

**City Council Regular Meeting
MINUTES**

December 12, 2023, at 6:00 PM

CALL TO ORDER

Mayor Bryon Sanford called the meeting to order at 6:02 p.m.

Present:	Byron Sanford	Mayor
	Carol Langley	City Council Place #1
	Casey Olson	City Council Place #2
	Sara Countryman	City Council Place #3
	Cheryl Fox	City Council Place #4
	Stan Donaldson	City Council Place #5

Also Present: Dave McCorquodale Assistant City Administrator

	Alan Petrov	City Attorney
	Nici Browe	City Secretary

INVOCATION

Mayor Bryon Sanford provided the invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

VISITOR/CITIZENS FORUM:

No members of the public addressed City Council.

CONSENT AGENDA:

1. Approval of the City Council Meeting Minutes 11-24-2023.
2. Consideration and possible action regarding an Escrow Agreement by and between the City of Montgomery, Texas, and Montgomery ISD for a CTE and agri-sciences campus on a 35.45-acre parcel of land near the northwest corner of Lone Star Parkway and Buffalo Springs Bridge Drive. (Dev. No. 2307).

MOTION: Councilmember Carol Langley moved to approve items 1 and 2 of the consent agenda as presented. Councilmember Casey Olson seconded the motion. **Motion Passed (5-0).**

CONSIDERATION AND POSSIBLE ACTION:

3. Consideration and possible action by the Montgomery City Council acting as the Zoning Board of Adjustment regarding a requested appeal of a denial of the use of the property at 502 Louisa Street, currently zoned R1-Single Family Residential, for commercial use.

Mr. Gary Palmer, City Administrator said the owner of 502 Louisa Street began using the existing single family home for a professional office for a commercial trucking company but does not know when this originally occurred, adding that staff contacted the property and business owner occupying the property to deny the commercial use and providing information of the right of the property owner to appeal the decision to the Board of Adjustment based on the current zoning of the property.

Mr. Gary Palmer said the property is zoned R1 and according to the report no one is living at this residential property but it is being used it for office use.

Councilmember Sara Countryman said the owner wrote to them and said he would not be present at the meeting due to sick employees.

Mr. Gary Palmer said basically the property use is property for an office and are asking the Board of Adjustment to allow a transitional use between commercial and residential. He stated that staff recommendation is to not approve this request, as it is residential and residential in character and to change to a commercial use is just a bad precedent.

Councilmember Sara Countryman said she spoke with the owner and he lives here in Hilltop Ranch, he stated the property is for his mom and sister to use to work out of. She continued the owner said he would write a letter stating he would never have an 18-wheeler drive down Louisa Street or come through the back.

Councilmember Sara Countryman said the owner said he was told by someone at City Hall he could dig a pond and that had to come to a halt so he filled it in and has been trying to get a permit for the fence which also has also been a challenge. Councilmember Sara Countryman said there are already two Airbnb businesses there.

Councilmember Casey Olson said in his opinion the city needs to remain consistent. He said they had another gentleman try and convert a residential house that was zoned residential to commercial earlier this year which they denied based on the fact that it is residential and there is plenty commercial property in Montgomery if they wanted to do business they can buy commercial property.

Councilmember Casey Olson said he knows they have a letter from the owner of 502 Louisa Street but they also have at least two letters from neighbors that are asking not to do it.

Councilmember Sara Countryman said the difference she sees is with the one request earlier this year they wanted to modify parking, lights, and the building and this request seems to be they just have a business out of their home on a residential property.

Councilmember Carol Langley asked how long has this home been used as an office.

Councilmember Sara Countryman responded at least 18 months.

Councilmember Carol Langley asked if they are positive no one is living there.

Councilmember Cheryl Fox said she can say no one is living there because she has been by there.

Mr. Gary Palmer said allegedly no one lives there. Councilmember Carol Langley said it could be a home based business.

Councilmember Sara Countryman said the owner told her there are people who spend the night like his family members.

Councilmember Casey Olson said it does not matter as they can still spend the night.

Councilmember Cheryl Fox said it does not matter as she is definitely opposed to having the property become commercial.

Councilmember Carol Langley asked where does the commercial part off of Pond Street hit this piece of property.

Mr. Gary Palmer said there are two separate parcels owned by the same owner. There is an area that looks like a couple hundred square feet that is commercial on the back of the larger lot adjacent to the house.

