

NOTICE OF REGULAR MEETING

February 11, 2020

MONTGOMERY CITY COUNCIL

STATE OF TEXAS

AGENDA

COUNTY OF MONTGOMERY

CITY OF MONTGOMERY

NOTICE IS HEREBY GIVEN that a Regular Meeting of the Montgomery City Council will be held on Tuesday, February 11, 2020 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

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:

1. Matters related to the approval of minutes of the Regular Meeting held on January 28, 2020.
2. Consideration and possible action regarding approval of an Escrow Agreement by and between the City of Montgomery and Chris Cheatham for the proposed Heritage Place Parking Expansion (Dev. No. 1905).
3. Consideration and possible action regarding approval of street closures for the Antiques Festival.
4. Consideration and possible action regarding adoption of the following Resolution:
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS CONSENTING TO A PETITION FOR THE CREATION OF MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 160; OR ANNEXATION OF LAND INTO MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 179 IN MONTGOMERY COUNTY, TEXAS AND ESTABLISHING CONDITIONS APPLICABLE TO THE CREATION OF THE DISTRICT. (*Affirming action taken on October 8, 2019 in Resolution form.*)

CONSIDERATION AND POSSIBLE ACTION:

5. Consideration and possible action regarding acceptance of a Donation Deed and Release of Easement from Troy and Lisa Walker for 0.405-acres of land that is currently the westernmost 440-feet of College Street in the City of Montgomery.

6. Consideration and possible action regarding a road paving request to be submitted to Montgomery County Commissioner, Precinct 1, Mike Meador.
7. Discussion regarding a future ordinance to create City Parks Advisory Board.
8. Consideration and possible action to schedule a date and time to conduct interviews for City Attorney and to provide direction to the City Administrator related to this item.
9. Consideration and possible action regarding calling a Public Hearing for a rezoning request from R-1 Single-Family Residential to B—Commercial for Lot 16, Area D, Montgomery Townsite Section Four, a vacant lot behind 21123 Eva Street, as submitted by Cheatham Management.
10. Consideration and possible action regarding accepting the resignation of Jon Bickford from City Council Place 1, effective February 12, 2020.
11. Consideration and possible action regarding adoption of the following Ordinance:
AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS, PROVIDING FOR THE HOLDING OF A SPECIAL ELECTION TO BE HELD ON MAY 2, 2020, FOR THE PURPOSE OF ELECTING A CITY COUNCIL MEMBER TO FILL THE VACANCY FOR THE UNEXPIRED TERM FOR CITY COUNCIL MEMBER PLACE 1; APPROVING ELECTION SERVICE AGREEMENTS WITH MONTGOMERY COUNTY, TEXAS; AND PROVIDING DETAILS RELATING TO THE HOLDING OF SUCH SPECIAL ELECTION.

UNA ORDENANZA DE LA CIUDAD DE MONTGOMERY, TEXAS, QUE DISPONE LA CELEBRACIÓN DE UNA ELECCIÓN ESPECIAL QUE SE CELEBRARÁ EL 2 DE MAYO DE 2020, CON EL FIN DE ELEGIR A UN MIEMBRO DEL CONSEJO DE LA CIUDAD PARA CUBRIR LA VACANTE DURANTE EL PERÍODO RESTANTE DEL PUESTO 1 DE MIEMBRO DEL CONSEJO DE LA CIUDAD; APROBAR ACUERDOS DE SERVICIO ELECTORAL CON EL CONDADO DE MONTGOMERY, TEXAS; Y PROPORCIONAR DETALLES RELATIVOS A LA CELEBRACIÓN DE DICHA ELECCIÓN ESPECIAL.
12. Recognition of Jon Bickford for his years of service on City Council, 2011 – 2020.

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




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 7th day of February 2020 at 3:40 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.

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:

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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:

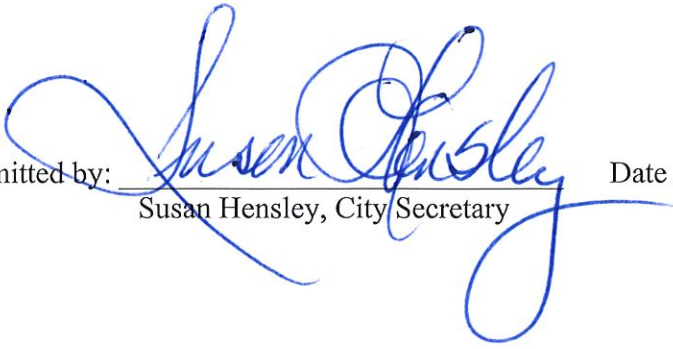
Pursuant to Texas Government Code Sect. 551.042 the Mayor and Council Members may inquire about a subject not specifically listed on this Agenda. Responses are limited to recitation of existing policy or a statement of specific factual information given in response to the inquiry. Any deliberation or 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

Susan Hensley, City Secretary

Date Approved: _____

Mayor Sara Countryman

Montgomery City Council
AGENDA REPORT

Meeting Date: February 11, 2020	Budgeted Amount: N/A
Department: Administrative	
Prepared By: Dave McCorquodale	Exhibits: Escrow Agreement
Date Prepared: February 6, 2020	

Subject

Consideration and possible action regarding approval of an Escrow Agreement by and between the City of Montgomery and Chris Cheatham for the proposed Heritage Place Parking Expansion.

Description

This agreement covers a proposed parking expansion for Heritage Place development (adjacent to the Valero gas station). There is another item on the agenda for a Public Hearing related to rezoning half of the property that is currently R1—Single-Family Residential.

The escrow account has been funded and the City Engineer has received proposed project plans for the project and is ready to begin review.

Recommendation

Approve the escrow agreement with any feedback you may have.

Approved By

Asst. City Administrator	Dave McCorquodale <i>DM</i>	Date: 2/6/20
City Administrator	Richard Tramm <i>RT</i>	Date: 2/6/20

ESCROW AGREEMENT
BY AND BETWEEN
THE CITY OF MONTGOMERY, TEXAS,
AND
Chris Cheatham
Dev. No. 1905

THE STATE OF TEXAS ⤵
COUNTY OF MONTGOMERY ⤵

This Escrow Agreement, is made and entered into as of the 5th day FEBRUARY, 2019^{20 W} 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 Chris Cheatham, (hereinafter called the "Developer").

RECITALS

WHEREAS, the Developer desires to acquire and develop all or part of a 0.576-acre tract, being a portion of Montgomery Townsite Section 4, sometimes referred to as the Heritage Place Parking Extension 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 Heritage Place Parking Extension 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	\$1,000
City Engineer	\$2,500
Legal	\$1,000
<hr/>	
TOTAL	\$4,500

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 (except bills) must be in writing and may be given or be served by depositing the same in the

United States mail postpaid and registered or certified and addressed to the party to be notified, with return receipt requested, or by delivering the same to an officer of such party. Notice deposited in the mail in the manner herein above described shall be conclusively deemed to be effective, unless otherwise stated in this Escrow Agreement, from and after the expiration of seven (7) days after it is so deposited. Notice given in any other manner shall be effective only when received by the party to be notified. For the purpose of notice, the addresses of the parties shall, until changed as hereinafter provided, be as follows:

If to City, to: City Administrator
 City of Montgomery
 101 Old Plantersville Rd.
 Montgomery, Texas 77356

If to Developer, to: Chris Cheatham
 PO Box 234
 Montgomery, Texas 77356

The parties shall have the right from time to time and at any time to change their respective addresses, and each shall have the right to specify as its address any other address by at least fifteen (15) days written notice to the other party.

Section 3.06 This Escrow Agreement shall be subject to change or modification only in writing and with the mutual consent of the governing body of City and the management of Developer.

Section 3.07 This Escrow Agreement shall bind and benefit City and its legal successors and Developer and its legal successors but shall not otherwise be assignable, in whole or in part, by either party except as specifically provided herein between the parties or by supplemental 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

Chris Cheatham

Developer

By: Chris Cheatham

Signature

Title: OWNER

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

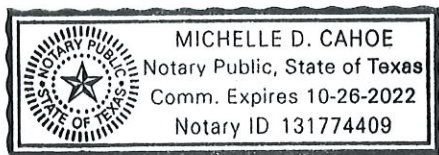
THE STATE OF TEXAS {

COUNTY OF Montgomery {

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, on this day personally appeared Chris Cheathan, Developer of Cheathan Management a LLC, 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 5 day of Feb, 2019.

Michelle D. Cahoe
Notary Public, State of Texas



Prohibition on Boycotting Israel Verification

This Verification is hereby incorporated into the terms of the contract by and between City of Montgomery and Cheatham Management entered into this the 6th day of February, 2020.

1. Cheatham Management, 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]

Chris Cheater

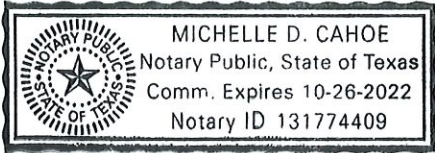
Contractor

State of Texas

County of Montgomery

Before me, a notary public, on this day personally appeared Chris Cheater, 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.

(Personalized Seal)



Michelle Cahoe

Notary Public's Signature

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

Owner

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**

Certificate Number:
2020-584742

Date Filed:
02/05/2020

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
Cheatham Management, LLC
Montgomery, TX United States

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

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.
1905
Escrow agreement for development number 1905.

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 CHRIS CHEATHAM, and my date of birth is 8-13-49.

My address is P.O. BOX 234 (street), MONTGOMERY (city), TX. (state), 77356 (zip code), USA (country).

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

Executed in Montgomery County, State of Texas, on the 5th day of February 2020.
(month) (year)

Chris Cheatham
Signature of authorized agent of contracting business entity
(Declarant)

Montgomery City Council
AGENDA REPORT

Meeting Date: February 11, 2020	Budgeted Amount: N/A
Department: Administrative	
Prepared By: Dave McCorquodale	Exhibits: Request letter, vendor tent map, downtown map with street closures
Date Prepared: February 6, 2020	

Subject

Consideration and possible action regarding approval of street closures for the Antiques Festival.



Description

The request and street closure map are attached for review. The requested street closures are the same as in prior years. Staff recommends giving Public Works the discretion to limit parking on Maiden and Mason Street in the event of excessive rainfall.

Recommendation

Provide feedback on affected streets and approve street closures with discretion given to Public Works to limit parking on Maiden and Mason Street.

Approved By

Asst. City Administrator	Dave McCorquodale 	Date: 2/6/20
City Administrator	Richard Tramm 	Date: 2/6/20

Richard Tramm
City of Montgomery
PO Box 708
Montgomery, TX 77356

Dear Council,

It is our pleasure once again to bring the Antiques Festival to Historic Downtown Montgomery! As with any festival we host, logistics of street closure are necessary for the safety of all those attending and participating.

Please see our attached map of impacted road closures for the duration of our festival.

The dates of the festival are Friday, May 1- Sunday, May 3. Tent set up is scheduled to begin on the Wednesday evening, April 29, prior to the Festival weekend. The vendors will be setting up their booth on the Thursday April 30, the day before the festival begins. We will be filling the streets with tents and vendors during this festival weekend. We are asking permission to close the following streets to through traffic for the duration of the festival.

Wednesday night while tent crews are present – Sunday night until tents are removed completely.

We ask that the following streets are closed: College, McCown, Caroline, John A. Butler

We have property use forms and insurance for the event as we do with all our festival, and we will be communicating with our downtown merchants regarding the plans for traffic flow and parking.

Thank you for your support!



Kambra Drummond

Chairperson of Montgomery Antiques Festival



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EVERY EFFORT HAS BEEN MADE TO INSURE THE ACCURACY OF ALL INFORMATION CONTAINED ON THIS LAYOUT. HOWEVER, NO WARRANTIES, EITHER EXPRESS OR IMPLIED, ARE MADE WITH RESPECT TO THIS LAYOUT

