Street to FM1097 from 9:30 a.m. to 12:30 p.m. for the Homecoming Parade.

Mr. Yates said the closure of College Street and part of McCown for Whitley Winery, being on Sunday and the only event, it should not cause a problem. Mr. Yates said the Homecoming Parade involves closing the northernmost lane of Eva Street (SH 105) that will require Public Works, the parade people, and the Police Department to work together. Mr. Yates said they worked together and it came out alright. Mr. Yates said with the coordination he felt that it would be alright.

Rebecca Huss commented she preferred SH 105 not be closed from the entirety of 9:30 a.m. to 12:30 p.m., but only during the actual time of the parade. Mr. Yates said each segment with the coordination will come in and will only be about 20 minutes. Mayor Countryman said it was not closed last year, it was only closed when the parade was going down the road. Rebecca Huss said that was what she remembered, but the way that this reads, it is for the entirety of the period of time. Mr. Yates said he added in his notes that they would close it off in segments.

Tom Cronin said there is a correction on item A on the Agenda, it is April not August.

An unidentified member of the audience asked what the Homecoming Parade is. Mr. Yates said it is a local celebration, primarily of the black churches, a Homecoming or Annual Reunion of those churches in the northern part of the City. Mr. Yates said Homecoming has gone on for 15-20 years. T.J. Wilkerson said Homecoming has been going on since 1954 in Montgomery.

Rebecca Huss moved to approve the street closures as presented, with the substitution of April 28, 2019 for the (a) Whitley Winery closure, and the closure of the streets in segments for the (b) Homecoming Parade on May 25, 2019, as discussed. Jon Bickford seconded the motion, the motion carried unanimously. (4-0)

4. Consideration and possible action regarding adoption of a Proclamation designating the week of May 19 – 25, 2019 as the 59th Annual National Public Works Week.

Mr. Yates said this was to support the Mayor and her Proclamation of the Public Works Recognition Week. Mr. Yates said the operations of the City organization and public at large would be impossible without the work of the Public Works crew, so designating a week in their honor seems appropriate.

Mayor Countryman read the Proclamation into the record:

National Public Works Week

May 19 – 25, 2019

"It Starts Here"

City of Montgomery Proclamation

WHEREAS, public works professionals focus on infrastructure, facilities and services that are of vital importance to sustainable communities and to the public health, high quality of life and well-being of the people of Montgomery, Texas; and,

WHEREAS, these infrastructure, facilities and services could not be provided without the dedicated efforts of public works professionals, who work at the City level of government, who are responsible for rebuilding, improving and protecting our City's transportation, water supply, water treatment, sewer treatment, public buildings, and other structures and facilities essential for our citizens; and,

WHEREAS, it is in the public interest for the citizens, civic leaders and children in Montgomery, Texas to gain knowledge of and to maintain a progressive interest and understanding of the importance of public works and public works programs in our community; and,

WHEREAS, the year 2019 marks the 59th annual National Public Works Week sponsored by the American Public Works Association be it now,

RESOLVED, I, Sara Countryman, Mayor of the City of Montgomery, do hereby designate the week of May 19 – 25, 2019 as National Public Works Week; I urge all citizens to join with representatives of the American Public Works Association and government agencies in activities, events and ceremonies designed to pay tribute to our public works professionals and to recognize the substantial contributions they make to protecting our City's health, safety, and quality of life.

IN WITNESS WHEREOF, I do hereby proclaim on behalf of the City of Montgomery.

Mayor Countryman expressed her appreciation to Mr. Muckleroy for all he and his team do.

T.J. Wilkerson commented that the Homecoming Parade would be held on May 25, 2019, not on April 28, 2019. Mayor Countryman said that was not in (a) where the date was corrected, it was listed as May 25, 2019 under item (b).

Rebecca Huss moved to approve the Proclamation as read by the Mayor. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

5. Consideration and possible action regarding adoption of a Proclamation designating the week of May 5 – 11, 2019 as the 50th Annual Municipal Clerk's Week.

Mr. Yates stated this the 50th Anniversary of the Annual Municipal Clerk's Week. Mr. Yates said the business of the City would be impossible to get accomplished without the support of the City Secretary, and designating a week in her honor seems appropriate. Mayor Countryman read the Proclamation into the record:

Proclamation
50th ANNIVERSARY OF MUNICIPAL CLERKS WEEK
May 5 - 11, 2019

Whereas, The Office of the City Secretary, a time honored and vital part of local government exists throughout the world and the state of Texas, and

Whereas, The Office of the City Secretary is the oldest among public servants, and

Whereas, The Office of the City Secretary provides the professional link between the citizens, the local governing bodies and agencies of government at other levels, and

Whereas, City Secretaries are ever mindful of their neutrality and impartiality, rendering equal service to all.

Whereas, The City Secretary serves as the information center on functions of local government and community.

Whereas, City Secretaries continually strive to improve the administration of the affairs of the Office of the City Secretary through participation in education programs, seminars, workshops and the annual meetings of state and regional organizations.

Whereas, the City of Montgomery is particularly proud to have Susan Hensley as our personally selected and highly esteemed City Secretary, and believe it appropriate that we recognize her accomplishments in that Office.

Now, Therefore, I, Sara Countryman, Mayor of the City of Montgomery, Texas, recognize the week of May 5 through May 11, 2019, as City Secretary Week, and further extend appreciation to our City Secretary, Susan Hensley and to all City Secretary's for the vital services they perform and their exemplary dedication to the communities they represent.

Mayor Countryman thanked the City Secretary for her work and help. Jon Bickford asked about the paragraph that thanks Susan Hensley, and asked about all those to follow because this Proclamation will go on for hundreds of years. Mayor Countryman said each year they will make a Proclamation of the person that is in that position.

Rebecca Huss moved to approve the Proclamation as read by the Mayor. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

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

A RESOLUTION REGARDING THE DESIGNATION OF A SITTING AREA IN THE DOWNTOWN AREA CITY OF MONTGOMERY AS KAOUGH'S KORNER IN MEMORY OF AND IN RECOGNITION OF MARY KAOUGH'S INTEREST IN THE CITY AND PARTICULARLY THE DOWNTOWN AREA.

Ms. Kambra Drummond said the idea came to them as a group, because Mary Kaough dedicated the last 12 years of her life to make Montgomery a place on the map that everybody wanted to come and visit. Rebecca Huss said Mary Kaough was a very special lady, she had incredible energy and she was funny. Mayor Countryman said Mary Kaough provided the ghost tours.

Ms. Drummond said Mary Kaough was a member of quite a few different antique stores downtown and a vital part of the Antique Festival. Ms. Drummond said she is having a lot of trouble doing it single handed, but it is getting done. Ms. Drummond said the idea of the corner is that it is very close to Garrett House, which was the last place that Mary had her business inside. Ms. Drummond said when Mary was there she sat out on the front porch so she could greet everyone and wave to people that drove through. Ms. Drummond said it was never a shock to see four cars stopped just to sit with Mary to see what she had to say. Ms. Drummond said they put a bench with a stone plaque at the corner that says it is in memory and honor of Mary Kaough, and says "come and sit a spell", which is what she said to anyone that was there. Ms. Drummond said it would be a great honor to have that area dedicated to her, and said Mary Kaough is missed greatly. Ms. Drummond said Mary would be tickled and it would be very special. Ms. Drummond said since Mary was such a vital part of the Antiques Festival, if City Council agrees to dedicate this area to Mary, they could have the ceremony the morning the Antiques Festival kicks off, so all the vendors and dealers that knew Mary and might not know that she has passed, can spend some time and appreciate Mary. Ms. Drummond said she knows that Susan her adopted Mother is still here in town at Garrett House, and she is very grateful that they have asked for this to be done for Mary.

Mr. Yates said they will have the Resolution signed and sealed for the ceremony. Mr. Yates said he was also suggesting to get an ornamental street sign that would say "Kaough's Korner" and it would be placed below the street name and would be a little larger than the street sign. Ms. Drummond said Mary would love that. Ms. Drummond said it would be the southeast corner of McCown and Caroline.

