

**Notice of City Council First Regular Meeting  
AGENDA**

**July 09, 2024 at 6:00 PM**

**NOTICE IS HEREBY GIVEN** that a Meeting of the Montgomery City Council will be held on **Tuesday, July 09, 2024, at 6:00 PM** at the City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas.

Members of the public may view the meeting live on the City’s website under Agenda/Minutes and then select **Live Stream Page (located at the top of the page)**. The meeting will be recorded and uploaded to the City’s website.

**CALL TO ORDER**

**INVOCATION**

**PLEDGE OF ALLEGIANCE TO FLAGS**

**VISITOR/CITIZENS FORUM:**

Citizens are invited to speak for three (3) minutes on matters relating to City Government that relate to agenda or non-agenda items. Prior to speaking, each speaker must be recognized by the Presiding Officer. All speakers should approach the podium to address Council and give their name and address before sharing their comments. City Council may not discuss or take any action on an item, but may place the issue on a future agenda.

**CONSENT AGENDA:**

- 1.** Approval of the Minutes as written for:
  - (a) Joint City Council, P&Z, and MEDC Workshop 01-27-2024
  - (b) City Council Second Regular Meeting 06-25-2024
  - (c) City Council Special Meeting 07-01-2024

**CONSIDERATION AND POSSIBLE ACTION:**

- 2.** Consideration and possible action regarding a Development Agreement between the City of Montgomery and Tri Pointe Homes of Texas, LP. (Dev. No. 2410).

**COUNCIL INQUIRY:**

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

**ADJOURNMENT**

/s/ James Greene

James Greene, City Secretary

I certify that the attached notice of meeting was posted on the bulletin board at City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas, on July 5, 2024 at 5:00 p.m.

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*This facility is wheelchair accessible and accessible parking spaces are available. Please contact the City Secretary's office at 936-597-6434 for further information or for special accommodations.*

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**Joint City Council, P&Z and MEDC Workshop  
MINUTES**

**January 27, 2024 at 10:00 AM**

**CALL TO ORDER**

Mayor Byron Sanford called the meeting to order at 10:00 a.m.

Present:	Byron Sanford	Mayor
	Carol Langley	City Council Place #1
	Casey Olson	City Council Place #2
	Sara Countryman	City Council Place #3
	Cheryl Fox	City Council Place #4
	Stan Donaldson	City Council Place #5
	Wade Nelson	Board Member, MEDC
	Tom Czulewicz	Board Member, P&Z
	Bill Simpson	Board Member, P&Z

Also Present:	Gary Palmer	City Administrator
	Dave McCorquodale	Director of Planning & Development
	Shannan Reid	Executive Director, Montgomery Area Chamber of Commerce

**WORKSHOP ITEM:**

1. Open Discussion on Incoming Development, Zoning Ordinance Recodification Project, and Strategic Planning.

Councilmember Sara Countryman said as long as they have open communication and they get their arms around the development community in here, she thinks they have done a good job with the variance business and thinks they all concluded together they needed the variance on the lot sizes to slow down.

Councilmember Sara Countryman said knowing what is on the horizon which is two huge box stores that are going to create a lot of traffic to our area but also taxes and the 1,500 to 2,000 houses that will be coming in within the next three years.

Mayor Byron Sanford said a year or two ago Mr. McCorquodale specifically had mentioned you have R1 but our City does not have any town homes or mid to upper level duplexes other than the four there on Racetrack, and stated there are plenty of houses and in his opinion an excess of apartments when the two complexes that are in the works are finished.

Mayor Bryon Sanford asked where is the mid to upper level townhome option to downsize because that is what you get off of Lake Conroe. He said we do not have that and even within the residential there is that breakdown of these level of homes to hit that is optimal and you do not get that unless you plan a certain area in that way.

Mayor Byron Sanford said another example is when he asked staff if people were upset with the Lone Star Convenient Store. He was informed some downtown person asked why did the City allow that store to come in and heard the City leased that land, stating that the convenience store is located at Buffalo Springs and Lone Star Parkway. First, they did not know it was coming and then the rumors start happening with the City, all the residents then become upset because their valuation is going down and that is where this plan development has to happen.

Mr. Wade Nelson asked if that was part of Phillips development.

Councilmember Casey Olson said yes.

Mr. Tom Czulewicz said he does not understand how the zoning was approved to have a whole plat of residential houses and then cut out a corner for a gas station. He said you automatically devalue those houses and asked how that happened.

Councilmember Casey Olson said they gave him an agreement to do whatever he wanted. It was not that it was platted residential or platted commercial, they platted it to do what they wanted for 20 years, that was 20 years ago and there is nothing they can do about it except move forward.

Mr. Tom Czulewicz said now that it is expired do they have to resubmit to put the gas station in.

Mr. Palmer responded not if he already has plans.

Mayor Byron Sanford said that is the point he is trying to make, now is the time to strike with a plan development going forward. If it changes ownership great, if not that person needs to come in here.

Mayor Byron Sanford said when you lock in 15 and 20 year agreements even the agreement with Kroger which was a great thing for the City even though some people say we paid too high a price, but without Kroger we would be what we are good or bad and some people might say they wish it never happened. They are long agreements. He said his tendency is to say City, when you lock in the long agreements then stuff will show up in your backyard.

Mr. Wade Nelson said the point is now you do not have to do those agreements and they are coming whether you like it or not.

Councilmember Cheryl Fox said when her and John moved here in 1975 there were 200 people not houses. Things have changed in the last couple of years so she thinks now they will direct them in the right path because at one time there was not much of a path.

Ms. Shannan Reid said historically speaking when they first got here the LeFevre's published a website that had an entire description and plan layout and it was the country Montgomery version of The Woodlands. She said they intended for that grocery store and gas station to be at the corner of some housing. It was going to have a flow like The Woodlands and that was the plan all along.

Just to get some historical perspective, that was his vision for that whole place and to bring city center over there because it was in there and that was what Fernland's investment was all about.

Mayor Byron Sanford said that is a tough thing because there is Lone Star Parkway which most imagine as commercial and there is the one end of Buffalo that is considered residential.

Mr. Bill Simpson said what a lot of people do not know is the corner that goes by Ransom's which is at C.B. Stewart and Buffalo, Mr. Phillip LeFevre cut the corner out so there will be a gas station built there.

Mr. Bill Simpson said Phillip had this big idea, which was his idea, but there is very few of it that has gone through like that.

Mr. Bill Simpson said realtors are still passing out that grand thing behind his house and Tom's place.

Mr. Bill Simpson said Phillip's big plan and scheme was only for him to bring people in.

Mr. Bill Simpson said Phillip is still hiring realtors to push his narrative.

Mr. Tom Czulewicz said history is good, but we are here to talk about the future. He said he served as a registered planning director for Chester County in Pennsylvania with 99 townships under his jurisdiction. One of the things he found is as they move forward to the extent they can control codes, they must go back to 75 foot wide lots and do away with 28 foot wide streets.

He continued by stating when he resided in Myrtle Beach he lived in a 55 and over community with 28 foot wide streets and they enforced no parking on the street. However, there are always violators, he watched one day where a woman almost died because the fire truck and the ambulance could not get by because of the parked cars. He said that should not happen and they need to look after their citizens. When you approve those kind of conditions you are putting those citizens at risk for their safety.

Mr. Tom Czulewicz added with 45 foot wide lots there is not enough parking as the average family today has at least four or five cars. He said if you look at Buffalo Springs it is that way right now and that place is going to become a dump because no one is going to want to live there because it will be so infested with cars no one will be able to get by. He said right now where he lives it is the same thing, because cars are parked on both sides of the street the garbage truck cannot get through, they have to put their foot down and say no they are not going to have 45 foot wide lots and they are not going to have 28 foot wide streets.

Mr. Tom Czulewicz said he knows they have a specific line which the City cannot go beyond that, you have to look at the future and say where is that point, what do they do to maintain the ability to support infrastructure, that is going to be critical.

There is water and sewer, how is that going to be and what is their water supply, they will have to get a water tank, you have to look at the citizens. The same thing goes with the gas station on the corner. He said you want people to come into the city and buy property, a house, and have the revenue income from taxes, you better not allow those kind of things to happen.

Mayor Byron Sanford said working off what you are saying, there is a consensus among them to take a stand and they are kind of right there wanting to go that way so for staff, what can they do to take a stand. He knows it may have been controversial with Conroe with the size of the lot, but it is there and what can they do staff wise to say we have this policy so if you are going to come in asking for these variances do not waste our time so they can use their time with things they need.

Mayor Byron Sanford stated they are there and councilmember Casey Olson made a strong point and he reinforced it, that if they tip that balance, and again they are here for the future so they have many of those issues right here on the ground floor and that is why they need to continue to make this known to the staff that this is the direction they want to go. There are some other homes they have not heard about. Lone Star gated community coming, there will be custom homes, there is Red-Bird and they have already addressed some of that, but probably 800 or so plus his neighborhood that is being added to are in that mode and they cannot undo that.

Mayor Byron Sanford added he would ask staff what can they do to take that next step and then everyone does not have to sit through a two hour presentation for something that is not going to pass.

Mr. Wade Nelson said to that point you are going to have zoning and enforcement but you need to look at the bigger picture. When you encourage the right developer and say no to those you know exactly what they are going to do that are going to come in, break it down and leave. Those that have shown they have a track record you encourage and partner with those people and ask what can they do to help them, not we have a red flagging for that just because they are easier to pick on than Home Depot. They will do whatever they want to do and the City is going to fold.

Mr. Wade Nelson stated there was some resistance, but personally as a developer you will not see another developer say do whatever you can do to kill this Home Depot deal. He said he was a broker on the deal trying to kill it, but he cannot tell a land owner he cannot sell to Home Depot, but he can tell the City behind the scenes let them do this and try and encourage them to do something different. For them to make the argument they cannot afford it is not true, they can afford it and they would have come here whether they were told about landscaping or trees, but they continued to say they cannot do it because it is not cost effective.

Regardless, they have already done it but the point is now that Home Depot is coming, HEB is probably not that far away.

Mr. Wade Nelson said the land that is now not part of the development agreement that Mr. Phillip Lefevre owns, he will settle it. He is not going to sit on it and continue to pay taxes. He may even sell it for cheaper than what he expected.

Mr. Wade Nelson said that is going to attract more big box and if they do not get on the same team and encourage the right development they are going to get another orange warehouse with a big concrete parking lot.

Ms. Shannan Reid asked inside the city limits if the appetite is primarily focused on residential and then you address whatever commercial comes the city's way, not seeking it out, or is there any appetite for primary jobs to be located inside the city limits taking up some of that land or is the City just anticipating they will go outside the city for primary jobs.

Councilmember Casey Olson said they have talked about that several times regarding how you get commercial industry that brings in a job level that can afford to live here. He said that is extremely hard to do. He stated that he makes a really good living and he can afford to live here but he cannot afford to buy a million dollar house in Red-Bird and he probably has one of the best incomes in this town. He continued by stating how do you get that kind of income into Montgomery when they are off the interstate, and out of any energy corridors. He said the odds are slim to none.

Councilmember Sara Countryman said that is why they live here because they are willing to drive.

Mr. Tom Czulewicz said maybe they should look at making Montgomery a bedroom community so that people will want to come here to live, go to restaurants and things like that. Most manufacturing jobs pay is not going to afford most people to be able to buy a home in Montgomery.

Councilmember Casey Olson said that is the point they have discussed. He said they have plenty of small homes and even if they are small homes, they are not very affordable. He said an 1,800

square foot home that is \$300,000 is not affordable. He said because of where they are, and because of the incomes that do already live here, they are not going to be able to have all these cheap houses. He said it will never be that way because their property values are too high, the utilities are too high, and the cost of living to live in Montgomery is too high.

Councilmember Casey Olson said they have to cater to the people that can afford to live here. He said they do not want to live in tiny little neighborhoods smashed on top of each other, they want to live in estates with half and quarter acres where neighbors cannot throw footballs between the windows.

Councilmember Sara Countryman said my neighbor will not be the stacker at HEB or the person at Dollar General. She said that just will not happen.

Councilmember Casey Olson said it is unfortunate but it is the truth.

Ms. Shannan Reid said she agrees with everything being said but she wants to share the business information that she has and that she listens to everyday so you can digest what they are experiencing. They have businesses going out of business at a high rate because they do not have work week, work day traffic here to keep the entire seven days a week sustainable. She said if people are driving an hour to work they are going to spend money on the way home rather than here. She stated Covid-19 was actually a blessing in disguise to Montgomery because no one out there wanted us to come anywhere so they spent money here, but now that they are back to driving their hour away they are not spending money here. Meanwhile, all of these no skilled labor job entry level workforce amenities are coming in like the fast foods and car washes and they are slicing more and more of the same piece of pie for now with the anticipation of 8,000 more homes.

Ms. Shannan Reid said the challenge of getting entry level workforce is they cannot live here but they are going to pass five jobs leading to Montgomery that they could take closer to home and those people may have unreliable transportation. The kids here do not necessarily have to work because their parents can afford to invest them in every after school activity and sports. She said that is wonderful and they love all of that but they are not the ones holding up the workforce. They are missing the 20-something category if you look at the demographics. They cannot afford to live here because they do not have the level of being able to afford it.

Councilmember Casey Olson said that is the thing. He said the way their base is set up with their utilities and taxes they will never be able to live here. It is impossible unless they completely fundamentally change the way their utilities are. When a water bill is \$200, he does not care who you are. That is a high price. There is no way to fix that and they cannot snap their fingers to change it.

Councilmember Sara Countryman said they could live on the other side of Pizza Shack and come into Montgomery or outside Lone Star Parkway and Dobbin and come here and work.

Mr. Tom Czulewicz said he does not believe this city is set up for tourism. He said they should have flyers at each entry into the State advertising the Historic District. He said they should have a street from Liberty over going west that should be lined with Texas flags as the City is the birthplace of the Texas flag. He said they just celebrated the 285<sup>th</sup> anniversary of the birth of the flag. He added if they cannot do anything else and they all agree and are absolutely right about the cost of living, let them bring in the people that do not have to live here and have them come in here and spend their money and let them know that it is here. They do not know. He has traveled in and out of the State many times and has never seen any kind of a flyer that advertises Montgomery as the birthplace of the Texas flag. He said they should advertise that flag.

Councilmember Sara Countryman said she was mayor for four years and that was one of her biggest pushes and why there is the big flag at Spirit of Texas Bank. She said there was a whole rendering of Texas flags lining SH 105 and that is why you see the flags painted around town. She said they also have to have City Hall and everyone doing their job to do that, it cannot just be one person.

Mayor Byron Sanford said the bottom line is money and you have to bring the money in. He said they have this finite budget with finite opportunities because you basically have a plan development going out, a Lone Star loop that he has been very vocal about with the County, but the history is what it is with the County. What he has done was get the HGAC for the first time to have Councilmember Sara Countryman be nominated to the HGAC board. He asked Mr. McCorquodale if they have ever had anyone on the board representing the City. Mr. McCorquodale responded not that he knows of.

Mayor Byron Sanford said he cannot promise, but if she gets on the HGAC board which has a pool of money for various things including workforce solutions, everything under the sun is run through that institution. He said we must have representation and it cannot be part-time.

Mayor Byron Sanford said if Councilmember Sara Countryman fills that role along with the EDC person, that is the person who is full-time tourism because economic development is that and they are trying to get an economic base and find a right mix within a finite area but are restricted on the west side by Dobbin Plantersville water.

Mayor Byron Sanford said he knows the school district needs something on the west side. He said they do not have a junior high. If the school occupies that there are jobs.

He has put a vision out for a medical district on the west side because there is not any and has put it out to Mr. Luttrell and everyone else to please lobby for a medical district. Those are the people who buy million dollar homes and the custom homes coming to Lone Star and gated communities. It makes sense to him to have one as he is tired of driving 45 minutes on a 26 mile run to Shenandoah.

