



**City Council & Board of Adjustment
Regular Meeting Minutes
February 25, 2025**

OPENING AGENDA

1. Call Meeting to Order.

The City Council & Board of Adjustment Regular Meeting of the City of Montgomery was called to order by Mayor Countryman at 6:00 p.m. on February 25, 2025, at City Hall 101 Old Plantersville Rd., Montgomery, TX and live video streaming.

With Council Members present a full quorum was established.

Present:	Mayor	Sara Countryman
	Mayor Pro-Tem	Casey Olson
	Council Member Place 1	Carol Langley
	Council Member Place 4	Cheryl Fox
	Council Member Place 5	Stan Donaldson

2. Invocation.

Council Member Donaldson gave the invocation.

3. Pledges of Allegiance.

Mayor Countryman led the pledges of allegiance.

PUBLIC FORUM

Mr. Phillip LeFevre, 780 Clepper Street, Montgomery, Texas, said he wanted to cover last week and again, he is only hearing indirectly so he wants to be sure he is accurate. He heard the City was uncomfortable with finding out that even though our plan development (PD) had expired, we still retained architectural control and he wanted to clarify that because there is a lot of confusion associated with the PD. The PD did not give us any power at all. We do not have control over engineering and we do not look at plans. Everything with the PD is directly between the City and whoever is participating. The one clause we did leave in and actually we put it in the deed of trust, as much as anything else, is some residual form of interest in what is done on the properties. Again, the City has the prominent role. The City is a sovereign entity and no one has any further say than the City, but what it allowed us to do was to have some comment on the way houses were structured. We cannot say where roads go or where people dig. That is all up to the City, but we can in our own subdivisions. An example is we have an 85/70 rule, 85 percent masonry on a single story and 70 percent on a two-story. There are some builders, as an example, Grace Pointe. they

do not use any at all, but they are great builders. People can avoid the masonry out of strength, but there are a lot of people who cut the masonry just to save money so that type of thing is a big deal for us, but also when things go wrong, we expect to try to help to solve it. To give you an example, two to three years ago someone we sold land to on Buffalo Springs Drive came in, they did not talk to us or the City and used bulldozers to push all the trees down, flushed silk down, and filled the ditch. We went to the then interim administrator Mr. McCorquodale and said please can you shut that down as it is not permitted. He declined and said no, that is in the PD and that is your responsibility. It really was not our responsibility, although it is everyone's if you see something going wrong because two-story metal warehouses in front of homes is not something that is compatible and it would have affected the value of people's homes. We were able to brow beat them down. Again, we have no real legal standing, but we were able to threaten and they stopped construction. The ditch remained full and the ditch was an important ditch because it took City drainage between Buffalo Crossing and their property. That stayed full. We went to the city engineer and said something needs to be done. We did not get any satisfactory response on that. It took us two years of haranguing the people and finally they dug that ditch out. Luckily, two weeks afterwards, we had a six inch rain in an hour and if that ditch had not been there he feels sure a lot of those houses would have flooded. The PD is gone, but if we can influence things, subject to the City, we like to do that. That is why that language was in the original agreement and that is why when we sell land we try to put it in the deed of trust as well.

Ms. Hillary Dumas, 8560 Majestic Lake Court, Montgomery, Texas said over the last couple of months she has been here several times regarding the potential purchase of 32 acres that they have with BCS Capital. While we have not received a formal termination from them, that is probably what we expect. There are a few reasons for it. There are a lot of reasons why the deal may or may not work, but one of the big sticking points for them has been requirements that they believe the City is holding them to. It totals about \$3.4 million and it is improvements. It is redoing C.B. Stewart, Buffalo Springs Drive, looping utilities along SH-105 into the Lone Star Parkway, and then water and waste impact fees. Again, we are all on board with everyone should pay their fair share. We built the roads and we feel we paid our fair share over the years, but she would just ask that the City would make sure, as we go through this, whether it is Jack and BCS or someone else, that the standards are being applied equally to everyone. As an example, Home Depot had to do the road improvements, but they did not have to loop utilities to Lone Star Parkway. They did not have to extend or loop utilities to C.B. Stewart. The church is coming. While the church is a great community asset, it does not pay property tax and it does not generate sales tax. Are they going to be held to the same standard? Are they going to have to improve C.B. Stewart and Clepper? Taylor Morrison is bringing in however many houses on a land plan. Those cars impact all of the roads too, so are they being held to the same standard and having to provide impact fees for road improvements? As a City, we need sales tax. It is a business. That is how we make our money with sales tax and ad valorem tax so we cannot have just municipal users. We need them and so it would be a shame if Academy and she does not even personally want Texas Roadhouse because we all know it is kind of like a Ransoms, but from a City standpoint, it is a great sales tax revenue generator. You cannot beat that and Academy too. It would be a shame to see all of these things go just outside city limits whether it is Walden Road or by Tractor Supply because standards are applied differently, or people are held to different accountability. She just hopes as we move forward that there are different ways to skin a cat. If you look at Heritage Plaza, the City did an interlocal agreement with the County so that the developer of Heritage Place Two did not have to

do the road improvements. The City worked with the County to get a lower price for it. The City got a grant to extend utilities all the way to Pizza Shack and all of those users had huge benefits and got immediate land increase in value in their land because those utilities were there. Maybe the City is a little bit spoiled because over the years they have not necessarily had to invest a lot in capital improvements, but it is a chicken and an egg. We have to get the sales tax revenue and the ad valorem. We have to at some point invest in capital improvements and pay our own way as well. She asks that the City apply those same standards to everyone, regardless of who it is.

BOARD OF ADJUSTMENT

4. City Council will convene into Board of Adjustment meeting.

At 6:10 p.m. Mayor Countryman convened into the Board of Adjustment meeting.

5. Consideration and possible action on a variance request of the side yard setback for a proposed new accessory structure (garage) on the property located at 914 College Street.

Code Enforcement Officer and Planning/Zoning Administrator Tilley said the property owner of 914 College Street is here this evening. She would like to put in a detached two-car garage 22 x 30. It is going to be within the 10 foot setback line on the west side of the property. A portion of it will be six feet away from the property line and the other portion will be eight feet away. We are asking for a four-foot and two-foot side yard setback variance. It did go to the Planning and Zoning Commission on February 4th and was recommended for approval by them. If you would like to read the findings, the findings are listed in the discussion items. Staff does recommend approval of the side yard setback variance subject to the condition that the appropriate building and trade permits are approved and issued prior to commencement of any. If you would like to speak to the property owner she is here.

Mayor Countryman asked who is going to oversee this? Would that be you? Code Enforcement Officer and Planning/Zoning Administrator Tilley said the building inspector.

Mayor Pro-Tem Olson asked if the neighbor was ever consulted? Mayor Countryman said she is the neighbor. She owns both properties.

Ms. Marily Thompson said she has been the property owner for 26 years. She actually subdivided that piece of property to the people who have purchased and live there now. She just recently spoke with her son this evening at her property so they are well aware of what she is trying to do. The improvement that she put on there will not be a negative effect to her. The drainage that comes off of the garage is going to go to the swell that they created to get their house above flood level. They are going to make sure that drainage goes to the rear of the property and takes the path of least resistance. It is not usable land in between them.

Council Member Langley asked Public Works Director Muckleroy is there not a city easement (she is calling it an easement, but does not know that it is an easement) that goes

through there to the gate that goes into Lone Star Estates that is for the sewer line? Ms. Thompson said there is a sewer line easement there. Public Works Director Muckleroy asked if this is the same property line with the improvement project? Ms. Thompson said it is to the east of that. That easement is on the other property, not on hers. Council Member Langley said it is not on hers, but there is one in there so no one is going to build there. Ms. Thompson said they just recently replaced that line. Council Member Langley said yes. Public Works Director Muckleroy said he does not know anything about it or how close it is to the sewer line. Council Member Langley said it is not. Ms. Thompson said it is not on her property at all. It is on the neighbor's property. Council Member Langley said when you bought this property years ago the City had the rules that it was a five foot setback. Ms. Thompson said when she bought it there was no side setback at all. The front corner of the home actually is not even five feet from the property line. It is not ideal, but she did not put it there. Council Member Langley said she just wanted to verify that it is in that area. Ms. Thompson said you actually should have a plat of that from the subdivision because it is laid out on that plat. It is easy to identify.

Motion: Mayor Pro-Tem Olson made a motion to approve a variance request of the side yard setback for a proposed new accessory structure (garage) on the property located at 914 College Street. Council Member Fox seconded the motion. Motion carried with all present voting in favor.

- 6. City Council will close the Board of Adjustment meeting and reconvene into regular session.**

At 6:16 p.m. Mayor Countryman reconvened into Regular Session.

CONSENT AGENDA

- 7. Consideration and possible action on the City Council Special Meeting Minutes of November 18, 2024.**
- 8. Consideration and possible action on the City Council Regular Meeting Minutes of January 14, 2025.**
- 9. Deliberate and take appropriate action on the acceptance of the Certification of Unopposed Candidates for the City of Montgomery, Texas, in accordance with Section 2.052, Texas Election Code.**
- 10. Deliberate and take appropriate action on an Ordinance of the City Council of the City of Montgomery, Texas, declaring unopposed candidates in the May 3, 2025 City of Montgomery General Election elected to office; Canceling the election; Providing a severability clause; and Providing an effective date.**

Mayor Pro-Tem Olson said he would like to talk briefly about unopposed item number nine. He asked if no one ran for the open seat either? Mayor Countryman said yes, we have someone that ran for the open seat, but that was unopposed

Motion: Council Member Donaldson made a motion to accept item numbers seven, eight, nine, and 10 cumulatively. Council Member Fox seconded the motion. Motion carried with all present voting in favor.

PUBLIC HEARING

11. Convene into the Public Hearing on the Resolution to create Public Improvement District.

At 6:18 p.m. Mayor Countryman convened the Montgomery City Council into a Public Hearing.

