

MINUTES OF REGULAR MEETING

January 28, 2020

MONTGOMERY CITY COUNCIL

CALL TO ORDER

Mayor Pro-tem T.J. Wilkerson declared a quorum was present and called the meeting to order at 6:00 p.m.

Present: 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: Sara Countryman Mayor
 Jon Bickford City Council Place 1

Also Present: Richard Tramm City Administrator
 Susan Hensley City Secretary

INVOCATION

John Champagne gave the Invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

VISITOR/CITIZENS FORUM:

Any citizen with business not scheduled on the agenda may speak to the City Council. Prior to speaking, each speaker must be recognized by the Mayor. City Council may not discuss or take any action on an item but may place the issue on a future agenda. The number of speakers along with the time allowed per speaker may be limited.

No comments were made by the public.

CONSENT AGENDA:

1. Matters related to the approval of minutes of the Public Hearing and Regular Meeting held on January 14, 2020.
2. Consideration and possible action regarding completion of a one-year warranty period for the Buffalo Springs Drive Bridge Embankment Repair project.
3. Consideration and possible action regarding adoption of a Resolution correcting the place numbers for the Planning and Zoning Commission to be the same as the Code of Ordinances.

Rebecca Huss said she had a question regarding Item 2, and asked Mr. Roznovsky to comment on the items regarding repairing the corners of the bridge, the cracked asphalt and asked if that was a sign of changes they are going to see over the 30-year life span of the bridge or is that a reflection of something that is within the one-year and now that it has been corrected they are done. Mr. Roznovsky said all the issues with the asphalt are normal issues with asphalt as it settles. Mr. Roznovsky said they did the repairs and there is no issue with the bridge structure, so what has been repaired should be done for the life of the asphalt and the approaches up to it. Rebecca Huss said there is nothing wrong with the structure of the bridge itself and three years ago it was the asphalt and the underlying structure of the dirt. Mr. Roznovsky said none of the items caused concern with them they just cleanup items.

John Champagne moved to accept the Consent Agenda as presented. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

CONSIDERATION AND POSSIBLE ACTION:

4. Consideration and possible action on Department Reports.
 - A. Administrator's Report – Mr. Tramm presented his report to City Council. Mr. Tramm advised the Crane Cabin work is almost done, with just the staining and covering the areas between the logs remains. Mr. Tramm thanked Mr. Matt Fuller with MISD for helping to make the connection with Sam Houston University Museum, who helped them connect with the company that did the repair work faster and at a lower cost than the previous contractor. Mr. Tramm reported the first three homes in the Home Grant project have closed and the Grant will move forward to fund their construction, with the first of the homes needing to be completed by the end of July. Mr. Tramm said the timeline for construction has not been set yet, but the completion by the end of July is required for

them to keep the funding open. Mr. Tramm said he did not know how the liability worked other than they are going to be keeping an eye on the project to make sure that it gets completed. Mr. Tramm said there is one additional property that they are waiting to get the documents back to clear up a property issue and then that property will have a closing as well. Mr. Tramm said City staff is working to make sure the documents are returned. Rebecca Huss said she thought they had to have the homes done in pairs and asked if that one would need to have another home done in order to move forward. Mr. Tramm said that is what he thought, but in discussion with them that is not necessarily true, and they will essentially move the contractor from site to site. Mr. Tramm said they did assure them that, if necessary, that home could be done solo. T.J. Wilkerson asked about the deadline and whether all the homes had to be completed by the end of July. Mr. Tramm said no, that is the deadline on one of the first homes, which is based on timelines and when the other paperwork was completed. Mr. Tramm said it is to their advantage in terms of cost, that they can have one contractor working on multiple homes either concurrently or consecutively. Mr. Tramm said it was an obligation of the home builder to get City permits and comply with all the requirements.

Mr. Tramm said last month they had the unveiling of L. A. Washington Street, which many family members attended and saluted them for attending the event.

Mr. Tramm said regarding the Christmas Parade follow up, he still had a few people in the business community to talk to, with one meeting being canceled due to illness. Mr. Tramm said regarding the parade there were a couple of changes made this year with the route being changed to allow a different starting point. Mr. Tramm said there were some other minor changes that were made primarily for safety reasons. Mr. Tramm said he was in a vehicle near the front of the parade in a City vehicle and they got all the way to the starting point to the staging area and the last of the parade entries had not even left yet. Mr. Tramm said if they had started from the same point, they would have bogged down the parade area, so extending the area was necessary. Mr. Tramm said another issue was the "no candy throwing policy" although it was not completely followed. Mr. Tramm said he himself witnessed one occasion where candy had not been thrown all the way to the side of the road and a small girl that was about seven years old got away from her parents, ran alongside our vehicle in a way that the driver could not see her, she picked up the candy and ran back to her parents. Mr. Tramm said the problem with that was if she had fallen while turning, she would have fallen right in front of the wheels of