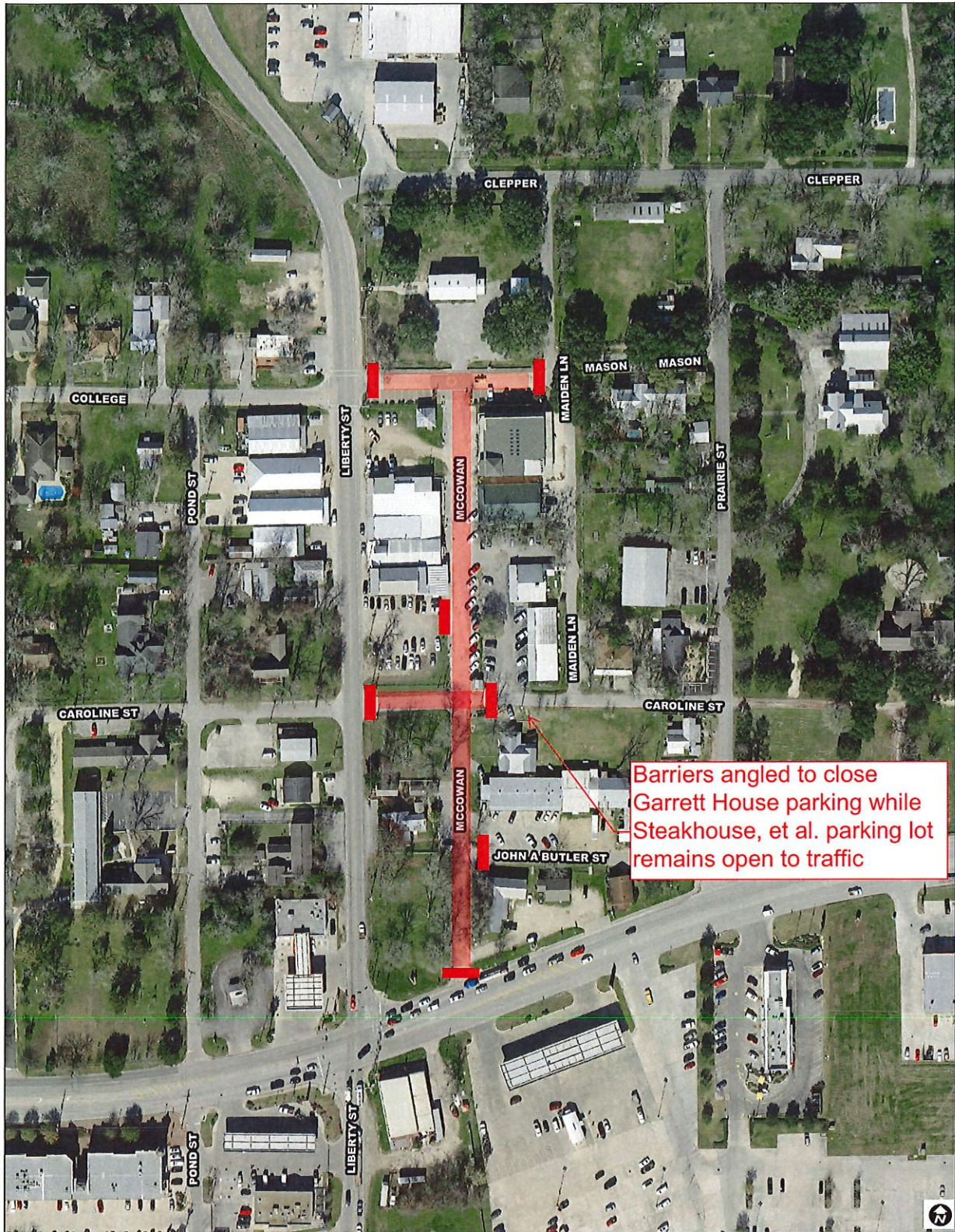
Customer: HMBA
 Project: ANTIQUE 2020
 Location:

Date: 2/6/2020
 Designer: Stephen Naleway

8809 Fawn Trail
 Conroe, TX 77385
 Phone: 936-321-3400
 www.eventsplusbx.com



Antiques Festival 2020 Street Closure Map



Closure dates: Wed. evening 4/29 -- Sun. evening 5/3

Festival dates: Fri. 5/1 -- Sun. 5/3



Montgomery City Council
AGENDA REPORT

Meeting Date:	February 11, 2020	Budgeted Amount:	
Department:	Administration		
Prepared By:	Susan Hensley, City Secretary	Exhibits:	Resolution and Minutes
Date Prepared:	February 7, 2020		

Subject

Resolution affirming action taken by City Council on October 8, 2019.

Recommendation

Adoption of Resolution affirming action taken by City Council on October 8, 2019.

Discussion

A copy of the section of the adopted City Council minutes from the October 8, 2019 meeting are attached to confirm that City Council, following an Executive Session, voted unanimously (3-0) for the following:

Tom Cronin moved to approve the Petition for Consent for the Creation of Montgomery County Municipal Utility District 160 or Annexation of land in Montgomery County Municipal Utility District 179. T.J. Wilkerson seconded the motion, the motion carried unanimously. (3-0)

The City Attorney has advised that this Resolution is formally documenting the petition by Philip LeFevre, which was approved by City Council at the October 8, 2019 meeting.

Approved By		
City Secretary		Date: February 7, 2020
City Administrator		Date: February 7, 2020

MINUTES OF REGULAR MEETING

October 8, 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 6:00 p.m.

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

Also Present: Richard Tramm City Administrator
 Susan Hensley City Secretary
 Larry Foerster City Attorney
 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

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 551.071 – Consultation with City Attorney regarding pending claims and contracts; and
 - b) Section 551.087 – Deliberation regarding economic development negotiations regarding Town Creek Crossing.

Mayor Pro Tem T.J. Wilkerson adjourned into Executive Session at 7:06 p.m.

13. Reconvene into Open Session.

Mayor Pro Tem reconvened into Open Session at 8:02 p.m.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

14. Consideration and possible action regarding item(s) listed under Executive Session.

Tom Cronin moved to approve the Petition for Consent for the Creation of Montgomery County Municipal Utility District 160 or Annexation of land in Montgomery County Municipal Utility District 179. T.J. Wilkerson seconded the motion, the motion carried unanimously. (3-0)

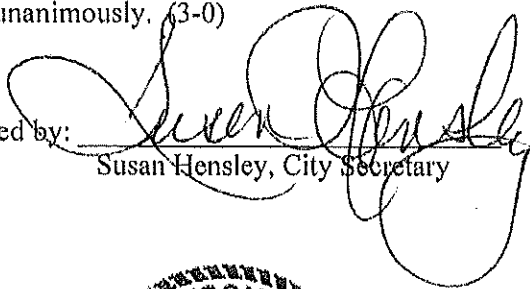
COUNCIL INQUIRY:

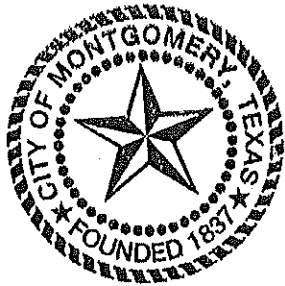
Pursuant to Texas Government Code Sect. 551.042 the Mayor and Council Members may inquire about a subject not specifically listed on this Agenda. Responses are limited to recitation of existing policy or a statement of specific factual information given in response to the inquiry. Any deliberation or decision shall be limited to a proposal to place on the agenda of a future meeting.

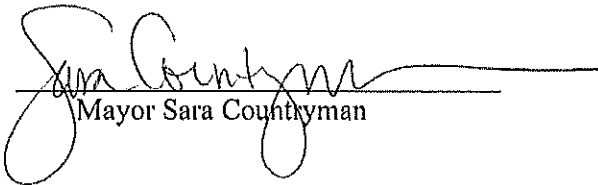
No comments were made.

ADJOURNMENT

Rebecca Huss moved to adjourn the meeting at 8:04 p.m. Tom Cronin seconded the motion, the motion carried unanimously. (3-0)

Submitted by:  Date Approved: 11/12/19
Susan Hensley, City Secretary




Mayor Sara Countyman

CERTIFICATE

THE STATE OF TEXAS §

COUNTY OF MONTGOMERY §

CITY OF MONTGOMERY §

I, Susan Hensley, the City Secretary of the City of Montgomery, Texas, do hereby certify that the attached and foregoing is a true and correct, certified copy of the "Resolution of the City Council of the City of Montgomery, Texas Consenting to a Petition for the Creation of Montgomery County Municipal Utility District No. 160; or Annexation of Land into Montgomery County Municipal Utility District No. 179 in Montgomery County, Texas and Establishing Conditions Applicable to the Creation of the District" (the "Resolution") as was passed and approved by the City of Montgomery, Texas on October 8, 2019 and attached hereto as Exhibit "A."

WITNESS my hand and the Seal of said City this ____ day of _____,
2020.

Susan Hensley
City Secretary
City of Montgomery, Texas

(SEAL)

EXHIBIT "A"
The Resolution

PETITION FOR CONSENT TO CREATION OF
MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO.160; OR
ANNEXATION OF LAND INTO MONTGOMERY COUNTY
MUNICIPAL UTILITY DISTRICT NO. 179

THE STATE OF TEXAS §

COUNTY OF MONTGOMERY §

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF MONTGOMERY:

The undersigned, acting pursuant to the provisions of Chapters 49 and 54 of the Texas Water Code, respectfully petitions this Honorable Council for (i) its consent to the creation of a municipal utility district encompassing the hereinafter defined Land, and in the alternative (ii) its consent to the annexation of the Land into existing Montgomery County Municipal Utility District No. 179 (“MUD 179”), and for cause would respectfully show the following:

I.

The name of the proposed District shall be “Montgomery County Municipal Utility District No. 160” (the “District”).

II.

The District shall be organized under the terms and provisions of Article III, Section 52 and Article XVI, Section 59 of the Texas Constitution, Chapters 49 and 54 of the Texas Water Code, thereto, together with all amendment and additions thereto.

III.

The District shall contain an area of approximately 142.1548 acres of land (the “Land”), situated within Montgomery County, Texas, described by metes and bounds and the plat of Reserve A (15.465 acres) of the Estates of Lake Creek Village, a residential subdivision of 30.6076 acres, recorded in cabinet Z, sheet 4812 of the Montgomery County Real Property Records (“Reserve A”). The Land is described in Exhibit “A.” The District is located wholly within the corporate limits of the City of Montgomery, Texas.

IV.

The undersigned constitutes a majority in value of the holders of title to the Land, as shown by the tax rolls and conveyances of record since the date of preparation of said county tax rolls.

V.

The proposed District shall be organized for the following purposes:

- (1) provide a water supply for the District for municipal and domestic uses;
- (2) collect, transport, process, dispose of and control all domestic, industrial, or communal wastes whether in fluid, solid, or composite state;
- (3) gather, conduct, divert and control local storm water or other local harmful excesses of water in the District;
- (4) design, construct, acquire, finance, issue bonds for, improve, maintain, operate and convey to this state or county for operation and maintenance, macadamized, graveled, or paved roads, or improvements in aid of those roads;
- (5) design, construct, acquire, finance, issue bonds for, improve, maintain, and operate parks and recreation facilities or improvements in aid of such facilities; and
- (6) such other construction, installation, maintenance, purchase, and operation of such additional facilities, systems, plants and enterprises as shall be consistent with the purposes for which the District is organized.

The aforementioned purposes may be accomplished by any mechanical and chemical means and processes incident, necessary or helpful to such purposes, to the extent authorized by law and the creation of the District, to the end that public health and welfare may be conserved and promoted and the purity and sanitary condition of the State's waters protected, effected and restored.

VI.

The general nature of the work anticipated to be done by the District at the present time is: (i) the construction of a water distribution system for domestic purposes; (ii) the construction of sanitary sewer system; (iii) the control, abatement and amendment of the harmful excess of waters and the reclamation and drainage of overflowed lands within the District, including the maintenance of existing and future drainage facilities; (iv) the construction of macadamized, graveled, or paved roads, or improvements in aid of those roads; (v) the construction and financing of parks and recreational facilities; and (vi) such other construction, installation, maintenance, purchase and operation of such additional facilities, systems, plants and enterprises as shall be consistent with the purposes for which the District is organized, all to the extent authorized by law from time to time.

VII.

There is a necessity for the improvements above described because the District is located within an area which will experience a substantial and sustained residential growth within the foreseeable future, is urban in nature and is not supplied with adequate water, sanitary sewer, drainage facilities and services, parks or roads. The health and welfare of the future inhabitants of

the District require the provision of adequate water, storm and sanitary sewer facilities and services, parks and roads.

The provision of such water, storm and sanitary sewer facilities and services, parks and roads will conserve and preserve the natural resources of this State by promoting and protecting the purity and sanitary condition of the State's waters, and will promote and protect the public health and welfare of the community; therefore, a public necessity exists for the organization of said District.

The property cannot be developed without the creation of the District to finance the water, sanitary sewer, and drainage facilities and services, parks and roads; therefore, a public necessity exists.

VIII.

The proposed improvements are practicable and feasible, in that the terrain of the territory to be included in the proposed District is of such nature that water, storm and sanitary sewer facilities and services, parks and roads can be constructed or provided at a reasonable cost; and said territory will be rapidly developed for residential use.

IX.

A preliminary investigation has been instituted to determine the cost of the proposed improvements to be constructed by the District, and it is now estimated by those filing this petition, from such information as they have at this time, that the ultimate cost of such improvements will be approximately \$16,000,000.

X.

As an alternative to the creation of the District, the undersigned also requests the City consider consenting to the annexation of the Land into MUD 179. All of MUD 179 is located in the corporate limits of the City.

XI.

WHEREFORE, the undersigned respectfully pray that this Petition be granted in all respects and that the City Council of the City of Montgomery, Texas, adopt a resolution giving its written consent to (i) the creation of the District, and, in the alternative (ii) the annexation of the Land into existing MUD 179.