City Attorney Petrov said before you tonight is a petition to create a Public Improvement District (PID). It relates to the Montgomery Crossing development that we adopted a development agreement for last fall. Public Improvement Districts are basically a mechanism for financing improvements of all types, mainly roads, drainage, and infrastructure for a development similar to what you see with a Municipal Utility District. They do not have any taxing authority, however, the utility is limited to assessments which are established pursuant to the Council's consideration and go toward paying back the cost of the improvements. There are a couple different types of PIDs you can have. You can have some that are authorized to issue bonds and there are some that are authorized to be cash flow basis only. What we have for you is a cash flow PID. It is not proposing to issue any bonds in the future, so the reimbursement is limited to the assessments that the developer receives each year. Just like the one PID you do have over a commercial property, this one is going to be a little different because it is over residential property. Just like the one you do have in the City now, there will be an annual assessment. The assessment collected is similar to taxes, but those assessments then go to pay back the developer for the cost of the infrastructure. The developer is limited to the assessments that are received so there is no additional obligation on behalf of the City if the developer does not get as much money in terms of assessments as they expect. They are limited to what assessments are actually collected and received in terms of the payment. Generally speaking, these have very limited liability or downside. There are examples of numerous PIDs all across Texas. He will be happy to answer any questions. Ms. Marjorie Cox is here as well and she can elaborate more on the specifics of her proposal.

Council Member Fox said she does have a problem. There are no PIDs in the City that are residential. They just have the one that is commercial. Sometimes she thinks unless there is a lot of transparency given to the homeowners that this is going to be something because she has seen whole subdivisions that have failed simply because there was an overwhelming thing of insurance, taxes, and mortgage. Of course they had to add the PID into it too. She is concerned about how transparent each homeowner will be advised of.

Ms. Marjorie Cox said they had met twice last year through the workshop setting, talked about the project and stepped away and incorporated some of the request in that. The final product was presented in October and that was the approved development agreement. Just in terms of PID, the assessment is based on that district only. Starting from the beginning, there are 86 acres, 235 lots, 235 residences. Between \$400,000 to \$420,000 would be the value of the homes there. The district they are putting through is just based on that legal description of the metes and bounds and is only subject to that particular neighborhood that is approved by City Council. They have worked with the City of Conroe 15 years ago on another PID. They have about 20 or so PIDs. Magnolia and Tomball have PIDs as well, so it has been used in other cities within Montgomery County. There has been a lot of evolution just in terms of the state legislature and putting more rules into place than when they first worked on a PID with the City of Conroe around 2008. When the home builder sells the house, the finished product to the consumer, they have to sign a PID notice. As they come in and sign all of their contracts and other paperwork, they sign a PID notice which is also like a MUD notice which would be in a similar format. Before they even put the house under contract, they are aware of that assessment and then they can make their business decisions accordingly. It is assessed on an annual basis. They have the right to pay it off. If they want to pay the principal amount versus having it go over the course of the 25 to 30 years, that is the resident's choice as well, but it is disclosed and also would be reflected on MCAD. Typically, you will see a line item for a PID so those are there as well. At closing, they also from the title company have to sign off on a notice that they are aware of the PID so they are making that decision and signing off on notices for a couple steps until they have received their first assessment a year or so after they have been in the house. It is usually a year or so lapse in between when they close and it is the January 1st of the next year.

Council Member Fox asked if she was saying the State mandates the signatures? Ms. Cox said it is in the statute. As the legislature meets every two years they add consumers and stakeholders in the industry and bring issues up. The State has begun to pass that through their legislation so it is State mandated. It is in the statute and local government code so it is a requirement. There would be risk on the home builder and the title company if they did not have that. Council Member Fox said again, that was her main concern. In fact, how apparent it was to each individual home owner because the commercial one is considerably different. Ms. Cox agreed.

Council Member Donaldson asked who makes up the PID? How to you get the people on the PID? Is it a committee? Ms. Cox said the PID is a Public Improvement District and so the district would be the area, the 86 acres they have closed on so that is a district. The public improvements would be all of the water lines, sanitary sewer lines, and storm water streets. All of the public infrastructure is built on that district. it is repaid by future residents.

The other adjacent property owners do not get assessed for that PID. The City itself does not get assessed for that. It is just a means, like a MUD. In this case, it is a PID. They are different line items as opposed to a MUD that could be reimbursed and funded in. It is just an offset of cost. It is only about a third of what their hard construction cost will be. After the improvements are all built, then there is a one-year maintenance period and those will be subject to the engineers and the City. Those improvements will be turned over to the City and will be owned by the City going forward as part of City infrastructure. That is one way to grow the City and grow the taxpayers and bring in the utilities to be able to support further residents.

Council Member Donaldson asks who does the record keeping and collects the money? Ms. Cox said at the end of the construction of the project they will submit all of the invoices and records. There will be an auditor hired by the PID consultant. The accountant and auditor will review all of those expenses and approve of those. The paperwork will then be submitted to the City so you can see from the PID consultant and its auditor that those are all correct expenses. For Conroe, their method was for the developer to hire the PID consultant and hire the auditor. The way the legal department has set this up for Montgomery is the City would hire an auditor at our expense, but there will be a PID consultant and an auditor that would review all of those expenses and approve them. The PID consultant will come in annually to a City Council meeting and present the special assessment for that year. Ours is already worked into the development agreement so that is the \$2,000 per year assessment. They will come in every year and present that to City Council as part of that State process which is the local government code process to be able to implement that as an assessment. City Attorney Petrov said to expand on that, we anticipate the City hiring an independent third party to review the invoices and the information regarding assessments and to basically audit that. That cost is not paid for by the City, though it is paid out of the assessments, so it is an administrative cost that gets carved out before the developer gets in. Essentially, the PID is paying for itself. Council Member Fox asked if the City is reimbursed for any actual employee involvement in managing the PID? Are we reimbursed for that? City Attorney Petrov said yes. City Council Member Fox asked how is that calculated? City Attorney Petrov said the City will have to track it, but then the City can send an invoice. Council Member Fox asked how does the City determine how much per hour? Does the developer decide? City Attorney Petrov said Finance Director Carl keeps a record. For example, she spent 20 hours over the last six months on managing these records, then you take her rate of pay including any benefits, and then the City gets reimbursed for that. Council Member Fox said for the amount of time our employees spent. City Attorney Petrov said that is right, but it is dependent on the City keeping record of that too. Just like cost for your consultants, whether it is the engineers or the attorneys, we set up different matters for different things

to the extent that we are working on. Something that is related to PID you will get a separate bill and be reimbursed separate from your general legal bill.

Council Member Donaldson asked who is responsible for hiring the third party? City Attorney Petrov said the City is.

Mayor Countryman asked what is the time frame of the repayment or is it a monetary goal that we are trying to achieve? Ms. Cox said it is a 30-year time period that is outlined in the development agreement. Council Member Fox asked was it like 16 something? What was the figure about the assessment? Ms. Cox said the assessment is \$2,000 per year. Mayor Countryman asked is it \$2,000 per year per property? Ms. Cox said yes. Mayor Countryman asked at 30 years when it expires does it reup? Ms. Cox said it ends. The difference with a PID as opposed to a MUD is the PID just ends at that 30-year time period in the agreement. It is not in perpetuity like a MUD will have those assessments forever. Mayor Countryman said she remembers the development agreement and it was very lengthy. They only had a weekend to do it and not be able to ask questions so that is why she wanted clarification. Ms. Cox said yes, to give some updates because so much time goes between the process and tonight, and then another meeting as we get to the annexation to bring that property into the city limits of one of the two tracts.

Mayor Pro-Tem Olson said he does not know if the laws have changed, but the PIDs that he has dealt with up north, the property owner could pay his way out of the PID at purchase. Ms. Cox said absolutely. They can pay the principal off. Mayor Countryman said is that \$2,000 times 30 so \$60,000 then? Ms. Cox said since there is a principal and an interest it is usually about half of that.

Ms. Marily Thompson said she is also a realtor and PIDs are a big deal for all of us. The disclosure has not been very good in the past. She thinks they are working on it, but even in the City of Conroe she has a property that is under contract at the moment and it has a PID. There is only one person that knows anything about the PIDs in Conroe. There are only about 15 subdivisions within the City of Conroe that have these so if you need information you are at the mercy of whomever you hire to help you address the issues that come about. It is an expensive adventure for the homeowner. She understands it from a developer's side that yes, you need help getting your infrastructure on the ground. However, for a homeowner, \$2,000 a year on their tax bill or in addition to their tax bill is gigantic for that first time home buyer or that step down person. When you add that, let us just use the one she is under contract with. With six and a half percent interest, you are talking about a huge investment on a property that you will never see that back. The burden ends up being the homeowner's burden, not the developer's burden. Why not put that cost up front on the improvement when you sell the property and just build it into the cost rather than make these people pay six and a half percent interest for 25 years. When we go to sell

those homes, if we have not already had the conversation before we sign any contractual agreement, that buyer can walk away. They have to know about that PID before. Council Member Fox said a lot of times they are told verbally, but it does not really register at the time, especially for first time buyers. Ms. Thompson said this is not so dissimilar to the cap fees that are happening. Let us just use Wood Forest as an example. You get a half percent on the front side and you get a half percent on the back side, but they do not really want to talk about it, it just kind of happens on the paper.

Mr. Tom Czulewicz said one of the things that this is really bad, is it circumvents the assessed value of the property. When the property is put up for sale that \$60,000 is not included in the value of the property. You are basically undervaluing the property to the homeowner by charging them \$2,000 a year or \$60,000 over the life of 30 years. That is not fair to the homeowner. When they are buying a house they do not think too much about the \$2,000. They should be apprised that the assessed value of that house is not increased by what they are paying.

Ms. Cox said you have other developments, the Red Bird and it is the new name that had the MUD fee so it is going to be competitive to home values in that range as well.

Council Member Donaldson said he would like to hear Finance Director Carl's comments about the assessment fee and the third party. Finance Director Carl said with the PID we currently have, she was not there when that was set up so she is not 100% sure how that was done and if we were the ones that were responsible for that third party. You may recall each year there is a representative from Coats Rose that comes in and presents the PID information. They were here this past fall, but certainly if it is that we need to secure that third party we certainly can do that. The way the other PID was established is that each parcel has an administrative fee that is assessed or that is a part of that and that pays for the City portion and the tax assessor collector retains their portion on each parcel. That did go up this past year. It is not a huge amount, but they retain a portion to be able to process on their side. The PID is set up as its own district. We get our tax ad valorem statements and deposits for the City of Montgomery and then we also get ad valorem reports and deposits for PID number one. It would be an add-on and we would have a third set of reports and paperwork that we get. It is separated. It is not a lot of extra work on our side. We do not have to pull anything apart as we get that directly from the tax office. Once it is established, the continuation of it is not a lot of work on our side each year, but we still have to make sure that we issue payment once a year based on the timing of when those payments come in. The tax office is the one that gives us the reports that we utilize. Council Member Donaldson asked the PID you are talking about is that commercial or residential? Finance Director Carl said it is commercial, but there are multiple parcels in there but again, that is all maintained by the tax office so it is all included in that report.

