

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

January 12, 2021

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 a Regular Meeting scheduled for **6:00 p.m. on Tuesday, January 12, 2021**, 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 by 3:00 p.m. on January 12, 2021.*

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/82927576300> and using **Meeting ID: 829 2757 6300**. They may also join by calling (346) 248-7799 and entering the **Meeting ID: 829 2757 6300**. The Meeting Agenda Pack will be posted online at www.montgomerytexas.gov. The meeting will be recorded and 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. City Council may not discuss or take any action on an item but may place the issue on a future agenda. The number of speakers along with the time allowed per speaker may be limited.

CONSENT AGENDA:

1. Matters related to the approval of minutes of the December 8, 2020, Regular Meeting.
2. Consideration and possible action regarding adoption of the Election Services Agreement by and between the City of Montgomery and Montgomery County Elections for the May 1, 2021 Election.
3. Consideration and possible action regarding adoption of the Joint Election Agreement by and between the City of Montgomery and Montgomery County Elections for the purpose of sharing jointly conducting elections to be held on May 1, 2021.

4. Consideration and possible action regarding adoption of an Escrow Agreement by and between the City of Montgomery, Texas and Panda Restaurant Group, Inc for the Panda Express Tract (Dev. No. 2010).

CONSIDERATION AND POSSIBLE ACTION:

5. Consideration and possible action to schedule a Public Hearing to be held on February 9, 2021, for the purpose of reviewing the need to continue City of Montgomery Ordinance 2018-05, Juvenile Curfew Ordinance, Codified in Division 2 of Chapter 62 of the Code of Ordinances of the City of Montgomery, Texas in accordance with Section 370.002 of the Texas Local Government Code, and to determine whether the City shall abolish, continue or modify the ordinance.
6. Consideration and possible action on a Resolution regarding a Petition for Consent to Annexation of Land into Proposed Montgomery County Municipal Utility District No. 160 as submitted by Hilliary Dumas.
7. Consideration and possible action regarding adoption of the following Ordinance:
AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS, PROVIDING FOR THE HOLDING OF A GENERAL ELECTION TO BE HELD ON MAY 1, 2021, FOR THE PURPOSE OF ELECTING THREE (3) CITY COUNCIL MEMBERS, PLACES 1, 3 AND 5; APPROVING ELECTION SERVICE AGREEMENTS WITH MONTGOMERY COUNTY, TEXAS; AND PROVIDING DETAILS RELATING TO THE HOLDING OF SUCH ELECTION.
*Consideración y posible acción respecto a la adopción de la siguiente Ordenanza:
UNA ORDENANZA DE LA CIUDAD DE MONTGOMERY, TEXAS, ESTIPULA QUE LA ELECCIÓN GENERAL SE LLEVA A CABO EL 1 DE MAYO DE 2021, CON EL PROPÓSITO DE ELEGIR A TRES (3) MIEMBROS DEL CONSEJO MUNICIPAL, PUESTOS 1, 3 Y 5; APRUEBA LOS ACUERDOS DE SERVICIO DE ELECCIÓN CON EL CONDADO DE MONTGOMERY, TEXAS, Y PROPORCIONA DETALLES RELACIONADOS A LA REALIZACIÓN DE LAS ELECCIONES..*
8. Consideration and possible action regarding the updated signature cards and signors for all City banking accounts.
9. Review and discuss Chapter 6 of the City Code of Ordinances – Expanding the area and time for allowing the public to walk with alcoholic beverages in a defined area in downtown Montgomery.

EXECUTIVE SESSION:

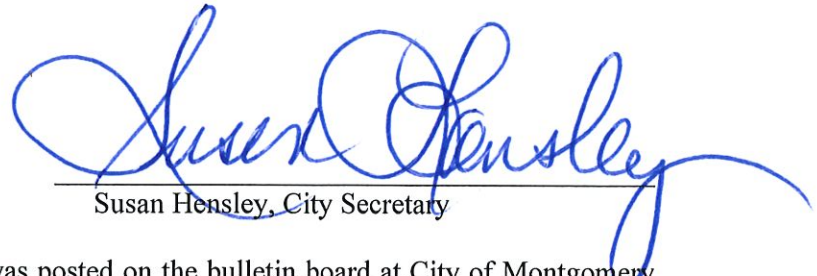
The City Council reserves the right to discuss any of the items listed specifically under this heading or for any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding 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.

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.

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 6th day of January 2021 at 4:30 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 TELEPHONE CONFERENCE/VIDEO MEETING

December 8, 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
Carol Langley City Council Place # 1
Kevin Lacy City Council Place # 2
T.J. Wilkerson City Council Place # 3
Julie Davis City Council Place # 4
Tom Cronin City Council Place # 5

Also Present: Richard Tramm City Administrator
Dave McCorquodale Assistant 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:

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

Mayor Countryman advised the City received three letters to be read under Citizen's Comments as follows:

Cheryl Fox – who commented on the appointment of the MEDC Board of Directors. Ms. Fox said as a prior MEDC Director, she did not feel the appointment of Mr. Bill Clevenger would be a wise appointment due to a tax bill that has not been resolved and he has not withdrawn his financial interest in the use of the City's slogan. Ms. Fox commented that Mr. Clevenger's food truck, which is approved, shows he has a lack of respect for the historical value she places on the downtown area of Montgomery. Ms. Fox said she could understand having the food truck for events, but not as a full-time business. Ms. Fox commented that Mr. Jeff Angelo has been an awesome community-minded businessperson and runs a beautiful business in the community and always has the City first on his agenda and has invested much of himself in bringing people into the City.

Kambra Drummond – who wrote about Mr. Clevenger being considered for a position on the MEDC Board commented on him being in arrears in property taxes, and he has submitted a trademark application for the slogan "the Birthplace of the Texas Flag" to be used for personal gain. Ms. Drummond commented on Mr. Clevenger's food trailer and the impact that it will have on the Historic District and feels it will be a terrible distraction and feels it has no historic value or charm. Ms. Drummond said all new businesses in town are required to have their signs approved and asked why Mr. Clevenger was not having to conduct his business preparations like all the rest of them and allowed to have a food truck parked overnight. Ms. Drummond said the ordinance that she had to follow for festivals states no food trucks can be parked in the City overnight. Ms. Drummond expressed that she would have no faith or confidence in his ability to make sound decisions and does not trust his judgment in matters regarding the economic growth of the community.

Bobby and Jennifer Skinner – expressed their opposition to appointment of Bill Clevenger to the MEDC Board stating this was due to his unresolved federal tax debt, and because he has not withdrawn his personal interest in financially benefitting from the use of the City slogan that he said he would gift the City. They stated that Mr. Clevenger while owing taxes has purchased several pieces of land, new vehicles, and started several new businesses instead of paying his taxes. The Skinners stated they believe Mr. Clevenger's lack of fiscal responsibility is why he should not be entrusted with the economic development decisions of the City. The Skinners stated the trademark application infers that Mr. Clevenger would be biased when MEDC is presented with a project where he would financially

gain regardless of the negative impact on others and the City. The Skinners said they are opposed to Mr. Clevenger being responsible for the decisions of our City's economic development and they have no faith in his ability to make sound decisions for the City of Montgomery based upon his lack of financial responsibility and attempts to personally gain financially from a City. The Skinners said there are four other candidates with untarnished records.

Mr. Tramm stated he also had a request from Bill Clevenger and Rebecca Huss to be able to speak tonight. Mayor Countryman asked if they were received before the 3:00 p.m. deadline. Mr. Tramm said neither of the requests was received before 3:00 p.m. today, but both are in attendance this evening. Mr. Tramm advised Rebecca Huss wanted to speak on the MEDC Board appointment, and Bill Clevenger originally asked to speak under public comments but was not sure if he wanted to speak on the specific agenda item. Mr. Clevenger advised he would wait for the MEDC Board appointment item.

CONSENT AGENDA:

1. Matters related to the approval of minutes of the Regular Meeting held on November 10, 2020, and Special Meeting held on November 17, 2020.
2. Consideration and possible action regarding an Application by Chipotle Mexican Grill, #3816, for a BG - Wine and Beer Retailer's Permit located at 20165 Eva Street, Montgomery.
3. Consideration and possible action regarding adoption of an Escrow Agreement by and between City of Montgomery, Texas and Josh Cheatham regarding Montgomery Food Truck Park (Dev. No. 2007).
4. Consideration and possible action regarding adoption of an Escrow Agreement by and between the City of Montgomery, Texas and Devpoint, LLC for the Kammerer 389 Acre Tract Development (Dev No. 2006).
5. Consideration and possible action regarding authorizing Jones and Carter to prepare a Utility and Economic Feasibility Study for Devpoint, LLC for the Kammerer 389 Acre Tract Development (Dev. No. 2006).
6. Consideration and possible action regarding the Annual Renewal of the Permit for Cedar Crest Mobile Home Park.

Tom Cronin moved to approve the Consent Agenda items as presented. Kevin Lacy seconded the motion, the motion carried unanimously. (5-0)

CONSIDERATION AND POSSIBLE ACTION:

7. Consideration and possible action regarding electing the Mayor Pro-Tem.

Tom Cronin moved to reappoint T.J. Wilkerson as Mayor Pro-Tem. Kevin Lacy seconded the motion, the motion carried unanimously. (5-0)

8. Consideration and possible action regarding adoption of the following Ordinance:

AN ORDINANCE AUTHORIZING AND ALLOWING, UNDER THE ACT GOVERNING THE TEXAS MUNICIPAL RETIREMENT SYSTEM, "UPDATED SERVICE CREDITS" IN SAID SYSTEM ON AN ANNUAL BASIS FOR SERVICE PERFORMED BY QUALIFYING MEMBERS OF SUCH SYSTEM WHO AT THE EFFECTIVE DATE OF THE ALLOWANCE ARE MEMBERS OF THE CITY OF MONTGOMERY; PROVIDING FOR INCREASED PRIOR AND CURRENT SERVICE ANNUITIES FOR RETIREES AND BENEFICIARIES OF DECEASED RETIREES OF THE CITY; PROVIDING FOR PARTICIPATION OF THE CITY IN THE SUPPLEMENTAL DEATH BENEFITS FUND OF THE TEXAS MUNICIPAL RETIREMENT SYSTEM, TO PROVIDE CERTAIN IN-SERVICE DEATH BENEFITS FOR EMPLOYEES, AND DEATH BENEFITS FOR ANNUITANTS WHOSE LAST EMPLOYMENT BEFORE RETIREMENT WAS WITH THE CITY OF MONTGOMERY, TEXAS. AUTHORIZING AND ALLOWING, UNDER THE ACT GOVERNING THE TEXAS MUNICIPAL RETIREMENT SYSTEM, RESTRICTED PRIOR SERVICE CREDIT TO EMPLOYEES WHO ARE MEMBERS OF THE SYSTEM FOR SERVICE PREVIOUSLY PERFORMED FOR VARIOUS OTHER PUBLIC ENTITIES FOR WHICH THEY HAVE NOT RECEIVED CREDITED SERVICE; AND ESTABLISHING AN EFFECTIVE DATE FOR THE ORDINANCE.

Mr. Tramm presented the information advising the City currently participates in the Texas Municipal Retirement System ("TMRS"). Mr. Tramm said there was previous discussion during a previous year's budget meeting to look at adding components to the City's Retirement Plan. Mr. Tramm said they did not do this during the budget process because he had advised City Council that if the sales tax revenue increased beyond the budget estimates that were approved, there were items that he would be bringing to City Council for and this is one of those items. Mr. Tramm advised the November 2020 sales tax revenues were up over 36% from November 2019. Mr. Tramm advised that for this

Ordinance to go into effect January 1, 2021, it would have to be adopted before December 31, 2020, which is the reason for it being presented tonight.

Mr. Tramm stated he was asking City Council to consider four (4) changes to include Restricted Prior Service Credit that would add prior government service time to staff's existing service time but does not add any cost to the City. Mr. Tramm said the second item was supplemental death benefits, which would provide active employees a death benefit amount to be paid to the beneficiaries approximately equal to their current annual salary, plus any retirement benefits they contributed, and for retired employees a flat rate of \$7,500. Mr. Tramm said the third item is the inclusion of updated service credits at 50%, which would allow the employee, upon retirement, to have their payment calculated based on three of the last four years of salary with the final year excluded, instead of the payment calculated on every year of their employment. Mr. Tramm said the fourth and final item would be the inclusion of a cost-of-living adjustment at 50% for retiree payments. Mr. Tramm said the primary benefit to the City for considering approval of these benefits is in the hiring and retaining of long-term loyal employees. Mr. Tramm advised Mr. Colin Davidson, Senior Regional Manager with TMRS, was present to answer any questions. Mr. Tramm said he had spoken with the department heads about this, and most notably in the Police Department questions about retirement benefits come up when trying to hire experienced employees.

Mr. Tramm said that when looking at the other cities in the area that we normally compare ourselves to they do offer the updated service credits, cost of living increase, most offer supplemental death benefits and they all offer the restricted prior service credit.

Mr. Davidson advised he was present to answer any questions that City Council might have to the additions. Mr. Davidson advised the updated service credit option does not completely exclude a person's career and said TMRS essentially calculates a benefit for retirees based on the money that is in their account when they retire, so all their contributions, matching funds, accumulated interest, and then for cities that offer the updated service credit it also adds that amount in.

Julie Davis asked about the benefit of changing the inclusion of service credit and what is the cost to the City. Mr. Davidson said the additional cost with the updated service credit and the cost-of-living adjustments, one affects the current employees (updated service

credit), and the cost-of-living adjustments affect the retirees. Mr. Davidson said, by law, the City cannot adopt the cost-of-living adjustments for retirees without the updated service credits for active employees. Mr. Davidson said the combination of the two increases the percentage of the payroll by 4%, currently, the City pays 5.7% of payroll and with the increase, it would be 9.72%, which would cover all four of the benefits discussed. Mayor Countryman asked what the dollar amount of the increase would be for this year. Mr. Tramm said it would be approximately \$85,000 for January 1, 2021, through the remainder of the fiscal year if no changes are made, if they add the presented benefits it would add approximately \$50,000.

Julie Davis asked how this differs from a 401K plan. Mr. Davidson said TMRS is a pension benefit that when a person retires from the City they are guaranteed a lifetime annuity. Mr. Davidson said a 401K plan would only provide a set dollar amount, where that money stays invested, and then when someone retires whatever that pool of money is, is what they have for retirement. Mr. Davidson said TMRS does the investing on their end, instead of leaving it up to individuals, and then when someone retires that amount is then annuitized and that is the amount the person is guaranteed for a lifetime. Mr. Davidson said a person is guaranteed a lifetime benefit versus guaranteed the amount of money they have when they leave employment. Mr. Davidson said the employees pay into TMRS 7% of their salary and they earn interest on their funds, and if they qualify by having 20 years of service or have five years of service at age 60 they can then draw a lifetime benefit that includes their money and the City's matching funds, and if updated service credits were added that would be an additional benefit. Mr. Davidson said that bucket of money is then annuitized and that is what they are paid each month, based on their amount of money and their life expectancy. Mr. Davidson said a 401K plan only guarantees the balance of the money that is in the account at the time they retire.

Julie Davis asked Police Chief Solomon if employee turnover is the biggest concern for the Police Department, is this the biggest holder for people to stay on board and asked him what are the complaints or problems that he has heard. Chief Solomon said the biggest problem is the City's insurance package because they have officers that cannot afford to put their whole family on their insurance. Chief Solomon said TMRS is one of the other items when you are hiring people that are asked about. Chief Solomon said there are 457 plans out there that are supplements, like a 401K plan, but their main problem is insurance when they are trying to get an officer they want to know about TMRS and what the City

benefits are with TMRS, but at some point, they will have to discuss insurance as well. Julie Davis said if the City is throwing \$50,000 at a solution to solve employee retention, then why are we not looking at increasing health care benefits versus increasing retirement if the retirement package is currently okay. Chief Solomon said it was just according to which benefit they bring first, and on this one, it is the one that they have been working on first. Chief Solomon said this is a major concern, but when you ask what their biggest concern is, their biggest concern is insurance because he is listening to his officers who are saying they cannot afford to put their family on the insurance. Chief Solomon said at some point they need to deal with both.

Mr. Tramm said as the Chief stated they do need to deal with both benefits, and this is just the first of those to come forward. Mr. Tramm said as he pointed out earlier, the reason for the timing of this one is if they are to make any changes they must be brought into effect by December 31, 2020, to take effect next year. Mr. Tramm said he was looking at other options related to health insurance, but he can also advise it is likely to be more costly than the retirement item and will probably take a little longer to put together. Mr. Tramm said he has looked at some basic information on what another city has done, but he is thinking in the next couple of months that will be an item that will come forward as well.

Mayor Countryman asked Mr. Tramm of the four benefits, what would be the least financial impact to the City but boost their portfolio. Mr. Tramm said restricted prior service credits have no cost implication to the City, the supplemental death benefit has a very small implication to the City at ¼ of one percent. Mr. Tramm said the updated service credits and cost of living adjustments are where they get more costly to the City. Mr. Davidson said the updated service credits must be included if you want the cost-of-living annuity provision. Mr. Davidson said the restricted prior service credit has no immediate cost to the City, it is a time credit, the supplemental death benefit is \$.15%, but the ones that cost more are the ones that increase the monthly benefit for the employee and where you see the increased cost.

Kevin Lacy said they need to tackle both benefits and asked why they would not want to go ahead and increase the employee benefits today. Mayor Countryman said she thought they were all in agreement there is something that needs to be done, it is just what they want to include. Mr. Davidson said the only item that requires another item to be adopted

is the cost-of-living annuity, which requires the updated service credits, the other items can be adopted individually.

Julie Davis asked if Mr. Tramm was concerned in the future about the affordability of better health choices because as he stated that would be much more expensive. Mr. Tramm said that almost anything related to healthcare expenses is pricey and said he has only just started looking at that information, so he knows less about it than the retirement. Mr. Tramm said he looked at the retirement first because of the timeframe involved in changing it. Mr. Tramm said there is a city that uses a higher deductible policy and with the month they save by having a higher deductible they make a cash payment to their staff that can be used to pay for some of the family coverage or put into an HSA account. Mr. Tramm said he is just starting on looking at the information. Julie Davis said if they are talking about keeping employees are we putting the cart before the horse, because how many people do we have retiring right now, our goal right now is retention. Julie Davis said health care is a big issue for her so she would want to make sure her family had insurance. Mayor Countryman said she thought the insurance vote is done for the year because they have already had to select the insurance for the year and then next year they can be good stewards with the insurance unless there is something they can bring in additionally sometime next year without having to wait until open enrollment. Mr. Tramm said that was correct they have their policy set for the year for health insurance, but he still wants to get a running start at looking at other options.

Kevin Lacy moved to approve the Ordinance as presented. T.J. Wilkerson seconded the motion.

Discussion: Julie Davis said she would be opposed to items three and four and felt they should move with items one and two. Tom Cronin asked if the motion was items 1, 2 3, and 4. Kevin Lacy said yes, like the Mayor and Mr. Tramm said health insurance has been set for the year. Kevin Lacy said they need to do both items, and if they can knock out this one now, and get the next one next year and work toward a better solution for health care. Kevin Lacy said he agreed with what the Mayor said.

The motion carried with 4-Ayes and 1-Nay by Julie Davis. (4-1)

9. Consideration and possible action regarding adoption of the following Ordinance:

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, ADOPTING A COMPREHENSIVE PLAN FOR THE CITY OF MONTGOMERY, TEXAS; REPEALING ALL OTHER CONFLICTING ORDINANCE PROVISIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Mr. Tramm advised this Ordinance will formalize the approval of the Comprehensive Land Use Plan that was approved at the November 10, 2020 meeting.