PETITIONER:

LEFEVRE DEVELOPMENT, INC.,
a Texas corporation

By: _____

Name: _____

Title: _____

PETITIONER:

LEFCO INVESTMENTS, INC.,
a Texas corporation

By: _____

Name: _____

Title: _____

EXHIBIT "A"

Legal Description

The Land

37.619 Acres
John Corner Survey, A-8
Montgomery County, Texas

September 23, 2019

BEING 37.619 ACRES OF LAND SITUATED IN THE JOHN CORNER SURVEY, ABSTRACT NUMBER 8 IN MONTGOMERY COUNTY, TEXAS AND CONSISTING OF 14.867 ACRES OF LAND OUT OF THAT CERTAIN CALLED 734.49 ACRE TRACT RECORDED UNDER CLERK'S FILE NUMBER 99058838 MONTGOMERY COUNTY REAL PROPERTY RECORDS AND 22.752 ACRES OF LAND OUT THAT CERTAIN CALLED 131.82 ACRES RECORDED UNDER CLERK'S FILE NUMBER 2003-132092 MONTGOMERY COUNTY REAL PROPERTY RECORDS; BEARINGS AND COORDINATES ARE BASED ON TEXAS STATE PLANE COORDINATES SYSTEM, CENTRAL ZONE. NAD88, ALL DISTANCES SHOWN ARE GROUND:

BEGINNING at a 5/8 inch iron rod with a survey cap marked "Glezman R.P.L.S. 4627", found for the lower Northwest corner of the herein described tract and the Northeasterly corner of Restricted Reserve "B", in Block 1, of Replat of Mitchell Corner, Subdivision, the map or plat thereof recorded in Cabinet Z, Sheet 5009 Montgomery County Map Records and being located in the Northwesterly right-of-way of Plez Morgan Road, a variable width right-of-way recorded under Clerk's File Number 2010-030945 of the Real Property Records Montgomery County, Texas and being the Southwest corner of a called 2.3851 acre tract recorded under Clerk's File Number 2019-001945 of the Real Property Records of Montgomery County, Texas; said corner having a coordinate value of North 10,140,750.9870 and East 3,759,230.7583;

THENCE South 76°46'40" East along the south line of said 2.3851 acre tract, a distance of 252.03 feet to a "X", found in the top of a sanitary sewer manhole for an interior corner of the herein described tract, the Southeast corner of said 2.3851 acre tract;

THENCE North 56°46'24" East, continuing along the East line of said 2.3851 acre tract, a distance of 331.53 feet to a 5/8 inch iron rod with a survey cap marked "Glezman R.P.L.S. 4639", found interior corner of the herein described tract and being an angle point in the East line of said 2.3851 acre tract;

THENCE North 46°35'52" East along the East line of said 2.3851 acre tract, a distance of 168.55 feet to a 5/8 inch iron rod with a survey cap marked "Glezman R.P.L.S. 4627", found for an upper Northwest corner of the herein described tract, in the South line of a called 4.17 acre tract recorded under Clerk's File Number 2018-002208 of the Real Property Records of Montgomery County, Texas and being the Northeast corner of said 2.3851 acre tract;

THENCE North 84°16'56" East, along the South line of said 4.17 acre tract, a distance of 160.17 feet to a 1/2 inch iron rod with a survey cap marked "Jeff Moon R.P.L.S. 4639", found for an interior corner of the herein described tract and being the Southeast corner of said 4.17 acre tract;

THENCE North 06°06'58" West, along the East line of said 4.17 acre tract, a distance of 249.24 feet to a 5/8 inch iron rod, found for the most Northerly Northeast corner of the herein described tract, in the South right-of-way line of Farm-to-Market 1097 and being the Northeast corner of said 4.17 acre tract;

THENCE North 82°40'36" East, along the South line of said Farm-to-Market 1097, a distance of 94.03 feet to a point for corner, for the Northeast corner of the herein described tract and being the

Northwest corner of Restricted Reserve "D" of the Amending Plat of Waterstone on Lake Conroe, Section 1, recorded in Cabinet Z, Sheet 1356 of the Map Records of Montgomery County, Texas;

THENCE South 55°10'07" East, along the West line of said Restricted Reserve "D", a distance of 509.73 feet to a point for corner, for the lower Northeast corner of the herein described tract and being the Northwest corner of Restricted Reserve "D" of the Amending Plat of Waterstone on Lake Conroe, Section 1, recorded in Cabinet Z, Sheet 1356 of the Map Records of Montgomery County, Texas and being the Northwest corner of a called 43.6507 acre tract, as recorded under Clerk's File Number 2008-064097 of the Real Property Records Montgomery County, Texas;

THENCE South 16°54'38" West, along the West line of said 43.6507 acre tract, a distance of 76.20 feet to a point for corner, for the most southerly Northeast corner of the herein described tract, in the Centerline of Town Creek and being the Northeast corner of a called 43.9804 acre tract, as recorded under Clerk's File Number 2010-008084 of the Real Property Records Montgomery County, Texas;

THENCE with the following courses and distances along the centerline of Town Creek and the East line of the herein described tract as follows:

1. North 82°56'02" West, a distance of 163.28 feet to an angle point;
2. South 08°17'50" West, a distance of 111.89 feet to an angle point;
3. North 67°54'25" West, a distance of 94.36 feet to an angle point;
4. South 02°19'33" West, a distance of 157.91 feet to an angle point;
5. South 76°44'44" West, a distance of 113.35 feet to an angle point;
6. North 85°49'32" West, a distance of 112.50 feet to an angle point;
7. South 44°21'35" West, a distance of 112.89 feet to an angle point;
8. South 41°06'45" West, a distance of 89.59 feet to an angle point;
9. South 73°30'08" West, a distance of 122.68 feet to an angle point;
10. North 71°58'43" West, a distance of 130.21 feet to an angle point;
11. South 44°24'58" West, a distance of 82.90 feet to an angle point;
12. South 34°45'37" East, a distance of 199.85 feet to an angle point;
13. South 71°53'45" West, a distance of 177.85 feet to an angle point;
14. South 52°33'18" East, a distance of 80.02 feet to an angle point;
15. South 34°13'03" West, a distance of 57.29 feet to an angle point;
16. South 06°15'23" West, a distance of 103.03 feet to an angle point;
17. South 27°41'11" East, a distance of 103.77 feet to an angle point;
18. South 21°48'31" West, a distance of 93.86 feet to an angle point;
19. North 81°17'11" West, a distance of 31.90 feet to an angle point;
20. North 87°14'33" West, a distance of 128.92 feet to an angle point;
21. South 20°40'46" West, a distance of 77.41 feet to an angle point;
22. South 51°22'11" West, a distance of 73.27 feet to an angle point;
23. South 80°14'23" West, a distance of 117.54 feet to an angle point;
24. North 53°42'09" West, a distance of 116.27 feet to an angle point;
25. South 28°51'50" West, a distance of 62.27 feet to an angle point;
26. South 59°05'23" West, a distance of 112.27 feet to an angle point;
27. South 76°37'20" West, a distance of 168.53 feet to an angle point;
28. South 05°00'40" West, a distance of 91.05 feet to an angle point;
29. South 50°27'51" West, a distance of 111.62 feet to an angle point;
30. South 81°05'11" West, a distance of 77.24 feet to an angle point;
31. South 77°43'22" West, a distance of 97.81 feet to an angle point;
32. North 18°22'11" West, a distance of 141.05 feet to an angle point;
33. South 41°54'59" West, a distance of 128.00 feet to an angle point;
34. South 61°42'07" West, a distance of 95.40 feet to an angle point;
35. South 83°58'42" West, a distance of 170.74 feet to an angle point;
36. South 09°05'30" West, a distance of 8.35 feet to a point for corner, for the Southeast corner of the herein described tract, in the North line of Lone Star Parkway, a variable width

right-of-way, as recorded under Clerk's File Number 2004-134114 of the Real Property Records of Montgomery County, Texas and being the Southwest corner of said 43.9804 acre tract;

THENCE with the following courses and distances along the North line of Lone Star Parkway and the South line of the herein described tract as follows:

1. North 62°50'35" West, a distance of 122.69 feet to a 5/8 inch iron rod, found for an angle point in the South line of the herein described tract and being an angle point in the North line of Lone Star Parkway;
2. North 68°19'32" West, a distance of 102.62 feet to a 5/8 inch iron rod, found for the beginning of a curve to the left;
3. With said curve to the left, having as its elements: an arc length of 182.25 feet, a radius of 2228.00 feet, a central angle of 04°41'12" and a chord bearing North 66°36'46" West, a chord distance of 182.20 feet to a ½ inch iron rod with a survey cap marked "Jeff Moon R.P.L.S. 4639", found for an cutback corner in the North line of Lone Star Parkway and the East line of Plez Morgan Road point;

THENCE with the following courses and distances, in a Northeasterly direction along the West line of the herein described tract and the Easterly line of Plez Morgan Road as follows:

4. North 25°01'37" West, a distance of 36.50 feet to a 5/8 inch iron rod, found for the end of the cutback and an angle point in the East line of Plez Morgan Road
5. North 18°10'59" East, a distance of 62.72 feet, to a 5/8 inch iron rod, found for the beginning of a curve to the right;
6. In a Northeasterly direction with said curve to the right having as its elements: an arc length of 109.90 feet, a radius of 800.00 feet, a central angle of 07°52'15" and a chord bearing North 22°07'07" East, a chord distance of 109.81 feet, to a ½ inch iron rod with a survey cap marked "Jeff Moon R.P.L.S. 4639", found for an angle point;
7. North 55°15'53" East, a distance of 90.24 feet to an angle point in the East line of the herein described tract and the West line of Plez Morgan Road
8. North 35°01'09" East, a distance of 80.00 feet to an angle point in the East line of the herein described tract and the West line of Plez Morgan Road
9. North 22°35'13" East, a distance of 118.96 feet to an angle point in the East line of the herein described tract and the West line of Plez Morgan Road and the beginning of a curve to the right;
10. With said curve to the right, having as its elements: an arc length of 345.35 feet, a radius of 800.00 feet, a central angle of 24°44'01" and a chord bearing North 58°36'52" East, a chord distance of 342.67 feet to a ½ inch iron rod with a survey cap marked "Jeff Moon R.P.L.S. 4639", found for an angle point;
11. North 71°03'00" East, a distance of 594.64 feet to a ½ inch iron rod with survey cap marked "Jeff Moon R.P.L.S. 4639", found for an angle point and the beginning of a curve to the left;
12. With said curve to the left, having as its elements: an arc length of 540.02 feet, a radius of 681.64 feet, a central angle of 45°23'29" and a chord bearing North 47°25'57" East, a chord distance of 526.00 feet to a ½ inch iron rod with a survey cap marked "Jeff Moon R.P.L.S. 4639", found for an angle point, back to the Point of Beginning and containing 37.619 acres of land more or less.

**METES AND BOUNDS DESCRIPTION
SUBJECT TRACT
43.9804 ACRES (1,915,787 SQUARE FEET)
OUT OF A CALLED 734.72 ACRES TRACT,
A CALLED 1.8030 ACRES TRACT AND
A CALLED 2.9889 ACRES TRACT
JOHN CORNER SURVEY, ABSTRACT 8
MONTGOMERY COUNTY, TEXAS**

Being 43.9804 acres (1,915,787 square feet) of land, out of a called 734.72 acres tract conveyed to Philip Lefevre and wife, Holly Lefevre by deed recorded in County Clerk's File (CCF) No. 99058838 of the Official Public Records of Real Property of Montgomery County, Texas (OPRRP MCT), a called 131.81 acres tract conveyed to LEFCO Investments, Inc. by deed recorded in CCF No. 2003-132092 of the OPRRP MCT; said 43.9804 acres tract lying in the John Corner Survey, Abstract 8 of Montgomery County, Texas and being more particularly described by metes and bounds as follows;

BEGINNING at a found 5/8 inch iron rod, marking the most Southwest corner of a called 1.8030 acres tract conveyed to Philip Lefevre and wife, Holly Lefevre by deed recorded in CCF No. 2008-022323 of the OPRRP MCT, said rod being in the South line of the remainder of a called 155.2494 acres tract conveyed to Waterstone on Lake Conroe, Inc. by deed recorded in CCF No. 2007-109227 of the OPRRP MCT;

THENCE North 82°58'55" West, a distance of 156.81 feet to a set 5/8 inch iron rod, for the Northwest corner of the herein described tract, also called the **POINT OF BEGINNING**;

THENCE South 16°54'38" West, over and across said 734.72 acres, a distance of 2312.26 feet to a set 5/8 inch iron rod in the North right-of-way (ROW) of Lonestar Parkway, ROW varies, marking the Southeast corner of the herein described tract;

THENCE South 87°32'49" West, along said ROW, a distance of 97.28 feet to a set 5/8 inch iron rod, marking an angle point of the herein described tract;

THENCE North 74°04'21" West, along said ROW, a distance of 141.92 feet to a set 5/8 inch iron rod, marking an angle point of the herein described tract;

THENCE North 75°10'41" West, along said ROW, a distance of 191.22 feet to a set 5/8 inch iron rod, marking an angle point of the herein described tract;

THENCE North 63°56'36" West, along said ROW, passing a found 5/8 inch iron rod with cap, a distance of 100.27 feet, marking the Northwest corner of a called 23.1785 acres tract (A.K.A. Lonestar Parkway) and the Northeast corner of a called 11.0405 acres tract (A.K.A. Lonestar Parkway) conveyed to Montgomery county, Texas by deeds recorded in CCF No. 2004-134114 and 2004-134115 of the OPRRP MCT, continuing for a total distance of 194.37 feet to a set 5/8 inch iron rod, marking an angle point of the herein described tract;

THENCE North 58°04'07" West, along said ROW, a distance of 301.04 feet to a set 5/8 inch iron rod, marking an angle point of the herein described tract;

THENCE North 62°49'57" West, along said ROW, a distance of 149.99 feet to a set 5/8 inch iron rod, marking an angle point of the herein described tract;

THENCE North 71°21'46" West, along said ROW, a distance of 101.13 feet to a set 5/8 inch iron rod, marking an angle point of the herein described tract;

THENCE North 62°49'57" West, along said ROW, a distance of 499.99 feet to a set 5/8 inch iron rod, marking an angle point of the herein described tract;

THENCE North 57°07'19" West, along said ROW, a distance of 100.50 feet to a set 5/8 inch iron rod, marking an angle point of the herein described tract;

THENCE North 63°06'06" West, a distance of 77.22 feet to a point for corner, being the center of Town Creek;

THENCE the following thirty-five calls along said centerline of Town Creek;

