

**MINUTES OF REGULAR MEETING**

**June 8, 2021**

**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  
Julie Davis City Council Place # 4  
Byron Sanford City Council Place # 5

Absent: T.J. Wilkerson City Council Place # 3

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

**CALL TO ORDER**

**INVOCATION**

Byron Sanford gave the Invocation.

**PLEDGE OF ALLEGIANCE TO FLAGS**

**VISITOR/CITIZENS FORUM:**

Any citizen with business not scheduled on the agenda may speak to the City Council. Prior to speaking, each speaker must be recognized by the Mayor. Council may not discuss or take any action

on an item, but may place the issue on a future agenda. The number of speakers along with the time allowed per speaker may be limited.

Mayor Countryman said Mr. Floyd Montgomery would be speaking on behalf of the Montgomery Museum.

Mr. Montgomery said this is first responders of Montgomery, Texas. Mr. Montgomery said he has collected over 2,000 Montgomery items over the last 35 years and is hoping to have a Montgomery Museum in Montgomery, Texas sometime this year. Mr. Montgomery said he moved from Oklahoma three years ago and is in the process of putting his collection in two bedrooms in his house until he gets a more permanent location, hopefully in downtown Montgomery.

**CONSENT AGENDA:**

1. Matters related to the approval of the May 25, 2021 Regular Meeting Minutes.
2. Accept resignation of Keri May for Place 2 on the Planning & Zoning Commission and begin application process for replacement and appointment of that position.

Kevin Lacy moved to accept the Consent Agenda cumulatively as presented. Carol Langley seconded the motion.

Discussion: Julie Davis asked Mr. Tramm what the process was for replacement. Mr. Tramm said once the resignation is accepted it will be posted online and will accept resident votes through the City Secretary's office through July 7, 2021. Mr. Tramm said the City Staff will then review them to make sure the applicants meet the qualifying standards. Mr. Tramm said all of the qualified applicants will then be presented to City Council to decide. Mr. Tramm said they will also send notice in the next water utility bill, and have it on the electronic sign.

The motion carried unanimously. (4-0)

**CONSIDERATION AND POSSIBLE ACTION:**

3. Receive a presentation on the Annual Service and Assessment Plan for the City of Montgomery Public Improvement District No. 1.

Ms. Mallory Craig said she attends this meeting annually to present an update to the Service and Assessment Plan and usually presents this update in August, however, the County asked her to submit the Assessment Roll information to them by the end of June. Ms. Craig said she has prepared a memo regarding the Service and Assessment Plan, the establishment of the Public Improvement District, and the process they go through each year.

Ms. Craig said last year the City levied the assessment and a portion of that was deducted for administrative costs which were \$450.00. Ms. Craig said she prepares the assessment roll and works with the developer to make sure that everything is noted and verified with the County. Ms. Craig said once the Service and Assessment Plan has been adopted and the assessments are paid, they then submit a disbursement request for the disbursement to go back to the developer for those assessments to reimburse for the cost that the PID approved.

Ms. Craig said the City has already approved the disbursement from the 2020 collections so next year in March 2022 they will come back to the City with a request for the disbursement of the 2021 services assessments.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY ACCEPTING AND APPROVING AN ANNUAL UPDATE TO THE SERVICE AND ASSESSMENT PLAN AND ASSESSMENT ROLL FOR CITY OF MONTGOMERY PUBLIC IMPROVEMENT DISTRICT NO. 1; PROVIDING FOR PAYMENT OF THE ANNUAL INSTALLMENT OF THE ASSESSMENTS IN ACCORDANCE WITH CHAPTER 372, TEXAS LOCAL GOVERNMENT CODE, AS AMENDED; AND PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

Kevin Lacy moved to adopt the Ordinance as presented. Carol Langley seconded the motion, the motion carried unanimously. (4-0)

5. Consideration and possible action regarding an Amendment to the Encroachment and Maintenance Agreement between the City of Montgomery and First Hartford Realty Corporation for monument signage at the Shoppes at Montgomery.