Mayor Countryman read the Resolution into the record:

A RESOLUTION REGARDING THE DESIGNATION OF A SITTING AREA
IN THE DOWNTOWN AREA CITY OF MONTGOMERY AS
KAOUGH'S KORNER IN MEMORY OF AND IN RECOGNITION OF
MARY KAOUGH'S INTEREST IN THE CITY AND
PARTICULARLY THE DOWNTOWN AREA

WHEREAS, Mary Kaough was a business owner of a business at the southeast corner of Caroline Street and McCown Street for twelve years and was a vigorous proponent for the maintenance, beautification and customer growth in the downtown area, and

WHEREAS, Mary Kaough was an active member of the Montgomery community, both as a business person and in general interest of the City, and

WHEREAS, Mary Kaough passed away December 3, 2018, leaving a void in the dynamics of the downtown Montgomery area, and

WHEREAS, a bench and memorial plaque were recently placed by business owners of the downtown area at the Southeast corner of Caroline Street and McCown Street,

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Montgomery Texas: Section One. That the southeast corner of Caroline Street and McCown Street be designated as "Kaough's Korner".

Section Two. That a Memorial Street sign designating "Kaough's Korner", be added to the street post at this corner, in order to document this recognition.

Rebecca Huss moved to adopt the Resolution as read by the Mayor. Jon Bickford seconded the motion, the motion carried unanimously. (4-0)

7. Consideration and possible action regarding scheduling a Public Hearing regarding a Special Use Permit for Candace Welsh for a microblading business located at 14375 Liberty Street, Montgomery.

Mr. Yates advised this was to call a public hearing for a Special Use Permit for microblading, which is placing a tattoo on the eyebrows or eyelid and because of that, it is called a tattoo shop, which means it requires a special use permit.

Mr. Yates said this is the same type of Special Use Permit that was approved in 2016 to someone else. Mr. Yates said one thing that has come up is that Ms. Welsh is checking out where she is going to be located, so what is on the Agenda is 14375 Liberty Street and what she is asking for is until tomorrow at the end of the business day to decide whether it is 14375 Liberty Street or 201 College Street, Suite 110-B. Mr. Yates said City Council could call the public hearing for either time until it is published. Mr. Yates said his suggestion is to do like the Planning Commission did last night by putting either location. Mr. Yates said Ms. Welsh knows she has to have the letter to him by the close of business tomorrow so the City can publish the legal notice in plenty of time.

Rebecca Huss moved to schedule the Public Hearing regarding the Special Use Permit for Candace Welsh regarding microblading business for May 14, 2019 at 6:00 p.m. Montgomery City Hall, 101 Old Plantersville Road, Montgomery for the business located at 14375 Liberty Street or 401 College Street, Suite 110-B, to be determined by the close of business tomorrow.

Jon Bickford said they took a note from last time where they were going to do something about the specific wording regarding where the tattoos are located. Mr. Yates said the wording is in the Special Use Permit.

Jon Bickford seconded the motion, the motion carried unanimously. (4-0)

8. Consideration and possible action regarding calling a Public Hearing for May 28, 2019 at 6:00 p.m. at Montgomery City Hall to hear public comment regarding rezoning the following properties from **ID-Industrial** to **B-Commercial**:
 - a. 1.24 acres in Tract 42 of the Zachariah Landrum survey A-22, also described as part of 21627 Eva St. SH 105 frontage, Montgomery, owned by the Lone Star Cowboy Church.
 - b. 1.08 acres in Tract 42 of the Zachariah Landrum survey A-22, also described as part of 21627 Eva St., Montgomery, owned by the Lone Star Cowboy Church.
 - c. 8.35 acres in Tracts 3 & 4 of the Zachariah Landrum survey A-22, also described as along SH 105 West/Eva St. in Montgomery, owned by Alan Wayne Mann.

Mr. Dave McCorquodale, Assistant to the City Administrator, presented the information to City Council. Mr. McCorquodale said they have grouped the properties together by what they are zoned now to what they are proposing to be zoned. Mr. Yates said all the property owners have been contacted. Rebecca Huss said this is just calling the Public Hearing, it is not actually doing any of the rezoning. Mr. McCorquodale said the Public Hearings for the Planning and Zoning Commission will be held on May 16, 2019 and May 21, 2019. Mr. McCorquodale said City Council will receive the final report from the Planning and Zoning Commission on May 28, 2019.

Jon Bickford said he understood it correctly that all these actions are actions that the City is requesting, not any of the citizens, to clean up zoning on properties held by one person or two people where the zoning may cross over the properties. Mr. McCorquodale said there are some that are looking forward to what the land use is going to be or should be in the very near future, some of them are just over sights.

Jon Bickford asked if they need to spell out the different numbers individually. Rebecca Huss said they are all different, and they are listed stating their different zones. Mr. Yates said there will be a separate motion for each Agenda item.

Jon Bickford moved to approve the call for a Public Hearing on May 28, 2019 at 6:00 p.m. for Item 8 and the three (a, b and c). T.J. Wilkerson seconded the motion.

Discussion: Rebecca Huss said she presumed this would be at City Hall at 101 Old Plantersville Road, Montgomery. Everyone agreed.

The motion carried unanimously. (4-0)

9. Consideration and possible action regarding calling a Public Hearing for May 28, 2019 at 6:00 p.m. at Montgomery City Hall to hear public comment regarding rezoning the following properties from **ID-Industrial to R1-Single Family Residential:**
 - a. 1.41 acres in Tract 46T-1 of the Zachariah Landrum survey A-22, also described as part of 11181 Womack Cemetery Rd, Montgomery, owned by William and Julie Todd.
 - b. 1.88 acres in Tract 46T-1 of the Zachariah Landrum survey A-22, also described as part of 21930 Twin Creeks Rd, Montgomery, owned by David and Carrie Solomon.
 - c. 3.04 acres in Tract 46K of the Zachariah Landrum survey A-22, also described as part of 21910 Twin Creeks Rd, Montgomery, owned by Harvey and Juanita Simmons.

Rebecca Huss moved to approve scheduling the Public Hearing to be held on May 28, 2019 at 6:00 p.m. at Montgomery City Hall, 101 Old Plantersville Road to hear public comments regarding the rezoning of the properties discussed earlier from ID-Industrial to R1-Single Family Residential being in items (a) through (c). Tom Cronin seconded the motion, the motion carried unanimously. (4-0)

10. Consideration and possible action regarding calling a Public Hearing for May 28, 2019 at 6:00 p.m. at Montgomery City Hall to hear public comment regarding rezoning the following properties from **I-Institutional to R1-Single Family Residential:**
 - a. 2.25 acres in Tracts 45-D & 45-D-1 of the Zachariah Landrum survey A-22, also described as part of 623 Old Plantersville Rd, Montgomery, owned by the Joseph Shockley Revocable Living Trust.

- b. 0.5 acres in Tracts 15-A & 83-A of the Owen Shannon survey A-36, also described as 712 Community Center Dr., Montgomery, owned by Patricia Easley.

Mr. Yates said last night the Planning and Zoning Commission separated item (b) from Institutional to R1 – Single Family and they are proposing I-Institutional to B-Commercial because Arnette Easley stated the tract of land went all the way through from FM 149 back to Community Center Drive. Mr. Yates asked Mr. McCorquodale to explain about the tract. Mr. McCorquodale said it was a single tract that was owned by Arnette Easley until he sold it to his sister, and now it is legally two different parcels of land. Mr. McCorquodale said the Future Land Use Plan shows it going to Commercial at some point in the future, when that is, it is to be determined. Mr. McCorquodale said the impetus now is that it is zoned Institutional currently, which is not an acceptable zoning classification for a residence or a business. Mr. McCorquodale said the landowner would like it to be zoned Commercial. Jon Bickford asked when they were one piece of property, were they zoned Commercial. Mr. Yates said the original zoning was Institutional, which was a mistake and was because they are right next to Homecoming Park.

Jon Bickford said at the end of the day, all they are doing is going for the Public Hearings, so he was going to make a motion. Mayor Countryman said she needed to continue reading the Agenda Item. Mayor Countryman said one of the items is staying Residential and the other is going Commercial. Mr. McCorquodale said what they will do is for Item (a) it will still be Institutional to R1-Single Family Residential, and then Item (b) will be from I-Institutional to B-Commercial. Rebecca Huss said that is a Residential neighborhood other than the school. Mr. McCorquodale said Homecoming Park is directly to the north and there is one residence to the south that is down on the very corner, and the property that they will back up to is Commercial now if they were not going through all the rezoning. Mr. McCorquodale said they did rezone that property many years ago, and the boundaries they had back then were woefully inaccurate, and this is based on a recommendation from the land owner and the Future Land Use Plan.

