

**MINUTES OF REGULAR MEETING OF
MONTGOMERY CITY COUNCIL**

April 12, 2022, at 6:00 PM

CALL TO ORDER

Mayor Sara Countryman 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
 Byron Sanford City Council Place #5

Also Present: Richard Tramm City Administrator
 Dave McCorquodale Assistant City Administrator
 Nici Browe City Secretary & Director of Administrative Services
 Alan Petrov City Attorney
 Chris Roznovsky, PE WGA Consulting, City Engineer

INVOCATION

Councilmember Kevin Lacy gave the Invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

VISITOR/CITIZENS FORUM:

Mr. Efrain Lucas addressed City Council and did not wish to disclose his address due to safety concerns, however wanted to address item # 16 and per the constitution of the United States of America, Freedom of speech shall not oppress.

Mr. Bill Clevenger was not present but submitted a form to speak.

CONSENT AGENDA:

1. Approval of the minutes of the City Council meeting 03-08-2022.
2. Acceptance of Notice of CenterPoint Energy's 2022 GRIP Filing.
3. Consideration and possible action regarding approval of an Escrow Agreement by and between the City of Montgomery, Texas and Nantucket Housing, LLC for a proposed multi-family development (Dev. No. 2204) and authorizing the city engineer to prepare a Feasibility Study for the project.

4. Consideration and possible action regarding an Escrow Agreement by and between the City of Montgomery, Texas and LK POP Holdings, LLC for a proposed Popeye's Louisiana Kitchen (Dev. No. 2201).
5. Consideration and possible action on a resolution related to the annual review and adoption of the Investment Policy for the City of Montgomery.
6. Consideration and possible action on authorizing equipment repair expenses at Cedar Brake Park.
7. Consideration and possible action regarding an Escrow Agreement by and between the City of Montgomery, Texas and Cheatham Management, LLC for a proposed Town Creek Storage II (Dev. No. 2205).

Council discussed what the purpose of the CenterPoint Grip notice was for and if they need to take action. Council discussed the escrow agreements. The City Engineer was able to clarify any concerns regarding the feasibility study.

Councilmember Julie Davis asked if the repairs as per item #6 would include the replacement of the bannisters on the pavilion.

Mike Muckleroy, Public Works Director stated that it would not, it is for specific equipment only.

Councilmember Byron Sanford moved to accept the consent agenda items 1-7 as presented. Mayor Pro Tem Wilkerson seconded the motion. The motion carried (5-0)

CONSIDERATION AND POSSIBLE ACTION:

8. Annual review of contracts with Cody's Lawn Service, LLC for "Grounds Maintenance" and "ROW Mowing and Lift Station Weed Control" regarding the service costs and level of service.

Mike Muckleroy, Public Works Director presented this item and stated that this is their annual review and a time where the city can add or delete items from the scope of work, as necessary. Mr. Muckleroy went on to state that they have been very pleased with their performance and would wish to continue. However, he wanted to inform the Council that due to the increase of fuel costs, the rate will increase slightly to compensate for the fuel.

Councilmember Julie Davis asked Mr. Muckleroy if his adopted budget would allow for the increase.

Mr. Muckleroy stated it would but would be a little closer than he would prefer.

Councilmember Sanford stated that as members of the Council they are committed to the concerns of the taxpayer and asked Mr. Muckleroy what it would take to do the service in house, would it be cost prohibitive.

Mr. Muckleroy responded that it would require considerable time and equipment and would lead to the department hiring at least three persons, however, most likely as full time seasonal workers.

Councilmember Byron Sanford moved to approve the renewal of the contract with Cody's Lawn Service with the increase of 7% to accommodate the rise in fuel costs. Councilmember Carol Langley seconded the motion. The motion carried (5-0).

9. Consideration and possible action regarding the following:

a. Receive the Planning & Zoning Commission Recommendation and Report concerning a Special Use Permit application by Tony Jackson for firewood sales.