1. North 09°07'06" East, a distance of 8.35 feet to an angle point;
2. North 84°00'19" East, a distance of 170.74 feet to an angle point;
3. North 61°43'45" East, a distance of 95.40 feet to an angle point;
4. North 41°56'37" East, a distance of 128.00 feet to an angle point;
5. South 18°20'34" East, a distance of 141.05 feet to an angle point;
6. North 77°35'57" East, a distance of 97.83 feet to an angle point;
7. North 81°18'20" East, a distance of 77.23 feet to an angle point;
8. North 50°20'12" East, a distance of 111.78 feet to an angle point;
9. North 05°05'54" East, a distance of 90.72 feet to an angle point;
10. North 76°38'58" East, a distance of 168.53 feet to an angle point;
11. North 59°15'53" East, a distance of 113.00 feet to an angle point;
12. North 28°18'55" East, a distance of 61.78 feet to an angle point;
13. South 53°40'31" East, a distance of 116.27 feet to an angle point;
14. North 80°16'00" East, a distance of 117.54 feet to an angle point;
15. North 51°23'49" East, a distance of 73.27 feet to an angle point;
16. North 20°42'24" East, a distance of 77.41 feet to an angle point;
17. South 87°12'56" East, a distance of 128.92 feet to an angle point;
18. South 81°15'34" East, a distance of 31.90 feet to an angle point;
19. North 21°50'09" East, a distance of 93.86 feet to an angle point;
20. North 27°39'33" West, a distance of 103.77 feet to an angle point;
21. North 06°17'00" East, a distance of 103.03 feet to an angle point;
22. North 34°14'41" East, a distance of 57.29 feet to an angle point;
23. North 52°31'40" West, a distance of 80.02 feet to an angle point;
24. North 71°55'23" East, a distance of 177.85 feet to an angle point;
25. North 34°46'00" West, a distance of 76.16 feet to an angle point;
26. North 34°42'45" West, a distance of 123.69 feet to an angle point;
27. North 44°26'36" East, a distance of 82.90 feet to an angle point;

28. South $71^{\circ}57'06''$ East, a distance of 130.21 feet to an angle point;
29. North $73^{\circ}31'46''$ East, a distance of 122.68 feet to an angle point;
30. North $41^{\circ}06'45''$ East, a distance of 89.59 feet to an angle point;
31. North $44^{\circ}24'30''$ East, a distance of 112.89 feet to an angle point;
32. South $85^{\circ}47'54''$ East, a distance of 112.50 feet to an angle point;
33. North $76^{\circ}46'22''$ East, a distance of 113.35 feet to an angle point;
34. North $02^{\circ}21'10''$ East, a distance of 157.91 feet to an angle point;
35. South $67^{\circ}52'47''$ East, a distance of 94.36 feet to an angle point;
36. North $08^{\circ}19'28''$ East, a distance of 111.89 feet to an angle point;

THENCE South $82^{\circ}54'24''$ East, a distance of 161.87 feet to the **POINT OF BEGINNING** and containing a computed 43.9804 acres (1,915,787 square feet) of land.

Prepared by:
Town and Country Surveyors LLC
25307 North Freeway (IH-45 N)
The Woodlands, TX 77380
www.tcsurveying.com
Phone (281) 465-8730
Fax (281) 465-8731

David J. Strauss, RPLS 4833
June 5, 2008
Job No. 1633-0001

**METES AND BOUNDS DESCRIPTION
SUBJECT TRACT "B"
43.6507 ACRES (1,901,426 SQUARE FEET)
OUT OF A CALLED 734.72 ACRES TRACT,
A CALLED 1.8030 ACRES TRACT
JOHN CORNER SURVEY, ABSTRACT 8
MONTGOMERY COUNTY, TEXAS**

Being 43.6507 acres (1,901,426 square feet) of land, out of a called 734.72 acres tract conveyed to Philip Lefevre and wife, Holly Lefevre by deed recorded in County Clerk's File (CCF) No. 99058838 of the Official Public Records of Real Property of Montgomery County, Texas (OPRRP MCT), a called 1.8030 acres tract conveyed to Philip Lefevre and wife, Holly Lefevre by deed recorded in CCF No. 2008-022323 of the OPRRP MCT; said 43.6507 acres tract lying in the John Corner Survey, Abstract 8 of Montgomery County, Texas and being more particularly described by metes and bounds as follows;

COMMENCING at a found 5/8 inch iron rod, marking the most Easterly corner of a said 1.8030 acres tract, said rod being in the South line of Waterstone on Lake Conroe Section 1, a subdivision recorded in Cabinet Z, Sheet 1346 of the Map Records of Montgomery County Texas (MR MCT);

THENCE South 85°08'23" West, along the South line of said 155.2494 acres tract and the North line of said 1.8030 acres tract, a distance of 540.05 feet to a found 5/8 inch iron rod, for an angle point;

THENCE North 89°26'18" West, along said South and North lines, a distance of 97.76 feet to a set 5/8 inch iron rod, for the Northeast corner of the herein described tract and also called the **POINT OF BEGINNING**;

THENCE South 12°09'05" East, a distance of 678.45 feet to a set 5/8 inch iron rod, for a point of curvature;

THENCE along a curve to the right, having a radius of 950.00 feet, an internal angle of 25°13'15", a chord bearing South 00°27'33" West, a distance of 418.18 feet, for an arc length of 414.81 feet to a set 5/8 inch iron rod, for a point of tangency;

THENCE South 13°04'10" West, a distance of 431.51 feet to a set 5/8 inch iron rod, for a point of tangency;

THENCE along a curve to the left, having a radius of 1050.00 feet, an internal angle of 26°45'43", a chord bearing South 00°18'42" East, a distance of 485.99 feet, for an arc length of 490.44 feet to a set 5/8 inch iron rod, for a point of tangency;

THENCE South 13°41'33" East, a distance of 179.95 feet to a set 5/8 inch iron rod, for the Southeast corner of the herein described tract, being in the North Right-of-Way (ROW) line of Lonestar Parkway, ROW width varies, recorded in CCF No. 2004-134115 of the OPRRP MCT;

THENCE the following Five (5) calls along said North ROW line;

THENCE South 71°45'52" West, a distance of 148.87 feet to a found 5/8 inch iron rod with cap, marking an angle point;

THENCE South 76°03'14" West, a distance of 206.14 feet to a found 5/8 inch iron rod with cap, marking a point of curvature;

THENCE along a curve to the right, having a radius of 1960.00 feet, an internal angle of 13°48'10", a chord bearing South 82°57'18" West, a distance of 471.03 feet, for an arc length of 472.17 feet to a point for an angle point;

THENCE North 76°56'56" West, a distance of 286.82 feet to an angle point;

THENCE North 80°21'41" West, a distance of 93.41 feet to a point, for the Southwest corner of the herein described tract;

THENCE North 16°54'38" East, a distance of 2312.26 feet to a point, for the Northwest corner of the herein described tract;

THENCE South 82°58'55" East, a distance of 156.81 feet to a found 5/8 inch iron rod, for an internal corner of the herein described tract and the Southwest corner of said 1.8030 acre tract;

THENCE North 55°06'06" West, along the Southwest line of said 1.8030 acre tract, a distance of 75.00 feet to a found 5/8 inch iron rod, for the Southwest corner of said Waterstone on Lake Conroe Section 1;

THENCE South 89°26'18" East, along said South line, a distance of 326.59 feet to the **POINT OF BEGINNING** and containing a computed 43.5140 acres (1,895,471 square feet) of land.

Prepared by:
Town and Country Surveyors LLC
25307 North Freeway (IH-45 N)
The Woodlands, TX 77380
www.tcsurveying.com
Phone (281) 465-8730
Fax (281) 465-8731

David J. Strauss, RPLS 4833
June 5, 2008
Job No. 1633-0001

**METES AND BOUNDS DESCRIPTION
SUBJECT TRACT "C"
1.4397 ACRES (62,715 SQUARE FEET)
OUT OF A CALLED 734.72 ACRES TRACT
JOHN CORNER SURVEY, ABSTRACT 8
MONTGOMERY COUNTY, TEXAS**

Being 1.4397 acres (62,715 square feet) of land, out of a called 734.72 acres tract conveyed to Philip Lefevre and wife, Holly Lefevre by deed recorded in County Clerk's File (CCF) No. 99058838 of the Official Public Records of Real Property of Montgomery County, Texas (OPRRP MCT); said 1.4397 acres tract lying in the John Corner Survey, Abstract 8 of Montgomery County, Texas and being more particularly described by metes and bounds as follows;

COMMENCING at a found 5/8 inch iron rod, marking the most Easterly corner of a called 1.8030 acres tract conveyed to Philip Lefevre and wife, Holly Lefevre by deed recorded in CCF No. 2008-022323 of the OPRRP MCT, said rod being in the South line of the remainder of a called 155.2494 acres tract conveyed to Waterstone on Lake Conroe, Inc. by deed recorded in CCF No. 2007-109227 of the OPRRP MCT;

THENCE South 85°08'23" West, along the North line of said 1.8030 acres tract and South line of said 155.2494 acres tract; a distance of 540.05 feet to a found 5/8 inch iron rod, for an angle point;

THENCE North 89°26'18" West, a distance of 97.76 feet to a set 5/8 inch iron rod, a point for corner;

THENCE South 12°09'05" East, a distance of 678.45 feet to a set 5/8 inch iron rod, for a point of curvature;

THENCE along a curve to the right, having a radius of 950.00 feet, an internal angle of 25°13'15", a chord bearing South 00°27'33" West, a distance of 418.18 feet to a set 5/8 inch iron rod, for a point of tangency;

THENCE South 13°04'10" West, a distance of 431.51 feet to a set 5/8 inch iron rod, for a point of tangency;

THENCE along a curve to the left, having a radius of 1050.00 feet, an internal angle of 25°40'04", a chord bearing South 00°14'08" West, a distance of 466.46 feet, for an arc length of 470.38 feet to a point, for the Northeast corner of the herein described tract, also called the **POINT OF BEGINNING**;

THENCE along a curve to the left, having a radius of 1050.00 feet, an internal angle of 01°05'39", a chord bearing South 03°08'44" East, a distance of 20.05 feet, for an arc length of 20.05 feet to a set 5/8 inch iron rod, for a point of tangency;

THENCE South 13°41'33" East, a distance of 179.95 feet to a set 5/8 inch iron rod, for the Southeast corner of the herein described tract, being in the North Right-of-Way (ROW) line of Lonestar Parkway, ROW width varies, recorded in CCF No. 2004-134115 of the OPRRP MCT;

THENCE the following Two (2) calls along said North ROW line;

THENCE South 71°45'52" West, a distance of 148.87 feet to a found 5/8 inch iron rod with cap, marking an angle point;

THENCE South 76°03'14" West, a distance of 151.60 feet to a point, for the Southwest corner of the herein described tract;

THENCE North 13°41'33" West, a distance of 212.46 feet to a point, for the Northwest corner of the herein described tract;

THENCE North 76°18'27" East, a distance of 300.19 feet to the **POINT OF BEGINNING** and containing a computed 1.4397 acres (62,715 square feet) of land.

David J. Strauss, RPLS 4833
June 5, 2008
Job No. 1633-0001

Reserve A

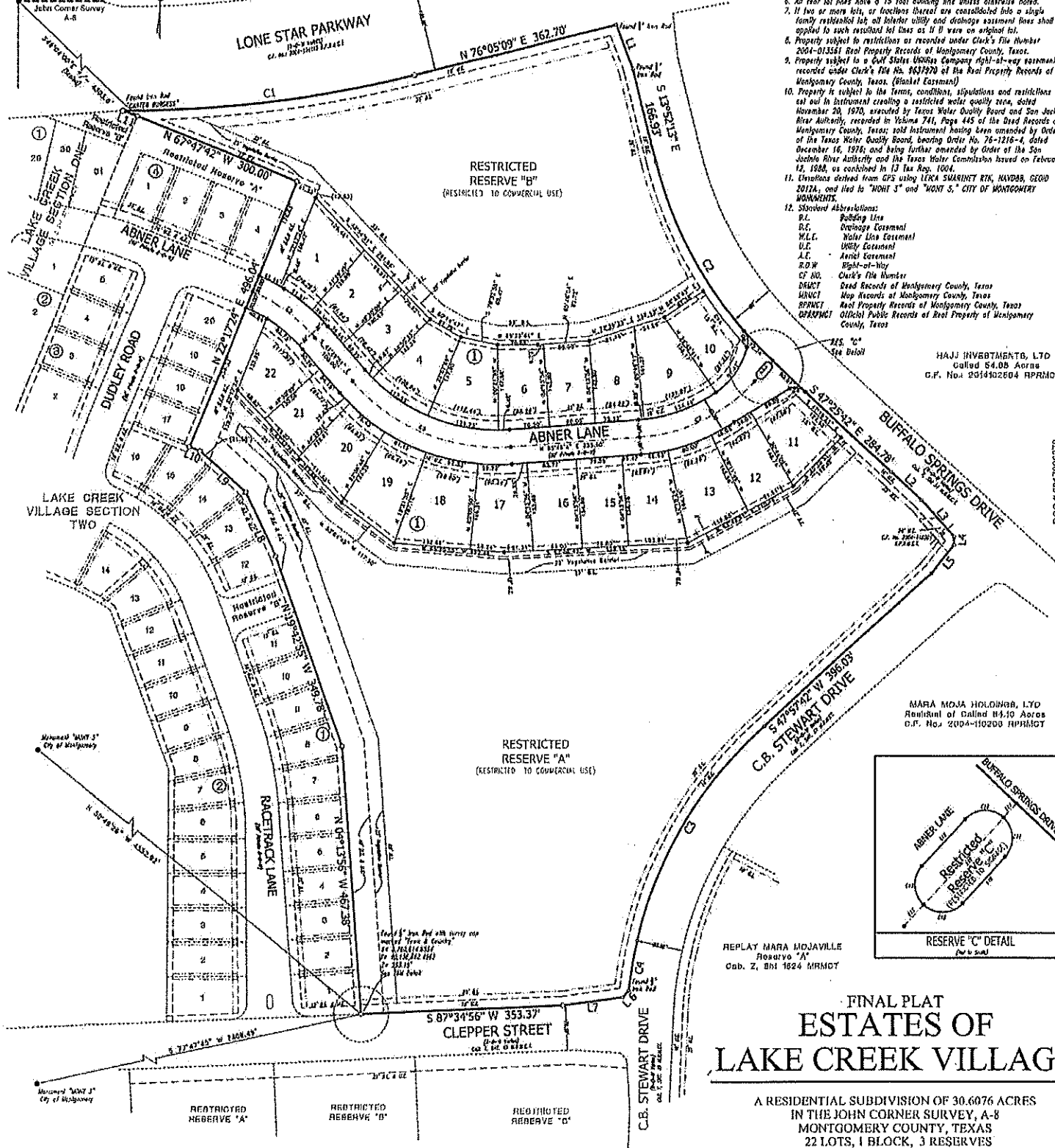
Scale 1" = 100'