Mayor Byron Sanford asked where is the age population. He said again downsizing from Lake Conroe, downsizing from The Woodlands, and coming in from California, that is the demographics of where they are at and where the City is going.

Mayor Byron Sanford said all of them are making their points but said it has to be a base of money.

Mayor Byron Sanford said Councilmember Stan Donaldson will be the backup to Councilmember Sara Countryman for the HGAC board.

Mayor Byron Sanford said also, who is going to be inclined to build if you have a Lone Star that looks like the back alley. He said he has been lobbying and now there is a transportation committee set up with Councilmember Sara Countryman and Councilmember Stan Donaldson and someone who works at Conroe with the Conroe engineers.

Mayor Byron Sanford said next Friday they have a big meeting with our engineers and TxDOT. He said the whole City is defined as two TxDOT roads and getting TxDOT on board is like pulling teeth but they brought TxDOT in with the Home Depot deal and are staying on top of it.



Mayor Byron Sanford said they are getting a light at Buffalo Springs Drive and Lone Star Parkway to save \$250,000 they had allotted but found out TxDOT prices are higher than County prices. With all these dynamics going on they know where their limitation are.

Mayor Byron Sanford said he is a little disappointed, but they do see an expansion on the south end. He said Councilmember Sara Countryman has been big about promoting the south loop so where is the path on the south loop. He said to his knowledge none of that is economically developed as it is still residential and there is a lot of residential that is crushing them in. They have to accept the things they cannot change and be given the grace to move forward but being on the same page sure helps. He said perhaps maybe five, 10, 15 years ago they should have been on this but they were not.

Mayor Byron Sanford said Councilmember Carol Langley was the only paid person on staff 10 years ago. He said this staff has gone like this and that because they cannot keep up with the growth and that is why they are growing out of their own building and have been for a couple of years, stating we have this finite pool trying to bring in some money and trying to deal with TxDOT. He said we are foundationally there but need to stay on the same page and drum up the resources because that is what it is, bringing resources in and bringing the people in who have the jobs.

He cautioned that it cannot stay in one spot. He said we all talk with developers and tell them to go forward and make it happen, but that is what they are waiting on. While we are waiting, we are going to get ahead of this growth as best we can and try to maximize the economic return because right now we have all the residents we need in his opinion coming on the charts for the next five years.

Mayor Byron Sanford said bringing in the jobs is easier said than done. He said they are working with a school district that has to be zealous and they are going to buy some of our land and already have which is good, but that brings buses and traffic and if they do that on the Lone Star loop he has the same concerns. How will they develop on a two-lane road with no shoulders. He said it is tough but at least they have things in motion going forward.

Mr. Tom Czulewicz said three months ago he googled grants available for historic districts. He said there are literally hundreds of grants available for historic districts but the thing that really disturbed him was there was a Texas State site for grants for historic districts that requires you to be registered and certified and Montgomery is not on that list. He said there are 50 plus other cities throughout the State that are on that list and Montgomery cannot get a grant because we have not listed ourselves and get certified to be able to receive grants. He said there is a site for a historic district branch that goes to \$100,000 in grants.

Mr. Tom Czulewicz said he understands in order to make things happen you need to have some money and that is one money source to tap into the tourism aspect in order to enhance this whole tourism thing to bring tourists in. He said we can do that without having to spend a whole lot of the City's money but you have to have a project first before you can get the grant.

Councilmember Casey Olson said his problem with grants is that \$100,000 will not remodel a house and will not pay one quarter of a stop light. He said \$100,000 is a waste of time so how much effort will you put in to get \$100,000. If you are going to put effort into something, put it into something that is going to continually pay you. He knows a lot of people are upset about Home Depot but \$1,000,000 a year paves a lot of streets.

Councilmember Casey Olson said \$100,000 is a one-time pop and how much effort and hours do they have to put into to get \$100,000.

Councilmember Sara Countryman said \$30,000 to a grant writer.

Councilmember Casey Olson said exactly.

Mr. Tom Czulewicz said if you get grants you are boot strapping yourself up. He said you bring the tourism in and the increased tourism takes care of the future.

Councilmember Casey Olson said he is all for tourism but they have huge neighborhoods all the way around us that if we bring the commercial activity here, they do not have to bring anyone else. They will come here instead of driving 15 miles the other way.

Councilmember Sara Countryman said tourism is here.

Councilmember Casey Olson said they do not have to spend tons of money to bring out of states to Montgomery. He said we have 100,000 people roughly within five miles of us and they just have to get commercial here so they will come here.

Mayor Byron Sanford said the grant writing has been proposed to him through HGAC because you cannot afford a grant writer and the biggest grant they have had in the City took five and six years and he is still getting leftover stuff from the GLO. It is cumbersome, but to share the cost of a grant writer between three and four cities makes sense to him. He said he proposed that and is proposing it now as an idea for the staff to look into.

Mayor Byron Sanford said the only options that are there are grants which he agrees they have all the red tape and staff and the engineers have told them over and over how much red tape it is and how much you lose control over something because you went with the grant. He said the HGAC said what they have is low interest bonds such as what they just received to get them going on water and infrastructure, \$3.5 million to get them going down the road. He said that seems to be the only thing that is really there. They are not really looking at grants as much in his opinion as they are low interest bonds and you have to count incrementally to see what your needs are.

Mayor Byron Sanford said his biggest push has been tourism. For the downtown revitalization they started on City Council three years ago, that was \$1.1 million and now the proposal is \$3.5 million stretching out to Jacobs property. He said when he saw that unfold there was no buy into it first of all. He said we kind of lost the commitment to that and lost their courage on it because the water needs superseded the downtown revitalization.

Mayor Byron Sanford added you have an owner here at the steakhouse along with the adjacent owner of Perfect Blend who said they spent \$5,000 to upgrade their parking lot. He said there is \$20,000 in the EDC that is marked for those types of grants and that is the only thoroughfare from one street of McCown to the other. He said he thinks they need through the EDC to help him with that part of the parking lot they all go through because one of their grand plans that is downtown is cooperation. Let EDC help out with some of those funds or all of it if they can.

Mayor Byron Sanford said the owner needs to do the backside of it himself with propane and a deck, but that is a pastor so let us reward him for the pastoring and not reward someone who puts a chain up on the parking lot and we have not seen anyone use it. We should reward the good behavior. Part of the EDC strategy is to start revitalization a little bit at a time the best they can through EDC right now. He said that big thing that he really wished would have happen three years ago was when he first ran was this is a great plan and asked where is the money. Incrementally and exponentially, it is water and sewer to keep up with the homes.

Councilmember Cheryl Fox asked Councilmember Casey Olson if there was any discussion with Home Depot regarding employees that were being considered that are residents of the City.

Councilmember Casey Olson said they wanted a clause that said they had to hire a certain percentage from the Montgomery area.

Councilmember Sara Countryman said they talked about 20 percent but they could not guarantee that.

Councilmember Casey Olson said legally they could not force them but it was highly suggested. There are going to be a lot of jobs that are \$15-18 an hour so those people have to come in. He said there are other jobs such as management jobs that pay better and those are the jobs he really wanted to be pulled from Montgomery, but those corporations bring in someone who has been doing it at some other store and that is what they do. He said there are 150 to 170 jobs.

Mr. Larry Jacobs said there is one thing he would like to mention and that is TxDOT and downtown. He said he has had to defer his position on that to the retailers that are affected by parking. Someone else was talking about the history of downtown. He said he sits in his office at least five days a week looking out his window looking at his parking lot and every Monday he sees 20 or 30 cars pull in there during the day, they walk down the street, walk back to their cars and leave. He said expanding the Historic District on the retail side of it is what is going to make downtown improved and get better.

The rezoned lot on Clepper Street behind Cheatham's took a long time and they got a special use permit. He said all the economics of that project changed within six months. It still would be viable but does not fit his financial portfolio within the City's zone. It looks to him like the owner of the steakhouse and over to Prairie Street where the City owns property there is a corridor that comes back and connects into his property and thinks the owners along there would be open to rezoning. He thinks there is an opportunity for Council and the Zoning Commission to think about that and about extending the whole area up there and thinks if it was there people would come to downtown.

Mr. Larry Jacobs concluded by stating he has offered his parking lot to the City for parking and special events and he is open to ideas. He would like to see it rezoned because he does not think the special use permit is practical for him and another office building may be in the cards for him.

Mayor Byron Sanford asked Mr. Wade Nelson to what degree are some of his concerns of staying within those two streets with a tax increment reinvestment zone.

Mr. Wade Nelson said you have to start creating public and private partnerships. He said there is a lot of history here with people being offended or feelings hurt by some local developer but unfortunately, those people control this whole city. He has been here long enough to see it happen and cannot put his thumb on it whether it is jealousy or egos, but whatever it takes to roadblock these people to keep them from doing good things and they have a history of doing really good things and you should have your arm around that guy.

Mr. Wade Nelson said his point about Home Depot is not that they should not come, but that they should apply the same pressure to them that they do to the guy they kick every day. If they cannot get beyond this history of someone did me wrong or I do not like that guy, we will be in the same position because unfortunately Mr. Chris Cheatham owns three quarters of the town. If they get offended because he may cut a corner here or there they need to get over it. Mr. Cheatham does quality stuff and no one else is coming in to do it. Mr. Wade Nelson said he is here to do good things and wants to do a lot of good things.

Mr. Wade Nelson said the property Larry has, we all know the City is in dire need of parking and they should be partnering up with land owners to find some way to either do surface parking or use grant money and charge money for a parking garage.

Mayor Byron Sanford said his recommendation has been somewhat similar to this to get representation from the two councils with 10 to 15 people on a board that makes these decisions.

Mr. Wade Nelson said a prime example is Mr. Tom Cox. He is brand new to the community and purchased the building on FM 149 south by the railroad to move his corporate headquarters here from The Woodlands. He refurbished the house on Caroline Street across from Cozy Grape and he has a bad taste in his mouth after going through the process. Instead of picking one little thing that maybe did not go right, look at the bigger picture of what it looks like now and it is amazing. Instead of kicking him say look, let us partner together and figure it out. Some of these things you thought you should do on your own, we want to be involved with and we need to know about those things. Tell him he is doing a great job. Mr. Wade Nelson said he does not think Mr. Cox has ever heard how good of a project that is.

Mayor Byron Sanford said if you are going to have rules and ordinances you have to enforce them. The town evolved from a handshake to now we are into where other people are coming in and you need to make sure one person is treated the same way as the other person. To be fair they need to do that and Planning & Zoning and EDC need direction and to receive that consistently. They need to be fair and legal.

Mr. Bill Simpson said he thinks what Mr. Cox has done is beautiful now but the way it was handled was not good. He understands what he was trying to do but he feels he should have had more control of his contractor because the bad taste came because of the contractor.

Councilmember Casey Olson said honestly he should feel like he had his hand slapped because of exactly what he did and the end should not justify the means. How he did it was not right, but what it looks like is fantastic. How he went about doing it was bad.

Councilmember Sara Countryman said there is Mr. Cheatham in town who gets away with a lot, but he does beautiful work. If we hold one accountable, we need to hold all accountable.

Mr. Wade Nelson agreed and said but what we have now is not enforceable and people see that.

Councilmember Cheryl Fox said Mr. Chris Cheatham is one of them who says the city is totally against me.

Councilmember Casey Olson said we are not against him. That is the way to do business.

Mr. Wade Nelson said there are those who want to do things but feel like they cannot and yes, maybe it is because they went about it the wrong way.

Mr. Bill Simpson said if the turf situation would have been approached in a professional manner it would have been different. He said he works in the industry and if he does not follow specifications or the consultant and it is not done right he does not get to receive variances, he has to take it back out and redo it per specifications. He said he likes Mr. Chris Cheatham and he does great work, but when Mr. Cheatham says that he is building something he does not ever remember having to asking him what exactly the materials are because he gives you what you are going to get.

Mr. Wade Nelson said he agrees and those are the people you need to encourage. Mr. Chris Cheatham controls the entire town and if we want to create a downtown he is the guy we should be partnering with.

Mayor Byron Sanford said when he was about to officially run for mayor he went to Mr. Chris Cheatham's office and set up a meeting and asked him what he thought about a tax increment reinvestment zone. Mr. Cheatham said he was all for it. He said that solves a lot of issues because when you incentivize the developers and get them in touch and incentivize them to make the money he believes that is the direction to go. He understands the position Planning & Zoning, EDC, and Council get put into of were the I's dotted, T's crossed, and things done well. If he is willing to come on board with the tours and done well and with the structure they are trying to set up, and we are willing to bend, if they can pull all of that together, he thinks they can overcome some of the challenges they have had particularly in the important Historic District zone.

Mr. Wade Nelson said the outside opinion including the State level and the County level is the City does not want to work with anyone. Mayor Byron Sanford said he was told it goes back to 2002.

Mr. Bill Simpson said the ordinances are wide open. He said sitting on Planning & Zoning he is supposed to think what everyone in town wants and if you make the wrong decision you end up getting phone calls and stopped on the street.

Councilmember Cheryl Fox said there are things she hears about downtown from people that live outside the City and that is there is not anything cohesive about hours with the retail folks. She said she is not sure how you would ever address that to say okay you need to open your shop at 10 a.m. everyday. She asked how would you go about getting them all cohesive with their hours.

Councilmember Sara Countryman said that is the charm of the town. There is usually a proprietor behind the desk checking you out or waiting on you. You cannot work there seven days a week without help. The money has to come for them in order to be able to hire more people to serve.

Mr. Bill Simpson said his main concern with being a citizen is the city services. He said with all the traffic on SH 105 he would like to know what a standard police officer to resident traffic is. He said these guys are strapped. He knows the water and sewer are separate but how is the budget for the police department with 20,000 plus cars passing through a day.

Councilmember Casey Olson said the last two times they discussed it, they are actually way above average as far as the number of policemen per capita. Even with the traffic at 20,000 cars per day they are still above average. He said he has had this conversation with the Chief many times about do they have enough police officers because that is a huge part of their budget. He said their budget is not a big budget but when 45 percent of it is your police force that is a big chunk.

Councilmember Casey Olson said any time you add another police officer that is not always \$50,000 per salary, it is \$100,000 to \$120,000 by the time you are done with training. That cost never goes away unless you want to lay people off and that is not something he likes to do. We must make sure to have the operating expenses under control so the long term overhead expense does not grow out of control. If they get an economic downturn and everyone stops spending money Montgomery has nothing but sales tax, they have property taxes but if you do the math on property taxes, it is almost a net zero because by the time you do all the upkeep it is a break even.

Councilmember Casey Olson said bringing in houses to make money is not an option. It does not make you anything. He said consider two small houses versus one big house. With two small three bedroom houses will hold four to five people to live in. When you have two of them on the same lot as one big house, now you have to have infrastructure for 10 people and you are still basically only getting the same property taxes as one big house for five people.

Mr. Bill Simpson said the City of Montgomery has no amenities for its residents. He said there is the park but that is for little kids. If he wants to take his grandkids to a park to play baseball there is no place to take them. They need a city park but he knows it is not in the budget. He said his main concerns are the city services and amenities for the citizens of Montgomery. Someone added a lot of small cities use their high school's athletic fields.

Councilmember Casey Olson said when you start dealing with MISD the liability they would have to sign up for would eat them for lunch and added their school district is not easy to deal with.

Mr. Wade Nelson said regarding the one development he and Mr. McCorquodale discussed on SH 105 and Westway, that developer in particular was talking about the City at one time had a plan to connect streets with trails and that developer has said they were willing to contribute towards that and that becomes a public area from SH 105 to Lone Star Parkway.

Councilmember Sara Countryman said almost like Walden.

Mr. Wade Nelson said in a way yes.