Mr. Tramm said in September 2020, the City approved an Encroachment and Maintenance Agreement with the developer for The Shoppes at Montgomery. Mr. Tramm said this

agreement allows the developer to build monument signs on their property on SH 105 and Eva Street within a City utility easement located along the front of their property. Mr. Tramm said the purpose of that agreement provides City approval for the signs to be built in the easement as long as the signs do not conflict with utilities in the City and the developer agrees to hold the City harmless if the signs are ever damaged or removed in the course of work done to City utilities.

Mr. Tramm said the 2020 Agreement included four signs. Mr. Tramm said the developer is requesting to add five signs to the Agreement completing all the development signage. Mr. Tramm said the Agreement Form is a standard form that has been used previously by the City. Mr. Tramm said all five of the new signs will still require permitting and inspections by the City. Mr. Tramm said the contractor will be water-jetting the foundation to prevent damage to utilities.

Mr. Tramm said the City Engineer has provided a memo recommending approval of the Agreement conditional upon submittal of plans at permitting and coordination with Public Works during installation. Mr. Tramm said the City Attorney has also reviewed the Agreement and has no objections. Mr. Tramm said Staff has no objections and recommends approval of the Agreement.

Mr. Tramm said the City does have a general ordinance on how far signs must be spaced apart. Mr. Tramm said the total of the nine signs would actually be fewer signs than they could have if they went by the distance along the front of the property.

Mayor Countryman said that is a lot of signs in a short area. Kevin Lacy agreed. Mr. Tramm said that is less than it could ultimately have been if they just went on the minimum space. Mayor Countryman said she hears a lot of their residents saying they do not want to look like a lot of other places that have sign after sign and highly commercial. Kevin Lacy asked if it was nine individual signs. Mr. Tramm said nine monument signs.

Kevin Lacy asked why are they being asked to approve it now. Mr. Tramm said so it can all be in place before construction begins rather than having them come one at a time. Mayor Countryman asked if they do not approve this, what happens, and could they come back and

ask for four or can they do one large sign that has all the signage in one spot. Mr. McCorquodale said if they wanted to change their site plan they could move the signs back out of the easement and not have to come to the City. Mr. McCorquodale said 16 is the number of signs that are allowed.

Mayor Countryman said it sounds like they need to revise the Ordinance. Mr. McCorquodale said they allow one sign for every 125 feet for the frontage. Mayor Countryman asked if that was a typical ordinance that small towns have. Mr. Petrov, City Attorney said it varies but that is a lot. Mayor Countryman asked if they are being generous. Mr. Petrov said with that number of signs yes. Mr. Petrov said this Agreement is only about the distance from the road. Mr. McCorquodale said yes. Mr. McCorquodale said the signs are going in the east end. Mr. McCorquodale said there are the shops that they see along the front, which is now under development, there are two or three layers of sites in the shops so these signs will be advertising for businesses that are on the same property, they are just not on the road. Mr. McCorquodale said there are two of these that are existing right now. Mr. McCorquodale said they are the signs in front of Chick-Fil-A. Mr. McCorquodale said the alternative would be to keep them out of the easement. Mr. McCorquodale said the practicality of that is it eats into the parking lot and anything else that is there.

Kevin Lacy said to be clear if the City approves this now they cannot come back and say they have nine upfront and we also can go ahead and put in 12 behind either as they cannot do both. Mr. McCorquodale said there is a chance they may have an interest in FM 2854 and want a sign there. Mr. McCorquodale said he could see them doing that because that is an access. Mr. McCorquodale said the same thing with Buffalo Springs Drive by the sewer plant. Mr. McCorquodale said those utility easements exist in the same way they do on SH 105 so there is a possibility they would come back and say they have been in the development for two years and they are ready to build out the back pad sites that have access on the side roads and they would like to add those signs.

Julie Davis said with this specific plan they have given them with the feet measurements marked apart, by giving them the go-ahead with these additional five, there is no way they can come back later and say they want to do a full 16. Mr. McCorquodale said that was correct. Julie Davis said if they lock them in on nine they cannot go with anymore. Mr. McCorquodale

said correct and the way they spaced them, there is nowhere left to plug into the holes. Mr. McCorquodale said a lot of the problem, to be fair, is the 16 number includes the entire frontage. Mr. McCorquodale said in between Chick-Fil-A and CVS there is a creek and obviously, there cannot be a sign there. Mayor Countryman said that helps the City. Mr. McCorquodale said 125 feet is certainly flexible in terms of the larger sites, but when you get to a smaller site and if the one or two-acre parcels have 150 to 200 feet of frontage he thinks this is more of what this ordinance was designed for, smaller sites.

