

**City Council Public Hearing and Regular Council meeting
MINUTES**

September 13, 2022, at 6:00 PM

CALL TO ORDER

Mayor Byron Sanford called the meeting to order at 6:00 p.m.

Present: Byron Sanford Mayor
 Carol Langley City Council Place #1
 Casey Olson City Council Place #2
 T.J. Wilkerson City Council Place #3
 Cheryl Fox City Council Place #4
 Patricia Easley City Council Place #5

Also Present: Dave McCorquodale Assistant City Administrator& Planning Development

INVOCATION

Mayor, Byron Sanford provided the Invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

VISITOR/CITIZENS FORUM:

Mayor Byron Sanford read a statement from former Mayor Sara Countryman.

Convened into Public Hearing at 6:06 P.M.

1. Convene into a Public Hearing to receive public comments regarding the proposed 2022-2023 City of Montgomery Budget.

No members of the public addressed City Council.

Adjourn Public Hearing at 6:08 P.M.

CONSENT AGENDA:

2. Approval of the Minutes of:
 - (a) City Council Budget Workshop meeting 08-22-2022; and
 - (b) City Council Meeting 08-23-2022.
 - (c) City Council Public Hearing 09-06-2022
3. Consideration and possible action regarding an Escrow Agreement by and between the City of Montgomery, Texas and Food Gardens of Olde Montgomery for a proposed food truck park (Dev. No. 2210) and authorizing the city engineer to prepare a Feasibility Study.

4. Consideration and possible action regarding an Escrow Agreement by and between the City of Montgomery, Texas and Dutch Bros., LLC dba Dutch Bros. Coffee for a proposed drive through coffee shop (Dev. No. 2106).

Council Member Patricia Easley moved to approve the consent agenda as presented. Councilmember Cheryl Fox seconded the motion. Motion passed (5-0).

CONSIDERATION AND POSSIBLE ACTION:

5. Consideration and possible action regarding adoption, by record of vote of the following Ordinance: AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS ADOPTING AN OPERATING BUDGET FOR THE FISCAL YEAR 2022-2023.

THIS BUDGET WILL RAISE MORE TOTAL PROPERTY TAXES THAN LAST YEAR'S BUDGET BY \$418,191 OR 30.07%, AND OF THAT AMOUNT, \$53,570 IS TAX REVENUE TO BE RAISED FROM NEW PROPERTY ADDED TO THE TAX ROLL THIS YEAR.

Councilmember Carol Langley moved to adopt the ordinance for the Operating Budget for the fiscal year 2022-2023. Mayor Pro Tem TJ Wilkerson seconded the motion. Motion passed (5-0).

6. Consider, Adopt and Set by Ordinance the 2022 Ad Valorem Tax Rate for Maintenance and Operations, **\$0.2950/\$100.**

Councilmember Carol Langley moved to adopt the ordinance for Ad Valorem Tax Rate for Maintenance and Operations for the fiscal year 2022-2023. Councilmember Cheryl Fox seconded the motion. Motion passed (5-0).

7. Consider, Adopt and Set by Ordinance the 2022 Ad Valorem Tax Rate for Debt Service, **\$0.1050/\$100.**

Councilmember Carol Langley moved to adopt the ordinance for Ad Valorem Tax Rate for Debt Service for the fiscal year 2022-2023. Councilmember Cheryl Fox seconded the motion. Motion passed (5-0).

8. Consideration and possible action on: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, SETTING THE AD VALOREM TAX RATE OF THE CITY OF MONTGOMERY, FOR THE YEAR 2022 AT A RATE OF \$0.4000 PER ONE HUNDRED DOLLARS (\$100) VALUATION ON ALL TAXABLE PROPERTY WITHIN THE CORPORATE LIMITS OF THE CITY OF MONTGOMERY AS OF JANUARY 1, 2022 SPECIFYING SEPARATE COMPONENTS OF SUCH RATE FOR OPERATIONS AND MAINTENANCE AND FOR DEBT SERVICE; LEVYING AN AD VALOREM TAX FOR THE YEAR 2022 PROVIDING FOR DUE AND DELINQUENT DATES TOGETHER WITH PENALTIES AND INTEREST; PROVIDING FOR COLLECTION AND ORDAINING OTHER RELATED MATTERS.

Councilmember Casey Olson moved to adopt the ordinance setting the Ad Valorem Tax Rate of the City of Montgomery, for year 2022 at a rate of \$0.400 / 100. Councilmember Patricia Easley seconded the motion. Motion passed (5-0).

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

Mayor Pro Tem TJ Wilkerson moved to approve the resolution amending the investment policy. Councilmember Cheryl Fox seconded the motion. Motion passed (5-0).

10. Consideration and possible action regarding the City entering into a Development Agreement with Pulte Homes of Texas, LP.