Council Member Fox said she does remember Ms. Cox talking about it because she asked if the PID was imperative to your development and Ms. Cox said yes. Council Member Fox said she was going to ask why that was, because sometimes the developer can prioritize their needs over what the community is needing. Why was it imperative that it be a PID? Ms. Cox said otherwise it is not cost effective to develop those properties. They would remain vacant without having that additional cost. It is a third or less of what the actual hard construction cost will be when you look at the principal amount. Otherwise, the property would remain as they are when used as agriculture. The other has one house. It has a homestead exemption and a senior exemption so she does not even know if they paid any taxes in 20 years depending on the time it went to senior exemption. This is just a way to offset some of the costs to make it feasible to develop. As mentioned, there were 15 or so in the City of Conroe. This was a method they brought in the early 2000's and have a number of them. One of them in Indian Creek and others are in Teaswood and Longmire there are a few there. Tomball and Magnolia have a smaller number. She knows when they first developed in Conroe there was not a requirement for a PID disclosure form like there is now, but these rules legislature has updated that every session. They are required. They have a number one national homebuilder who is going to make sure that they implement all the proper steps in order to fully disclose to the consumer. Council Member Fox said she has to say she has seen many of your properties and they always are very well done.

Mayor Countryman asked if you decide as the developer to sell like we just saw what happened to Red Bird, does that PID transfer to the new developer or does it expire under your development agreement? Ms. Cox said it would stay with the district because whether it is our company partner and I, or whether it is our company and another developer, it is still not going to be financially feasible to develop it without that small reimbursement. When you spread it out over 30 years and you do a time value of money it is not a huge sum. Then there are administrative fees and other fees. Again, it is just less than a third of what the actual hard construction costs are to build water lines, sanitary lines, and streets. There is also some engineering that rolls into that as a percentage of that and all of that goes into creating that assessment. Mayor Countryman said so over 30 years is approximately \$14 million? Mayor Pro-Tem Olson said no. Mayor Countryman said if she does 235 lots times \$2,000 times 30 years plus interest. Mayor Pro-Tem Olson said he thought it was 287 lots. Ms. Cox said 235. Mayor Countryman said she just wanted to make sure she understood. Ms. Cox said it ends in 30 years, whereas some of the other developments will have the MUD fees that go to support those MUDs. In perpetuity there is no impact of value, so if there is a house that is on the market for \$400,000, just to use a rough number, the value of that house is based on other comparable sales in the community. There is not an offset to the value of the home to have that assessment.

At 6:44 p.m. Mayor Countryman reconvened the Montgomery City Council into a Regular Meeting.

12. Convene into the Public Hearing on the Ordinance amending Chapter 78.

At 6:44 p.m. Mayor Countryman convened the Montgomery City Council into a Public Hearing.

City Attorney Petrov said just as a preface for this item, we have later on in your agenda several amendments to Chapter 78 that have been proposed by Kendig Keast your consultant, and the local government code. Since these are dealing with the platting sections, the code requires a public hearing before you consider amendments to those sections. This is the public hearing and is an opportunity for anyone wanting to comment.

At 6:45 p.m. Mayor Countryman reconvened the Montgomery City Council into a Regular Meeting.

REGULAR AGENDA

13. Consideration and possible action on a Resolution regarding the creation of The Crossing at Montgomery Public Improvement District and ordering public improvements to be made for the benefit of such district; Providing for a severability clause; Providing an effective date; and Containing other matters relating to the subject.

City Attorney Petrov said he wants to remind Council that in our development agreement, the agreement does consent to the creation of a PID. Council Member Donaldson said he is fine with it. He just does not know about the dates.

Motion: Council Member Donaldson made a motion to adopt Resolution 2025-06, a Resolution regarding the creation of The Crossing at Montgomery Public Improvement District and ordering public improvements to be made for the benefit of such district; Providing for a severability clause; Providing an effective date; and Containing other matters relating to the subject. Mayor Pro-Tem Olson seconded the motion. Motion carried with three Aye votes and one Nay vote by Council Member Fox.

City Secretary Beaven said to Mayor Countryman before she begins, a citizen had come up and asked if he was able to speak. He was not able to get here before the public forum due to an accident and he would like to speak to Council.

Mr. Mark Holmes represents KHR Properties and A3H Foods as a Jack in the Box franchisee. He is a partner located at 20008 Champion Forest Drive, Suite 50, Spring, Texas. Mr. Holmes said in reference to the Jack in the Box approvals, reasonable minds could disagree on their limited definition of restaurants. Fast food restaurants is included within the definition of food service establishments under the Texas Health and Safety Code for permitting purposes. Merriam Webster defines a restaurant as a business

establishment where meals and refreshments may be purchased without reference to any sit down or drive-thru services. Denial of a drive-thru on this property would cause an economic hardship, virtually making the property unsuitable for the intended use. The majority of the restaurants are 75 percent drive-thru in business making it very difficult on this tract of land to have a large sit down restaurant with parking and landscaping requirements by most cities. The drive-thru reference have become a more significant sense of the pandemic and you can see that obviously within the community. Standards for the approval of a drive-thru need to be clearly outlined so that you can know the city's specific concerns regarding the preference of a drive-thru. He said he got a report today and the use permit language that was mentioned was any of the other fast foods in the community required a use permit for a restaurant, a drive-thru. He would be curious to know the answer to that. Keep in mind he feels like they are being pinned out or brought against all the other standards that have been met. He also feels if there is a use permit within the city codes that it should be approved, adopted, and publicized. We have looked through these documents and do not see any reference to any use permit, so from his point of view, he feels pinpointed away. Basically, the use of the property if it is not a restaurant, it will be very difficult to move anything else in there with the parking and everything required. Please take that into consideration on your review.

14. Presentation by SiEnergy, L.P. regarding a request for a Franchise Agreement to install a gas utility pipeline within Montgomery city limits to serve the surrounding communities.

Mr. Jared Johnson, 13215 Bee Cave Parkway, Bee Cave, Texas representing SiEnergy a natural gas provider for the State of Texas. They have a 20 year plus history. They were founded in 1998, have over 77,000 customers, and continue to grow by the day. They provide natural gas from north of Fort Worth to southwest Houston. As you go to the next slide, you can see they have notable franchise agreements with quite a lot of cities. They just got one with the City of Needville recently, as well as the City of Cresson up near Fort Worth. Being a utility company, it is heavily regulated and required by law to continually operate. For them, they are in the gas industry so they are regulated by the Railroad Commission of Texas. This organization set service standards, rates, and safety requirements which SiEnergy follows very strictly. For them, earning business is all about building relationships and trust with developers and land owners, as well as the customers. They do this by offering competitive rates in a quality service and reliable service, as well the product. It is why they are still here today. While they continue to grow they really work hard to have a great reputation.

They have customer service representatives on call 8:00 a.m. through 5:00 p.m. Monday through Friday. You can also send an email. This is for any of the customers or homeowners who have questions about their bills. For instance, their bill in the summer may be a bit higher just because usage is higher in the summer than it is in the winter. They can always call our customer service representatives. They also have a 24-hour emergency

line where our personnel answer those calls immediately for all emergencies, as well as technicians in the area to assist with any customer issue. Also, the Railroad Commission of Texas monitors all customer issues and they take all of that very seriously.

The next slide shows more safety regulations that they follow at SiEnergy. There are a few federal regulations about pipeline and hazards and state regulations where they follow the Railroad Commission regulations.

The next few slides he will go over these components on their design and how they ensure safety and if there is any emergency how they handle that situation. Their systems are designed with valves and these are in case of say a damaged pipeline and they need to go in and repair it. They are able to switch these valves to redirect the gas flow. Say for a pipeline, on the bottom of the map they need to go in and repair it. They are able to switch the valves to redirect the gas flow to where they can go in and ensure safety to their workers and customers to go and get that fixed in the event of an emergency. They also have a meter station. They make this with every commercial building they may provide to. It is a remote control valve that will allow for immediate cut-off in the event of an emergency. They also have GIS mapping which are highly accurate GPS instruments that develop system apps for the community where they built around. This allows them to know exactly where the pipeline is so like in the event of an emergency or where they need to repair a pipeline, they know exactly where that is. It also allows the homeowner to know where not to dig because of the pipeline being in their backyard. They also have station monitoring with SCADA that shows real time pressures and also allows them to observe daily highs and lows and current pressures. Also, historical data so they are able to communicate with their customers why the usage might be up or down in any given month. They have customer safeguards using excess flow valves. These are used in case of an emergency or have normal activity with gas pressures. They are able to switch this value that will immediately get rid of the excessive gas flow or completely shut it down in case there is a leak or a damaged pipeline where they need to go and repair it. It also helps prevent gas from entering the property or escaping the ground or the atmosphere. They take their safety programs very seriously. Every year their customers are mailed a packet which includes what to do when there is a gas leak or what not to do, as well as in the event there is a gas leak, how to detect it by sound or smell. It also lets you know where the pipeline is in a given area in the community. For customers they know not to go build or dig anything in their backyard to where they might hit the pipeline and cause damage. Other programs include leak survey or damage prevention programs which are solely for the protection of their customers. They have the 24-hour emergency hotline and also Texas One Call which is 811. SiEnergy provides the GIS mapping system to Texas One Call before gas flow to allow for the specific location of that pipeline in the event of an emergency. Again, emergency response is communicated through annual mailings to customers. It is also

posted on monthly bills to the customers as well as on their website. It is also posted on the pipeline markers and meetings are set up with emergency responders to familiarize one another with their emergency response plan.

For rates, the comment for this is the cities have original jurisdiction set rates for their citizens. SiEnergy looks forward to working cooperatively with Montgomery and other cities as they have either separately or through a city coalition. The city coalition benefits all parties involved including the customers cities. SiEnergy efficiently processes rate requests. It also increases the likelihood of settlement in customer company win-win manner. It enhances customer fairness through consist rates across the cities and it reduces rate in case expenses paid by customers.

There is growth in the industry, especially Montgomery, Texas. As you can see on the picture, 200 acres for new community, a little southwest of Montgomery. The development name is Briarley. They are providing a four-inch pipeline, as well as a two-inch pipeline to all the homes. This is an onsite gas service so LDC, LLC will be building all the pipeline. They will be giving the gas service to the development.