Mr. Gary Palmer said that zoning does not go over the property line as the commercial is coming out of the property. He does not think that has any bearing to what they are requesting but they are abutting a commercial district. They are requesting to use the house and the house is not part of that property.

Mayor Byron Sanford said overall the concern is there are already commercial property challenges within the City.

Councilmember Sara Countryman said there is already a commercial sign across the street. Councilmember Casey Olson asked if the sign they are referring to is being done illegally. Councilmember Sara Countryman said the sign should be approved and certainly all of that was done without Council's approval. She added with this request, there will not be any changes in aesthetics or a sign displayed according to the owner as it will just be people coming in to do their job and then leave or an occasional person stay the night. There will be no trucks in the back or any trucks on Louisa Street as trucks cannot even fit on the street. It would truly be just for residential use with an office in the house.

Councilmember Carol Langley asked if the owner asked for the property to be zoned commercial.

Mr. Gary Palmer said no, he is appealing the denial.

Councilmember Sara Countryman asked why was this not brought to them two years ago when he moved in.

MOTION: Councilmember Sara Countryman moved to approve the Home Office at 502 Louisa Street and that there should be no 18-wheeler vehicles associated with the business on Pond Street or Louisa Street. Councilmember Stan Donaldson seconded the motion. **Motion Passed (3-2)** Councilmembers Cheryl Fox and Casey Olson voted against it.

4. Consideration and possible action by the Montgomery City Council acting as the Zoning Board of Adjustment regarding a requested appeal of a Planning & Zoning Commission action denying the use of synthetic lawn at 504 Caroline Street in the Historic Preservation District.

Mr. Gary Palmer, City Administrator introduced this item and explained the Planning & Zoning Commission had reviewed and denied the use of artificial turf, however the applicant's contractor did

not get that message and the turf was installed. The applicant was present to answer questions from the council.

Mayor Byron Sanford said this is a tough one and has many moving parts to it. Mayor Byron Sanford said when he heard from Planning & Zoning the reasons for the problem, it was a spot that was approved and Planning & Zoning felt like that is what they were envisioning and then to find out the whole thing was covered was an issue.

Mayor Byron Sanford said the next day he went and looked at it and it looked very nice and attractive as it was not what he was expecting, also a prominent business owner sent him encouragement by letter which said he totally supports everything that has been done at that corner. Mayor Byron Sanford said aesthetically and functionally he does not see a problem with it. Given the fact foliage cannot be grown and if there were a massive tree there, what would happen when it rains.

Mayor Byron Sanford said he knows they want to try and be consistent, which he supports but given this situation it looks very nice and the entire corner looks so much better and he hates to see an undue stress put on this owner who has put so many thousands of dollars into improving that lot.

Councilmember Cheryl Fox said there is a lot of things to be taken into consideration. The worst thing was they were denied and did it anyway but the other thing is she went by and looked at it and there is the conservation of water and the property maintains the same look constantly. She continued that there are a lot of pluses but the big downside is they should have asked for a reversal prior to putting the synthetic lawn down.

Councilmember Sara Countryman said she spoke with him and he went out of town after the Planning and Zoning meeting and his contractor put it down and when he returned back in town he did not know until he found out through the City.

Councilmember Cheryl Fox said sometimes things like that can happen but still the buck stops with him.

Councilmember Sara Countryman agreed, but his property does look fantastic and a lot better than it ever has since she has lived here.

Councilmember Casey Olson asked Code Enforcement Officer Corrine Tilley if she ever wrote a citation for the astro turf on the corner on Caroline Street.

Code Enforcement Officer Tilley responded no; an actual citation was never written on it.

Code Enforcement Officer Tilley said she was told to hold off because she was informed that the Director of Planning and Development had stated that we do not have an avenue for it, although they do. Code Enforcement Officer Tilley said plus it is a citation that would have been issued by the building official and not by the Code Enforcement Officer according to the ordinance. Code Enforcement Officer Tilley said violation against a planning commission decision requires a citation by the Building Official.

Councilmember Casey Olson said someone needs to explain to him why there was never a citation.

Mr. Gary Palmer said that was on him. He said Dave McCorquodale called him to let him know about the turf being put in and he told him they just need to wait and they will contact them next week with a notice of violation which is really the process and give the owner time to take the turf out and if they do not then they could send them to court.

Mr. Gary Palmer said if they apply to petition for relief there would be no forcible action until a decision was made. Mr. Gary Palmer said if there is a denial he would contact the owner and give him time to remove the turf and if he does not remove it then they would send him to court.

