

**NOTICE OF REGULAR TELEPHONE/VIDEO**

**CONFERENCE MEETING**

**August 11, 2020**

**MONTGOMERY CITY COUNCIL**

**STATE OF TEXAS**

**AGENDA**

**COUNTY OF MONTGOMERY**

**CITY OF MONTGOMERY**

**NOTICE TO THE PUBLIC IS HEREBY GIVEN** in accordance with the order of the Office of the Governor issued March 16, 2020, the Montgomery City Council will conduct its Regular Meeting scheduled for **6:00 p.m. on Tuesday, August 11, 2020**, at City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas via Zoom Teleconferencing.

This meeting will be closed to in person attendance by the public. A temporary suspension of the Open Meetings Act to allow telephone or videoconference public meetings has been granted by Governor Greg Abbott. These actions are being taken to mitigate the spread of COVID-19 by avoiding meetings that bring people into a group setting and in accordance with Section 418.016 of the Texas Government Code. Telephonic and videoconferencing capabilities will be utilized to allow individuals to address the City Council. ***Members of the public who wish to submit their written comments on a listed agenda item must submit their comments by email to [shensley@ci.montgomery.tx.us](mailto:shensley@ci.montgomery.tx.us) by 3:00 p.m. on August 11, 2020.***

Members of the public are entitled to participate remotely via Zoom Teleconferencing. Citizens may join the Zoom Meeting by logging on at <https://us02web.zoom.us/j/86553898929> and using **Meeting ID: 865 5389 8929**. They may also join by calling (346) 248-7799 and entering the **Meeting ID: 865 5389 8929**. The Meeting Agenda Pack will be posted online at [www.montgomerytexas.gov](http://www.montgomerytexas.gov). The meeting will be recorded, and the video uploaded to the City's website.

***Notice - any person(s) using profane, abusive or threatening language may result in them being removed from the Teleconference Meeting.***

**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.

- State or type your name at the time of making your comment.
- Limit comment to a maximum of three minutes.

**CONSENT AGENDA:**

1. Matters related to the approval of minutes of July 28, 2020, Regular Meeting.
2. Consideration and possible action to call a Public Hearing regarding the City of Montgomery 2020-2021 Proposed Operating Budget to be held on September 8, 2020 at 6 p.m. via Zoom.

**CONSIDERATION AND POSSIBLE ACTION:**

3. Consideration and possible action regarding adoption of the following Ordinance:  
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING ORDINANCES NO. 2020-01 AND NO. 2020-02 THAT CALLED THE GENERAL ELECTION AND SPECIAL ELECTION SCHEDULED TO BE HELD ON SATURDAY, MAY 2, 2020, WHICH GENERAL ELECTION AND SPECIAL ELECTION WERE POSTPONED TO TUESDAY, NOVEMBER 3, 2020 BY ORDINANCE NO. 2020-03; EXTENDING THE EARLY VOTING PERIOD; EXTENDING THE PERIOD TO DELIVER A MARKED MAIL BALLOT PRIOR TO AND INCLUDING ELECTION DAY; PROVIDING FOR ELECTION DAY POLLING LOCATIONS AND EARLY VOTING POLLING LOCATIONS, DATES AND TIMES; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.
4. Consideration and possible action regarding adoption of the following Ordinance:  
AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING CHAPTER 64 "PEDDLERS, SOLICITORS, AND VENDORS" OF THE CITY OF MONTGOMERY CODE OF ORDINANCES; PROVIDING CERTAIN DEFINITIONS; PROVIDING FOR PENALTIES; REPEALING ALL OTHER CONFLICTING ORDINANCE PROVISIONS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE AFTER PUBLICATION.
5. Discussion regarding possible alternatives to current high-speed internet services in the City of Montgomery.

**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.

6. 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).

Reconvene into Open Session.

**POSSIBLE ACTION FROM EXECUTIVE SESSION:**

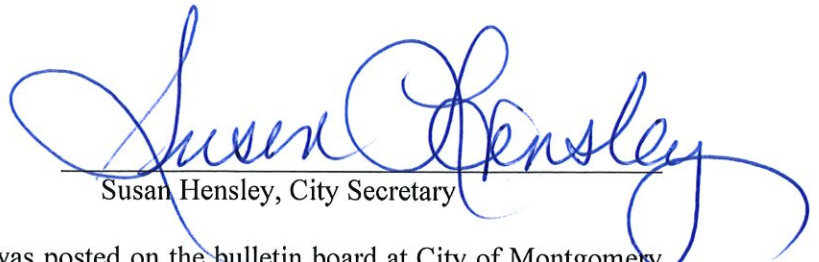
7. Consideration and possible action(s), if necessary, on matter(s) deliberated in Closed Executive Session.

**COUNCIL INQUIRY:**

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

ADJOURNMENT



  
Susan Hensley, City Secretary

I certify that the attached notice of meeting was posted on the bulletin board at City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas, on the 7<sup>th</sup> day of August 2020 at 4:45 o'clock p.m. I further certify that the following news media was notified of this meeting as stated above: The Courier

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*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.*

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**MINUTES OF REGULAR TELEPHONE/VIDEO CONFERENCE MEETING**

**July 28, 2020**

**MONTGOMERY CITY COUNCIL**

**CALL TO ORDER**

Mayor Sara Countryman declared a quorum was present and called the meeting to order at 6:00 p.m.

Present: Sara Countryman Mayor  
Kevin Lacy City Council Place #1  
Randy Burleigh City Council Place #2  
T.J. Wilkerson City Council Place #3  
Rebecca Huss City Council Place #4  
Tom Cronin City Council Place #5

Absent:

Also Present: Richard Tramm City Administrator  
Susan Hensley City Secretary  
Alan Petrov City Attorney

**INVOCATION**

T.J. Wilkerson gave the Invocation.

**PLEDGE OF ALLEGIANCE TO FLAGS**

**VISITOR/CITIZENS FORUM:**

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There were no comments made.

## **CONSENT AGENDA:**

1. Matters related to the approval of minutes of the July 14, 2020, Regular Meeting, and July 21, 2020, Special Meeting.

Ms. Susan Hensley said she did send out a revision to the July 14<sup>th</sup> minutes regarding some wording in Mr. Tramm's information pertaining to the unmanned boxes and the title to the minutes was corrected to reflect a Regular Meeting and not a Public Hearing and Regular Meeting. Rebecca Huss said she did not have any comments on the minutes.

Randy Burleigh moved to approve the minutes of July 14, 2020, Regular Meeting, and July 21, 2020, Special Meeting with the revisions as stated. Kevin Lacy seconded the motion, the motion carried unanimously. (5-0)

## **CONSIDERATION AND POSSIBLE ACTION:**

2. Consideration and possible action on Department Reports.
  - A. City Administrator's Report

Mr. Tramm said from this time last month, from his point of view, it looked like regarding the pandemic things were leveling out, but since that time we've seen extensions of a public health emergency, cases rise and what we have done at City Hall through our operations we've maintained being fully opened. Mr. Tramm said we are being careful about how we do things and there is still a limit to the number of people coming into City Hall. Mr. Tramm said if they need to have a gathering of people for an occasion, such as a pre-bid meeting, we situate them around the larger tables in the City Council Chambers to keep people spread apart. Mr. Tramm stated City Hall is fully open and fully operating and they are still seeing the number of people that use to come to City Hall that are not coming in, but are using the drop box and paying their utility bills online, and contacting staff through email and telephone and staff is still providing the services to the public.

Mr. Tramm said Fernland is open and fully operational and had a good number of visitors this month. Mr. Tramm said we do require staff to wear masks at Fernland while they deal with the public and have also asked the public to wear masks while they work with staff on a guided

tour. Mr. Tramm said if people are touring the grounds on their own, masks would not be required.

Mr. Tramm stated they are still seeing development within the City occurring in pretty good numbers both in commercial and residential construction. Mr. Tramm said regarding residential construction, they had their fourth Home Grant home close this month and just did the signing on it this past week. Mr. Tramm said the homebuilder who is working on these four homes has already applied for the first two of the four homes and we are expecting applications within the next week or two on the next two homes. Mr. Tramm said in speaking with representatives from the State, the plan is for this builder to build all four homes while they are out here at one time and stated he does not know if the construction will be concurrently or consecutive.

Mr. Tramm said regarding the GLO, BGE has collected aerial photography survey data of the information they needed and they are completing their model at the moment and should have the initial model results within two weeks and start their work on putting together alternatives for which the grant money there is funded. Mr. Tramm said he looks forward to having more detailed information to report to Council at the next month's meeting.

Mr. Tramm said the draft version of the Comprehensive Plan should be in Council's hands next month for review as that process continues to move forward.