Dave McCorquodale, Assistant City Administrator provided recap on the Specific Use Permit application and declared he would turn it over now to the mayor to open the public hearing.

b. Convene into a Public Hearing on the Special Use Permit application.

Mayor Countryman **opened the public hearing at 6:15 P.M.**

Mayor and Council invited members of the public to address them on this item.

No members of the public addressed City Council.

Mayor Countryman **closed the public hearing at 6:16 P.M.**

c. AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS, GRANTING A SPECIAL USE PERMIT TO TONY JACKSON FOR USE OF THE PROPERTY LOCATED ADJACENT TO 22868 FM 1097 EAST, MONTGOMERY, TEXAS 77356 FOR A FIREWOOD BUSINESS; ESTABLISHING CERTAIN TERMS, CONDITIONS AND LIMITATIONS; PROVIDING FOR PENALTY, SEVERABILITY, AND EFFECTIVE DATE.

Mr. McCorquodale responded to Council's questions regarding ownership of the property. He advised council that the Planning & Zoning Commission recommended approval of this Specific Use Permit (SUP), with the condition that an all-weather surface was installed at the driveway.

Council discussed various options that they considered were "all weather" surfaces and asked Mr. McCorquodale if the intent of the P&Z Commission was to suggest paving, i.e., asphalt.

Mr. McCorquodale responded that he could not speak for the Commission's intent, however, Council can make their recommendations as long as they are reasonable and prudent.

Julie Davis, Councilmember discussed the issue for her was that this was a residential property, not commercial, however, with the approval of this SUP, would it require the Zoning Ordinance to be changed. She had some concerns.

Jeffrey Waddell, Chairman of the Planning & Zoning Commissioner provided City Council with the Commission's concerns regarding safety, especially when it is raining and muddy at the location. He went on to add that the tracking of mud from the location onto the street was another concern. He also added that they did not say "paving" just something to place at the entrance, as there is also a low dip. The Commission briefly discussed utilizing stone.

Councilmember Davis reiterated her concerns about it being a residential zoning, and that there is consistency and continuity through the city's processes and determinations.

Councilmember Lacy spoke with regards to the fact that Mr. Jackson has been selling Firewood from this location for approximately 15 years and felt to do this now, was troubling.

Mayor Countryman stated that the City makes others have insurance and a permit, therefore, this project and Mr. Jackson should too.

Council continued their discussion with regards to Mr. Jackson's SUP application and their differing opinions on what should and should not be approved.

Mayor Countryman voiced her concern that the SUP is a vehicle in which an applicant can get around the City's adopted ordinances. She inquired that if this were approved, with the all-

weather surface as being recommended, who would do the enforcement, to insure everything is done correctly.

Mr. McCorquodale responded that the responsibility would be directed to the City's Code Enforcement Officer.

Councilmember Julie Davis moved to approve the Specific Use Permit for this item with the amendment of removing the wording "All weather surface." Councilmember Kevin Lacy seconded the motion. The motion carried (5-0).

10. An Ordinance of the City Council of the City of Montgomery, Texas, Authorizing the issuance of the City of Montgomery, Texas, Tax Notes, Series 2022.

Mr. Richard Tramm, City Administrator introduced Mr. James Gilley from US Capital advisors to present information on the sale of the Tax Notes.

Mr. James Gilley, thank Mayor and Council for their time and stated that he was here to report on the Bond sale that took place this morning. He advised Council that there was a total of seven bids, the best bidder being Samco with a 2.530235% rate out of Dallas, Texas. The Underwriters that this rate was good as all were within the 2.5% regions.

The bond rating remains as AA by the rating agencies and will remain as long as the city maintains its reserves.

Mr. Gilley stated that if City Council approved this item, that he would expect to close on this May 12, 2022.

Mayor Countryman commented that she has since her tenure, placed her focus on being fiscally responsible, and has made huge efforts to pay off debts.

Mr. Tilley explained that there would be \$1.6 million issuance of principal with Samco, over the course of payments will provide \$1.7 million to spend on projects the city has already identified.

Mr. Alan Petrov, City Attorney advised City Council that the appropriate motion would be to approve the issuance of the tax notes.