Mr. Yates said he would like to ask the City Attorney if he can call two public hearings on the same piece of property, for Residential and Commercial, and then they can decide at their decision point which way they want to go, but if they call it for Residential and they want to go to Commercial, they would have to start over again, or vice versa. Mr. Foerster said it might be better to have two different motions, treating item (a) as one Public Hearing and (b) as a second Public Hearing. Mayor Countryman said that would be less confusing. Jon Bickford asked if they were at a point where they could make the motion.

Jon Bickford moved to call a Public Hearing for May 28, 2019 at 6:00 p.m. at Montgomery City Hall, 101 Old Plantersville Road, to move 2.25 acres in Tracts 45-D & 45-D-1 as called out in Item (a) from Institutional to R1-Single Family Residential; and

Jon Bickford moved to call a second Public Hearing for May 28, 2019 at 6:00 p.m. at Montgomery City Hall, 101 Old Plantersville Road, to have a Public Hearing for rezoning a 0.5 acres in Tracts 15-A & 83-A of the Owen Shannon survey, Item (b) on the list from I-Institutional to B-Commercial.

Mr. Foerster said they need to make the first motion, and then the second motion.

T.J. Wilkerson seconded the first motion to call a Public Hearing for May 28, 2019 at 6:00 p.m. at Montgomery City Hall, 101 Old Plantersville Road, to move 2.25 acres in Tracts 45-D & 45-D-1 as called out in Item (a) from Institutional to R1-Single Family Residential, the motion carried unanimously. (4-0)

Jon Bickford moved to call a second Public Hearing for May 28, 2019 at 6:00 p.m. at Montgomery City Hall, 101 Old Plantersville Road, to have a Public Hearing for rezoning a 0.5 acres in Tracts 15-A & 83-A of the Owen Shannon survey, Item 10 (b) on the list to move those from I-Institutional to B-Commercial. Tom Cronin seconded the motion, the motion carried unanimously. (4-0)

11. Consideration and possible action regarding calling a Public Hearing for May 28, 2019 at 6:00 p.m. at Montgomery City Hall to hear public comment regarding rezoning the following properties from R1-Single Family Residential to B-Commercial:

- a. 0.46 acres in Tract 82 of the Owen Shannon survey A-36, also described as 15309 FM 149 Rd, Montgomery, owned by the Estate of Cherry D. Easley.
- b. 0.374 acres in Tract 84 of the Owen Shannon survey A-36, also described as approximately 15307 FM 149 Rd, Montgomery, owned by Arnette Easley.
- c. 0.41 acres in Tracts 1 & 70 of the Owen Shannon survey A-36, also described as 712 N Liberty St, Montgomery, owned by Paul D and Doris J Allen.
- d. 0.5 acres in Tract 8 of the Owen Shannon survey A-36, also described as approximately 15328 N Liberty St, Montgomery, owned by Paul D and Doris J Allen.
- e. 0.25 acres in Tract 9 of the Owen Shannon survey A-36, also described as 15330 N Liberty St, Montgomery, owned by Willie & Evelyn Wright.

- f. 0.32 acres in Tract 2 of the Owen Shannon survey A-36, also described as 22950 W FM 1097 Rd, Montgomery, owned by the Estate of Audrey B. Allen.

Rebecca Huss asked if all of these, while City initiated, are all in the consent of the landowners. Mr. McCorquodale said they reached out to some personally, some through Arnette Easley, and others they mailed letters to a couple of weeks ago. They will receive additional letters regarding the rezoning. Mr. McCorquodale said their philosophy, spearheaded from Mr. Yates, is that if they get any opposition at all, they don't want to force the position. Rebecca Huss said two things, 1) if you change these from Residential to Commercial that ups the property tax on this significantly, and she would hate for, what she is assuming, these tracts of land have had low taxes and therefore low carrying costs. Rebecca Huss said she would hate for people to lose their properties or be forced to sell them because the City made a relatively arbitrary distinction on what we zone their property, if they don't actually have plans to change the use of the property. Rebecca Huss said if there is a home on the property or it is vacant, and now it is Commercial that would obviously change things regarding their taxes. Rebecca Huss said they recently got their taxes and she did not know anybody who is actually happy about their taxes. Mr. McCorquodale said he did speak with the Appraisal District about that information, and he also mentioned that in the letter they sent to the property owners, that if someone is living there, then the County does not look at it as Commercial land, but if it is raw land, they do take the City's zoning into consideration for the property. Rebecca Huss said some of this property looks like it is family property and they might have plans to pass the property onwards rather than develop the property.

Jon Bickford said he thought that Items (d, e, f and g) actually have homes on them, where people are living. Mr. McCorquodale said there are several like that. Jon Bickford said Item (c) is where Arnette Easley has their big family gathering place. Jon Bickford said that is his concern too, are these people going to get hit with a bunch of taxes and are they asking for the change to Commercial. Mr. McCorquodale said no they are not asking, this is wholly City initiated. Jon Bickford said he understood the cleanup side of it, but aside from cleanup, what is the City's reason for this action. Mr. McCorquodale said he picked these particular ones and ran with them when he got here. Mr. McCorquodale said these have been in the works for a long time. Rebecca Huss said the other thing that she worries about, because she had heard there is mistrust in the area, is that the City is forcing people out so they can have developers come in and make this an extension of downtown. Rebecca Huss said some of these areas are a little further than downtown, and said she would hate to do something that engendered mistrust of City intentions, because she thinks the City is doing so with the best of intentions, but she feels like it could be misunderstood. Rebecca Huss

said she would like to make sure that everyone has been contacted and they are enthusiastic participants in the process. Jon Bickford said that is how he would like to see it too. Mr. McCorquodale said he has spoken with four personally. Mayor Countryman asked to confirm that there is three people that they need to contact. Mr. McCorquodale said they need to contact only two, because one person owns two parcels. Mayor Countryman asked if they feel they could do that by the next Council Meeting, so that would give them a month. Jon Bickford said in this case, he thought they needed to make sure and contact the people, whether it takes two or six months, it can be brought to City Council anytime. Rebecca Huss said she knew they were saving money by doing all these Public Hearings at the same time, but she thinks the other principals are important enough to offset the saving money cart, by publishing the legal notices all at one time. Jon Bickford said if that is a hardship for the City, he will write a check because he can't believe it would be that much.

T.J. Wilkerson said they might not have responded, but most of them already know about this, they just have not said anything because (c), (d) and (f) there is no one on those parcels, there might be someone in (e), and said he did not think they were going to have a problem. Mayor Countryman asked if they could get the other two to bless this change and then we move forward with a 100% participation. Rebecca Huss said they could knock out the ones where they don't have approval, because she wants enthusiastic participation in the project. Rebecca Huss said the ones that don't have 100% approval, she would rather wait until they do. Jon Bickford said they could make an official note that states the City is ready whenever they are, but we are not going to force it on anyone. Rebecca Huss said the four that they already have the approval, she would like to include those in this whole process, but the three that do not, she would feel more comfortable taking those off. Rebecca Huss said they could leave them on and then if they don't get approval, they could remove them from the Public Hearing. Mr. Yates said you can direct staff to take it off of consideration. Mr. Yates said there are three weeks to confirm the information. Jon Bickford said if they don't get positive confirmation from these people, on or before the final date, it gets pulled because there is no reason to come back here.

Jon Bickford moved to hold a Public Hearing on May 28, 2019 at 6:00 p.m. at Montgomery City Hall, 101 Old Plantersville Road to rezone the posted properties under Item 11(a-f) from R1-Single Family Residential to B-Commercial only if we have and can confirm 100% interest and participation from the land owners of those properties prior to May 16, 2018. T.J. Wilkerson seconded the motion, the motion carried unanimously.

Discussion: Rebecca Huss said it does not have to be 100% participation, but they have to be 100% behind their property being on there. Rebecca Huss said this was just for clarification. Mr. Yates said they are in agreement.