Mayor Countryman said LDC has their own gas and she knows they pay whatever the price is at the Port of Houston. Is that where you are getting your gas as well? Mr. Daniel Pope, a representative with SiEnergy said yes, they are going to transport through LDC, LLC through a pipeline. They are going to construct up to this development so yes, although our system, the rates that the customers will pay, it is sort of aggregated. That will be one very, very small component of their purchase gas cost, because basically they take all of our points throughout the state of Texas and customers through their purchase gas adjustment pay that. That line item on the bill is a component of all those interconnects. Mayor Countryman asked if the bill is going to come from SiEnergy or is it going to come from LDC? Mr. Pope said no, it will come from SiEnergy. LDC is constructing the trunk line up to the project. The map that you saw, all those pipelines within the development will be owned and operated by SiEnergy, so it will be their employees if someone smells gas that will call them and they will come out. Mayor Countryman asked will it be all your infrastructure within Briarley? Mr. Pope said correct. Mayor Countryman said they are just taking it up to Briarley. Mr. Pope said right. Council Member Fox asked where is your card for your office? Mayor Countryman said it is in Austin near Bee Cave. Mr. Pope said they have operations in Conroe. They are all over the state, but yes, the corporate office is in Bee Cave west of Austin.

Mayor Countryman asked does that mean they have to enter into a franchise agreement with you? Mr. Pope said yes. Mayor Countryman said she did not know if it was layered with LDC or not. City Attorney Petrov said that was really the point of the presentation

and the next step would be for the City to enter into a franchise agreement with SiEnergy. We did not want to go drawing up some agreement without Council knowing what is going on. Mayor Countryman said they appreciate that and thank you.

Council Member Donaldson asked if they are here to serve the Johnson community development? Who do we have other than them in the City? Mayor Countryman said currently today LDC is the only franchise that has been opened up to CenterPoint, but they would have to be the ones to provide all the infrastructure and that is why she asked the question about the infrastructure. To do that is quite costly, so currently today the only gas is LDC in the City. They were the original gas company.

15. Consideration and possible action on a permit approval for construction of model homes by Johnson Development.

City Engineer Roznovsky said what is in front of you is a request to get model home permits pulled for the Briarley Development for Red Bird Meadows. Typical City process is permits are not issued until after all infrastructure is accepted. They are nearing completion, so right now we are scheduling the final walk-thru as we speak. For the waterline we are just waiting on the safety crew from the railroad to come out to do that work. Then their lift station, which is the longest lead item, is expected at the end of March. They had a meeting last week between city staff, city attorneys, and the developer regarding their request and ways they can mitigate some of the concerns from the City side with being early permits. We have home builders out there, the stealing of water, sewer service, our sewer being used without a functioning lift station, and some of those other items. He can go through those, but he thinks it is probably better to let Johnson go through what was discussed and what they are proposing to you.

Mayor Countryman said just to set this table real quick, Red Bird Meadows is no longer. It is called Briarley and Johnson Development purchased it in October/November. She has no idea if staff knew about it and she does not think anyone in this room knew about it. Sorry for Council to look like deer in headlights because the names have changed and they had no idea, so shifting gears, they beg for mercy if they call you Red Bird Meadow just on accident.

Mr. Matt Banks with Johnson Development said a lot has happened since October/November where they purchased the property from the developer who worked with the team on the development agreement. It was a very well put together development agreement. We liked it and there are a lot of good things going for it. We like the area and the community. The builders are very excited and saw an opportunity here. We are a little bit ahead of schedule and the ability to be able to catch some of the spring and early summer sale season would be huge for our homebuilders, in getting the community established early as early sales generates a lot of positive momentum for the community and the development, which then also leads to finished houses and taxpayers paying taxes sooner for the City. We are to the very finish line here on a couple different items and just seeking approval to start on six models so we can keep going and the builders can harvest as much

of the spring and summer sale season as possible and in return, make sure we cover and do everything we need to do on our side and make sure everything gets done properly and appropriately. Ms. Annette Black said she knows that City staff had some concerns that they certainly want to mitigate. In addition, it came to their attention last week there were unpaid impact fees and that stopped the check. She just needs to know who to pay that to. They confirmed the amount with the City Engineer. The voter trailer is gone and was gone as of Saturday. They have also been in communication with your City Attorney. They received a draft yesterday, maybe even this morning of a pump and haul agreement where Johnson Development would pay the cost to pump and haul any minimal sewage that would come from the six model homes to a site that is not the City's facilities so there would not be any City liability. They are willing to make a deposit for the pump and haul agreement to cover any potential damages that could occur. She thinks the amount is \$50,000, what was in the agreement which our client is agreeable to do. They are also willing to pay for a third party inspector to mitigate any potential water that there is. As she understands, there is a building meter out there and obviously they are set to pay that.

Council Member Donaldson said he understands we have legal obligations that were tied into the previous developer. Ms. Black said yes sir. Council Member Donaldson said he understands they have been settled. Ms. Black said the development agreement has been signed to Johnson Development, the new developer and they have provided the notice that was required to your City Attorney. Mayor Countryman said they are not changing anything, it is the same. Ms. Black said nothing is changing. Believe it or not, Dobbins-Plantersville they were not a litigator, but she thinks they were shut down at the district court level, federal district court. They appealed to the fifth circuit. The fifth circuit denied their appeal as well. That was as of a couple of weeks ago. They could appeal the Supreme Court and it is unlikely the Supreme Court would hear their rip, but that is their legal option. As she understands it, there was a hearing set at the local state level for two weeks from now to have both the City's lawsuit and the developer's lawsuit dismissed. As you know, the previous developer is paying the legal fees. We are working with the City of Montgomery's legal counsel to take care of that. Dobbins-Plantersville has been unsuccessful. Council Member Donaldson said he wants to make sure they have copies of that on file that that has been settled. Ms. Black said absolutely and she has forwarded all that to the City's attorneys. Mayor Countryman said she happened to be in that meeting last week and she will say that WGA did a fantastic job presenting. The ask at the table was sell season is coming up. They will not have water there until April or May. The request is to have six model homes on the ground to start selling until that infrastructure, which is going to be a delta of weeks, can they get the houses on without any water and sewer, just have the remote and then have it shipped off? She knows that Mr. Mike Muckleroy is not in the business of policing developers and has been doing quite a bit. It has not been a great experience and she knows that that has been a rub as well. She thinks at the meeting they talked about the cost would be on you. She still does not want it to be anything on City resources, Public Works Director Muckleroy, Code Enforcement Officer and Planning/Zoning Administrator Tilley, Chief Solomon, or anybody of the like to monitor that because we have been burned and it has been nasty. As you can imagine, the developers have come in and promised the sun, moon, and stars as well. Chief Solomon said our engineers and Mr. Mike Muckleroy had some real concerns about this. What

happens with this, and you have to understand, when you make this decision and it is fine if you do, he thinks Johnson is a great developer, but we have got other developers coming behind them who are going to want to do the same thing. They are going to want to tap to that water and for years we have had a lot of bad things happen when that has happened. You have to think about those things as well. Is every developer going to come in here and throw money at the issues that we think is going on as far as hauling off the sewer and protecting the water for security? We have to think about that as well. If he had not said that he would not have been able to sit here so there you go. Mayor Countryman said she also understands that days are weeks and months in this business too for them. That is why she does not know when City knew that there was a new change over and she does not know if you have been asking for this for weeks. We just now heard about it. She thinks they would be remiss to bring all of that out to allow Council to make the decision because that was all discussed. Ms. Black said obviously to be clear, they are not asking for certificate of occupancy. Mayor Countryman said no one can be permitted for any houses to be built until all the infrastructure is done just for these six houses. Mayor Pro-Tem asked if they can hear the concerns. City Engineer Roznovsky said the main concern is what he mentioned before. Right now the schedule is the lift station will be done in March and all the utilities will be in shortly thereafter, but what if it continues on? We start with six homes, we start with six month models and then it continues on from there for additional request. The other concern is on water theft. Home builders are coming in and you have a bunch of builders that are just trying to find water from the nearest available point which is wherever they can find it. That is where these concepts came up with single locations. They hire a third party that provides reports to the City at their cost to sit out there and babysit the home builders to make sure they are not stealing water. There is a utility contractor on site. We know them, they are being inspected, they are pulling water. With home builders, you have a lot of different trades coming in. You have a lot of different builders and you have a lot of different people on site and that was the two main concerns. Council Member Langley asked how many model homes are we talking about? City Engineer Roznovsky said they are requesting for six. Council Member Langley asked if it is the same builder doing all the homes? Mr. Banks said there are five builders and one builder building two homes. Council Member Fox asked what are the names of the builders? Mr. Banks said the names of the builders are Highland Homes, Perry Homes, Chester Myer Homes, David Weekley Homes, and J. Patrick Homes. Council Member Langley asked so all they are asking is to pull a permit for a model home? City Attorney Roznovsky said that is correct. Council Member Langley asked so this model home that this one builder is going to build is not going to have water and sewer until the end of April? City Engineer Roznovsky said yes, until all the infrastructure is done and accepted by the City. Council Member Langley said right, but the model home might not even get complete by then? Mr. Banks said correct and that is where they were headed. It is somewhere in between depending on the size and the scope of the project. Anywhere from some of the smaller stuff, which this is not, would it be two months? This is probably more than the three and four month range build. The bigger lots would be more like five months to get built. So just a little bit of a head start to get slab in and get framing up to get started. Council Member Langley asked the only way that any other home could be built out there would be to pull a permit also? Mr. Banks said correct. Council Member Langley asked so the permit tech would know that until City Engineer Roznovsky or Public Works Director

Muckleroy or someone has said the water is not available yet, they would not pull any other permits? City Engineer Roznovsky said that is correct.