NOTES:

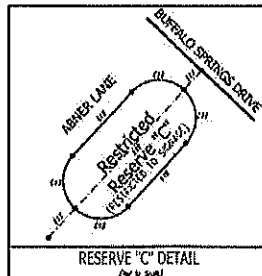
1. Scale: 1"=100'
2. All corners are set 3/4" iron rods with survey cap marked "Gleason 4827" unless otherwise noted.
3. This property lies within Zone "A", area delineated to be outside the 100-Year Floodplain as shown on FEMA Flood Insurance Rate Map, Community Number 481485, Map Number 49335C0280C, with an effective date August 16, 2014.
4. All street right-of-ways are sixty (60') feet in width unless otherwise noted.
5. All street widths shall be a minimum of twenty-eight (28') feet wide.
6. All side lot lines have a 10 foot building line unless otherwise noted.
7. All rear lot lines have a 15 foot building line unless otherwise noted.
8. If two or more lots, or fractions thereof are consolidated into a single family residential lot all interior utility and drainage easement lines shall be applied to such consolidated lot lines as if it were an original lot.
9. Property subject to restrictions as recorded under Clerk's File Number 2004-033561 Real Property Records of Montgomery County, Texas.
10. Property subject to a Civil State Utilities Company right-of-way easement as recorded under Clerk's File No. 9637970 of the Real Property Records of Montgomery County, Texas. (Blanket Easement)
11. Property is subject to the terms, conditions, stipulations and restrictions as set out in instrument creating a restricted water quality strip, dated November 29, 1970, executed by Texas Water Quality Board and San Jacinto River Authority, recorded in Volume 741, Page 445 of the Deed Records of Montgomery County, Texas; said instrument having been amended by Order of the Texas Water Quality Board, bearing Order No. 78-1216-A, dated December 16, 1978; and being further amended by Order of the San Jacinto River Authority and the Texas Water Commission issued on February 12, 1988, as combined in (3) Tax Rep. 1004.
12. Elevations derived from GPS using LEICA SURMOUNT RTK, HMD08S, GEOD 2012A, and tied to "MONT 3" and "MONT 5," CITY OF MONTGOMERY MONUMENTS.

12. Standard Abbreviations:
 D.L. Ditching Lines
 D.E. Drainage Easement
 M.L.E. Water Line Easement
 U.E. Utility Easement
 A.E. Aerial Easement
 R.O.W. Right-of-Way
 C.F. NO. Clerk's File Number
 D.E.R.C. Deed Records of Montgomery County, Texas
 M.R.C. Map Records of Montgomery County, Texas
 R.P.R.C. Real Property Records of Montgomery County, Texas
 O.P.R.C. Official Public Records of Real Property of Montgomery County, Texas



HAIJ INVESTMENTS, LTD
 Called 64.0B Acres
 G.P. No. 201402204 HPRMOT

MARA MOJA HOLDINGS, LTD
 Referred of Called 64.10 Acres
 G.P. No. 2004-110203 HPRMOT



FINAL PLAT ESTATES OF LAKE CREEK VILLAGE

A RESIDENTIAL SUBDIVISION OF 30.6076 ACRES
 IN THE JOHN CORNER SURVEY, A-8
 MONTGOMERY COUNTY, TEXAS
 22 LOTS, 1 BLOCK, 3 RESERVES

SEPTEMBER 2017

ENGINEER:
 GOODWIN-LASITER-STRONG
 4077 CROSS PARK, SUITE 100
 BRYAN, TEXAS 77802

OWNER/DEVELOPER:
 1EFCO INVESTMENTS, INC.
 780 CLEPPER STREET, SUITE 100
 MONTGOMERY, TEXAS 77358

Surveying Solutions Texas Since 1987
 GLEASON SURVEYING, INC.
 1134 Old West Park, Montgomery, Texas 77356
 Phone No. 15633700
 Office (409) 537-4140 www.gleasonsurveying.com

DOC# 42817096278
 Conduit 002 - Sheet 4813

STATE OF TEXAS
COUNTY OF MONTGOMERY

I, Philip LaFren, President of Lakes Investment, Inc., a Texas Corporation, acting individually or through the undersigned duly authorized agents, does hereby certify that this plat depicting the lands described property on Estates of Lake Creek Village, and does hereby make substitution of said property according to the face, streets, lots, parks and easements herein shown, and declares in public view that all of the lots shown on this plat are for the purposes and considerations herein expressed, and in the capacity therein and herein set out, and as the lot and deed self corporation, and in the capacity of any person of means or ways to conform to such process and does hereby bind Owner, and Owner's successors and assigns to warrant and forever defend the title to the land so dedicated.

Owner hereby certifies that Owner has or will comply with all applicable regulations of the City of Montgomery, Texas, and will file a single, independently attested instrument for the dedications, improvements, and easements required under such regulations and the proposed impact of the subdivision.

When streets or other easements are dedicated for public use, such dedications shall include an easement covering the street area which permits the installation, operation, and maintenance of water, sewer, gas, electric, telephone, cable television or other utility facilities by the City and other utilities lawfully exercising their respective franchises. The instrument shall also provide a right of access to public easements, easements, and easements, and shall include the following: fire protection, medical response, inspection and code enforcement.

There is hereby dedicated a 5' wide easement adjacent to all utility easements designated "U.E." and "A.L.C." shown herein from a plane 28 feet above the ground.

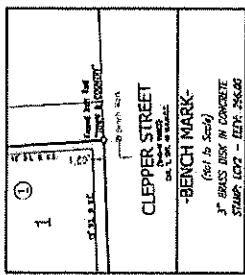
IN WITNESS WHEREOF, Philip LaFren, authorized agent of Lakes Investment, Inc. hereunto authorized and its common seal hereunto affixed this 18th day of October 2017.

By: Philip LaFren, President
Printed name: Philip LaFren
City Engineer - Montgomery, Texas

STATE OF TEXAS
COUNTY OF MONTGOMERY

BEFORE ME, the undersigned authority, on this day personally appeared Philip LaFren, President 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 considerations therein expressed, and in the capacity therein and herein set out, and as the lot and deed self corporation, and in the capacity of any person of means or ways to conform to such process and does hereby bind Owner, and Owner's successors and assigns to warrant and forever defend the title to the land so dedicated.

By: Susan Neuseley
Printed name: Susan Neuseley
City Engineer - Montgomery, Texas



STATE OF TEXAS
COUNTY OF MONTGOMERY

Mc American Bank, N.A., trustee) and holder of lien against the property described in this plat known as Lake Creek Village, and does hereby authorize by instrument of record in Clark's first book on 1/27/2017, to substitute the property described in this plat for the property described in said plat and deed, and as hereby confirmed that we are the present owner of said lot and have not assigned the same nor any part thereof.

By: Michael L. Schmidt, Senior Vice President
Printed name: Michael L. Schmidt
City Engineer - Montgomery, Texas

STATE OF TEXAS
COUNTY OF MONTGOMERY

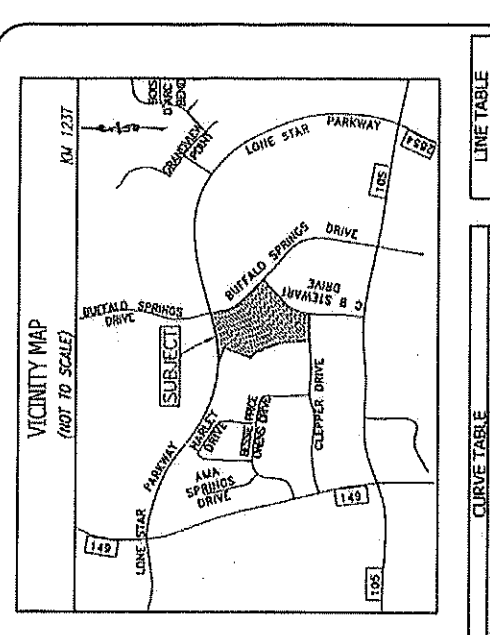
BEFORE ME, the undersigned authority, on this day personally appeared Michael L. Schmidt, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed, and in the capacity therein and herein set out, and as the lot and deed self corporation, and in the capacity of any person of means or ways to conform to such process and does hereby bind Owner, and Owner's successors and assigns to warrant and forever defend the title to the land so dedicated.

By: Michael L. Schmidt, Senior Vice President
Printed name: Michael L. Schmidt
City Engineer - Montgomery, Texas

STATE OF TEXAS
COUNTY OF MONTGOMERY

BEFORE ME, the undersigned authority, on this day personally appeared Philip LaFren, President 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 considerations therein expressed, and in the capacity therein and herein set out, and as the lot and deed self corporation, and in the capacity of any person of means or ways to conform to such process and does hereby bind Owner, and Owner's successors and assigns to warrant and forever defend the title to the land so dedicated.

By: Susan Neuseley
Printed name: Susan Neuseley
City Engineer - Montgomery, Texas



RESTRICTED RESERVINGS table with columns for RESERVE, DESCRIPTION, and AREA. Includes entries for Right-of-Way, Easement, and other restricted areas.

CURVE TABLE table with columns for CURVE NO., ARC, CHORD BEARING, CHORD DISTANCE, and AREA. Lists details for 14 different curves.

LINE TABLE table with columns for LOT NO., AREA, and BOUNDARY. Lists details for 14 lots.

AREA TABLE table with columns for LOT NO., AREA, and BOUNDARY. Lists details for 14 lots.

FINAL PLAT
ESTATES OF
LAKE CREEK VILLAGE
A RESIDENTIAL SUBDIVISION OF 30.6076 ACRES
IN THE JOHN CORNER SURVEY, A-3
MONTGOMERY COUNTY, TEXAS
22 LOTS, 1 BLOCK, 5 RESERVES

OWNER/DEVELOPER:
LEFCO INVESTMENTS, INC.
780 CLEPPER STREET, SUITE 100
MONTGOMERY, TEXAS 77102

ENGINEER:
GODDARD-CASTLES-STRONG
4077 CROSS PARK, SUITE 100
BRYAN, TEXAS 77802

SEPTEMBER 2017
SHEET 1 OF 2
Grazman
SUTWATER, INC.
138 Old River Road, Montgomery, Texas 77104
PHONE (409) 252-2242 FAX (409) 252-2243

Montgomery City Council
AGENDA REPORT

Meeting Date: February 11, 2020	Budgeted Amount: N/A
Department: Administrative	
Prepared By: Dave McCorquodale	Exhibits: Donation Deed, Release of Easement, survey of property, excerpt from August 27 & November 12, 2019 City Council meetings
Date Prepared: February 6, 2020	

Subject

Consideration and possible action regarding acceptance of a Donation Deed and Release of Easement from Troy and Lisa Walker for 0.405-acres of land that is currently the westernmost 440-feet of College Street in the City of Montgomery.

Description

This is the final step in the process of accepting the street and right-of-way of the western end of College Street in downtown Montgomery. As you may recall, Council discussed the matter and gave staff direction to proceed with the process at the August 27, 2019 meeting.

Additionally, a Donation Letter Agreement to accept the right-of-way was approved by City Council at the November 12, 2019 meeting.

For clarity, the Release of Easement is for an adjacent property that had an access easement on the Walker tract. This easement was necessary prior to the roadway being paved as it is today.

Recommendation

Accept the Donation Deed and Release of Easement as presented.

Approved By

Asst. City Administrator	Dave McCorquodale <i>DMC</i>	Date: 2/6/20
City Administrator	Richard Tramm <i>RT</i>	Date: 2/6/20

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

DONATION DEED

Date: 1-16, 20²⁰~~19~~

WHEREAS, the City of Montgomery, Texas, as a general law municipality, has been authorized under the Texas Transportation Code Chapter 311 to acquire and maintain street rights-of-way that its City Council has determined are necessary or convenient to the public to be constructed, reconstructed, maintained, widened, straightened, or extended, including the acquisition of land and such other property rights deemed necessary for the purposes of facilitating the construction, maintenance and operation of city streets; and

WHEREAS, the acquisition of the herein-described Property by the City of Montgomery, as the Grantee, has been deemed by the City Council to be necessary for the purposes of facilitating the maintenance and operation of the extension of College Street to serve the public and the properties along such street; and

WHEREAS, the Grantor herein is donating to the City of Montgomery, as Grantee, the herein-described Property for the purposes of facilitating the maintenance and operation of such Property as a city street to serve the public and the Grantor's remaining property;

Grantor: TROY K. WALKER AND WIFE LISA D. WALKER

Grantor's Mailing Address:

P.O. Box 1165
Montgomery, Texas 77356

Grantee: CITY OF MONTGOMERY, TEXAS, a Texas municipality

Grantee's Mailing Address:

P.O. Box 708
Montgomery, Texas 77356

Consideration: TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration.