Councilmember Casey Olson said they will ask for forgiveness and he agrees 100 percent that it looks better and the owner spent a lot of money, but there is a certain way they need to do things and was hoping for a citation.

Mayor Byron Sanford said at some point in time they need to be far more consistent.

Mr. Tom Cox Jr., President of Gracepoint Homes stated they purchased 504 Caroline Street a year and a half ago. Mr. Cox explained when he hired a contractor he asked him specifically if the process would include him handling the City and his answer was yes. Mr. Cox said there was miscommunication between him and the contractor who thought he wanted the turf installed.

Mr. Cox said the very next day he received a call from Mr. McCorquodale asking why this was done, all he could do was apologize for how it was handled the way it was and said he certainly does not conduct his business that way.

Mr. Cox said he has been in construction for over 30 years and his family has a good name in this industry, and he has put his heart and soul into 504 Caroline Street. Mr. Cox said that is his story and he does apologize.

Mr. Cox said he was not trying to take advantage of any situation and has filed for every permit they needed to.

Councilmember Sara Countryman said she appreciates what Mr. Cox has done with the property and it looks so much better than it ever has, however she likes to go by the rules but at the same time what Mr. Cox has done is beautiful and she appreciates him investing in this town as 504 Caroline is truly a show place.

Councilmember Stan Donaldson asked if there is a specific ordinance that states only grass can be used.

Mr. Gary Palmer said the ordinance basically gives the Planning and Zoning Commission authority to regulate what to do with exterior improvements.

MOTION: Councilmember Casey Olson moved to overturn the denial by the Planning & Zoning Commission for artificial turf. Councilmember Sara Countryman seconded the motion. **Motion Passed (5-0).**

5. Quarterly Investment Reports for Quarter 1, 2 and 3, 2023

Ms. Maryann Carl, Finance Director, provided the City Council with a housekeeping item, and presented the Quarterly Investment Report, which would bring them current.

MOTION: Councilmember Casey Olson moved to approve the Investment Report as presented. Councilmember Cheryl Fox second the motion. **Motion Passed (5-0).**

6. CONSIDERATION AND POSSIBLE ACTION ON AN ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF MONTGOMERY, TEXAS TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2024; LEVYING AN AD VALOREM TAX

AND PLEDGING CERTAIN SURPLUS REVENUES IN SUPPORT OF THE CERTIFICATES; APPROVING AN OFFICIAL STATEMENT, A PAYING AGENT/REGISTRAR AGREEMENT AND OTHER AGREEMENTS RELATING TO THE SALE AND ISSUANCE OF THE CERTIFICATES; AND ORDAINING OTHER MATTERS RELATING TO THE ISSUANCE OF THE CERTIFICATES.

Mr. James Gilley, US Capital Advisors, presented this item. He confirmed that as of today (12th December, 2023) the sale of the Certificates of Obligation was held, and they received six (6) bids. The best bid was Raymond James & Associates at \$3.679370 million. The closing date for this transaction is January 16, 2024, and the bonds are callable in March of 2033.

Councilmember Sara Countryman thanked Mr. Gilley for coming to every meeting extremely prepared with a wealth of information. Councilmember Sara Countryman said she was very appreciative of Mr. Gilley's help.

Mayor Byron Sanford said the number of workshops helped as well so they did not have to absorb so much information at one time.

MOTION: Councilmember Carol Langley moved to approve the ordinance authorizing the issuance of the City of Montgomery, Texas Tax and Revenue Certificates of Obligation Series 2024. Councilmember Stan Donaldson seconded the motion. **Motion Passed (5-0).**

Mr. Alan Petrov, City Attorney said the money will not be available tomorrow. Mr. Petrov said the sale is approved and they will take the ordinance and all the supporting documents and send to the Attorney General's Office. Mr. Petrov said their public finance division will then review the transcript of proceedings and give their opinion saying everything is acceptable. Mr. Petrov said that process takes a little less than 30 days and closing would be scheduled for January 16th when funds would be wired to their account and the bonds would be formally issued.

7. Consideration and possible action on AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING ITS MUNICIPAL BUDGET FOR THE FISCAL YEAR 2022-2023; APPROPRIATING THE VARIOUS AMOUNTS HEREIN, AS ATTACHED IN EXHIBIT A; CONTAINING FINDINGS AND A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Ms. Maryann Carl, Finance Director introduced this item, an ordinance to amend the fiscal year 2022-2023 budget. Ms. Carl provided an explanation as well as back up in the council packet.