Councilmember Sara Countryman said it is like a greenbelt and Red-Bird has a greenbelt.

Mr. Wade Nelson said those are the people you encourage. They are building higher end homes. His point is getting with those developers, teaming up with them and telling them what you would like to see. These are the people you can give variances to. They want to encourage the higher end product because those guys have discretionary income that will spend money in town.

Mr. Larry Jacobs said Mr. Martin Simonton was a visionary for Town Creek and he got the County to pave a walkway underneath the bridge at Lone Star Parkway and connect it into a trail system. He said that is part of the trend the developer started.

Mr. Wade Nelson said The Woodlands just got one approved for another six miles and it is paid for by the State. He said they are contributing the land but are not paying for it and it does create an amenity for the community.

Councilmember Cheryl Fox said it is like a utility easement that is actually a greenbelt.

Mr. Larry Jacobs said there was a show he was watching last night where in New York City there was an abandoned overhead railroad through downtown New York and they passed a \$50 million bond issued to tear it down and turn it into an overhead walkway.

Mr. Wade Nelson asked if the City has ever explored bonds.

Mayor Byron Sanford said they talked about it. The County was supposed to have done that to help the entire County, but yes bonds are a possibility.

Mayor Byron Sanford said right now they chose to go low interest, staying fiscally sound, and being conservative in every way they possibly can hoping for the better economy and how November goes.

Mr. Wade Nelson said none of it gets done unless you work with the private owners.

Mayor Byron Sanford asked Mr. Palmer if he had anything he wants to speak to and then he wants to get to next steps.

Mr. Palmer said he presented the planning commission and spoke to individual councilmembers about this. He said in coming out of the strategic planning process over the summer with council, the priority was to do a rezoning codification of small area master plans and future land use map and planning. He said they packaged everything into a request for qualifications from all five firms and received two. He said one was called Master Plan out of Texas, but they needed someone who was geared more toward doing recodification and zoning overhauls. He said Mr. Bret Keast is the qualification package you have with you. They encourage the most qualified respondent items and they are going to be negotiating the scope of work to bring to the council within the next couple of weeks. He encouraged council to read through it and read some of the projects they have done and review their strategy. He said it really falls in line with what they are thinking they need to do and thinks this is going to be a great project for them but the problem is going to be it will take a lot of time and energy from everyone because you will be involved in this process.

Mr. Palmer said this is going to be about building relationships with everyone within the town with large property owners. He said yes, they own the property and the government regulates but you have to have that nexus between the two in order to get a good development in there. You can plan all day long but if the property owner is not willing to work with you then it is a lost cause. He said they need to repair those relationships.

Mr. Palmer said his thought is the zoning ordinance recodification overhaul is their number one priority right now. If council does not feel that way he would like to hear that and if they think that doing some small area master planning is more important or some other element of planning is more important he would like to know before he talks with Kendig Keast.

Mr. Simpson said they need to have ordinances before all that comes in.

Councilmember Casey Olson said the rezoning ordinance will give everyone that guide to make it easier for people to business with them because here is the book, follow the rules, move on.

Mr. Simpson said when someone goes to the City for a permit and somehow if their piece of property is within the Historical District, a red flag needs to come up so they know they need to get handed this piece of paper also. He said that is some of the problem that happened with Mr. Cox's property.

Mayor Byron Sanford said to clarify when they met as council they did all the different strategies for the year and every one of them had that in their top listing.

Mr. Palmer said regarding small area master plans is going to be contingent on how much they have for budget. He thinks for this fiscal year they focus on recodification which is going to be at least a six to 12 month process. This does not mean they have to sit back and let all this development come in while they are working on this. There are ways they can come up with an interim ordinance while they are working on certain things.

Mr. Palmer said Tom brought up the street and lot widths and how do they keep people from coming in and requesting that. You cannot keep someone from requesting a variance, but you can create your subdivision in a fashion where it is predictable, they can find it, and know what the expectations are. He thinks that is a big problem they have. The Planning Commission does not know what the expectations are and the people that are applying do not know what the expectations are because the ordinances are all over the place. One of the things they are proposing is a unified development code which basically has everything in one place within the ordinance. From a developers perspective or someone applying, it is all one place. You do not have to go searching in the ordinance to see if you are in violation of something.

Mr. Tom Czulewicz said one of the problems currently is that you have the whole zoning section but then for the Historic District it is called a guide and that means there is a lot of flexibility. It should be coded.

Mr. Bill Simpson said he thinks the Historic District needs to have something like a guide because the properties of these owners were not built to any code to begin with so if you put it in with the other stuff you are assuming they started at the same place and that is not the case. He said you need to have some flexibility and encouragement for anyone willing to take one of these buildings on if you want Montgomery to keep the small amount of historic buildings it has.

Councilmember Sara Countryman asked would you buy a building and not update your electricity to code today if you were moving walls. Mr. Simpson said not necessarily.

Councilmember Casey Olson said New Orleans is a huge city with a huge historic district. He said his brother-in-law has been a developer there for many years and made millions. When they buy old homes they have to bring them to code.

Mayor Byron Sanford said one of the things they are doing right now talking about codes and aesthetics is the tax increment investment zone. Everything they are talking about goes through that and it is certainly a priority and takes care of these issues.

Mr. Palmer said the way this process works is once they get a contract, they will put together a steering committee consisting of 15-20 people who will be steering this entire process. They are going to have a community engagement component where this firm will come in and work with city staff, go out and meet with HOA's, and have meetings here inviting the community to receive their input. They will probably do a charette process. It is like modeling where you take it downtown and is actually very elementary where you have little Lego buildings and you can get people together and try and come up with some ideas on how you can address some of these downtown issues.

Mr. Palmer said he agrees with Larry on the big issue they have is with TxDOT. Councilmember Sara Countryman asked if they have a date for that because this has come up this past week by two people for the FM 149 expansion for TxDOT. Mr. Palmer said he does not have a date.

They will have several community meetings engaging with City Council, engaging with the Planning Commission, engaging with the EDC and they will do all this with this firm. They are going to be working on drafting these ordinances over this 12 month period and coming back and proposing these through our process through the Planning Commission, the Steering Committee, and eventually Council to adopt. The end product is going to be the Planning Commission will be proud to sit there and very clearly say these are our guidelines and standards. He said if you look at Dayton and Dickenson and some of the projects they have done, look at some of those codes and you will see what the end product will look like.



Mr. Palmer said they are going to have a code that will be enforceable and that represents the desires of the City at this time and it is going to help them regulate and capture these properties that they have just not been able to regulate. Once they do this they can move to the master plans and work with folks like Larry, Tom, Chris, and Phillip and start working with them to master plan those properties. They can get to a point where they develop plans like Wade was saying and incentivize people to come in. The incentive is if the developer builds to these specs, they will send them right through the process and give them all kinds of incentives to do that.

Councilmember Casey Olson asked Mr. Palmer if the recodification is not just codes but is also creating different types of zoning.

Mr. Palmer responded yes; they are going to come up with several districts.

Councilmember Casey Olson said there is a line, basically Buffalo Springs Road where there are the large box stores. Council had come to a consensus of drawing a line in the sand and basically saying no big box stores past this line to the west and keep the big box stores to the east. If they make them mad enough they will go ahead and build anyhow and then the City is out the tax money. He said if they can set it up where they are welcome to come to an area, we can guide them where we want them. They can set up the rest of the area downtown for those niches, the small boutiques, and the mom and pop restaurants. He said the goal of this recodification is for them to be able to direct with their zoning. That is where they can draw the line and use Buffalo Springs Drive or somewhere in between depending on the acreage.

Councilmember Casey Olson said another problem is they do not know where the loop wants to come in and the County is all over the place as far as where they want to put it. Right now, there are so many variables they do not know, especially with the other loop that will be huge.

Mr. Palmer said with this process, if you look at the samples of the work they have done it will not only have the elements of the code in there but will have illustrations in which they have to build to such as setbacks, landscaping, building design, orientation building so when you have a project from the Planning Commission it will be very simple.

Mr. Bill Simpson asked how long does something like this take.

Mr. Palmer responded a year.

Mr. Palmer said you will read in the proposal it talks a little about interim ordinances. He said if they come up with what they want to have in a certain area and have the ordinance ready to go, they can adopt the ordinance that is going to cover them.

Councilmember Cheryl Fox asked what is the cost for this.

Mr. Palmer responded the contract is on hold, but they are looking at \$120,000-\$150,000 and they have \$120,000 in the budget for that.

Mr. Palmer said if this is going to span a couple fiscal years it is something they will have to consider. They have \$120,000 this fiscal year so they are good. He said that is going to be a recodification, the master plan piece and is probably going to be a little more, but he is going to try and see if he can negotiate the future land plan as part of recodification because there are two things it protects. It protects the zoning ordinance and the future land use plan and those are two key things they need to have in place.

Councilmember Casey Olson said one of the things they have to make sure they consider when they start drawing the line is to look at what they have in place and some of that is just bare

land. They would have to look at where they attach and where the roads would come in, what road is there where they can tie in to, and how much money is it going to cost to update.

Mayor Byron Sanford said the railroad is ending up being a blessing because the engineers say that the right-of-way railroad ties everything up along TxDOT passage through is negotiating the railroad over, under and through everything so it may be a blessing to hold the line so the City can catch up because there are three or four proposals of how to zigzag through or go straight through on the south end.

Mayor Byron Sanford said he made a good relationship with the Library Club and Mr. Tom Hoyt. The county development, the library and Memory Park is also supported by the Lions Club and is a big attraction. He talked to areas of attraction that are solid which are Fernland and the library and he promised Tom he would follow through with his promise.

Mayor Byron Sanford said they have already approved Wayfinding Signs and already have design and redesign ready or almost ready. He is saying to staff he really wants to see that come to the front. They have maybe three signs they talked about that is an update from the cheap ones TxDOT put in and there is a welcome to Montgomery sign that he thinks might be cost prohibited, but this is an EDC thing also and believes a large part if not all comes out of the EDC budget. He added as a priority next step, leaving the EDC as he is, he would like EDC to please move that up the priority ladder. He believes they have the money to do it, they have already approved it so let us get the Library and Fernland and whatever else they want to add, and put that first one that comes in. He added if there is money for the welcome to Montgomery sign that is great, but he sees Fernland and the library as something he promised.

For three consecutive years Fernland is the leading tourist attraction and the library is very close to that. The thing about the library is you would be surprised at how much they reach the school.

Councilmember Cheryl Fox said regarding the signage Mayor Byron Sanford is talking about, she knows they will never be a Highland Park like there is in Dallas but if you have that really nice signage and also have landscaping when you leave the City limits of Conroe you know you are coming into Montgomery because of landscaping. She added that also applies to FM 149 and going out west. She said that is very important to her and she has lived here for a very long time.

Mayor Byron Sanford said they did make the Texas flag prominent and it is a big upgrade from what you see especially from Conroe. He thinks they have done a good job of getting in front of the eastern traffic and the welcome Montgomery sign is going to be a much better thing. He said if they can afford both he would support that if not, at least get Fernland and the library done.

Mr. Wade Nelson said regarding what councilmember Cheryl Fox said it is creating a gateway. He said Lone Star and SH 105 west and east and FM 149 south and north which are true gateways.

Councilmember Sara Countryman said she has gone through the code drafting experience of the last three years this company has done and they work with 39 cities in the State of Texas. She said she knows there are some of them on the list that are small in the sense their population is around ours. She asked Mr. Palmer if they look here or do they look at the bigger ones because they would be growing into bigger.

Mr. Palmer said he would look at all of them. He thinks what he is going to do is have Mr. Keast come in and do a workshop and have him present so everyone can ask their questions. He said he would not go back more than a few years, but the end product is going to be the same. He

said obviously it depends on the scope of work as well and how much money those cities had to put in.

Mr. Palmer said he is glad councilmember Cheryl Fox brought up the gateway districts because that is also part to this.

Mr. Wade Nelson said that goes through teaming up with TxDOT and doing it now and not waiting.

Mr. Palmer said TxDOT will be coming in next week for the Traffic Advisory Committee.

Mr. Wade Nelson said instead of doing concrete medians with pavers you can get landscaping with trees and lighting all the way through SH 105 and all the way through town.

Mayor Byron Sanford said as far as next steps, he thinks there is a good foundation here and the tri-lateral meeting is a good foundation that goes right into the tours. He said they do realize it is a one to two year, very important thing they do project the population to 5,000 within three to five years and still thinks that cap is around 10,000 as projected so they can expect to be a city the size of Dayton possibly someday, you have Magnolia on the south which issued their fourth moratorium on permits and they are ahead of that game by leaps and bounds. He said he has a friend in Dayton who is the City Manager and all the decisions they made that were not fiscally prudent got themselves upside down.

Mayor Byron Sanford stated they are very blessed to have the council they have and the staff they have willing to work together toward a common goal. He thinks they are going in the right direction and have the foundation for that. It is a massive thing when they started the process of looking for a City Administrator. They had to go all the way to Georgia and have a marine help them because this is a very tough job and they now have a proactive leader who is not afraid to make the tough decisions.

Mayor Byron Sanford said staff needs help. Staff is getting overwhelmed and get stretched in so many directions so please help them to control the narrative and keep the noise down by simply saying here are the facts and here is what we are facing which is not any different than 99 percent of all the other conservative cities because they are flocking here with a set of expectations from Arizona and California. He said the demographics since the time he moved here three years ago has massively changed.

Councilmember Sara Countryman said having solid ordinances and laws and backbone will stand up a lot.

Mayor Byron Sanford said it helps and gives them the backbone and foundation to go forward and make decisions and if they do it that way it does take some of the grind off of the staff. They are trying to go that direction and if they do that with all three arms of this City he thinks they are going to be in good shape going forward.

Councilmember Sara Countryman said Ms. Shannon Reid brought up a good idea and Mr. John Fox too regarding the lights on SH 105. She asked if TxDOT is putting any lights out there.

Mr. Palmer said he has no idea but they can ask them.

Ms. Shannan Reid said when turning into Chick-Fil-A and Mod Pizza on that stretch of SH 105 when it gets dark there are no street lights there.

Mr. McCorquodale said that may be an Entergy or electric company thing.

Mayor Byron Sanford said he and councilmember Stan Donald are two of the blessed people in this city because they are the only ones under MidSouth. For three years and the ice storm and every little thing that happens, their lights do not go out. His point is he wants to see the City do whatever it can when Entergy comes in. Entergy goes all the way to Louisiana and have massively come all the way across the north side competing with NRG in Houston. Entergy has overreached their infrastructures. He said he spoke with MidSouth about this and they cannot do anything about it. He asked can they not chose at least who their utilities are with.

Councilmember Casey Olson said of all the research he has done on this; the State is signing monopoly agreements with the energy companies. If you are in the Houston area where it is deregulated, any little mom and pop can open up and sale energy based off the rates. He said who they have up here they have a monopoly agreement.

Mayor Byron Sanford asked for how long. Councilmember Casey Olson replied it is open ended as far as he knows.

**ADJOURNMENT at 11:30 A.M.**

Submitted by: \_\_\_\_\_  
Diana Titus, Deputy City Secretary

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

Reviewed by:  
Nici Browe, TRMC, City Secretary

\_\_\_\_\_  
Casey Olson, Mayor Pro Tem

**City Council Regular Meeting  
MINUTES  
June 25, 2024 at 6:00 PM**

**CALL TO ORDER:**

Mayor Sara Countryman called the meeting to order at 6:01 p.m.

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

Also Present:	Gary Palmer	City Administrator
	Dave McCorquodale	Director of Planning & Development
	Maryann Carl	Finance Director
	James Greene	City Secretary
	Alan Petrov	City Attorney
	Anthony Solomon	Chief of Police
	Kimberly Duckett	Court Administrator
	Mike Muckleroy	Director of Public Works
	Chris Roznovsky	WGA Consulting Engineers
	Katherine Vu	WGA Consulting Engineers
	Rick Hanna	Building Code Compliance Inspections
	Daniel Gilliham	Tri-Point Homes Developer
	Jonathan White	L2 Engineering
	Tiana Smith	Waste Management
	Jeff Warner	Enterprise Fleet Management
	Phillip Wright	Hays Utility

**INVOCATION:**

CM Donaldson gave the invocation.