Staff reviewed item and covered the main points of the Development Agreement – contingent on annexation into the City after the developer closed on the property; the MUD Consent was contingent on annexation. Richard Marek of Pulte Homes was in attendance to answer questions and discuss the project with City Council. The proposed project would have 45-foot-wide lots, and though the City had approved 50-foot lots in recent years, this was a smaller lot width than the City has seen before. Councilmember Casey Olson Motion stated he was not in favor of the 45-foot lot width when the Feasibility Study for the project was presented to City Council in May, and he still opposed the narrow lot width. Discussion by Council on the single-entry point onto FM1097 for the development. Mr. Marek said with the limited frontage on FM 1097 their options were limited. They have provided for an additional emergency-only access point on FM1097 and are in discussion with the property owner to the south about a connection point between their neighborhood streets. Councilmember Patricia Easley stated she was concerned with the potentially negative traffic impact to FM1097 the proposed project might have and asked if a traffic study had been done yet. Chris Roznovsky, WGA Engineering said the traffic study would be a part of the requirements the developer would work with TxDOT on and that TxDOT could require the developer to install turn lanes or similar measures to ensure traffic safety. City Council asked when the developer planned to start construction of the homes and Mr. Marek stated they expected to start in late 2024.

Mayor Pro Tem moved to approve the city entering into a Development Agreement with Pulte Homes. Councilmember Carol Langley seconded the motion. Motion passed (5-0).

11. Consideration and possible action on a variance request for minimum driveway spacing for Montgomery Summit Business Park Reserve “A.”

Katherine Vu, WGA – City Engineers discussed the details of the request and said the property did not have enough street frontage to meet the minimum driveway spacing required by City Code. She also mentioned the developer was working with an adjacent property for shared access, though they would like to request the variance in case shared access point is not feasible. Additionally, Ms. Vu noted that the proposed site plan located the driveway as far away from an adjacent intersection as possible and there was still room for 6-8 cars to be at the intersection without blocking the driveway. Councilmember Carol Langley asked if the engineers were in favor of granting the request and Ms. Vu said the P&Z and engineers both had no objections and recommended approval.

Councilmember Carol Langley moved to approve the variance request. Mayor Pro Tem TJ Wilkerson seconded the motion. Motion Passed (5-0).

12. Consideration and possible action on variance requests for minimum lot width, minimum lot area, and street right-of-way width for Summer Wind, a 56-acre proposed single-family residential development.

Staff introduced the item and noted that while P&Z recommends approval of the variance requests, they did have concern on the proposed 45-foot lot width. Jonathan White of L2 Engineering and Tim Connally of Montage Partners were in attendance to answer questions on

the requests and provide an overview of the proposed development. Mr. White said this property was part of the Buffalo Springs Planned Development District and one of the conditions of the Planned Development was that developments in the District followed the 2004 development regulations of the City. Mr. White noted the variance request for the street right-of-way width would comply with the current City requirement of 50-feet, though the 2004 regulation was 60-feet. He added that the street width would still be 28-feet from back of curb to back of curb and that only the right-of-way width was requested to be reduced. Councilmember Carol Langley asked how many of the proposed lots were above the City's 9,000 square foot minimum. Mr. White said the majority were proposed to be 5,400 square feet and that the cul-de-sac lots were in the 10,000 square foot range. Mr. Tim Connally introduced his company and said he and his business partner had been developing properties for a number of years and were committed to delivering exceptional projects that lived up to their expectations and reflected well on their reputations as quality developers. The request for 45-foot lots came down to the economics of residential construction market forces and that homebuilders are asking for 45-foot lots to balance land and construction costs. Mr. Connally said the anticipated selling price of the homes would be in the low \$300,000 range and believed home construction would start in early 2024. Councilmember Casey Olson questioned whether the 45-foot lots were necessary for the economics to work for the developer and home builders and that as a former home builder he believes builders will always find a way to adapt to higher overhead costs to keep home prices in the desirable range. Mr. White agreed and added the things that would likely be cut were the higher end materials like granite countertops, and stone exterior materials and that those were things that buyers expect and particularly the exterior materials added to the overall quality of the neighborhood.

Councilmember Carol Langley moved to approve the variance request as presented. Councilmember Patricia Easley seconded the motion. Motion passed (4-1). Councilmember Olson voted against the motion.

13. Consideration and possible action regarding an Escrow Agreement by and between the City of Montgomery, Texas and Montage Partners, LLC for a 56-acre single-family residential development (Dev. No. 2211) and authorizing the city engineer to prepare a Feasibility Study.

Staff explained this was a typical Escrow Agreement and Feasibility Study authorization. It was placed on the agenda after the previous item to allow Council to take action on the variance requests first before approving the Agreement and study. If the variances were denied, the developers might not have wished to proceed with the process.

Councilmember Carol Langley moved to approve the escrow agreement as presented. Councilmember Patricia Easley seconded the motion. Motion passed (4-0). Councilmember Casey Olson abstained from voting.

14. Consideration and possible action on: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS ("CITY COUNCIL"), AMENDING THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS ("CODE"), CHAPTER 90, UTILITIES, ARTICLE II, WATER AND SEWER SERVICE, DIVISION 2, SERVICE RATES AND CHARGES, SECTION 90-63, PENALTY FOR FAILURE TO PAY BILL BEFORE BECOMING DELINQUENT, BY AMENDING THE PENALTY AMOUNT FOR A CUSTOMER'S FAILURE TO PAY THEIR BILL BEFORE BECOMING DELINQUENT.