Councilmember Casey Olson thanked Ms. Carl for all the hard work she has done and very much appreciates it.

MOTION: Councilmember Sara Countryman moved to approve the Ordinance for the Budget Amendment as presented. Councilmember Cheryl Fox seconded the motion. **Motion Passed (5-0).**

8. Public Hearing on New Water and Sewer Tap Fees

Mayor Byron Sanford **opened the public hearing** on the increase in fees per ordinance for water and sewer taps **at 6:53 P.M**

No members of the public addressed City Council.

Mayor Byron Sanford **Closed the Public Hearing at 6:53 P.M.**

9. Consideration and possible action regarding amending Chapter 90, Sections 90-66 and 90-67 of the Code of Ordinances.

Mr. Mike Muckleroy, Director of Public Works said with the new utility operations contract the price to have the work performed has gone up 300 dollars with water taps and sewer taps combined. He said what this does is it still keeps them putting the same amount of money in the bank. Mr. Muckleroy said for them they are still keeping 1,700 dollars total, it just cost them 300 dollars more to have them perform so they need to adjust accordingly. Mr. Muckleroy said they did add the verbiage to keep the irrigation taps at cost and they also included verbiage for impact fees.

Councilman Casey Olson asked how much is an irrigation tap now, to get an irrigation meter.

Mr. Muckleroy said right now it is \$1,150.00.

Councilman Casey Olson asked if it would go up \$300.00. Mr. Muckleroy said the water tap itself has gone up. H2O's water tap was \$900.00 and Hayes' cost for a three-quarter inch tap is \$1,700.00.

Mr. Muckleroy said they are reversed on their fees.

Councilmember Sara Countryman exited the meeting at 6:56 p.m.

Councilmember Cheryl Fox asked what are the tap fees. Mr. Muckleroy said currently the tap fees are \$900.00 plus the cost of the meter for water and \$2,600.00 for sewer. Mr. Muckleroy said they are proposing to change them both to \$1,900.00 even.

Mayor Byron Sanford said they have not changed their fees since 2016.

Councilmember Sara Countryman re-entered the meeting at 6:57 p.m.

MOTION: Councilmember Casey Olson moved to approve the Ordinance Amendment as presented. Councilmember Sara Countryman seconded the motion. **Motion Passed (5-0).**

10. Consider Amendment to the Personnel Policy (Compensation Section) to Remove Cost of Living Allowance (COLA) Restrictions

Mr. Gary Palmer introduced this housekeeping item, which is related to the COLA increase for hourly staff that was approved at budget time. The personnel policy amendment reflects that it is not for all employees.

MOTION: Councilmember Casey Olson moved to amend the Personnel Policy as proposed. Councilmember Stan Donaldson seconded the motion. **Motion Passed (5-0).**

11. Consideration and possible action on: AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS, REPEALING CHAPTER 62 (OFFENSES), ARTICLE II (MINORS), DIVISION 2 (JUVENILE CURFEW), SECTIONS 62-40 THROUGH 62-45 OF THE CITY OF MONTGOMERY CODE OF ORDINANCES IN RESPONSE TO HOUSE BILL 1819, EFFECTIVE SEPTEMBER 1, 2023; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE

Police Chief Anthony Solomon introduced this item stating that this curfew ordinance is repealed to be in line with the State.

MOTION: Councilmember Sara Countryman moved to approve the Ordinance for the Budget Amendment as presented. Councilmember Cheryl Fox seconded the motion. **Motion Passed (5-0).**

MOTION: Councilmember Stan Donaldson moved to approve the Ordinance as presented. Councilmember Sara Countryman seconded the motion. **Motion Passed (5-0).**

12. Consider Adoption of a Resolution for the City of Montgomery to join the Houston-Galveston Area Council (H-GAC).

Mr. Gary Palmer, City Administrator, introduced this item stating the item was tabled at a previous meeting to discover the cost to the City. Mr. Gary Palmer confirmed the annual cost is \$200.00.

MOTION: Councilmember Sara Countryman moved to approve the annual membership fee to join the HGAC as presented. Councilmember Casey Olson seconded the motion. **Motion Passed (5-0).**

13. A RESOLUTION OF THE CITY OF MONTGOMERY, TEXAS AMENDING ITS POLICY FOR INVESTMENT OF MUNICIPAL FUNDS AND THE INVESTMENT STRATEGIES CONTAINED THEREIN.