Julie Davis said they are setting a precedence here for the other side of the highway that is yet to be developed. Mayor Countryman said that is why they need to take a look at all the ordinances. Mayor Countryman said she thinks they are outdated and she wants to make sure the City of Montgomery stays charming and not a big, long LED sign. Mr. McCorquodale said they are going to get a number of businesses and shops and he did not feel like they were asking for more than what they needed. Mayor Countryman said she does not feel like they are trying to take advantage at all. Julie Davis asked if this includes the property up to AutoZone. Mr. McCorquodale said that is correct.

Julie Davis moved to approve the amendment conditional upon receiving the executive document from the developer.

Julie Davis asked if they could add a caveat to limit to no more than these nine total signs. Mr. McCorquodale said it could be in the agreement. Julie Davis said she does not want to lessen it and if they want to do less than great but we want to make sure they understand it is capped at nine. Mr. Tramm said they can also deliver the message to the developer that City Council said they accept this agreement and they will not entertain additional signs for the property. Mayor Countryman asked if that allows them to go ahead and put up signs outside of the easement and then they can have a second row of signs. Mr. Tramm said they would be able to do that as long as it met the requirements. Julie Davis said it would not meet the other ordinances because of the spacing. Mr. Tramm said depending on how they locate the sign. Mr. McCorquodale said on Eva Street and SH 105 they locked themselves out of adding any signs there. Julie Davis said it looks like the biggest distance is 162 feet, the farthest point between two signs so even if you divide it in half you are looking at 81 feet and the minimum is 125 feet. Julie Davis said with this lock-in, they have locked themselves out of placing other

signs. Mr. McCorquodale said the two places he sees they might come back would be Buffalo Springs Drive and maybe on FM 2854.

Kevin Lacy seconded the motion, the motion carried unanimously. (4-0)

6. Consideration and possible action regarding a variance request to the vegetative setback requirements of Section 78-162(a) of the City Code of Ordinances for Commercial Reserve "D" in Town Creek Crossing Section One as submitted by LeFevre Development, Inc.

Mr. Tramm said the developer is requesting a variance on the expectation that a departure from the text of the Subdivision Ordinance would allow for greater adherence to the spirit of the ordinance. Mr. Tramm said in this particular case they are talking about the 25-foot vegetative setback from a commercial property abutting residential properties. Mr. Tramm said while the term is a vegetative setback that includes grass so it is not necessarily the developer has to abide by an extensive number of trees to block the view. Mr. Tramm said the reason they feel and staff supports the passage of this is they are looking to transfer the vegetative setback so that 25-feet will not be on the developer's property but will be on the residential end of the property. Mr. Tramm said the primary reason for this is this particular property has an elevation drop that would make it more difficult to be maintained than on the part of the commercial end. Mr. Tramm said he concurs that if that was in the hands of the residential property abutting it, they could choose to put the vegetation near that they felt suitably shielded them from the nearby commercial property. Mr. Tramm said if one resident felt that was trees or shrubs or just the additional use of the grass property for their dog to run around in a fenced yard, they have that option. Mr. Tramm said he believes that is probably much greater in the spirit of the Subdivision Ordinance which cannot just require the commercial owner has to give property to the nearby residential owner and have the setback put there to give a buffer for it.

Julie Davis asked if there are any unforeseen issues as far as the home resale value later and not passing some kind of a City ordinance, code, or inspection that they then transfer to the property owner because we have an ordinance that restricts this and now we are giving a special amendment or addendum to do this. Mr. Tramm said City Council always can grant the variance which then carries through with the property. Mr. Tramm said he thinks there is a byproduct to this which is that the people buying the residential property actually get a larger

lot. Mr. Tramm said he thinks that is beneficial to them and a byproduct that is contingent and beneficial both to the City and to the residents is there may be less incentive for the business owner to properly maintain the vegetative setback as much as it would be an incentive for the residents who own the property. Mr. Tramm said he is not saying why would we have a problem with that, but he thinks that the resident would have a greater interest in taking care of and maintaining that property.