the large vehicle. Mr. Tramm said some people poked fun at the City for “no candy throwing” but said the whole issue was to prevent children from running in and out of traffic. Mr. Tramm said while we can say that parents should keep up with their children, but when you have several children at a parade with a lot going on, things can happen in an instant. Mr. Tramm said as far as he was concerned unless City Council directs him otherwise, they would try to continue that policy in the future for safety reasons, so we are not in the news because a child got run over during the Christmas Parade. John Champagne asked who sponsors the parade. Mr. Tramm said this is not a City parade it is a Historic Society parade. John Champagne said working in unison with the Historic Society to limit the number of entries because it can get ridiculous. Mr. Tramm said that is a discussion point they had for the after-action meeting this year, and they will be starting in the next couple of months to have the preliminary meetings for the next parade. Mr. Tramm said it is clear to him the City needs to take a strong role in the parade, while he was not saying the City should come in and take it over, they need to have a role in the parade from a safety point of view. John Champagne said he thought Chief Solomon started that, but there must be some common ground. John Champagne said he understood Mr. Tramm’s position about the candy throwing and he is sympathetic to it, but they can’t live in a bubble. John Champagne said the point is, is the risk to the benefit worth it, and it might not be, stating he was neutral on the matter. John Champagne said he harkens back to when they had people stating the City needed to do more about speeding in certain areas of the City and said at some point individual responsibility must take over. John Champagne said he resists government intruding on people’s ability to do certain things because, at some point how safe can a place be when people are irresponsible, you can’t make it safe enough. John Champagne said Mr. Tramm’s point was well made. Mr. Tramm said he did not disagree, which is why they want to start having meetings early to start looking ahead, because he would like to work with everyone involved to make sure they can come to a consensus to make things work.

Mr. Tramm said three of the RFQ’s are posted and currently out for the Watershed Study, City Attorney and for City mowing, the one for IT services is expected to be posted before the end of this week. Mr. Tramm said each of those RFQ’s that are posted, they have received multiple contacts of interest, so he is expecting multiple submissions for each of them. Mr. Tramm said the RFQ’s will ultimately come back to City Council for approval. Tom Cronin asked how long the RFQ’s are out. Mr. Tramm said the Watershed Study and City Attorney submittals are due February 3rd, the Mowing RFQ is

February 28, the IT RFQ will be around February 17th. Mr. Tramm said there were still a couple of other RFQ's that will follow.

Mr. Tramm said the City is planning staff training for Active Shooter Training and said if City Council would like to attend, they would be welcome. Mr. Tramm said this week they will have the first initial planning meeting for the Antiques Festival to be held on the first weekend in May. Mr. Tramm said he would be out of City Hall on Thursday and Friday of this week in Austin for training with the Texas City Management Association, with the final training to occur in March, and then he will have a sales tax workshop in April if his schedule allows.

- B. Public Works Report – Mr. Mike Muckleroy, Director of Public Works, presented his combined November and December reports to City Council. Mr. Muckleroy said on the water side they replaced a couple of curb stops and completed 18 work orders for miscellaneous water issues. Mr. Muckleroy said on the wastewater side they repaired a sewer main on John Butler and continued the pumping on Terra Vista into December, which is when it will be stopped when the line across Atkins Creek was completed. Mr. Muckleroy said on the streets and drainage side they repaired a couple of potholes. Mr. Muckleroy said he got with Precinct 1 and had their street professional come over and tour the City to assess the streets and he came up with the same recommendations they did listing certain streets that needed to be done and they are working on a quote for the City right now. Mr. Muckleroy said they should receive the quote any day now on what it would take to do the overlay on several of the streets in town, which he hoped to be able to report back about that next month. John Champagne asked Mr. Muckleroy for two or three streets that he had in mind to be on the top of the list for overlay. Mr. Muckleroy said the streets are Baja, McGinnis, Caroline, College, and said they are going to put McCown on hold for now with the downtown plan. Mr. Muckleroy said he also had a section of Old Plantersville Road but stated he had a full list of the streets to be repaired. Mr. Muckleroy said he had one contractor come in to give a quote on some sidewalk work on Bessie Price Owens and he is waiting on a second quote.

Mr. Muckleroy said on the building maintenance side, they poured the foundation and set the mailbox in place at City Hall and repaired the front porch brace on the Jardin Cabin. Mr. Muckleroy said on the parks and recreation side, they assisted the contractor with installing the logs for the Crane Cabin, which is almost complete, they just need to add a

coat of water seal on the entire cabin and do a little more staining. Mr. Muckleroy said they repaired playground equipment boards at Cedar Brake Park. Mr. Muckleroy said the Fernland docents reported 967 visitors and they provided 63 tours for November, and they had 817 visitors and they provided 58 tours in December.

Mr. Muckleroy said they attended meetings with Entergy representatives and the final inspection for the Baja Project. Rebecca Huss asked what was discussed with Entergy. Mr. Muckleroy said they discussed customer service issues and the pole on FM 149, which the service has been relocated and they topped the pole. Mr. Muckleroy said Entergy has contacted the other utilities to let them know they need to move their lines. Mr. Muckleroy said if someone runs into the pole again, the most that will be out is the phone or internet service, not electric. Rebecca Huss asked if there was any progress on any of the other issues that were identified in terms of the outages that the City has been struggling with due to maybe old equipment or looping, to get more reliable electricity service. Mr. Muckleroy said they got some questions answered on the trimming cycles, and one of the biggest answers was Entergy is going to switch the City from receiving their power from the west, and they are fixing to switch us over where we will receive it from the east and put the switch out by the high school so they will be off the Walden feeder, which in their words they won't have as many issues and that should occur in the next couple of months. Rebecca Huss asked if electricity was kind of like water, can it come from both directions. Mr. Muckleroy said it does come from both directions, but the main source will come from Walden. Rebecca Huss said if it stops from Walden, they can get it from the west. Mr. Muckleroy said they can get it three different ways.