**PLEDGE OF ALLEGIANCE TO FLAGS:**

Pledges to the American and Texas Flag were conducted.

**VISITOR/CITIZENS FORUM:**

No Speakers.

**CONSENT AGENDA:**

1. City Council Workshop Minutes – 6/10/24
2. First Regular City Council Meeting Minutes – 6/11/24

3. Consideration and possible action regarding an Escrow Agreement by and between the City of Montgomery, Texas and Dave Carter – NDC Holdings, LP, for a proposed Firestone Complete Auto Care on Restricted Reserve B of McCoy's Montgomery Plat (Dev. No. 2410).

Mayor Countryman: Okay, all right then. We'll move on to the consent agenda. Item number one on your agenda city council Workshop minutes 6/10/24. Item number two first regular city council meeting minutes 6/11/24. Item number three consideration and possible action regarding an escrow agreement by and between the City of Montgomery, Texas and Dave Carter - NDC Holdings, LP for proposed Firestone Complete auto care on restricted Reserve B of McCoy's Montgomery plat, development number 2410. Council, would you like to take these individually or cumulatively?

CM Donaldson: All together.

CM Fox: I agree.

Mayor Countryman: All right, I would entertain a motion then.

CM Donaldson made a motion to accept consent agenda items 1 through 3 and the motion was seconded by CM Fox with all CM's voting AYE, motion Carried.

#### **CONSIDERATION AND POSSIBLE ACTION:**

4. Preliminary review and discussion of a proposed 75-acre single family residential development along Lone Star Bend.

Mayor Countryman: Consideration and possible action. Item number four. Preliminary review and discussion of a proposed 75-acre single-family residential development along Lone Star Bend.

Roznovsky: Everyone, if you look in your packet page 49, you'll see a location map. So this is at the end of the Mia Lago subdivision. Access is proposed off of Lonestar bend so its not part of Mia Lago Subdivision. If you look at the other items in your packet you will see a letter from the engineer that's working on the project as well as a preliminary site plan going on page one of your packet. The purpose of this is they were gauging feedback from the engineers. Here tonight you have any specific questions for him but the main thing they're considering is where and how to water sewer service. So currently the property is not in the City of Montgomery ETJ, it is in City of Conro ETJ. In the last legislative sessions the legislature pass a process for a developer land owner to request an expedited release from an ETJ that meet certain criteria. So, the developer is contemplating doing that. Going to city of Conroe and requesting release and annex from the City of Montgomery to provide service, or remaining in the Conroe ETJ and look at a neighboring MUD or doing their own MUD in which case the City would not be involved. Again purpose tonight is to provide additional feedback so what they're showing um starting on page 50 of their memo. They have about uh where did they go 75 uh Acres about 55 Lots being larger 3/4 AC Lots the estimated value per home of 550 to 750 bringing a total valuation of about 36 million if the city was to provide service. And then you can see on the map um on page 51 the preliminary layout the access to Lonestar Bend, and that all these Lots back up to the existing kind of drainage canal now that's backed up to Conroe. based preliminary discussions with the developer they have talked to the river authority and they will be able to directly hop on to the

canal. The river authority considers that part of Lake so they wouldn't be contingent on their cycle so that's why you don't see any detention ponds. So the process with me is one, ask questions of the developer decide if you're interested or not action item is discussion to give some guidance so they know they should go and pursue which route and then it would go through the normal City process. They'll have to do escrow agreement, feasibility study, development agreement for the annexation, and connections and their capacities Etc.

CM Langley: It's all outside the city limits?

Roznovsky: There is a small sliver right where it connects at Lonestar Bend and part of that first lot is the City Limits.

White: The developer couldn't be here tonight, I apologize. It was a last minute family matter. I'm here to answer questions if you have any engineering or development questions. The developer is his own builder. DH homes. They have done some homes in the area some in the city as well. Chris mentioned there a higher price point. They are 3/4 acre lots. I know Chris mentioned sewer service. It's likely we would just do water. Sewer would be on the table they would just kind of figure out onsite septic, or gravity collection sewer facility would be better for them. Either way they're going to stick the 3/4 acre lots. They are going, I know there is a floodplain on here, there is a lot of drainage improvements have been made over the years in the flood plain that might be worth fully studying and updated. They are proceeding for us to go ahead and delineate flood plain boundaries. Happy to answer any questions.

Mayor Countryman: The Ingress and egress is one spot? They're not going to be able to go in and out of Mia Lago Drive? Is that right?

Gilliam: Correct. Mia Lago is a private development and they them no connection. Regarding the access we have, we have coordinated with the Fire Marshall, who said if you have anything over 30 Lots requires two means of ingress and egress, but of course we only have one, and its kind of our only option. We coordinated with the Fire Marshalls office, they are allowing us to do this Boulevard entry which is on the bottom right hand instead of the site plan that's in front of you. They just require two 20-foot lanes with that median and then as long as all the internal streets are 28-foot road already then they would have no problem.

Mayor Pro Tem Olson: Just to be clear, if we were to bring them into City Limits they would fall under all of our codes right? For inspection by our Engineers, for water, sewer, everything, right? Not that they're aware? Okay.

Gilliam: And there's nothing here that we're seeking any variances for. The only thing I could think to double check is maybe the radius on our roadway.

CM Donaldson: So, the canal what's, does it have a name? Who built that Canal, what's it for?

Gilliam: I believe it was the original developer of Mia Lago, their intent ultimately was probably to do some type of Lake access to do some kind of boat ramp or dock on the very east side. But does considered this to be part of the lakes the canal was dug, dredged to go directly in closer to the Walden bridge, but this is considered to be a part of the lake.

CM Donaldson: Does it have any erosion problems? This canal?

Gilliham: Not that I know of but SJRA is very particular on that, so I had a conversation with him earlier this week. During construction they would focus on it a lot they had very little enforcement, part of their governmental authority, but they're pretty quick to call TCEQ on you if you they are telling you that you're not don't have property and are control devices in place and then you're not you know trying to fix any issues they bring out um they just told them any type of construction preconstruction meeting make sure that we understand what their expectation expectations are requirements are, and then we have to submit our outfall details to SJRA and any of our BBs and Rion control devices we and those are them as well so they would actually have the opportunity to review and improve our connections to their Lake.

CM Donaldson: So, you're not planning to use this canal as a access to the lake?

Gilliham: They would eventually. I think there's going to be, not for individual lot owners. There would be like a community ramp.

Mayor Countryman: It says a property, yeah boat ramp on the bottom left-hand corner.

Mayor Prot Tem Olson: right hand quarter.

Mayor Countryman: Yeah.

Gilliham: The preference is, the City of Montgomery, the alternatives, Chris may have mentioned, you know potentially going to the east, um both require the processes for feasibility studies definitely prefer to do one rather than the other.

Mayor Pro Tem: The preliminary plan looks good to me.

Mayor Countryman: Um I see ISD has got 87 Acres south of there and that's not, is that in Conroe's ETJ as well?

Gilliham: That's the school.

Mayor Pro Tem Olson: Stuart Creek.

Mayor Countryman: No, it's the Junior High.

Mayor Pro Tem Olson: They are right next to each other.

Mayor Countryman: Yeah, they are right next to each other

Roznovsky: Okay, no action, but I think I got it, but to gauge the interest. No major objections and as far as you all see at this point, to go through the normal process and reevaluate.

Mayor Pro Tem Olson: Yeah.

Roznovsky: Okay

##### 5. Discussion regarding Development Agreement with Tri Pointe Homes



Mayor Countryman: Item number five on your agenda, discussion regarding development agreement with TriPoint homes.

Roznovsky: All right so last this a discussion item so you remember back in April/May we presented the feasibility study for the which is the tracks middle City in front of you have a we want the developer requested a development agreement and forward with that uh so we want to talk about just the general terms of development get your thoughts any major objections to that first that comes out is generally in line with what the city is thinking so in your memo on page 52 kind of Hit the main eight points of the agreement most are relatively straightforward with just a couple variations as we go down so uh one is you know as we talked about the feasibility study they would extend a 12in water line of along Lonestar Parkway uh to past their electric boundary in order to connect uh to service so this agreement would have in there that they would put that in at their cost and that that would be subject to credit for their request for that item two on here is oversizing of the water line through the development so one thing that has changed since the feasibility study was really related to the roadway as well so when you look at the exhibit the second one in front of the proposed right of way collector through the street after couple discuss so main concerns obviously from the development standpoint is having a collector Road through the development and having on it is so what they have proposed on this land plan is that there's no front on the collector so they would essentially dedicate the Right of Way and construct half of it from 105 to the Carlyle property and then you see the dash line for the future extension of that row.

Mayor Pro Tem Olson: So that's right by Napa?

Roznovsky: Correct. So, this would rebuild the road next to Napa make it a full 36 foot wide Concrete Street realign it within their property and the existing right of way that makes more sense and then extend that northwards um through the development and then at this time they would stub it out at that Northern boundary and then the future r Contin that dash line.

Mayor Pro Tem Olson: That Creek that runs through there, what is that? Which Creek is that?

Roznovsky: That is a tributary.

Mayor Countryman: So, I'm confused. Real quick so last time we were at Council all of us that major thoroughfare plan there's no date and time for that to ever be addressed and so we all were kind of like we're not going to pay attention much to that and move forward. So are these dots up here on page two is that the major thoroughfare plans we're still putting it in...

Roznovsky: This is. So, the packet I gave you there's the first page of that is going to tie in the water between Lonestar parkway, this property, the tri point agreement and the Stowe tract, how all those tie together based on their current land. So, the third page in your packet is a revised Land from the Stowe property which dedicates (inaudible) which leads to a couple of the shops to continue (inaudible).

CM Donaldson: This little street right here, is that going to tie into Lonestar?

Roznovsky: so that will be their access for the regular homes in the neighborhood is that and Lonestar Parkway and then they would come off of the future West Way Drive on the southern portion.

CM Donaldson: So, they'll have two entrances?

Roznovsky: Correct they would have an entrance off of 105 and Lonestar parkway.

Mayor Pro Tem: There's the lot sizes.

Roznovsky: The lot sizes?

Mayor Pro Tem Olson: 65 by 110 and 120s?

Roznovsky: On this on this project is 90 by 125, so these are the larger Lots on the Stowe property.

Mayor Countryman: Do they plan on having a gate?

Roznovsky: No.

Mayor Countryman: I thought originally there was going to be Gates. Okay.

Mayor Countryman: So, it's not going to be gated?

Roznovsky: No.

Mayor Countryman: So, is it odd that we do the thoroughfare plan on the North side but not the south side, and it's having them do it instead of the county?

Roznovsky: What do you mean?

Mayor Countryman: So, the thoroughfare plan that's doesn't have a date like we would use their Road the county would use their road if it if that ever came to fruition 50 years from now

Roznovsky: Yeah, I mean it's a you know the thoroughfare plan was put in conjunction so the city had the plans we did a couple years ago with the precincts uh the County's update that was done back in 21, I believe it was that took into consideration that thoroughfare plan plus the communication between the two as we I so yes you know those connectors further south 105 onto the Stowe Tract.

Mayor Countryman: But there's no date. I guess I'm just confused why we're still talking about it because we all were like oh, we don't need to worry about it um because it's not ever on it's not on any road map at all at the county.

Roznovsky: I mean it's on the county's map, and...

Mayor Countryman: Without a date.

Roznovsky: But trying to get you know established the way, in the chunks as we can, to be able to connect that in the future um versus you know and having partnering developers to do that and putting in these sections of road so it makes sense versus one kind of County City going in

trying to acquire all the right of way and build the road at one spot versus it's more manageable chunks who breaking down to half mile chunk is a much more manageable full couple mile length or couple mile route.

Mayor Pro Tem Olson: So, would that be coming from the county then to build that bigger road?

Mayor Countryman: So, this the county is the one that's responsible for this but now the developer going to be responsible for it?

Mayor Pro Tem Olson: Well, that's what I'm trying to understand. Are you going to get any kind of reimbursement from the county for that wider Road?

Roznovsky: Hasn't been discussed at this point.

White: At this point in the annex, it would be the city.

Roznovsky: If its in the city, without part of this agreement it would be a city road. That's part of the agreement is the county's involvement, their discussion on this road. That's part of the wishes of the city to get County to take this this road.

Mayor Countryman: we can't get Lonestar Parkway out of it. I don't want to have to get in another match with them on that. I'd like it to be determined up front, because trying to give something.

Roznovsky: Oh yeah no I'm not saying after fact I'm saying part of this is that discussion is part of it with this development.

Mayor Countryman: Yeah. I know commissioner Walker said he doesn't care don't take it into consideration is what he told me. Y'all do what you need to do, so.

CM Donaldson: are these streets going to be curbed and guttered?

Roznovsky: Yes.

CM Donaldson: They will?

Roznovsky: Yes.

CM Donaldson: Where's the major runoff going to be? Towards town creek?

Roznovsky: Yeah. So, all has to be designed the extreme event would run toward Town Creek through their detention Pond on the east side of their property.

CM Donaldson: I know you think it's a silly question, but you know where I live the water builds up like 40 ft from where it's supposed to go in the sewer. I don't want to see that happen again so, you know.

Roznovsky: So again, if the council's wish is to ignore the thoroughfare plan, and we could that can be revised um and they would likely go back to more of their original rain plan which is in

your packet on page 64, this is their original land plan they had it as a slightly larger right of way West but more front that it wouldn't be...

CM Langley: What page are you on?

Roznovsky: I am on page 64 I believe, is their original...

Mayor Countryman: Yeah.

CM Donaldson: It's a project.

Mayor Countryman: I just don't want to have to try to go negotiate with the county and who's going to own what after cuz it's not worked out and may have the developer pay for something that they think they might want at some point.

Roznovsky: If that is the Council wish then we can take that out.

Mayor Pro Tem Olson: Well, it wouldn't hurt to ask the county what they want to do.

Mayor Countryman: He didn't talk to he didn't care he's like we don't we're not doing that anytime soon okay he's like I don't really care what you do with it.

Mayor Pro Tem Olson: All right.

Mayor Countryman: Well, and he doesn't have this on any road map and then TxDOT doesn't have it on any road map for them to even come in so, I don't know what year of Our Lord any of that would take place.

Roznovsky: Uh, one, to go back to the list of other items. So oversizing the waterline through the development so we have a 12 in that connects to close that waterline Loop uh it would be worded a little bit differently than item number two here uh this would be the full length uh and there would be an oversight in the chair for your that you have um item three is the lift station in gravity sewer regravels force main that was discussed in the feasibility study uh what the developer's request there is on a cost sharing of that as you remind they're only using 30% of that capacity but we all relocating at end uh that Lo station is in need shape so they've requested kind of two potential options that I want to get feedback on. You know obviously not a decision but at least the first draft is a 50/50 cost split up front so well they'll put up 50% City puts up 50% of the cost up-front cost of the project uh they would also entertain a kind of a long-term payback at a higher percent so say using numbers 70% payback over a 5-year period versus a 50/50.

Mayor Pro Tem Olson: What's the estimated cost of it?

Roznovsky: About 1.2 million I believe? So it's not a cheap project. It's a significant lift station reroute lines and all that so it's not so there's definitely and it serves a lot of the city outside of this develop so I think that some type of cost sharing would be beneficial I think that a larger payback...

Mayor Pro Tem Olson: Which lift station is that again?