Julie Davis said her question was more regarding resale value. Julie Davis said for instance if the initial person comes in and they have the developer and all of this approved and they want to add onto their home and have to come back to the City for a permit, their home no longer meets what the code is. Julie asked if they would have something on record so they will not be penalized. Mr. Tramm said he is not sure what Julie Davis means that their home does not meet the code. Julie Davis said the vegetative setback of 25 feet. Mayor Countryman said this variance will be on record. Mr. McCorquodale said it will not have any negative effect. Julie Davis said she was just worried about the homeowner and the resale value and what it looks like loop to loop from one person to another if we lose a disconnection piece. Julie Davis said she thinks it will be a great benefit for the homeowner to have extra space plus it is cheaper for the developer because they do not have to maintain it. Mayor Countryman said it is cheaper for the commercial too, paying for that additional commercial price for the lot.

Julie Davis moved to approve the variance request as presented. Kevin Lacy seconded the motion, the motion carried unanimously. (4-0)

**EXECUTIVE SESSION:**

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

No action was taken.



**POSSIBLE ACTION FROM 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.

Mr. Tramm said in the next month they will be planning to take formal photos of City Council for the website and emails will be sent out to coordinate a time.

Mr. Tramm said next Tuesday, June 15, 2021, at 10:00 a.m. they are having a dedication ceremony at Cedar Brake Park where they have done a small redesign with an area off the walking trail which has park benches and a resting area. Mr. Tramm said this is going to be dedicated to both Lonnie and Sonya Clover for all the work they have done over the years. Mr. Tramm said their work for the City goes beyond Cedar Brake Park.

Mr. Tramm said he would like to thank everyone on City Council and the Mayor for completing the Cyber Security Training.

Mr. Tramm said they will be posting publicly for the vacant Planning and Zoning position. Mr. Tramm said the applications from the public should be directed to the City Secretary. Mr. Tramm said once verified as meeting minimal qualifications for the office, all qualified applicants will be presented to City Council.

Kevin Lacy said he would like to revisit the topic of the signs at some point because they are growing. Kevin Lacy asked if there is something on record where they also have a minimum requirement for sign maintenance. Kevin Lacy said for example with Phil's Roadhouse half the sign has been broken for several years. Kevin Lacy said the signs need to comply but they also need to look good. Mayor Countryman asked about past election signs that are old. Mr. Tramm said the answer is definitely yes, but he is less certain about political signs. Kevin Lacy asked whether political signs are supposed to be

down in 45 days. Mr. Petrov said that subject is vague because of the constitutional protections of political free speech. Mr. Petrov said you have to be careful but they can take a look at that.

Mayor Countryman said there is a real estate sign underneath the current sign. Mayor Countryman asked if there is any kind of ordinance that says you take down real estate signs in a certain amount of time. Mayor Countryman said she thinks their downtown Sign Ordinance needs to be looked at too. Mr. Tramm said they are going to do a whole review of the Sign Ordinance and they can also look into seeing if they can address the other issues too. Mr. Petrov said he browsed the Sign Ordinance and without giving it too much thought, there were parts of it that seemed ambiguous and not as clear as it should be and thinks there is room for improvement. Carol Langley asked if the Planning and Zoning Commission would look at it first and bring it to City Council or is City Council in charge of the signs. Mr. Petrov said typically City Council is in charge of signs.

Kevin Lacy asked if regarding the sign at Phil's Roadhouse is there a danger in wanting to fix it where it has to be changed and knocked down and then rebuilt to comply with today's ordinance. Mr. Tramm said any work done today will have to meet what today's standards are and without knowing exactly what that sign was when originally put there, he does not know what the standards were at the time. Mr. Tramm said for instance if they do say in a month or two make changes as being discussed for the Sign Ordinance these signs that have been put up in the last year one day they will be renovated and they will end up having to meet future requirements. Kevin Lacy said he would like to look at that soon if they can. Mr. Tramm said it is something certainly staff and the City Attorney can work on and report back to City Council.