Mr. Tramm said he also included information on Chapter 380 Development Agreements with his report. Mr. Tramm said there are a couple of new Council members since he's been here about 14-15 months and doesn't know how involved any of the Council members were in the past, but the City does have pretty good authority with Chapter 380 Agreements and thinks everyone is aware the City has several of them in place. Mr. Tramm said we have agreements with Mr. Cheatham with the Hills of Town Creek, one where the Kroger Center is, and The Shoppes of Montgomery. Mr. Tramm said we will be preparing for The Shoppes of Montgomery within the next couple months of making the first payment and Kroger has been paid through year two and they will be calculating out year three shortly, and the agreement with Mr. Cheatham is in year seven. Mr. Tramm stated he wanted to mention this is because there is a tool that has come to their attention for a direct permit for sales tax. Mr. Tramm said if you have a large-scale builder doing a lot of work, they can request that the State of Texas

allow them to not pay the sales tax at the point of purchase. Mr. Tramm said they will make a report to the State and will pay the sales taxes directly to the State where they designate on the report where the taxes are due for and for the City level tax, the State will get its share of portions above that from Montgomery area construction if we have such an agreement with the developer. Mr. Tramm said those taxes could be designated as in City-paid taxes and that is something which could be used on a large project where it is being built in Montgomery, but neither the supplier nor the home office of the developer is within the City so we can be sure the City would be receiving those additional funds. Mr. Tramm stated he wanted to put that information out there to make sure that everyone on Council had heard at one time and is going to be actively looking for opportunities where this might be appropriate and if appropriate in the future, bring to Council as an option for consideration.

Randy Burleigh thanked Mr. Tramm for including the Chapter 380 Agreement information and said it is very clear once you see it in black and white. Mayor Countryman said it was very nicely laid out and thanked Mr. Tramm as well. Mr. Tramm said he was no stranger to dealing with developers or development agreements, but he has not worked with a 380 Agreement so he is trying to educate himself and has realized everyone on Council came here at a different point and so there are different levels of understanding. Mr. Tramm said if anyone has any questions to feel free to contact him anytime and if it's something he can't answer, he will either research it or put you in touch with someone who can answer the question.

B. Public Works Report

Mr. Tramm stated regarding the wastewater side, a five-foot manhole cone section was replaced with a three-foot cone section to lower the manhole lid to grade at 410 Terra Vista Circle.

Mr. Tramm said the set of four culverts on Baja Street was for the Gulf Coast project with the homes being built at the end of the street. Mr. Tramm said the contractor is mobilizing currently with regard to doing some additional work at that intersection to make it easier to make those turns, without the sharp angle that is in place there, and should be completed in the near future.

Mr. Tramm said several of the light poles were painted at Cedar Brake Park due to the wear of the weather and time in the sunlight, causing the paint to peel.

Mr. Tramm said Fernland Park has been open and they reported 481 visitors and provided 56 tours. Mr. Tramm said they are back at work and it's just a sign that even though people are being more cautious in many cases, people are getting out and looking for something to do and ultimately he is glad they reopened the park and again, the staff there is trying to work as safely with everyone as possible.

C. Police Department Report

Mr. Tramm stated on July 3<sup>rd</sup> there was a paragliding accident involving a fatality in the field behind the Kroger store.

Mr. Tramm said the Police Department is currently updating their emergency alert system. Mr. Tramm also advised there was a missing person that has since been located and is safely back at home.

D. Court Department Report

Mr. Tramm stated the Court is operating under the approved restrictions due to COVID-19, but they are back up and running both in Court and normal office hour operations.

E. Utility/Development Report

Mr. Tramm said they tried to be a bit more specific with the revenue categories, trying to shy away from things like miscellaneous and categories that are not as descriptive especially where there are larger numbers. Mr. Tramm said they have audited the long-term utility arrears and are in the process of removing them from the utility system for collections reporting, so you do see a notation there related to the auditing amounts. Mr. Tramm said in going through those accounts, they discovered that although a lot of those accounts have been closed out as old accounts, they were not closed on the appropriate timeline and some of them may have still been in the system for months accumulating charges while people had long since moved out, it's just that no one else moved in and then after several months had gone



by, someone finally went to the trouble to then put them in an inactive status and began to close out the accounts, but those charges remained. Mr. Tramm said they went through cases like that and removed those charges and so now we have what we feel is an accurate number reflecting what was really left on those accounts, and as you can see from the differences, there can be in some cases some pretty sizable numbers, but what we are recording now is an accurate number in those cases.

Mr. Tramm stated with the water use of the City's accounts, while there are still three months there on the report, they have changed the way it is presented. Mr. Tramm said instead of a straight three-month run, there is the current month, listed before it is the previous month, and after that is the same month from the previous year and thinks that gives a little more accurate picture in terms of comparison rather than three consecutive months in a row. Mr. Tramm said they have also put those on a chart graphically to be able to visualize a different way to look at the numbers and it does help highlight the disparity where you have say at Memory Park a much higher level of use than you will at the other areas, but in looking at it this way, it helps give a bit of a better picture of how those items are.

Randy Burleigh asked what other items besides the water, sewer, Lone Star Groundwater, and trash go into the total revenue figure of \$196,997. Mr. Tramm said he will go through it in detail and follow-up in a day or two to make sure he is not leaving something off that list.

Mayor Countryman asked concerning the wall at the Community Center, she knows it was constructed a long time ago and the materials are hard to get and asked what the plan for that wall was. Mr. Tramm stated a staff member met with the insurance representative. Mayor Countryman said she hoped it is the automobile insurance company that is going to pay and not our own. Mr. Tramm said ultimately it should be the insurer for the person that ran into the wall, but the City is also insured should their insurance not be suitable or fully covered for the value, so either way, the City will be covered and, if necessary, our insurer will represent the City in terms of trying to get full compensation back from the automobile insurer. Mr. Tramm said in that area given that we have future roadway construction going down there, we may have some parking issues downtown. Mr. Tramm said he wanted to potentially look at options that may allow them to reconstruct and allow them to put some parking there on the roadside, and they may want to take some additional action to protect the wall. Mr. Tramm said since the wall was significantly damaged, there is going to be a significant amount of

work to put it together so he wanted Council to look at whether we should consider moving all of the wall in which would be an additional expense for the City, but would protect the wall and help us with parking in that area. Mr. Tramm said that is something they haven't fully gone through regarding what that cost would be, but it is something he wanted to consider while there is a big chunk of the wall missing, there is not going to be a better time to look at that than in the near future. Ms. Hensley stated they did receive a quote for electrical repairs on the wall too and there was some electrical work involved.

F. Water Report

Mr. Michael Williams with Gulf Utility Service, Inc., stated most of the district alerts were due to weather and power issues and there were a couple that were not. Mr. Williams said there was a leak at Water Plant 3 where the mechanical seal failed on the coolant tower pump. Mr. Williams said he would get that pulled and resolved in a couple of days so it can continue to use Well 4. Mr. Williams said there was a pump failure at Lift Station 3 where they found some issues with the impeller keeping it from pumping, so they will have the contractor warranty those repairs. Mr. Williams stated there was another leak at Water Plant 3 on June 2<sup>nd</sup> where there was a valve from the HPT leaking which will be replaced. Mr. Williams said, for the most part, the rest of the items on the report are their issues or weather-related.

Mr. Williams said on the May-June Daily Effluent Trend, flow for the month of May-June was 4,903,000 gallons and daily peak flow on May 29<sup>th</sup> was 395,000 gallons, with the average daily flow at 158,000 gallons, which was 39.5% of your capacity. Mr. Williams stated there was a note on there that the peak daily flow was not on a rain day, but it was discovered the digital rain gauge had lost communication that day and there was about two inches of rain. Randy Burleigh said about 550,000 gallons of rainwater that day went into the sewer plant. Mr. Williams said yes and that would explain it.

Mr. Williams said regarding the discharge limitations, all effluent samples were compliant for June and recorded where they recorded a total of five inches which there was probably a total of seven. Randy Burleigh said he did not think it was quite that high, but it is higher than what is shown because the instrument was not working.

Mr. Williams stated they pumped a total of 10.96 million gallons and had a total of 158,000 gallons of flushing, and sold 11.215 million and came out to 104% accountability which is a little higher than average, but it may have just been a timing issue due to the high amount of flow that was received so they will keep an eye on it. Mr. Williams said they recently checked the GPM on Well 4 and that one is running steady at 1300 GPM so it is recording correctly. Mr. Williams said there was a total of 958 connections.