Public Works Director Muckleroy said nothing he is going to say is directed at Johnson. It is just directed at developers in the past in general. This has been a nightmare. Every time they come in with a request to go ahead and get started a little bit, it turns into a nightmare. To hit on what Council Member Langley was saying about that, the other houses will not have a permit. What we saw with the previous development was requests coming from multiple different people with this development from the developer, to the builder, to everyone finding someone else, to a new person to make a request, to someone different with the City trying to get a different answer. It was a clear game of what was going on and reached out multiple times. If they are going to build the house and there is going to be water and sewer hooked up to it, what was happening in the other department was the builder swore that he would make sure the water was not tied into, but then the plumber would say well, no one told me. Then, the plumber would blame it on the developer and the developer would say well, we are going to send someone out there to make sure it does not happen again. It just never worked. What we were hoping for is to finally hit a point of saying let us just stick with our rules. If we just stick with our rules then it is so much easier for the City. We do not have the oversight of trying to catch the water theft. With a lot of the water theft, the last one said we do not need water to build a house. Well, you do need water to build a house and they know that, so then they tie into the meter spigot without a meter and it turned into just a constant battle. Again, he is not implying that is what Johnson is going to do. He is just saying that has been their track record of development so far. Council Member Langley asked what would their third party inspector do? Public Works Director Muckleroy said he has no idea. Council Member Langley asked would that not be their job to make sure that they did not have any extra water and did not steal any water? Public Works Director Muckleroy said he would assume. That would be someone they would hire. He might want to let them speak on exactly what it would be. City Attorney Petrov said it would be their job. The difference here is in past experiences, the City did not enter into any kind of agreement with the developer. From what he can tell, it was basically some handshake deal. Here we have been working with Ms. Black's office to actually put together a contract that would have obligations, it has limitations. It is six permits only and they would not be allowed to move any people into it. They would be responsible for the exposing of the waste and putting up a significant deposit and that is even if exposing comes into play because if you hear the timeline for construction, it might not even get there. Water is a bigger issue. It is a problematic in any new development. Again, that is the whole point of having a third party inspector. My staff or the City staff in general do not have to be out there policing the side. The third party inspector will be responsible reporting directly to the City. That is the idea. Council Member Fox asked if there would be multiple builders on site or would one builder complete a house then turn it over to the following builder, or would they all start at one time? Mr. Banks said they would all start within two or three weeks of each other. The good part about the policing is they are all side by side in one cul-de-sac. There is no other activity anywhere else in the development. He can park someone at the end and he is going to be the bad guy for as long as he is out there, just watching everyone that comes in and out of that single cul-de-sac. It is you are only building on these six and we are not going outside anywhere else. This is

your world and this is where you stay. We can certainly do that. Ms. Black said the agreement calls for a significant deposit in the event there was some inadvertent damage. The deposit would certainly be there. Council Member Fox asked what is substantial? Ms. Black said \$50,000. Mayor Countryman said she thinks in the other developments where all this was taking place it was more than just model homes being built. It was actual homes. She thinks that is the difference here. There are a lot of guard rails if you will, and agreements in place. The time frame we are looking at is not six months or eight months. It is about six weeks between getting them done and the infrastructure. Ms. Black said there is an automatic termination provision as soon as the infrastructure is complete. Mayor Countryman said as long as there is a tight understanding. Should rules not be followed, according to the agreement, then consequences ensue right? Mr. Banks said right, understood. Council Member Langley asked if we have good contact numbers? You are in contact with these two people right here? City Attorney Petrov said we do. Ms. Black said we need to be in regular communication with engineering and public works. We can add that to the agreement. We certainly do not want to cause any stress. Mayor Countryman said she appreciates that and appreciates our engineers and our public works having our back and completely bringing that up and was adamant about that. She also understands the predicament you are in and thinks she said at the meeting one man should not pay for another man's sins, but at the same time, we did not have those agreements in place so there is a difference there.

City Attorney Petrov said he thinks what we are really looking for would be a motion from Council to authorize that, to prepare the contract for the Mayor's execution to allow the model homes to be built.

Motion: Mayor Pro-Tem Olson made a motion to approve a permit approval for construction of model homes by Johnson Development and enter into a contract. Council Member Langley seconded the motion. Motion carried with all present voting in favor.

16. Consideration and possible action on a first and only reading of an Ordinance by the City Council of the City of Montgomery, Texas, amending Chapter 78, "Subdivisions" of the City Code of Ordinances in its entirety; Providing for a penalty for a violation of this ordinance; Repealing all Ordinances and parts of Ordinances in conflict therewith; Providing a savings and severability clauses; Providing a Texas Open Meetings Clause; and Providing an effective date after publication.

Council Member Langley asked if we approve this tonight what is the next step? What are those people doing? City Attorney Petrov said they are continuing to work on the subdivision and working with the engineers to refine this. Also, there is a whole other zoning piece that we have to take forward as well.

Mayor Pro-Tem Olson asked if this went through Planning and Zoning? Did they see any of this? Council Member Donaldson said Chairman Simpson said they did. City Engineer Roznovsky said it was on the agenda at the last meeting. Mayor Pro-Tem Olson asked if they reviewed it? City Engineer Roznovsky said correct. Mayor Pro-Tem Olson asked what did they say? City Engineer Roznovsky said there was a lighting addition that was

submitted by the Commission to be incorporated into. Council Member Langley asked lighting addition? City Engineer Roznovsky said you have an existing lighting ordinance and modifications/clarification that were proposed to be included. Council Member Langley said it probably needs to go to Kendig Keast Collaborative (KKC). City Engineer Roznovsky said it has been sent to KKC. As City Attorney Petrov was mentioning, there are different pieces of it. Chapter 78, which is what is in front of you today, there is the zoning code which has the development district and zoning related items and then there will be additional things down the line. The development handbook, design manual changes and updates, wrapping all of it up into the unified development code which is the long-term goal of the project. Council Member Langley asked when will this go into effect? It says an effect date. Mayor Countryman said today is the temporary. We approve it this evening and it goes into effect this evening as a temporary until we get the final. Council Member Langley asked so we do not have to publish it? City Attorney Petrov said yes, the notice will have to be published. The law is two weeks after you publish it. Mayor Countryman asked City Attorney Petrov if he looked over all of these changes? City Attorney Petrov said yes, these are pretty straightforward.

Mayor Pro-Tem Olson asked City Attorney Petrov if he ever got a chance to look at that email he sent to everyone about private subdivisions? City Attorney Petrov said he has. Those are not incorporated into this, but we are taking a look at adding that in as an addition. This is strictly what Kendig Keast provided with some comments from our office and WGA.

Council Member Langley said it has a lot of changes so are we sure that we are ready to be able to do those changes with subdivisions and developers? We are ready to go forward? City Attorney Petrov said his understanding is yes. If Council would like to study them more that is certainly your prerogative. City Engineer Roznovsky said with questions regarding how they are enacted, yes. When they were going through plan and plat reviews as the supplies, they just pull up whatever the latest code is and confirm, here is the rule of the day, it can go through. Most of these are tweaks, clarifications, roadway classifications and things like that which just get cleaned up. Council Member Langley said it looked like there was a big portion taken out and a new portion put in. City Engineer Vu said yes. A lot of those road classifications and then some changes in the compensating open space requirements. What does an open space need to include and how does it need to be maintained in considerations. Mayor Countryman asked what is the width of the roads in here? City Engineer Roznovsky said the width is still 28-foot so that has not changed. The minimum right-of-way is 50-foot. Mayor Countryman asked are we looking at maybe when we get our big kid ordinances together to go bigger? She knows the County is changing their ordinances. City Engineer Roznovsky said the County is going to 28-foot which is matching what you have currently. Mayor Countryman asked if we would want to be even larger than that a little bit? City Engineer Roznovsky said you can definitely. We can look into it and talk it over with KKC. Mayor Countryman said and then change it when we nail it down. City Engineer Roznovsky said there is nothing that stops you from modifying what it is today. The goal of this was get a first round through, clean up some of those big items, and the clarification of the compensating green space. It cannot be just little pockets here and there. Then, any roadway stuff we want to add to. That all is yet to come. Mayor

Countryman asked City Engineer Roznovsky and City Attorney Petrov if you both are comfortable with this? Mayor Countryman asked Code Enforcement Officer and Planning/Zoning Coordinator Tilley if she is comfortable with these? Code Enforcement Officer and Planning/Zoning Coordinator Tilley said yes.

Motion: Council Member Donaldson made a motion to accept a first and only reading of Ordinance 2025-05, an Ordinance by the City Council of the City of Montgomery, Texas, amending Chapter 78, "Subdivisions" of the City Code of Ordinances in its entirety; Providing for a penalty for a violation of this ordinance; Repealing all Ordinances and parts of Ordinances in conflict therewith; Providing a savings and severability clauses; Providing a Texas Open Meetings Clause; and Providing an effective date after publication. Mayor Pro-Tem Olson seconded the motion. Motion carried with all present voting in favor.

Council Member Langley asked do we know when we are going to review this again for the next section of the subdivision ordinance because I am not comfortable with this one at all. City Attorney Petrov said Kendig Keast has sent out a timeline.

17. Consideration and possible action on a Resolution setting a date, time, and place for a public hearing on the proposed annexation of certain property by the City of Montgomery, Texas, and authorizing and directing the Mayor to publish notice of such public hearing.

Council Member Langley asked if she could please find out where this property might be because there was no map. It just talks about a railroad. As long as she has been here, she only knows of one railroad. She is going to assume, and guess what happens when you assume? Can you please tell me. City Attorney Petrov said this is half of the Montgomery Crossing development. Ms. Marjorie Cox said it is 48 acres out of the 86 acres. City Attorney Petrov said about half of the proposed development is in the City limits now and the other half is not. Again, as part of the development agreement you are required to annex that portion into the City. It is not so that the City can bring it into the City's tax. This would be the first step of that process to call the public hearing.

Motion: Mayor Pro-Tem Olson made a motion to approve Resolution 2025-07, a Resolution calling for a public hearing on the proposed annexation of certain property and set the public hearing for March 11, 2025 at 6:00 p.m. in the City Council chambers of City Hall in the City of Montgomery, Texas and authorizing and directing the Mayor to publish notice of such public hearing. Council Member Donaldson seconded the motion. Motion carried with all present voting in favor.

18. Consideration and possible action on the possible award of a contract for Request for Qualifications (RFQ) for Professional Engineering Services for Water Plant No. 4 project and authorizing the WGA to negotiate professional services for the same.

City Engineer Roznovsky said we have been talking about this project for a while. This is for the water plant project. We talked about the budgeting of this item within the CO. Remember, this is not authorizing the contract. This is just authorizing the negotiating.

What you find in your packets is a scoring based on the criteria that was sent out. You will also find a copy of the actual submittal that was received back in October. Based on our review and reviewing with staff, our recommendation is to proceed with Baxter & Woodman Consulting Engineers to proceed with the design of the project. That was based on local experience, projects that were done in the area with the same scope and size that stood out amongst other things in their project team they had proposed for this project. What is in front of you is to authorize staff with the assistance of WGA and the City Attorney to negotiate a contract. At that time, it will come back in front of you to actually see the proposed fee. As professional service, you bid it out or based on qualifications, negotiate the contract. If you cannot come to terms, then you go the next qualified applicant. Mayor Countryman asked did we not award Halff Associates? City Engineer Roznovsky said we awarded Halff for the wastewater treatment plant. Baxter & Woodman and Halff both submitted on the wastewater plant with the third engineer. For the project, Halff had better qualifications for the type of work and the need they were going for. On our review for this one, Baxter & Woodman had more local experience with the exact type of project. Mayor Countryman asked so Halff has one side of it and Baxter & Woodman has the other? City Engineer Roznovsky said it is two different projects. Halff is the wastewater treatment plant and Baxter & Woodman is the water plant. As a reminder, this is water plant number four which is located on the Red Bird site. It includes the elevated storage tank which is required once you get above 2,500 connections. The action item is authorizing City staff as well as the engineer and attorney to negotiate a professional contract with Baxter & Woodman for the water plant number four design.