T.J. Wilkerson asked about the section repealing all other conflicting ordinance provisions. Mr. Tramm said the City did have a previous comprehensive plan and something like that indicates there is a previous conflict and it is repealed and replaced by a current one. Mr. Tramm said he believed in 1994 they adopted the previously adopted comprehensive plan and so that would ensure that everyone understands the Plan adopted in 2020 as the Comprehensive Plan, and the 1994 Plan was no longer in effect. Mr. Tramm said that language is typical in other ordinances.

Tom Cronin said in the past T.J. Wilkerson had some issues with some of the components of the Plan and asked if he was satisfied with what he had concerns about before. T.J. Wilkerson said no, stating he was still in the no section at this time. Mr. Tramm said even if City Council would not adopt the Ordinance, the Comprehensive Plan was still adopted at the last meeting, so this is just putting it in the form of an Ordinance.

Julie Davis moved to adopt the Ordinance. Carol Langley seconded the motion, the motion carried with 4-Ayes and 1-Nay by T.J. Wilkerson. (4-1)

10. Consideration and possible action regarding adoption of the following Resolution:
RESOLUTION AMENDING THE CITY OF MONTGOMERY POLICIES & PROCEDURES MANUAL, SECTION 3.04 CALL-OUT PAY AND SECTION 3.07 - LONGEVITY PAY.

Mr. Tramm said staff is recommending changing the required four-hour call-out pay section to be two hours instead of the four hours required, the same as the Police Department policy. Mr. Tramm advised the longevity pay policy requires a one-year

waiting period for non-uniformed employees and this would eliminate the waiting period so both uniformed and non-uniformed employees are equal across the board. Mayor Countryman said she liked that idea and asked if that was typical. Mr. Tramm said he did not know if it was typical but thought it was certainly fair to treat all employees the same. Mr. Petrov, City Attorney said he thought it was typical. Chief Solomon said a two -hour callout is the normal call out that he is used to using. Kevin Lacy asked if that included travel time to and from work. Chief Solomon said as soon as you call that officer in their time starts.

Kevin Lacy moved to adopt the Resolution amending the City of Montgomery Policies & Procedures Manual, Section 3.04 Call-Out Pay, and Section 3.07 – Longevity Pay. Tom Cronin seconded the motion, the motion carried unanimously. (5-0)

11. Consideration and possible action regarding adoption of 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, BUDGET AMENDMENT NO. 2; PROVIDING A REPEALING CLAUSE AND A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Mr. Tramm said after the last Audit, one of the Audit notes was related to a couple of items that could have been addressed by an ordinance amending the budget at the end of the fiscal year, which City Council discussed is the action they want to take for this year. Mr. Tramm said City staff reviewed the final budget at the close of the year and discussed it with the Auditor, who has reviewed the items. Mr. Tramm said there are several categories in the capital project and court security fund that had the fund out of balance so Mr. Lasky has recommended the changes so they will meet the standards, as necessary. Mr. Tramm said the hotel occupancy tax fund and the court security fund were not properly laid out at the time of the budget, which was due to staff transitioning when that budget was set.

Mr. Tramm said the issue related to the capital projects fund is these are projects that ended up being moved from the fiscal year that ended September 30, 2019, into what is now the current fiscal year. Mr. Tramm said this will be a balancing transaction.

Julie Davis moved to adopt the Ordinance amending the budget as presented. Kevin Lacy seconded the motion, the motion carried unanimously. (5-0)

12. Consideration and possible action regarding reappointment of Municipal Court Judge Robert Rosenquist and Associate Municipal Court Judge Gary Scott.

Mr. Tramm advised the City's Code of Ordinances has these terms running with the term of the Mayor. Mr. Tramm advised Mr. Rosenquist currently serves as the Municipal Court Judge and Mr. Scott as the Associate Municipal Court Judge. Mr. Tramm said the recommendation is to reappoint each of them to those positions.

Mayor Countryman said she had talked to Judge Wayne Mack and he was interested in the position. Mr. Tramm said he would be happy to investigate that stating they had some initial staff-level discussion some time ago, and he would be happy to pick that up and see if they can come to a potential solution with Judge Mack's office and he would be happy to bring that back to City Council and move in that direction.

Kevin Lacy asked if they were going to table action on this item for now. Mayor Countryman said they could direct staff to get more information. Mr. Tramm said they are probably looking at an Interlocal Agreement or Contractual Agreement that could take several months to arrange. Mr. Tramm asked the City Attorney if there was a problem to make the appointment and then if they could agree with Judge Mack, they could replace these appointments. Mr. Petrov said the problem is once you make an appointment it is good for the term the Judge serves so you cannot make a change mid-stream. Mr. Tramm said if this item were tabled for some time for them to have those conversations can Mr. Rosenquist continue to serve as Municipal Judge while they work something out for a potential replacement or is there a way they could create a temporary extension. Mr. Petrov said he thought they had a short amount of time and it may after a period automatically consider the appointment remade, but he would check into that. Mr. Petrov said there might be a short amount of time where the Judge would continue to serve as a holdover until replaced.

Mr. Tramm said one of the things he was going to be bringing up in his report is they need to have a special meeting this month and asked if there was a problem tabling this item until the Special Council Meeting. Mr. Tramm said the reason for the Special Meeting

was going to be to address two specific construction related projects and said they could potentially add this item to that agenda. Mr. Petrov said he did not think that would be a problem to add it to the agenda. Mayor Countryman agreed to put that item on the agenda of the Special Meeting.

Kevin Lacy moved to table this item for an upcoming Special City Council Meeting once they have more information. Tom Cronin seconded the motion.

Discussion: Julie Davis advised she had a conflict of interest on this matter so she would need to abstain from voting.

The motion carried with 4-Ayes and 1-Abstention by Julie Davis.

13. Consideration and possible action regarding Board Appointments:

a) Planning and Zoning Commission Members

Mr. Tramm advised the City received one application for the vacant position on the Planning and Zoning Commission created when Carol Langley was elected to City Council.

Julie Davis moved to accept Allyson Clark for the vacant Planning and Zoning Commission position. Carol Langley seconded the motion. The motion carried with the following votes:

Carol Langley – Aye

Tom Cronin - Nay

Julie Davis – Aye

Kevin Lacy - Nay

T.J. Wilkerson - Aye

b) Montgomery EDC Board Members

Mayor Countryman advised City Council they are going to be appointing three (3) members that are non-governing body and one member from the governing body. Mayor Countryman said they can also appoint more than one member from City Council.

Tom Cronin moved to appoint Carol Langley as a member of the governing body. Julie Davis seconded the motion, the motion carried unanimously. (5-0)

Kevin Lacy moved to appoint Ryan Londeen, Bill Clevenger, and Christopher Dooley to the positions on MEDC. Tom Cronin seconded the motion.

Discussion: Julie Davis said she would like to see continuity for MEDC because they have had a whole change on MEDC, and they are losing half of the members. Julie Davis said she would suggest they take either Amy Brown or Rebecca Huss and put one or both back on just because they are going to provide clear continuity from where they have been to where they are going to without a whole lot of lag or effect on the City as a whole.

Mayor Countryman said she apologized, stating Rebecca Huss had asked to speak on this item and asked Rebecca Huss to go ahead and speak at this time.

Rebecca Huss stated that she has served on MEDC for six and a half years, on City Council, on the Planning and Zoning Commission for one year, and on the Board of Adjustments for about seven and a half years. Rebecca Huss said last year she donated hundreds of hours toward the City's Facebook page, she volunteered significant time and participated in the organization of various events including the 2019 and 2020 Christmas Parade, the 2020 Light up the Park, and the 2019 Texas Flag Celebration. Rebecca Huss said on a personal note, it has been a long-term goal of hers to collaboratively find a solution for the downtown improvements that will hopefully achieve several goals. The first being the infrastructure improvements and expansions that we need. The aesthetic improvements they need to attract visitors and businesses to our downtown. Rebecca Huss said there is also the transportation improvements, which they need as the City grows and to find a solution with TxDOT, and as they learned three or four years ago, TxDOT is coming whether they like it or not and they need to find a solution that works and to have a proactive plan. Rebecca Huss said the City is at an exciting point, last month the City signed a contract with a design firm that is an important step toward achieving these goals, and she would like to be a part of working with MEDC, the City, residents, and downtown business owners to continue making

the City a bigger and better place. Rebecca Huss said she felt she could be a part of that process.

Mayor Countryman said they are losing Julie Hutchinson who is the Treasurer and Rebecca Huss is quite hot on a calculator. Rebecca Huss said she might be a bit of a numbers nerd, which is one of her secret pleasures.

T.J. Wilkerson asked how many they were losing on the MEDC Board. Julie Davis advised they were losing four members. Rebecca Huss stated she lost her position because she was a governing body appointment, and three of the members, Amy Brown, Julie Hutchinson, and Bob Kerr terms are up and Julie Hutchinson and Bob Kerr are not seeking reappointment, but Amy Brown is seeking reappointment.

Mayor Countryman said Bill Clevenger wanted to speak too, so she wanted to allow him to speak.

Mr. Clevenger said they got to hear from three community members with the letters read by the Mayor at the beginning of the meeting. Mr. Clevenger said he wanted to provide some clarity to the issues which they felt not to provide in person. Mr. Clevenger said as far as the tax lien, yes he has an IRS tax lien, which he found funny that Ms. Kambra Drummond thinks it is property tax in Montgomery County, and Mrs. Skinner believes it is an IRS tax lien. Mr. Clevenger said it is an IRS lien and has nothing to do with Montgomery the City or Montgomery the County or the State of Texas. Mr. Clevenger said the amount is not close to being \$60,000, which is false information. Mr. Clevenger said they make a \$1,100 per month payment, on time every time, on the 8th of each month drafted by the IRS, because they made too much money in 2015 and 2016. Mr. Clevenger said if he had not made one payment since then he would not have been able to purchase any of the property that he has in town, which he is very proud that he is now a commercial property owner in the City of Montgomery.

Mr. Clevenger said as far as the trailer, Texas Twist and Shakes, he has been nothing but upfront and open every step of the way, working with Dave McCorquodale and Richard Tramm, City Council members and other City

business members. Mr. Clevenger said he believed last week's meeting with the Planning and Zoning Commission, most of the members liked the artwork and thought it was a great addition to the downtown area.

Mr. Clevenger said regarding the trademark and personal agenda, he put that in writing, and he will not speak much on that because he did exactly what he said he was going to do in writing, which the City has copies of.

Mr. Clevenger said regarding him buying new vehicles and other things if everybody cannot see that this is nothing short of personal slander to him and his family, you can review the letters when they hit public record tomorrow, which he will obtain a copy of tomorrow.

Mr. Clevenger said he felt he would be a good candidate and member of the MEDC Board, he is almost an eight-year resident of the City of Montgomery, a proud business owner and he services several businesses in the City of Montgomery. Mr. Clevenger said he meets with the business community on a daily and weekly basis. Mr. Clevenger said as an FYI to City Council and any of the current MEDC Board, most of the businesses do not know what the MEDC stands for or what they are supposed to be doing for our community. Mr. Clevenger said he thought that was kind of shocking that new business owners and business owners with tenure do not know MEDC is out there, and it is a very positive organization. Mr. Clevenger said he believed working hand in hand with the business leaders, members, and the community along with the residents, he wants nothing more than the greater good of the town and the community and to bring a sense of unity once again to the community.

Tom Cronin said it was so sad and despicable that after the election when we should be trying to go forward that there is a small group of people that want to control the City and want to destroy somebody's reputation, and they know who they are. Tom Cronin said he feels the City should move forward, we are a small City, a great City, and rather than go through the proper protocol and talk to your City Council or Mayor, that is how you do it, you do not just write these nasty letters and present them in City Council unless you have good facts. Tom Cronin said it is up to City Council who you want to serve on MEDC. Tom Cronin said

he is sure the new City Council members have already got their marching orders and been told who they are going to support, and that is how it works, but it is so sad that the people who wrote those letters must bring out the long knives and destroy a person's reputation. Tom Cronin said there are mitigating circumstances he assumes but they all just jump to conclusions. Tom Cronin said he is disappointed people have to resort to hate-filled epistles in a Council Meeting that should be a business meeting. Tom Cronin said he represents all the citizens of Montgomery, not just a small group, and he thinks it is time for a change in MEDC, which Julie alluded to, yet she wants to bring in the old blood. Tom Cronin said Rebecca Huss has done a remarkable job, but he thinks they need to make a change, there are too many pet projects that he has not seen that benefit the rest of the businesses in the City of Montgomery. Tom Cronin said they spent \$14,000 for walkie-talkies for festivals, but they do not know when the next festival is going to be. Tom Cronin said they set up all these festivals, but they keep getting canceled because of COVID. Tom Cronin said he hopes the people that are given the ability to decide if they are not happy with one of these to add another one. Tom Cronin said the motion that Kevin Lacy made was three individuals, but he is hoping they can get rid of this hatred for certain individuals in this City and go on.

Mayor Countryman said she had to read a letter about herself from Tom Cronin and his spouse, so she is glad to see he has turned over a new leaf. Mayor Countryman said having experience as well as new blood is important. Mayor Countryman said she thought it was offensive for Tom Cronin to say the new City Council members have their marching orders and do not think they can think for themselves, which is unfortunate. Mayor Countryman said she did not have a vote in the matter unless there is a tie, but with what is going on, they need some folks on the Board that understand what is going on and how to get that accomplished with that history instead of all new blood.

Kevin Lacy stated the good thing about MEDC is the roles for operating are pretty set and there is not a lot of leeway. Kevin Lacy said he was all for the existing people, stating Amy and Becky had done a fantastic job, but at the same time he is embarrassed that they had to listen to the comments at the beginning of the meeting which he considers to be trash. Kevin Lacy said Mr. Clevenger was verbally

attacked by the husband of one of the people this morning, stating it is the same group of people that were hoping the election was a landslide and it was not a landslide. Kevin Lacy said he would like to see the few members on MEDC that are still there to continue and then he would like to see his three candidates, who are completely qualified, become members of MEDC.

Mayor Countryman said she was glad that Kevin Lacy had turned over a new leaf as well since he was one of the authors of the fake Facebook profile about her and said she saw a lot of his comments behind and in front of the scenes and an envelope was in her mailbox last week. Mayor Countryman commented on all the nice words that he and Mr. Clevenger called her. Bill Clevenger stated that he never once stooped to the level that she took during the campaign.

T.J. Wilkerson stated as Mayor Pro-Tem he called for a Point of Order. Mayor Countryman said point taken and said to move forward. T.J. Wilkerson said that Kevin Lacy had presented three candidates and he had three other candidates, Bill Clevenger, Rebecca Huss, and Jeff Angelo. T.J. Wilkerson said the motion has been made and seconded so they need to move on. Julie Davis said the motion was never seconded. Mayor Countryman asked how they do this if there are three different groups, do they take them individually.

City Secretary, Susan Hensley advised there was a motion by Kevin Lacy and a second to the motion by Tom Cronin. Mr. Tramm stated from a procedural standpoint he thought City Council needed to act on the motion on the floor, if the motion fails then you can move forward from there and proceed.

The Mayor called for a vote on the motion to appoint Ryan Londeen, Bill Clevenger, and Christopher Dooley to the positions on MEDC. The motion failed with the following vote:

Kevin Lacy – Aye

Julie Davis – Nay

Tom Cronin – Aye

Carol Langley – Nay

T.J. Wilkerson – Nay

Mayor Countryman asked if City Council wanted to vote on the appointments one at a time. City Council concurred that would be the best. Mr. Petrov stated they should make a motion for one candidate at a time.

Julie Davis moved to accept Ryan Londeen for the MEDC Board. Tom Cronin seconded the motion, the motion carried unanimously. (5-0)

Tom Cronin moved to accept Christopher Dooley for the open position on the MEDC Board. Kevin Lacy seconded the motion. The motion failed with the following vote:

Tom Cronin – Aye	Julie Davis - Nay
Kevin Lacy – Aye	Carol Langley – Nay
	T.J. Wilkerson – Nay

Julie Davis moved to accept Jeff Angelo for the open position on the MEDC Board. Tom Cronin seconded the motion. The motion carried with the following votes:

Tom Cronin – Aye	T.J. Wilkerson – Nay
Julie Davis – Aye	Kevin Lacy – Nay
Carol Langley – Aye	

Julie Davis moved to accept Amy Brown for the open position on the MEDC Board. Carol Langley seconded the motion. The motion failed with the following votes:

Tom Cronin – Nay	Julie Davis – Aye
T.J. Wilkerson – Nay	Carol Langley – Aye
Kevin Lacy – Nay	

T.J. Wilkerson moved to accept Rebecca Huss for the open position on the MEDC Board. Julie Davis seconded the motion. The motion carried with the following votes:

Julie Davis – Aye	Kevin Lacy - Nay
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Carol Langley – Aye

Tom Cronin – Nay

T.J. Wilkerson -Aye

14. Consideration and possible action on Department Reports.

A. City Administrator's Report

❖ Park Board Update

Mr. Tramm said they are noticing the County's Health Department is recording increases in COVID-19 locally and they are continuing to keep their measures in place at City Hall to continue working as safely as possible.

Mr. Tramm said Light Up the Park was held on Saturday, December 5th, and was very successful. Mr. Tramm said Chick-Fil-A provided over 300 cookies at no cost to the City and thanked Chick-Fil-A for their generous donation. Mr. Tramm estimated there were over 500, possibly 600 people in attendance.

Mr. Tramm said the City's Christmas Parade will be held Saturday, December 12th and they have taken necessary measures to provide as safe an environment as possible regarding the COVID-19 situation.

Mr. Tramm stated all four of the Home Grant homes have been completed and the people have moved in. Mr. Tramm said three of the four homes have been fully closed out with Grant Works and the State. Mr. Tramm said the remaining home is pending completion as they are waiting on information and checks from the State.

Mr. Tramm said an email will be sent out tomorrow regarding dates people will be available for a Special Meeting regarding the GLO Drainage Project and Water Plant No. 3 Construction Project. Mr. Tramm said his suggestion is December 22, 2020, the date they would normally have the next Council meeting but is typically a canceled meeting due to the holiday.

Mr. Tramm said he attached his Development Report. Mr. Tramm said both commercial and residential developments continue to move forward in the City. Mr. Tramm said one item he gets asked the most questions about is when Chipotle will be opening. Mr. Tramm said they have not been given an opening date from Chipotle, but they have completed all the necessary City inspections and have

been issued their Certificate of Occupancy as of yesterday so, from the City's perspective, they are clear to open as soon as they get all the other requirements in place.

Mr. Tramm said regarding the update concerning the City's Parks Steering Committee, he has included a basic write-up of how he anticipates the Committee to work. Mr. Tramm said this was something discussed right before the pandemic.

Mayor Countryman asked how people would apply for the Committee as she knows of several interested people. Mr. Tramm said it will not be quite as formal a creation as Planning & Zoning or the MEDC, but he is looking at more on the same level as the Technical Operations Review Committee (TORC) that has worked with the City in the past to provide advice.

Mr. Tramm said it will be a group of people he will appoint, and their main purpose will be to provide independent advice to the City through the Public Works Director who also serves as the Parks Director and is responsible for park operations, maintenance, and improvements. Mr. Tramm said they can function as a conduit within the Community for interaction between the parks and the City and be in touch with City residents who they may meet daily and communicate the observations of those people's perceived needs back to the Public Works Director and ultimately to him as the City Administrator. Mr. Tramm said he sees the requirements to serve on the Committee to include being a City resident or a non-resident with significant park involvement. Mr. Tramm said members cannot be a City employee or City official so they can give independent advice. Mr. Tramm said the reason he would be willing to consider a non-resident with park involvement is they have special groups such as the Rotary Club who have significant involvement with the City parks such as Memory Park, or the Lions Club and there may be other groups that may from time to time be heavily involved with the City that could involve a park and that is why he thinks there should be some room for someone that might be a non-resident but might be the right person to appoint.

Mr. Tramm said he is wanting to appoint a committee size of five persons and the appointees should be representative of various communities within the City and be familiar with the parks. Mr. Tramm said the City's Public Works Director

would serve as the Chair of the Committee and he would want the Committee to meet at least quarterly or more often if necessary if called by the Committee Chair.