Property (including any improvements):

Being a 0.405-acre tract or parcel of land in the Benjamin Rigby Survey, Abstract No. 31, Montgomery County, Texas, being a portion of the remainder of that certain 52.970-acre tract described in instrument to Troy K. Walker and Lisa D. Walker, recorded under Clerk's File Number 2014081595, of the Official Public Records of Montgomery County, Texas (O.P.R.M.C.T.), said 0.405 acres being more particularly described by metes and bounds in Exhibit "A" attached here.

SAVE AND EXCEPT, HOWEVER, it is expressly understood and agreed that Grantor is retaining driveway access to and from Grantor's remaining properties and the right of access over and across the Property to maintain the fence along the southern most boundary of the Property

Reservations from and Exceptions to Conveyance and Warranty:

All restrictions, conditions, exceptions, encumbrances, easements, reservations, covenants, agreements, or other matters of similar or dissimilar nature now of record in the Office of the County Clerk of Montgomery County, Texas, to the extent that same are valid and subsisting and affect the property hereby conveyed, including any and all utility lines, cables, pavement and drainage ways of any kind whether in valid easements or not.

GRANTEE HEREBY EXPRESSLY ACKNOWLEDGES THAT GRANTOR MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND OR TYPE WITH RESPECT TO THE CONDITION OF THE PROPERTY, INCLUDING WITHOUT LIMITATION, THE ENVIRONMENTAL CONDITION OF THE PROPERTY, THE ABSENCE OF HAZARDOUS SUBSTANCES OR, OTHER CONTAMINANTS, THE CONDITION OF ANY IMPROVEMENTS ON THE PROPERTY OR THE SUITABILITY OF THE PROPERTY OR ANY IMPROVEMENTS FOR ANY PARTICULAR PURPOSE INCLUDING BUT NOT LIMITED TO A ROAD RIGHT OF WAY. GRANTEE ACKNOWLEDGES AND AGREES THAT GRANTEE IS EXPERIENCED IN THE OWNERSHIP AND OPERATION OF RIGHT OF WAY PROPERTIES SIMILAR TO THE PROPERTY AND THAT PRIOR TO THE ACCEPTANCE OF THE DONATION DATE HAS BEEN AFFORDED AN ADEQUATE OPPORTUNITY AND HAS INSPECTED THE PROPERTY TO ITS SATISFACTION AND IS QUALIFIED TO MAKE SUCH INSPECTION AND GRANTEE ASSUMES FULL RESPONSIBILITY FOR INSPECTING THE PROPERTY, AND FOR ASCERTAINING WHETHER IT WISHES TO PROCEED WITH THE TRANSACTION HEREIN CONTEMPLATED. GRANTOR HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF ANY INFORMATION BEING PROVIDED TO GRANTEE PURSUANT TO THIS TRANSACTION AND MAKES NO REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION. GRANTOR IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY FURNISHED BY ANY REAL ESTATE BROKER, AGENT, EMPLOYEE, OR OTHER PERSON. GRANTEE AGREES THAT THE PROPERTY IS BEING BE DONATED TO AND ACCEPTED BY GRANTEE AT CLOSING, IN ITS THEN PRESENT CONDITION "AS IS, WHERE IS", WITH ALL FAULTS AND PRE-EXISTING CONDITIONS, IF ANY, WITHOUT ANY WARRANTY WHATSOEVER, EXPRESS OR IMPLIED OR ARISING BY

OPERATION OF LAW (OTHER THAN THE SPECIAL WARRANTY OF TITLE INCLUDED HEREIN. GRANTOR AND GRANTEE both agree that the "as is" provisions contained herein were negotiated between them as a material part of the bargain and was taken into account in establishing the Donation.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns, forever. Grantor binds Grantor and Grantor's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, by through or under Grantor but not otherwise.

When the context requires, singular nouns and pronouns include the plural.

GRANTOR:

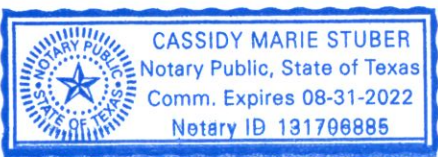
Troy K. Walker
Troy K. Walker

Lisa D. Walker
Lisa D. Walker

STATE OF TEXAS §
 §
COUNTY OF Montgomery §

This instrument was acknowledged before me on Jan 16^{CS 20}, 2019, by TROY K. WALKER who proved to me through his Driver's License 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.

Cassidy Marie Stuber
Notary Public, State of Texas

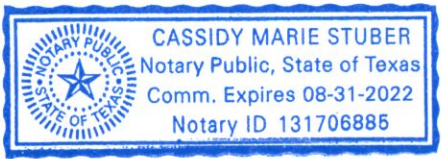


STATE OF TEXAS

§
§
§

COUNTY OF Montgomery

This instrument was acknowledged before me on Jan 16, 2019^{CS}₂₀, by LISA D. WALKER who proved to me through her Driver's License to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed.



Cassidy Marie Stuber
Notary Public, State of Texas

APPROVED:

CITY OF MONTGOMERY, TEXAS

By: Sara Countryman, Mayor

ATTEST:

Susan Hensley, City Secretary

State of Texas §
County of Montgomery §

This instrument was acknowledged before me on _____, 2019 by SARA COUNTRYMAN, known to me to be the person whose name is subscribed on the foregoing General Warranty Deed. SARA COUNTRYMAN acknowledged to me that he executed and is duly authorized to execute the foregoing instrument on behalf of the CITY OF MONTGOMERY, TEXAS, for the purposes and consideration expressed in the foregoing instrument.

Notary Public, State of Texas

After Recording Return To:

City of Montgomery
Attn: Susan Hensley
P.O. Box 708
Montgomery, Texas 77356



TEXAS PROFESSIONAL SURVEYING, LLC.

3032 N. FRAZIER STREET, CONROE, TEXAS 77303
(936)756-7447 FAX (936)756-7448
FIRM REGISTRATION No. 100834-00

**FIELD NOTE DESCRIPTION
0.405 ACRES
IN THE BENJAMIN RIGBY SURVEY, ABSTRACT NO. 31
MONTGOMERY COUNTY, TEXAS**

BEING a 0.405 acre tract of land situated in the Benjamin Rigby Survey, Abstract No. 31, Montgomery County, Texas, being a portion of the remainder of that certain called 52.970 acre tract described in instrument to Troy K. Walker and Lisa D. Walker, recorded under Clerk's File Number 2014081595 of the Official Public Records of Montgomery County, Texas (O.P.R.M.C.T.), said 0.405 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a ½ inch iron rod found in the northerly margin of College Street, for a common corner of said remainder tract, that certain called 10.501 acre tract described in instrument to Troy K. Walker and Lisa D. Walker, recorded under Clerk's File Number 2015068705, O.P.R.M.C.T., that certain tract described in instrument to Shirley P. Martin, recorded under Clerk's File Number 9729611 of the Real Property Records of Montgomery County, Texas (R.P.R.M.C.T.), being further described under Clerk's File Number 8408791, R.P.R.M.C.T., being the northeasterly corner of the herein described 0.405 acre tract, from which a 5/8 inch iron rod with cap stamped "XTSM" found for reference bears South 14°47'36" West, 3.17 feet;

THENCE South 01°27'46" West, 40.01 feet, to a ½ inch iron rod with cap stamped "TPS 100834-00" set in the southerly margin of said College Street, for the southeasterly corner of the herein described 0.405 acre tract, from which a ½ inch iron rod found for the southeasterly corner of said remainder tract bears South 01°27'46" West, 4.57 feet;

THENCE North 90°00'00" West, 440.36 feet, severing said remainder tract, to a ½ inch iron rod with cap stamped "TPS 100834-00" set for the southwesterly corner of the herein described 0.405 acre tract;

THENCE North 00°07'42" West, 40.00 feet, continuing across said remainder tract, to a ½ inch iron rod found for the common southerly corner of said remainder tract and that certain called 3.601 acre tract described in instrument to Justin K. Sheffield and Leslie C. Sheffield, recorded under Clerk's File Number 2018011695, O.P.R.M.C.T., being the northwesterly corner of the herein described 0.405 acre tract, from which a ½ inch iron rod with cap stamped "SAVOY" found for reference bears North 17°11'08" West, 275.01 feet;

THENCE North 90°00'00" East, with the common line between said remainder tract and said 3.601 acre tract, at a distance of 80.00 feet, pass a ½ inch iron rod with cap stamped "TPS 100834-00" found for the common southerly corner of said 3.601 acre tract and said 10.501 acre tract, thence continuing with the common line between said remainder tract and said 10.501 acre tract, to the **PLACE OF BEGINNING**;

CONTAINING a computed area of 0.405 acres of land within this Field Note Description.

This Field Note Description was prepared from a survey performed on the ground on March 21, 2019 by Texas Professional Surveying, LLC., Registered Professional Land Surveyors and is referenced to Survey Drawing Project Number R137-01.

Bearings recited hereon are based on the monumented northerly line of said 10.501 acre tract.

March 25, 2019
Date



A handwritten signature in blue ink, appearing to be "C.A. Johnson", written over a horizontal line.

Carey A. Johnson
R.P.L.S. No. 6524

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RELEASE OF EASEMENT AGREEMENT

WHEREAS, on December 9, 2011, S. Clay Robinson and Roger W. Gridley (as "Grantor"), by Easement Agreement contained in Warranty Deed with Vendors Lien, recorded under Document No. 2011-111060, in the official public records of real property of, Montgomery County, Texas (the "Agreement"), to which record reference is here made, did grant, bargain, sell and convey unto Stephen O. Hancock and Lauren Hancock ("Grantee") an Ingress/Egress easement on, over, under, upon and across that certain land more specifically described as follows:

That property that is sixty (60) feet wide in the BENJAMIN RIGSBY SURVEY, abstract No. 31, Montgomery County, Texas, located adjacent and to the south of, running parallel to, and equal in length to the southernmost property line of that certain 13.331 acre tract of land conveyed by Warranty Deed with Vendors Lien, recorded under Document 2011-111060 referenced above and encompassing all of the paved portion of College street, including a 15 foot strip of property on the 13.331 acre property described in said deed.

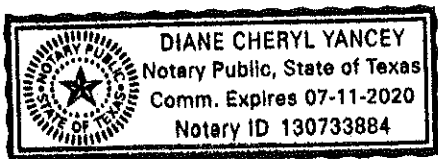
and as set out in Exhibit "D" attached to the Deed (the "Easement"); and

WHEREAS, the 13.331 acre tract has been transferred by deeds recorded under clerks file no. 2018011695 and being a 3.601 acre tract conveyed to Justin K. Sheffield and Leslie C. Sheffield and file no. 2015068705 and being a 10.501 acre tract conveyed to Troy K. and Lisa D. Walker,

WHEREAS, by virtue of the 3.601 acre deed referenced above Justin K. Sheffield and Leslie C. Sheffield are the current holders and beneficiaries of the Easement ("Easement Holder") and hereby state and agree that with the donation of the college street right of way from Troy K. and Lisa D. Walker to the City of Montgomery of even date hereof the purpose of the Easement has been satisfied, and the use of the Easement by the Easement Holder is no longer necessary, and Easement Holder desire that the Easement shall be released,

NOW, THEREFORE, for good and valuable consideration, the receipt of which is acknowledged by the Easement Holder, said Easement Holder does hereby release the Easement and all rights, titles, benefits, obligations and liabilities with respect thereto, so that after the date hereof it shall be deemed for all purposes that the Easement, and all references thereto in the Agreement have been released and are no longer effective.

EXECUTED by Grantor on this the 18th day of January, ~~2019~~ 2020 D.Y



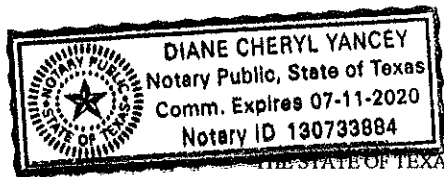
J. K. Sheffield
Justin K. Sheffield
Leslie C. Sheffield
Leslie C. Sheffield

ACKNOWLEDGMENT

THE STATE OF TEXAS §
COUNTY OF Montgomery

BEFORE ME, the undersigned, a notary public in and for said County and State, on this day personally appeared Justin K. Sheffield, known to me to be the person whose name is subscribed to the Release of Easement Agreement, and acknowledged to me that she executed the same, for the purposes and consideration therein expressed.

GIVEN under my hand and seal of office this 18th day of January, ~~2019~~ 2020 OX



Diane Cheryl Yancey
Notary Public in and for the State of Texas

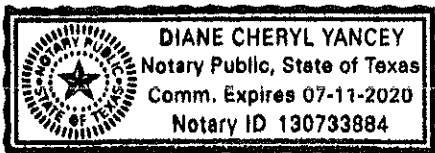
ACKNOWLEDGMENT

THE STATE OF TEXAS §
COUNTY OF Montgomery

BEFORE ME, the undersigned, a notary public in and for said County and State, on this day personally appeared Leslie C. Sheffield, known to me to be the person whose name is subscribed to the Release of Easement Agreement, and acknowledged to me that she executed the same, for the purposes and consideration therein expressed.