Roznovsky: Lift station number five. So, this is currently the one that if you go at Napa it's down in the bottom so this would relocate that lift station to on Westway Drive go further north uh to get it out of the creek out of a way from the Right of Way reroute the lines to it and then have a accessible right now access to that Lift station.

Mayor Countryman: So, we would need to pay 70% back of 1.2 million in 5 years? Is that what you're saying?

Roznovsky: That's the cost sharing.

Mayor Countryman: That's what we're saying.

Roznovsky: We'll put together kind of the cash flow I think that makes sense attorney a in front all developer but the general concept.

Mayor Countryman: Okay. And these roads what are how wide are these roads are they...

Roznovsky: 28 feet.

Mayor Countryman: Okay. There's been big discussions about...

Roznovsky: We are proposing asphalt open ditch.

Mayor Pro Tem Olson: No sidewalks?

Gilliam: We're still considering the two we could probably afford asphalt based off the larger lot go to 90 we see benefits also of going curb and gutter.

Mayor Countryman: There's just been big discussions about emergency vehicles making that turn we've got new neighborhoods in here and um it's been...

Mayor Pro Tem Olson: Well, that's a large neighborhood. It takes over a large chunk of area with no sidewalks.

Roznovsky: and then the last couple items are straightforward. One, the city will Annex the rest of the property there is a sliver that's out um impact fees would be paid at the time of platting which is what we all the development agreements City consent, so they are still evaluating the option of do an existing in City mud between River or to Creek or the other muds the city or creating their own that hasn't been decided but just the general concept of consenting to that creation are and at this point I don't make just more of a not there are no requested variances this time

Mayor Countryman: Got a question Chris. On number one the 12 in waterline uh developer deposit funds into the city to design and construct um and then City provide impact fee credit do we know what that Delta would be roughly? I mean, are we given a \$2 million credit or we are we giving a \$200,000 credit?

Roznovsky: So, the at the time of this study their impact fees were assumed at 153,000 uh that offsite water line was estimated 400,000 so they would be capped at the maximum amount of the

so you're not if you collect 153-175 depending on the timing that they would get up to that amount back.

Mayor Countryman: Okay.

White: Just water or?

Roznovsky: That's just water. So let me kind of just from the discussion we had just kind of clarify a few items. So, one sounds like more in favor of the or at least the payback over time at a higher percentage exploring that option versus the cash up front.

Mayor Pro Tem Olson: I'd just like to see them both. To see what our actual cost output would be.

Roznovsky: We can do that. And then ignore the major thoroughfare plan. So, let them go back to their original concept that had the street through no thoroughfare through the property?

Mayor Pro Tem Olson: It appears if we ignore it, it can actually, they would actually have more Lots is that correct?

Mayor Countryman: Yes.

Mayor Pro Tem Olson: so that would actually work out in our benefit. I don't mind doing that.

Mayor Countryman: Yeah. I don't mind ignoring it either.

Roznovsky: Adds 6 lots.

Mayor Countryman: Yeah, that's good. Adds six lots.

Roznovsky: And then, just to circle back, to the sidewalks. That's something you want to see in the agreement or least say consideration of Trails sidewalks Etc.?

Mayor Countryman: Sure.

Mayor Pro Tem Olson: Like one sided sidewalks? One side of the street type sidewalks at least? So, there's access for people, some options?

Roznovsky: So, this is similar to what did Rayburn, is part of their development agreement when they created at the trails and the share use path along Old Road we can work with the developer and their engineer to kind of come up a couple scenarios to put some type of Trail Greenway.

Mayor Pro Tem Olson: I just don't want to see people walking around on the streets cars all over it's like I said it's a big neighborhood so it's not like. They're going to walk in the neighborhood.

White: We will consider. You're right you would. We like to do sidewalks when it's not required. With larger lots it's challenging to do consistent parallel so a lot of times our architects will come up with a sidewalk plan. We'll have interconnection, we will have walk along our detention area prebuild, so we'll have an overall comprehensive one we take sidewalk through certain lots to add that connectivity.

Mayor Pro Tem Olson: Absolutely right.

Mayor Countryman: I think you got it. All right thank you.

CM Langley: How many Lots was it again?

Roznovsky: 136

Mayor Countryman: Six more if you take out the thoroughfare plan. Can you stand up just for the audience, to the podium?

Gilliam: We have 175 without the thoroughfare plan.

Mayor Pro Tem Olson: What was the price point of these homes?

Gilliam: probably average around 700.

6. Consideration and possible action regarding award and execution of construction contract for the Water Plant No. 2 Improvements project.

Mayor Countryman: All right. Item number six on your agenda consideration of possible action regarding an award and execution of Construction contract for the water plant 2 improvements project Catherine evening so talking about the water plant number two improvements project. Katherine?

Vu: We receive bids for this project on May 16th uh the results of the bids are enclosed in packet so we are looking at page 79 of your packet or the results bids the low base bidder came in was sheer Construction Company Incorporated with their total base bid plus supplemental in the amount of 2,990,950.00 with 300 calendar days for completion. a couple things to note on this the supplemental BD item uh this is for the evaluation of the GST the ground storage tank Foundation whenever we demolish the ground storage tank we are going to evaluate the foundation and check the condition to see if it needs to be replaced at that time there's an amount in the bid that allows for that replacement if it's needed if the tank comes down and reevaluate the foundation and it is not needed the item will not be paid so this is kind of a worst case scenario.

Mayor Countryman: How much is backed out? Curious?

Vu: About 100,000. for the foundation if it's needed. uh so these bids came in higher than expected just to be perfectly plain they did come in higher than expected we evaluated the bids and the main driver of why they were high was the well that was the largest difference from our initial estimate um couple of things about our estimate we estimated that a the type of well that went in would be the same as what was existing at Water Well number two it was a submersible one piece well um and whenever we got into design let we the decision was made of going with a two-piece well with a vertical turbine motor which means the motor is up on top it's a lot easier to access you don't have to pull it all the way up from the ground to work on it you can maintain it right there and see it from the ground this is similar to what's at water plant three for those of who have been there and then the one piece versus two piece well the main difference is uh in how it's constructed so one piece well is constructed as it sounds all in one piece a two-piece

well is constructed as two separate pieces with an outer casing some gravel and then an inner casing is the construction method the advantage of doing a two-piece well is maintenance long term so a one piece well really cannot easily be reworked if you start to need kind of a rehab of your well so it shortens your lifespan since you can't go in and do that thorough rehab that you can do with a two-piece well you can rework a two-piece well and really extend that lifespan so that's a huge advantage of there is a cost difference it's a couple hundred thousand more to do a two-piece well but we see the advantage of doing that just because of the longevity and being able to do a rework on instead of having to abandon and drill an entirely new well again with one piece because the bids came in high um normally we are not waiting five to six weeks before we bring the bids to you but in the in that amount of time we have been hard work to try to get this price down for you so we called sheer about the low bid um as some others to see why did they bid or why didn't they bid what were the main drivers in their cost being higher than what we expected and trying to problem solve and how can we reduce that cost while still bringing a good product to the city uh like I mentioned the a couple of the reasons that the cost was higher was the well the motor type being vertical turban versus submersible in one versus two piece another reason that came up that sheer brought up was the type of casing the Tye that we originally spec was a little bit harder to find it not readily available right off the shelf and if we went with a different type of casing it would be easier for them to get quicker and it's a little bit easier to install so that's uh that is one modification it does not it's not going to impact performance of The Well it's not going to be as an inferior quality well by any means it wouldn't it wouldn't jeopardize the quality of the well.

Mayor Pro Tem Olson: What was the price difference on the piping?

Mayor Countryman: Couple hundred?

Vu: On the casing itself?

Mayor Countryman: Yeah.

Vu: A couple hundred thousand.

Mayor Pro Tem Olson: Just for materials? I meant um Trace material Trace material so just because we changed the type of the casing not the design what was the cost difference between what you designed and what they quoted us.

Vu: So whenever we reached out for them to them for a revised price we didn't get like kind of a breakdown here's what it is for the casing here's what it is for a one piece versus two piece it was presented it as one scope change to well and then they gave us the price that is listed in the change order which is your next counsel item.

Mayor Pro Tem Olson: Right. So, I guess my question lies in if we were to procure the other type of tubing and casing what would be the savings.

Vu: Like if the city were to procure the casing?

Mayor Pro Tem Olson: Anybody, if they were to be able to find it.

Roznovsky: So, what the change order is question the original bid included the was the threaded the flanged versus threaded so the thread which they're going to that's included in the contract



deduction so your next item is the change order the contract reduction 46,000 so that includes the casing or the different type of material as well as a couple other things.

Mayor Pro Tem Olson: So that's probably where your significant difference in budget is yes? Is in materials? So that's why I look at it and say why would I say a change order when we we designed it a certain way and we just have to ask them to get it.

Vu: it was it was materials was part of it was the casing also the method of construction that the flange installation versus a thread installation we were originally proposing flanged and they came back and suggest the threaded

Mayor Pro Tem Olson: And there's a based on the piping it's not completely broken out but half a million-dollar difference?

Vu: Correct 456,000.

Mayor Pro Tem Olson: that's significant when we could just ask them to go get what we want, right? That's a lot of money. Not saying that's what we have to do but it's just a question I want to I'm asking like why wouldn't we just ask them to get what we want?

Vu: To get what we had originally proposed

Mayor Pro Tem Olson: Yeah, it's a half million-dollar question.

Vu: Right, they were going to be able to do it just not for half million less they were going to be able to get the material uh it was just for a price.

Mayor Pro Tem Olson: But you said the two the threaded was more expensive than the material that you that you if they would go get.

Vu: Other way around other way around. The threaded is the is the less expensive option in the flange installation doesn't make any sense for your explanation then.

Roznovsky: So, we the bids on the flange, they bid on the flange, uh talking going through where do we have cost savings we talked to them about construction time that was one of the issues and working hours as well as material switching to thread versus the flange. So, the change order is a deduction for them to go from the flange to the threaded is a reduction of 456.

Mayor Pro Tem Olson: Okay. I was a little confused because I was asking what the difference was in the materials to go up down. Okay. I'm with you sorry. Understood.

Vu: So a couple of options that you'll have at this point is the first option and what we are recommending is to award the contract to Shear Construction um for their base Fit Plus supplemental as well as awarding the um the change order in your next item to reduce to change the scope of the project and reduce that contract amount the reason for this is It's a known contractor Shear is a known contract that they're subbing well to alce Incorporated which is a one of the big names in water well public water well drilling um wga necessarily has not worked with Shear but Chris and I have previously worked with Shear we had no objections um it's a known price so we know what the price is going to be we have it in a contract change order ready to sign um the second option that you have would be to rebid the project with this revised

scope doing the same changes that we just discussed um but going out for bids again this is a little bit riskier of an option um the risk being that prices could come in higher we don't have control over that we did talk to one other contractor that did not originally bid about this project to get their ideas on how could we maybe uh make some scope changes they are they would be interested in bidding if we did Reid but a guarantee that they'll bid and not a guarantee that their price will be better um with the price that you have uh thinking about funding and how this is going to be paid for you have room in the co alone for this project even with the with the revised price including engineering so there is sufficient room there we also part of this project is eligible to be paid for with impact fees so we have a balance of impact fees that is available as well as additional impact fees that we're expecting to come in this year.

Mayor Pro Tem Olson: All right we're using most those impact fees to redo that sewer location, aren't we?

Vu: Not necessarily.

Roznovsky: So, sewer relocation wouldn't be eligible because it's not upsizing.

Mayor Pro Tem Olson: Gotcha. So, the difference in cost is about \$25,000 increase over the planned budget right?

Vu: Where are you seeing that?

Mayor Pro Tem Olson: I'm just looking at your revised amount versus a budgeted amount.

CM Fox: What page are you on Casey?

Mayor Pro Tem Olson: So, if you look at page 80 is the original estimated budget a million 7 and then the change order with the project which is the next item down I'm skipping ahead is a million 7 225 so after all the adding them subtracted we're just asking for \$25,000 increase in the project?

Vu: No. I'm not sure where that number is. The estimated cost including engineering is that uh 2,679 450 that's according to the change order.

Mayor Countryman: You're looking at something different than I am.

Mayor Pro Tem Olson: That's because I'm putting both of those together so you can actually make sense of what they're trying to do.

Roznovsky: So, the on the change order if you're looking at page 83 the revised contract amount after the change 2 million 534 550

Vu: I see where you're seeing the 1 million 725 now that's just for that bid item see the only the way this chamber is is kind of walking you through it we're only looking at item number five from the bid form is the only item that's being modified with this change order the original price for that was 2 181 and with this change order it's being revised down to 1 million 725

Mayor Pro Tem Olson: so the bid the bided price was 2 million but your original estimated project cost was a million 7 I'm looking.

Vu: All in or for the whole project?

Mayor Pro Tem Olson: No not the whole project for that line item for water well number two.

Vu: For the well itself our estimate was a million dollars.

Mayor Pro Tem Olson: The water well number two plant improvements and then you put on your other project which is the same line-item number two plant improvements.

Vu: Water plant Number two improvements as project includes more than just the well it includes replacement of the GST.

Mayor Pro Tem Olson: I know the one-line item that includes the well is one it's fine just move on it's your map I'm just reading it it's right there line one number two water well improvements 1.7 budget go down to the change order water well number two 1.725. I understand that all, not all the changes are in that lineup item but I'm trying to understand the difference in the well itself right now.

Roznovsky: So, all the co projects so that first is that full plant project also the well those additional items underneath water number four are separate projects.

Mayor Pro Tem Olson: Right exactly. That's why I'm looking at one line item.

Roznovsky: So that one-line water plant number two improvements the original was 1.7 the revised project total cost was 2.6.

Mayor Pro Tem Olson: Revised project after when? After we got the bid?

Roznovsky: Correct.

Mayor Pro Tem Olson: Yeah so, our original budget was \$1.7 Million.

Roznovsky: Correct.

Mayor Pro Tem Olson: Our projected now after deductions and everything is 1.725.

Roznovsky: 2.67

Vu: The 1725 is only for the well which is a part of the entire project.

Mayor Countryman: This piece, this is everything, all encompassing.

CM Donaldson: That's it's \$2.5 million basically what the bid is.

Mayor Pro Tem Olson: Yes. Right.

CM Donaldson: That takes a big chunk out of our money that we had planned for two projects.

Mayor Countryman: I don't see the line items and how the other costs aren't in here, so I don't see the whole picture.

Mayor Countryman: No, I know. I saw that. That's, I've been looking too. And it stretches against two different agenda items so, get to go back and forth.

Vu: Casey, I'm very happy to talk with you.

Mayor Pro Tem Olson: Well, I don't need to talk about it I just want to see the line items broke out everywhere that we budgeted a certain amount I want to see what the increase was.

Mayor Countryman: where the details are.

Vu: I'm happy to send you our original cost estimate so you can see...

Roznovsky: And the detail so we only have the summary here, the tank foundation, site work, everything else.

Mayor Countryman: It's just, that \$1.7 million jump almost 2.7 million dollar jump right is a big it's a big dollar.

Vu: It is. It is. And we were we were shocked too yeah, we were just a surprised which is why we went through so much effort to try to reach out to the to the contractors who did bid as well as others to try to bring the cost down

CM Donaldson: Are we getting a bleach well?

Vu: This project does not include bleach, no.

Mayor Pro Tem Olson: Yeah, it's just it's uh it's rough to be off by over 30%.

CM Langley: Tell me the address of this water plant.

Vu: 905 Stewart Street.

CM Langley: Thank you.

CM Donaldson: You know the bond money was originally for the well and to start on um the uh wastewater treatment plant. Where we sit now we don't have any money much money left to do anything for the wastewater treatment plant so you're asking us to decide whether we need to go ahead with this well and I know we need to and we have the money in the bond of 3.4 million but what are we going to do with the other projects um I didn't know that we could um take that whole money and just spend it any way we wanted. Maryann?