Randy Burleigh asked where the sold number on the report used to do the accountability comes from. Mr. Williams said that comes from utility billing. Randy Burleigh said that was the month we had the overrun of days on billing and we went back and re-billed and he thinks that caused some issues. Randy Burleigh said he thinks the accountability from what he saw was probably more like 97%. Randy Burleigh said the production was right, but the sold was high. Mr. Williams stated Mr. Muckleroy, Mrs. Ciulla and he went through it together in trying to make sure they had everything captured as correctly as possible. Randy Burleigh stated he looked at the Beacon numbers and the numbers record 97.4% which is Beacon produced and Beacon sold. Randy Burleigh said usually the numbers are close to the billing numbers and he thinks it was just a chaotic month with the re-billing that caused the issue.

Randy Burleigh said he had a question about the flushing and said every month it is different and asked if any of the flushings metered. Randy Burleigh said he knows years ago they tried to use a portable meter for the planned flushing and asked if that was being done. Mr. Williams said none of it is metered and there is a combination of Public Works and the Fire Department flushing, which are all numbers reported to them. Mr. Williams said he does not believe any of that is metered and they try and calculate as best as they can to get the closest number possible. Randy Burleigh asked if the Fire Department hydrant that we meter and do not charge is in this number. Mr. Williams said yes. Randy Burleigh said he also thinks that number is reported in the sold number from the City, so it is reported twice. Mr. Williams said he will have to check with Mr. Muckleroy if that is the meter number we report from the Fire Department as he is not sure it is off that meter. Mr. Muckleroy said the Fire Chief sends him a number every month and the number that he sends is the number they are pulling from other hydrants in the City. Mr. Muckleroy said any time they have a fire or training session, the Fire Chief sends him an estimate of how much they use at other locations throughout the City, and the one hydrant meter that is there is being reported through Beacon and they are not counting that on their end. Randy Burleigh said he is giving you the unmetered hydrant

flow. Mr. Muckleroy said yes. Mr. Muckleroy said it is a pretty good educated guess because they know the tank quantities and his guys keep up with how many times they fill up a tank unless they have a fire, then it is an estimate.

G. Financial Report

Mr. Lasky stated he will be reviewing the highlights of the financial report. Mr. Lasky said the operating fund has a little over four months reserves in the account and a CD that is coming due on Thursday, which will be renewed for six months at Third Coast Bank for .70% which is the highest rate they could find for a six months CD. Mr. Lasky said the TexPool rates have been slightly dipping still and they are keeping an eye on those as he and Mr. Tramm have discussed this before and if it reaches a certain percent, they want to take action on that because TexPool is not an FDIC insured bank and they want to make sure to avoid any sort of loss, so they will be monitoring all those accounts. Rebecca Huss said FDIC does not prevent the loss of principal due to negative circumstances. Rebecca Huss advised FDIC only prevents the loss due to failure of the bank, so if interest rates are negative, the principle is still going to go down over time. Mr. Lasky agreed and said you could lose money and that is why they want to monitor the accounts. Rebecca Huss said we could lose money anywhere we go if the yield curve is inverted. Mr. Lasky said that was correct.

Mr. Lasky said the MEDC fund has a little over two months reserves and the utility fund has 11 months of reserves. Rebecca Huss said the MEDC fund has two years of reserves. Mr. Lasky said that is correct.

Mr. Lasky stated the only two things he saw that would be of notice on the cash flow report would be the PID reimbursement paid for \$35,378.47, which is an annual payment. Mr. Lasky said the Montgomery County Commissioner Pct. #1 was asphalt material for repaving and repairing Baja, Worsham, Old Plantersville, Westway, and McGinnis for the \$57,000.

Mr. Lasky said they did receive the July numbers, which will show on the next month's report and it was almost \$232,000 so we are a little over \$1.84 million per current year right now on sales tax and with two months to go, hopefully, we will see something although he does not know if it will be ready before the first Council meeting.

Mr. Lasky said regarding the FEMA money that came in, he has transferred it over to the General Fund and that will also show at the next month's August 25<sup>th</sup> Council meeting.

Mr. Lasky said he knows the debt service payments are coming up on September 1, 2020. Rebecca Huss asked if we have enough money in debt service funds to cover the payments that are outstanding or that are coming up. Mr. Lasky said yes.

Randy Burleigh asked Mr. Tramm if he could elaborate on the topic of the Atkins Creek refund from FEMA. Mr. Tramm asked if he was referring to the money already received. Randy Burleigh said yes, the \$365,000. Mr. Tramm said that was from a time before he was with the City so he cannot answer, but Mr. Roznovsky may be able to elaborate more on that and asked Mr. Roznovsky if that was for expenses from the Harvey event. Mr. Roznovsky said that was correct, it was the repairs regarding construction and engineering and 90% reimbursement for those costs that were paid out. Mr. Roznovsky said there was no previous reimbursement request made so everything was done at the end. Randy Burleigh asked if the City was out of pocket that money before and they reimbursed us. Mr. Roznovsky said that was correct. Mr. Tramm told Randy Burleigh that was a good example of how long a FEMA reimbursement process really can take. Mr. Tramm said in our case it arrived at a fortunate time while other issues were going on around the world, there is just no telling when it may or may not eventually show up. Rebecca Huss said it is nice to have some extra money available to be able to pay for things and not always be so stretched so that you can advance pay and leave it out for a long time. Mr. Tramm said he thinks that is one reason why it is good to always have a good solid reserve for long-term planning and long-term items even if it just gives you the ability to withstand an emergency. Rebecca Huss said they had to do this with the bridge as well and Mr. Roznovsky will remember as they were guaranteeing that they would provide bridge financing between the payments as they were submitted from the contractor and would pay within 30 or 60 days regardless of when they received the money from the government. Mr. Roznovsky said that was correct and there were multiple pots as there was the FEMA pot and the CDBG pot, so it is coordinating all those together. Rebecca Huss said she thinks that helped them get a better price because the contractors did not have to finance it as the City was doing it.

#### H. Engineer's Report

Mr. Roznovsky said the Baja Road/CDBG project is still ongoing and is still with the State to get the final reimbursement money back, which has been in their hands now since the end of March. Mr. Roznovsky stated as of the latest update they received last week, they had to approve the budget amendment that did all the shifting of funds to cover surety costs and all the different pieces and now it is on desk review for the actual allotment in sending of those funds. Mr. Roznovsky said there is a partial of those funds that will reimburse costs that are already paid and a partial to pay costs to the contractors.

Mr. Roznovsky advised the Downtown Waterline contracts are nearing construction and will proceed with that project.

Mr. Roznovsky said this Thursday they will receive bids for the Water Plant 3 Improvements. Mr. Roznovsky said next week they are planning to sit down with Mr. Tramm and Mr. Lasky to go over the budget numbers so they can talk about the cost of the Downtown Waterline and this project and then have that information available for the August 11<sup>th</sup> Council meeting to discuss the options.

Mr. Roznovsky said the Drainage Analysis has already been touched on so the final study is expected by the end of September, but preliminary results will be in the next few weeks and we will have more information on that as it comes out.

Mr. Roznovsky said regarding the Sanitary Sewer Lift Station No. 1 Replacement Project, they did receive another pay estimate of \$147,253.50 for the contractor, so based on that pay estimate as of June 29<sup>th</sup>, they are about 90% complete by value and 163% by time. Mr. Roznovsky said the amount in retainage is still more than the liquidated damages to date that were assessed and as of right now he is expecting substantial completion in August, so he is in the process of wrapping up electrical work and coordinating with Entergy to get the new electrical service set for that work. Rebecca Huss asked did we affirmatively decide that the 10% is adequate given the liquidated damages that have used up all the retainage. Mr. Roznovsky said yes they did, but if there is more work to be done we still have his bond to fall back on so if he has performance issues with the project, we have the performance bond that is put up with the City to call on in addition to the retainage. Rebecca Huss asked if the retainage is not used to encourage punch lists and things like that or we can use the bond for that too. Mr. Roznovsky said no, it is used to encourage the punch list but the other part about

the punch list is he doesn't get his substantial completion until this is financially done so his warranty period keeps on extending out until that is done. Mr. Roznovsky said at the end of the project he will have \$100,000 to \$110,000 in retainage that is being held plus whatever is left on the final pay estimates, so this 90% number complete by value is including the retainage number as if the value completed is 90%, but what is being held is actually 19% so it is 10% retainage plus of the 90%.

Mr. Roznovsky said some of the highlights for developments include they did receive the first plan set for Hills of Town Creek, Section 4 and they provided comments to those last week and there are a handful of comments they are working through to address. Mr. Roznovsky said they received plans for Moon Over Montgomery and stated he has the final review on his desk and will get those sent out tomorrow for their Phase I of the first five cottages closer to Clepper Street.

Mr. Roznovsky stated regarding the ongoing construction items for The Shoppes of Montgomery Public Waterline Extension, they held a final inspection last week and are finalizing the punch list items with them to complete.