Council Member Donaldson said he has questions. He feels generous though and is going to let it pass with just one RFQ. He does not like not having a comparable, competitive bid to see, but he is going to trust your judgement on this and let it ride. Mayor Pro-Tem Olson said just to clear this up, we cannot do an RFQ. We have to go by qualifications and then negotiate the price after. Those are the rules. Council Member Donaldson said he understands that, but there is other people involved. Mayor Pro-Tem Olson said no. You pick one and negotiate your contract. If you cannot come up with the price you want, then you move to another one. You do not get to price shop. City Engineer Roznovsky said three submitted on this. On page 151 of your packets you will see those three engineers and the scoring based on the criteria. Mayor Countryman said there was competition. Mayor Pro-Tem Olson said because of the type of project the State forces us to go strictly off qualifications and then negotiate price. Council Member Donaldson said he sees it now. He missed that. He still has questions about it because he is just trying to figure out who is responsible for what. On page 173, section four of the different phases of the project approach they call it, it says construction, administration, and inspection services will be performed by the city engineer. Okay, that is great you are doing that, but how does that relate to what they are responsible for in the course of the \$44.6 million cost? Are we going to pay you over and above that cost to go out there and check the job site or how does that all work? City Engineer Roznovsky said that will be laid out in their contract, the exact scope. What was done with the wastewater treatment contract is Halff is still on contract for construction services related to RFI review, customer information, submittal review, and then doing initial and final inspections of the project to make sure what they design matches. For a sake of economy of scale, having this inspector, whoever the city engineer

inspector is, it is already in the City doing the day-to-day inspection work and quantity verification for economy of scale since we are already here. In this contract it will come back to you. They will lay that out the same. If you want something different, that can be negotiated. They offer that service, but when the RFQ went out, that was the decision or how it was laid out that they would provide support during construction, but that inspection is going to be going on where Red Bird is still going. Having an inspector that is there and turns around and goes to the water plant site is just as sufficient from a cost viewpoint. Council Member Donaldson said they have great credentials, he is not questioning that. He still does not have a handle on the process, but he will get there.

Motion: Mayor Pro-Tem Olson made a motion to approve a contract for Request for Qualifications (RFQ) for Professional Engineering Services for Water Plant No. 4 project and authorizing the WGA to negotiate professional services with Baxter & Woodman. Council Member Donaldson seconded the motion. Motion carried with all present voting in favor.

19. Consideration and possible action to authorize WGA, City Attorney, and City Staff to prepare and negotiate an interconnect with Stanley Lake MUD and a cost sharing agreement with the Developer.

City Engineer Roznovsky said on page 178 of your packets there is a memo from them. We talked about this item in the last budget workshop and the high benefit that you have from an emergency waterline interconnect with the neighboring public entity. This item is just to get that process started. First, we need to negotiate into an agreement with Stanley Lake MUD to complete that work. Also, one of the keys and the timing of this is the developer of the property behind Pizza Shack has preliminary expressed interest in partnering to get this done because he has to extend the water anyway. This would authorize them to work with staff and your attorney to reach out to those entities, bring back draft agreements, and then at that time once an agreement is reached, we will come back with a proposal to actually get started with physical work. This is just to get the agreements in place and make sure it makes sense and fits within the budget and then proceed from there at that time. Going through your packets you will see a preliminary cost estimate for this that shows the total estimated project cost around \$340,000 and then an exhibit roughly showing the outline which is a relatively short extension to get across Stewart Creek Road with the majority of the water line in terms of total length going up to the Nantucket property. Mayor Countryman asked so we would split this \$339,000? City Engineer Roznovsky said yes. He does not have a total at the bottom, but we have a total kind of City share which will be less than \$100,000 for the cost. It would be majority by the developer because he carries the majority of the actual pipe that is in part of the project. We have to negotiate the agreement, but that is what is proposed. Mayor Pro-Tem Olson said he likes it.

Council Member Donaldson said he knows it is going to sound strange, but do we really need to do this now because we have well number two going back online within probably four to five months. We are beginning well number four and we are putting a booster pump into well number three. He knows this is for emergencies only, but do you still recommend

that we do this in lieu of all these other wells we are working on. City Engineer Roznovsky said he would not say in lieu of, he would say in addition to. He thinks based on the need of water you will have in the demand, he thinks it is always good to have that additional redundant source. We are in a good spot today with where we are. With water plant two being down, we are able to absorb, but as we continue to grow this becomes more critical. This action tonight does not commit you to do it. If we go forward and get the agreements in place, there is not a commitment to build. We can have that interconnect agreement with Stanley Lake MUD and enact it years down the road when we need to. He would say at least to get the conversation started, get it papered up. It is worthwhile. When we come back if the tables change and developers no longer want to participate, what does that cost look like? We are doing a lot of water plant improvements, however, this gives us another source. There is zero maintenance on it. Constructing that line and making it interconnect is the cheapest source that we can get. We do not want to contain it. It is not a well. Council Member Donaldson asked is part of this going to have anything to do with us supplying water to HEB? City Engineer Roznovsky said no. Council Member Donaldson asked is this a totally different project? City Engineer Roznovsky said correct. If you look on page 180 of your packet, the water line ends right near the Pizza Shack sign. This would extend the line across Stewart Creek Road to tie into their existing 12-inch line. The developer portion would extend this north up to that property line. Mayor Countryman said it is a \$100,000 insurance policy.

Motion: Council Member Donaldson made a motion to authorize WGA, City Attorney, and City Staff to prepare and negotiate an interconnect with Stanley Lake MUD and a cost sharing agreement with the Developer. Mayor Pro-Tem Olson seconded the motion. Motion carried with all present voting in favor.

20. Consideration and possible action on acceptance of a Utility and Economic Feasibility Study for the KHR Properties Commercial Tract (Dev. No. 2415).

City Engineer Roznovsky said this is the presentation for the feasibility study for the Jack in the Box development. He will hit the points of the development of the feasibility study and the questions and concerns that we have as this would move forward. As the franchisee mentioned a while ago regarding the special use permit, Code Enforcement Officer and Planning/Zoning Administrator Tilley can provide more detail on that to answer your questions.

City Engineer Roznovsky said starting on page 184 of your packets, just as a reminder, this is a property on the southeast corner of SH-105 and FM 149, but use to be the auction house that was on the corner that was demolished years ago. Going through the actual development itself, it is already within the city limits so there is no annexation that would be required. As far as impact fees go, it is based on the size of their meter estimated usage so we are looking at roughly \$50,000 in impact fees for this type of development. Based on their approximate value at full build out based on the estimate they provided, they are looking at about a \$750,000 development. Assuming 100 percent collection, that is about \$3,000 a year in taxes, not a big tax increase from ad valorem. This does not include sales tax as sales tax is not part of their study, but just from an ad valorem standpoint.

On page 185 regarding zoning and platting, the property is already zoned commercial, however, they are based on the use and again, he will have Code Enforcement Officer and Planning/Zoning Administrator Tilley come up at the end and talk about special use permit regarding the drive-thru. As far as platting, it is currently not a platted property so they would need to plat the property as part of the development. At this time they are not proposing or requesting any variances to it, but it is still early in the process.

Going forward to water and capacity, they did something a little bit different. Last time we presented this we talked about how the big spreadsheet had a lot of numbers on it so we made it graphical and it is a whole lot easier to see. He will hit the high points and talk from that graph. As far as what they are proposing, it is about 1,200 to 1,300 gallons per day of water and sewer use which in the grand scheme of things does not move the needle a whole lot. As far as utilities and where they would connect, there is both water and sewer to the tract or near the tract so no public utility extensions are estimated. Speaking of capacities, if you go back in your packets to page 196 you will see on there both the historical trend of watering as well as your capacities. When you are looking at that graph, you see the orange line coming through, you see your actual historic flow from 2021 through the end of 2024 which saw a little bit of increase, but not a ton of increase over that period of time. After that, obviously that is a big increase that we are showing in a couple different scenarios that are shown on this graph. The lowest one is coming through in colors on your screen, the red dash line. That is based on what is ready to connect today. A lot of development infrastructure is accepted just ready to make those connections so these include things like open pad sites that are already platted developments. These include houses in Hills of Town Creek section five ready to connect those houses. They do not exist today, but how if everything that is ready to tap builds out, that looks over time. You see obviously it trends up significantly and starts flashing out. The scenarios above that are the different items. So you have what are developments that have a development agreement that are moving forward and how those would build out based on their estimated projections. What are ones that are in feasibility, are a top to the City, but do not have an agreement, and what are ones that are just vacant tracts in the City that are not being developed, are not being looked at right now. You see there is a pretty drastic increase between those. What you have in the straight lines is your capacity with your planned improvements on those projects based on their timing. A couple things to note. We project conservatively, so for example, right now when you look at your base line of where we are today, based on our projections, we are at 525,000 gallons a day. Based on your actual numbers, what you are seeing you are at 474,000 so we have about a 50,000 gallon a day buffer in there. As well as, all the intended usages provided by developers based on industry standards which are typically higher. For example, houses are 360 and water is what industry standard would say you actually see closer to 225, just to give you a perspective of where these come from. Finally, they are all based on end of the year demand. We know some of these projects are coming online. It is not going to be a linear trend that you are going to see these. As we have been talking about as the reason that we are proceeding with water plant four, there is a need to continue to push and drive. We are at a point today where we are still in a really good spot. We have lots of capacity on the ground. How these scenarios unfold and how the actual usages unfold, until we get to that point of critical mass, that is why continuing to push and drive and getting these projects completed are

helpful. The other thing, especially to know on water plant capacity, all water plant capacity is based on your average daily flow. So when you see on this graph 560,000 gallons a day or 730,000 gallons a day, that is based on your average daily flow which excludes a 2.4 peaking factor. Your physical capacity, what you can produce out of your plant is 2.4 times higher than this. The TCEQ rule says you need a design for the average daily flow. When we are projecting average daily flow, however, you know it is tight and I want to reiterate that. As these go and as these developments continue to proceed, we will just have to keep a really close eye on it. If everything goes forward, the BCS properties, and they have a hotel and the multi-family, those are big volume users that will just increase that time line.