Carl: It has to be used for projects similar in nature to what was proposed when that that issuance occurred it has to be similar in nature believe this is similar in.

Mayor Pro Tem Olson: Absolutely.

CM Donaldson: Right. No, I understand that. But the original bid was so when we got the money you didn't necessarily split it up and say this part of the pot is going to go for will number two and this part is going to go for, it's still right now just one pot right?

Carl: Right. We did we did give a projection of what we anticipated spending that for but and we talked about that before that there might be places that are over and places that are under and we'll have to look at that as a whole when we get to that point.

CM Donaldson: Well, you know I'm just trying to determine where we're going to get the rest of the money to finish the wastewater treatment plant that needs to come online pretty soon.

Carl: So when we put these projects into the loan and budgeted out the loan we intentionally did not take into account impact fees to be conservative when we were trying to figure out how much of how much of the loan we wanted to go after the reality is that we do have impact fees that we that can pay for both the waste water treatment plant engineering and the in hearing so it was conservatively put into the loan and when that loan was issued we didn't have to provide a list this is going to be used for these exact projects with this exact scope it was put in there water and sewer improvements we were able to keep it more General to give us a little bit more flexibility because we didn't know exactly how prices were going to come in when the loan sold when the Lo and we were a little bit rushed when we did that a lot of times when you do the debt issuance you have more time and so you can estimates ahead of time we got some kind of ballpark figures and went with that because we were kind of rushed on time to be able to get that issue in place so it is different than what you might be accustomed to see because there are times where you would have more firm numbers.

Mayor Countryman: So, are you anticipating this not to be a big pinch on any of our finances at all?

Mayor Pro Tem Olson: No, it's going to pinch.

Mayor Countryman: Oh, I know.

Carl: I can't say that it's not going to be a pinch. To Catherine's point, yes are impact fees we anticipate more impact fees coming we also anticipate having a workshop with Council about um Capital needs and how those are going to be addressed.

Mayor Countryman: It's hard to know where to pick if we're going to be in a pinch, it's hard to know where we're going to like to say yes to this and what if we need...

Mayor Pro Tem Olson: We kind of don't have much of a choice. We're going to step going to rocking hard spot but my question lies with the impact fees in the future we need to have a list of all Impact fees due and upcoming due so we know what we're not just oh we have impact fees and writing blank checks okay

Vu: Right and I have that put together so what is listed on this page on page 80 is expected additional impact fee payments 2024 in the amount of \$990,390 that are expected to come in this year with the developments that we have agreements with.

CM Fox: I'm not see repeat that please

Vu: Expected additional impact payments for 2024 is \$990,390 for this year now what that includes is Section 1 2 and 3 and Montgomery bend section three and four Redbird Meadows we're expecting their final plats to come in really any day um Montgomery bend the timing is a little bit more fluid.

Roznovsky: Currently we have an impact fee balance around 726,000.

Mayor Pro Tem Olson: Right. So, I guess we throw that word around a lot or that phrase oh use impact fees, so we need to account for every time we say we're going to use impact fees and keep track of it.

Mayor Pro Tem Olson: Yeah. So, what we're preparing for the CIP Workshop was talking about is full list of projects the full kind of projected impact fees out of these developments in their timelines you know there's a lot of developments that we didn't include in here because they're in the initial stages but we're putting that list together so you all can see here's the actual true tie to the developments impact here list of projects.

Mayor Countryman: I'm with you. We hear that a lot and it's like are we at the end are we at the end of our checking account?

Mayor Pro Tem Olson: Well, I guess my biggest fear is that we overextend ourselves and we're counting on incoming impact fees to pay for projects that are already here from and impact fees should be there for the impact of the new development not trying to pay for somebody else's development.

Roznovsky: Right and these impact so you're limited to so when you look at that last call what we have contracts out for you're using about \$300,000 so you didn't collect any more still 400,000 go that those fees can still only be used for upsizing. So we couldn't go and say so for example on the water plant project we're replacing the ground storage tank with the same size we cannot use impact that doesn't increase our capacity the well we're increasing it from a 300 to a 500 GPM so we can pay for that Pro of the well you're required by WW to only use it on the expansion so we're still any projects that we're gaining capacity expanding our system are the only things that impact these.

Vu: You do have options tonight our recommendation would be to award the contract to Shear construction and then in your next agenda item approve the change order.

Mayor Pro Tem Olson: any thoughts Carol?

CM Langley: No, I'm okay.

Mayor Pro Tem Olson made a motion to accept item six as presented and the motion was seconded by CM Langley with all Councilmembers voting AYE, motion carried.

7. Consideration and possible action regarding Change Order No. 1 for the Water Plant No. 2 Improvements Project.

Mayor Countryman: Item number seven on your agenda consideration possible action regarding change order number one for the way water plant number two improvements project.

Vu: Happy to answer any questions?

Mayor Pro Tem Olson made a motion to accept the item as presented and the motion was seconded by CM Donaldson with all Councilmembers voting AYE, motion carried.

8. Consideration and possible action regarding ending the one-year warranty period and release of the maintenance bond for the Downtown Sanitary Sewer Rehabilitation project.

Mayor Countryman: item number eight on your agenda, consideration of possible action regarding ending the one-year warranty period and release of the maintenance bond for the downtown sanitary sewer Rehabilitation project.

Vu: Also me uh so we performed a one-year warranty inspection for the downtown sanitary sewer Rehabilitation project this was completed a year ago in the downtown area and included manhole Rehabilitation and CIP of uh some of the sanitary lines in that downtown area in and around Steak house and in that area there were no punch items identified after a warranty inspection everything looked great and so we do recommend release ending the one-year warranty period and releasing the maintenance bond with contractor. Contractor who is also doing one throughout the rest of the city.

Mayor Countryman: Council what is your pleasure?

Mayor Pro Tem Olson made a motion to approve the item as presented and the motion was seconded by CM Donaldson with all Councilmembers voting AYE, motion carried.

9. Consideration and possible action regarding to accept the resignation of temporary Director Casey Olson from the Montgomery Crime Control and Prevention District.

Mayor Countryman: Item number nine on your agenda. Consideration possible action to accept the resignation of temporary director Casey Olson from the Montgomery crime control and prevention District.

CM Fox made a motion to accept the resignation of Temporary Director Casey Olson from the Montgomery Crime Control and Prevention District and the motion was seconded by CM Langley with all Councilmembers voting AYE, motion carried.

10. Consideration and possible action on the appointment of Michael Ghutzman to serve as a temporary director for the Montgomery Crime Control and Prevention District.

Mayor Pro Tem Olson made a motion to appoint Michael Ghutzman to serve as temporary director for the Montgomery Crime Control and prevention District and the motion was seconded by CM Fox with all Councilmembers voting AYE, motion carried.

57:52

11. Consideration and possible action on a request by the Montgomery Crime Control and Prevention District to schedule a special city council meeting for Monday, July 1, 2024 @ 6:00 p.m. to adopt the two-year budget plan and two-year crime control plan proposed by the District, if approved during the MCCPD meeting.

Mayor Countryman: Item number 11 on your agenda consideration of possible action on request by the Montgomery Crime Control and prevention District to schedule a special city council meeting for Monday July 1st, 2024, at 6: pm to adopt the two-year budget plan and two-year Crime Control plan proposed by the district if approved during the ccpcd meeting of which it was

Solomon: Mayor and Council. Uh, the reason why we're asking for first because we're within the 10-day period there, we're coming up with holidays, and the next council meeting will put us too far out, so that's why we're asking.

Mayor Countryman: All right.

Mayor Pro Tem Olson made a motion to set a special council meeting for Monday July 1st 2024 at 6: P.M to adopt the budget for the ccpcd and the motion was seconded by CM Donaldson.

Mayor Countryman: I do have a question that's going to be here at City Hall?

Solomon: Yes Ma'am.

All Councilmembers voted AYE, motion carried.

### **Departmental Reports:**

#### **12. Tax Collection Report by Leslie Schkade our Tax Collections Consulting Attorney with Purdue Brandon Fielder Collins & Mott, LLP.**

Mayor Countryman: Departmental reports, Item number 12 on your agenda tax collection report by Leslie Schkade our Tax Consulting Attorney with Purdue Brandon Fielder Collins & Mott, LLP.

Schkade: Hi, good evening. Thank you so much for having me. Mayor Countryman and council members I appreciate the opportunity to come tonight and talk about Delinquent Tax collections as well as fine and fee collections. You should have in your board packet, uh, a colorful collection report. So, note as we go through this, these are delinquent taxes only. The County tax office does a really great job of collecting the city's taxes your taxpayers do a great job of paying their taxes so for example to put this all in perspective uh the tax office is collecting around 97% of the tax dollars your base Levy and what gets turned over to me every July a delinquent turnover is around 3% so your folks are paying the city doesn't have a delinquent tax tax collection problem so I'm getting very little meat on the bone and this report the tax part represents that 3% that gets turned over yearly this goes through the 2022 tax year we get to start collecting on 2023 taxes on July 1 those get turned over to us by law and we cost the city 0 what we get paid is a contingency fee and by Under the tax code of that fee when you uh contract delinquent tax attorney that fee is an add-on and that is passed to the tax payer so the taxes generally go delinquent on February 1st the taxpayer gets a notice in May called a 3307 notice that notifies the taxpayer that if there's still delinquent on July 1 not in a payment agreement still delinquent July 1 that 20% collection penalty attaches and that fee is completely passed on to the taxpayer they are informed that it will attach still delinquent on July one it attaches it becomes part of the tax penalty and interest um and lean on their property and so it's a very incentivizing process so we only get paid if we actually collect the dollars and we only get that that 20% contingency so I like to get started with that so that's the good news so first up we have in your packet is an account breakdown chart and these are accounts by status this tell me gives me a



snapshot of your entire delinquent role and it tells me where the accounts are by category so you'll notice the largest section is the action pending section at 30% these are accounts where we still actively trying to collect the dollars we have a group of collection Specialists and they write letters make phone calls they try to make meaningful contact with a taxpayer let them know of the situation offer them a payment agreement offer them you know time to make a commitment to pay the taxes so we work very hard and diligently with the taxpayers if we are unable to get into an agreement we do title work research if it's real property find out if there's a lean holder there's a lean holder we contact that lean holder because if we file a delink with tax suits and head to the courthouse that's for foreclosure they would lose their interest in the property as well we would also foreclose their interest so we try to leave no Rock unturned and letting everybody know that delinquent tax suit is coming should the tax payer or lean holder not take care of the delinquency which kind of Segways me into the next section which is the suit litigation section uh 22% of your Delinquent Tax role is in litigation so once those efforts to contact the tax payer on the phone send a letter talk to their link holder send their link holder a letter if those efforts fail sometimes it's necessary for us to file a delinquent tax suit around 70% of people when they're Served with that delinquent tax suit contact us get a payment agreement handle the delinquency situations Rectify we very seldomly ever get to the courthouse steps to foreclose on the property we work with the taxpayer all along the way they call us up they want to pay we work something out. Next largest section is the deferral section this represents taxpayers that are 65 or older or have a disability and have elected to defer payment of their taxes on their resident Homestead so this is only available on their resident Homestead said they can only have one resident's Homestead in the state at a time and they elect for this deferment with the county Appraisal District so they file they have to have homestead exemption first to jump through hoop and then they have to file that election to defer the payment of the taxes and so this 18% of your actual is in that deferment status we don't make phone calls on those we don't file suits on those we leave those folks alone if they want to pay the taxes during their deferment they can certainly make partial payments they can paid in full all of the above and once they no longer use that property as their resident's Homestead then the taxes typically get paid at that time or they sell the property they get paid in closing with the title company Next largest section is the bad address section this simply just represents taxpayers that have not maintained a current address with the county Appraisal District so the appraisal district does their assessment of the property and then the tax office gets that data from the appraisal district is the same address that the appraisal district maintains on the account so they come to us when our mailings come back we code the account bad address we work year round to get a good address find the taxpayer get a good address on the account in our internal system um and if we so having to talk to the taxpayer try to influence them to go to the appraisal district to correct it on that level as well so it simply just represents that segment where we're getting return. Um, collectible at 9% um is accounts that we have deemed uncollectible internally for personal property there's the four-year statute of limitation from the delinquency of the property so sometimes we're beyond that limit or we see that it is a business personal property account and the business is gone um the LLC or corporation that was running that business is defunct that would be a situation where we might encode an account uncollectable because seeking a judgment simply is not going to lead to dollars because the assets are gone so we also like to code those and not spend our time on the fruitful accounts rather than the accounts where the assets are gone could be a dead end situation so I'm going to move along from that chart and move on to the dollar range chart and this just tells me where the dollars are owed breaks down the accounts into the dollar ranges um our system when we get the tax office information data and put it into our proprietary system it will group together taxpayers that have accounts that have similar ownership so that when we make a phone call and an individual owns more than one account we can talk about all those accounts in that one phone call rather than contacting them at several different occasions asking about

different accounts so that we can be as efficiently as possible um we work through a top down so that we can collect and we can maximize our efforts and so this chart just simply just shows you where the dollars are owed and puts it into a category next chart we have is the tax year chart and it tells you what percentages of the liquid tax are attributable to each delinquent tax year you'll notice the largest section is the 2022 tax year that's what was turned over to us last July and so we're still collecting on those um some of those we have in payment agreement and we are monitoring those payment agreements monthly and then after 2022 you'll see the percentages fall pretty drastically um which is great you want your newer delinquencies to be the bulk of your delinquencies because they are going to be the accounts that are more readily collectible um 15 and prior at 16% some of those older tax years are attributable to accounts that have the over 65 or Homestead deferments um that we can't we can't work on them but if the taxpayer chooses to pay they may sometimes those deference last several years after that I have historical collection data for tax years 18 through 2022 so this just kind of lets you know where we are through the years on our collection stats for example on the 18 chart you'll see that we are almost 99% collected of what was turned over to us to collect um back in in July of 2019 and so I have similar charts through the 2022 tax year you'll see people are paying their taxes they want to they want to keep their piece of city of Montgomery on hand and I don't P them so last up I just wanted to point out that the 2022 percentage uh collection we're almost 69% collected of what was turned over to a little under a year ago so we're in a great position going into 2023 collections with that new year will be added on we start campaigning on that and working hard to get those folks attention after that I shift years I have some collection stats for the fines and fees and I just want to direct your attention to the bottom chart it gives you a nice little snapshot of where everything is um you'll see that that most things are getting resolved we've resolved about 30% of the accounts in payments um the court has resolved 48% our main goal is to get in touch with the violators and I should have set this up a little bit better so with the fines and fees collections by law there's also it's also a contingent fee Arrangement where once those accounts are turned over to us by law 30% um fee is added to those and so we don't get paid on those either unless we actually do the work and get the accounts collected so we make phone calls we send letters we try to fix addresses on accounts because people move around Believe It or Not people drive through your town and move on along um so our main goal is to get in touch get their attention bring them to the court to have a meaningful resolution so about 22% of what's been turned over to us is still outstanding so many things are getting resolved um you can also see um the number of addresses that we've corrected on accounts the amount of letters we phone number changes and phone number contacts and then after that I have some fun charts that I include just because it's a it's a fun demonstration so first up you have the top 10 accounts by ZIP code so you can kind of see where the top violators are where they where they we have tracked them down and then after that you have the top 10 address accounts by ZIP code and my favorite last but not least is where all of them have gone you see they've just kind of gone all over the nation and we're trying to track them down to the four corners of the um to wrap up just letting you know we have a tax sale scheduled for July for the Delinquent Tax um stuff and if you're interested you can sign up on our website pbfcm.com it's on the front of the report tax Sals are now conducted online so we also have information on how to register for those online tax Sale on our on our website as well.

Mayor Countryman: All right. Very in depth.

Schkade: I threw a lot information.

Mayor Countryman: Good.