GIVEN under my hand and seal of office this 18th day of January, ~~2019~~ 2020 OX

Diane Cheryl Yancey
Notary Public in and for the State of Texas



the architect, they must advise them what their budget is before you start telling them where the bushes are going to be, and the lumber is going to be. Rebecca Huss said they must have a Pinterest Board first. Jon Bickford said that is where his head is at and he is more than struggling with it.

The Mayor called for the vote, as follows:

Rebecca Huss – Voted Aye

Jon Bickford – Voted Nay

T.J. Wilkerson – Voted Aye

John Champagne – Voted Nay

Mayor Countryman broke the tie vote and Voted Aye. The motion carried with a 3-2 vote.

Mr. Tramm advised that Mr. Jacobs, regarding Item 7 will be unavailable for the meeting on September 10, 2019 and asked to reschedule the Public Hearing to be held on either September 3, 2019 or September 24, 2019. Jon Bickford said September 3, 2019 would be too soon. Rebecca Huss asked the City Attorney if it was okay to make a motion to reschedule the meeting. Mr. Foerster said he did not have a problem revising the motion under Agenda Item 7 and given the information received from the City Administrator, you are going to change that meeting from September 10, 2019 to September 24, 2019.

Rebecca Huss stated that upon the information on Item 7 she moved to reschedule the Public Hearing regarding the Special Use Permit for the property at 1062 Clepper to be held on September 24, 2019, at 6:00 p.m. at City Hall, 101 Old Plantersville Road, Montgomery. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

10. Consideration and possible action regarding donation of Right-of-Way on College Street as submitted by owner Troy and Lisa Walker.

Mr. Tramm presented the information to City Council, stating that this deals with a portion of College Street that is paved and most of the staff thought this was a City road and has been maintained as a City Road. Mr. Tramm said it is paved and the City has done crack sealing on it, so they are looking to turn it over to the City.

Jon Bickford asked where the City would stop the road. Mr. Tramm said they would stop where the road turns into dirt. Jon Bickford asked to confirm that they are not going to have

to add pavement. Mr. Tramm said no, they are talking about taking on the portion that they are already maintaining. Mr. Tramm said he wanted to make sure that he had the support of City Council to move forward on this project.

City Council concurred they were in favor of moving forward with this item.

11. Consideration and possible action regarding acquiring Huffman Street as a City Street as requested by owner Charlie Stowe.

Mr. Tramm said this was similar to the other item, other than the City has not done any work on this location and this is a longer stretch of road, going about a half-mile, which is not paved. Mr. Tramm said his reservation is if the City takes this road on, the City is going to be putting a lot of money into it with the paving. Rebecca Huss said there might be 14 inches of a base on the road, but it is not wide enough to have two cars pass comfortably without someone being half in the ditch, and it is even worse than Worsham Street. Mr. Tramm said the owner approached the City about the road and the difference with this is the City has not done any maintenance on this road. Mr. Tramm said his recommendation and thought is if they want the City to take over the road, they need to bring the road up to City standards first. Jon Bickford asked if there was some economic benefit to the City taking over this road. Mr. Tramm said he really did not see that benefit; he believes they use this as a back route to the Cowboy Church and he knows that in the past there have been some developers looking into the area. John Champagne said they can let them pave it then the City will take it. Rebecca Huss said that is the way it is with any developer who is doing something for their own benefit. Jon Bickford said he did not see what is in this for the citizens or the City.

Council concurred that they did not want to proceed with this project.

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

Hearing preferably on December 10, 2019, so they can hear the report from the Planning and Zoning Commission and City Council can move forward.

Jon Bickford moved to call the Public Hearing to be held on December 10, 2019, at 6:00 p.m. to be held at City Hall regarding a Special Use Permit for a short-term cottage rental project located at 1062 Clepper Street, as submitted by owners Larry and Beverley Jacobs. Tom Cronin seconded the motion, the motion carried unanimously. (5-0)

11. Consideration and possible action regarding acceptance of College Street Right-of-Way donation letter agreement as submitted by Troy K. and Lisa D. Walker.

Mr. Tramm said this is a portion of College Street that the City thought was a City street, but it was a portion of someone's private property. Mr. Tramm said the City was already prepared to maintain the property and the owner would like to get the property out of his name because the property is a street and donate the property to the City. Mr. Tramm said the owner does want to place a couple of conditions on the property, such as access to his fence from the right-of-way and the City would place culverts at entrances and will not require a permit, and all existing driveways and entrances be grandfathered and allowed to remain as they are. Mr. Tramm said he went to the location and said he did not see any reason why any of those would have to be adjusted in his opinion.

Jon Bickford moved to accept the College Street Right-of-Way Donation Letter Agreement as submitted by Troy K. and Lisa D. Walker, based on Mr. Tramm's information. Tom Cronin seconded the motion, the motion carried unanimously. (5-0)

12. Consideration and possible action regarding solicitation of bids for the City Mowing Contract.

Mr. Muckleroy advised it has been three years since they went out for bid on the Mowing Contract on December 1, 2019. Mr. Muckleroy said they have a couple of areas that have been added over the years including Lone Star Bend and the Hills of Town Creek area. Mr. Muckleroy said he would like to clean all the information up and get a new bid on everything, and he would also like to split the bids and separate out the amenities they call grounds maintenance items, such as the parks, City Hall and the Community Center. Mr. Muckleroy

Montgomery City Council
AGENDA REPORT

Meeting Date: February 11, 2020	Budgeted Amount: \$175,000 (Roadway Projects – Capital Projects Fund)
Department: Public Works	
Prepared By: Mike Muckleroy	Exhibits: Request letter sent to, and estimate provided by Pct. 1 Commissioner Mike Meador
Date Prepared: February 5, 2020	

Subject

To consider the approval of sending a response letter to County Commissioner Mike Meador concerning street paving in the estimated amount of \$51,515.00.


Recommendation

Send response letter approving all roads quoted except McCown Street and John Butler Street at the estimated cost of \$51,515.00

Discussion

On January 23, 2020, a letter was drafted and sent to County Commissioner Mike Meador’s office asking for assistance with street paving under our interlocal agreement. Commissioner Meador sent a representative to meet with us and evaluate our request. The streets we requested received the same condition evaluation from the Pct. 1 representative that we had assigned to them. They have agreed to complete the street paving provided in the estimate letter. We are electing to remove McCown and John Butler Streets to include them in the downtown revitalization project in the near future. They have verbally committed to try and fit Caroline and College streets into this budget year at a later date and will advise us on those streets later this year. The amount of this request falls within the amount budgeted for City roads this fiscal year.

Approved By

Director of Public Works	Mike Muckleroy	Date: 02/05/2020
City Administrator	Richard Tramm 	Date: 02/05/2020



Public Works Department
101 Old Plantersville Rd.
Montgomery, TX 77316

Main: 936-597-6434 Fax: 936-597-6437

To: Mike Meador – Precinct 1 Commissioner
From: Mike Muckleroy – Director of Public Works
Date: January 16, 2020
Re: Street paving through interlocal agreement

Commissioner Meador,

We would like to formally ask for your assistance on several streets through our interlocal agreement. Our street maintenance budget has increased dramatically this year and we would like to utilize the funds to make improvements to several streets that are in desperate need of what is probably a full mill and overlay. I would be happy to meet with a representative from your office to evaluate our needs and receive an opinion on the course of action needed. I am listing the streets that are in need of repairs below. They are, in my opinion, listed in the order of importance. Thank you for your consideration on this matter and I look forward to hearing from you.

McCown St. between Caroline and College
John Butler St.
Baja St.
Worsham St. between Rankin and LA Washington St. (formerly Wade St.)
Old Plantersville Rd. between Rankin and LA Washington St.
Westway (This street lies mostly outside the City limits)
McGinnis Ln.
Caroline St. between FM 149 and Shepard St.
College St. west of FM 149 to the dead end

Sincerely,

Mike Muckleroy



**MIKE MEADOR
COMMISSIONER PRECINCT 1**

**510 Hwy. 75 N.
WILLIS, TEXAS 77378**

RECEIVED BY:

JAN 29 2020

**HAILEY CIULLA
City of Montgomery**

Conroe: (936) 539-7815

Metro: (936) 442-7716

commissioner.pct1@mctx.org

Address:
P.O. Box 587
Willis, Texas 77378

January 23, 2020

Mike Muckleroy
Public Works Department
101 Old Plantersville Road
Montgomery, Texas 77316

Mr. Muckleroy,

In response to your request for street repair in the City of Montgomery listed below are streets we can bundle and complete probably in a weeks' time and the cost that the City of Montgomery would be responsible for:

Baja Street	\$11,310.00
Wosham Street	\$7,800.00
Old Plantersville Road	\$13,910.00
West Way Street	\$9,620.00
McGinnis Lane	\$4,875.00
McCowen Street	\$12,545.00
John Butler Street	\$4,225.00
	<hr/>
	\$68,285.00

Please let me know if the City decides to proceed. Contact my office after Council approves.

Thanks for your consideration,

A handwritten signature in black ink that reads "Mike Meador".

Mike Meador
Commissioner Pct. 1
Montgomery County

Montgomery City Council
AGENDA REPORT

Meeting Date: February 11, 2020	Budgeted Amount: N/A
Department: Administrative	
Prepared By: Richard Tramm	Exhibits: Staff recommendations on key points.
Date Prepared: February 5, 2020	

Subject
Discussion of future ordinance to create a City Parks Advisory Board.

Description
City staff is looking to move forward on a final plan to create the City Parks Advisory Board that would offer recommendations and work with the City Parks Director/Public Works Director on an as-needed basis. We wanted to get input from City Council on several items to be included in the ordinance before having the final written ordinance prepared and brought to a future meeting for approval.

Recommendation
Review the attached information and discuss during the City Council Meeting to give additional direction to City Administrator for preparation of a possible ordinance.

Approved By		
City Administrator	Richard Tramm <i>RT</i>	Date: 02/05/2020

City of Montgomery Parks Advisory Board Discussion Points

1. Are members to be appointed by City Council or City Administrator? If by City Council, should it be in a process similar to Planning & Zoning and MEDC appointments? If this is done by City Council then there would be a need for formal agenda and minutes for the Board. If this is appointed by the City Administrator, it would be a less formal advisory group, such as how the TORC committee works with City staff.
2. What should the terms be for Parks Advisory Board Members? Staff suggests 2 years terms for these positions with reappointment possible after term expires.
3. How should the schedule be set for meeting dates? Staff recommends setting a meeting at least once per quarter, or more often when needed as determined by the City Parks Director (currently a duty of the Public Works Director) or City Administrator.
4. How should the Parks Advisory Board membership be designed? Staff recommends the Parks Advisory Board membership be comprised of 5 total members, with 1 member generally representing each City Park and 1 representing City Parks overall and at least 3 of the 5 positions must be filled with a City resident. Staff also recommends that parks Advisory Board members not be a current City employee or filling another position that was appointed by City Council. Reporting to City Council would be through the reports of the Public Works Director or City Administrator.

Montgomery City Council
AGENDA REPORT

Meeting Date: February 11, 2020	Budgeted Amount: N/A
Department: Administrative	
Prepared By: Richard Tramm	Exhibits: None
Date Prepared: February 5, 2020	

Subject

Discuss, consider and take action to set date and time to interview and consider action on candidates for City Attorney.

Description

The City received six submissions for the City Attorney RFQ. Staff is in the process of conducting a review of these submissions.

Recommendation

Please consider setting a date and time to conduct interviews for City Attorney and to also provide any other necessary direction to City Administrator related to this item. This could be done in a Special Meeting setting or as part of an upcoming Regular Meeting.

Approved By

City Administrator	Richard Tramm <i>RT</i>	Date: 02/05/2020

Montgomery City Council
AGENDA REPORT

Meeting Date: February 11, 2020	Budgeted Amount: N/A
Department: Administrative	
Prepared By: Dave McCorquodale	Exhibits: Rezoning Application, owner request letter, map of current zoning surrounding property
Date Prepared: February 5, 2020	

Subject

Consideration and possible action regarding calling a Public Hearing for a rezoning request from R1—Single-Family Residential to B—Commercial for Lot 16, Area D, Montgomery Townsite Section Four, a vacant lot behind 21123 Eva Street, as submitted by Cheatham Management.

Description



The request is for the vacant lot with Pond Street frontage behind the Heritage Place building nearest to the Valero fueling station. The property currently lies equally in two zoning districts: B—Commercial on the eastern half and R1—Single-Family Residential on the western half. The owner has applied to rezone the entire property to B—Commercial and construct an additional surface parking lot to serve the Heritage Place development.

The Planning & Zoning Commission reviewed this item at their last meeting and has called two public hearings—February 24th & March 3rd. The Commission will prepare and submit a Final Report of Findings and Recommendation for the request at the March 10th City Council meeting.

Recommendation

Staff recommends calling a Public Hearing for Tuesday March 10th at 6:00 p.m. at City Hall to receive comments on the request. This date will allow for publication and notification deadlines to be met.

Approved By

Asst. City Administrator	Dave McCorquodale 	Date: 2/5/20
City Administrator	Richard Tramm 	Date: 2/5/20



Rezoning Application

City of Montgomery
101 Old Plantersville Road
Montgomery, Texas 77316
(936) 597-6434

Upon completion return application to shensley@ci.montgomery.tx.us

Contact Information

Property Owner(s): Chris Cheatham, Cheatham Management

Address: PO Box 234 Montgomery, TX

Zip Code: 77356

Phone: 936-449-5400

Email Address: ccheatham@consolidated.net

Applicants: Jonathan White, L Squared Engineering

Address: 21123 Eva Street, Suite 200 Montgomery, TX

Zip Code: 77356

Phone: 936-647-0420

Email Address: Jwhite@L2engineering.com

Parcel Information

Property Identification Number (MCAD R#): R124021

Legal Description: Lot 16 Area D, Montgomery Townsite Section 4

Street Address or Location: Vacant lot adjacent to 21123 Eva Street

Acreage: 0.576

Present Zoning: Residential

Present Land Use: Vacant

Proposed Zoning: Commercial

Proposed Land Use: Additional parking for 21123 Eva Street

Is the proposed use in compliance with the Future Land Use Plan?