Mr. Tramm said recommendations made by the Committee should be considered by the Public Works Director and City Administrator for planning and implementation purposes as appropriate. Mr. Tramm said one of the key points where they can come in handy is when they are looking at what items should be added to the parks and what should be budgeted for the parks.

Mr. Tramm said they recently did some work on the basketball goal at Homecoming Park and if they were to consider a full-size basketball court at a park at some point, the Committee would be involved should they include that and where would it be most effective to include it.

Mr. Tramm said he wanted to get the general concurrence of Council and if he gets that, he will move forward. Mr. Tramm said for people interested in serving please send in those names. Mayor Countryman said this is good and she is glad to see this Committee forming.

Julie Davis moved to accept the Agenda item as written. Kevin Lacy seconded the motion, the motion carried unanimously. (5-0)

B. Public Works Report

Mayor Countryman said she wanted to give a shout-out to Public Works Director Mike Muckleroy and Maintenance Technician Jack Brown and all the guys there on Saturday as they had heavy trash day and then they rolled right into Light Up the Park and it was outstanding. Mayor Countryman said they estimated around 600 people and just a few years ago it was twelve. Mayor Countryman said they had 47 light poles and 45 were decorated which is contributed to the outstanding work from both Ms. Rebecca Huss and the City for promoting it. Mayor Countryman again thanked Mr. Muckleroy and his team.

Mr. Muckleroy said they set the historical marker at the Addison-Gandy house for the dedication ceremony. Mr. Muckleroy said regarding the parks they installed four Texas Flag benches at Cedar Brake Park, set the "Yield to Pedestrian" signs

at Memory Park, and the Fernland docents reported 855 visitors and provided 60 tours for the month. Mr. Muckleroy said they replaced all the Distrix beacons throughout the City and most City employees attended the CPR/AED training at the Montgomery Fire Department.

Tom Cronin asked if Mr. Muckleroy had a schedule for what the department anticipates doing next year for street repairs. Mr. Muckleroy said they have a list, not necessarily a schedule for streets. Mr. Muckleroy said they kept the budget for streets very conservative when they created the budget this year, a total of \$90,000 for streets, sidewalks, and everything with the hope to come back to Council in the second quarter if sales tax numbers are better to ask for more money. Mr. Muckleroy said essentially the list is going to be continuing from where they left off last year as they had to put a hold on the list Council authorized the County to repair, so they are going to continue with that list and add the next one on the list of importance which is Buffalo Springs Drive between SH 1097 and SH 105. Mr. Muckleroy said they do have a plan but in discussions with Mr. Tramm concerning the timing of it, he thinks they will evaluate numbers for at least another month, with a plan of coming back to Council for an amendment on that to get those projects started.

Julie Davis asked if anywhere in that plan do they foresee adding parking spaces to the east side of Cedar Brake Park. Mr. Muckleroy said next on their list they have included expanding the north side parking and the second part of the list will include expanding the east side of the park for parking and this all depends on what the sales tax numbers will be this year. Mr. Muckleroy said the worst case is if it does not allow them to do it this year, it is already on the list for the following year. Julie Davis said it was tough at the Light Up the Park event to even maneuver. Julie Davis said it was a great event though and she commended Public Works for doing a great job. Mr. Muckleroy said they expanded several parking spots and added a completely new parking lot at Cedar Brake Park. Mr. Muckleroy said parking over there is a hot spot even on normal summer days.

Julie Davis asked if the City has considered partnering with Mr. Cheatham and stated recently he put up signs on his lot that said anyone who is not associated with his business will be towed. Julie Davis asked if anyone has approached Mr.

Cheatham to partner with him and utilize his spots for events like Light Up the Park. Mr. Muckleroy said the subject has been discussed. Mr. Muckleroy said they obtained permission last year for the National Night Out event from the businesses inside the complex to use the parking, but Mr. Cheatham came out and told people not to park there. Mr. Muckleroy said they have not discussed a partnership and it is something they could bring up and see if Mr. Cheatham would be open to it.

T.J. Wilkerson said a lot of people have mentioned they like the ten (10) Texas flags flying at Cedar Brake Park. Mr. Muckleroy said they cannot take credit for that as Mrs. Cheryl Fox is the person who along with the Civic Club/Garden Club takes care of the flags. Mayor Countryman said Mrs. Fox wants to display the flags for every Texas holiday and every United States holiday and commented it was a great idea.

T.J. Wilkerson said he saw the Public Works crew on Baja Road and asked if there was a lot of debris going into that ditch. Mr. Muckleroy said there are a lot of leaves collecting in the ditch because of the elevation of the ditch so they are going to have to periodically clean it out. Mr. Muckleroy said once it was cleared out, the water flowed out quickly.

C. Police Department Report

Police Chief Anthony Solomon stated he wanted to highlight two items from the report that are a concern.

Chief Solomon said the number of accidents and the amount of DWI's happening in that time frame should not be happening and so they are going to investigate as to what those accidents were. Chief Solomon said like most accidents, it will more than likely be the drivers just not paying attention.

Chief Solomon said they did the Click it or Ticket which started November 16, 2020, through November 29, 2020. Chief Solomon said his officers did an extraordinary job and they had 452 contacts, 12 arrests and five of those were felony arrests, and seven were misdemeanors including things from narcotics to harboring a runaway and recovery of a runaway. Chief Solomon said the Click it

or Ticket money is grant money they normally receive from the State of Texas to police the City where they see areas they might be needing more police and more incentives. Police Chief Solomon said the money will also be used for participation in the DWI safety program. Police Chief Solomon said in November, five of the arrests were DWI's and that is too many. Mayor Countryman asked if those were residents or were those people just passing through. Chief Solomon said most of them are passing through and are not the residents of the City of Montgomery.

Chief Solomon said they started a new questionnaire online today and will be putting it on Facebook which asks how people feel about the performance of the Police Department. Chief Solomon said they would like to know things about their strengths and weaknesses, and it gives them a chance to put priorities on what they need to do. Chief Solomon said there are also other things online where people can report traffic and crime and wants the citizens to know they can always get in touch with them.

Chief Solomon said the Christmas Parade is coming up this weekend and they are fully staffed for the event.

Julie Davis asked if they have 462 traffic stops within the City limits and she has noticed today and earlier in the month there has been an increased presence from DPS, are the City's numbers spurring on them to be inside the City limits. Chief Solomon said all the 462 contacts doing the Click it or Ticket came from their officers, 168 were citations, and another 284 were contacts where they were given a warning, but none of those are from DPS.

T.J. Wilkerson said there is not a stop sign on the street between Chick-Fil-A and Chipotle and asked if there should be. Chief Solomon said they are talking to TxDOT about that and they are trying to get a red light put in a bit further down because if you put one right there with all the other red lights and you have another one there at Lonestar Parkway it would be too much stoppage there. Chief Solomon said if the red light were installed farther down it would control the area better. Chief Solomon said that is an area where there have been at least four accidents. T.J. Wilkerson said people leaving from Chick-Fil-A just drive straight

through because there is no stop sign there. Chief Solomon said it is the same scenario for people driving out of Kroger's driveway and it is very dangerous. Mr. Tramm said he believes the street between Chick-Fil-A and Chipotle is a private road the developer maintains. Chief Solomon said that is one of the things when they start these projects they need to put in the developer's contract to install some type of caution lights. Julie Davis said if a \$100 stop sign solves a wreck then she would write a check for it. Julie Davis asked how they can put a stop sign up there so that common sense applies when it does not. Mr. Tramm said he does not know if the City has the legal standing to put a stop sign there but certainly it is something they can talk to the property owner about. Chief Solomon said it does make it confusing when trying to merge back onto SH 105.

Mayor Countryman said when there is a lot of development there has been a lot of wide-open space and that intersection is terrible. Mayor Countryman asked how they can make sure developers make that closer to the light or further down and not how it is currently routed coming out of Chick-Fil-A and Kroger and asked if there is a way to mitigate that. Mr. Chris Roznovsky, City Engineer said those driveways are controlled by TxDOT since it goes onto SH 105. Mr. Roznovsky said they do not have a lot of control over that since it is TxDOT that provides the permits for those driveways. Mr. Roznovsky said he thinks one thing that is going to help is that as the development moves forward it is going to continue out to Buffalo Springs and if they can get a light there at Buffalo Springs as there is a lot of traffic coming from the north and then through town, they can cut through the back of the development to get to a light there and then also behind CVS. Chief Solomon said that is what they are looking at, a light at Buffalo Springs, and they have talked with TxDOT about that. Mr. Tramm said Chief Solomon has been engaging TxDOT for a while on that and it is going to be a long process, but he has been on top of working with TxDOT and it has been on their radar now for quite a while.

Julie Davis asked if there is a plan for the City to finish out the road that comes beside Kroger to finish it through to Buffalo Springs so if people were coming out of Kroger and wanted to head west is there a way to mitigate traffic where they do not have to get back on SH 105. Mr. Roznovsky said that road behind the Blue

Wave Carwash is also a developer street and is something they can request to connect that driveway all the way through.

Mr. Roznovsky said when the Montgomery Shoppes property was going forward one of the items discussed at the time was having them put up funds to do the traffic study and expedite the traffic light at that corner. Mr. Roznovsky said they will continue to look for opportunities like that when developers come in.

D. Court Department Report

Mrs. Kimberly Duckett, Court Administrator said for October 2020 they had 121 citations and they collected \$25,084.90. Mrs. Duckett said the Court is still functioning as normal.

Julie Davis asked Chief Solomon how he thinks the drastic decrease in police revenue for 2020 will affect 2021 and beyond. Chief Solomon said he thinks they have done well. Chief Solomon said they are just about fully staffed, and they have increased their training for this year's budget. Chief Solomon said he does not think they have a problem. Julie Davis said in 2018 the number was \$506,000 for citations, in 2019 \$406,000, but in 2020 it is \$220,000. Chief Solomon said yes if you are talking about citations absolutely, but not only in citations did that happen. Chief Solomon said they have not been able to put people in the County jail as they would normally do because of COVID-19.

Julie Davis asked what is going to be the biggest effect of losing \$200,000 of that income for next year or two years looking forward. Chief Solomon said most of the things they do with the money from Court has to do with traffic and they are trying to keep those traffic initiatives up, but it will affect them regarding needing more traffic trailers around the City or they can start looking at some of these issues when it comes to accidents and some of the issues could be solved with the money they would have had.

Mrs. Duckett said in February they are going to start the warrant resolution which will have the Collection Agency sending out more warrant letters and gets people active in contacting them trying to make payment arrangements. Mrs. Duckett said things have slowed down but she has seen a few payments increase on some things

warrant related. Mrs. Duckett said they have been trying to work with people more because of the pandemic and to give people extensions and not trying to take anyone to jail and letting them know there is a solution to their outstanding traffic citations. Chief Solomon said he also thinks in the past he does not know how aggressive they have been with their warrants, but their warrant officer is now training full time and with the people they have hired they can now start to send two people out on these warrants, and he does not think they have been that aggressive in the past. Julie Davis asked to confirm what Chief Solomon said about people with a traffic warrant being taken to jail. Chief Solomon said no, once the pandemic is under control the jails will start to open back up and all these things will start to open. Chief Solomon said when those things are open, they are planning to get the revenue back up.

Mayor Countryman said at one point they had a number given to them that was outstanding and they have done a fantastic job dwindling that amount down, but how much money is on the shelf now. Mrs. Duckett said she does not know but she can run a report. Mrs. Duckett said some of those have been due to the purge so a lot of those remain collected because of the travel rate they have had in the Police Department, some of those were relinquished in different ways and some of the people have received time served. Mrs. Duckett said the Warrant Officer goes through the database to check the system for TDC just to make sure no one is incarcerated and trying to figure out all kinds of methods and ways to relinquish things to help everyone out during this pandemic. Mrs. Duckett said she can run a report to see how much money is sitting on the shelf warrant related. Mayor Countryman said she would like to see what the difference is.

E. Utility/Development Report

Mr. Tramm said on the first page the chart breaks down where the sources of revenue are as it is not just utility revenue, it is also various permits or other revenue. Mr. Tramm said during the last couple of months they have worked on breaking that down so there is no large miscellaneous type category.

Mr. Tramm said on page two regarding the arrear's category, anything 60 days or older is on a long-term payment plan and in the 120+ there are a couple of accounts with smaller balances that are disconnected accounts they are working on

following up with. Mr. Tramm said these are all on the payment plan and the billing system accounts for the payment plan as well.

Mr. Tramm said with the permits issued you can see there are still some consistent building permits for building, plumbing, mechanical, and electrical which are all primary type permits engaged in new residential and commercial construction.

Mr. Tramm said they had one more water account connected last month which ends up being a lower spread than they normally have. Mr. Tramm said the definite uptick in active water accounts has been seen over the last couple of years. Mr. Tramm said he thinks everyone is familiar with the residential growth in this area and know it is much more likely to increase than decrease unless there is some large economic driver that puts a halt on building in the near future.

Mr. Tramm said for the pumping account for the City accounts and Park accounts they used last month and then the same month last year, October 2020 was much less than October 2019 for the pumping at Memory Park which is their largest user of water. Mr. Tramm said they also had a bit of a drought this fall, and November's numbers are probably going to be fairly high. Julie Davis asked Mr. Tramm if he will be considering the water usage at these specific areas when considering new ideas or changes for the parks going forward in the future with this park team. Mr. Tramm said he will certainly consider if someone has ideas in terms of how to apply irrigation more efficiently or if they are looking at suggesting something more of a water-intensive use, he does not necessarily think that is prohibitive, but those items would need to be considered on a case-by-case basis.

Julie Davis said she knows Mr. Tramm mentioned the possibility of a full basketball court at Homecoming Park and there is no water usage, so is the Park being utilized, or is it just because the houses are so close that the people utilizing them are going home and would they consider putting additional City funds into that park if it is not being utilized according to the water numbers. Mr. Tramm said when he made that example related to the full basketball court he was not being specific that it would necessarily be Homecoming Park, he was just referencing they had done some repairs on the half basketball court that is there,

and he meant to use that more as an example. Mr. Tramm said Homecoming Park is a smaller footprint than Cedar Brake Park and is an entirely different use pattern than Memory Park because Memory Park is not a play park. Mr. Tramm said he does think the park being closer to the residents means fewer people are likely to use the restrooms there because they are already closer to home, but he also knows they do get use of that Park. Mr. Tramm said he also thinks it is true they have fewer people living near that park and the number of people that use the park and are in the vicinity of it is something that the Parks Board and Public Works Director should consider when they look at other items that might be added to or changed at a park. Julie Davis said she feels that concerning Homecoming Park that Lincoln Elementary playground serves as a dual purpose there for people that live in that area. Julie Davis said in consideration, she just wondered if this water usage would come into play when discussing what to do or plan regarding parks. Julie Davis said if they are utilizing more water she would assume it is getting more traffic and they should put more money where they are getting more traffic. Mr. Tramm said these parks are more likely to use water for the most part on irrigation than the restrooms. Mr. Tramm said he is not familiar with the irrigation system at Homecoming Park but does know there is a fountain at Cedar Brake Park that they do not have at Homecoming Park. Mr. Tramm said Memory Park cannot be considered as an example because of the amount of water that is occasionally used to keep the lake level full. Mr. Tramm said Julie Davis's point is on target with regards to wanting to make sure people are using the park before they put in something that is not going to be used.

F. Water Report

Mr. Michael Williams, Vice President of Gulf Utility Service said there were five district alerts for October. Mr. Williams said several power outages were causing them to be called out and there was also a high wet well due to a bad flow which they will replace. Mr. Williams said the third was an overload failure due to some debris getting into the sewer line and luckily that was a rental pump that was from a contractor and they were able to get another rental pump. Mr. Williams said the fourth outage was a high level where they had to reset the equipment and monitored it with no further issues. Mr. Williams said the very last alert was a leak

at the wastewater plant that involved a non-potable line that pulled apart and they had to notify a contractor to put it together and make a warranty repair.

Mr. Williams said the wastewater plant flow detail for September through October was 4,934,000 gallons, daily peak flow was September 23, 2020, with 337,000 gallons, and average daily flow was 164,500 gallons with 41% of permitted capacity. Mr. Williams said all samples were in compliance for October in the effluent sampling chart.

Mr. Williams said regarding the water report, they pumped a total of 12,546,000 gallons plus a total of 288,000 gallons and sold a total of 11,645,000 gallons bringing it to a 95% accountability.

Julie Davis said on page four of the report on September 23rd she knows it is because of rainfall but they are close to the 90% permit and with the increased growth trend for the City she asked if they have any kind of concerns. Mr. Williams said no it is just due to a rainstorm. Mr. Williams said how they calculate that for the month is they take an average of all the days, so what they report to the State is the 164,000 daily average flow. Mr. Williams said they understand the spikes due to rainfall and infiltration so that will not cause any issues as far as the growth of the City goes.

G. Financial Report & Quarterly Investment Report

Mr. Anthony Lasky, Senior Accounting Clerk said the account balances, as of October 31, 2020, there are four months of reserve, but with the sales tax that has come in over time, there are about five and a half months now, because there was a large amount that came in just over \$400,000 and a sales tax for November so now the City is roughly five and a half months for the general fund.

Mr. Lasky said for the MEDC fund on page four, currently, there are now two and a half years of reserve in the account. Mr. Lasky said for the Utility fund as of October 31, 2020, there are currently about 15 months of reserve.

Mr. Lasky said regarding cash flow there were a couple of vehicle purchases that were from the last fiscal year. Mr. Lasky said one was for Public Works just over \$45,000 and one for the Police Department for \$29,000. Mr. Lasky said there were also purchases for computers for \$41,000 and these are all last fiscal year items that came in at the beginning of October.

Mr. Lasky said the two items you will see on the budget is for the Home Program for \$27,000 and \$268,245. Mr. Lasky said they received the money from the Comptroller's office toward the end of November for just over \$301,000 that will show on the next report and on that report you will see the offset for those two expenditures.

Mr. Lasky said the amount they received for October for sales tax was almost \$171,000 and they did receive the \$416,000 total for sales tax and \$312,000 of it is for the general fund, a little over \$104,000 for the MEDC fund which was transferred back in November. Mayor Countryman asked if that was the largest month they ever had. Mr. Lasky said the \$413,000 is the highest he has seen. Mr. Tramm said he has a chart that he has access to that goes back to 2011 and the only month it shows up higher is the month they incorrectly received money from HEB, so it is the highest month probably in the City's history. Mr. Tramm said going back 10 years does not touch what they do today.

Mr. Lasky said the quarterly investment report for the period ending September 30, 2020, is for everyone's review per quarter of all the investments and CD's, along with pledged securities.

H. Engineer's Report

Mr. Roznovsky said the Baja Road Water and Drainage Improvements, Phase I & II is still in the Texas Department of Agriculture desk review. Mr. Roznovsky said GrantWorks is following up every few weeks and they are still waiting.

Mr. Roznovsky said they had the preconstruction meeting this morning regarding the Downtown Waterline Project and they are working with the contractors to obtain schedules and get notices out to all the affected residents and businesses along the route to start the communication process with them. Mr. Roznovsky said

the plan is to send them out as a blanket notice to everyone along the route and then as they receive the schedules and times the specific areas will be affected; they will get additional notices.

Mr. Roznovsky said the Water Plant No. 3 Improvements as Mr. Tramm mentioned, they will talk about this project along with the GLO Projects and the Anders Branch Drainage Analysis all at a Special Meeting.

Mr. Roznovsky said the Lift Station No. 1 Replacement Project will be discussed later this evening as well regarding the liquidated damages and discuss how to move forward on closing out that contract.

Mr. Roznovsky said they did receive the first round of plans for Town Creek Crossing, Section 1 which is for the first 100 homes at the corner of Buffalo Springs and Lone Star Parkway. Mr. Roznovsky said they are reviewing those and will have comments out earlier this week.