T.J. Wilkerson said he noticed they were cleaning out the ditches along MLK and FM 149 and asked if they would be doing that on both sides of the streets. Mr. Muckleroy said the work on FM 149 was a result of the community meeting that was held at the church where they received a couple of complaints regarding the drainage and TxDOT finally came out at their request. Tom Cronin asked who was responsible for picking up trash on Old Plantersville Road because there is a double recliner that somebody dropped off the other day. Mr. Muckleroy said he had his guys pick that up today. Tom Cronin asked about tires stating there were about five tires out there, originally there were nine tires, but someone must have taken four. Tom Cronin asked where the City limits end on Old Plantersville. Mr. Muckleroy said the City limits end just past Womack Cemetery

about seven or eight hundred feet. Tom Cronin thanked Mr. Muckleroy for removing the recliner.

Larry Foerster arrived at 6:18 p.m.

Jon Bickford arrived at 6:21 p.m.

- C. Police Department Report – Police Chief Anthony Solomon presented his report to City Council. Chief Anthony spoke about the parade and candy throwing, stating the National Transportation Board listed several things and candy throwing was right at the top when you start talking about safety issues. Chief Anthony said they don't want to stop it, but they would like to get some type of control on it. Chief Anthony said this year they asked if people would have someone walk alongside their float and hand out the candy because they are talking about streets that get narrow, and as they get narrow when you are bringing floats down the streets, it does not leave much room for people to get candy if you are throwing it to them. Chief Anthony said a lot of times people have their kids throw candy and they don't throw it far enough. Chief Anthony said they were not trying to stop people from having fun, they were just trying to find a way to make it safer.

Chief Anthony said they did an Active Shooter class last month with the school officers, where they used one of the Junior High Schools. Chief Anthony said all officers were trained along with all school officers. Chief Anthony said he would like City Council to attend the class because they don't know when or if this would happen, but if it happens you need to be prepared. Chief Anthony said they have been doing an assessment for the businesses. Chief Anthony said last year T-Mobile had five robberies in their stores and this year there have been 35 robberies during the same period. Chief Anthony said they have started doing assessments of the businesses and they are doing the same thing for the churches, starting with the Methodist Church last week. Chief Anthony said any business or church that does not respond to the assessment training, they will write them again to make sure they get on board with the training.

Chief Anthony said they are going to have their first Citizen's Police Academy in April through May 2020, where they will take 20 people and the class will be one day per week for two and a half hours. Chief Anthony said the public will get to see what they do within the Police Department. Chief Anthony said they are encouraging the citizens to participate so they can understand what they do and to become their voice when someone

comments about the Department. Chief Anthony said they will conduct the classes either at City Hall or at the Community Center.

Chief Anthony said they are glad to have Lt. Joe Belmares back at work and onboard.

- D. Court Department Report – Mrs. Kimberly Duckett, Court Administrator, presented her November and December report to City Council. Mrs. Duckett said they collected \$22,745.80 in December and \$28,590.70 in November, and the warrant officer collected \$4,181.70 in November and \$2,347.00 in December. Mrs. Duckett said they are preparing for their warrant round-up on March 7, 2020, sending letters out along with the collection agency in February.
- E. Utility/Development Report – Mr. Tramm presented the reports to City Council. Mr. Tramm advised the City has a new Utility Clerk, following the resignation of the previous clerk that had been here almost four years and has chosen to go elsewhere. Mr. Tramm said they had a part-time person who was being groomed to become a full-time employee, so she has taken over. Mr. Tramm said for her first couple of weeks she is doing quite well and as they are going through different items she is noticing some items that should have been done better than they were being handled, so they are working on getting all of those items smoothed out and being done the way they should be done as they are going along.

Mr. Tramm said one of the items on both reports they are going to be working on for the next monthly report is the miscellaneous category, which is and has been a high dollar amount. Mr. Tramm said there are several different items that are being included that he feels they can categorize out, such as money for escrow accounts, while they might look at this money as income to the City, but that money is a high dollar amount, but it is earmarked for expenses and anything remaining will be refunded to the developer. Mr. Tramm said miscellaneous might also include money from records requests, franchise fees, and said he felt they could do a better job of itemizing the funds.

Mr. Tramm said the 120+ day category of arrears, which is primarily old accounts that they have been directed to be written off. Mr. Tramm said while the auditor was on site this week he did speak to them about these funds, and she advised they had written specific advice on how to handle those funds and was communicated to the previous City

Administrator, so she will pull that information out and transmit it to him so they can take the necessary action on those funds to pull it off of this report.

Mr. Tramm said for both months there is a listing for the permits and permit types and the water consumption that has gone down with the seasonal changes.

- F. Water Report – Mr. Michael Williams, with Gulf Utility Service, Inc. presented his November and December reports to City Council. Mr. Williams advised the district alerts for November were high wet wells, one at Lift Station 2 and Lift Station 9. Mr. Williams said both were due to power surges or storms in the area. Mr. Williams said the daily effluent trend flow for October/November was 4.959 million gallons, and peak flow on October 30th at 347,000 gallons and the average daily flow was 160,000 gallons. Mr. Williams said all samples collected for November were in compliance, and they recorded a total of 5.25 inches of rain. Mr. Williams said there was an error on the water report for November, advising when they pulled the report it is pulled by equipment number and the well meters for Well 4 had been changed out, so the last three days Well 4 was not on this report, so instead of 100% accountability, it is 99%. Mr. Williams said they accounted for the leak that was discovered by Kroger at the fire hydrant.