The motion carried unanimously. (4-0)

12. Consideration and possible action regarding calling a Public Hearing for May 28, 2019 at 6:00 p.m. at Montgomery City Hall to hear public comment regarding **realigning the zoning boundaries** for the following property:
 - a. 30.84 acres in Tract 14 of the John Corner survey A-8, also described as FM 149 South frontage on the east side of road from the city limits to the MISD bus barn, owned by Risher Randall, et al. in Montgomery. The property is currently zoned B-Commercial and R2-Multi Family Residential. The proposed rezoning will realign zoning district boundaries, consolidating like districts and resulting in no appreciable change in size of either district.

Rebecca Huss asked how large the R2 District is. Mr. McCorquodale said it was roughly 15 acres, and said that he had not measured each one because it is kind of a candy cane stripe, but it is roughly split half and half.

Rebecca Huss moved to approve calling a Public Hearing to be held on May 28, 2019 at 6:00 p.m. at Montgomery City Hall, 101 Old Plantersville Road to hear public comments regarding the 30.84 acres in tract 14 of the John Corner Survey as read out by the Mayor. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

13. Consideration and possible action regarding calling a Public Hearing for May 28, 2019 at 6:00 p.m. at Montgomery City Hall to hear public comment regarding rezoning the following properties from **B-Commercial to R1-Single Family Residential:**
 - a. Lots 1 – 51, Blocks 1 & 2, The Hills of Town Creek, Section 2 Subdivision, also described as 103 – 234 Brock’s Lane, and 308 – 317 Brock’s Court, Montgomery.
 - b. Open Space Reserves A, B, C, & D in The Hills of Town Creek Section 2
 - c. Lots 1 – 49, Block 3, The Hills of Town Creek, Section 3 Subdivision, also described as 242 – 265 Brock’s Lane, and 110 – 155 Scenic Hills Court, Montgomery.
 - d. Open Space Reserve A in The Hills of Town Creek.

Rebecca Huss moved to call a Public Hearing to be held on May 28, 2019 at 6:00 p.m. at Montgomery City Hall at 101 Old Plantersville Road to hear public comments regarding the rezoning of properties for (a) through (d) as read from B-Commercial to R-1 Single Family Residential. Jon Bickford seconded the motion.

Discussion: Rebecca Huss asked what the point was of changing an open space reserve to Single Family Residential from Commercial, because presumably you can't build on an open space reserve anyway. Mr. McCorquodale said it is not something he would do in and of itself, but he is taking everything that is not on the frontage that is already designated a Commercial spot, and there is one spot that is not large enough to build on, but it still gave him pause.

The motion carried unanimously. (4-0)

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. (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.

ADJOURNMENT

Jon Bickford moved to adjourn the meeting at 7:51 p.m. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

Submitted by:  Date Approved: _____
Susan Hensley, City Secretary

Mayor Sara Countryman

MINUTES OF SPECIAL MEETING

April 27, 2019

MONTGOMERY CITY COUNCIL

CALL TO ORDER

Mayor Sara Countryman declared a quorum was present, and called the meeting to order at 9:03 a.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
Tom Cronin City Council Place # 5

Absent: Jon Bickford City Council Place # 1

Also Present: Jack Yates City Administrator
Susan Hensley City Secretary

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.

1. 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 551.074 (personnel matters) related to interviewing candidates for the position of City Administrator.

Mayor Countryman adjourned into Closed Executive Session at 9:03 a.m.

2. Reconvene into Open Session.

Mayor Countryman reconvened the Open Session at 12:50 9.m.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

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

No action was taken.

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.

ADJOURNMENT

Rebecca Huss moved to adjourn the meeting at 12:54 p.m. John Champagne seconded the motion, the motion carried unanimously. (4-0)

Submitted by:  Date Approved: _____

Susan Hensley, City Secretary

Mayor Sara Countryman

Montgomery City Council
AGENDA REPORT

Meeting Date: May 14, 2019	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: Escrow Agreement
Date Prepared: May 8, 2019	

Subject

This is to approve the escrow agreement between the Christian Brothers Automotive Corporation in the city for the Christian Brothers automotive repair development.
No funds have been received, but that is not a requirement for your approval.

Description

This is the standard escrow agreement form, with the Israeli agreement and the 1295 form attached.

Recommendation

Motion to approve the escrow agreement as presented -- as part of the consent item agenda.

Approved By

City Administrator	Jack Yates	Date: May 8, 2019
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ESCROW AGREEMENT

BY AND BETWEEN

THE CITY OF MONTGOMERY, TEXAS,

AND

Christian Brothers Automotive Corporation

Dev. No. 1903

THE STATE OF TEXAS »

COUNTY OF MONTGOMERY »

This Escrow Agreement, is made and entered into as of the _____ day _____, 2019 by and between the CITY OF MONTGOMERY, TEXAS, a body politic, and a municipal corporation created and operating under the general laws of the State of Texas (hereinafter called the "City"), and Christian Brothers Automotive Corporation, a Texas Corporation, (hereinafter called the "Developer").

RECITALS

WHEREAS, the Developer desires to acquire and develop all or part of a 0.8712-acre tract, being a portion of Montgomery First, Reserve C, Block 1, sometimes referred to as the Christian Brothers Automotive Corporation Tract, and being more particularly described in Exhibit "A" attached hereto and incorporated herein by reference for all purposes.

WHEREAS, the City policy requires the Developer to establish an Escrow Fund with the City to reimburse the City for engineering costs, legal fees, consulting fees and administrative expenses incurred for plan reviews, developer coordination, construction management, inspection services to be provided for during the construction phase, and one-year warranty services.

AGREEMENT

ARTICLE I

SERVICES REQUIRED

Section 1.01 The development of the Christian Brothers Automotive Corporation Tract will require the City to utilize its own personnel, its professionals and consultants; and the Escrow Fund will be used to reimburse the City its costs associated with these services.

Section 1.02 In the event other contract services are required related to the development from third parties, payment for such services will be made by the City and reimbursed by the Developer or paid directly by the Developer as the parties may agree.

ARTICLE II

FINANCING AND SERVICES

Section 2.01 All estimated costs and professional fees needed by City shall be financed by Developer. Developer agrees to advance funds to City for the purpose of funding such costs as herein set out:

Administrative	\$ 200
City Engineer	\$2,500
Legal	\$ 300
<hr/>	
TOTAL	\$3,000

Section 2.02 Developer agrees to submit payment of the Escrow Fund no later than ten (10) days after the execution of this Escrow Agreement. No work will begin by or on behalf of the City until funds have been received.

Section 2.03 The total amount shown above for the Escrow Fund is intended to be a "Not

to Exceed” amount unless extenuating, unexpected fees are needed. Examples of extenuating circumstances created by the developer that may cause additional fees include, but are not limited to, greater than three plan reviews or drainage analysis reviews; revisions to approved plans; extraordinary number of comments on plans; additional meetings at the request of the developer; variance requests; encroachment agreement requests; construction delays and/or issues; failure to coordinate construction with City; failed testing during construction; failing to address punch list items; and/or excessive warranty repair items. If extenuating circumstances arise, the Developer will be informed, in writing by the City, of the additional deposit amount and explanation of extenuating circumstance. The Developer agrees to tender additional sums within 10 days of receipt of request to cover such costs and expenses. If additional funds are not deposited within 10 days all work by or on behalf of the City will stop until funds are deposited. Any funds which may remain after the completion of the development described in this Escrow Agreement will be refunded to Developer.

ARTICLE III,

MISCELLANEOUS

Section 3.01 City reserves the right to enter into additional contracts with other persons, corporations, or political subdivisions of the State of Texas; provided, however, that City covenants and agrees that it will not so contract with others to an extent as to impair City's ability to perform fully and punctually its obligations under this Escrow Agreement.

Section 3.02 If either party is rendered unable, wholly or in part, by *force majeure* to carry out any of its obligations under this Escrow Agreement, then the obligations of such party, to the extent affected by such *force majeure* and to the extent that due diligence is being used to

resume performance at the earliest practicable time, shall be suspended during the continuance of any inability so caused to the extent provided but for no longer period. As soon as reasonably possible after the occurrence of the *force majeure* relied upon, the party whose contractual obligations are affected thereby shall give notice and full particulars of such *force majeure* relied upon to the other party. Such cause, as far as possible, shall be remedied with all reasonable diligence. The term "*force majeure*," as used herein, shall include without limitation of the generality thereof, acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage, or accidents to machinery, which are not within the control of the party claiming such inability, which such party could not have avoided by the exercise of due diligence and care.