Mr. Roznovsky said TxDOT is still waiting on materials for the crossing at the creek for the Town Creek Inspection.

Mr. Roznovsky said earlier this evening the Escrow Agreement was approved for the Kammerer Tract Thoroughfare Study as well as the Utility Economic Feasibility Study. Mr. Roznovsky said they had additionally submitted a deposit and agreement with the City to just look at the thoroughfare portion because according to the City's major Thoroughfare Plan there is a thoroughfare that goes through this tract and that drastically impacts their development, and they want to get a head start on it. Mr. Roznovsky said they are working through it to see what they are proposing and how it affects the City and developer's needs.

Mr. Roznovsky said the timeline for Atkins Creek Project by TxDOT has been changed and is now not expected to go to construction until 2026 because they do not have funding slated for it. Mr. Roznovsky said TxDOT has informed them they will keep it on the radar, but at the moment TxDOT will not do any work until additional damage occurs.

Mr. Roznovsky said they are currently working through an access easement issue regarding the right turn lane on SH 105 and FM 149. Mr. Roznovsky they are working on getting it officially released so TxDOT will accept that right away, but it is still scheduled to begin construction next summer.

T.J. Wilkerson asked what type of rock they are going to use at Town Creek Crossing. Mr. Roznovsky said they would be using crushed concrete bollards and he was told as they were digging it out they had a hard time obtaining the materials. Mr. Roznovsky said it is scheduled to be delivered to the yard and once it is they will put it in.

Julie Davis asked regarding the Kammerer Tract are they just looking at thoroughfare or are they looking at run-off, traffic flow, or anything else. Mr. Roznovsky said it is everything and there are two pieces. Mr. Roznovsky said the piece in his report is just the thoroughfare portion because that is what they had deposited money for, but the consent item earlier was for the full Feasibility Study which looks at water/sewer drainage, traffic, taxable revenue, impact fees, and everything that goes along with that. Mr. Roznovsky said this development is outside of the rest and they have concerns. Mr. Roznovsky said questions they have asked are from an access standpoint with 500 homes, where else are they going to go in and out because that tract does connect over to Spring Branch Road, and is that in their long-term plan and also the phasing of it. Mr. Roznovsky said their current land plan is 517 lots of a third or half-acre homes and their projected sales price is between \$450,000-\$500,000 per home so it is a substantial development if the land plan does not change. Mr. Roznovsky said the other thing they will look at is regionalizing facilities as they are going to need a lift station to serve them and how that lift station needs to be located, depth size, etc. and to be able to extend out to existing people in the City along Old Plantersville Road as well as other future potential development to be connected to so they do not end up with a bunch of small lift stations.

Julie Davis said she noticed the pipeline that runs through that property too, that would give them a potential right-of-way access to Old Dobbins-Plantersville so even that could be a contender for another exit. Mr. Roznovsky said correct and their tract goes all the way to Old Dobbins-Plantersville Road as part of it, but

typically pipeline companies do not allow a whole lot within the right-of-way regarding roads, and even getting utilities across them is a process. Mr. Roznovsky said their current land plan is a green space that runs through the middle and they have a couple of streets they cross. Mr. Roznovsky said that is something they are looking at with the thoroughfare alignment portion of it and how to work between the railroad and the pipeline company and the existing roads to get it all to fit. Mr. Roznovsky said what they are proposing is to shift the major thoroughfare along Old Plantersville Road instead of through the middle of their tract and the worry is being able to connect that back to SH 105 and Lone Star Parkway and make it work. Julie Davis asked if they are talking about taking Old Plantersville Road back towards the Montgomery ISD AG Barn. Mr. Roznovsky said essentially new streets, nothing that exists today.

Mayor Countryman asked if they were given funds for Town Creek that is underneath FM 149 close to Martin Luther King Drive near the first bridge and did they clear that out and use those funds. Mr. Roznovsky said no, those are the GLO funds and that is what they will talk about in the Special Meeting.

Julie Davis said she noticed that Mr. Roznovsky has some flood plains in their report, but the plains are stopped at the City limits on the southwest side so have they looked at the flood plains that run through the Kammerer tract with all the water on it. Mr. Roznovsky said they will and check where it is supposed to go. Mr. Roznovsky said there is a divide so everything on that side of the railroad tracks goes the opposite direction than Town Creek, etc. but the flood plain map he is currently looking at, the only true and a FEMA defined flood plain is a very small section on the southern boundary of that tract, but that does not mean it changes their need for a drainage study and how they will handle their drainage.

I. Sales Tax Report

Mr. Ryan Fortner, SRI, Inc. said he would present the December Sales Tax Report dated for November. Mr. Tramm stated they did not receive a November report and the October report he emailed him back because there was a confidentiality mention on the part he said was public and he did not hear anything back. Mr. Fortner said yesterday he sent both the public and the private November reports

around 10:45 a.m. Mr. Tramm said he will check his email and make sure it gets out tomorrow.

Mr. Fortner asked how Mr. Tramm would like him to proceed because he only has the most current report with him. Mr. Tramm asked to give him a brief overview and they can reschedule for the next regular Council meeting and go over it in detail. Mr. Fortner said that was not a problem and heard earlier in the meeting that there is another meeting possibly December 22, 2020, that would be more beneficial because they will not receive the December statistics or the allocation information until tomorrow from the State and that is why they are just going through November now. Mr. Fortner said he will review the highlights for November and when Council decides to re-meet again should they meet in December, he will re-present the report and for December they will do a side-by-side comparison. Mr. Fortner apologized for the inconvenience and said he should have followed through as he was not aware they did not have the report. Mr. Fortner said he will fix that going forward.

Mr. Fortner said when they look at the sales tax filers for each month in the City, they like to do a 13-month roll-in comparison and in November of 2019, the City showed 2,229 sales tax filers which were E-commerce and physical on the ground. Mr. Fortner said they have been monitoring the number of those allocations and the sales tax filers with Covid-19. Mr. Fortner said this year in 2020 there were 2,073 sales tax filers which resulted in a 7% decrease, but it did not make a big difference at all. Mr. Fortner said there were fewer sales tax filers, but the City had some significant increases in sales tax receipts.

Mr. Fortner said for the City's calendar year, only through November because they do not have the December information as of yet, the City received \$2,542,582.21 in sales tax receipts. Mr. Fortner said they have been monitoring their twenty-five taxpayers for a 12-month roll-in average and as he mentioned before, they are starting to see more and more E-commerce which is not only indicative of the times but also of the fact that they are moving heavily into a convenience-based society and businesses are reacting to the idea that consumers would very much like to sit at home and make their purchases and do curb-side delivery or delivery made to their home which benefits both E-commerce and the

physical commerce. Mr. Fortner said they will review that when Council has a copy of the report and they can go over all of the E-commerce information.

Mr. Fortner said he reviewed their top twenty-five sales tax filers for November. Mr. Fortner said November was a very high allocation month for the City and thinks they all have a bit of post-traumatic stress disorder (PTSD) from when they received the large overpayment from HEB and so now when they see these large drops of sales tax from the State they all wait with bated breath to make sure the money is property of the City.

Mr. Fortner said he went through and reviewed it and gave a detailed analysis. Mr. Fortner said Kroger for example remitted \$119,000 to the City and all of the grocery stores and all of the clients the City has have done increasingly well. Mr. Fortner said in fact, grocery stores are one of the highest performers now next to Amazon in all of their clients.

Mr. Fortner said in the top twenty-five taxpayers just for November they remitted almost 70 percent of the sales tax allocations, just twenty-five businesses. Mr. Fortner said the ones the City has in the district that are doing well are doing very, very well. Mr. Fortner said the City is seeing high dollars come in from Lowe's Home Improvement Center which is strictly online.

Mr. Fortner said they are reviewing the accounts and making sure the money the City is receiving is not coming in error but this month they did verify everything, and the City is okay. Mr. Fortner said in a few weeks they will go over the side-by-side comparisons for October and November.

Mr. Fortner said they looked at where the dollars are spent as they do every month to determine if it is spent from home or a phone or a cash register. Mr. Fortner said currently in November 105 businesses reported transactions within the City that were physically located there. Mr. Fortner said it could be one transaction or it could be 200 transactions or more. Mr. Fortner said then there were 1,968 E-commerce related businesses that reflected transactions and again, it could be one transaction or more, so currently as of November, 96 percent of the revenue the City received from sales tax allocations is E-commerce based and that is

something they do not ever expect to change. Mr. Fortner said they are rooting for the hard corner retail, but E-commerce is here, and it is going to be a big benefit to the City and mentions this every time he speaks with Council because he has watched this number go from 88 percent and now it is 96 percent.

Mr. Fortner said in November the allocation that he and Mr. Tramm were looking at earlier and confirmed was legitimate was \$416,557.44, which is a 36 percent increase over 2019 and as he mentioned, the City had fewer taxpayers filing sales taxes over 2019, but brought in almost 40 percent more revenue.

Mr. Fortner said there is a mean allocation of \$266,000 the City receives each month which could easily be used as a baseline and expect to exceed that.

Mr. Fortner said they are working with the State to get their opinion regarding 2021, but in looking at the City's month-to-month variance for 2020, the City did very well compared to 2019 and that is in the midst of a pandemic.

Mr. Fortner said the non-quarterly months are going to show lower revenues because you have businesses such as Kroger that remit every three months, but when you look at the City as a whole, there was one month being September that was 62 percent below last year and the only reason was because last year in September when the City received the large deposit from HEB. Mr. Fortner said other than that, the City has only seen a three percent decrease in the sales tax revenues month over month when compared against 2019. Mr. Fortner said during this terrible pandemic, the City has done very well with sales tax receipts. Mr. Fortner said he will run a current analysis for E-commerce which will be ready for presentation at the next December meeting.

Mayor Countryman asked Tom Cronin if he has noticed an uptick in his business. Tom Cronin said the business is doing fine and holding their own.

Julie Davis asked if MEDC uses the top 25 sales tax producers for the City and does MEDC consider this as a list to pull in new brick and mortar stores. Julie Davis said for example if Lowe's is on the top of the list what are they doing as a City to draw them to bring a brick and mortar into the City. Mayor Countryman

said to her knowledge MEDC has not done anything but said she thought Mr. Fortner was referring to online so she does not know why they would invest coming here if that was all online business. Mr. Tramm said Lowe's did not even make any significant place on their list until just recently but does think there are ways the City can look to capitalize that permanently. Mr. Tramm said the most important thing in sales tax is the location of the point of sale. Mr. Tramm said when you order to deliver to your home, your home becomes the point of sale and that is why they have so many E-commerce businesses that are paying taxes that Mr. Fortner was referring to.

Julie Davis said she knows why Lowe's is on the list because the price of lumber has doubled and McCoy's has been out of lumber for the last three weekends in a row, so it makes sense that people are now ordering online at Lowe's because it is the next cheapest place since McCoy's is out of stock. Mr. Tramm said McCoy's has quickly worked their way near the top of the list here in the City during the two years they have been opened. Mr. Tramm said if residents are then moving to ordering online and having it delivered from Lowe's that is just more to the City's benefit.

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

15. Consideration and possible action regarding adoption of the following Resolution:
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS AUTHORIZING THE MAYOR TO EXECUTE ANY AND ALL DOCUMENTS ON BEHALF OF THE CITY OF MONTGOMERY, TEXAS NECESSARY TO EFFECTUATE THE PURCHASE OF PROPERTY FROM MONTGOMERY INDEPENDENT SCHOOL DISTRICT INCLUDING ANY LOAN DOCUMENTS RELATED TO SUCH PURCHASE

Mr. Tramm said City Council previously approved several transactions separately including borrowing funds from the MEDC to complete the purchase of land from MISD and also authorize the Mayor to execute all documents to complete each transaction. Mr. Tramm said the purpose of this item is to clearly state all these within the context of a single City resolution which will help them get this through the final title closing. Mr.

Tramm said the attached item was prepared by the City Attorney. Mr. Tramm said the recommendation is to approve the attached resolution to be able to finish getting it through closing.

Julie Davis moved to adopt the Resolution as written. T.J. Wilkerson 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.

16. 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) – Liquidated damages for Lift Station No. 1 Contract.

Mayor Countryman adjourned into Closed Executive Session at 8:37 p.m.

Reconvene into Open Session.

Mayor Countryman reconvened into Open Session at 9:11 p.m.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

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

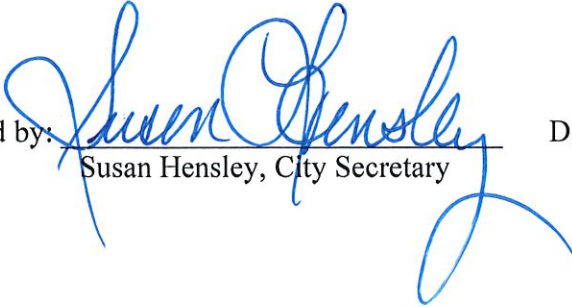
No action was taken.

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 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.

ADJOURNMENT

Tom Cronin moved to adjourn the meeting at 9:11 p.m. Julie Davis 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

Meeting Date: January 12, 2021	Budgeted Amount: \$16,000
Department: Administration	
Prepared By: Susan Hensley, City Secretary & Director of Administrative Services	Exhibits: Election Services Agreement
Date Prepared: January 6, 2021	

Subject

Adoption of the Election Services Agreement with Montgomery County Elections to conduct the May 1, 2021, City General Election.

Recommendation

Adoption of the Election Services Agreement with Montgomery County Elections.


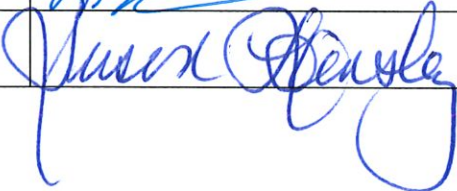
Discussion

This Agreement covers all the services for Early Voting and Election Day, including all the voting equipment, election officials and training of the election officers.

Due to the length of Exhibit B, only the portion that addresses the City's Election has been attached. If anyone is interested in seeing the entire Exhibit, I will have it in my office.

If the Election is uncontested, the City would be able to cancel the Election and there would be no cost to the City.

Approved By

City Administrator, Richard Tramm		Date: January 6, 2021
City Secretary and Director of Admin Services, Susan Hensley		Date: January 6, 2021

ELECTION SERVICES AGREEMENT

STATE OF TEXAS ()
COUNTY OF MONTGOMERY ()

THIS CONTRACT is made this 4th day of January, 2021, by and between the Political Subdivision of City of Montgomery, hereinafter called “Political Subdivision,” and Montgomery County, Texas, by its County Election Officer, Suzie Harvey, hereinafter called “Contracting Officer,” pursuant to Texas Election Code Section 31.092. The parties agree to hold a May 1, 2021 Joint Election with all participating Political Subdivisions in accordance with Chapter 271 of the Texas Election Code and this Agreement. This Agreement is entered into in consideration of the mutual covenants and promises hereinafter set out:

1. **RECITALS.** Contracting Officer is the Elections Administrator of Montgomery County, Texas, and is the County Officer in charge of election duties. Political Subdivision is a political entity situated wholly or partially within Montgomery County, Texas. Political Subdivision and Contracting Officer have determined that it is in the public interest of Montgomery County voters that the following contract be made and entered into for the purpose of having Contracting Officer furnish to Political Subdivision certain election services and equipment needed by Political Subdivision in connection with holding its May 1, 2021 Election. Montgomery County’s certified Hart InterCivic eSlate Voting System Version 6.2.1 electronic voting equipment is to be used in the May 1, 2021 Joint Election, hereinafter called “Joint Election.”
2. **DUTIES AND SERVICES OF CONTRACTING OFFICER.** Contracting Officer shall be responsible for performing the following duties and shall furnish the following services and equipment:
 - (a) Determine the number of election officials and voting equipment units needed for each polling location. Notify and coordinate presiding election judges, alternate judges, and all other election officials appointed by Montgomery County Commissioners’ Court and the County Election Board or recommended by Contracting Officer, as applicable. Montgomery County or Contracting Officer, as applicable, will make emergency appointments of election officials if necessary.
 - (b) Conduct necessary training of election officials or arrange for training through a third party. Notify all early voting and Election Day officials of the date, time, and place thereof.
 - (c) Arrange for the use of early voting locations per the attached Exhibit A and Election Day polling locations per the attached Exhibit B. If the need arises for emergency replacement polling location(s), make necessary alternate arrangements and notify Political Subdivision as soon as possible.

- (d) Procure election kits and supplies and distribute to the election judges and early voting deputies. Assemble and edit lists of registered voters to be used in conducting the election in conformity with the boundaries of Political Subdivision and the election precincts established for the election. The Election Day list of registered voters shall be arranged in alphabetical order, as applicable to the election, in lieu of alphabetical order by political entity.
- (e) Prepare and test all electronic voting equipment, format ballot styles, record audio, oversee all equipment and voter registration database programming, assure compliance with equipment security requirements, and arrange for transport of equipment to and from polling locations.
- (f) Serve as Early Voting Clerk for the Joint Election. Process, print, mail, email, or deliver in person, as applicable, and tabulate ballots for any eligible voter who applies for a mail ballot including all eligible Federal Post Card Application voters. Supervise the conduct of early voting in person and appoint sufficient personnel to serve as deputy early voting clerks. Provide lists of early voters as provided by law through the Montgomery County Elections Public Information web access program.
- (g) Provide the publication in English and Spanish of one legal notice of the date, time, and place of the public logic and accuracy test and first test of automatic tabulating equipment in *The Conroe Courier*. Prepare test materials and conduct internal election testing and the required public logic and accuracy test and tests of tabulation equipment. Provide the publication in English and Spanish of a legal notice of joint election one time in Montgomery County newspaper(s).
- (h) Arrange for all personnel, equipment, and supplies needed for the early voting ballot board, signature verification committee if applicable, tabulation, and central counting station. Tabulate early voting and Election Day results, including paper ballots and provisional ballots. Tabulate unofficial returns and assist in preparing the tabulation for the official canvass. Provide Political Subdivision its voter history report following the election through the Montgomery County Elections Public Information web access program.
- (i) Serve as Custodian of Records for election records in Contracting Officer's custody and provide the required temporary storage and permanent storage of said election records as provided by law.
- (j) Provide information services for voters and election officers.
- (k) Maintain accurate records of all expenses incurred in connection with the responsibilities under this Agreement and provide Political Subdivision a final invoice after the conduct of the election. Provide any detailed backup to such invoice, if requested, reflecting the charges or components of the costs set forth on the invoice submitted to Political Subdivision.
- (l) Conduct a partial manual count as provided by Section 127.201 of the Texas Election Code if required for the County election or if Political Subdivision provides Contracting

Officer precincts and races ordered by the Secretary of State to be manually counted. Contracting Officer shall deliver a written report of the results of any such count to the Office of the Secretary of State in accordance with Section 127.201(e) of the Texas Election Code and to Political Subdivision in a timely manner.

(m) Place the funds paid by Political Subdivision hereunder in a "contract fund" as prescribed by Section 31.100 of the Texas Election Code.

3. **DUTIES AND SERVICES OF POLITICAL SUBDIVISION.** Political Subdivision shall be responsible for performing the following duties:

(a) Prepare all election orders, resolutions, notices, and other pertinent documents for adoption and execution by the appropriate Political Subdivision officer or body. Take all actions necessary for calling Political Subdivision's election which are required by the Texas Election Code and/or the Political Subdivision's governing body, charter, ordinances, or other applicable laws. Execute a Joint Election Agreement with all participating Political Subdivisions for the purpose of sharing election equipment, election officials, polling places, and costs. Serve as Custodian of Records for all election records in its possession as provided by law.

(b) Political Subdivision shall be responsible for the legal sufficiency of any order calling its election. Political Subdivision shall be responsible for all substantive and procedural legal issues governing the conduct of its election. Political Subdivision understands and agrees that Contracting Officer provides no legal advice to Political Subdivision.