Jon Bickford asked if they noticed any large data in what was getting over to the sewage treatment plant with the 5.25 inches of rain versus what they pumped out. Mr. Williams said Mr. Muckleroy's guys have been handling the smoke testing and repairs, and they have completed most of the repairs he had recommended with infiltration and raising manholes. Jon Bickford asked if Mr. Williams had seen anything in the data that would suggest they are getting a handle on the infiltration. Mr. Williams said he felt they were very healthy with what is making it to the Sewage Treatment Plant, and said he felt they are in better shape now regarding infiltration, but they have only done a portion of the City so that is only ¼ of the manholes and they still have a way to go to eliminate as much infiltration as they can. Jon Bickford asked Mr. Muckleroy how they were doing on the manholes. Mr. Muckleroy said they completed all the manhole repairs they could and made several repairs on cleanouts that were broken and several repairs on six-inch cleanouts between yards. Mr. Muckleroy said he felt the numbers have come down. Jon Bickford said he requests for the next time they have someone actually take a look at the

data and if they get another three or four inches of rain in the next month, he did not want to get behind on this because they were making great headway. Mr. Williams asked if he wanted a comparison versus past months. Jon Bickford said he wanted past history because they have cases where they were pumping five million gallons out of the ground and getting seven million at the Sewage Treatment Plant, so how are they doing now. John Champagne asked how they measure their success. Mr. Williams said page 10 of the report shows the water sold chart, and it shows the December of 2018 where they had 5.6 inches of rain and in that month, they had 150,000 gallons more of infiltration compared to this most recent month. Mr. Williams said it was out of 5.093 million gallons versus 4.959 million gallons over the course of 30 days. Rebecca Huss said on page 10 of the report she still had issues because of the .75 inches of rain and she thinks the rain gauge is off now, so they had 58% return where it used to be 41% return, but that was when they were losing water, but the numbers are all screwed up. Mr. Williams said they can try and go back and back out the numbers from the leak and see what it looks like for the past couple of months, and he can send that over to Mr. Muckleroy and have him review it. Rebecca Huss said the TORC Committee has an estimate of what the numbers should be.

John Champagne asked Mr. Randy Burleigh, who was present if he had any input on this information. Mr. Burleigh advised that TORC Committee advised City Council last year at their presentation in March, they had eight million for 2018 of I&I for rainwater in the sewer system, in 2019 they had 4.8 million, so it is a lot better, but the rainfall is a little less, they monitor the rain every month and they have it broken down monthly for 2019 how much rainwater gets to the sewer. John Champagne asked if the rate of precipitation has any effect. Mr. Burleigh said right now the ground is saturated and if you get an inch of rain it is not the same as when you just experienced a drought. Mr. Burleigh said so far, the numbers look good and over time it will tell.

Mr. Williams reviewed the December report stating they had two district alerts, with the top one on November 25, when they had a high run time at Lift Station 10. Mr. Williams said they had the lift pumps and check valves cleaned out. Mr. Williams said they had some rag buildup in the equipment, which was cleared out and now everything is running properly. Mr. Williams said they also had a sewer backup that turned out to be a resident issue and was not the City's responsibility.

Mr. Williams said the flow for the month of December was 4.348 million gallons, with the peak flow on December 2, 2019, at 218,000 gallons, and a daily average flow was 144,900 gallons. Mr. Williams reported the effluent monitoring report, stating the samples taken were within compliance of the permit. Mr. Williams said they reported 7.5 inches of rain. Mr. Williams said they had significant issues with the rain gauge, advising the new rain gauge is in so the next report will have the data for the new cycling. Mr. Williams stated they pumped a total of 7.771 million gallons of water, with 177,000 used for flushing, sold 7.474 million gallons bringing them to a 98% accountability. Rebecca Huss said, just to be clear, the permit starts over in January. Mr. Williams said that was correct, January 1, 2020. Rebecca Huss said they made it this year with no credits being required to be used. Mr. Williams said that was correct, they did not use any credits. Mr. Williams said because they will be mid-cycle, he will provide a breakdown of the percentage at the next report. Rebecca Huss asked Mr. Williams if he could add a column to the Water Sold vs. Treated Water Report to include the TORC estimate of what either the return numbers should be or what the I&I number is, and whether there was any way they could interface with their numbers. Mr. Williams said yes, he could do that, and he would incorporate that information into the report.

T.J. Wilkerson asked when they take water samples to find out what is in the water whether they take those samples individually at individual wells or do they take them at one point and then take the samples to a lab and whether that lab is an in-house lab. Mr. Williams stated the samples that are taken are then taken to a lab to be analyzed. Mr. Williams said they have a specific set of sites that they can take the samples, they are preset and submitted to TCEQ. Mr. Williams said if there is a sample taken outside of those locations, the City could possibly get a violation. Mr. Williams said they do not use an in-house lab for the samples. T.J. Wilkerson said the reason he was asking was he wanted to know if they have taken samples over by the cemetery on FM 1097. Mr. Williams said they do have one close to the cemetery. T. J. Wilkerson asked how close it was to the cemetery. Mr. Williams said it was off MLK. T.J. Wilkerson asked if they know what is right there by the cemetery in that water well if they are taking the samples down by MLK. Mr. Williams said the City only has five sample sites for the entire City, they do have alternate sites, but they have five primary sites. T.J. Wilkerson asked if MLK was an alternate site. Mr. Williams said it was a primary site. Rebecca Huss said the water there would be mostly coming from Wells 3 or 4, so it would be mixed at the water plant and enter the system from there so it should be the same water as the sample

site. Mr. Williams said they pull minor amounts of water from Water Plant 2 and everyone will be getting their water from Water Plant 3 and 4. Mr. Williams asked if there was an issue by the cemetery with the water. T.J. Wilkerson said every now and then they have water that is whitish in color. Mr. Williams said they might still have some air trapped in the lines, so if they have some specific addresses either he or Mr. Muckleroy can check them out.