Mr. Roznovsky said TxDOT and Atkins Creek are still planning to try to proceed in January 2021 and they will be working with them in the City on Right-of-Way acquisition for their project. Mr. Roznovsky said they did come back with an answer to the question did you all extend the scope of the work going down to where the bulkhead was and they said if the City would pitch in approximately \$2.6 million, so they did not proceed much further than that. Mr. Roznovsky said they will continue to figure out how to get at least a portion addressed and whatever we can do in the long-term. Mr. Roznovsky said it is not a City issue or a City easement or City-owned property downstream, but it was an effect on the City with the surrounding properties being essentially undevelopable.

Mr. Roznovsky stated the attachments are of the pay estimate for reference and the maps show where these developments are occurring.

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

3. Consideration and possible action to Accept Excess Collections for 2019 Debt Service and Certification for Debt Service Collection Rate for 2020/2021.

Mr. Tramm said Tammy J. McRae, Tax Assessor/Collector, has provided the annual certification for the excess collections rate for debt service for the year 2019, as well as the anticipated collection rate for debt service collection for the year 2020/2021. Mr. Tramm said acceptance of the certification is a required annual action of City Council.

Rebecca Huss asked what the formal language needs to say. Mr. Tramm said the formal language for the motion needs to say to consider and accept the excess collections rate for 2019 for debt service and certification for debt service collection rate for 2020/2021. Rebecca Huss asked if there needs to be 100% in zero numbers in the motion. Mr. Petrov, City Attorney, said no, the way Mr. Tramm described it is sufficient.

Kevin Lacy moved to accept the excess collections rate for 2019 debt service and certification for debt service collection rate for 2020/2021. Randy Burleigh seconded the motion, the motion carried unanimously. (5-0)

4. Consideration and possible action to adopt the following Ordinance:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING ITS MUNICIPAL BUDGET FOR THE FISCAL YEAR 2019-2020; PROVIDING A REPEALING CLAUSE AND A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Mr. Tramm said he knows they have discussed this for several months and he wanted to point out that as discussed with the Auditor was the action to take the end of year final budget correction, which this is not meant to replace that, they still intend to take that action at the end of the fiscal year. Mr. Tramm said this is the action discussed for the last couple of months with response primarily to the COVID-19 situation, the public health emergency, and the economic effect that has had. Mr. Tramm said they started with every department head reviewing their budget items and working out items that could be delayed or just not necessarily be done, try and streamline the expenditures going forward because there was just a lot of unknown in the future. Mr. Tramm said attached are the primary budget categories in General Funds with the proposed changes highlighted



and several categories are broken out in detail for clarity, and the City as discussed before did benefit unexpectedly with the receipt of \$365,000 FEMA reimbursements to the General Fund. Mr. Tramm said fortunately for us, this occurred at a time while we saw reduced increases in sales tax collections. Mr. Tramm said while this money helped us bridge the gap, it was not enough to balance the budget without making cuts to expenditures that they have done. Mr. Tramm advised the additional revenue and expenditure cuts did also provide us with enough additional funds that they are proposing to designate a new category to begin a long-term capital savings category for future large capital project expenditures such as construction, a future elevated water tank, major upgrades to City roads and utility lines. Mr. Tramm said the idea he would like to instill in budgeting going forward is that there is a long-term capital savings category that can be used in the future, or for certain emergencies, the point is we have the long-term savings there in addition to the standard reserve categories. Mr. Tramm said in the information provided, income categories are based on 9-10 months of actual data and some of the data included is July that is in progress so it doesn't include sales tax collection data received in July so it makes that information different from what is in the financial report, which is reported through June 30<sup>th</sup>. Mr. Tramm said the expense categories are based on reductions discussed with department heads, 9-10 months of actual data, and projections for the remainder of the fiscal year. Mr. Tramm noted some of the income and expense information was available for July and some were estimated. Mr. Tramm said as the primary issue causing this amendment is related to addressing sales tax revenue and reducing expenditures paid from these budget revenues, staff is only recommending these changes to the General Fund at this time. Mr. Tramm stated he does intend to be back for the General Fund and the other funds with the year-end adjustment that was mentioned.

Mr. Tramm stated there were a couple of large numbers he wanted to address specifically. Mr. Tramm said regarding the franchise tax category is current available year-to-date information of over \$13,000 and staff is projecting \$90,000. Mr. Tramm said there is a large revenue amount at the end of August and early September from Entergy, and for the last two years that has been in excess of \$70,000 and has been on an increasing trend for the four years he has looked back so he is confident that is a good number.

Mr. Tramm said for the sales tax category line 14600, the City has a 2% sales tax and it is broken up into multiple categories. Mr. Tramm said 1% is designated as sales tax, and there is one 0.50% that is designated for the line below that, sales tax in lieu of property tax, and there is another one of 0.50% that does not appear in the General Fund but goes straight to the MEDC Fund. Mr.

Tramm said one thing staff has also done here with the sales tax and the sales tax in lieu of property tax categories is there should be a 2 to 1 ratio there that wasn't actually in a correct exact ratio at the time of budgeting, and originally it was incorrect for this which is why you see different percentages in those categories for the amount of change and they took that corrective action as well. Mr. Tramm said one very small item he wanted to mention was no one knew what kiosk revenue was and it was budgeted at \$20 and they haven't seen any activity for something they would use that for and so they just drew that as a zero. Mr. Tramm said admittedly it is a very minor change on otherwise a large dollar amount budget, but it just struck them wrong to leave it there if they had no intention of using it.

Mr. Tramm said there are several categories toward the bottom of the first page, the FEMA reimbursement, Atkins Creek that has been discussed so that has been brought in here and projected as an overall decrease of revenues from the original budget of 3.6% that would be fairly close to 10% had it not been for the FEMA reimbursements. Mr. Tramm said they certainly received that at the right time.

Mr. Tramm said in the expense categories he wants to address the contract labor-streets account which is a significant reduction and capital transfer project. Mr. Tramm said at the time of budgeting there was a large number of future roadway projects that had been intended for a lot of repair work and they did use some of the funds and left a few thousand dollars in there for if there is some road work that has to be done before the end of the fiscal year, but largely if that work wasn't being done because of the reductions and situations that the City has had, they went ahead and reflected that through the lesser expenditures.

Mr. Tramm said regarding the last of the categories transfer to capital savings, that \$30,000 is what he mentioned before about beginning a long-term savings. Mr. Tramm said in the event what they have had happen as they close up the fiscal year and come in for a final budget correction, he feels they have tried to reflect what they believe will happen on the expenditures categories and they have tried to be conservative on the income categories leaving out the chance there could be some sort of government shutdown or something else that restricts the economy and he doesn't want to get too far ahead on revenue projections. Mr. Tramm said he feels if he is going to be off on the overall figure, he is much more likely to be off on the side of the City having additional revenue at the end of the year versus being in the negative and if that's the case in the final year-end budget correction, he would increase the amount of money going to the transfer to capital savings.

Kevin Lacy asked about item 17072 for Public Works item budget for \$20,000, projected \$11,109 with nothing spent yet, what type of things typically go in that number. Mr. Tramm deferred to Mr. Muckleroy on this item. Mr. Muckleroy said the main purchase on that was going to be the truck and it was going to be taken partly out of this line item and partly out of the water and sewer line item that corresponds with this. Mr. Tramm said there was a truck budgeted for Public Works this fiscal year and they already replaced that order before the pandemic situation set in, and we are in a position where the delivery was delayed into the next fiscal year so they are not going to have an actual expenditure during this fiscal year, so that is an example of one item that can be moved into the next fiscal year.

Randy Burleigh asked about the MEDC contributions revenue and asked if they contribute money to the City budget. Mr. Tramm said the MEDC does contribute to cover the administrative cost that is incurred on behalf of MEDC, and at the time the budget was put together, the budget showed hiring a staff person that was performing MEDC type functions and being paid for it by MEDC. Mr. Tramm said that person was hired later in the fiscal year than was originally anticipated and is no longer with the City, so that is the reason for the big disparity. Mr. Tramm said when that person was with the City, there was a much greater transfer of contributions from the MEDC to the General Fund, but without that person on staff any longer, that amount has been reduced. Randy Burleigh said it was just MEDC contributing to staff support. Mr. Tramm said that was correct because the person was essentially working as a City employee but for MEDC purposes.

Rebecca Huss said she is concerned about the fines portion of revenues not being low enough for the nine months. Rebecca Huss said we are running about \$22,000 a month in court fines for revenue for lack of a better word, although she doesn't consider it to be revenue since there is a large cost associated with it, which would mean that we would be more likely to be at \$260,000 rather than \$300,000 for the remainder of the year for revenue. Mr. Tramm said he does recall they had that discussion.