(c) Adopt the County Election Precincts, consolidated County Election Precincts ordered by the Montgomery County Commissioners' Court, or precincts recommended by Contracting Officer, as applicable, for this election. Adopt all early voting dates, times, and locations on the attached Exhibit A. Adopt the election day polling locations on the attached Exhibit B at which Political Subdivision's election will be held.

(d) If required, prepare any necessary preclearance submission on all voting changes made by Political Subdivision and timely submit to the U. S. Department of Justice under the Federal Voting Rights Act of 1965, as amended.

(e) Prepare, post and publish all required election notices for Political Subdivision with the exception of the joint election notice and the notice of the public test which Contracting Officer shall publish. In addition, if polling locations for Joint Election are different than those for Political Subdivision's previous election, Political Subdivision shall post notice at the entrance to any previous polling places in its jurisdiction stating that the polling location has changed and shall provide the polling location and address for those voters for this election, pursuant to Texas Election Code Section 43.062, unless Contracting Officer has posted notice of the change at that location for Joint Election. Educate the voters in Political Subdivision as much as possible about early voting dates, times, and locations and election day polling locations.

(f) Timely confirm with Contracting Officer Political Subdivision's boundaries, County Election Precincts, and street details within those boundaries. If boundaries are not

defined properly within Montgomery County Elections voter registration database, maps and street lists with block ranges and odd/even/both indicators must be provided to Contracting Officer. Proof and approve all programming work done for the jurisdiction according to the Exhibit C Timetable.

- (g) Deliver to Contracting Officer, according to the attached Exhibit C Timetable, an Entity Fact Sheet, Ballot Template with Spanish translations, candidate names or measures, copies of candidate applications, and the order in which all items are to be printed on the ballot with the exact form and spelling. Provide pronunciation for difficult names or words for use on the ballot audio recording. Review ballot proofs and approve by signature within deadlines provided.
- (h) Appoint Contracting Officer as Early Voting Clerk to receive applications for ballot by mail at

<u>Mail</u>	<u>Email*</u>	<u>Fax*</u>
Suzie Harvey Elections Administrator P. O. Box 2646 Conroe, TX 77305-2646	election.ballot@mctx.org	(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 be received not later than the fourth business day after it is received by email or fax.

All requests for early voting ballots to be voted by mail that are received by Political Subdivision must be forwarded in person or by email or fax to Contracting Officer on the day of receipt. Original applications that are received by mail and forwarded by email or fax must also be mailed to Contracting Officer for all processing.

- (i) Appoint election officials as appointed by Montgomery County Commissioners' Court and the County Election Board or recommended by Contracting Officer, as applicable.
- (j) If requested, assist Contracting Officer with recruiting bilingual poll workers and provide documentation of Political Subdivision's efforts if requested by the U. S. Department of Justice.
- (k) If candidate information packet is provided to Political Subdivision by Contracting Officer, distribute to all candidates at time of candidate filing or in another appropriate manner.
- (l) Pay additional costs incurred by Contracting Officer for any recount, election contest, newly ordered election, or a runoff election, if required, unless prohibited by law.
- (m) Immediately forward to Contracting Officer any information received from the Secretary of State regarding a manual count of precincts and races or a waiver of the manual count. Contracting Officer must receive this information on the same day received by Political Subdivision because of the short deadline for Contracting Officer to begin the process.

- (n) Canvass the returns and declare the election results for Political Subdivision. Political Subdivision is responsible for filing any precinct reports with the Secretary of State if required, unless both parties agree that Contracting Officer will submit precinct reports.
- (o) Pay a deposit of 60% of its estimated cost per the Exhibit D Cost Estimate within thirty days from the date of Exhibit D Cost Estimate. Pay the balance for conducting said election within thirty days from the date of final invoice. All payments shall be made from current revenues available to Political Subdivision. If the amount owed for conducting the election is less than the deposit paid by Political Subdivision, Contracting Officer shall refund the overpayment in a prompt manner.

Checks shall be made payable to:

Montgomery County Elections Administrator
P O Box 2646, Conroe, Texas 77305-2646.

4. **COST OF SERVICES.** Political Subdivision shall share some expenses for the above services, supplies, and equipment in accordance with the Exhibit D Cost Estimate. This cost estimate may be amended, if necessary, after filing deadlines and election cancellations. Additional elections may reduce costs for each entity, and election cancellations may increase costs for each remaining entity. It is understood that other political entities may wish to participate in the use of the County's electronic voting equipment and polling locations, and it is agreed that Contracting Officer may enter into other contracts with entities for those purposes on terms and conditions generally similar to those set forth in this Agreement. Only the actual expenses directly attributable to this Agreement and any prorated shared expenses plus a 10% administrative fee may be charged to Political Subdivision.

5. **GENERAL CONDITIONS.**

- (a) The parties agree that the timing is critical for all duties in this Agreement. Failure to adhere to any deadline in the Exhibit C Timetable without prior agreement of Contracting Officer may result in cancellation of Contracting Officer's duties and obligations to conduct Political Subdivision's election under this Agreement or, at the discretion of Contracting Officer, a late penalty surcharge in an amount not to exceed 10% of the final election cost. Adherence to the Timetable is critical because of Montgomery County's obligation to complete all programming and testing, process, print, and mail or email, as applicable, any military and overseas ballots by state and federal deadlines, and conduct federal, state, county, and/or other contracted elections, as applicable.
- (b) In accordance with Section 31.098 of the Texas Election Code, Contracting Officer is authorized to contract with third persons for election services and supplies and hire necessary temporary personnel to perform contracted duties. Part-time and seasonal personnel will be compensated at the hourly rate set by Montgomery County.
- (c) Pursuant to Section 31.100(d) of the Texas Election Code, Contracting Officer may not be personally compensated for election services performed under this Agreement. In accordance with Section 31.100(e) of the Texas Election Code, only costs for contractual

duties performed outside of normal business hours by personnel regularly employed by Contracting Officer will be allocated to Political Subdivision under this Agreement.

- (d) Political Subdivision acknowledges that electronic voting equipment is highly technical and it is conceivable that, despite the best effort of the parties and technical assistance, it might fail during the election. Contracting Officer will take every possible action to remedy the situation, but Political Subdivision agrees that should such equipment fail, it will not make any claim for damages of any kind.
- (e) The county early voting sites as per the attached Exhibit A will be used for the Joint Election. Any eligible Montgomery County voter in the Joint Election may vote early by personal appearance at any one of the joint early voting locations in Exhibit A.
- (f) Montgomery County Elections Department is contracting with numerous political entities for the Joint Election, and the parties agree that all ballot styles will be programmed into one electronic voting system. Each voter will receive one ballot that contains all races and measures in the Joint Election for which the voter is eligible at the address and in the precinct of the voter's current registration in Montgomery County. One joint voter sign-in process consisting of a common list of Montgomery County registered voters and common signature rosters shall be used.
- (g) In accordance with Section 31.099 of the Texas Election Code, Contracting Officer shall file copies of this Agreement with the Auditor and Treasurer of Montgomery County not later than the 10th day from receipt of the fully executed Agreement by Contracting Officer.
- (h) Montgomery County is self-insured for personal liability issues. Should Political Subdivision desire insurance for injuries during this election or other liabilities, it shall make such arrangements separate from this Agreement.
- (i) In the event that the performance by Contracting Officer of any of its obligations hereunder shall be interrupted or delayed by any occurrence not occasioned by its own conduct, whether such occurrence be an act of God or the result of war, riot, civil commotion, sovereign conduct, or the act or condition of any persons not a party thereof, then it shall be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects thereof.
- (j) The parties to this Agreement agree that Political Subdivision may cancel this Agreement in the event that it has no need to participate in Joint Election. If Political Subdivision cancels its participation after the deadline in Exhibit C Timetable, a \$200 contract preparation and processing fee will be assessed to Political Subdivision in addition to any costs incurred by Contracting Officer on behalf of Political Subdivision prior to said cancellation. A 10% administrative fee will be added to all charges for services provided under this agreement, including services related to a canceled election or canceled participation for which notification is provided to Contracting Officer after the deadline in Exhibit C Timetable.

- (k) Political Subdivision has the option of extending the applicable terms of this Agreement through its runoff election, if required. Political Subdivision shall be responsible for locating acceptable runoff polling locations, although Contracting Officer may assist. Political Subdivision may reduce the number of early voting locations and/or election day polling locations in a runoff election. If Political Subdivision elects to have Contracting Officer conduct a runoff election, the date must be acceptable to Contracting Officer and shall be coordinated with other participating entities. Costs will be allocated to the participating entities, plus a 10% administrative fee shall be charged. Political Subdivision shall be responsible for all orders, notices, and notice of election postings and publications required for its runoff, except the publication of the notice of public logic and accuracy test which Contracting Officer will publish.


The foregoing Election Services Agreement is made in Montgomery County, Texas, and is signed on the dates below.

[Remainder of this page intentionally left blank; signature page to follow.]

MONTGOMERY COUNTY, TEXAS

January 4, 2021

Date Signed

By: 
Suzie Harvey, Elections Administrator
"Contracting Officer"
9159 Airport Road
Conroe, Texas 77303
Phone: (936) 539-7843 Fax: (936) 788-8340
Email: suzie.harvey@mctx.org

City of Montgomery

"Political Subdivision"

Date Signed

By: _____
Name: **Sara Countryman**
Title: **Mayor**
Address: **101 Old Plantersville Road**
City, State, Zip: **Montgomery, Texas 77316**
Phone: **(936) 597-3288** Fax: **(936) 597-6437**
Email: **scountryman@ci.montgomery.tx.us**

EXHIBIT A
Montgomery County
May 1, 2021 Joint Election
Early Voting Polling Locations and Times

April 19 – 24	Monday	–	Saturday	8:00 am	–	5:00 pm
April 26 – 27	Monday	–	Tuesday	7:00 am	–	7:00 pm

Polling Location <i>Sitio de Votación</i>	Address <i>Dirección</i>	Room <i>Sala</i>
Lee G. Alworth Building (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>
West Montgomery County Community Development Center	31355 Friendship Drive Magnolia 77355	Green Room <i>Sala Verde</i>
South County Community Center	2235 Lake Robbins Drive The Woodlands 77380	Room 102 <i>Sala 102</i>
North Montgomery County Community Center	600 Gerald Street Willis 77378	Meador Room <i>Sala Meador</i>
East Montgomery County Fair Association Building	21675A McCleskey Road New Caney 77357	Main Room <i>Sala Principal</i>
Lone Star Community Center	2500 Lone Star Parkway Montgomery 77356	Community Room 103/104 <i>Sala Comunitaria 103/104</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>) Election Central	9159 Airport Road Conroe 77303	Lobby <i>Vestíbulo</i>

Montgomery County Elections
Exhibit B - Polling Location Information
May 1, 2021 Joint Election
For Election Day

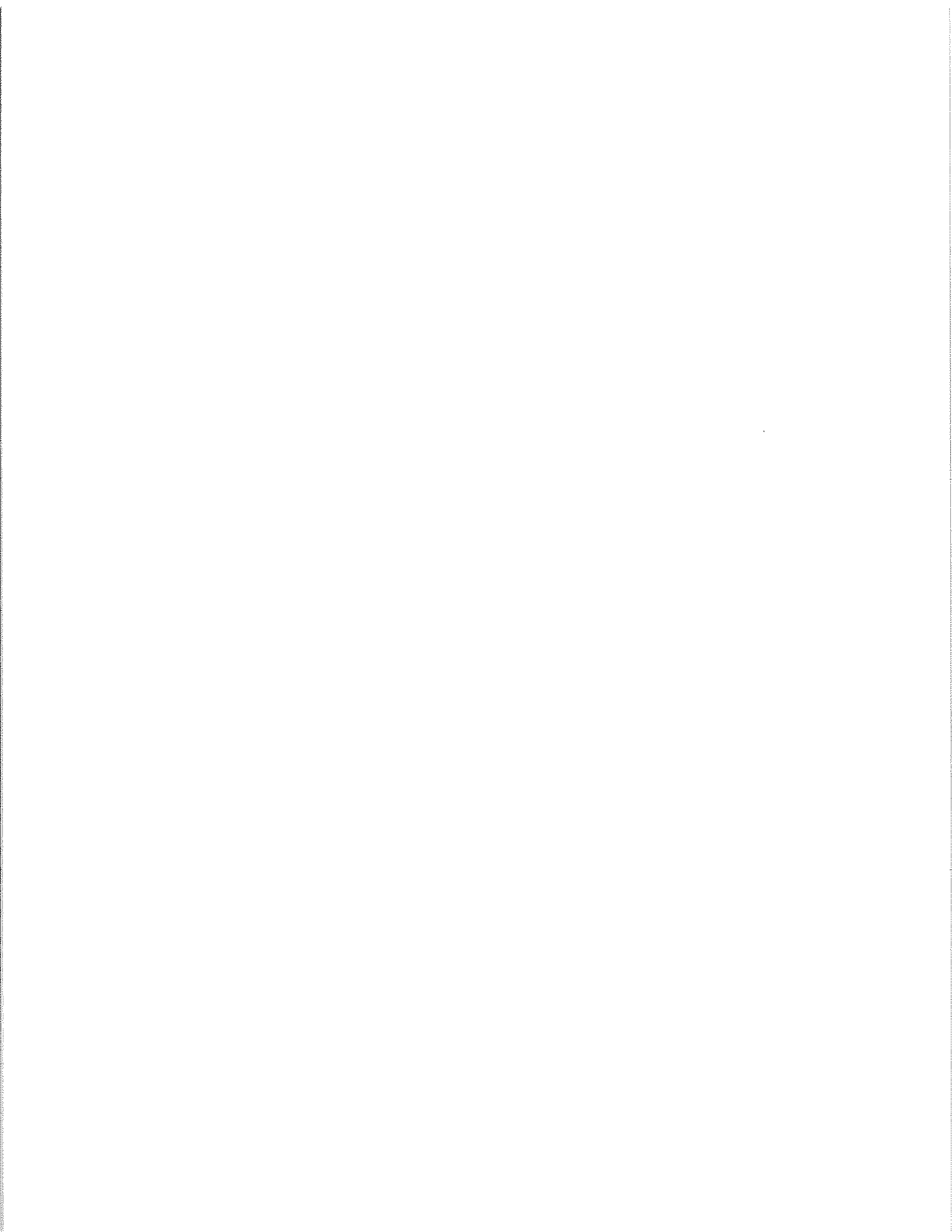
PCT	Name of Facility	Physical Address	City	Zip	Room Sala
01	Willis Community Building	109 West Mink Street	Willis	77378	Main Room <i>Sala Principal</i>
02	Conroe Seventh-Day Adventist Church	3601 South Loop 336 East	Conroe	77301	Gym <i>Gimnasio</i>
03	The Woodlands High School Ninth Grade Campus	10010 Branch Crossing Drive	The Woodlands	77382	Gym A <i>Gimnasio A</i>
04	McCullough Junior High School	3800 S. Panther Creek Dr.	The Woodlands	77381	Gym B <i>Gimnasio B</i>
05	Long Street Community Center	20240 Bays Chapel Road	Richards	77873	Main Room <i>Sala Principal</i>
06	Deretchin Elementary School	11000 Merit Oaks Drive	The Woodlands	77382	OT/PT Room <i>Sala OT/PT</i>
07	New Caney Elementary School	20501 FM 1485	New Caney	77357	Gym <i>Gimnasio</i>
08	Browder Community Center	14865 County Line Road	Willis	77378	Main Room <i>Sala Principal</i>
09	Dobbin - Dacus Community Center	695 South FM 1486	Montgomery	77316	Auditorium <i>Auditorio</i>
10	Booker T. Washington High School	507 Dr. Martin L. King, Jr. Place North	Conroe	77301	Girls' Gym <i>Gimnasio de Niñas</i>
11	Woodforest Church	15917 Highway 105 West	Montgomery	77356	Assembly Room <i>Sala de Asamblea</i>
12	Security Community Center	18760 Highway 105 East	Cleveland	77328	Main Room <i>Sala Principal</i>
13	Decker Prairie Community Center	32434 Decker Prairie Road	Magnolia	77355	Main Room <i>Sala Principal</i>
14	Robert L. Crippen Elementary School	18690 Cumberland Boulevard	Porter	77365	Gym <i>Gimnasio</i>
15	Cornerstone Church	100 Mosswood Drive	Conroe	77302	Sanctuary <i>Santuario</i>
16	Splendora ISD Instructional Services	26175 FM 2090	Splendora	77372	Front Hallway <i>Pasillo Delantero</i>
17	First Baptist Church Groceville	19256 FM 1484	Conroe	77303	Fellowship Hall <i>Salón de Compañerismo</i>
18	Magnolia Community Center	422 Melton Street	Magnolia	77354	Main Room <i>Sala Principal</i>
19	City of Montgomery City Hall	101 Old Plantersville Road	Montgomery	77316	City Council and Courtroom Chambers <i>Ayuntamiento y salas de audiencias</i>
20	Travis Intermediate School	1100 North Thompson Street	Conroe	77301	Auditorium <i>Auditorio</i>
21	Conroe High School	3200 West Davis Street	Conroe	77304	Home Field House <i>Caseta de la Escuela</i>

22	Lake Conroe Hills Community Building	13621 Lake Breeze Lane	Willis	77318	Main Room <i>Sala Principal</i>
23	North Montgomery County Community Center	600 Gerald Street	Willis	77378	Community Room 102/103 <i>Sala Comunitaria 102/103</i>
24	Oak Ridge High School	27330 Oak Ridge School Road	Oak Ridge North	77385	Cafeteria <i>Cafetería</i>
25	Grangerland Community Center	15636 FM 3083	Grangerland	77302	Community Room <i>Sala Comunitaria</i>
26	East Montgomery County Fair Association Building	21675A McCleskey Road	New Caney	77357	Main Room <i>Sala Principal</i>
27	Rivershire Club House	206 Scarborough Drive	Conroe	77304	Large Banquet Room <i>Sala Grande de Banquetes</i>
28	Decker Prairie Elementary School	27427 Decker Prairie Rosehill Road	Magnolia	77355	Gym <i>Gimnasio</i>
29	West Montgomery County Community Development Center	31355 Friendship Drive	Magnolia	77355	Green Room <i>Sala Verde</i>
30	Magnolia High School	14350 FM 1488	Magnolia	77354	Commons Area <i>Área Común</i>
31	Shenandoah Municipal Complex	29955 I-45 North	Shenandoah	77381	Council Chambers <i>Camara del Consejo</i>
32	W.D. Wilkerson Intermediate School	12312 Sawmill Road	The Woodlands	77386	Front Foyer <i>Vestíbulo Delantero</i>
33	South County Community Center	2235 Lake Robbins Drive	The Woodlands	77380	Room 102 <i>Sala 102</i>
34	Needham Fire Department Station 64	15341 Lake Lamond Road	Conroe	77384	Training Room <i>Sala de Entrenamiento</i>
35	Robinson Road Community Center	27434 Robinson Road	Oak Ridge North	77385	Main Room <i>Sala Principal</i>
36	Allendale Baptist Church	14535 Allendale Lane	Conroe	77302	Educational Building- 2nd building behind worship center <i>Edificio Educativo – 2º edificio detrás del centro de adoración</i>
37	Friendship United Methodist Church	22388 Ford Road	Porter	77365	Family Life Center <i>Centro Vida Familiar</i>
38	Montgomery County West Annex	19380 Highway 105 W., Suite 507	Montgomery	77356	Courtroom <i>Sala de Justicia</i>
39	Lake Creek High School	20639 FM 2854	Montgomery	77316	Athletic Foyer <i>Vestíbulo del Gimnasio</i>
40	Cryar Intermediate School	2375 Montgomery Park Boulevard	Conroe	77304	Gym <i>Gimnasio</i>
41	Splendora ISD Administration Building	23419 FM 2090	Splendora	77372	Board Room <i>Sala de Juntas</i>
42	Moorhead Junior High School	13475 FM 1485	Conroe	77306	Portable 6 <i>Edificio Portátil 6</i>
43	Panorama Village Fire Station	97 Hiwon Drive	Panorama Village	77304	Bay <i>Bahía</i>
44	The Lone Star Convention Center	9055 Airport Road	Conroe	77303	Yellow Rose Room <i>Sala Yellow Rose</i>
45	Precinct 45 Polling Place To Be Determined		Spring	77380	Meeting Room <i>Sala de Juntas</i>
46	Spring Creek Greenway Nature Center	1300 Riley Fuzzel Road	Spring	77386	Community Room <i>Sala Comunitaria</i>