- G. Engineer's Report – Mr. Chris Roznovsky, City Engineer, presented his November and December reports to City Council. Mr. Roznovsky said they had a final inspection on the Baja Road project on December 10, 2019, and as of this afternoon, the contractors are supposed to be out there on Thursday to complete the punch list items to get the project completed. Mr. Roznovsky said the downtown waterline improvements plans and specifications are complete, and they have been sent to the Water Development Board and TxDOT for their final approval so they can begin that project next month.

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Mr. Roznovsky said Water Plant 3 Improvement plans are substantially complete and have been sent to the Water Development Board and the TORC, so they will address comments and get that project wrapped up.

Mr. Roznovsky said the Atkins Creek project is substantially complete, with the final inspection being conducted earlier this month and they have addressed the punch list items and they will probably have it on the agenda at the next meeting to officially accept the project. Mr. Roznovsky said they did have a change order that was approved in December 2019 for additional slope paving and riprap. Mr. Roznovsky said the change order was for \$30,000, and the City's share was \$3,000.50. Mr. Roznovsky said on the Terra Vista side when you are looking at the two stormwater outfalls is to go to the creek; it is now slope paved all the way down with additional riprap.

Mr. Roznovsky said Montgomery County is looking at getting them a price on the Baja Road rehab to get the road completed. Mr. Roznovsky said Lift Station No. 1 project, as of December 23, 2019, they are about 58 percent complete by time and 29 percent complete by value. Mr. Roznovsky said they are falling behind, and they have asked them for a revised schedule to get the realistic time frame. Mr. Roznovsky said their contract time ends in March and our liquidated damages are either \$250 or \$500 per day for every day late. Rebecca Huss asked about the City's consequences for delays, and

what does it mean in terms of development for the Chick-fil-A opening or anything else going on. Mr. Roznovsky said it does not have any consequence, and said they have a bypass system that can take the full flow. Mr. Roznovsky said the work on the Chick-fil-A site is complete, so it does not hinder anything it is just they will be running on two bypass pumps. Rebecca Huss asked if they have anything coming online that would overwhelm the system they have in place now. Mr. Roznovsky said no it will not overwhelm the system.

Mr. Roznovsky said Troy's Donuts plans were approved last week, for the exterior and parking lot. Mr. Roznovsky reported they had two additional one-year warranty inspections for the Phase I 18" Gravity Sanitary Sewer Extension and the Hills of Town Creek, Section 3. Mr. Roznovsky said both of those contractors are addressing punch list items.

Mr. Roznovsky said as of last week TxDOT had received the preliminary analysis for their consultant on the long-term plan for Atkins Creek, once they have reviewed it and prepare their comments, they will send it to them to review. Mr. Roznovsky said the turn lane, northbound on FM 149, the latest in the saga was that TxDOT had lost the information and it had fallen through the cracks, so they apologized, and they are supposed to be preparing the appraisal.

- H. Financial Report and Sales Tax Report – Mr. Tramm presented the November and December Financial Report to City Council. Mr. Tramm said next year around this time he is going to find a way to provide key information with less volume. Mr. Tramm said the City has a CD renewing on February 1, 2020, stating that he went ahead and gave instructions to go ahead and renew as a CD for six months because they are getting two percent higher than they would with TexPool, while still keeping the funds liquid for the short term.

Mr. Tramm said the City's sales tax and property tax rebate payment was made during December to Kroger and there were some back issues that they clarified with Kroger and they came to a resolution on them. Mr. Tramm said the total amount on the City's property and sales tax portion combined to \$111,860. Mr. Tramm said City Council might recall there was some discussion that there had been an incorrect calculation the previous year and that was taken as a credit for the City. Mr. Tramm said they were

back on schedule, and in the course of that discussion they provided our formulas to Kroger and they reviewed them and now we are all on a clear path for future calculations.

Mr. Tramm said he has a meeting with Municipal Accounts tomorrow to go over the information. Mr. Tramm said the onsite Audit is nearing completion and they will be working off-site for the final completion. Mr. Tramm said the intent is to have the final report ready for presentation to City Council at the second meeting in February.

Mr. Tramm said he confirmed with the bookkeeper the City received almost \$400,000 in what we believe is a sales tax overpayment, and the State still believes that it was properly reported to the City. Mr. Tramm said they are keeping those funds in a separate account so it does not accidentally get spent because he believes that one day, they will come back for it. Jon Bickford said he wondered if there was some sort of statute of limitations and how long they need to keep that money separated. Mr. Tramm said that would be a very good question for the sales tax consultant. Rebecca Huss said she seemed to remember when they had [to previously review sales tax money] it was years of tax money.

Mr. Ryan Fortner with SRI presented the Sales Tax Report to City Council. Mr. Fortner said they come out of the City and perform a physical canvass of the area and go door to door taking an existing audit list with them and make notations in the report accordingly. Mr. Fortner said they were out earlier this month and they noted some new businesses open in the City as well as the land clearing and new construction. Mr. Fortner said they would be going out in February and creating the list again and revising the numbers, which will allow you to see the ebb and flow of businesses coming into and going out of the City. Mr. Fortner said it helps them to have a physical listing they can compare to the State's listing because they will know what is on the ground and allows them to catch errors.

Mr. Fortner said in October of 2019 there were 295 total entities, with 191 being physical sales tax permit holders, and 191 is the highest number they have seen so far. Mr. Fortner said taxpayers in the City do not seem to be decreasing.