CM Langley: It's good, it's good.

Schkade: Thank you. Absolutely my pleasure. Thank you for having me this evening.

CM Langley: Does Montgomery have property in the tax sale?

Schkade: There actually is yes there is.

CM Langley: Like three? Is there five?

Schkade: I think it is two. Yes, it is two for the same lawsuit. Um, no sorry. I am misleading you that's set for trial I have one account that is set for the July tax sale um and we're talking to that individually so I'm hoping that we'll get okay tax sale.

CM Langley: So, if you go and sign up for it can you see the ones that are coming up for the sale?

Schkade: So you don't actually have to sign up you can go to the website there is a tax sale tab at the top of the page and then it'll direct you to all of the counties we have tax sales posted select Montgomery and it'll take you to the list of what's on the July tax sale um if you're interested in the signing up if you're interested in receiving a weekly notification you'll get an email every Friday because everybody wants more emails right but if you're interested in following and also you get on in view you can also see where we posted instructions and a link to the company online tax sales all right that's great good stuff.

Mayor Countryman: Thank you.

Schkade: Thank you for having me.

### 13. May 2024 Financial Report

13 May 2024 financial report May

Carl: Mayor and council. Um one of the things I would like to point out to the report we're at the 8 month point so 23 of a year so you would expect to see um like our revenues be at 67 to 77% realized page 105 of your packet you will see that we only have just less than 133% in general collected so ahead. We are doing great on the expense side um we spent about 50% of what was budgeted.

Mayor Countryman: Sorry, Maryann. Where did you say we're at 13 but what was what was the right number to be at you said like 67?

Maryann: You would expect to have 33% we only have just under 13 great, and you would expect to have um about that same amount left uh for expenses but we're at 50%. If you look at page 116 I had pointed this out to you before but um you can see the pay account for last month we had 235 payables and 107 payments on page 122 City this is where you'll see those capitals uh or the excuse me the impact fees so you can see last month we actually had an impact fee deposit of \$320,232 and so far this year we've taken in 612,540 any questions on that part of the report other thing I would point out is on the sales tax report back on page 129 that we currently are trending almost 20 higher than sales tax last year good

CM Langley: Is this with the new company?

Carl: That report that you see in this report is the report from HDL yeah that's the report that we get from them um they have not they're still in the process of identifying and Gathering all of the information to reach out to the comptroller I do not see any new um recoveries in there based on information that we had from the previous sales tax folks um I know that there had been some question about whether or not they had contacted the comer we're not seeing anything new um at this point but we anticipate for the next few months

Mayor Countryman: So, we still haven't found all of our uh like Airbnb dollars or hot taxes uh

Carl: So, on the Airbnb um I was able to pull information from the state controller site and the Airbnb's that are in our jurisdiction uh have been pay with the exception of one that we sent a letter to.

Mayor Countryman: And we have 17? I heard 17 or 20.

Carl: That number is incorrect that was the number that is the folks that worked with us to collect that was the number that they initially had IP so that's why I went out to the com controller site and pulled the information um and worked to identify the addresses of whether or not they were really within our jurisdiction and what they were pulling you have to remember they're out of state what they're pulling it's not in our jurisdiction it's outside of our our Zone

Mayor Countryman: Yeah, and I recently learned too that we have there's a um expiration to go back and retro collect these Airbnb's and um we can go back, right it's three years. okay yeah again I know we we've got several of them and I know that we have never seen money from them so getting on that

Carl: we're able to do on that is we're able to go back and see what they reported to um because they have to pay their state tax as well um for hotel occupancy and so we're able to see what they report as Revenue now not all of those things um are subject to the local hot tax but most of them are um so that we are looking at that okay

Mayor Countryman: We've been looking at it for a couple years I just I think I just see money going out that we are owed um so it's top of mine for sure.

Mayor Pro Tem Olson: Maryann, last uh last report you talked about some investigating some sales tax that we may have to pay back because it was paid to us incorrectly is that this or is this something else um

Carl: So that's a part of the service that HDL offers is identifying the tax that is rightfully ours and that that may not be right ours right now there's not been anything identified.

Mayor Countryman: See like for instance we said that uh our fees the hotel the hot taxes Hotel occupancy I mean we thought we were going to get 5,000 and we're negative we're way under that

Carl: So one of the things that happens 2300 hot tax is we had um an entity pay hot tax um in January uh it was a pretty large chunk and it was not it's not ours they're not in our jurisdiction so that was one of the things that we identified we worked with as to get them the refund got them the refund well then in April we received a tax payment from another entity that's not in our jurisdiction so we had to refund that as well.

Mayor Countryman: Is it where they get their or they're registered where they get their mail or where the bed the head is the bed

Carl: So, what happens is I think sometimes when people get a Montgomery zip code, they think oh I'm in the city

Mayor Countryman: Yeah, and so that created that's created a problem in two places I know for a fact I know two of them we've never received money from, and it would be a nice big check if we had been collecting those another talk to about.

Carl: Absolutely. Any other questions? Thank you.

Mayor Countryman: Thank you.

#### 14. Public Works May 2024 Report

Mayor Countryman: All right, number 14. Mike with Public Works May 2024 report May.

Muckleroy: Mayor and Council, you have my report in front of you. Happy to answer any questions you might have.

Mayor Countryman: are utility girls looking at the uh utility bills still when they go out kind of doing what Randy used to do

Muckleroy: Yeah.

Mayor Countryman: They okay so uh we had someone with a really high \$3,300 bill that usually has like a \$70 bill I think, and I don't know about that one specific but.

Muckleroy: uh yeah so Nicole is so our admin assisted for Public Works is still doing the audits that Randy taught her how to do and now Kristen is doing them also so now looking them at them as more of a backup to what uh Kristen is looking at just to make sure we catch any billing errors I I can't speak of what Utility Billing is looking at before it goes out

Mayor Countryman: Maybe something we can look at because it's a significant jump and when talking to Kristen, well I guess Carol you spoke to Kristen so won't speak for you, but there was there was a couple of leaks and because of all the rain they thought that the leak the water was being held because of the water or the rain right not cuz there were leaks and um when

Muckleroy:33,000?

Mayor Countryman: 3,300 yeah \$3,300 Bill and so like she the water's been shut off and she's had to leave and go live with somebody till this all gets rectified and um we just want to thought it was going to should have gotten caught that's the only thing because it's it was shocking you

can imagine okay we'll work with you on it yeah okay. I just want to make sure that practice was still taking place.

Muckleroy: Absolutely

Mayor Pro Tem Olson: the backhoe is in working order now?

Muckleroy: It is. It is fixed and we are waiting on it to be shipped back got email on it earlier should be getting it back in the next couple days. Thank you.

#### 15. Utility Operations May 2024 Report

Mayor Countryman: All right number 15 utility operations made 2024 Hays.

Wright: Hello Council report in front of you consumption this last month of 11 million4 gallons there so you can see that plant published 12.06 million and so water accountability 94.55% doing a lot of our flushing this was during the time period when we had all the rain so the water usage pretty low so flushing is critical you've got a lot of less rain have less water usage um you can see the split between the two Wells and plant and then the next page is the wastewater treatment plant I'm very happy to your report that we're still in compliance plants running good and that all of the efforts that we put towards it is paying off so we're in compliance so good place to be um next page is just kind of the status of where we are we're about 40 something through the year as far as our pumpage permit and we pumped about 47% of our permit on our capital and 15% of our Jasper so be watching that very closely as we get the year we've had a lot of growth so it may be that we need to do a permanent we'll be paying close attention as we get further through the year I don't have anything else for y'all tonight you have any questions

Mayor Countryman: do you feel like you have unwounded enough of what you walked into you feel like you're on Solid Ground

Wright: I feel like we're getting on more solid ground working really well with Mike you guys well aware the station issues and Sewer issues those kinds of things but as far as the plant's concerned yeah, I feel like we're definitely unwinding and finally on some kind of Lev so to just keep on doing what we did.

Mayor Countryman: thank you for your efforts that's awesome.

Wright: thank you very much.

#### 16. May 2024 Court Report

Mayor Countryman: Number 16 May 2024 court report. Kimberly.

Duckett: Good evening mayor council members um citations for May 2024 174 citations and the collections for May was \$ 34,976.71. Any questions on the court report?

Mayor Countryman: You have a new employee?

Duckett: I do have a new employee I can't pronounce it just yet we're working on that, and she start on Monday. I'd like to add for the court report that our very own judge Chad piece will be

um next month with the US Supreme Court The Institute for court management he is the only Texan that's there and he wrote a program for municipal courts because he's part of so they um inducted his portion that he actually wrote and that he'll be presenting that with the US Supreme Court next month.

Mayor Countryman: Awesome, congratulations!

Duckett: Thank you

### 17. May 2024 PD&CE Reports

Mayor Countryman: All right, next up uh number 17 May 2024 PD and CE reports.

Solomon: Good evening, Mayor and Council. Uh you have my report, happy to answer any of your questions.

Mayor Countryman: When is your next red class?

Solomon: My next red class probably be around January.

CM Donaldson: What's a terroristic threat retaliation?

Solomon: Uh we had a terroristic threat retaliation from another reported incident and the person tried to call retaliate they were arrested for retaliation

Mayor Countryman: Chief, I got the pleasure to write out with two of your officers and um you're you've gotten some good talent um and they are very excited to be here and you I don't know what your secret sauce is but they even different they're they love this place and they're committed and I think a lot of you so good job on that that's a good culture to have.

Solomon: Thank you.

Mayor Countryman: And they say they like the culture.

Solomon: Thank you.

### 18. Engineer's Report

Mayor Countryman: Last but not least, item number 18, Engineer's Report.

Vu: All right I will the highlights of my report uh going to number two on the first page the lone star groundwater Conservation District permit Amendment we did receive approval for both permit amendments on June 11th at lar board meeting uh this is to increase the allocation for Jasper aquifer Wells and your wells uh going to item number four is your fm 1097 sanitary sewer rehab so the rain event on May 16th caused that sanitary sewer line to fail the stabilized sand well on top of it broke it we are now running bypass pumping to uh to pump the sewer the uh as far as the design we're expecting that to be complete uh on here we have by the end of the month subject to obtaining the required easements that is probably going to delay us end of the month being is the end of this week we don't have those easement yet so it will not be the end of this

month but as soon as we have those easements we'll be ready to start U doing some emergency bidding so because of the emergency situation we're able to bypass the um the bidding laws and we can solicit to contractors because of the because of the nature of the damages going to page two of my report stand we have phase two we are contractor to mobilize in early July so just a reminder this is PIP bursting the sanitary sewer line going under 105 right outside of City hall so they're expecting to get started next month lift station 10 improvements we did receive a pay estimate for them and then we completed the final inspection on June 18th and issued a punch list at that time to very small items site restoration and change got a couple of uh covers for the valves and they are working to address the items they've already addressed a couple of them project is being funded by and homes item number eight is the old forced main extension we had a pay estimate for them as well uh the big item on this one is that they are expecting to do the bore underneath the railroad on July 8th so that's their last big piece that they need to do all the rest of the construction has been completed is in the ground during site restoration along the rest of the way and then we've got the rail report which is an exciting piece going to the next page I'm going to jump down to item number 15 uh the Buffalo Springs Road reconstruction so we did receive our first pay estimate for that for uh for side uh we also have a change order number one this is a decrease in the contract amount by a -\$12,685 this uh includes some adjustment to stabilization quantities and striping just adjustments because of conditions once they got out there and uh Geotech came out we were able to adjust the quantities of so because it's a negative change order that can be approved at the staff level just wanted to make you guys aware that that's happening they are expecting the road to be complete by the end of August so the signs out on 105 say September it's still accurate and August going to the next page is the signal at Buffalo Springs and 105 so the contractors order the equipment they're expecting it to be delivered next month as of right now working through getting some power to Signal or so working with Entergy to try to get power to both signal and Home Depot so signal doesn't have power doesn't have power and so that it's helping because they're able to apply pressure as we get that's our current challenge there if all goes well with interview I still expect time uh we were able to issue plan approval for the red lip station and going also on river bend uh it is our understanding they're planning to have their Flats taken to the July Planning and Zoning commission meeting I as a reminder on this one the impact these are due at the time of flying for all three of their sections going down to the next section ongoing construction uh the update for all three of these really were waiting on Entergy to bring power to the L station which is expected by the end of this week hopefully uh they've been delayed a few times by once the once it has power and they're able to energize the lift station we will inspect that as well as all of the utilities in sections one and two at that time going to the next page going back to R meows we had a pre-construction meeting with them on June 5th and they are beginning work out there a couple of one-year warranty Inspections just kind of standing items as they are getting addressed and then on TxDOT we have productive meeting with them last week Sarah and Stan were in attendance of this is a biannual meeting that we're having with them so uh June and December are the meeting date the meeting months just going over all the projects that are currently going on what's coming and some issues that we're having we are also meeting on site with them on Thursday Atkins Creek to discuss the drainage issues and immediate repairs and what needs to be done from TxDOT perspective to protect to 7 we're also working with them on their access management plan from Shephard Street out to the gr County Line they're currently in a 90% phase of those plans we're working with them on utility complex and from the city's perspective that is not scheduled to let until 2026 and they're working from east or from excuse me from west to east in phasing and MCG in phase three so we won't see Construction in the city for quite any more years and then are continuing to have our bi-weekly operations calls with staff and the city operator and that's all.



Mayor Countryman: Question for you um Lake Creek Village I know they sent submitted the televising I think y'all are looking at it have y'all where is that I'm being asked where this is

Vu: we reviewed the videos and we're preparing a summary of our findings that we're going to discuss with okay.

Mayor Pro Tem Olson: And then uh one question I didn't see anything on here I think it's called is it Haven Shire have they contacted they give you any information?

Vu: They have not reached out to us at all.

Mayor Pro Tem Olson: Nothing at all? Everything we requested from them they just blew out the door?

Mayor Countryman: No, I think that they're trying to get their 100%. They got they got to before they go and gather a whole bunch of stuff and give it to us, we want to make sure they need to make sure that everybody's on board got a yeah and they got that's with 100% alignment right so and if I'm reading the room correctly there was at least one outlier here so.

CM Langley made a motion to approve items 12-18 and the motion was seconded by Mayor Pro Tem Olson with all Councilmembers voting AYE, motion carried.

### **Executive Session:**

Council adjourned into Executive Session at 7:37 p.m.

Council reconvened into Open Session at 9:14 p.m.

### **Possible Action From Executive Session:**

No action was taken on items from Executive Session.

### **Council Inquiry:**

Mayor Pro Tem Olson: So uh I have an inquiry about um before budget, before you get tied up into that Gary because that's our next our budget meeting is when?

Palmer: We have uh we have a workshop scheduled for the 8<sup>th</sup>.

CM Fox: Which is a Monday.

Palmer: Yes.

Mayor Pro Tem Olson: Oh, it's a Monday? I should make that one.

CM Langley: But Sarah, you'll be gone?

Mayor Countryman: I'll be gone.

Mayor Pro Tem Olson: Before we really get tied up in our budget workshops and stuff we are looking for a um employee hierarchy

Palmer: Okay.

Mayor Pro Tem Olson: And also, a position...

Palmer: You want a flowchart?

Mayor Pro Tem Olson: Just the hierarchy of who answers and because you're the administrator everyone should flow from you.

Mayor Countryman: And then we go through you. So it's us and then you and then everybody behind that right?

Mayor Pro Tem Olson: And then if it um we also would like to see a positional job description for each position of the hierarchy that the job duties. Yeah, no names just that to those positions based on that hierarch and pay range. So, we can look at the we can use it for budgeting and see what we need to do to structure.