47	South Montgomery County Fire Station #4	28830 Birnham Woods Drive	Spring	77386	Bay Bahía
48	Sally K. Ride Elementary School	4920 West Panther Creek Drive	The Woodlands	77381	Main Hallway - East Side Pasillo Principal - Lado Este
49	David Elementary School	5301 Shadowbend Place	The Woodlands	77381	Front Hallway on 3rd/4th Grade side of building Pasillo delantero en el lado de 3°/4° Grado
50	Far Hills Utility District Building	10320 Cude Cemetery Road	Willis	77318	Meeting Room Sala de Juntas
51	Central Library	104 I-45 North	Conroe	77301	Large Meeting Room La Grande Sala de Juntas
52	New Caney ISD Annex	22500 Eagle Drive	New Caney	77357	LGI LGI
53	Woodbranch City Hall	58 A Woodbranch Drive	New Caney	77357	Meeting Room Sala de Juntas
54	Peach Creek Baptist Church	25425 FM 1485 East	New Caney	77357	Center Hall Sala Central
55	Austin Elementary School	14796 Highway 105 East	Conroe	77306	Gym Gimnasio
56	The Woodlands Emergency Training Center	16135 IH-45 South	The Woodlands	77385	Main Room Sala Principal
57	Calvary Road Baptist Church	12621 Calvary Road	Willis	77318	Sanctuary Santuario
58	Lone Star College System	5000 Research Forest Drive	The Woodlands	77381	Room 113-115 Sala 113-115
59	Powell Elementary School	7332 Cochrans Crossing Drive	The Woodlands	77381	Front Office Vestibule Vestíbulo de la Oficina Principal
60	Montgomery County Juvenile Facility	200 Academy Drive	Conroe	77301	Portable Building B Edificio Portátil B
61	George and Cynthia Woods Mitchell Library	8125 Ashlane Way	The Woodlands	77382	Meeting Room 101 and 102 Sala de Juntas 101 y 102
62	Collins Intermediate School	6020 Shadowbend Place	The Woodlands	77381	Cafeteria/Gym Cafetería/Gimnasio
63	Walden Yacht Club	13101 Melville Drive	Montgomery	77356	Mirror Room Sala Mirror
64	Whispering Pines Baptist Church	15200 FM 1485	Conroe	77306	FLC Dining Room Comedor FLC
65	J. L. Lyon Elementary School	27035 Nichols Sawmill Road	Magnolia	77355	Gym Gimnasio
66	Outback Western Wear Event Hall	30405 Dobbin Huffsmith Road	Magnolia	77354	Longbranch Pavilion Pabellon Longbranch
67	Lamar Elementary School	1300 Many Pines Road	The Woodlands	77380	Gym Gimnasio
68	Knights of Columbus Hall	29327 South Plum Creek Drive	Spring	77386	Main Hall Sala Principal
69	Barbara Pierce Bush Elementary School	7420 Crownridge Drive	The Woodlands	77382	Gym Gimnasio
70	The Woodlands Recreation Center at Bear Branch Park	5310 Research Forest Drive	The Woodlands	77381	Live Oak Room Sala Live Oak
71	Buckalew Elementary School	4909 West Alden Bridge Drive	The Woodlands	77382	Front Lobby Vestibulo Delantero

72	Bentwater Yacht Club	200 Bentwater Harbor Drive	Montgomery	77356	Harbor View Room <i>Sala de Vista al Puerto2</i>
73	City of Conroe, Dean Towery Service Center	401 Sgt. Ed Holcomb Boulevard South	Conroe	77304	Training Room <i>Sala de Entrenamiento</i>
74	Cedric C. Smith Elementary School	28747 Hardin Store Road	Magnolia	77354	Gym <i>Gimnasio</i>
75	Lone Star College - The Woodlands, University Center	3232 College Park Drive	The Woodlands	77384	Room UC 105 and 106 <i>Sala UC 105 y 106</i>
76	Westwood Landowners' Association Building	406 Mackintosh Drive	Magnolia	77354	Back Civic Room <i>Cuarto Trasero Civico</i>
77	April Sound Church	67 1/2 April Wind Drive South	Montgomery	77356	Fellowship Hall <i>Salón de Compañerismo</i>
78	Roger L. Galatas Elementary School	9001 Cochrans Crossing Drive	The Woodlands	77381	Front Right Vestibule <i>Pasillo delantero derecho cerca de la Oficina Principal</i>
79	Glen Loch Elementary School	27505 Glen Loch Drive	The Woodlands	77381	Foyer <i>Vestíbulo</i>
80	Imperial Oaks Neighborhood Center	31120 Imperial Oaks Boulevard	Spring	77386	POA Clubroom <i>Salon del Club POA</i>
81	Mitchell Intermediate School	6800 Alden Bridge Drive	The Woodlands	77382	Attendance Hallway <i>Pasillo de asistencia</i>
82	Bens Branch Elementary School	24160 Briar Berry Lane	Porter	77365	Gym <i>Gimnasio</i>
83	Security Community Center	18760 Highway 105 East	Cleveland	77328	Main Room <i>Sala Principal</i>
84	South Montgomery County Fire Station #1	335 Volunteer Lane	Spring	77380	Conference Room <i>Sala de Conferencia</i>
85	Northridge Baptist Church	10681 FM 1484	Conroe	77303	Rear Entrance of Church <i>Entrada trasera de la Iglesia</i>
86	Living Branch Church	13229 Highway 105 West	Conroe	77304	Sanctuary <i>Santuario</i>
87	Birnham Woods Elementary School	31150 Birnham Woods Drive	Spring	77386	Gym Hallway <i>Pasillo del gimnasio</i>
88	C.D. York Junior High School	3515 Waterbend Cove	Spring	77386	Boys' Gym <i>Gimnasio de Niños</i>
89	Bear Branch Elementary School	8909 FM 1488	Magnolia	77354	Gym <i>Gimnasio</i>
90	The Palm Information Center	251 Central Pine Street	Montgomery	77316	Building 2 <i>Edificio 2</i>
91	Magnolia West High School	42202 FM 1774	Magnolia	77355	Commons Area <i>Área Común</i>
92	George C. Kaufman III Elementary School	2760 Northridge Forest Drive	Spring	77386	Gym <i>Gimnasio</i>
93	Valley Ranch Elementary School	21700 Valley Ranch Crossing Drive	Porter	77365	Gym <i>Gimnasio</i>
94	Lone Star College - Kingwood, Performing Arts Center	500 Royston Drive	Kingwood	77339	APA 119 <i>APA 119</i>
95	Kings Manor Elementary School	21111 Royal Crossing Drive	Kingwood	77339	Gym <i>Gimnasio</i>
96	Gerald D. Irons, Sr. Junior High School	16780 Needham Road	Conroe	77385	Boys' Gym (Gym 2) <i>Gimnasio de Niños (Gimnasio 2)</i>

97	Magnolia Event Center	11659 FM 1488	Magnolia	77354	LGI 1 <i>LGI 1</i>
98	KC Event Center	2655 FM 1488	Conroe	77384	Hall <i>Sala</i>
99	Jean Stewart Elementary School	680 Fish Creek Thoroughfare	Montgomery	77316	Gym <i>Gimnasio</i>
100	Grand Oaks High School	4800 Riley Fuzzel Rd	Spring	77386	Gym Hallway <i>Pasillo del gimnasio</i>
100					



Montgomery City Council
AGENDA REPORT

Meeting Date: January 12, 2021	Budgeted Amount: \$16,000
Department: Administration	
Prepared By: Susan Hensley, City Secretary & Director of Administrative Services	Exhibits: Joint Election Agreement
Date Prepared: January 6, 2021	

Subject

Adoption of the Joint Election Agreement with Montgomery County Elections regarding the May 1, 2021, City General Election.

Recommendation

Adoption of the Joint Election Agreement with Montgomery County Elections.


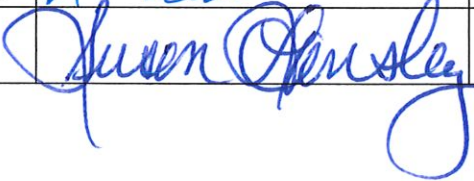
Discussion

This Agreement provides that all the entities that participate in the Joint Election desire to enter into a Joint Election Agreement for the purpose of sharing election equipment, election officials, precinct polling locations and electronic voting equipment.

The cost will be provided as soon as all the participating entities have provided their notice of participation. The cost is divided amount all the participating entities.

If there is an uncontested Election the City would be able to cancel their Election and there would be no cost to the City.

Approved By

City Administrator, Richard Tramm		Date: January 6, 2021
City Secretary and Director of Admin Services, Susan Hensley		Date: January 6, 2021

Joint Election Agreement

Political Subdivision of City of Montgomery

WHEREAS, the undersigned Political Subdivisions (collectively referred to hereinafter as "Participating Entities") will each hold an election on May 1, 2021; and

WHEREAS, Montgomery County Elections Administrator, Suzie Harvey, as Montgomery County's Election Officer, has entered into separate Election Services Agreements with each of the undersigned Participating Entities wherein the County's Election Officer will administer elections occurring on May 1, 2021, to be held in precincts in Montgomery County, as authorized under Subchapter D of Chapter 31 of the Texas Election Code ("Election Services Agreements"); and

WHEREAS, the Participating Entities desire to enter into a Joint Election Agreement, as authorized under Chapter 271 of the Texas Election Code, for the purpose of sharing election equipment, election officials, polling places, and costs where appropriate.

NOW, THEREFORE, Participating Entities enter this Joint Election Agreement under the terms that follow:

I. Scope of Joint Election Agreement

The Participating Entities enter this Joint Election Agreement ("Agreement") for the purpose of jointly conducting elections to be held on May 1, 2021 ("Joint Election").

II. Appoint Election Officer

The Participating Entities appoint Suzie Harvey, Montgomery County Elections Administrator ("Contracting Officer"), to serve as the Election Officer to perform the duties and responsibilities of Election Officer itemized in the Election Services Agreements for the Joint Election.

III. Early Voting and Election Day

Early voting and election day voting shall be held in common precincts where appropriate, at the dates, times, and locations adopted by Montgomery County Commissioners' Court and/or authorized and ordered by the governing body of each Participating Entity.

IV. Joint Election Costs; Adjustment of Costs in the Event of Cancellation of Election; Payment

The estimated election expenses for each Participating Entity, including administrative costs and expenses for facilities, personnel, supplies, equipment, and training, are reflected in the Exhibit D - Cost Estimate incorporated into each Election Services Agreement. The Participating Entities agree that they will be responsible for and will pay from budgeted funds their share of the actual election expenses attributable to each entity according to the table incorporated into the Election Services Agreements as the Final Invoice.

V. Reasonable Cooperation

The Participating Entities agree to reasonably cooperate with each other as is necessary to carry out the terms of this Agreement.

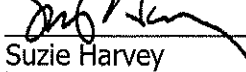
VI. Miscellaneous Provisions

1. This Agreement becomes effective with respect to each Participating Entity upon execution by that Participating Entity. The obligations of this Agreement will continue as to each Participating Entity until each Participating Entity has made full payment of its share of election costs under this Agreement and its respective Election Services Agreement, which costs are related to the Joint Election.
2. If for any reason a Participating Entity does not participate in the Joint Election, this Joint Election Agreement shall remain in effect between all remaining Participating Entities.
3. Notices given under this Agreement must be in writing and may be effected by hand delivery, fax, email, or by certified mail to the Contracting Officer and/or the Participating Entities at the addresses listed on their respective signature blocks below.
4. This Agreement may not be amended or modified except in writing executed by the Contracting Officer and each respective Participating Entity with whom the amendment or modification has been mutually agreed.
5. The obligations under this Agreement are performable in Montgomery County, Texas.
6. Venue for any dispute arising under this Agreement shall be in Montgomery County, Texas. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and the United States of America.
7. If any provision of this Agreement is found to be invalid, illegal, or unenforceable by a court of competent jurisdiction, such invalidity, illegality, or unenforceability shall not affect the remaining provisions of this Agreement; and the Participating Entities shall perform their obligations under this Agreement as expressed in the terms and provisions of this Agreement.
8. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original for all purposes. Faxed signatures and/or electronic signatures shall have the same force and effect as an original signature.

IN TESTIMONY WHEREOF, this Agreement is executed by Montgomery County, Texas or the Contracting Officer, as applicable, and each Participating Entity on the dates indicated below.

See attached signature page(s):

January 4, 2021
Date

Signature: 
Printed name: Suzie Harvey
Title: Contracting Officer
Political Subdivision: Montgomery County, Texas
All correspondence to be directed to:
Montgomery County Elections Office
Address: P. O. Box 2646
City, State, Zip: Conroe, Texas 77305-2646
Telephone: (936) 539-7843
Fax: (936) 788-8340
Email: suzie.harvey@mctx.org

Date

Signature: _____
Printed name: **Sara Countryman**
Title: **Mayor**
Political Subdivision: **City of Montgomery**
Address: **101 Old Plantersville Road**
City, State, Zip: **Montgomery, Texas 77316**
Telephone: **(936) 597-3288**
Fax: **(936) 597-6437**
Email: **scountryman@ci.montgomery.tx.us**

Date

Signature: _____
Printed name: _____
Title: _____
Political Subdivision: _____
Address: _____
City, State, Zip: _____
Telephone: () _____
Fax: () _____
Email: _____

Date

Signature: _____
Printed name: _____
Title: _____
Political Subdivision: _____
Address: _____
City, State, Zip: _____
Telephone: () _____
Fax: () _____
Email: _____

Montgomery City Council
AGENDA REPORT

Meeting Date: January 12, 2021	Budgeted Amount: N/A
Prepared By: Dave McCorquodale	Exhibits: Development Application and Escrow Agreement

Subject

Consideration and possible action regarding adoption of an Escrow Agreement by and between the City of Montgomery, Texas and Panda Restaurant Group, Inc. for the Panda Express Tract (Dev. No. 2010).

Description



The developer is planning a stand-alone restaurant immediately west of the under-construction Starbucks is in The Shoppes of Montgomery (across SH105 from Blue Wave Carwash and Kroger).

If the agreement approved, the city engineer is authorized to begin reviewing the developer's project drawing submittals. The City has received the signed Agreement and required funds from the developer, which will be deposited upon approval of the Agreement by City Council.

Recommendation

Approve the Escrow Agreement between the City of Montgomery and Panda Restaurant Group, Inc. for the Panda Express Tract.

Approved By

Asst. City Administrator	Dave McCorquodale 	Date: 01/06/2021
City Administrator	Richard Tramm 	Date: 01/06/2021



City of Montgomery Development Application

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

The City of Montgomery welcomes all development projects. To expedite the Development Review Phase of your project, we are requiring that you completely fill out this Development Application in its entirety. All the information will be reviewed to allow the timely processing of any and all aspects of your project.

A. GENERAL INFORMATION

1. Name of proposed development: Panda Express Restaurant
2. Name of Owner: CFT NV Developments LLC, Contact: David Luo
Mailing Address: 1683 Walnut Grove Avenue
City/State/Zip: Rosemead, CA 91770
Telephone Number: (626) 372-8526 Fax Number: _____
Cell Phone: 832-453-8163 Email: Richard.Dickerson@pandaRG.com
3. Name of registered Professional Land Surveyor: _____
Firm Name & Registration No.: Blew & Associate, PA Reg.#10194275
Mailing Address: 3825 N. Shilo Drive
City/State/Zip: Fayetteville, Arkansas 72703
Telephone Number: 479-443-4505 Fax Number: 479-582-1883
Cell Phone: _____ Email: www.BLEWINC.com
4. Name of registered Professional Engineer: Ray Flake, _____
Firm Name & Registration No.: Civil Engineering Services, PC Reg. #F18083
Mailing Address: 7705 Spicer Farm Lane
City/State/Zip: Fairview, Tennessee 37062
Telephone Number: (615) 553-0401 Fax Number: (615) 523-0401-8865
Cell Phone: (615) 495-0132 Email: ray@civilengineeringservices.net

B. DEVELOPMENT SPECIFICATIONS

1. General Location: Within City Limits? If no, within Extra-Territorial Jurisdiction (ETJ)? Yes

If located in the ETJ:

Prior to platting of the property to be developed, annexation procedures will need to be pursued if the property or parts of the property as required by State law are within one half (1/2) mile of the corporate limits of the City of Montgomery, Texas and lying and being adjacent to and contiguous to the present corporate limits, and located within the extraterritorial jurisdiction of the City. The City of Montgomery does have Landowner Petitions for Annexation included in the Development Application.

Will Annexation be required: [] Yes [x] No

2. Property Description:

- a) Survey Name: The Shoppes at Montgomery Section 2
- b) Abstract No.: Restricted Reserve "E"
- c) Total Acreage: 0.71 Ac.
- d) Current Zoning: Commercial
- e) Number of Lots: 1 Number of Blocks: n/a Estimated Commercial Value: \$975,000.00
- f) Number of Streets: (1), One Type: Public Private
- g) Total Acreage in Other uses (any land within the boundaries of the plat that is not divided into lots):
N/A
- h) Estimated Total Taxable Value: \$975,000.00 Land \$1,200,000.00 Improvements
- i) Estimated Size(s) of Lots: 0.71 Ac.
- j) Estimated Value of House and Lot: \$2,175,000.00
- k) Water Capacity Requested: 2,130 gpd Wastewater Capacity Requested: 2,000 gpd

3. Certification

This is to certify that the information concerning the proposed development is true and correct, that I am the actual owner or authorized agent for the owner of the above described property, that prior to a request for any variance to the Montgomery Code of Ordinances, I will attend a pre-development meeting with the City Administrator and City Engineer concerning said variance request, and that I will comply with all of the City of Montgomery Code of Ordinances requirements for submitting a preliminary plat/variance request for approval.


Signature of Owner/Agent

12-15-20
Date

Received by: _____

Date

Please attach a metes and bounds description of the tract, land plan, conceptual plat, preliminary land plan, and location map, to the Application indicating proposed location of project and boundaries of subject tract. Applicant agrees that it shall notify the City if any of the above information (including ownership of the tract) should change during the Application process.

ESCROW AGREEMENT
BY AND BETWEEN
THE CITY OF MONTGOMERY, TEXAS,
AND
Panda Restaurant Group, Inc.

Dev. No. 2010

THE STATE OF TEXAS Ⓢ

COUNTY OF MONTGOMERY Ⓢ

This Escrow Agreement, is made and entered into as of the 4th day January _____, 2021 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 Panda Restaurant Group, Inc., (hereinafter called the "Developer").

RECITALS

WHEREAS, the Developer desires to acquire and develop all or part of a 0.71-acre tract, being comprised of Reserve E, The Shoppes at Montgomery Sec. 2, sometimes referred to as the Panda Express 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 Panda Express 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	\$ 4,000
Legal	\$ 1,000
<hr/>	
TOTAL	\$ 6,000

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

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

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

ARTICLE III,

MISCELLANEOUS

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

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

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

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

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

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

(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:	David Luo Panda Restaurant Group, Inc. 1683 Walnut Grove Avenue Rosemead, California 91770
----------------------	-----------------------------------------------------------------------------------------------------

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

Panda Restaurant Group, Inc.
Developer

By:  _____
Signature

Title: EXECUTIVE DIRECTOR, CONSTRUCTION MGMT.

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 _____, 20__.