Jon Bickford asked if someone were selling something on the side of the road, seasonally, do they count that in this report and does the State count that information and do they pay

sales tax. Mr. Fortner said those vendors usually don't pay sales tax and the State knows only if they file with the State, and a lot of time those vendors, like Valentine's Day flower vendors, will pop up in shopping centers and it is hard to govern that because they might not be there very long and they are hard to track.

Mr. Fortner said the number of sales taxpayers that are allocated to the City is 5,195, which are active accounts and this number has not decreased since they have been reviewing the information but increases every single month which is indicative of what they are seeing with e-commerce culture.

Mr. Fortner said for November 2019 there were 2,229 sales taxpayers that made up the allocation from the State, which is the highest single month taxpayer account in the City's history and he said without a doubt in the next quarter of 2020 that number will be surpassed. Mr. Fortner said November 2018 to 2019 showed an 18% increase in sales taxpayers which is about average for what they are seeing for the City between 15-18%. Mr. Fortner said for the calendar year, which is \$3,474,602 in received sales tax, and for the tax year that has one more month remaining in February \$2,744,148.

Mr. Fortner said for the top 25 sales tax filers, HEB is a settlement audit. Mr. Fortner said he has spoken to Mr. Tramm and to the State about this money from HEB, and the State's official opinion is that money is properly with the City due to the settlement audit. Mr. Fortner said the State is being very cautious with what they tell them because even though they have access to the City's information, there are parts they don't have access to which is State mandated. Mr. Fortner said the State is not telling them what the sale was, but that dollar amount sale would constitute a very large widget for HEB. Mr. Fortner said HEB has property everywhere and they have equipment everywhere, it is not just HEB Grocery Store. Mr. Fortner said when they spoke to the State at the beginning of the month, that was still their opinion and sales tax can come back for five years, which is why in the past the City would get zinged for something that happened years ago. Jon Bickford asked if that was the number five years and then the money would be the City's. Mr. Fortner said they are still working up the chain of command with the State. Rebecca Huss asked why they don't just ask HEB and state this sales tax number estimates that they did this transaction, advise we are holding the money and ask if they could confirm whether the transaction took place. Mr. Fortner said he would put some things together this week and see if they can get some answers.

Mr. Fortner said the top 25 sales taxpayers have remitted \$1 million dollars to the City, and this is a 13-month rolling average. Mr. Fortner said on the final page for November 2019, which is a quarterly filing month, the top 25 tax filers remitted 72% of the City's total sales tax refund. Mr. Fortner said the City had 48 businesses that filed taxes in excess of \$1,000, which was 83% percent of the monthly allocation. Mr. Fortner said over a 12-month period 96% of the revenue stream has come from e-commerce.

Mr. Fortner said the City has received \$28,272,762.30 in sales tax receipts since January 1, 1995. Mr. Fortner said the December allocation is going to be \$208,806.76. Mr. Fortner said supermarkets and grocery stores remit the most sales tax. Mr. Fortner said for the calendar year the City had a mean allocation of \$269,617. Mr. Fortner said the largest spike for 2019 was from HEB and the second largest was Azzip Enterprises, made on behalf of the City. Mr. Fortner said with the large recovery from Azzip and HEB, in going forward in 2020 it will skew the numbers. Mr. Fortner said they will highlight that information with an explanation in the coming months, so they are explained.

Rebecca Huss asked Mr. Tramm to provide this information to the Montgomery EDC Board. Mr. Tramm said he would send the reports to them.

Rebecca Huss moved to accept the Departmental Reports as presented. Jon Bickford seconded the motion, the motion carried unanimously. (5-0)

5. Consideration and possible action regarding receiving the Utility and Economic Feasibility Study for Larry and Beverly Jacobs (Moon Over Montgomery Development – Dev. No. 1907).

Mr. Roznovsky presented the Report to City Council. Mr. Roznovsky said the development is on Clepper Street behind Jim's Hardware. Mr. Roznovsky said it will not require annexation, it will be required to be platted because it is unplatted property that is currently zoned R-1 and will stay that way because of the Special Use Permit. Mr. Roznovsky said the use is 15 short-term rental cottages, which will be relatively low water users with 1,680 gallons per daily use, which the City has enough capacity to serve them especially after the water plant improvements project is complete. Mr. Roznovsky said regarding service to this tract, he looked at a couple of different options and what was the best was to tie into the line off Berkley and they will have to get a private easement. Mr. Roznovsky said they have had a discussion with Jim's Hardware to be able to tie into that one line that is a larger waterline that is closer to a loop. Mr. Roznovsky advised