Rebecca Huss said she appreciates that they have never had such a detailed budget adjustment with so much care and thought given to each and every item and is a very big adjustment to the way they have looked at things before and hopefully will be much more accurate than they have, but definitely different times where it pays to be detailed and not be so surprised by the outcome. Mr. Tramm said it is easy to do this when everything is on an upward trend and the amount of money

coming in continues to increase and anyone can look good when everything is up 20 and 30% on revenue, but that is not the situation we are in. Mr. Tramm said he commends each department head for making tough decisions before it ever got into his hands. Mr. Tramm said he will be the first to say that he knows this isn't going to line up perfectly with what actually happens just because there are always things that are different from the way that is planned and he acknowledges Rebecca Huss' point and that could certainly be the way it turns out there. Mr. Tramm stated he does believe overall there will be other categories that are out of line one way or another just because that is the way things happen throughout the year and that is why you do corrections to budgets and is part of the process as unanticipated things happen. Mr. Tramm said we all know back in September, October we never anticipated a public health emergency coming in, but he does think overall this is going to work out unless something so big happens to change it, where we are going to have to restructure again and if so, we will. Mr. Tramm said if Council feels the need to modify the numbers, he is certainly open to the amendment otherwise as he said earlier, he intends to bring this back at the end of the year for corrective action and if we can correct some of the categories, he would be the one out there telling Council that they need to change them and if he is off, he can admit to that. Randy Burleigh said he appreciated Mr. Tramm and staff looking at all the detail they did to get this done. Rebecca Huss said she is alright with passing it, as is, as long as Mr. Tramm understands her concern of \$40,000 on the revenue. Mr. Tramm said he does indeed and before this got to Council, staff went back through this line by line and they had the same concerns and they know it is not going to be perfect as things never turn out the way it is planned, but they do think from their point of view that it is the best effort. Randy Burleigh asked if the \$199,000 year-to-date includes July or June. Mr. Lasky said it is in June.

Rebecca Huss moved to approve the suggested amendment to the City of Montgomery FY 2019-2020 budget as presented by the City Administrator.

Discussion: Ms. Hensley asked if that is to also adopt the Ordinance. Mayor Countryman said yes. Rebecca Huss asked if the second included adopting the Ordinance. Randy Burleigh said yes.

Randy Burleigh seconded the motion, the motion carried unanimously. (5-0)

## **EXECUTIVE SESSION:**

The City Council reserves the right to discuss any of the items listed specifically under this heading or for any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding real property), 551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Government Code of the State of Texas.

5. 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).

Mr. Tramm stated there was no need to enter Executive Session as he did not have a reply on the action he was asked to take by Council at the last meeting.

**POSSIBLE ACTION FROM EXECUTIVE SESSION:**

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

**COUNCIL INQUIRY:**

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

There were no comments.

**ADJOURNMENT**

Kevin Lacy moved to adjourn the meeting at 7:07 p.m. T.J. Wilkerson seconded the motion, the motion carried unanimously. (5-0)

Submitted by:  Date Approved: \_\_\_\_\_  
Susan Hensley, City Secretary

\_\_\_\_\_  
Mayor Sara Countryman

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: August 11, 2020</b>	<b>Budgeted Amount:</b>
<b>Department: Administrative</b>	
<b>Prepared By: Richard Tramm, City Administrator</b>	<b>Exhibits:</b>
<b>Date Prepared: August 7, 2020</b>	

**Subject**

Call the Budget Public Hearing for the 2020-2021 City Operating Budget.

**Recommendation**

This is to call the Budget Public Hearing, as required by the Texas Local Government Code ("LGC"), Section 102.006, prior to the adoption of the City Budget. The date being recommended for the Budget Public Hearing is Tuesday, September 8, 2020, at 6:00 p.m. via Zoom.

**Discussion**

Texas LGC 102.006(b) states the governing body, City Council shall set the date of the Public Hearing on the Proposed Operating Budget for a date occurring after the 15<sup>th</sup> day after the date the proposed budget is filed with the City Secretary, which occurred on August 7, 2020, but before the date the City makes its tax levy. The tax levy is expected to occur on Tuesday, September 15, 2020.

Conducting the Budget Public Hearing on Tuesday, September 8, 2020, at 6:00 p.m. via Zoom will meet the time requirements.

**Approved By**

Richard Tramm  
City Administrator



Date: August 7, 2020

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: August 11, 2020</b>	<b>Budgeted Amount:</b>
<b>Department: Administration</b>	
<b>Prepared By: Susan Hensley, City Secretary &amp; Director of Administrative Services</b>	<b>Exhibits: Election Ordinance approved by the City Attorney. Governor Abbott's July 27, 2020, Proclamation.</b>
<b>Date Prepared: August 7, 2020</b>	

**Subject**

Adoption of an Ordinance extending the Early Voting period, extending the period to deliver marked mail ballots, providing Election Day polling locations, and Early Voting polling locations, dates, and times for the City of Montgomery General and Special Elections to be held on November 3, 2020.

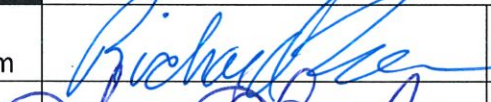
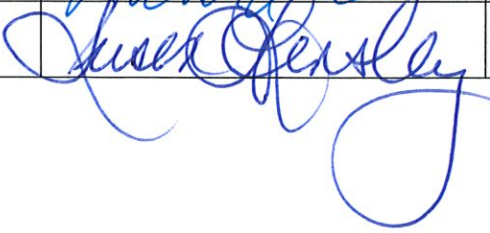
**Recommendation**

Adoption of this Ordinance makes revisions to extend the Early Voting period and marked Mail Ballots delivery period as provided by Governor Abbott's July 27, 2020 proclamation and revises the Early Voting polling locations as provided by Montgomery County Elections.

**Discussion**

The Early Voting Polling locations will be finalized on August 11, 2020, by Commissioner's Court, and Montgomery County Elections will confirm that information prior to the City Council Meeting.

**Approved By**

City Administrator Richard Tramm		Date: August 7, 2020
City Secretary Susan Hensley		Date: August 7, 2020



**ORDINANCE NO. 2020-07**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING ORDINANCES NO. 2020-01 AND NO. 2020-02 THAT CALLED THE GENERAL ELECTION AND SPECIAL ELECTION SCHEDULED TO BE HELD ON SATURDAY, MAY 2, 2020, WHICH GENERAL ELECTION AND SPECIAL ELECTION WERE POSTPONED TO TUESDAY, NOVEMBER 3, 2020 BY ORDINANCE NO. 2020-03; EXTENDING THE EARLY VOTING PERIOD; EXTENDING THE PERIOD TO DELIVER A MARKED MAIL BALLOT PRIOR TO AND INCLUDING ELECTION DAY; PROVIDING FOR ELECTION DAY POLLING LOCATIONS AND EARLY VOTING POLLING LOCATIONS, DATES AND TIMES; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on or about March 13, 2020, the Governor of the State of Texas certified that the novel coronavirus (COVID-19) poses an imminent threat of disaster and, under the authority vested in the Governor by Section 418.014 of the Texas Government Code, declared a state of disaster in every county in the State of Texas; and

**WHEREAS**, on or about March 18, 2020, the Governor issued a Proclamation suspending certain sections of the Texas Election Code, among others, to allow political subdivisions of the State that would otherwise hold elections on May 2, 2020, to postpone elections to the next uniform election date, November 3, 2020; and

**WHEREAS**, on or about January 14, 2020, the City adopted Ordinance No. 2020-01 which, in part, ordered a General Election for Saturday, May 2, 2020, to elect a Mayor and two (2) City Council members to the City Council, Places 2 and 4; and

**WHEREAS**, on or about February 11, 2020, the City adopted Ordinance No. 2020-02 which, in part, ordered a Special Election for Saturday, May 2, 2020, to fill the vacancy for the unexpired term for City Council member Place 1; and

**WHEREAS**, it is pursuant to the authority of the Governor's March 13, 2020, disaster declaration and the March 18, 2020, proclamation, that on or about March 23, 2020, the City adopted Ordinance No. 2020-03 postponing the City of Montgomery General Election and Special Election from Saturday, May 2, 2020, to Tuesday, November 3, 2020; authorizing Election Services Agreement and Joint Election Agreement for the November 3, 2020 Elections.

**WHEREAS**, on or about July 27, 2020, the Governor of the State of Texas under his authority by the Constitution and laws of the State of Texas suspended Section 85.001(a) of the Texas Election Code to the extent necessary to require that, for any election ordered or authorized to occur on November 3, 2020, early voting by personal appearance shall begin on Tuesday, October 13, 2020, and shall continue through the fourth day before Election Day, on October 30, 2020.