Notary Public, State of Texas

THE STATE OF TEXAS {

COUNTY OF _____ {

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, on this day personally appeared _____ of _____, a _____, 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 ____ day of _____, 20__.

Notary Public, State of Texas

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Los Angeles)

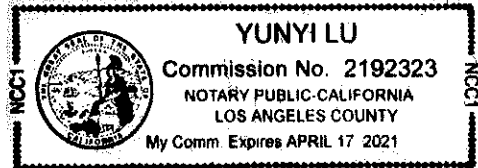
On 01/04/2021 before me, Yunyi Lu, Notary Public
(insert name and title of the officer)

personally appeared David Wang,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)



RE: Escrow Agreement by and between The City of Montgomery, TX

Montgomery City Council
AGENDA REPORT

Meeting Date: January 12, 2021	Budgeted Amount: N/A
Prepared By: Richard Tramm	Exhibits: N/A

Subject

Consideration and possible action to call a Public Hearing to be held on February 9, 2021, for the purpose of reviewing and continuing City of Montgomery Ordinance 2018-05, Juvenile Curfew Ordinance.

Description

The City is required to hold a hearing and review the Juvenile Curfew Ordinance every three (3) years. It was last reviewed in 2018 and is due for review this year. Police Chief Anthony Solomon will be reviewing the ordinance for any recommendations that might need to be considered for updates to the ordinance at a future meeting.

Recommendation

Recommendation is to call a Public Hearing for the purpose of reviewing the City of Montgomery Ordinance 2018-05, Juvenile Curfew Ordinance.

Approved By

City Administrator	Richard Tramm <i>RT</i>	Date: 01/06/2021
--------------------	-------------------------	------------------

Montgomery City Council
AGENDA REPORT

Meeting Date: January 12, 2021	Budgeted Amount: N/A
Prepared By: Dave McCorquodale	Exhibits: Resolution, Map of MUD area, Petition for Consent to Annexation

Subject

Consideration and possible action on a Resolution regarding a Petition for Consent to Annexation of Land into Proposed Montgomery County MUD No. 160 as submitted by Hilliary Dumas.

Description

The developer of the MUD is requesting to add this parcel of land to their MUD to facilitate the MUD creation process. Some of the points to consider in the request are:

- The requested parcel has an existing building with living quarters, which would provide the housing needed for the resident who will vote in the MUD election.
- The alternative to the MUD voter living in this location is to move a manufactured home (trailer house) onto the property currently in the MUD. The likely location for the trailer is adjacent to the Buffalo Springs Bridge across the street from Waterstone considering availability to existing utilities.
- City Council would have to grant a variance to allow the manufactured home.
- The requested parcel is owned by the developer.
- Once land is in a MUD, it cannot be removed from the MUD.
- The property would be subject to MUD taxes (but not necessarily potential HOA dues).

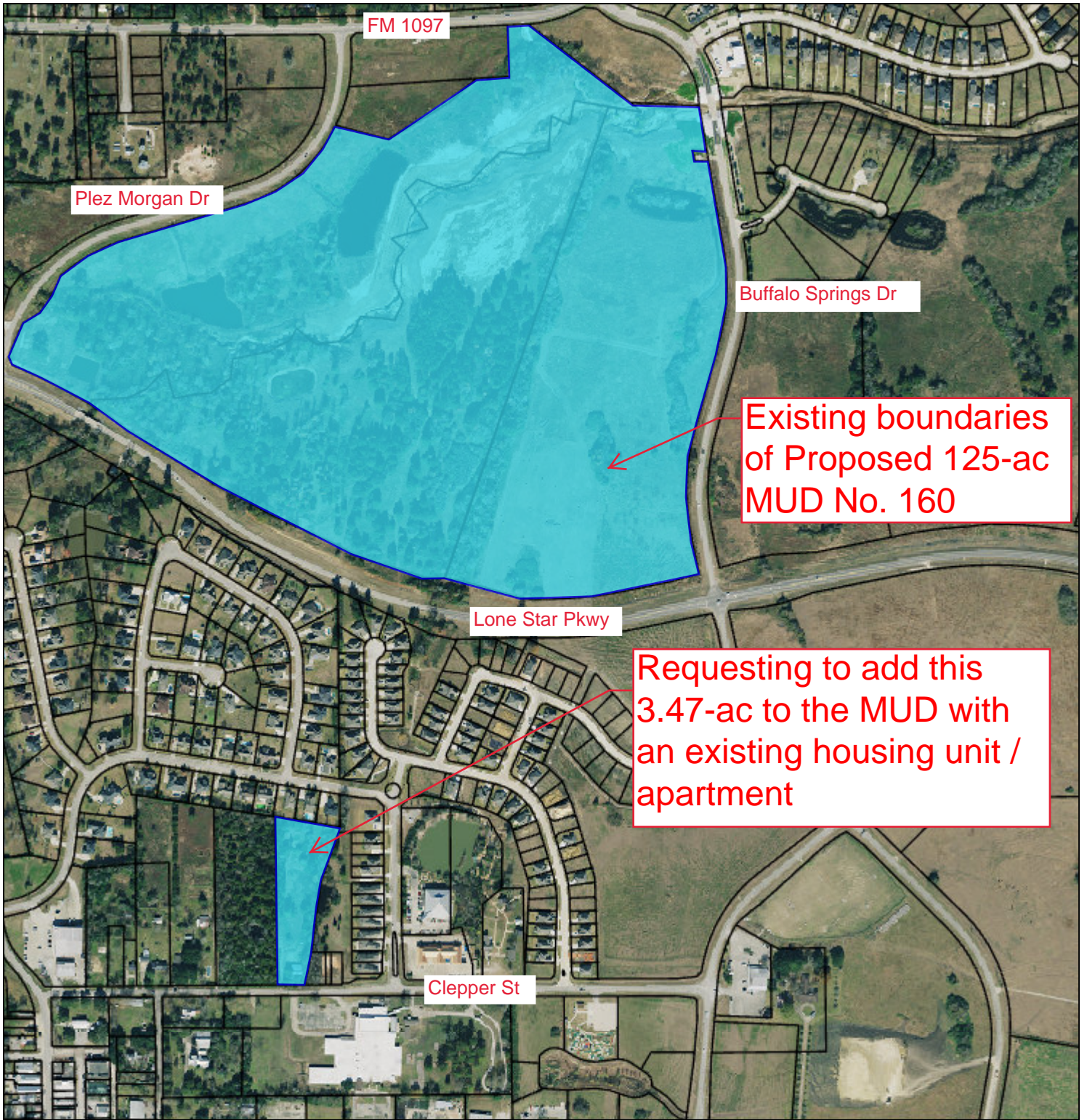
Recommendation

Consider the request to consent to the land annexation into the MUD and act on the Resolution as you see fit.

Approved By

Asst. City Administrator	Dave McCorquodale <i>DM</i>	Date: 01/07/2021
City Administrator	Richard Tramm <i>RT</i>	Date: 01/07/2021

Montgomery County MUD No. 160



1 inch equals 752 feet



Date: 12/10/2020

PETITION FOR CONSENT TO ANNEXATION OF LAND
INTO PROPOSED MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 160

THE STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

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

The undersigned, Hilliary Dumas (the "Petitioner"), in her sole capacity, being the owner of the 3.47 acres of land described in Exhibit "A" attached hereto (the "Property"), respectfully petition the City of Montgomery, Texas (the "City") for its consent to the annexation of land into the proposed Montgomery County Municipal Utility District No. 160 (the "Proposed District"). The Petitioner expects the Proposed District to be created by February 28, 2021. In support of this Petition, the Petitioner would show the following:

I.

The Property sought to be added to the Proposed District is described in Exhibit "A" attached hereto and made a part hereof for all purposes.

II.

The Property lies wholly within the corporate limits of the City of Montgomery, Texas.

III.

The Petitioner is the holder of title to the Property as shown by the Montgomery County Tax Rolls and conveyances of record. There are no lienholders on the Property. No one resides on the Property.

IV.

The Proposed District is being organized, created and established by the Texas Commission on Environmental Quality. The Proposed District is being organized for the purposes found in Chapter 54, Texas Water Code, as amended, to provide for:

- (1) provide a water supply for the Proposed 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 Proposed 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 Proposed 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 Proposed 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.

V.

The general nature of the work anticipated to be done by the Proposed 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 Proposed 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 Proposed District is organized, all to the extent authorized by law from time to time.

VI.

There is a necessity for the improvements above described because the Proposed 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 Proposed 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 Proposed District.

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

VII.

Said proposed improvements are practicable and feasible, in that the terrain of the Property is of such a nature that water, storm and sanitary sewer facilities and services, parks and roads can be constructed at a reasonable cost; and said land will be developed for residential purposes in the foreseeable future.

VIII.

A preliminary investigation has been instituted to determine the cost of the projects attributable to the Property, and it is now estimated by those filing this Petition, from such information as they have at this time, that the ultimate cost of the project contemplated will be approximately \$0.

IX.

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 the addition of the Property to the Proposed District.

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RESPECTFULLY SUBMITTED THIS 16th day of January, 2021.

PETITIONER:

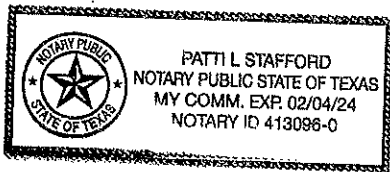
HILLIARY DUMAS,
in her sole capacity

By: Hilliary Dumas
Name: HILLIARY DUMAS
Title: _____

THE STATE OF TEXAS §
COUNTY OF Montgomery §

This instrument was acknowledged before me on the 16th day of January, 2021, by Hilliary Dumas as _____ of HILLIARY DUMAS, in her sole capacity.

Patti L Stafford
NOTARY PUBLIC—STATE OF TEXAS
PATTI L STAFFORD
(Printed Name of Notary)



My commission expires: 02/04/2024

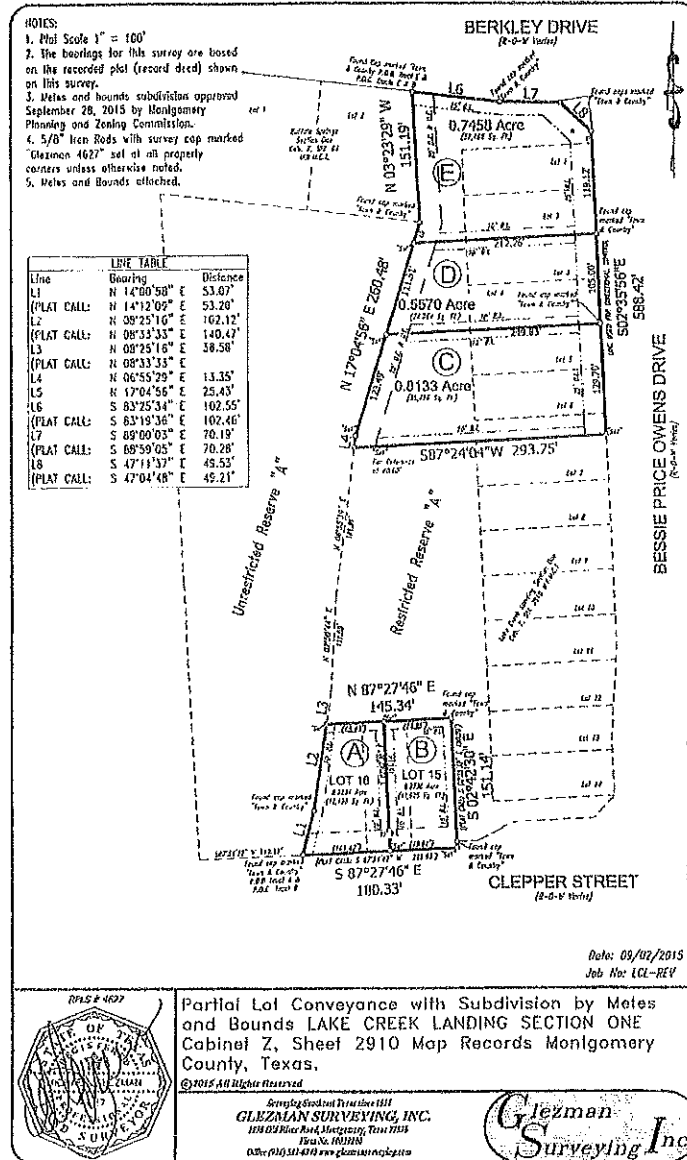
December 22, 2020
Page 2

EXHIBIT A

Unrestricted Reserve "A," of Lake Creek Landing, Section 1, a subdivision located in Montgomery County, Texas, according to the plat recorded in Cabinet Z, Sheet 2910 of the Official Public Records of Montgomery County, Texas.

016543.000001\4828-5567-9956.v1

016543.000001\4832-9519-2276.v1



016543.000001\4828-5567-9956.v1

CERTIFICATE OF NO TENANTS

THE STATE OF TEXAS §

COUNTY OF Montgomery §
§

I, HILLIARY DUMAS, the _____ of _____, owner of the land described in Exhibit "A" attached hereto, do hereby certify that as of this date there is no one residing on all or part of the land described in Exhibit "A" attached hereto and incorporated herein for all purposes.

WITNESS MY HAND this 6th day of January, 2021.

PETITIONER:

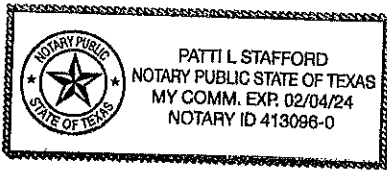
HILLIARY DUMAS,
in her sole capacity

By: Hilliary Dumas
Name: HILLIARY DUMAS
Title: _____

THE STATE OF TEXAS §

COUNTY OF Montgomery §
§

This instrument was acknowledged before me on the 6th day of January, 2021, by HILLIARY DUMAS as _____ of HILLIARY DUMAS, in her sole capacity.



Patti L. Stafford
NOTARY PUBLIC - STATE OF TEXAS
Patti L. STAFFORD
(Printed Name of Notary)

My commission expires: 02/04/2024

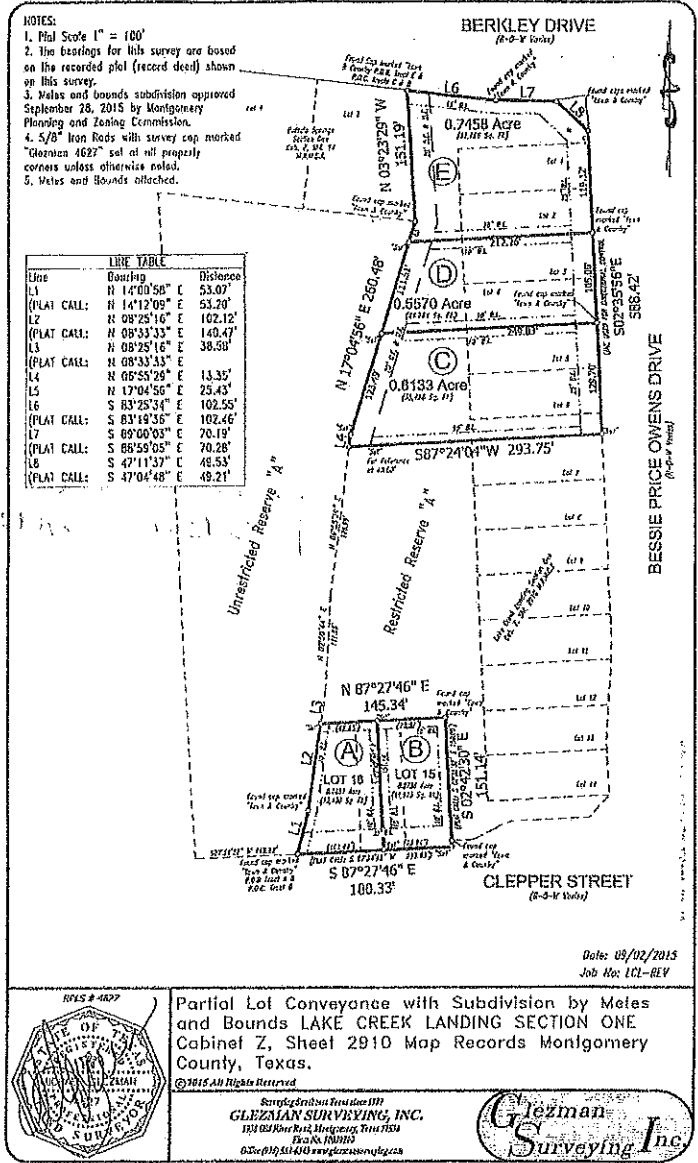
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016543.000001\4828-5567-9956.v1

016543.000001\4832-9519-2276.v1

CERTIFICATE OF NO LIENHOLDERS

THE STATE OF TEXAS §

COUNTY OF Montgomery §

I, HILLIARY DUMAS, _____ of _____, owner of the land described in Exhibit "A" attached hereto, do hereby certify that as of this date there are no lienholders on all or part of the land described in Exhibit "A" attached hereto and incorporated herein for all purposes.

EXECUTED this 6 day of January, 2021.

PETITIONER:

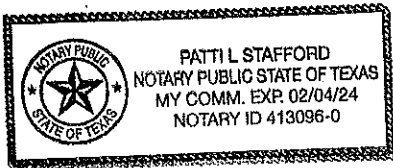
HILLIARY DUMAS,
in her sole capacity

By: Hilliary Dumas
Name: HILLIARY DUMAS
Title: _____

THE STATE OF TEXAS §

COUNTY OF Montgomery §

This instrument was acknowledged before me on the 6th day of January, 2021, by Hilliary Dumas as _____ of HILLIARY DUMAS, in her sole capacity.



Patti L. Stafford
NOTARY PUBLIC - STATE OF TEXAS
PATTI L STAFFORD
(Printed Name of Notary)

My commission expires: 02/04/2024

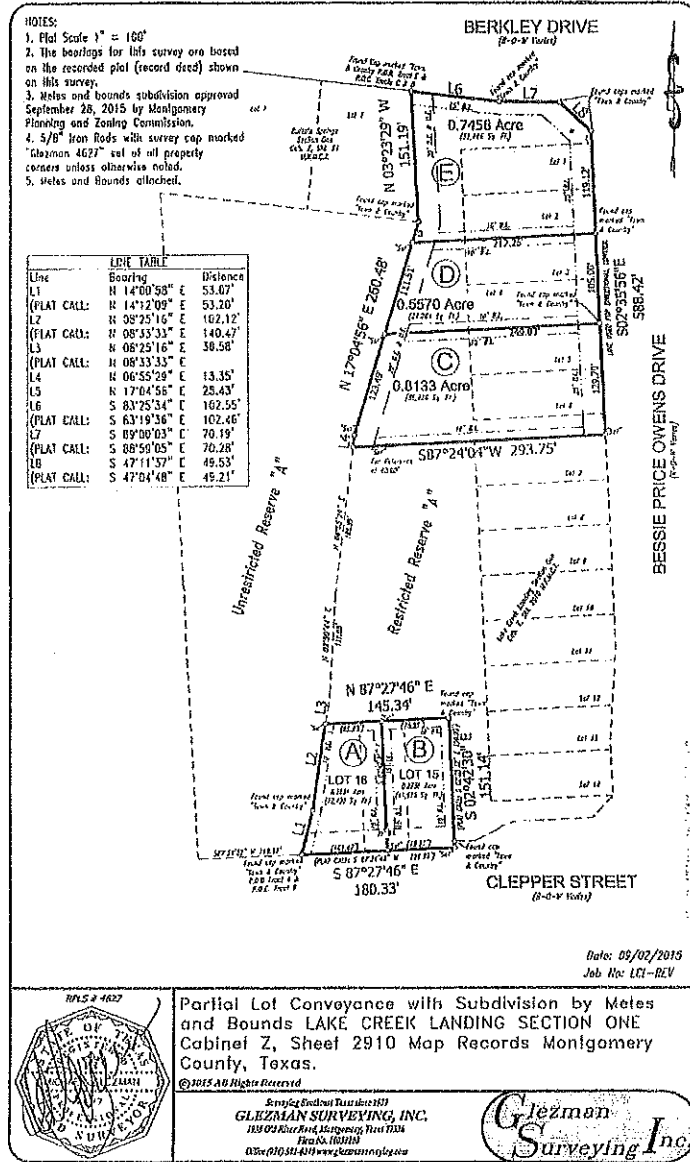
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Page 2

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016543.000001\4832-9519-2276.v1

Montgomery City Council
AGENDA REPORT

Meeting Date: January 12, 2021	Budgeted Amount: \$16,000
Department: Administration	
Prepared By: Susan Hensley, City Secretary & Director of Administrative Services	Exhibits: Election Ordinance
Date Prepared: January 6, 2021	

Subject

Adoption of an Ordinance calling the May 1, 2021, City General Election for the positions of City Council Places 1, 3 and 5.