Byron Sanford said he has a clarification because he has heard the same thing regarding concerns about we do not want to be like the old 1960 used to be. Byron Sanford said is not the matter clutter and in a lot of instances, it is the combination of signs and foliage. Byron Sanford said the foliage needs to be a concern. Byron Sanford said if you have clean signs that are well maintained if he is running a business that is what he wants, but what he does not want are some of the things that he does not want to go to The Woodlands for. Byron Sanford said he cannot find signs until he has gone past them and asked if that is what everyone is hearing too. Byron asked if it is a clutter issue or is it a cleanliness or uniformity issue. Mayor Countryman said if you look at The Woodlands their signs are all up and down, this and that way but at least we have some kind of organization behind it. Julie Davis said she does not feel it is a foliage issue like The Woodlands foliage is all around their signs, but with

The Shoppes of Town Creek, there is a line of foliage with the sign in front of it. Byron Sanford said AutoZone to him looks clean and it is monument. Byron Sanford said if there is uniformity even with some bushes they can avoid some clutter and to him, that is what it is.

Mayor Countryman asked if they are requiring any greenery or any bushes. Mr. Tramm said they do have an ordinance related to a certain amount of tree coverage but we do not have a specific ordinance that requires bushes to be planted around the sign. Mr. Tramm said there is one particular case where Pizza Shack is not a true monument sign and so they had bushes that were placed at the bottom to give it the look of a monument sign. Mr. Tramm said that is not a path he would recommend the City take. Mr. Tramm said he would recommend having a monument sign and he is a supporter of having foliage around the sign to provide a better look. Mr. Tramm said it is something they can discuss with the City Attorney if it is something that they could or should pursue. Julie Davis said these signs they just approved are not true monument signs either as they are on one singular post. Mr. McCorquodale said what you see is just the structure. Mr. Tramm said they can either be brick or stone down both sides or it can be a solid structure. Mayor Countryman said it would be lovely to disburse Blue Bonnet seeds to grow at the bottom.

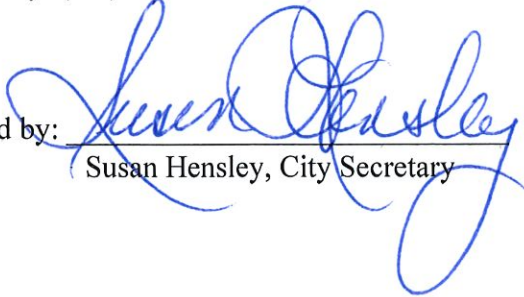
Byron Sanford said that is his deal if they are giving direction with Planning and Zoning and going forward, we want consumers and businesses with visible signs. Byron Sanford said he loves foliage, but let us get people to where they can shop and enjoy their experience in the best interests of the consumers and the business owners.

Kevin Lacy said they have some existing businesses that probably need a little help with their signage and he wants to help to see if they can offer some sort of assistance if needed. Mayor Countryman asked if that is the role of the City. Kevin Lacy asked if it is maybe MEDC. Mayor Countryman said if she had a business and paid to maintain her sign and then someone else has a business and does not pay to maintain their sign, why should the City help the business owner who does not pay to maintain their sign. Mr. Tramm said one thing about MEDC extending money is their funds have to be focused on economic development. Mr. Tramm said there was a sign grant request that went to MEDC earlier this year and part of the question based around it was they were looking for a sign to cover multiple businesses and there was no economic element to that. Mr. Tramm said there is a difference between replacing a sign for something that is existing versus adding a sign for something that is adding growth to the City. Mr. Tramm said there may be a middle ground for replacing or enlarging an existing sign

for the growth of a business, but that is different than just replacing a sign for a business that stays here. Mr. Tramm said the deeper he gets into reading the regulations it is just a dark hole getting deeper and deeper with a lot of gray areas, but there is hard black and white. Mr. Tramm said the hard black and white part of MEDC spending funds is economic development.

**ADJOURNMENT**

Kevin Lacy moved to adjourn at 6:38 p.m. Julie Davis seconded the motion, the motion carried unanimously. (4-0)

Submitted by:   
Susan Hensley, City Secretary

Date Approved: \_\_\_\_\_

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Mayor Sara Countryman