Governor Abbot further suspended Section 86.006(a-1) of the Texas Election Code, for any election ordered or authorized to occur on November 3, 2020, to the extent necessary to allow a voter to deliver a marked mail ballot in person to the early voting clerk's office prior to and including on Election Day at 7:00 p.m.

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

**SECTION 1**

All of the above findings are hereby found to be true and correct and are hereby incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2**

Ordinance No. 2020-01 calling a General Election and Ordinance No. 2020-02 calling a Special Election are hereby amended by this Ordinance to provide the new information for Election Day voting and early voting, including, but not limited to, dates, times, locations, and election officials, as set out in this Ordinance. All other portions of Ordinances No. 2020-01 and No. 202002 not in conflict with this Ordinance or Ordinance No. 2020-03 shall remain in effect.

**SECTION 3**

The General Election scheduled for Saturday, May 2, 2020, to elect a Mayor and two (2) City Council members, Places 2 and 4 on the Montgomery City Council and the Special Election scheduled for May 2, 2020, to fill the vacancy for the unexpired term of City Council member Place 1 were postponed until Tuesday, November 3, 2020, pursuant to the authority referenced in the Preamble to this Ordinance.

The Election Day polls shall be open for voting on November 3, 2020, 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: City of Montgomery City Hall

Address: 101 Old Plantersville Road, Montgomery, TX 77316

**For persons located in Voting Precinct 38:**

Polling Place: Montgomery County West 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

**SECTION 4**

Pursuant to Governor Abbott's Proclamation issued on or about July 27, 2020, under the authority vested in the Governor by the Constitution and laws of the State of Texas, suspended Section 85.001(a) of the Texas Election Code to the extent necessary to require that, for any election ordered or authorized to occur on November 3, 2020, early voting by personal appearance shall begin on Tuesday, October 13, 2020, and shall continue through the fourth day before Election Day, on October 30, 2020.

November 3, 2020, Election Early Voting Polling locations and times, as provided by Montgomery County Elections, which are to be conducted by the officers appointed by the Contracting Officer as provided in the *Election Services Agreement* by and between the City of Montgomery, Texas and the County Election Officer of Montgomery, Texas, are hereby attached as Exhibit "A."

Governor Abbot further suspended Section 86.006(a-1) of the Texas Election Code, for any election ordered or authorized to occur on November 3, 2020, to the extent necessary to allow a voter to deliver a marked mail ballot in person to the Early Voting Clerk's office prior to and including on Election Day at 7:00 p.m.

**SECTION 5**

This Ordinance shall become effective from and after its passage.

**SECTION 6**

Any and all portions of provisions of Ordinances in conflict with this Ordinance are hereby expressly repealed.

**SECTION 7**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portion of this Ordinance shall not be affected hereby, it being the intention of the City Council of the City of Montgomery, Texas in adopting this Ordinance, that no portion hereof or provisions or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision or regulation.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Montgomery, Texas on this the 11<sup>th</sup> day of August 2020.

\_\_\_\_\_  
**Sara Countryman, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Susan Hensley, City Secretary**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**Alan P. Petrov, City Attorney**

EXHIBIT A – Revised 8/4/2020  
 Montgomery County  
 November 3, 2020 Joint Election  
 Early Voting Polling Locations and Times

October 13 – 17	Tuesday	– Saturday	8:00 am	– 5:00 pm
October 19 – 24	Monday	– Saturday	7:00 am	– 7:00 pm
October 25	Sunday		12:00 pm	5:00 pm
October 26 – 30	Monday	– Friday	7:00 am	– 7:00 pm

Polling Location <i>Sitio de Votación</i>	Address <i>Dirección</i>	Room <i>Sala</i>
<b>Lee G. Alworth Building</b> (Main Early Voting Polling Place <i>Sitio Principal Electoral de Votación Adelantada</i> )	207 West Phillips Street Conroe 77301	First Floor <i>Primer Piso</i>
<b>West Montgomery County Community Development Center</b>	31355 Friendship Drive Magnolia 77355	Magnolia Room <i>Sala Magnolia</i>
<b>Magnolia Event Center</b>	11659 FM 1488 Magnolia 77354	LGI 1 <i>LGI 1</i>
<b>South County Community Center</b>	2235 Lake Robbins Drive The Woodlands 77380	Dining Room <i>Comedor</i>
<b>North Montgomery County Community Center</b>	600 Gerald Street Willis 77378	Meador Room <i>Sala Meador</i>
<b>East Montgomery County Fair Association Building</b>	21675A McCleskey Road New Caney 77357	Main Room <i>Sala Principal</i>
<b>Lone Star Community Center</b>	2500 Lone Star Parkway Montgomery 77356	Cissy Boulware Room <i>Sala Cissy Boulware</i>
<b>George and Cynthia Woods Mitchell Library</b>	8125 Ashlane Way The Woodlands 77382	Meeting Room 101 and 102 <i>Sala de Juntas 101 y 102</i>
(Limited Ballots, Special Forms of Early Voting, and Ballot by Mail only: <i>(Boletas Limitadas, Formas Especiales de Votación Adelantada, y Boleta por Correo solamente:)</i> <b>Election Central</b>	9159 Airport Road Conroe 77303	Foyer <i>Vestíbulo</i>



## Office of the Texas Governor | Greg Abbott

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# Governor Abbott Issues Proclamation Extending Early Voting Period For November 3rd Election

July 27, 2020 | Austin, Texas | [Proclamation](#)

## TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in the State of Texas; and

WHEREAS, in each subsequent month effective through today, I have renewed the disaster declaration for all Texas counties; and

WHEREAS, the Commissioner of the Texas Department of State Health Services, Dr. John Hellerstedt, has determined that COVID-19 continues to represent a public health disaster within the meaning of Chapter 81 of the Texas Health and Safety Code; and

WHEREAS, pursuant to legislative authorization under Chapter 418 of the Texas Government Code, I have issued executive orders, proclamations, and suspensions of Texas laws in response to the COVID-19 disaster, aimed at using the least restrictive means available to protect the health and safety of Texans and ensure an effective response to this disaster; and

WHEREAS, Section 41.001(a) of the Texas Election Code provides that a general or special election in this state shall be held on a uniform election date, and the next uniform election date is occurring on November 3, 2020; and

WHEREAS, I issued a proclamation on March 18, 2020, suspending Sections 41.0052(a) and (b) of the Texas Election Code and Section 49.103 of the Texas Water Code to the extent necessary to allow political subdivisions that would otherwise have held elections on May 2, 2020, to move their general and special elections for 2020 only to the November 3, 2020 uniform election date; and

WHEREAS, Texas law provides that eligible voters have a right to cast a vote in person; and

WHEREAS, as counties across Texas prepare for the upcoming elections on November 3, 2020, and establish procedures for eligible voters to exercise their right to vote in person, it is necessary that election officials implement health protocols to conduct elections safely and to protect election workers and voters; and

WHEREAS, in order to ensure that elections proceed efficiently and safely when Texans go to the polls to cast a vote in person during early voting or on election day for the November 3, 2020 elections, it is necessary to increase the number of days in which polling locations will be open during the early voting period, such that election officials can implement appropriate social distancing and safe hygiene practices; and

WHEREAS, Section 85.001(a) of the Texas Election Code provides that the period for early voting by personal appearance begins 17 days before election day; and

WHEREAS, Section 86.006(a-1) of the Texas Election Code provides that a voter may deliver a marked mail ballot in person to the early voting clerk's office while the polls are open on election day; and

WHEREAS, in consultation with the Texas Secretary of State, it has become apparent that for the November 3, 2020 elections, strict compliance with the statutory requirements in Sections 85.001(a) and 86.006(a-1) of the Texas

Election Code would prevent, hinder, or delay necessary action in coping with the COVID-19 disaster, and that providing additional time for early voting will provide Texans greater safety while voting in person; and

WHEREAS, pursuant to Section 418.016 of the Texas Government Code, the legislature has expressly authorized the Governor to suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster;

NOW, THEREFORE, I, GREG ABBOTT, Governor of Texas, under the authority vested in me by the Constitution and laws of the State of Texas, do hereby suspend Section 85.001(a) of the Texas Election Code to the extent necessary to require that, for any election ordered or authorized to occur on November 3, 2020, early voting by personal appearance shall begin on Tuesday, October 13, 2020, and shall continue through the fourth day before election day. I further suspend Section 86.006(a-1) of the Texas Election Code, for any election ordered or authorized to occur on November 3, 2020, to the extent necessary to allow a voter to deliver a marked mail ballot in person to the early voting clerk's office prior to and including on election day.