City Engineer Roznovsky said it is the same situation for sewers. On the next page you will see a sewer graph, a similar situation. Based on where we are today and the build out, we are in a good spot, but as these developments continue to proceed it gets really tight. In this scenario we have about a 70,000 gallon a day buffer from what we are actually seeing today and what our projections are showing that we would expect to be at. We are still in that spot. Again, today we are flowing at a little bit over 50 percent, 55 percent, 65 percent so we are in a good spot, but there is a lot of growth coming, a lot of different scenarios of these different developments that will push us over. So as you all have done, continuing to push these projects forward and going through different options if we get to a crunch point of what those scenarios are. Mayor Countryman asked does this wastewater projection map make you lose sleep at night? City Engineer Roznovsky said it is close. Knowing how they built these conservatively gives him that pause, but the City has been over the past several years very much in a build it just in time model. He would definitely like to get more on the proactive side of that and having that capacity as we go. It just makes life a whole lot easier and calmer because as these developments go, as you all have seen and as we have talked about, there is a lot of developments that have approached the City over the past even three, four months that we want to be able to absorb, so it is continuing these projects, making sure we have the permits and things in place so we are able to be as quick as we can and still build it in time, but not get too far ahead of ourselves.

City Engineer Roznovsky said regarding drainage, obviously this will have to go to TxDOT drainage and they will have to follow TxDOT drainage criteria. Right now they are proposing an underground detention underneath their parking area and that will follow TxDOT rules and regulations and get approval from them. As part of the plan review process we will have to see verification of that approval from TxDOT for their drainage. Council Member Donaldson asked when is that going to happen? Mr. Sam Khazzoum with SEK Engineering said we submitted the plans to TxDOT about a month ago to get it approved right now. It is going to go to the area office to get the plans approved so they are going for the driveway plus the underground detention like City Engineer Roznovsky was talking about for the requirement of the detention. Hopefully we should hear something within two or three weeks.

Mayor Pro-Tem Olson said the charts are great and it gives us an aspect of where we sit overall, but how does this particular project fit? City Engineer Roznovsky said they are included in that green. That was one of the issues with the graph. They are looking at about 1,300 gallons a day so it does not graphically change it a whole lot. Of all the developments

from a capacity standpoint, 1,300 gallons a day does not move the needle when we are talking about half a million gallon a day, 750,000 gallon a day facilities.

City Engineer Roznovsky said regarding traffic, another big concern of theirs is obviously where they are located on the hard corner with the drive on TxDOT. It is their understanding they are in the process. They actually have obtained access easements and Mr. Khazzoum can talk to that here in a minute. From the neighboring properties one thing that we would require and TxDOT is going to require, is to see a traffic impact analysis including the queue length of the drive-thru. Making sure there is not a backup improving on paper and if there is a backup, how is that handled and how does that impact FM 149 which is right there at the hard corner into that turn lane on SH-105. TxDOT will be the ultimate reviewer and approver of permits onto their driveways and thinks that is what Mr. Khazzoum mentioned is that they are working through that process. Mr. Khazzoum said the thing about the traffic is they have two drive-thru's. City Engineer Roznovsky said it is a dual lane drive-thru so essentially two lanes. Mayor Countryman said her concern is going in that drive-thru and then going straight out to FM 149 and locking up traffic that way people are not going down the parking lot. Council Member Fox said she thought that TxDOT was going to widen FM 149 in that general area. City Engineer Roznovsky said they are preparing a widening project.

City Engineer Roznovsky said to wrap up on how do we go forward from here, Code Enforcement Officer and Planning/Zoning Administrator Tilley will come up and talk about the special use permit so that is step one, then obtaining the special use permit for the drive-thru use for the development. After that, returning to the City getting a development agreement with the City, and then finally going through plan and plat review and approval for proceeding forward. That includes all the items we talked about before regarding TxDOT.

Code Enforcement Officer and Planning/Zoning Administrator Tilley said she has a copy of the zoning determination letter to pass out to everyone. Based on her determination with the use that is going on with this property, you have a restaurant and accessory to that restaurant is the drive-thru. Not all restaurants have a drive-thru, but it is like an accessory use to a restaurant. That is where she defined in here what a restaurant is, what fast food is, and what a restaurant with a drive-thru is as defined in the Oxford dictionary. Because we do not have those definitions in our zoning ordinance, that is why she had to refer to the Oxford dictionary. As defined, the restaurant is a place where people pay to sit and eat meals that are cooked and served on the premises. Fast food is food that is kept hot or partially prepared by a snack or snack bar or restaurant so that it can be served as a quick meal or taken away, and a restaurant with a drive-thru service serves customers without them leaving their vehicles. When she made the determination, restaurant is permitted in a commercial zoning district which this property is located in a commercial zoning district. However, if a use is not specifically permitted or stated in the table of uses which restaurant with drive-thru is not specifically stated in there, then a special use permit would be traditionally required. If you continue on with accessory uses, there is a definition for

accessory uses in our zoning ordinance and that is a subordinate use that is customarily incidental to and located on the same lot occupied by the main use or the building. If you look on the table of uses, accessory uses do require also a special use permit and that is how she came to the conclusion that a special use permit would be required. Based on this determination, the owner or the developer can definitely appeal this decision and explain how she erred in coming up with that determination and bring it to the Board of Adjustments to appeal that decision. Otherwise, they should come in for a special use permit and then a determination can be made if conditions are going to be needed on that special use permit and that is the time it would be added, but it would first go to the Planning and Zoning Commission for their review. They would look at the comprehensive plan and its effect on neighboring properties.

Mayor Pro-Tem Olson said our special use permit says restaurant. This does not say anything about a restaurant needing a special use permit. Code Enforcement Officer and Planning/Zoning Administrator Tilley said correct. Mayor Pro-Tem Olson also asked does it define what a restaurant is in our ordinances or is that something you took lenience to do? Code Enforcement Officer and Planning/Zoning Administrator Tilley said she looked online and checked with the Oxford dictionary. Mayor Pro-Tem Olson asked so a drive-thru is never excluded from the definition of a restaurant? Code Enforcement Officer and Planning/Zoning Administrator Tilley said it does not mention a drive-thru in the definition of a restaurant. Mayor Pro-Tem Olson said it is not excluded. Mayor Countryman said it is not included nor is it excluded. Mayor Pro-Tem Olson said right, and our ordinance does not exclude a drive-thru. He said he feels this is a stretch and knows Code Enforcement Officer and Planning/Zoning Administrator Tilley is doing what is requested of her. We have never asked a restaurant in this town for a special use permit for a drive-thru. To do that now based on some very, very thin reaching, he thinks is unfair. Mayor Countryman said she thinks Code Enforcement Officer and Planning/Zoning Administrator Tilley is doing her job and making us aware. Just because it has not been done, she hates that excuse we have always done it this way so we have to continue. Just because it has not been done does not mean it cannot be done. Mayor Pro-Tem Olson said he is saying we need to define what a restaurant is and since a restaurant by definition does not say yes or no, then our ordinance does not say yes or no either. For us to say no, we define it as this, we have no legal definition saying we can do that. We have no ordinance to stand on and no legal definition. It is a stretch. Mayor Countryman said she just Googled it and it says yes, a sit down restaurant is different than a drive-thru as a sit down restaurant refers to a place where you are seated at a table and served by a waiter, while a drive-thru is a fast food option where you order and receive from a car without leaving it, typically with limited menu options and faster food service. Mayor Pro-Tem Olson asked will the Jack in a Box have sit down service or is it strictly drive-thru? Mr. Khazzoum said it is sit down. Mayor Pro-Tem Olson said they are a restaurant. Mayor Countryman said they further define what a

drive-thru means versus what a sit down means. They defined those two in here. Mayor Pro-Tem Olson said as one or the other, but this has both. Mayor Countryman said right, but what are they? Are you a restaurant or are you a drive-thru? Mayor Pro-Tem Olson said you are a restaurant that has a drive-thru. Mayor Countryman said which is an accessory use. Mayor Pro-Tem Olson said it is not. It is a restaurant. Mayor Countryman said she thinks it is, you think it is not. Mayor Pro-Tem Olson said all he is saying is our ordinance does not call out anywhere that a restaurant needs a special use permit. Code Enforcement Officer and Planning/Zoning Administrator Tilley said no, our ordinance says that a restaurant is permitted a commercial business. Mayor Pro-Tem Olson said what he is saying is it does not define what a restaurant is and every restaurant whether they have a drive-thru or not, if they have sit down that is defined as a restaurant. Code Enforcement Officer and Planning/Zoning Administrator Tilley said yes. Mayor Countryman said that is why she is saying the accessory because some have drive-thru's and some do not. There is a difference. Code Enforcement Officer and Planning/Zoning Administrator Tilley said it is an incidental use how accessory use is defined. Mayor Pro-Tem Olson said he still thinks it is a reach.

City Engineer Roznovsky said as a reminder on this item, it is not approval as acceptance of the study. It is just moved through the process and what was outlined before. They can appeal the decision to go to Planning and Zoning and the Board of Adjustments, and then you all act as Board of Adjustments and ultimately come back to you all on the use of the property. Then, they would proceed through requesting development agreement and then moving through the plan and plat process.

Motion: Mayor Pro-Tem Olson made a motion to accept a Utility and Economic Feasibility Study for the KHR Properties Commercial Tract (Dev. No. 2415). Council Member Langley seconded the motion. Motion carried with three Aye votes and one Nay vote by Council Member Fox.

21. Discussion and possible action to waive Hotel Occupancy Tax penalty for Quarter 4 – 2024 for The Caroline House.

Finance Director Carl said if their hotel occupancy tax and report is not paid timely there is a penalty that is assessed. You may or may not be aware that the Caroline House is in the process of being sold. When we started pulling the reports to make the entries for the January receipts for the quarterly payment, she discovered the Caroline House had not filed their report and paid their occupancy tax. She reached out and sent an email saying not sure if this was an oversight. She contacted me and said she has been beyond overwhelmed with everything. She is moving to Austin so she is relocating and she said that she had actually prepared the information and had given it to her prospective buyers early in January. She said it completely slipped her mind in paying the City or the State. When she went online to pay it she said they are charging her a penalty. Finance Director Carl said yes, you have to pay that penalty, but if you would like to ask for consideration to have that waived,

Council is the one that has the ability to waive that penalty. She has paid the tax. The Caroline House for as far back as she can see has never had a late payment. From the documentation that was provided to you, you can see she also submitted a request to the State for a waiver of such.