Councilmember Julie Davis inquired with the attorney, asking why there was an election for the sale of tax notes.

Mr. Petrov provided a detailed explanation of when bond elections would be required, especially for large and longer-term bonds, however this bond is only for approximately 7 years.

Councilmember Byron Sanford moved to approve the issuance of the tax notes as presented. Councilmember Kevin Lacy seconded. The motion passed (4-1) Councilmember Julie Davis against.

11. Consideration and possible action on the acceptance of public infrastructure and commencement of the one-year warranty period for Town Creek Crossing Section One.

Chris Roznovsky, City Engineer provided a report on the acceptance of the above project. He reported that the punch list items have now been completed and the one-year warranty period will commence upon acceptance. The area of concrete that was holding water has been fixed, retested, and is now not holding water at all.

Mr. Roznovsky spoke about the sidewalks and that the plan had changed since its original submission and is now only going as far as the landscape buffer.

Councilmember Byron Sanford and Councilmember Julie Davis both questioned the engineer about the sidewalk, and walkability and Buffalo Springs, citing that Buffalo Springs really needs the sidewalks.

The Engineer responded that there will be a sidewalk, however along to the Landscape reserve.

Councilmember Julie Davis stated that she felt that if one was originally submitted on the plat, it should be placed there.

Councilmember Kevin Lacy stated that he understands that they are not planning one now, but he felt that it should be requested that they do at some point in the future.

Mr. Roznovsky stated that they would have a conversation with the developer in regard to Council's request.

12. Consideration and possible action on applicants for Place 3 on the Planning & Zoning Commission.

Mr. Richard Tramm advised City Council that since the departure of one of the Planning and Zoning Commissioners a vacancy had occurred, and the city has received applications for the position.

He added that Council could ask for more information from each candidate if they so choose.

Councilmember Carol Langley asked if any of the applicants were present.

Mr. Tramm responded that it did not appear so, however, he would request them to attend at the next meeting should the Council wish to defer until then.

Councilmember Carol Langley moved to table this item until the next council meeting. Councilmember Kevin Lacy seconded the motion. The motion passed (5-0).

13. Consideration and possible action regarding approval of an Escrow Agreement by and between the City of Montgomery, Texas and Pulte Homes of Texas, LP for a proposed single-family residential development (Dev. No. 2203) and authorizing the city engineer to prepare a Feasibility Study.

Mr. Richard Tramm advised Council that he did not place this item on Consent, as he wished to be open about the item. He spoke to Council about the ETJ, City of Conroe and the impact of City of Conroe annexing the land, which was City of Montgomery would not collect tax, just water and sewer. There was a requirement for a study of the ninety acres of which 123 is the overall makeup of the development.

Mayor and Council asked detailed questions concerning the EMS, Fire, Water and Sewer. They also asked if this City could annex it if City of Conroe chose not to.

Alan Petrov, City Attorney advised that City of Montgomery could not do anything, until and if City of Conroe released the portion of land in the ETJ, however cautioned that where a lot of cities release annexations, City of Conroe has not done so in the past.

Council discussed the feasibility study to be completed should only be focused on the ninety acres.

Councilmember Julie Davis moved to approve the feasibility study of the ETJ, with a focus on the ninety acres. Councilmember Carol Langley seconded the motion. The motion passed (5-0).

14. Consideration and possible action on a proposed weekly Montgomery Farmer's Market located on City property at 777 Clepper Street.

Dave McCorquodale presented this item and informed Council that the Farmers Market that uses the Ransom's Parking Lot, approached the city to use Clepper Street instead, on a weekly basis and ongoing to the foreseeable future.

Mr. McCorquodale explained that there were many things to consider, one being on a legal issue as to whether this becomes a tenant situation.

Mayor and Councilmember all voiced their concerns about the coordination come heavy trash day, and that the driveways in and out pose a risk. Councilmember Julie Davis was gravely concerned about the city's liability with the parking lot and the road at the back's condition. Unsafe surface.