Section 3.03 This Escrow Agreement is subject to all rules, regulations and laws which may be applicable by the United States, the State of Texas or any regulatory agency having jurisdiction.

Section 3.04 No waiver or waivers of any breach or default (or any breaches or defaults) by either party hereto of any term, covenant, condition, or liability hereunder, or of performance by the other party of any duty or obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstance.

Section 3.05 Any notice, communication, request, reply or advice (hereafter referred to as "notice") herein provided or permitted to be given, made, or accepted by either party to the other

agreement.

Section 3.08 This Escrow Agreement shall be for the sole and exclusive benefit of City and Developer and is not for the benefit of any third party. Nothing herein shall be construed to confer standing to sue upon any party who did not otherwise have such standing.

Section 3.09 The provisions of this Escrow Agreement are severable, and if any provision or part of this Escrow Agreement or the application thereof to any person or circumstances shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Escrow Agreement and the application of such provision or part of this Escrow Agreement to other person circumstances shall not be affected thereby.

Section 3.10 This Escrow Agreement and any amendments thereto, constitute all the agreements between the parties relative to the subject matter thereof, and may be executed in multiple counterparts, each of which when so executed shall be deemed to be an original.

Section 3.11 This Agreement shall be governed by, construed and enforced in accordance with, and subject to, the laws of the State of Texas without regard to the principles of conflict of laws. This Agreement is performable in Montgomery County, Texas.

IN WITNESS WHEREOF, the parties hereto have executed this Escrow Agreement in three (3) copies, each of which shall be deemed to be an original, as of the date and year first written in this Escrow Agreement.


CITY OF MONTGOMERY, TEXAS

By: _____
Sara Countryman, Mayor

ATTEST:

By: _____
Susan Hensley, City Secretary

Christian Brothers Automotive Corporation
Developer

By:  _____
Signature

Title: President

STATE OF TEXAS {

COUNTY OF MONTGOMERY {

BEFORE ME, the undersigned authority, on this day personally appeared Sara Countryman, Mayor of the City of Montgomery, Texas, a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 2019.

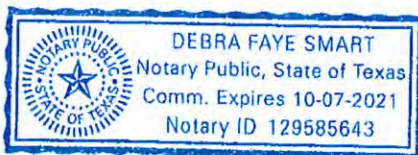
Notary Public, State of Texas

THE STATE OF TEXAS {

COUNTY OF HARRIS {

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, on this day personally appeared Don Carr, President of Christian Brothers Automotive, a Texas Corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and consideration therein expressed and in the capacity therein stated and as the act and deed of said organization.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 1st day of May, 2019.



Debra Faye Smart
Notary Public, State of Texas

Prohibition on Boycotting Israel Verification

This Verification is hereby incorporated into the terms of the contract by and between **(Owner) City of Montgomery** and **(Contractor) Christian Brothers Automotive Corporation** entered into this the 3rd day of May, 2019.

1. **Christian Brothers Automotive Corporation**, in conjunction with the execution of the above referenced contract and in accordance with Chapter 2270 of the Texas Government Code, effective September 1, 2017, does hereby agree, confirm, and verify that it:
 - A. Does not Boycott Israel; and
 - B. Will not Boycott Israel during the term of the contract.

"Boycott Israel" has the meaning given to it in Chapter 808 of Subtitle A, Title 8 of the Texas Government Code. As of the effective date of the statute, the term means "refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action make for ordinary business purposes."

2. Contractor hereby acknowledges and agrees that this verification is a material term of the contract and Owner is expressly relying on this verification in agreeing to enter into the contract with Contractor.
3. **TO THE MAXIMUM EXTENT PERMITTED BY LAW, CONTRACTOR AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS OWNER FROM ALL CLAIMS, CAUSES OF ACTION, LEGAL PROCEEDINGS, DAMAGES, COSTS, FEES AND EXPENSES ARISING OUT OF OR RELATED TO AN ACTUAL OR ALLEGED MISREPRESENTATION BY CONTRACTOR PROVIDED HEREUNDER.**

[Signatures on Following Page]

Prohibition on Boycotting Israel Verification [Continued]

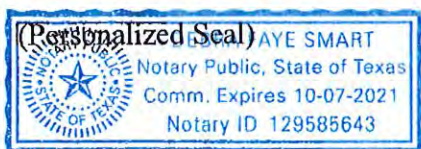
Contractor: Christian Brothers Automotive Corporation

By: 

Title: President

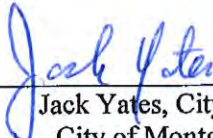
State of Texas
County of Harris

Before me, a notary public, on this day personally appeared Don Carr, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained in Paragraph 1A and B are true and correct.




Notary Public's Signature

Receipt and incorporation into the above referenced contract hereby agreed to and acknowledged by:


Jack Yates, City Administrator
City of Montgomery, Texas

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
Christian Brothers Automotive Corporation
HOUSTON, TX United States

Certificate Number:
2019-485647

Date Filed:
05/02/2019

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.
City of Montgomery, TX

Date Acknowledged:

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

N/A
Automotive Repair Services.

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.

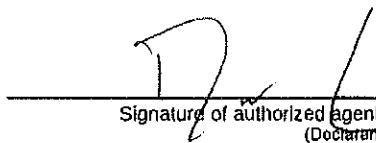
6 UNSWORN DECLARATION

My name is Don Carr and my date of birth is 9/9/1984

My address is 17725 Katy Fwy, STE 200 Houston TX 77094 USA
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Harris County, State of Texas, on the 3rd day of May, 2019.
(month) (year)



Signature of authorized agent of contracting business entity
(Declarant)

Montgomery City Council
AGENDA REPORT

Meeting Date: May 14, 2019	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits:
Date Prepared: May 7, 2019	

Subject

This is to consider the request from Candace Welsh for a Microblading (placing a tattoo on the eyebrows or on the eyelid) at 401 College Street, Suite ~~101~~-B.

110

Description

This is the same type of special use permit granted in May 2016.

Recommendation

Motion to approve the Special Use Permit Ordinance as presented to Candace Welsh for a microblading business at 401 College St., Suite ~~101~~-B.

110

Approved By

City Administrator	Jack Yates	Date: May 7, 2019
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ORDINANCE NO. 2019-_____

AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS, GRANTING A SPECIAL USE PERMIT TO CANDACE WELSH FOR USE OF A PORTION OF THE PROPERTY LOCATED AT 401 COLLEGE STREET, SUITE 110-B, MONTGOMERY, TEXAS 77356, FOR A MICROPIGMENTATION TATTOO BUSINESS; ESTABLISHING CERTAIN TERMS, CONDITIONS AND LIMITATIONS; PROVIDING FOR PENALTY, SEVERABILITY, AND EFFECTIVE DATE.

WHEREAS, the City of Montgomery has received a request from Candace Welsh for a special use permit pursuant to Section 98-33 of the Code of Ordinances of the City of Montgomery, Texas, authorizing the use of a portion of the herein below referenced real property as a micropigmentation tattoo business; and

WHEREAS, the matter was referred to the City of Montgomery Planning and Zoning Commission for consideration and recommendation, and the Planning and Zoning Commission, after due notice, did consider and conduct a Public Hearing held on May 13, 2019 and make a final report on the request for the special use permit, as provided by Section 98-33 (a) of the Code of Ordinances; and

WHEREAS, the City Secretary caused to be issued and published the notice of public hearing required by the City of Montgomery Zoning Ordinance and laws of the State of Texas applicable thereto; and

WHEREAS, the City Council, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the proposed special use permit, on the 14th day of May, 2019; and

WHEREAS, the City Council, after determining that all legal requirements of notice and hearing have been met, is of the opinion and finds that the requested special use of the property described herein is authorized by Section 98-33 of the Code of Ordinances; and

WHEREAS, the City Council further finds that the granting of a special use permit to Candace Welsh will not have an adverse effect on the City's comprehensive zoning plan or on the character and development of the neighborhood in which the property is situated, so long as the City imposes appropriate conditions and safeguards;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, THAT:

SECTION 1. Grant of Permit. A special use permit is hereby granted to Candace Welsh to use that portion of the property located at 401 College Street, Suite 110-B, Montgomery, Texas 77356 (the "Premises"), for micropigmentation tattoo business for eyebrows and eye shade, as an accessory use of an otherwise approved and permitted use. The

special use permit is granted upon and subject to the terms, provisions and limitations specified in Section 2.