The Secretary of State shall take notice of this proclamation and shall transmit a copy of this order immediately to every County Judge of this state and all appropriate writs will be issued and all proper proceedings will be followed to the end that said elections may be held and their results proclaimed in accordance with law.

IN TESTIMONY WHEREOF, I have hereto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 27th day of July, 2020.

Governor Greg Abbott



Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: August 11, 2020</b>	<b>Budgeted Amount: N/A</b>
<b>Prepared By: Dave McCorquodale</b>	<b>Exhibits: Draft of Amended Ordinance</b>

**Subject**

Consideration and possible action regarding the adoption of amendments to Chapter 64 of the Code of Ordinances pertaining to Peddlers, Solicitors, and Vendors.

**Description**

The amendments to this ordinance are intended to:

- **improve the vendor permit process**
- **remove permit requirements that are not beneficial (i.e. \$1,000 bond requirement)**
- **provide a framework for festival permits and vendors**
- **allow the City flexibility to designate where mobile food vendors may operate**
- **create regulations for donation/recycling vendors (i.e. unattended donation bins)**

Discuss these and any other revisions that will have the effect of improving the quality of the ordinance, optimizing staff resources, and improving service to city residents and businesses.

\*Note: **Black text** = Current Ordinance text



**Red text** = Proposed Revision/Amendment text

**Highlighted text** = a point of note City Council should review

**Recommendation**

Consider the proposed amendments to the ordinance and act as you see fit. If Council agrees on the above list of revisions/amendments at the meeting, the ordinance can be adopted as presented.

**Approved By**

Asst. City Administrator	Dave McCorquodale 	Date: 08/07/2020
City Administrator	Richard Tramm 	Date: 08/07/2020

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING CHAPTER 64 "PEDDLERS, SOLICITORS, AND VENDORS" OF THE CITY OF MONTGOMERY CODE OF ORDINANCES; PROVIDING CERTAIN DEFINITIONS; PROVIDING FOR PENALTIES; REPEALING ALL OTHER CONFLICTING ORDINANCE PROVISIONS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE AFTER PUBLICATION

WHEREAS, the City Council of the City of Montgomery has determined that it is necessary to amend regulations for peddlers, solicitors, and vendors in the interests of the City and its citizens;

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

**SECTION I: AMENDMENT TO CODE OF ORDINANCES**

The City Code of Ordinances at Chapter 64 "PEDDLERS, SOLICITORS, AND VENDORS," is hereby amended to read as follows:

**SECTION II. – IN GENERAL**

**Sec. 64-1. PURPOSE.**

The purpose of this chapter is to protect the public health, safety and general welfare of the citizens of the City by providing for controls and regulations ~~against unwarranted, unreasonable and inconvenient solicitations of solicitors, vendors, and similar businesses and sales schemes designed primarily for the profit of the promoter operating within the City.~~

## Sec. 64-2. - DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Display* means to exhibit merchandise in any fashion, including in or upon vehicles, racks, shelves, hangers, or tables or upon the ground.

*Donation and/or Recycling Vendor* means any organization, entity, or individual engaged in the business of accepting textile or household goods for the purpose of reselling or donating accepted items.

*Hawker* means a peddler who makes noise to advertise his merchandise for sale, either by crying, shouting, ringing of bells or other means. The term "hawking" means to engage in the activities of a hawker.

*Merchandise* means goods, wares, services, photographs, magazines, plants, animals, fruit, meat, vegetables or other foods, whether cooked or otherwise, which are not offered for subsequent retail sale.

*Mobile food unit* has the same meaning as assigned to that term by rules adopted by the state board of health under the Texas Food, Drug and Cosmetic Act, V.T.C.A., Health and Safety Code Chapter 431.

*Peddler* means a person, including his agents or employees, who goes from person to person, place to place or house to house, and who sells or offers to sell merchandise then in his possession. The term "peddling" means to engage in the activities of a peddler.

*Roadside food vender* has the same meaning as assigned to that term by rules adopted by the state board of health under the Texas Food, Drug and Cosmetic Act, V.T.C.A., Health and Safety Code Chapter 431.001.

*Solicitor* means a person, including his agents or employees, who goes from person to person, place to place or house to house, selling, offering for sale or taking orders for the sale of merchandise not then in his possession, or who requests the gift or donation of money, property,



services or any other thing of value. The term "soliciting" or "solicitation" means to engage in the activities of a solicitor.

*Street* means the entire width between the boundary lines of every way publicly maintained, where any part thereof is open to the use of the public for purposes of vehicular travel, including the ditches, drains, median, sidewalk and esplanade thereof, of any public alley, road, street, avenue, parkway or highway which is located within the city.

*Street festival* means any event, activity or entertainment sponsored by ~~or on behalf of a not-for-profit~~ any organization, ~~or association entity, or individual~~ which is attended by ~~50~~ twenty-five (25) or more persons and conducted in whole or in part within any street and for which admission ~~is~~ may be charged or at which peddling, hawking, soliciting, transient dealing, roadside food vending or operation of a mobile food unit shall occur. The term "street festival" shall not include a rally conducted in support of or opposition to a candidate for political office or a ballot proposition in any election called by a federal, state or local unit of government.

*Transient dealer* means a person, including his agents or employees, who displays and sells or offers to sell merchandise from a fixed location not upon premises which are owned by the person or for which definite arrangements have been made for the lease, hire or rental for a term of at least one month. The term "transient dealing" means to engage in the activities of a transient dealer.

*Unattended* means without the continuous presence of a person to personally receive and issue receipts for donated items at the time they are deposited at the UDB.

*Unattended Donation Bin or UDB* mean an unattended bin, container, dumpster or similar receptacle that is placed outdoors at a location visible from a public place for the purpose of receiving and/or temporarily storing donated food, clothing, shoes, toys, or other personal property.

### **Sec. 64-3. - EXEMPTION FOR INTERSTATE COMMERCE.**

The provisions of this article shall not be deemed applicable to persons engaged in interstate commerce or to any such person to whom application of the provisions of this article would impose a direct and unlawful burden on interstate commerce.

**Sec. 64-4. - OPERATION ON PUBLIC PROPERTY.**

It shall be unlawful for any person to engage in the business of peddling, hawking, soliciting, transient dealing or roadside food vending within any public street or upon any property owned or leased by the City and located within the City that is not a City-designated location and without a valid permit from the City.

**Sec. 64-5. - HOURS OF RESIDENTIAL SOLICITATION.**

It shall be unlawful for any person, except with the express advance consent of the owner, to enter in or upon any home or residential premises within the City to solicit or to sell or offer to sell merchandise, except between the hours of 9:00 a.m. and 9:00 p.m.

**Sec. 64-6. – STREET FESTIVALS.**

Street festivals must obtain a permit from the City prior to the use of any public street or upon any property owned or leased by the City. In addition to the requirements of Section 64-31, street festival organizers are required to provide a Certificate of Insurance listing the City of Montgomery as Additional Insured in an amount established by the City. The organizer of the street festival must maintain and provide to the City a list of all vendors at the event that includes sufficient information for each vendor to comply with the permit application requirements of this chapter. The fee for street festival permits shall be two (2) times the cost of an individual vendor permit.

**Sec. 64-7. – DONATION AND/OR RECYCLING VENDORS.**

- a) It shall be unlawful for any organization, entity, or individual to conduct donation and/or recycling business activities on any public street or upon any property owned or leased by the City. Donation and/or recycling locations operating on private property within the City must provide notarized written consent of the property owner to the City in addition to vendor application requirements found in Sec. 64-31.
- b) Donation and/or recycling locations must be staffed with at least (1) one attendant continuously during operating hours. Donation bins commonly used in industry practices constitute a location of operation. No donation and/or recycling location shall accept



donated goods except between the hours of 8:00 a.m. and 8:00 p.m. Location facilities shall be secured during non-operating hours in a manner that prevents unauthorized items from being left on site. Failure to properly secure the facility location to prevent unlawful dumping is grounds for immediate revocation of the vendor permit.

**Secs. 64-8—64-28. - RESERVED.**

### **SECTION III. - PERMIT**

**Sec. 64-29. – PERMIT REQUIRED.**

It shall be unlawful for any person to engage in the business of peddling, hawking, soliciting, providing donation and/or recycling services of textiles and household goods, transient dealing, roadside food vending or operation of a mobile food unit within the City without having first obtained a permit to engage in such business.

**Sec. 64-30. – CLASSIFICATIONS; TERM; FEE.**

Except as specifically provided by section 64-32, no permit shall be issued pursuant to this article except upon application accompanied by the fee as currently established or as hereafter adopted by resolution of the city council from time to time.