Mayor Countryman asked about the old play equipment and the dangers it posed.

Mr. Muckleroy informed Mayor and Council that the equipment has been removed.

Mr. Alan Petrov, City Attorney stated where liability concerns exist, they can be addressed by asking for insurance with the City noted on document.

Mr. McCorquodale concluded the presentation by stating that at this point it is early stages in the planning, and he will consult with legal and other parties to make sure to come back with items that will address Council's concerns.

15. Consideration and possible action on approval of a resolution for the Police Department to apply for grant funding to replace two Police Department vehicles.

Lt. Joe Belmares presented this item in the absence of Police Chief Solomon. He informed Council of the grant funding amount and that the city could obtain two patrol cars with this grant and the city would only need to add \$2700.00. All equipment and two patrol cars with a total cost to the city of \$2700.00.

Councilmember Carol Langley inquired when the deadline for the grant application was.

Lt. Belmares stated that Ms. Kristen Goode from the Police Department was currently working on all submission items.

Councilmember Julie Davis asked about the patrol car that was wrecked.

Lt. Belmares stated that it was decided that PD would have six new vehicles by the end of the year.

Councilmember Carol Langley moved to approve the resolution for the grant as presented. Councilmember Sanford seconded the motion. The motion passed (3-2), Councilmember Davis and Lacy voted against.

16. Discuss and consider amending Visitor/Citizens Forum language on City of Montgomery meeting agendas.

Mr. Tramm informed Council that he had conducted research of other cities regarding the items on the agenda that specifically relates to the public being able to speak. He stated that it is not a policy change but merely a revision of the wording currently on the agenda to reflect the Ordinance governing meetings and public participation.

Council discussed the version presented by Mr. Tramm and recommended that the last sentence be strike out, as it was redundant and change Mayor to Presiding Officer, in order to cover all eventualities.

Councilmember Julie Davis moved to approve the revisions as stated by council. Councilmember Kevin Lacy seconded the motion. The motion passed (5-0).

17. Discussion and consideration of designating Corinne Tilley, Code Enforcement Officer to be the primary point of contract for, and the designated recipient of, permit applications for the City of Montgomery.

Lt. Joe Belmares presented this item, in the absence of the Police Chief. He stated that it has been recommended that Corrine the City's Code Enforcement Officer be the lead recipient of all permits at the city. She is able to review permit applications and review ordinances and is confident that she can do both her workload as code enforcement officer and the permit applications. Her skill set and previous experience has her well versed in the ICC Building Codes and is looking to enroll in an ICC class.

Mayor and members of the Council addressed their concerns about overloading employees with too many duties, and Ms. Tilley had been hired specifically with code enforcement in mind. If she is holed up reviewing permits, plans etc., who would be doing code enforcement.

Mayor and Council discussed this with Mr. Tramm and Mr. McCorquodale and Lt. Belmares and felt they could not comfortably approve this item.

Councilmember Carol Langley moved to table this item for approximately six months. No member of council seconded the motion. Motion dies.

Councilmember Julie Davis moved to deny this item. Councilmember Kevin Lacy seconded the motion. Motion passed (4-1). Councilmember Carol Langley against.

DEPARTMENTAL REPORTS:

18. City Administrators Report

Mr. Richard Tramm provided his department report including his proposal of a 3% cost of living increase (COLA) and the plan to visit that at the next City Council meeting. He also informed them of the Audit being presented at the next City Council meeting.

Councilmember Julie Davis inquired about the records request RR 2022-28 and asked why it had taken so long to complete.

19. Sales Tax Report

Mr. Tramm provided the Council with the updated Sales Tax Report.

20. Finance and Quarterly Report

Mr. Anthony Lasky provided his department report and advised council that he had condensed the report for easier reading. He spoke to them about the budget summary and the amendment to the budget.

21. Police Department Report

Lt. Belmares provided the Police Department report.

Council inquired about the recent vehicle accident involving an officer and asked if any of Montgomery PD Officers attended the murder as one councilmember did not see any MPD at the scene.