YES NO

Additional Information

Owner(s) of record for the above described parcel:

Signature: *Chris Cheatham*

Date: 1/13/20

Signature: _____

Date: _____

Signature: _____

Date: _____

Note: Signatures are required for all owners of record for the property proposed for Special Use Permit. Attach additional signatures on a separate sheet of paper.

Date Received

Office Use

1/10/20



L SQUARED ENGINEERING
MUNICIPAL COMMERCIAL RESIDENTIAL

21123 Eva. St #200
Montgomery, Texas 77356
P: 936-647-0420 F: 936-647-2366
www.L2Engineering.com

January 7, 2020

City of Montgomery
Dave McCorquodale
101 Old Plantersville Road
Montgomery, TX 77386

RE: Re-Zoning of approximate 0.571 acres of land along Pond Street

Mr. McCorquodale,

The purpose of this letter is to formally request the re-zoning of the attached property being proposed to be developed as a commercial parking lot to service the existing Heritage Place Medical Plaza located at 21123 Eva Street. The subject tract is current zoned commercial and residential; however, we proposed the property be rezoned entirely as commercial.

If you have any questions or concerns, please feel free to contact me at (936) 647-0420 or Jwhite@L2engineering.com

Thank you,

Jonathan White, PE
Senior Project Manager

Enclosure: Site Plan





VICINITY MAP
1 INCH = 5 MILES

LEGEND

Tract Boundary

MCAD Parcels

Zoning Classification

Commercial (B)

Industrial (D)

Institutional (I)

Multi-Family R2)

Planned Development (PD)

Residential (R1)

**HERITAGE PLACE
PARKING**

CITY OF MONTGOMERY
MONTGOMERY COUNTY, TEXAS



Disclaimer: This product is offered for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property, governmental and/or political boundaries or related facilities to said boundary. No express warranties are made by Jones & Carter, Inc. concerning the accuracy, completeness, reliability, or usability of the information included within this exhibit.



JONES | CARTER
Texas Board of Professional Engineers Declaration No. E-090



Montgomery City Council
AGENDA REPORT

Meeting Date: February 11, 2020	Budgeted Amount: N/A
Department: Administrative	
Prepared By: Richard Tramm	Exhibits: Resignation Letter of Jon Bickford, Montgomery City Council Position 1
Date Prepared: February 5, 2020	

Subject

Consider acceptance resignation of Jon Bickford from Montgomery City Council Place 1.


Description

The City received the attached resignation letter from Jon Bickford on February 5, 2020. The resignation letter has an effective date of February 12, 2020.

Recommendation

Please review and consider acceptance of Council Bickford's resignation from the City of Montgomery City Council Place 1.

Approved By

City Administrator	Richard Tramm 	Date: 02/05/2020

Jon Bickford
Montgomery City Council, Position 1
167 Harley Dr.
Montgomery, TX. 77356

Susan Hensley
City Secretary & Director of
Administrative Services,
City of Montgomery, TX

Susan,

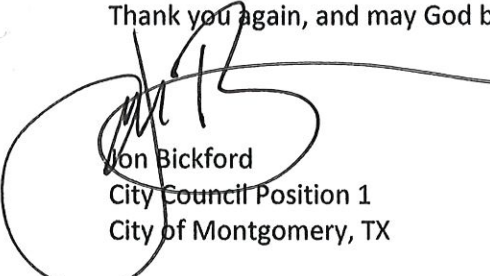
Please accept this email as my notice of resignation from the City of Montgomery City Council, Position 1, effective Wednesday, February 12th, 2020.

To even begin to try to sum up the challenges, joys, accomplishments and experiences I've had over the last 7 or 8 years on City Council would be impossible. It has been an amazing experience for me, one that I will certainly never forget.

I leave the role and City in what I believe is nothing less than amazing condition. The city leadership team (Richard, Susan & Chief Solomon) are doing an exceptional job keeping the business of the city on track, our commitment to manage funding and expenses has been (and looking out for the foreseeable future is) exemplary, and the group's commitment to managing the amazing growth we've seen in a way that (to every extent possible) maintains the look and feel of the "Montgomery of old" means the world to the citizens of the city.

Dana and I finished building our home on our property outside of Huntsville and will be moving there over the next weeks, at which time we'll be selling the casa in Buffalo Springs and starting a new chapter in our lives. We can't thank you all enough for all you've done for us as citizens, for the friendships we've created (and I expect WILL continue), and most importantly, for the memories we'll always have from living in this amazing city.

Thank you again, and may God bless you all -



Jon Bickford
City Council Position 1
City of Montgomery, TX

Cc: Richard Tramm

Received on 2/5/20 at 10:40 A.M.
Susan Hensley

Montgomery City Council
AGENDA REPORT

Meeting Date: February 11, 2020	Budgeted Amount: N/A
Department: Administrative	
Prepared By: Richard Tramm	Exhibits: Special Election Ordinance
Date Prepared: February 6, 2020	

Subject

Consideration and possible action regarding adoption of the following Ordinance:

AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS, PROVIDING FOR THE HOLDING OF A SPECIAL ELECTION TO BE HELD ON MAY 2, 2020, FOR THE PURPOSE OF ELECTING ONE (1) CITY COUNCIL MEMBER, PLACE 1, FOR THE UNEXPIRED TERM.


Description

Passage of this ordinance will allow for a Special Election to be held on May 2, 2020 to fill the vacancy on Montgomery City Council Place 1.

Recommendation

Please review and consider approval of this item.

Approved By

City Administrator	Richard Tramm 	Date: 02/06/2020

ORDINANCE NO. 2020-02

AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS, PROVIDING FOR THE HOLDING OF A SPECIAL ELECTION TO BE HELD ON MAY 2, 2020, FOR THE PURPOSE OF ELECTING A CITY COUNCIL MEMBER TO FILL THE VACANCY FOR THE UNEXPIRED TERM FOR CITY COUNCIL MEMBER PLACE 1; APPROVING ELECTION SERVICE AGREEMENTS WITH MONTGOMERY COUNTY, TEXAS; AND PROVIDING DETAILS RELATING TO THE HOLDING OF SUCH SPECIAL ELECTION.

WHEREAS, the City Council passed Ordinance No. 2020-01 in January 2020, by which it called an election for the mayor and two City Council positions, Places 2 and 4; and

WHEREAS, the City Council has subsequently received and accepted the resignation of City Council member Jon Bickford, Place 1; and

WHEREAS, there is now a vacancy for the unexpired term of approximately twelve (12) months for City Council Member, Place 1 which by the Texas Election Code should be filled by a special called election; and

WHEREAS, the City Council for the City of Montgomery desires to call a Special Election on May 2, 2020 for the unexpired term of City Council member, Place 1, in accordance with the election laws of the State of Texas; and

WHEREAS, the City Council desires to engage the services of the County Election Officer of Montgomery County to conduct the special called election pursuant to a *Joint Elections Agreement* and an *Election Services Agreement* with Montgomery County, Texas; and

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

Section 1. In accordance with the Texas Constitution and general laws of the State of Texas, a Special City Election is hereby called and ordered for the first Saturday in May, 2020, that being May 2, 2020, at which Special Election all qualified voters of the City may vote for the purpose of electing a City Council Member, Place 1, for the unexpired term of approximately twelve (12) months.

Section 2. The City Council hereby approves the *Joint Elections Agreement* and *Election Services Agreement* with Montgomery County, Texas, which authorizes the County Election Officer to conduct the General and Special City Election on May 2, 2020 and early voting.

Section 3. No person's name shall be placed upon the official ballot for the Special Election as a candidate for the position of City Council Member, Place 1 unless such person has

filed his or her sworn application, as provided by Section 141.031, Section 143.004, and Section 143.007 of the Texas Election Code, with the City Secretary at the City Hall, located at 101 Old Plantersville Road, Montgomery, Texas, 77316, adjusted for weekends and holidays no later than five o'clock (5:00) p.m. on March 3, 2020. The City Secretary shall note on the face of each such application, the date and time of its filing. A declaration of write-in candidacy must be filed with the City Secretary, as provided by Section 146.054 of the Texas Election Code. The last day for a write-in candidate to declare candidacy with the City Secretary is March 3, 2020 by five o'clock (5:00) p.m. In addition, the last day for a candidate to withdraw must be received by the City Secretary by March 6, 2020, by five o'clock (5:00) p.m., *unless the candidate submits the withdrawal before the ballots are prepared and if the public notice of the logic and accuracy test has not been published. (HB4129)*

Section 4. The polls shall be open for voting from seven o'clock (7:00) a.m. until seven o'clock (7:00) p.m. at the following polling places, to be conducted by the officers appointed by the Contracting Officer as provided in the *Election Services Agreement* between the City of Montgomery, Texas and the County Election Officer of Montgomery, Texas, as follows:

For persons located in Voting Precinct 9:

Polling Place: Dobbin-Dacus Community Center

Address: 695 South FM 1486, Montgomery, TX 77316

For persons located in Voting Precinct 19:

Polling Place: Montgomery City Hall

Address: 101 Old Plantersville Road, Montgomery, TX 77316

For persons located in Voting Precinct 38:

Polling Place: West Montgomery County Annex

Address: 19380 Highway 105 W., Suite 507, Montgomery, TX 77356

For persons located in Voting Precinct 39:

Polling Place: Lake Creek High School

Address: 20639 FM 2854, Montgomery, TX 77316

Said election officers shall also serve as the early voting ballot board for such election; the Presiding Judge of such election shall also serve as the presiding officer of the early voting ballot board.

The County Election Officer for Montgomery County is authorized to change the above polling locations should there be a need to consolidate them for both early voting and for Election Day.

Section 5. In accordance with the Texas Election Code and the *Election Services Agreement*, the Contracting Officer shall serve as the regular early voting clerk to receive ballot applications by mail for both the General Election and the Special Election. All ballots by mail applications received by the City Secretary must be hand delivered or faxed to the Contracting Officer as provided in the *Election Services Agreement* on the day of receipt and the original application mailed or delivered to the Contracting Officer. Further those persons voting early can vote in any of the designated early voting locations and at the times set out in Exhibit "A" as made a part hereof for all purposes. The early voting locations will be open from Monday, April 20, 2020 through Saturday, April 25, 2020, Monday through Saturday, 8:00 a.m. to 5:00 p.m., and Monday, April 27, 2020 and Tuesday, April 28, 2020, 7:00 a.m. to 7:00 p.m. Ballots voted by mail shall be sent to:

Suzie Harvey
Elections Administrator
P.O. Box 2646
Conroe, Texas 77305-2646

***Email: election.ballot@mctx.org**

***Fax: (936) 788-8340**

***If an application for Ballot By Mail is submitted by email or fax or if a Federal Post Card Application is submitted by fax, to be effective, the application must also be submitted by mail and received not later than the fourth business day after it is received by email or fax.**

Section 6. Voting shall be conducted by the Contracting Officer for both the General Election and the Special Election utilizing the voting machines and equipment supplied by the

Contracting Officer. All expenditures necessary for conducting the election, the purchase of materials, and the employment of all election officials is hereby authorized in accordance with the Texas Election Code and in accordance with the provisions of the *Election Services Agreement* and the *Joint Services Agreement*.

Section 7. The City Secretary is hereby authorized and directed (i) to furnish all necessary election supplies to conduct such elections, (ii) to post notice of the elections, and (iii) to publish notice of the elections, as provided by Chapter 4 and Chapter 51 of the Texas Election Code except as may be provided in the *Election Services Agreement* referred to above.

Section 8: The order in which the names of the candidates are to be printed on the ballot shall be determined by a drawing by the City Secretary, as provided by Section 52.094 of the Texas Election Code. The City Secretary shall post a notice at City Hall at least seventy-two (72) hours prior to the date on which the drawing is to be held with the time and place of the drawing, and shall also give personal notice to any candidate who makes written request for such notice and furnishes the City Secretary a self-addressed, stamped envelope. Each candidate involved in the drawing or representative designated by him/her, shall have a right to be present and observe the drawing.

Section 9. The candidates for the City Council Member, Place 1, receiving the highest number of votes in the position to be filled for the unexpired term shall be declared elected to such positions.

Section 10. Notice of this election shall be given in accordance with the provisions of the Texas Election Code and returns of such notice shall be made as provided for in said Code. The Mayor shall issue all necessary orders and writs for such election; and returns of such election shall be made to the City Secretary immediately after the closing of the polls.

Section 11. Said Special Election shall be held in accordance with the Texas Election Code, as amended, except as modified by the Federal Voting Rights Act of 1965, as amended.

Section 12. The Council finds that notice of the date, place, and subject of this meeting was posted in accordance with the terms and provisions of the Texas Open Meetings Act at least 72 hours proceeding the scheduled time of this meeting.

Section 13. This Ordinance is effective immediately upon its passage.

PASSED AND APPROVED THIS 11th DAY OF FEBRUARY 2020.

Mayor Sara Countryman

ATTEST:

Susan Hensley, City Secretary

APPROVED AS TO FORM:

/s/Larry Foerster, City Attorney