**Sec. 64-31. – APPLICATION.**

Not less than ten days prior to the effective date of any permit granted under this article, each person who shall desire a permit shall make written application therefor to the City Secretary on a form prescribed by the City Secretary. Each application shall be accompanied by the required application fee. Each applicant shall provide the following:

- 1) The applicant's name, address, email address and telephone number.
- 2) If the applicant is a corporation, partnership or association, the address, email address and telephone number of the applicant's principal place of business.
- 3) The class of permit requested.

- 4) A statement that the applicant has had no permit issued pursuant to this article revoked in the previous one-year period.
- 5) A full description of the merchandise to be sold or for which the purchase is to be solicited.
- ~~6) A bond in the amount as currently established or as hereafter adopted by resolution of the city council from time to time, executed by the applicant as principal and by a corporate surety company authorized to do business in the state, payable to the city secretary or his successor in office, and conditioned that the principal or his surety will pay damages to any person for any claim which may be caused by or arise out of the wrongful, fraudulent or illegal conduct of the applicant while in the activity for which the permit has been requested, and which bond shall remain in full force and effect for a period of two years following the expiration of the permit granted in connection therewith.~~

**Sec. 64-32. – EXCEPTIONS; CHARITIES; PUBLIC WELL-BEING; LIMITED DURATION ACTIVITIES.**

- a) Notwithstanding any provision to the contrary contained in this article, no permit fee shall be charged under section 64-30, with respect to the following:
  - 1) Any charitable institution, organization or association organized and conducted exclusively for charitable purposes, and not for private gain or profit.
  - 2) Any individual, association, organization or other entity conducting or staging any concert, exhibition, lecture, entertainment or dance where the gross profits derived therefrom are used solely for charitable or benevolent purposes and not for the purpose of private gain or profit.
  - 3) Any organization, association or other entity holding any convention in the City and sponsoring any entertainment, dance, concert, exhibition, lecture or other event directly and exclusively connected with such convention, provided that any proceeds

realized from such convention are devoted to the purposes of the entity sponsoring the same and are not for the purpose of private gain or profit of any individual or entity.

- 4) Any service club or organization, such as Kiwanis, Rotary or Lions Clubs, nonprofit automobile clubs, chambers of commerce, trade associations, manufacturers' associations, labor organizations, and similar community or professional service clubs or organizations which do not contemplate the distribution of profits or dividends to the members thereof.
- b) Any person, association, organization or other entity claiming an exemption as provided in Subsection (a) of this Section, shall provide such documentation and/or other evidence as may be required by the City Secretary to substantiate and confirm the exempt status of such person, association, organization or other entity.
- c) All other applicable provisions of this article shall pertain to and be applicable to any such exempted persons, associations, organizations or other entities.

**Sec. 64-33. – SPECIAL REQUIREMENTS FOR MOBILE FOOD UNITS AND  
ROADSIDE FOOD VENDORS.**

- a) In addition to the requirements of Section 64-31, each applicant for a permit to operate a mobile food unit, including a mobile unit for the sale of frozen desserts, or to engage in roadside food vending, shall provide a copy of a current food service permit issued by the county health department.
- b) Each applicant for a permit to operate a mobile food unit shall, in addition to any other requirements, provide proof of financial responsibility as required by the Texas Motor Vehicle Safety Responsibility Act, V.T.C.A., Transportation Code Chapter 601, Subchapter C (V.T.C.A., Transportation Code § 601.051 et seq.) for each person who shall drive or operate the mobile food unit.
- c) Each permit for operation of a mobile food unit or to engage in roadside food vending shall be conditioned upon continuous compliance with all federal, state and local laws or



rules adopted under such laws relating to food service, and the permittee shall at all times prominently display a current food service permit issued by the county health department.

- d) Each permit for operation of a mobile food unit shall be conditioned upon continuous compliance with the following:
- 1) Each driver or operator of a mobile food unit shall maintain financial responsibility as required by the Texas Motor Vehicle Safety Responsibility Act, V.T.C.A., Transportation Code, Chapter 601;
  - 2) No sales shall be made on any street or roadway where posted speed limits are in excess of 30 miles per hour;
  - 3) No mobile food unit shall be parked within 50 feet of any street corner or crosswalk;
  - 4) No person shall sell or solicit sales of merchandise from a mobile food unit within 1,000 feet of any public or private school between the hours of 9:00 a.m. and 5:00 p.m.;
  - 5) No person shall sell or solicit sales of merchandise from a mobile food unit except between the hours of 9:00 a.m. and 7:00 p.m.; and
  - 6) The permit issued pursuant to this article shall at all times be conspicuously posted upon the mobile food unit.

**Sec. 64-34. - GRANTING OR DENIAL; ISSUANCE; TRANSFER.**

Within ten days of receipt of an application for a permit required by this article, the City Secretary shall grant such application and issue the permit and identification badges required by this article or such application shall be deemed denied. The City Secretary shall grant any application which on its face complies with the provisions set forth in section 64-31 and, if applicable, section 64-33, and shall deny any application which fails to meet such requirements. Upon written request of the applicant, the City Secretary shall set forth in writing the reasons for the denial of any permit. If granted, the City Secretary shall issue to the applicant a permit which shall set forth the permit number, the activity permitted, the effective and expiration dates of the

permit and the name of the person to which the permit has been granted, and the name of each person authorized to engage in the permitted activity. No permit shall be assignable.

**Sec. 64-35. - REVOCATION.**

- (a) Any permit issued pursuant to this article may be revoked by the City Secretary if he shall determine that such permit was obtained upon the basis of any intentional false material misrepresentation by the applicant, upon any conduct by the permittee, his agents or employees which arises from or is directly related to the permitted activity and which conduct is a violation of criminal statute, or upon violation by the permittee, his agents or employees of any term or provision of such permit or of this article.
- (b) The City Secretary shall revoke any permit if he shall determine that the permittee, his agents, or employees shall have committed three or more violations of any term or provision of such permit or of this article within the 12-month period immediately preceding such determination, or at any time upon conviction of a violation of any provision of this article.
- (c) Prior to any such revocation, the City Secretary shall provide the permittee notice of any proposed revocation and the grounds therefor and shall afford the permittee an opportunity for hearing. Such notice shall be sufficient if sent to the permittee by registered mail at the address shown on the application for such permit not less than five days prior to the time set forth in such notice of the hearing. Following such hearing, if the City Secretary shall determine that there exist sufficient grounds for revocation of such permit, then such permit shall be deemed immediately revoked.

**Sec. 64-36. - APPEALS.**

Any person to whom the City Secretary shall have denied a permit or whose permit shall have been revoked under this article may appeal such denial or revocation to an appeal board consisting of the mayor, the City Attorney and the City Secretary. Such appeal shall be made in writing and filed with the City Secretary not more than five days following such denial or revocation by the City Secretary. Within five days of the filing of such appeal, the City Secretary shall provide notice of the appeal hearing to the appealing party, which notice shall be sufficient if sent to the address of such appealing party as shown on the application for the permit.

Following such hearing, if the appeal board shall determine that there exist sufficient grounds for denial or revocation of any such permit, then the decision of the City Secretary shall be deemed final. If the appeal board shall determine that sufficient grounds do not exist for denial or revocation, then the decision of the City Secretary shall be reversed and such permit shall be granted or reinstated.

#### **SECTION IV: REPEALING CLAUSE**

This amendment to Ordinance No. 1996-3, dated June 4, 1996, as codified in Chapter 64 of the Code of Ordinances of the City of Montgomery, Montgomery County, Texas, shall prevail and all other Ordinances and parts of Ordinances in conflict are hereby repealed to the extent of any conflict.

#### **SECTION V: SEVERABILITY**

Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court or competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

#### **SECTION VI: EFFECTIVE DATE UPON PUBLICATION**

The provisions of this Ordinance will become effective immediately upon adoption by the City Council and publication as provided by law. It is the intent of the Council that the Ordinance apply to every property within the City on which it may apply without violating and state or federal law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020.

THE CITY OF MONTGOMERY, TEXAS

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Sara Countryman, Mayor

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ATTEST:

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Susan Hensley, City Secretary

APPROVED AS TO FORM:

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Alan P. Petrov, City Attorney

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: August 7, 2020</b>	<b>Budgeted Amount: N/A</b>
<b>Prepared By: Richard Tramm</b>	<b>Exhibits: N/A</b>

**Subject**

Discussion on possible alternatives to current high-speed internet services in the City of Montgomery.

**Description**

I was asked to bring this item up for discussion by Councilman Cronin as part of a discussion we had that included at least one high speed internet provider is considering expanding services to this area.

**Recommendation**

Discuss the agenda item and consider possible direction for staff to act on at a staff level and/or bring back to City Council for consideration in the future.

**Approved By**

City Administrator	Richard Tramm 	Date: 08/07/2020
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