Lt. Belmares confirmed that the accident that occurred involving an officer, no one was injured and the matter is being resolved through the proper channels and that in fact with regards to the murder, Montgomery Police Officers were the first on the scene, however, it was not their jurisdiction it was the County, so once the county arrived our officers provided assistance.

22. Court Report

Ms. Kim Duckett, Court Administrator provided City Council with details of her department report.

23. Public Works Report

Mr. Mike Muckleroy provided City Council with an update on his report and the Eagle Scout project, which was a solar light project at memorial park, stating it turned out really nice.

Council discussed with Mr. Muckleroy the reservations at the Pavilion and the Rotary Club.

Councilmember Carol Langley inquired where the funds go.

Mayor Countryman responded that they go into the Parks Fund.

Councilmember Carol Langley also inquired about the bridge that is need of attention.

Mr. Muckleroy updated council and stated that both he and Chris the city engineer were out there, and just to clarify that it isn't a bridge, but rather a covered culvert with handrails.

Mayor Countryman inquired about who was responsible for painting the Simonton House.

Mr. Muckleroy informed Mayor and Council that the contractor was authorized approximately four months ago and then the project got pushed back and back then about two weeks ago the contractor officially let him know that they could not do the job, he has now gotten out for more quotes to complete the work.

Councilmember Lacy asked if it would be appropriate for him to suggest someone within the city.

Mr. Muckleroy responded he would be appreciative of all recommendations. He went on to inform Council that the parking buffers are still on going for the painting.

24. Utility Operations Report H20

Mr. Muckleroy presented the report as Michael was unable to attend this evening. He spoke about the flushing that has occurred and hence the numbers.

Councilmember Julie Davis asked about the status of the Lift Station #3.

Mr. Muckleroy provided the Councilmember with an update on the lift station, the bus barn, and the replacement of the pump with a new style impeller.

Mayor Countryman took the opportunity of speaking with the Mr. Muckleroy, Public Works Director about the recent power outages and the conflict that exists between TXDOT and Entergy regarding a pole.

Mr. Muckleroy and Mr. Chris Roznovsky responded to their best of their knowledge that there was not a start date for the turn lane.

25. February 2022 Utility Report

Mr. Tramm provided City Council with the February 2022 utility report, including the notable amount of 1500 ROW permits.

26. City Engineers Report

Mr. Chris Roznovsky provided City Council with a detailed report and status update on various projects within the city, including sidewalks, easements, ROW, drainage improvements and the Hills of Town Creek phase 4.

Councilmember Julie Davis spoke to the Capital Improvement Plan and the new proposed two hundred acres. She inquired if Mr. Roznovsky would provide an update on just the ninety acres.

Councilmember Julie Davis moved to approve the departmental reports. Councilmember Kevin Lacy seconded the motion. Motion passed (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, including the City Administrator's review.

27. Adjourn into Closed Executive Session as authorized by the Texas Open Meetings Act, Chapter 551 of the Local Government Code, in accordance with the authority contained in the following:

(a) Section 551.072 (deliberation regarding real property).

(b) Section 551.074 (Personnel matters) Review of City Administrator

Council went into Executive Session at 8:18 P.M.

CITY COUNCIL RECONVENED AT 9:26 P.M.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

28. Consideration and possible action on real property matters discussed in Executive Session.

Councilmember Julie Davis moved to direct the City Attorney to proceed as directed by City Council. Councilmember Kevin Lacy 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.

Mayor Pro Tem inquired regarding the status of merchandise to celebrate the City of Montgomery. He had been asked for some and he was looking forward to seeing different things.

Councilmembers discussed and suggested various ideas for merchandise, and designs.

Mr. Tramm stated he will work on that and he would be working with MEDC on ideas for sample products.

ADJOURNMENT

Councilmember Kevin Lacy made a motion to adjourn. Councilmember Julie Davis seconded the motion. The motion passed (5-0).

ADJOURNMENT 9:31 P.M.

Submitted by: _____

Date Approved: _____

Nici Browe, City Secretary

Sara Countryman, Mayor.