Motion: Council Member Langley made a motion to waive the hotel occupancy tax penalty for quarter 4 - 2024 for the Caroline House. Council Member Fox seconded the motion. Motion carried with all present voting in favor.

DEPARTMENTAL REPORTS

Mayor Countryman asked Chief Solomon why is there only one report? Chief Solomon said they were looking at reports and long agendas and thought we would start asking Council to do reports quarterly with the exception of the engineers. Outside contractors will continue to do their reports monthly. Mayor Countryman said not right now with this transition period. Council Member Langley said monthly is better. We have always done it monthly. Council Member Donaldson said he wants the reports that were supposed to be tonight. He wants them at the next Council meeting. Mayor Countryman said we typically have a tax reporting question. Mayor Pro-Tem Olson said he just wants to see them. Mayor Countryman said she has gotten real good at not giving a big dissertation, but we at least get our eye on them and we do not really keep you up there for 30 minutes a piece. Council Member Donaldson said that is true. Some of them are redundant, but we cannot just take the ones that are with the outside contractors and forget Finance Director Carl because we definitely want to see what the finance department is up to. Chief Solomon said it was a thought and Council will get their reports.

22. Departmental Updates: Engineering

City Engineer Roznovsky said they did receive two pay estimates this month. They did receive the GST foundation design earlier yesterday so they are going through that. One thing to note is they are starting overnight drill operations while they are finishing up the well, so they have sent door hangers and notices to everyone around. It will last for a few weeks while they get the well finished and then they will go back to normal business hours.

City Engineer Roznovsky said item two, the FM 1097 sewer project is complete. They had a final walk-thru last week. That bypass has been taken down and returned so that it is up and operational.

For sewer rehab phase one they had a meeting with the contractor reviewing the final videos to close that out. No real updates on the force main extension. The force main is just sitting unused right now waiting for Briarley (formerly Red Bird) to finish their lift station and they will connect to it.

The Old Plantersville waterline extension should be complete. We are now just only waiting on the safety crew from BNSF to become available to be on site. The rest of the

work is complete. Once they are there, we will complete the bore and that work will be completed.

The TPDES permit amendment is still going on. We did receive the draft permit. It is in a comment period and we should have the final permit by May. One thing he does want to note, that was a new limit to the draft permit. What we received was a phosphorus limit. Typically, wastewater plants do not limit phosphorus, but based on the stream that it goes into in Lake Conroe, a lot of the wastewater transplants surrounding the lake have a phosphorous limit in it and so that is being included in the design, which is why we were waiting for the design to make sure we have these limits in place so the plant is designed correct around the phosphorus. Mayor Countryman asked is there a phosphorus meter on this that goes off if you have too much? City Engineer Roznovsky said it is done by grab sample and they will test for phosphorus like their normal reporting when they do everything else, it will be one of the constituents. Likely what they will do is Halff is looking at two different options. One is some additional filtration on the back end to help clearing it for an alum feed system which helps remove the phosphorus that way. Two different routes and they will come back through a couple cost alternatives, pros and cons. We had a kickoff meeting with them last week and staff and the operator so everyone was on the same page that it is going to be operationally what the operator needs.

Also related to the Town Creek wastewater treatment plant expansion, there are two low interest loan opportunities with the Water Development Board so they are submitting and working with Halff to submit project information forms which are quick one, two pagers that gets you into the system. The first round projects get selected, then you go to full application. We are wrapping those up to have submitted next week to at least get us in the queue for both water plant number four and the wastewater treatment plant.

For item 11 on the report, TxDOT has finally accepted the signal fully back on February 17th so we are completing the final closeout documents to do the final true-up with Home Depot on the cost that they paid for that project.

Both items 12 and 13 are in design. We were wrapping up survey on the College Street drainage and was expecting to complete the design and start bidding in April. The booster addition we are getting that to the TCEQ for approval in March. Council Member Donaldson asked if he figured out a way to do that and keep traffic flowing? City Engineer Roznovsky said not yet. On our list is getting the survey back and making sure we have a preliminary design and then sitting down with the property owners asking do you not have a better understanding of timeline? That is on the list, but we have not had those conversations as of yet.

Development items are related below. There is nothing major to point out. A lot of the ones they have not received comments back. When we move over to plat reviews we have returned comments to the athletic center, Heritage Grove, and we will have both 612 Worsham and Buffalo Springs section two to plat out tomorrow. He has a final in his inbox. Mayor Countryman asked where is Heritage Grove? City Engineer Roznovsky said

Heritage Grove is Tri Pointe. It will now be called Legacy Grove. Council Member Langley asked if they are new owners? City Engineer Roznovsky said no, just a new name.

On page six you will see the update of the Red Bird project we talked about today. One thing he does not have on here that is worth mentioning is they did do a final walk-thru at the CTE Center on Thursday of last week regarding their public water, public sewer and also took a look at their storm outfall because that was a big concern just with the design and the creek. They have minor punch list items they are working on to address and then will come back for acceptance of that. Mayor Countryman asked are we confident in that drainage? City Engineer Roznovsky said he was not on site. What he heard is it looks like it is in pretty good shape, but he will take a look to see what we have before that punch list is issued.

The Flagship Boulevard contractor has been really slow at responding. We have sent a letter to his bonding company and he then responded and should have the work complete by the end of the month. If he does not, we will go straight to the bonding company and request to pull his bond to have the work completed.

For the other items listed on here, there is nothing major to note. One thing on continuation with the funding discussion, we have a call set up with your financial advisor early next week. We completed a couple additional analysis of the rates, sitting down with him going through some funding options to bring back a full package to you all. Following that, you will see an updated map on the last page of your packets showing all the developments in the City and their current names. Council Member Langley asked what is 612 Worsham? City Engineer Roznovsky said the southern end of Worsham where it makes the turn there is a piece of property that is also if you go to the end of Louisa it backs up there as well, so they have a small drive on to Worsham. Council Member Langley asked if it was Cheatham at one time? City Engineer Roznovsky said correct. Council Member Langley said but not on Worsham? Mayor Countryman said it is Worsham facing. City Engineer Roznovsky said he does not have an exhibit with him, but it is a really odd shaped property. Council Member Fox said it is right beside Lisa Martin's house. City Engineer Roznovsky said there is access on to Worsham, just south of the Huss'. There is a long skinny strip at the bottom where Worsham makes the turn. The majority of the property sits behind Worsham Street. Council Member Fox said it is behind her house. City Engineer Roznovsky said they are not subdividing it, just platting it as a single reserve. Council Member Fox asked if it recently changed hands? City Engineer Vu said the owner is building a barn dominium. She is not platted so she needs to.

Motion: Council Member Langley made a motion to approve the departmental updates engineering report. Mayor Pro-Tem Olson seconded the motion. Motion carried with all present voting in favor.

COUNCIL INQUIRY

Mayor Countryman said Saturday night is Mardi Gras and Larry Jacobs parking lot with Krawfish Kai and Bar and Vines. Should be great fun and great weather. Council Member

Langley asked if it was just daytime though? Mayor Countryman said it is 12:00 p.m. to 5:00 p.m.

Mayor Countryman said today was a public hearing at Commissioner's Court. Because of the 10:00 a.m. meeting here, she could not make it there. It was about Lone Star Parkway and the bond. Can we follow up with Commissioner Walker? She just got a note from him to set a meeting with him. She is very interested. One, we got the letters. The lady that came up here about putting a stop light at Lone Star Parkway and Bois D'Arc and then also at Lone Star Bend and Lone Star Parkway and Bois D' Arc and Lone Star Bend. Where are we on that? City Engineer Roznovsky said he will send that out tomorrow morning. He has two different schematics showing improvements being signal improvements and roundabout improvements with cost assessments for each. Council Member Fox asked where is this roundabout? Mayor Countryman said at Lone Star Bend and Lone Star Parkway. Then potential stop signs at Bois D'Arc and Lone Star Bend.

EXECUTIVE SESSION

23. Closed Session

City Council will meet in Closed Session pursuant to the provisions of Chapter 551 of the Texas Government Code, in accordance with the authority contained in:

A. Section 551.074 Consultations with Attorney – Town Creek Hydrology.

B. Section 551.074 Consultations with Attorney – pending or contemplated litigation.

At 8:28 p.m. Mayor Countryman convened the Montgomery City Council into closed session pursuant to provision Chapter 551 of the Texas Government Code, in accordance with the authority contained in Section 551.074 Consultations with Attorney – Town Creek Hydrology, and Section 551.074 Consultations with Attorney – pending or contemplated litigation.

24. Open Session

City Council will reconvene in Open Session at which time action on the matter(s) discussed in Closed Session may be considered.

A. Section 551.074 Consultations with Attorney – Town Creek Hydrology.

B. Section 551.074 Consultations with Attorney – pending or contemplated litigation.

At 9:09 p.m. Mayor Countryman reconvened the Montgomery City Council into open session pursuant to provision Chapter 551 of the Texas Government Code to take any action necessary related to the executive session noted herein, or regular agenda items, noted above, and/or related items.

Item A Motion: Mayor Pro-Tem Olson made a motion to authorize our legal representation to move forward with litigation in the Town Creek matter. Council Member Donaldson seconded the motion. Motion carried with all present voting in favor.

Item B Motion: Mayor Pro-Tem Olson made a motion to approve the release and contract of settlement that was discussion in executive session. Council Member Fox seconded the motion. Motion carried with all present voting in favor.

CLOSING AGENDA

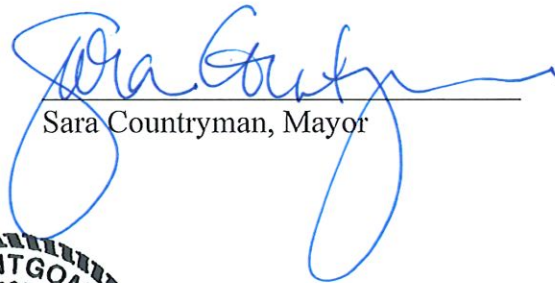
25. Items to consider for placement on future agendas.

Council Member Donaldson asked for department reports on future agendas.

26. Adjourn.

Motion: Mayor Pro-Tem Olson made a motion to adjourn the Regular Meeting of the City of Montgomery at 9:12 p.m. Council Member Langley seconded the motion. Motion carried with all present voting in favor.

APPROVED:


Sara Countryman, Mayor

ATTEST:


Ruby Beaven, City Secretary