Recommendation

Adoption of the Ordinance calling the May 1, 2021, City General Election.

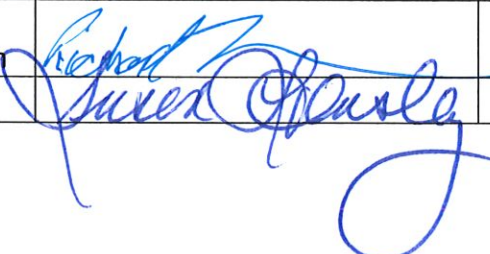
Discussion

The City Council Places that will be up for Election are currently held by:

**City Council, Place 1 – Carol Langley
City Council Place 3 – T.J. Wilkerson
City Council Place 5 – Tom Cronin**

The ordinance has been reviewed by the City Attorney.

Approved By

City Administrator Richard Tramm		Date: January 6, 2021
City Secretary Susan Hensley		Date: January 6, 2021

ORDINANCE NO. 2021-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, PROVIDING FOR THE HOLDING OF A GENERAL ELECTION TO BE HELD ON MAY 1, 2021, FOR THE PURPOSE OF ELECTING THREE (3) CITY COUNCIL MEMBERS, PLACES 1, 3 AND 5; APPROVING ELECTION SERVICE AGREEMENTS WITH MONTGOMERY COUNTY, TEXAS; AND PROVIDING DETAILS RELATING TO THE HOLDING OF SUCH ELECTION.

WHEREAS, the City Council of the City of Montgomery, Texas (the “City Council”) desires to call an election for May 1, 2021 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 election pursuant to a *Joint Elections Agreement* and an *Election Services Agreement* with Montgomery County, Texas;

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

Section 1. In accordance with the Texas Constitution and general laws of the State of Texas, a General City Election is hereby called and ordered for the first Saturday in May, that being May 1, 2021, at which Election all qualified voters of the City of Montgomery, Texas (the “City”) may vote for the purpose of electing the following officials of the City:

Council Member, Place 1

Council Member, Place 3

Council Member, Place 5

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 City Election on May 1, 2021 and early voting.

Section 3. No person’s name shall be placed upon the official ballot as a candidate for any of the above mentioned positions 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 earlier than January 13, 2021 or later than five o'clock (5:00) p.m. on February 12, 2021. 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 Tuesday, February 16, 2021 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 February 19, 2021 by five o'clock (5:00) p.m.

Section 4. The polls for Election Day 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: 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

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. 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 19, 2021 through Saturday, April 24, 2021 from 8:00 a.m. to 5:00 p.m., and Monday, April 26, 2021 and Tuesday, April 27, 2021 from 7:00 a.m. to 7:00 p.m. Ballots voted by mail shall be sent to:

Election Central

Attn: Suzie Harvey, Elections Administrator– Early Voting Clerk (Contracting Officer)

P.O. Box 2646

Conroe, Texas 77305-2646

Section 6. Voting shall be conducted by the Contracting Officer 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 election, (ii) to post notice of the election, and (iii) to

publish notice of the election, 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 three (3) City Council Members, Places 1, 3 and 5, receiving the highest number of votes in each of the positions to be filled 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 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, APPROVED and ADOPTED this 12TH day of January, 2021.

Sara Countryman, Mayor

ATTEST:

Susan Hensley, City Secretary

APPROVED AS TO FORM:

/s/Alan P. Petrov, City Attorney

EXHIBIT A
Montgomery County
May 1, 2021 Joint Election
Early Voting Polling Locations and Times

April 19 – 24	Monday	–	Saturday	8:00 am	–	5:00 pm
April 26 – 27	Monday	–	Tuesday	7:00 am	–	7:00 pm

Polling Location <i>Sitio de Votación</i>	Address <i>Dirección</i>	Room <i>Sala</i>
Lee G. Alworth Building (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>
West Montgomery County Community Development Center	31355 Friendship Drive Magnolia 77355	Green Room <i>Sala Verde</i>
South County Community Center	2235 Lake Robbins Drive The Woodlands 77380	Room 102 <i>Sala 102</i>
North Montgomery County Community Center	600 Gerald Street Willis 77378	Meador Room <i>Sala Meador</i>
East Montgomery County Fair Association Building	21675A McCleskey Road New Caney 77357	Main Room <i>Sala Principal</i>
Lone Star Community Center	2500 Lone Star Parkway Montgomery 77356	Community Room 103/104 <i>Sala Comunitaria 103/104</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> Election Central	9159 Airport Road Conroe 77303	Lobby <i>Vestíbulo</i>

Montgomery City Council
AGENDA REPORT

Meeting Date: January 12, 2021	Budgeted Amount: N/A
Prepared By: Richard Tramm	Exhibits: N/A

Subject

Discussion and consideration to authorize the City Administrator to take action to have the updated signature cards prepared for City banking accounts.

Description

Due to the changes on City Council we need to update the signature cards for City banking accounts. Mayor Sara Countryman, Councilman Tom Cronin and City Administrator Richard Tramm are the current account signers that are still active with the City. My plan is to add each of the remaining City Council members in addition to the one named above (T. J. Wilkerson, Carol Langley, Kevin Lacy and Julie Davis). This would supersede the previous authorized signer list.

Recommendation

Authorize the City Administrator to take action to have the updated signature cards prepared for City banking accounts.

Approved By

City Administrator	Richard Tramm 	Date: 01/07/2021
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Montgomery City Council
AGENDA REPORT

Meeting Date: January 12, 2021	Budgeted Amount: N/A
Prepared By: Richard Tramm	Exhibits: Current City Ordinance; Proposed Updated Affected Area Map

Subject

Review of Chapter 6 of the City Code of Ordinances pertaining to alcoholic beverages.

Description

Prior to the COVID-19 pandemic, City staff was asked to investigate options related to the extension of the legal provision that allows the public to walk with alcohol in a defined area during special events of the City by extending this to be effective on a regular basis. This defined area is generally in the Historic Downtown area that is home to many restaurants and shops, as well as the area for several events during the year (normally).

Staff has considered some of the changes in the area and made some updates to the proposed area map to provide greater clarity and uniformity in the designated boundary. We have discussed the proposed expansion of dates from special events to being a full-time provision, while still being limited by time of day, with both the City's Attorney and Police Chief with neither having objections to these modifications.

Staff expects this could be a boost to several local businesses that sell alcohol in the Historic Downtown area, as well as help other local shops in the area that could benefit from the additional foot traffic.

Recommendation

Provide guidance to City staff on bringing an updated ordinance back to City Council for future approval.

Approved By

City Administrator	Richard Tramm <i>RT</i>	Date: 01/06/2021
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ORDINANCE NO. 2017-16

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING CITY ORDINANCE NO. 1989-2, DATED FEBRUARY 14, 1989, BY AMENDING SECTION 57 OF CHAPTER 6, "ALCOHOLIC BEVERAGES," OF THE CITY CODE OF ORDINANCES, TO PROVIDE AN AREA AND TIME EXCEPTION TO THE PROHIBITION OF CONSUMPTION OF BEER AND WINE ON PUBLIC STREETS SIDEWALKS AND ALLEYS AT SPECIAL EVENTS BY PERMIT SUBJECT TO CERTAIN REQUIREMENTS; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING A TEXAS OPEN MEETINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE AFTER PUBLICATION.

WHEREAS, the City Council of the City of Montgomery, Texas, by Ordinance No. 1989-2, dated February 14, 1989, adopted a policy to prohibit the consumption of alcoholic beverages on a public street, sidewalk or alley within the city limits of the City of Montgomery; and

WHEREAS, the ordinance is codified in Chapter 6, entitled "Alcoholic Beverages," Article III, "Regulations," at Section 57 of the City of Montgomery Code of Ordinances; and

WHEREAS, the Texas Alcoholic Beverage Codes provides for certain exceptions to the consumption of beer and wine for certain qualified temporary events; and

WHEREAS, upon the recommendation of the City staff, the City Council desires to amend Section 6-57 of the Code of Ordinances, entitled "Consumption on the street, sidewalk or alley," by permitting an exception for the consumption of beer and wine at special events by persons afoot in a certain area(s) and in certain time periods, subject to approval by the Texas Alcoholic Beverage Commission and by the property owner;

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

SECTION I.

RECITALS ADOPTED: The City Council adopts the findings and recitals above as true and correct.

SECTION II.

AMENDMENT TO ALCOHOLIC BEVERAGES ORDINANCE. Section 6-57 of the City Code of Ordinances, entitled "Consumption on the street, sidewalk and alley," is hereby

amended, such that it reads as follows:

Section 6-57. Consumption on the street, sidewalk or alley

- (a) *Drinking alcoholic beverages on a public street, sidewalk or alley of the city, whether afoot, or as a passenger in or an operator of any vehicle, is unlawful and is prohibited.*
- (b) Exception: *Subject to the rules and regulations of the Texas Alcoholic Beverages Code, persons afoot on a public street, sidewalk or alley of the City are permitted to drink beer and wine in a limited public area defined as:*
- 1) *The north right-of-way line of Eva Street (State Highway 105) extending north to the south right-of-way line of Clepper Street and bounded on the east by Prairie Street north to 150 feet south of Mason Street, and on the west by 125 feet west of Liberty Street (FM 149), extending north to the south right-of-way line of College Street to also include the east of the eastern right-of-way line of Liberty Street between College Street to the south right-of-way line of Clepper Street and an area extending west from the west right-of-way line of Pond Street 200 feet west and bounded on the north by the south right-of-way line of Eva Street and on the south by the north curb line of the existing parking area, as further described by the map incorporated into this Ordinance as Exhibit "A."*
 - 2) *This exception is authorized only from 7:00 AM to 12:00 Midnight, Monday through Saturday; 12:00 Midnight to 1:00 AM on Sundays; and 12:00 Noon to 12:00 Midnight on Sundays.*
 - 3) *This permission by the City is further conditioned upon documentation submitted to the City Administrator that shall include the applicable Texas Alcoholic Beverage Commission Permit and letters of authorization from the owners of property within the designated area.*
- (c) *The throwing of any opened container of any type general used for beverages from or out of any vehicle shall be prima facie evidence that the occupant thereof was then and there drinking alcoholic beverages in violation of this section.*

SECTION III.

REPEALING CLAUSE. This amendment to Ordinance No. 1989-2, dated February 14, 1989, as codified in Section 6-57 of the Code of Ordinances of the City of Montgomery, Montgomery County, Texas, shall prevail and all other Ordinances in conflict are hereby repealed to the extent of any conflict.

SECTION IV.

SEVERABILITY. If any section, subsection, sentence, clause, provision or part of this Ordinance shall be held invalid for any reason, the remainder of this Ordinance shall not be affected thereby but shall remain in full force and effect.

SECTION V.

TEXAS OPEN MEETINGS ACT. It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, of the Texas Government Code.

SECTION VI.

EFFECTIVE DATE. This Ordinance shall take effect and be in force after its publication as provided by law.

PASSED AND APPROVED by the City Council of the City of Montgomery, Texas, on the 11th day of July 2017.

THE CITY OF MONTGOMERY, TEXAS

Kirk Jones

Kirk Jones, Mayor

ATTEST:

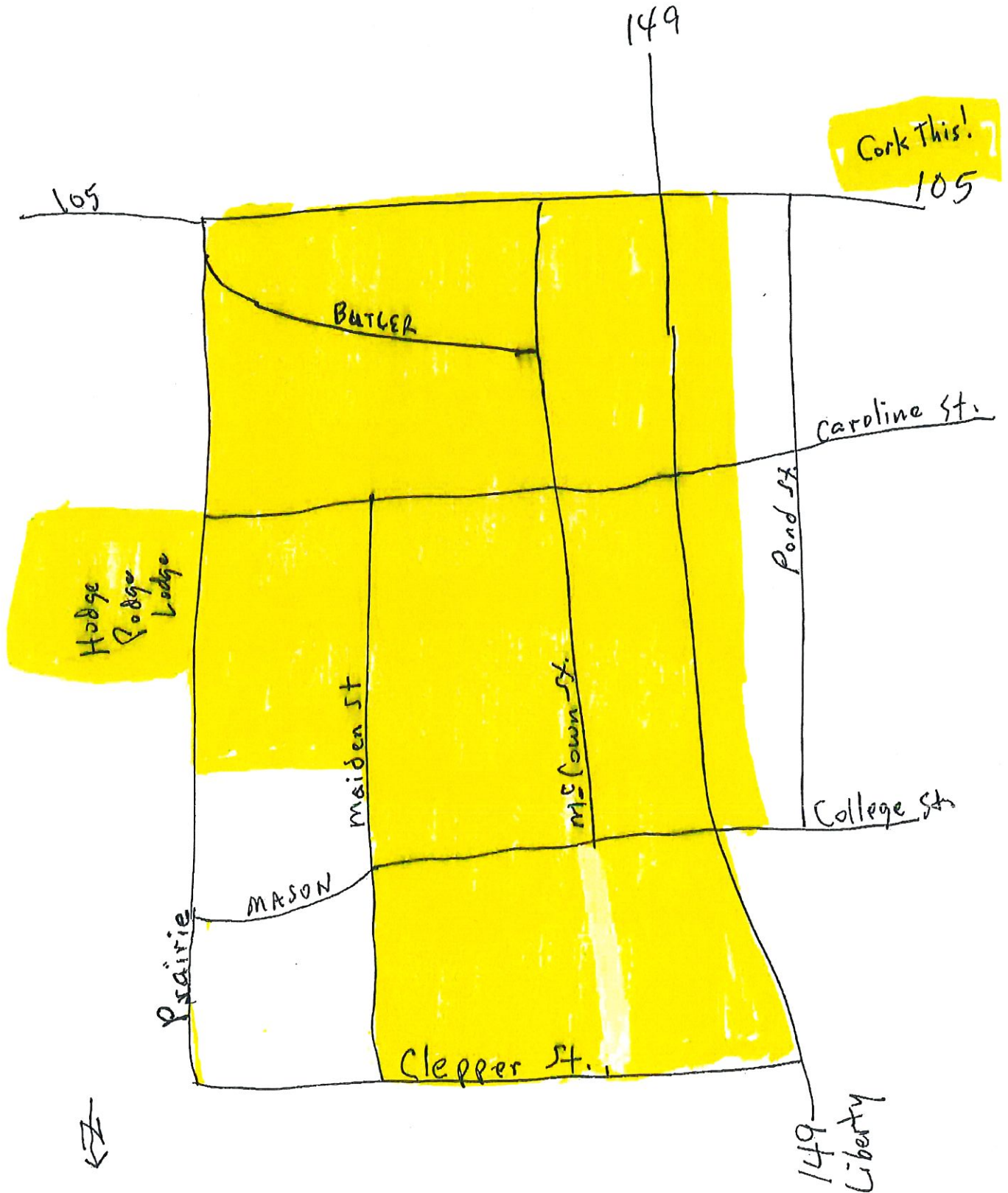
Susan Hensley
Susan Hensley, City Secretary



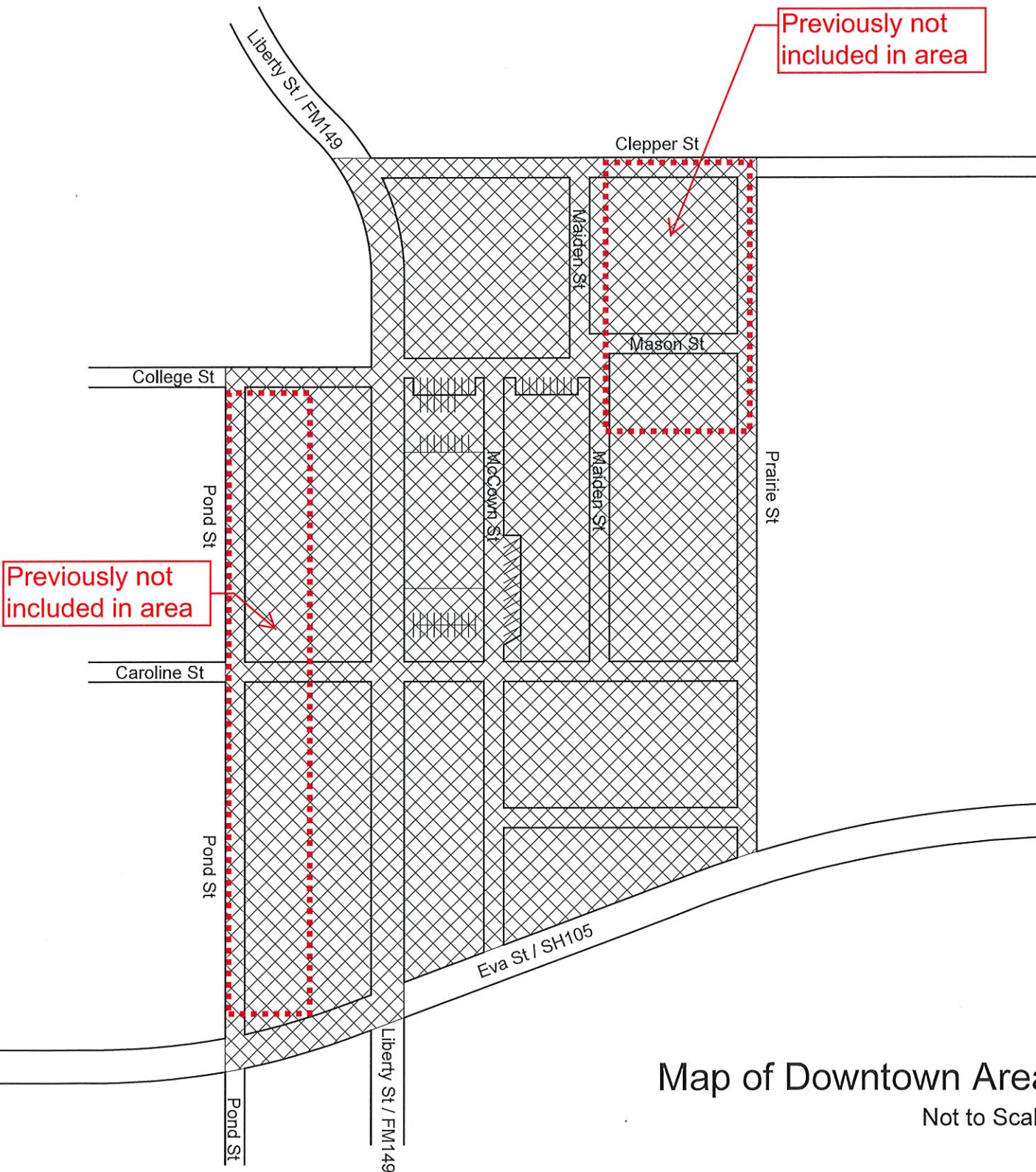
APPROVED AS TO FORM:

Larry L. Foerster
Larry L. Foerster, City Attorney

EXISTING MAP AREA



Proposed Boundary Map



Previously not included in area

Previously not included in area

Map of Downtown Area

Not to Scale

* Hatched area denotes where open alcoholic beverages are allowed