SECTION 2. Terms, Provisions and Limitations. The special use permit herein granted is expressly subject to the following terms, provisions and limitations, each of which is hereby deemed to be a condition precedent to the grant and continued effectiveness of the permit:

- (a) All the services shall be conducted on the Premises.
- (b) Micropigmentation tattoo business on the Premises shall only be conducted during the term of the permit.
- (c) The Premises shall be kept clean and attractive, and shall not create a nuisance in any regard.
- (d) Candace Welsh has previously submitted, and shall continuously maintain a detailed letter at the City detailing the safety standards that will be adhered to regarding her micropigmentation tattoo business on the Premises. A copy of the safety standards letter is attached hereto and incorporated herein by reference as Exhibit "A." Candace Welsh shall adhere to and comply with all the standards set forth in this letter.
- (e) No more than one additional person, other than residents residing on the Premises, shall be employed or engaged in the micropigmentation tattoo business of eyebrows and eyeshades.
- (f) The permit is limited to only eyebrows and eye shade micropigmentation tattoo business.
- (g) No equipment or process shall be used in connection with the micropigmentation business which creates noise, vibrations, glare, fumes, odors or electrical interference detectable to the normal senses outside of the Premises. No equipment or process shall be used which creates visible or audible interference in any radio or television receivers off the Premises.
- (h) No articles or materials used in connection with the micropigmentation business shall be stored outside of the Premises.
- (i) Candace Welsh shall be bonded and insured, and shall maintain general liability insurance in an amount of \$1,000,000 as required by the City during the entire term of the permit. A certificate of such insurance shall be provided to the City.
- (j) The City shall have the authority to inspect the Property from time to time to confirm Candace Welsh's compliance with the terms and conditions of this special use permit.
- (k) This special use permit does not waive, amend, abrogate or affect any law,

rule or regulation, including any ordinance of the City of Montgomery. Candace Welsh shall comply with all ordinances of the City of Montgomery.

- (l) This permit shall expire five (5) years from the date of its issuance, subject to the City Council's right to renew the permit upon request by Candace Welsh. In the event of a violation by Candace Welsh of the terms and provisions of this special use permit, and the continuation of such violation after ten (10) days written notice from the City to Candace Welsh, at the option of City Council, this permit shall be revoked and shall be of no further force or effect. Such revocation will be effective and final, immediately upon action by City Council.

- (m) This permit is issued only to Candace Welsh and is not assignable without City Council permission.

SECTION 3. Any person, firm, or corporation violating a provision of this Ordinance, upon conviction, is guilty of an offense punishable as provided in the Montgomery Code of Ordinances, as amended, by a fine not to exceed two thousand dollars (\$2,000.00); and each day or portion thereof during which the violation is committed, continued or permitted shall be a separate offense.

SECTION 4. It is the intention of the City Council that this Ordinance, and every provision thereof, shall be considered severable and the invalidity of any section, clause or provision or part or portion of any section, clause, or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

SECTION 5. This Ordinance shall become effective immediately upon its passage.

PASSED AND APPROVED this 14th day of May, 2019.

CITY OF MONTGOMERY, TEXAS

By: _____
Sara Countryman, Mayor

ATTEST:

By: _____
Susan Hensley, City Secretary

APPROVED AS TO FORM:

By: _____
Larry Foerster, City Attorney

Montgomery City Council
AGENDA REPORT

Meeting Date: May 14, 2019	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: Engineer's Memo
Date Prepared: May 8, 2019	

Subject

This is to approve the construction of Stewart Creek Wastewater Treatment Plant lift station relocation.

Description

This is a project partially funded by TWDB funds and The Shoppes at Montgomery Developer.

The recommended bid of \$1,094,300.00 of which \$200,000 has been provided to the City from the Developer, with the remaining funds to come from the approved TWDB project, funded by the TWDB loan.

The engineer said that they have reviewed the ^{lowest} bid Contractor and feel that he can perform the job on budget and within the construction calendar days allowed, 180 days.

Recommendation

Motion to accept the bid of the Veritas management company, LLC DBA Black Castle General Contractor, and to authorize the contract documents to be executed by the City Administrator.

Approved By

City Administrator	Jack Yates	Date: May 8, 2019
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6330 West Loop South, Suite 150
Bellaire, Texas 77401
Tel: 713.777.5337
Fax: 713.777.5976
www.jonescarter.com

May 9, 2019

The Honorable Mayor and City Council
City of Montgomery
101 Old Plantersville Rd.
Montgomery, TX 77316

Re: Construction of the Stewart Creek Wastewater Treatment Plant Lift Station Relocation
City of Montgomery
TIN No. 74-2063592

Dear Mayor and Council:

We received bids for the referenced contract the Office of the City Secretary on May 2, 2019 at 11:00 am. Bids were publicly opened and read at that time.

Five (5) contractors submitted proposals for this work. A summary tabulation of the bids is enclosed for your review. After review of qualifications, we determined Veritas Management Company, LLC DBA Black Castle General Contractor, to be the most advantageous bidder, with a Base Bid proposal in the amount of \$1,094,300.00 and 180 calendar days.

We have worked with Veritas Management Company, LLC DBA Black Castle General Contractor in the past and we find them to be an acceptable contractor. We recommend the referenced contract be awarded to Veritas Management Company, LLC DBA Black Castle General Contractor on the basis of their Base Bid proposal in the amount of \$1,094,300.00 and 180 calendar days.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Amy W. Stonaker'.

Amy W. Stonaker, P.E.

AWS/bmm

K:\W5841\W5841-0036-00 Lift Station No. 1 Relocation\3 Construction Phase\W5841-0036-00ROA20180509.doc

Enclosure

cc: Mr. Christopher Roznovsky, P.E. – Jones|Carter, City Engineer
Mr. Jack Yates – City of Montgomery, City Administrator
Ms. Susan Hensley – City of Montgomery, City Secretary
Mr. Larry Foerster – Darden, Fowler and Creighton, LLP, City Attorney



BID TABULATION SHEET

BIDS WERE RECEIVED IN THE OFFICE OF

Construction of Stewart Creek Lift Station Relocation

City Secretary - City of Montgomery

City of Montgomery

Time: 11:00 AM

Job No. W5841-0036-00

Date: 5/2/2019

Public Bid

BIDDERS

	Bid No. 1 R & B Group	Bid No. 2 Veritas Management Company LLC DBA Black Castle General Contractor	Bid No. 3 5 J Services LLC	Bid No. 4 Peltier Brothers Construction, Ltd. By: PB, LLC; Its General Partner	Bid No. 5 B-5 Construction Co. Inc		
Total Base Bid	\$ 1,088,100.00	\$1,094,300.00	\$1,095,000.00	\$1,165,000.00	\$1,347,679.00		
Bid Security	X	X	X	X	X		
1295 Form	X	X	X	X	X		
Addendum(s)	X	X	X	X	X		
Calendar Days	240	180	210	210	260		

* Denotes Mathematical Error by Contractor

Montgomery City Council
AGENDA REPORT

Meeting Date: May 14, 2019	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: Engineer's Memo, Applicable sections of 380 Agreement
Date Prepared: May 8, 2019	

Subject

This is to approve the construction of the remaining portion of the 18 inch gravity sanitary sewer line extension.

Description

This project is to complete the 18 inch gravity sanitary sewer line from the sewage treatment plant to the new location of lift station #1. The City has received payment for this line from The Shoppes of Montgomery Developer. The Developer is responsible for the costs, per the 380 Development Agreement:

"Section 2. e. At the end of the project, I final accounting will be accomplished to determine if any engineer design funds or construction fund drilled three rebated or for any funds are required of Developer due to project overruns."

And also in the 380 Agreement:

"Section 2. c. the construction funds are due to the city within 20-days of the date the city approves the Replacement Gravity Sanitary Sewer Line bid."

I need to confirm the math with Chris Roznovsky and Cathy Branco but I believe the Shoppes will owe the City approximately \$38,000 difference between the amount that they have paid and this bid amount. I will have a precise number by the time of the Council meeting.

The engineer said that they have reviewed the lowest bid contractor and feel that he can perform the job in budget and within the construction days allowed.