Ms. Maryann Carl, Finance Director introduced this housekeeping item, which is to remove the former Senior Accountant and add her name as the Investment Officer.

MOTION: Councilmember Stan Donaldson moved to approve the resolution as presented. Councilmember Cheryl Fox seconded the motion. **Motion Passed (5-0).**

14. Consideration and possible action on the acceptance of the hydrogeological report as performed by Wet Rock Groundwater Services, LLC, and release of the City Engineer to proceed with the design of the Water Plant No. 2 Improvements as originally authorized at the October 10, 2023 meeting of the City Council.

Ms. Katherine Vu, WGA City Engineers presented this item and presented highlights from the final hydrogeological report from Wet Rock Groundwater Services, LLC.

Ms. Katherine Vu said Council authorized this to be completed and was required in order for them to get a permit amendment from The Lone Star Groundwater Conservation District and is also required for the redrilling of Well No. 2 as well as looking forward into putting another well on the west side of town at Water Plant No. 4 in the future.

Ms. Katherine Vu said they had Wet Rock evaluate all the wells both existing and proposed to look at the demand they are projecting to be needing.

Ms. Katherine Vu said the analysis was done and looked at well spacing, other wells in the area, and the projected draw down on the aquifer and any other impact on the aquifer. She added they did not find any concerns, no unnecessary impact on the aquifer or viability of the wells and did not have any issues with the demands that are being requested.

Ms. Katherine Vu said the report will be submitted to The Lone Star Groundwater Conservation District which is the final document they need for the permit amendment.

Ms. Katherine Vu said as a reminder when they were authorized for the Water Plant No. 2 improvements project, it was subject to this report being presented to Council which is the second part of the action item tonight with the request to release them to begin design on Water Plant No. 2 improvements project.

Councilmember Casey Olson said they did a great job and it was very thoroughly done.

MOTION: Councilmember Casey Olson moved to accept the hydrogeological report as presented and to proceed with Water Well No. 2. Councilmember Carol Langley seconded the motion. **Motion Passed (5-0).**

DEPARTMENTAL REPORTS:

15. November 2023 Utility Report.
16. Utility Operations Report
17. Public Works Report
18. October & November 2023 Monthly Court Report
19. City Engineer's Report.
20. Finance Report for month end October 31, 2023.
21. Oct.-Nov. 2023 Police Dept. & Code Enforce. Reports
22. City Administrator Report

Each department head provided highlights from their written reports to the City Council.

MOTION: Councilmember Carol Langley moved to approve all department reports as presented. Councilmember Cheryl Fox seconded the motion. **Motion Passed (5-0).**

EXECUTIVE SESSION:

Adjourn into Closed Executive Session as authorized by the Texas Open Meetings Act, Chapter 551 of the Government Code of the State of Texas.

Sections 551.071(consultation with attorney) - Town Creek/Atkins Creek drainage engineering study

City Council Adjourned into Executive Session at 7:43 P.M.

City Council Reconvened into Regular Session at 8:01 P.M.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

Consideration and possible action on items discussed in Executive Session.

MOTION: Councilmember Casey Olson moved to authorize the City Administrator to move forward with the Town Creek/Atkins Creek erosion control contingent on funding evaluation. Councilmember Sara Countryman amended not to exceed \$80,000. Councilmember Cheryl Fox seconded the motion. **Motion Passed (5-0).**

COUNCIL INQUIRY:

Pursuant to Texas Government Code Sect. 551.042 the Mayor and Council Members may inquire about a subject not specifically listed on this Agenda. Responses are limited to 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.

Councilmember Sara Countryman stated the Christmas Parade was excellent, went very smoothly, and very well attended.

Councilmember Casey Olson asked Mr. Palmer if there were any reports from Ms. Patti regarding any issues. Mr. Palmer stated he would add Ms. Patti to the council agenda to provide a quarterly report.

Mayor Byron Sanford asked if there would be an MEDC meeting on Monday.

Councilmember Casey Olson stated he would like the City Administrator and city council to consider the staff working a 9/80s schedule.

Councilmember Carol Langley was very much against it as staff have sick and vacation time and they do not need to impact city functions by having additional time off on a 9:80 schedule.

ADJOURNMENT

Councilmember Sara Countryman moved to adjourn the meeting. Councilmember Stan Donaldson seconded the motion. **Motion Passed (5-0).**

Adjourned at: 8:07 P.M.

Submitted by: Nici Browe, TRMC
City Secretary

Date Approved: _____

Byron Sanford, Mayor