on the sanitary side, it is essentially the same information, they will not have a lot of use from this development. Mr. Roznovsky said the City has over-committed all their capacity in the City, however, he expects in the next five years to hit that 90 percent threshold, which would require the City to initiate approvals for construction. Mr. Roznovsky said based on the timeline that the City has with development, the City has time to have their plan put together. Mr. Roznovsky said the 75 percent threshold would not come until 2023, which would be when the City would need to initiate plans. Mr. Roznovsky said service would have come from Berkley with an existing sanitary sewer line. Mr. Roznovsky said one thing he would note, there may be a requirement to relocate the existing line to get proper clearance, but that will be part of the plans when they submit them. Mr. Roznovsky said they will be required to submit a drainage study, stating their plan was to drain all toward the back into Berkley, so the study will show the type of retention they will need on the site and confirm the capacity in the ditch along Berkley would be sufficient and not cause issues downstream. John Champagne asked to confirm the drainage would head west toward Berkley from the property. Mr. Roznovsky said that was correct, it would go to the north end of the property and then west to hit Berkley between Jim's Hardware and the first home. John Champagne said that could be a real problem for that home. Mr. Roznovsky said that was correct, which is why they are going to have to size it, so the pre-development flow does not exceed their post-development flow. Rebecca Huss said they did show some drawings that showed detention at the back of the property. Mr. Roznovsky said they did note on the preliminary site plan that they will need a variance for driveway spacing regarding the existing driveway for Jim's Hardware, Maiden and Clepper. Mr. Roznovsky said for development costs they will be subject to impact fees, which are estimated to be \$85,000 and an additional escrow account amount of \$5,000 to cover plan review costs and any administrative or legal fees. Mr. Roznovsky said the last page of the report details the estimated value, which is estimated at \$1.5 million dollars at the completion of the project and that would generate approximately \$5,700 annually in additional tax for debt service and maintenance and operations. Jon Bickford asked if that would represent 95% collection. Mr. Roznovsky said that was correct it would be 95% collection based on the \$1.5 million dollar evaluation. Mr. Roznovsky said this does not include any hotel/motel tax that would be generated. Jon Bickford said it would be interesting and asked if it would make sense with these studies to get an independent appraisal of the property for the estimated valuation on completion because he feels it is very important for the City to get an independent assessment of the valuation. Rebecca Huss said this does not drive any of our decision making in terms of dollars, they are not going to take this to the MEDC and ask for a sewer tap, this is just the feasibility and tells us what the off-site development costs are for the project. Rebecca Huss said the value of the property itself is minuscule compared to the

investment that has to be made in order to make the project feasible, which she felt was the most valuable part of the feasibility studies, not necessarily the dollar value of the taxes. Jon Bickford said if someone is going to invest \$2.5 million dollars down on a \$500,000 development, the City needs to be ready if it could cause a problem down the road. Rebecca Huss said that was what it does from an infrastructure standpoint, that is the whole point, to her, of the feasibility study is to outline what the investment of the developer has to be for infrastructure in order to make the development work. Jon Bickford said, as a City, he would sure like to know if it is a feasibility study and we are buying into it. Rebecca Huss said they are not buying into the project; we are just accepting the presentation. Jon Bickford said if they are presenting the data, he would like it to be as accurate as possible and usable, otherwise what is the point of including it. Jon Bickford said it was just a future thought. Rebecca Huss said the estimate depends on how many of the houses they put down and how quickly he builds out the property, which could be 15 years from now. Jon Bickford said he only wants to know what it is going to be valued at when it is complete.

Rebecca Huss moved to accept the Feasibility Study for Larry and Beverly Jacobs (Moon Over Montgomery Development – Dev. No. 1907) as presented. T.J. Wilkerson seconded the motion.

Discussion: Rebecca Huss made the comment that this is just information being provided to us, it does not commit the City to do anything. John Champagne asked if that was a motion or part of the motion. Rebecca Huss said she just wanted to make the comment.

The motion carried unanimously. (5-0)

6. Consideration and possible action regarding a request by Gina Whitley, of Whitley Winery, to utilize a City parking lot located at Caroline Street and Liberty Street for an Art Festival on Sunday, March 29, 2020.

Mr. Tramm advised this was a request to use the City parking lot located at Caroline Street, Liberty Street, McCown, and the Cozy Grape Restaurant.

Ms. Whitley, of Whitley Winery, advised the Art Festival would be held on Sunday, March 29, 2020, from 11 a.m. to 6 pm. Ms. Whitley said they would like the parking lot all day, so they have time to set up from 8 am to 8 pm. Ms. Whitley said there would be no road closures, just the use of the parking lot. Mr. Tramm said the City Public Works can make sure they barricade

the entry point. Mr. Tramm said he spoke to the Police Chief and no additional police personnel would be needed for the event. Ms. Whitley said they planned on a small event and hopefully, it will grow. John Champagne asked what part of the parking lot she was requesting. Mr. Tramm advised it was for the entire parking lot. John Champagne asked if the restaurant was okay with the use of the parking lot. Mr. Tramm said that was correct. John Bickford said the restaurant was okay with 11 am to 6 pm, but if Ms. Whitley wants it longer, they would need a different email. Ms. Whitley said 11 am to 6 pm will be fine.

Jon Bickford moved to accept the request and approve the use of the City parking lot. John Champagne seconded the motion, the motion carried 4-Ayes and 0-Nays, with Tom Cronin abstaining from voting.

7. Consideration and possible action regarding a 25-foot front building line variance request instead of the required 35-feet and an 11-foot rear vegetative buffer variance request instead of the required 25-foot vegetative buffer for the proposed Heritage III development along SH 105 west of the Louisa Street intersection, as submitted by Cheatham Management.

Mr. Tramm advised the zoning ordinance has a 35-foot building setback along major streets and the developer is requesting a 10-foot variance to allow the front façade of the buildings to be set back 25-feet from the street. Mr. Tramm stated this request would require a public hearing for public input.

Mr. Tramm said the second item is a vegetative setback of at least 25-feet on commercial property where it abuts single family residential property in the subdivision ordinance. Mr. Tramm said if City Council is interested in moving forward with that variance it would be referred to the Planning and Zoning Commission and the City Engineer. Mr. Tramm said the Engineer for the project is present if there are any questions.