Montgomery City Council
AGENDA REPORT

Recommendation

Motion to accept the bid of DL Glover, Inc, upon receipt of all funds required of the First Hartford Realty Corporation Developer and to authorize the contract documents to be executed by the City Administrator.

Approved By

City Administrator	Jack Yates	Date: May 8, 2019
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1575 Sawdust Road, Suite 400
The Woodlands, Texas 77380
Tel: 281.363.4039
Fax: 281.363.3459
www.jonescarter.com

May 8, 2019

The Honorable Mayor and City Council
City of Montgomery
101 Old Plantersville Road
Montgomery, TX 77316

Re: Construction of 18-Inch Gravity Sanitary Sewer Line Extension (Phase II)
City of Montgomery
TIN No. 74-2063592

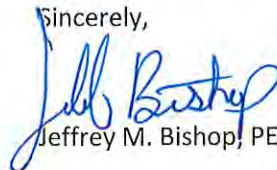
Dear Mayor and Council:

We received bids for the referenced contract at the Montgomery City Hall on May 2, 2019 at 10:30 AM. Bids were publicly opened and read at that time.

Three (3) contractors submitted proposals for this work. A summary tabulation of the bids is enclosed for your review. DL Glover, Inc. submitted the lowest Base Bid proposal in the amount of \$135,984.00.

Although we have never worked with DL Glover, Inc., we have reviewed references for their work history, and find them to be a capable contractor. We recommend the referenced contract be awarded to DL Glover, Inc. on the basis of their proposal in the amount of \$135,984.00.

As always, should you have any questions or need additional information, please do not hesitate to contact us.

Sincerely,

Jeffrey M. Bishop, PE

JB2:ab/jmr

K:\W5841\W5841-0034-00 18 Inch Gravity Sanitary Sewer Line Ext\3 Construction Phase\Phase II\3. Contract Documents\1. W5841-0034-01 ROA.doc

Enclosure

cc: DL Glover, Inc.
Mr. Jack Yates – City of Montgomery, City Administrator
Ms. Susan Hensley – City of Montgomery, City Secretary
Mr. Larry Foerster – Darden, Fowler and Creighton, LLP, City Attorney

380 Agreement w/ First Hartford Realty -

the Wastewater Treatment Plant site in which event the Access Easement shall lapse, expire and be null and void.

- f. The Developer shall grant a right of entry, within 30-days of the Effective Date for access to the Property to the City for the purpose of initiating the planning and design of the Replacement Gravity Sanitary Sewer Line and the Replacement Lift Station by allowing for surveying, geotechnical investigation and construction as the documents and instruments required to complete the Land Swap are executed and recorded.
- g. The Developer agrees to advance funds to the City to relocate/replace the fence to the new northern and eastern property line of the Wastewater Treatment Plant site with a fence to match the existing fence at a cost not to exceed \$15,000.
- h. The City agrees to deed the "Existing Lift Station Site", being 0.057 acres, to the Developer, as depicted on the Conceptual Site Plan attached as Exhibit "A" upon the City's acceptance of the Replacement Gravity Sanitary Sewer Line and the Replacement Lift Station.
- i. The City agrees to vacate, abandon and release the remaining recorded existing gravity sanitary sewer easement and access easement (the "Existing Gravity Sanitary Sewer Easement and Access Easement"), being 0.499-acres, along, over and across the Property, as depicted on the Conceptual Site Plan attached as Exhibit "A" upon the recordation of Items A, D and E described above, upon the City's acceptance of the Replacement Gravity Sanitary Sewer Line and Replacement Lift Station.
- j. The City agrees to deed a portion of the Wastewater Treatment Plant site (the "Abandoned Portion of the Wastewater Treatment Plant Site"), being approximately 0.13-acres, to the Developer, as depicted on the Conceptual Site Plan attached as Exhibit "A" upon the recordation of Items A, D and E described above.

2. Gravity Sanitary Sewer Line. The City currently has a 12-inch diameter gravity sanitary sewer line traversing the Property that conflicts with the development of the Property. The Parties agree the following will occur:

- a. The Developer will advance funds to the City for the preliminary engineering and final design ("Engineering Design Funds"), which are described below, and construction ("Construction Funds") (collectively, the "Funds") of a new 18-inch diameter sanitary sewer line (the "Replacement Gravity Sanitary Sewer Line") along a route that is approved by the Developer and not in conflict with any proposed development of the Property. The amounts of these Funds are described in Exhibit "B." This project will also include abandonment of the existing gravity sanitary sewer line within the Existing Gravity Sanitary Sewer and Access Easement upon the City's acceptance of the construction of the Replacement Gravity Sanitary Sewer Line. The Replacement Gravity Sanitary Sewer Line will be designed and constructed per TCEQ and the City's standards.

- b. The Engineering Design Funds are due at the City no later than 30-days after the Effective Date. These Engineering Design Funds will cover Preliminary Engineering, and Final Design Phase Engineering (a lump sum fee of \$32,500) plus Additional Services fees for Surveying, Geotechnical Materials Testing, advertising expenses, reproduction fees, and any Environmental Engineering (an estimated fee of \$25,000) necessary to design the Replacement Gravity Sanitary Sewer Line described below.
- c. The Construction Funds are due at the City within 20-days of the date the City approves the Replacement Gravity Sanitary Sewer Line bid. The amount to be deposited includes 100 percent of the actual construction cost, 10% of the estimated amount for construction contingencies, 2.5% of the actual construction amount for construction materials testing, 4% of the estimated amount of the construction for the Construction Administration and Field Project Representative.
- d. The engineering design, bidding/award and construction of the Replacement Gravity Sanitary Sewer Line will consume approximately 6 to 8 months, but in no event more than 12 months from the Effective Date, subject to agency approvals and weather during construction. The timing of the completed Replacement Gravity Sanitary Sewer Line will coincide with the completion of the Replacement Lift Station but again no event more than 15 months from the Effective Date. All Parties shall be notified of the project schedule and estimated dates when Construction Funds will be requested. The Developer or any contractor requested to bid by the Developer will be permitted to bid on the project.
- e. At the end of the project, a final accounting will be accomplished to determine if any Engineer Design Funds or Construction Funds are eligible to be rebated or if any funds are required of Developer due to project overruns.
- f. At the end of the construction, the City will own, operate and maintain the Replacement Gravity Sanitary Sewer Line.

\$57,500
has been
paid

\$437,500
has been
paid.

3. Lift Station. The City currently has a lift station on 0.057 acres within the Property which interferes with the Developer's best utilization of the Property. The City agrees to abandon the "Existing Lift Station" and construct a "Replacement Lift Station" on the Wastewater Treatment Plant site adjacent to the Property.

- a. With an up-front contribution of \$200,000.00 from the Developer (the "Replacement Lift Station Contribution"), the City will initiate the engineering design and construction for the Replacement Lift Station upon execution of this Agreement and the Developer's deposit with the City of both the Replacement Lift Station Contribution and the Engineering Funds for the 18-inch diameter Replacement Gravity Sanitary Sewer Line along with the initiation of the Land Swap described above. The City shall be responsible for the payment of the balance of the construction costs of the Replacement Lift Station.

Exhibit "B"
Engineering Design Funds and Construction Funds

CONSTRUCTION COST ESTIMATE
FOR
18" GRAVITY SANITARY SEWER EXTENSION TO STEWART CREEK WWTP
CITY OF MONTGOMERY, TEXAS
November 8, 2017

Item No.	Description	Unit	Quantity	Unit Price	Total
1.	Move-In, Bonds & Insurance	LS	1	\$ 15,000	\$ 15,000
2.	Clearing and Grubbing	LS	1	7,500	7,500
3.	18" Sanitary Sewer	LF	1,200	145	174,000
4.	Extra Depth Sanitary Sewer Manholes	EA	5	6,500	32,500
5.	Abandon Existing Gravity Line	LF	265	15	4,000
6.	Abandon Manhole	EA	2	2,500	5,000
7.	Connection to Existing Manhole	EA	1	3,500	3,500
8.	Connection to Lift Station Stub Out	EA	1	3,000	3,000
9.	Well Point System	LF	1,200	35	42,000
10.	Trench Safety System	LF	1,200	1	1,200
11.	Storm Water Pollution Prevention Plan	LS	1	10,000	10,000
12.	Site Restoration	LS	1	5,000	5,000
				Subtotal	\$ 302,700
				Contingencies (10%)	30,300 ⁽²⁾
				Engineering	32,500 ⁽³⁾
				Reimbursable Expenses	24,500 ⁽⁴⁾
				Construction Phase	20,000 ⁽⁵⁾
				TOTAL	\$ 410,000



Chris Roznovsky
11/8/17

Notes:

- (1) This estimate represents my best judgement as a design professional familiar with the construction industry. Jones|Carter has no control over the cost of labor, materials, or equipment; over the Contractor's methods of determining bid prices; or over competitive bidding or market conditions. Accordingly, we cannot and do not guarantee that bids will vary from this cost estimate.
- (2) Contingencies include a 10% cost for additional, unseen, and future costs from time of proposal.
- (3) Lump sum price for preliminary engineering and design phase services.
- (4) Reimbursable expenses include additional engineering services, topographic surveying, construction staking, geotechnical investigation, advertising, and reproduction fees.
- (5) Estimated prices for construction administration, field project representation, and construction materials testing.