Staff stated that Councilmember Cheryl Fox asked for the item to be placed on the agenda but wanted to defer discussion and action on the item until a later date. Councilmember Carol

Langley asked Councilmember Cheryl Fox why she asked to defer action. Councilmember Fox stated that she wanted more time to review the matter. Councilmember Langley asked staff to confirm the current late charge and staff said it was 20% of the bill amount and had been in place since at least 1996. Councilmember Easley noted that state code did not allow more than a 10% late charge for delinquent utility bills and asked how the City could charge 20%. The City attorney explained that the state code regulated private water suppliers and that cities could set their own rate. Councilmember Carol Langley stated that she called three other cities, and no one has 20%.

Councilmember Patricia Easley read from State Code as to the recommendation on fees, and stated she felt 20% to be exorbitant.

[audio resumes at this mark in meeting video to continue minutes].

Councilmember Carol Langley moved to change the ordinance on utility delinquent fees to 10%. Councilmember Cheryl Fox seconded the motion. Motion passed (5-0).

15. Consideration and possible action on developing a program to create banners honoring local veterans.

Councilmember Casey Olson requested to table the item as he is getting more information as to how this program is to be presented. It is not a cost to the city, but to the family.

Councilmember Casey Olson table until October 11, 2022, regular council meeting. Councilmember Carol Langley. Motion passed (5-0).

16. Consideration and possible action on authorizing an expenditure up to \$40,000 by Public Works to repair the Lift Station No. 8 Sanitary Sewer Force Main.

Ms. Katherine Vu, WGA engineering presented this item and stated she was here to provide an update and request authorization to begin the repair. She went on to provide council with their findings and options considered.

1 option was to hang the pipe off of Lone Star parkway bridge, however the construction costs were exorbitant and not cost effective, also the timeline is too far out, when you consider the fact, the city is paying excessive cost to rental pipe at this time.

The second option and one they are recommending is to go back to the original direction of the pipe and bore underneath the creek. The plan would be to bore 10 feet under to provide enough buffer to stop this from happening again.

City's policy on bidding is being adhered to and the recommendation tonight is to go with Online Directional for a construction cost of \$29,395 but the request is to allow the expenditure of up to \$40,000 to allow the cost involved for Public Works to continue and create the tie in.

Chris Roznovsky added that the County is going to be doing some erosion prevention to the creek bed.

Councilmember Carol Langley moved to approve the expenditure of up to \$40,000 for the repair of the Lift Station No.8 Sanitary Sewer Force Main. Councilmember Casey Olson seconded the motion. Motion passed (5-0).

17. Consideration and possible action on approval of the Certificate of Substantial Completion and beginning the one-year warranty period for Water Plant No. 3.

Katherine Vu, WGA Engineering presented this item and informed Council that August 3, 2022, their company attended, and inspection and a small punch list of items was created. The facility was placed into service and at that point the project was considered to be substantially complete, and the Water Plant is fully operational as intended. The contractor is working through the minor punch list items. It is being recommended that Council accept the project as Substantially complete as this will initiate the one-year warranty.

Councilmember Casey Olson moved to accept the Water Plant No. 3 Project as Substantially Complete. Mayor Pro Tem TJ Wilkerson seconded the motion. Motion passed (5-0).

18. Consideration and possible action regarding adoption of the following ordinance: AN ORDINANCE BY THE CITY OF MONTGOMERY, TEXAS ("CITY") DENYING THE DISTRIBUTION COST RECOVERY FACTOR RATE INCREASE REQUEST OF ENTERGY TEXAS, INC, FILE ON OR ABOUT JULY 20,2022; SETTING JUST AN REASONABLE RATES FOR ENTERGY TEXAS, INC FOR SERVICE WITHIN THE MUNICIPAL LIMITS; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETING ACT; MAKING OTHER FINDINGS.

Mr. Dave McCorquodale provided the recommendation by the Lawton Law Firm on this denial ordinance and the purpose of it.

Councilmember Olson requested to understand how this denial request process works. Alan Petrov, city attorney provided historical background to the purpose of utility rate increases, requests to suspend and ultimately deny.

Councilmember Casey Olson moved to adopt the denial ordinance as presented. Mayor Pro Tem TJ Wilkerson 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.

Council did not convene into executive Session.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

COUNCIL INQUIRY:

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

Mayor Byron Sanford stated that he received a very lengthy inquiry about Cedar Brake Park, handicap accessibility, going back for many councils over the years. He went on to add he would like Administration to come back to the next or following meeting with recommendations on accessibility for the park.

ADJOURNMENT

Councilmember Casey Olson moved to adjourn the meeting. Mayor Pro Tem TJ Wilkerson seconded the motion. Motion passed (5-0).

ADJOURNMENT 7:38 PM

Submitted by: _____

Date Approved: _____

Nici Browe, City Secretary

Byron Sanford, Mayor

DRAFT