Mr. Jonathan White, Engineer for the project, advised that Mr. Tramm had summarized the variances they are requesting, advising the challenge for the site and a lot of commercial sites along SH 105 as most of the tracts are 170-180 feet deep. Mr. White said most retail and development that you will see, like The Shoppes and Kroger Shopping Center are somewhere between 250-280-feet. Mr. White said these sites have parking in the front and will have quite a bit of space for the front parking before they get to the building, with the building set back

between 70-80-feet from the property line. Mr. White said what Mr. Cheatham has been trying to do along SH 105 is to create a newer-age historic district along the SH 105 corridor like the current building at 21223 Eva Street. Mr. White said they want to put the building up front and screening the parking in the back, which is not something that you see very often. John Champagne asked if there would be no parking in front of the building. Mr. White said that was correct, it would be very similar to the current buildings that he has. Mr. White said there will be brick pavers in the front with landscaping along the front, which is why they are asking for the variance.

Jon Bickford asked how far the setback was in comparison to the other building. Mr. White said the current building is 25-feet from the street to the planter boxes and the building is 35-feet off. Mr. White said the new building would be 35-feet from the street. Rebecca Huss asked to clarify that what they are saying is that in a traditional Burger King, you could have cars parked out front in the blacktopped parking lot and that would count as the 35-foot setback, so what you are asking is for the City to allow them to move their building forward with no parking in the front. Mr. White said that was correct. Rebecca Huss said they would have the appearance of having more greenery and seating but no cars. Mr. White said that is correct. Mr. White said he has been talking to a few tenants, but in his vision, you might have a couple of the bottom floor people that could be cafes, coffee shops, or another winery and you could use the patio spaces. Jon Bickford asked if the front of this building, the first bricks on the front of the building not including the planters or whatever is in between, be set back the same amount of space as the first bricks of the other building. Mr. White said it will be 10-feet less. Jon Bickford said the building will be 10-feet closer to SH 105. Mr. White said that is correct.

Tom Cronin asked how they will enter the parking lot. Mr. White said the parking and driveway will come off Louisa Lane. Mr. White said to accommodate the parking for the three-story structure, they are proposing a two-story parking structure that will have the same theme as the proposed building. Rebecca Huss said it will address one of the shortcomings of the Heritage Place 1 where it always seems like a shortage of parking there. Rebecca Huss said she would rather see bricks and an attractive building than blacktop and cars in the front and asked if they would be similarly improving the view from the back of the building. Mr. White said they have a 25-foot buffer that they will have to accommodate, which is why they are asking for the building to be a little bit closer. Mr. White said in order to accommodate the screening they want to be able to do something a little bit further beyond, and they have discussed additional landscaping, taller and larger trees that could be in the rear, they have also talked about vines growing on

something. Mr. White said one person just installed a brand-new fence and nobody has voiced any concern about the project, and it does not appear that they will object to the project. John Champagne asked if they would have 11-feet from the parking to the end of the property. Mr. White said that was correct and they want to be able to dress that up. Mr. White said tonight they are just asking for the process to take place, with public hearings and direction from the Planning and Zoning Commission and the City Engineer, and to hear any concerns that City Council might have and what they might want to see, then they can come back with some firm options.

Rebecca Huss said with the standard 25-foot rear setback they could plant 20 azaleas and be done and be within the letter of the ordinance. Mr. White said that is correct, they would have more depth of the screening, but they don't necessarily have to go vertical, all that does is let that structure be a little bit further away. Rebecca Huss said they are asking City Council to consider the option of trading a little bit closer for quality and height of the screening material. Mr. White said they would be adding larger caliper trees, something that would grow fast. Mr. White this is just to call the process this is not necessarily the action to approve the variance. T.J. Wilkerson said there are some big trees already there. Mr. White said there is a large line of trees on the residential side of the fence and there is one significant tree that will have to be removed. John Champagne said this is a commercial property and asked what the possibility of someone coming in here and building out a strip mall with parking and no variances. Mr. White said yes that is a possibility. John Champagne said they are looking at this development as opposed to a strip mall, this is a no brainer. Rebecca Huss said she thought this was a thoughtful tradeoff if this is what they are asking for and this is what the City gets in return. Rebecca Huss said Dave McCorquodale a long time ago said something that stuck with her for years, and that was the ordinances are the lowest common denominator, the minimum that you have to do to build here, and they are doing more with their trade-off. Rebecca Huss said she feels like this building is more and if they must give a little bit on the ordinance setbacks, that is something that she is comfortable with.

After discussion, Rebecca Huss moved to 1) move forward with the front building line variance request, and call the Zoning Board of Adjustment Public Hearing to be held on March 10, 2020, at 6 p.m. at City Hall, which will allow for publication and notification deadlines to be met; and 2) move forward with the 25-foot vegetative buffer variance request, and refer the matter to the Planning and Zoning Commission and the City Engineer for study and a report to be submitted to City Council. John Champagne seconded the motion, the motion carried unanimously. (5-0)

Mayor Pro-tem T.J. Wilkerson said he wanted to formally welcome Lt. Joe Belmares back to work on behalf of the Mayor, in her absence, and City Council and we want to welcome you back and thank you for being here tonight.

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.

8. Adjourn into Closed Executive Session as authorized by the Texas Open Meetings Act, Chapter 551 of the Government Code, in accordance with the authority contained in the following:
 - a) Section 551.071 (consultation with attorney); and
 - b) Section 551.072 (deliberation regarding real property).

Mayor Pro-tem Wilkerson adjourned into Executive Session at 7:39 p.m.

Reconvene into Open Session.

Mayor Pro-tem Wilkerson reconvened into Open Session at 8:11 p.m.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

9. 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

Jon Bickford moved to adjourn the meeting at 8:11 p.m. Tom Cronin seconded the motion, the motion carried unanimously. (5-0)

Submitted by: Susan Hensley Date Approved: 02/11/2020
Susan Hensley, City Secretary

Sara Countryman
Mayor Sara Countryman