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Texas Board of Professional Engineers Registration No. F-439 | Texas Board of Professional Land Surveying Registration No. 10046106

Montgomery City Council
AGENDA REPORT

Meeting Date: May 14, 2019	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: Unpaved parking areas in the city, a listing
Date Prepared: May 7, 2019	

Subject

This is to consider what action, if any, to take regarding gravel parking areas inside the City.

Description

Attached is the listing of the unpaved parking areas in the City. As you can see in the far right column of the listing almost all of the gravel parking lots are non-conforming use situations – meaning that when the zoning ordinance was re-adopted on May 2, 2014 that the existing gravel parking areas can be continued to be used unless the use of the building connected to the parking lot use is not occupied or its use discontinued for a continuous period of one year. None of these sites have continuously stopped operation for a year since May of 2014.

The nonconforming provision does not allow for expansion of a gravel parking area.

Below are several relevant sections of the Code regarding this matter (the underlining is added by me)

Section 98-1 Definitions.

Parking space, off-street, means an area of not less than 162 square feet (measuring approximately nine feet by 18 feet) not on a public street or alley, surfaced with an all-weather surface, enclosed or not enclosed. The parking space shall be durably surfaced and so arranged to permit satisfactory ingress and egress of an automobile. A public street shall not be classified as off-street parking in computing the parking requirements for any use.

Nonconforming use, building or yard means a use, building, or yard, existing legally at the time of passage of the ordinance from which this chapter is derived, which does not, by reason of design or use, conform with the regulations of the district in which it is situated.

Sec. 98-312. - Continuation of nonconforming use; change of use.

Except as otherwise provided in this article, the nonconforming use of a building existing on the effective date of the ordinance from which this article is derived may be continued, and the use of a nonconforming building may be changed to another use of the same or a more restricted classification, but where such use is changed to a more restricted classification, it shall not thereafter be changed back to a use of a less restricted classification. A nonconforming building which is or may hereafter become vacant and which shall remain unoccupied or its nonconforming use discarded for a continuous period of one year, shall not thereafter be occupied except by a use which conforms to regulations of the district in which it is located. A nonconforming building may be maintained or kept in good repair except as otherwise provided in this section. No existing building may be enlarged, extended, reconstructed or altered unless its use is changed to a use permitted in the district in which such building is located, except in the event such enlargement, extension, reconstruction or alteration is required by court decision, law, or ordinance. No nonconforming building shall be moved in whole or in part to any other location on the lot unless every portion of such building is made to conform to all the regulations of the district in which it is located. A nonconforming building which is damaged by fire, explosion, flood, wind, earthquake or other calamity or act of God or the public enemy to the extent of 50 percent or more of its reasonable value, may not be restored except in conformity with the regulations of the district in which it is located.

(Ord. No. 2014-03, § 1, 5-20-2014)

At this time, the actions available to the City are:

- The ordinance needs to be applied to the Hodge Podge Lodge for expansion of the restaurant operation,
- Possibly (if so instructed by the Council) the Johnson Firewood Sales and Funky Monkey Shaved Ice temporary sales locations need to pave their parking area.
- The recently placed gravel at the Fernland Park needs to be removed as it is an improper expansion to the nonconforming existing parking lot.

Recommendation

Montgomery City Council
AGENDA REPORT

Motion to city administrator to administer the parking ordinance with Hodge Podge Lodge and to be diligent about enforcing the nonconforming aspect of existing gravel parking areas.

Approved By

City Administrator

Jack Yates

Date: May 7, 2019

Unpaved Parking Areas in City

5/20/2014 = Zoning Ordinance Adoption

12-2014 = my arrival in City

Location	Surface Type	Explanation	Intention/Future Action	5/20/2014 --Ordinance Non-conforming
Rancher's Daughter	Gravel	Gravel was in place 5-20-2014 Not known why Council allowed	No action intended unless directed by City Council	YES
North of Community Center	Gravel	Council approved despite noting of non-compliance by City Administrator	No action intended unless directed by City Council	No
East side of Barnes Building College/ Maiden	Gravel	Gravel was in place as site plan called for as of 5-20-2014 Not known why Council allowed	No action intended unless directed by City Council	Yes
Hodge Podge Lodge	Grass	When restaurant was added that should have been with more parking spaces	Need to speak with Owner and direct him of need for ____ more spaces. Also he has presented "grid" system as alternate to paving	Yes-for sotheast portion of parking area No, for new restaurant overflow area
Ferland Parking Lot	Was grass and gravel, recent gravel placement can be removed	Grass and gravel in place 5-20-2014 Recent gravel placement due to thought of continuation of past surface-- but too much placed. Not known why Council originally allowed	"Grid" system quote being obtained - will present to Council when received due to cost Get Council direction on gravel removal	Yes
Johnson Fire Sales (L.S. Pkwy/Liberty St.)	Grass	Not thought to be required due to vendor's license issued monthly, therefore not a permanent business	No action intended unless directed by City Council	No
308 Caroline St.	Gravel	Gravel was in place 5-20-2014 Not known why Council allowed	No action intended unless directed by City Council	Yes
The Westmont Building	Gravel	Gravel was in place 5-20-2014 Not known why Council allowed	No action intended unless directed by City Council	Yes
A and A Nursery	Gravel	Gravel was in place 5-20-2014 Not known why Council allowed	No action intended unless directed by City Council	Yes

Unpaved Parking Areas in City

5/20/2014 = Zoning Ordinance Adoption

12-2014 = my arrival in City

Location	Surface Type	Explanation	Intention/Future Action	5/20/2014 --Ordinance Non-conforming
C and S Feed Store	Gravel	Gravel was in place 5-20-2014 Not known why Council allowed	No action intended unless directed by City Council	Yes
Little Acorn	Gravel	Gravel was in place 5-20-2014 Not known why Council allowed	No action intended unless directed by City Council	Yes
In Stitches Drapery	Gravel	Gravel was in place 5-20-2014 Not known why Council allowed	No action intended unless directed by City Council	Yes
Lone Star Cowboy Church	Gravel	Gravel was in place 5-20-2014 Not known why Council allowed	No action intended unless directed by City Council	Yes
Masaonic Lodge	Gravel	Gravel was in place 5-20-2014 Not known why Council allowed	No action intended unless directed by City Council	Yes
Funky Monkey Shaved Ice	Grass	Not thought to be required due to vendor's license issued monthly, therefore not a permanent business	No action intended unless directed by City Council	No
Lutheran Church (Surplus parking west side)	Grass/Gravel	Gravel was in place 5-20-2014 Not known why Council allowed	No action intended unless directed by City Council	Yes
Litette Angels Learning Accademy	Grass/Gravel	Gravel was in place 5-20-2014 Not known why Council allowed	No action intended unless directed by City Council	Yes
China Chapel	Gravel	Gravel was in place 5-20-2014 Not known why Council allowed	No action intended unless directed by City Council	Yes
Montgomery Quilt Company	Gravel	Gravel was in place 5-20-2014 Not known why Council allowed	No action intended unless directed by City Council	Yes
Joe Shockley Buildings (On John A. Butler)	Gravel	Gravel was in place 5-20-2014 Not known why Council allowed	No action intended unless directed by City Council	Yes
Longview Greens Miniature Golf	Gravel	Gravel - holds 6-month Variance from Council	Variance expires 9-Oct-19	No