Palmer: Okay so employe hierarchy flow chart, positional job description, pay range. Got it

Mayor Pro Tem Olson: Yes sir. And that's what two weeks 3 weeks from now that's two little over two weeks yeah

Palmer: Yeah, I'll you got something by next week

Mayor Pro Tem Olson: Well Monday. With that that budget meeting is fine. I mean even if we don't go if we don't we might not even get into that deep into the budget at that point this is just something we want for Budget season.

Palmer: Gotcha.

Mayor Pro Tem Olson: And that's all I have.

CM Donaldson: I have something. I want to know if we can fine somebody for going through town that didn't tell us they were coming through town.

CM Fox: Do what?

CM Donaldson: Last Monday when we had a control meeting a big old tanker thing or whatever oh yeah came through town picking up our stop lights and stuff, they didn't tell they were coming through and they never said.

Mayor Countryman: Chief was supposed to talk too cuz we were in that meeting you were here, and he said he was going to call TxDOT and find out they failed to tell us because it's it they're supposed to tell us I do they have to tell Us yeah what did they.

Palmer: What did they bring through?

Mayor Countryman: A huge tanker and locked up the gridlock the city so they want up having to drop a bunch of lives they had people up lift up every light and both ways. What day was

Muckleroy: I could have swore that y'all did an ordinance on this several years we did correct and PD supposed to give them an escort yeah and they had other they had they had sheriff or Constable.

Mayor Countryman: We did. I think they had Constable um that was escorting them and because I was here for a meeting and I had to go back through Plantersville and he said they didn't tell us anything and they're supposed to. But what do you do whenever they don't tell us? There isn't any recourse.

**Adjournment:**

Mayor Pro Tem Olson made a motion to adjourn, and the motion was seconded by CM Fox with all Councilmembers voting AYE, motion carried.

Meeting adjourned at 9:20 p.m.

Submitted by: \_\_\_\_\_ Date Approved: \_\_\_\_\_  
James Greene, City Secretary

\_\_\_\_\_  
Casey Olson, Mayor Pro Tem

**City Council Special Meeting  
MINUTES  
July 01, 2024, at 6:00 PM**

**CALL TO ORDER**

Mayor Pro Tem Casey Olson called the meeting to order at 6:00 p.m.

Present:	Casey Olson	Mayor Pro Tem
	Cheryl Fox	City Council Place #4
	Stan Donaldson	City Council Place #5

Also Present:	Gary Palmer	City Administrator
	James Greene	City Secretary
	Maryann Carl	Finance Director
	Mike Muckleroy	Director of Public Works
	Anthony Solomon	Chief of Police
	Kimberly Duckett	Court Administrator

**INVOCATION**

CM Donaldson gave the invocation.

**PLEDGE OF ALLEGIANCE TO FLAGS**

Pledges to the American and Texas Flag were conducted.

**VISITOR/CITIZENS FORUM:**

No Speakers.

**CONSIDERATION AND POSSIBLE ACTION:**

1. Consideration and possible action the City of Montgomery Crime Control and Prevention District’s (MCCPD) two-year budget plan and two-year crime control plan.

Mayor Pro Tem Olson: Consideration and possible action the City of Montgomery Crime Control and Prevention District’s (MCCPD) two-year budget plan and two-year crime control plan.

CM Fox: Chief would you speak really loud because my husband who may be watching says there's no mic on that and he cannot hear y'all.

Solomon: Okay. uh Mayor Pro Tem and council. Uh we're uh we've come today in and moving along with the statute uh last week the uh when government control and prevention District uh met they had a public hear from there they uh they Nally approve the budget in the 2year crime uh this meeting today is uh so we can submit that approved uh plan to you guys and you'll have a chance to to look over and then at some point you'll have to call a public here a public here and be call sometime after that I think each one of you received the packet of both the budget and the uh and the comprehensive plan yes so if you have any questions about that's this meeting here today for you guys to be able to approve that.

CM Donaldson: So what is um what is your opinion of how well this plan works as opposed to the other plans we've had in the past.

Solomon: When you say plan?

CM Donaldson: Other leasing opportunities that we've had.

Mayor Pro Tem Olson: This this is for the Crime District.

CM Donaldson: Oh I'm sorry. I'm sorry, I got ahead of the schedule. Sorry.

Mayor Pro Tem Olson: I thought we approved the budget.

Solomon: You guys approved it as a district. As a district board the District board approved it on last week and once they approve it, it has to come back. It has to come back to you guys uh for you guys to approve it as well to hold a public hearing and then you guys have to adopt that plan and then approve it as be a public hearing just like what happened last week there public hearing so we need to set a date for the public hearing uh we can yes we can we can set that date for the public hearing it could be as much as your next council meeting.

Greene: It has to be, we have to have 10 days uh to publish the notice. So the next meeting would be the 23<sup>rd</sup>

Solomon: 23<sup>rd</sup>?

Mayor Pro Tem Olson: So that's the only action you need? You want to make a motion for that?

CM Fox made a motion to set a public hearing for consideration of possible action of the City of Montgomery Crime Control and prevention District two-year budget plan and two-year crime plan for July 23<sup>rd</sup> of 2024 which will be our last meeting of the month with CM Donaldson seconding the motion and all Councilmembers voting AYE, motion Carried.

2. Consideration and possible action to approve a TexPool Resolution Amending Authorized Representatives.

Mayor Pro Tem Olson: All right. Consideration of possible action to approve the TexPool resolution amending of authorized representatives

Carl: All right. This is just a housekeeping item um we need to remove mayor Sanford and add mayor Countryman to the text pool um authorized representatives.

Mayor Pro Tem Olson: So we need to make a motion to remove them I can't just do it?

Carl: It's not to remove, it's a resolution amending the authorized representatives to add uh Mayor Countryman.

Mayor Pro Tem Olson made a motion to approve the resolution and the motion was seconded by CM Donaldson with all Councilmembers voting AYE, motion carried.

3. Consideration and possible action to enter into a master equity lease agreement, maintenance agreement, and maintenance management and fleet rental agreement with Enterprise Fleet Management for six Police Pursuit vehicles and two Public Works vehicles.

Mayor Pro Tem Olson: Consideration of possible action to enter into a master Equity lease agreement maintenance agreement and maintenance management and Fleet rental agreement with Enterprise Fleet Management for six police pursuit vehicles and two Public Works Vehicles.

Carl: All right this is the item that we discussed uh during the June 10<sup>th</sup> Wokshop. Uh when Jeff corner from Enterprise Fleet Management was present. Uh discussing the uh options for vehicle leasing through Enterprise um as a result we come to this evening uh for signatures on these agreements the vehicles included in this would be six Pursuit vehicles for PD and two uh Silverado 25 00 4X4 Crew Cabs for Public Works. In your packet we outlined what the budget cost would be so currently in this fiscal year in the police department we had budgeted \$150,000 for two vehicles we're able to uh Enterprise is able to intercept those two vehicles that were ordered and roll those into this lease agreement which gives us a little bit more flexibility with those funds so what that would mean for us is that we can pay for the upfitting and the first three months of the lease on those two vehicles for a cost of 55,696 in this year we'd like to use the remaining balance to upfit three of the other four vehicles that will be a part of next year's the lease will be a part of next year but we can pay for that upfitting cost this year and in doing so we would still be left with \$19,304 that was budgeted this year so we're able to upfit five of the six vehicles and pay for the first 3 months on two of those vehicles with this this year's budget we won't actually uh receive the the four vehicles until after the start of the fiscal year and so we would not incur any additional lease costs for those Vehicles until after the start of the fiscal year at the same time we would upfit that final vehicle next year so next year's budget amount that we will be looking at which would include the lease for all six vehicles and the upfitting of the last vehicle the budget amount for next year will be 93,351.

CM Fox: Repeat that?

Mayor Pro Tem Olson: 93,354. 351. That's the total cost of the lease for but so it's talking about six where's the where's the sixth one fall here? That's five.

Carl: What was your question?

Mayor Pro Tem Olson: It says six police pursuit Vehicles right you've explained five.

Carl: Right so we're paying for the upfitting on five in this fiscal year the upfitting on that sixth vehicle will take place in fiscal year 25 and then that lease payment the annual lease payment for all six Pursuit Vehicles is 68,351 351 by adding the 25,000 for the upfitting that's where we get the 93,351 for next fiscal year. So the subsequent years will be 68,351.

Mayor Pro Tem Olson: Okay. So you just have to bear with me cuz I was not here for that Workshop. I apologize.

Carl: Yes. Yes.

Mayor Pro Tem Olson: So that makes sense to me. Is that, does the numbers match? Does that seem right? 68,000 a year for how many years is the lease?

Carl: So it's an open-ended lease okay right and so the um that will be six vehicles uh for fiscal year 25, 26, 27, 28. Um and in fiscal year actually 29 if you're looking at your little worksheet I off one year on there would be we would two the first two vehicles that are in this fiscal year would be ready potentially to be sold and have more Vehicles new vehicles replace them.

Mayor Pro Tem Olson: In 20 what year was that 20?

Carl: Would be fiscal year 29.

Mayor Pro Tem Olson: So 5 year lease.

Carl: Yeah five years.

Mayor Pro Tem Olson: Okay. Perfect. And the Public Works vehicles are the same what's the deal with those?

Carl: So Public Works um it's slightly different um in the fact that we would not be taking delivery on these vehicles these would actually be vehicles that are ordered um so these vehicles would not be delivered until late in 2024 um one is a replacement vehicle however we are not proposing to trade a vehicle in for sale this year as keeping it as an extra in case one of the other vehicles goes down so we're not out of a vehicle for work crew and then that second vehicle is the new vehicle um based on the adding of the the new position um so what happens in this scenario is we have the two Public Works trucks the cost to outfit both of them uh combined is 26,000 one is going to get like tool beds and so forth and one will be the utility bed that's put on there uh so that would be the cost for that the annual lease is 23,990 for the lease and 26,000 for the equipment cost bringing our total in fiscal year 25 to 45,980 the following years will be 23,979.

Mayor Pro Tem Olson: Mike did you you I I don't I can't recall top my head you budgeted for a vehicle 50,000 or something.

Muckleroy: For this coming budget year?

Mayor Pro Tem Olson: No this last one we're in.

Muckleroy: No, nothing for this one for the one coming up I was proposing.

Mayor Pro Tem Olson: Okay. So there's my next question. Why are we um why aren't we waiting until budget to pass this stuff? Is there some kind of timeline that we have to be on?

Carl: So there is a timeline on this um based on the fact that the PD Vehicles those two vehicles are ready to go for upfitting and the other four have actually been delivered to the dealership as well if we don't act on this now we lose the opportunity to roll those Vehicles into this those first two for sure we lose the opportunity to roll them into this agreement and we think that there's a great advantage to putting them into this agreement okay the other piece of that for the public works it's kind of a package deal right they don't just do um Public Safety Vehicles without having some non-public safety Vehicles as a part of their agreement so it is kind of a package deal and the other piece is that the order banks are open for those public Works trucks so if we can get in on that order bank and we don't have to be scrambling to try to find Vehicles after the fact so that's why we're here tonight.

Mayor Pro Tem Olson: No, that makes sense.

CM Fox: Maryann, is this a relatively uh common lease that that they have here?

Carl: It is legal has reviewed it as well this is a standard lease that all of the municipalities um it's actually pretty standard I know Casey's familiar with it as well it's they do a lot of oil and gas work um the difference is there's an amendment to that agreement that is for municipalities so but it's a very standard agreement.

CM Fox: The reason I was asking was because of the reduced Book value at 60 months in the service charge I I didn't know if that was a a standard.

Carl: it is and and like I said it's an open-ended Equity agreement so if we get to the end of it and we're like hey there's still life in these vehicles and it doesn't make sense to turn them back in we can go another year um and they will be watching and and looking at our vehicle as well all of the vehicles as well to see you know if we're having maintenance type issues or higher mileage we might actually turn them in earlier and roll them you get that equity and then roll into the next Vehicles.

Mayor Pro Tem Olson: So my next question is for chief we're ordering six vehicles are going to be basically by the first of the year if I get it all right all six Vehicles will be here?

Solomon: Um yes we uh we order had to order the two uh because I they asked me a question earlier about was I comfortable with this program and it was supposed to been on last agenda and we we had some apprehensions about it because we started to look at the cost of upfitting and find out the the Enterprise did not upfit but we have that money in the budget like maryan was talking about that would equip those vehicles uh so with the two vehicles that we had that means we don't have to spend that \$150,000 we use that \$150,000 to equip all six of those cars right and for what the least is going to be costing us and anytime we can turn over to turn out of we've got something to trade back in which gives us a little equity on that side for not having to pay so much for.

Mayor Pro Tem Olspm: So my question goes to the six Vehicles. That's six new vehicles what are we going to do with the six they're replacing, what's the plan?

Solomon: Okay the six that we've got out here we've got uh we've got two of the explorers the old explorers that we have out there we've got one uh Sergeant's vehicle that's it's a 17 it's got like 180 maybe maybe about 130,000 miles on it so we we we'll be taking that one out of uh out of the service as well.

CM Fox: What do you do with it after you take it out of service?

Mayor Pro Tem Olson: Yeah, what are we doing with them we're going once we take those out of service?

Solomon: We'll hold on the other two we'll take those at some point and trade them back to to Enterprise but that won't be until that won't be until the following following year we do the trades right.



Mayor Pro Tem Olson: So I'm I'm confused we're getting six Vehicles by the first of the year we don't need six but that's fine I get it what are we going to do with cuz we're not going to let six new vehicles just sit that means we're going to have six vehicles that are old doing something besides siting around.

Solomon: We're also taking the pickup out of we're going to take that pickup out of service that's going to go to a sergeant to a sergeant car while we ever had that pickup we'll take the pickup out of service we'll turn that into a code enforcement vehicle we'll take that code enforcement vehicle that we have to explore and we'll take that Explorer out we'll take a 17 out and I think we have one more 16 that will take out of service.

CM Fox: So are you selling them?

Solomon: Yeah. We send those to auction to sell.

Mayor Pro Tem Olson: Yeah, so how many are we taking out of service? How many are we going to sell?

Solomon: Taking about four out of service take four out of service.

Mayor Pro Tem Olson: That makes sense.

CM Fox: Are they are they put into an auction or they are they put for public?

Solomon: We'll use Enterprise.

CM Donaldson: It's proposition number four.

Mayor Pro Tem Olson: Oh okay. There you go. Yeah all right. So we just need to uh we need an action here folks we need a motion for three.

CM Fox made a motion to enter into a Master Equity lease agreement, maintenance agreement maintenance, management Fleet Rent agreement with Enterprise Fleet Management for six Patrol Pursuit vehicles and two Public Work Vehicles and CM Donaldson seconded the motion with all Councilmembers voting AYE, motion carried.

4. Consideration and possible action to enter into a consignment auction agreement with Enterprise Fleet Management for future sale of vehicles determined to surplus.

Mayor Pro Tem Olson: Item four consideration of possible action to enter into a consignment auction agreement with Enterprise fleet management for future sale of vehicles determined for Surplus which uh we just got the low down for that.

Mayor Pro Tem Olson made a motion to accept the item as presented and the motion was seconded by CM Fox.

CM Donaldson: Need them to correct the date on the first uh agreement. It says June the 1st I think they meant July.

Mayor Pro Tem Olson: I have to let you guys check.

Greene: I got it.

CM Donaldson: Page 47.

Mayor Pro Tem Olson: Is it supposed to be July?

Greene: Yes.

Carl: Yes, it should be July 1. I apologize.

Mayor Pro Tem Oslon: Good catch. The motion still stands.

All Councilmembers vote AYE, motion carried.

5. Consideration and possible action on adopting a resolution APPOINTING A TEMPORARY REPLACEMENT ASSOCIATE JUDGE TO ACT IN PLACE OF THE PRESIDING MUNICIPAL COURT JUDGE IN HIS ABSENCE; PROVIDING A REPEALER; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Mayor Pro Tem Olson: Item five consideration and possible action on adopting a resolution appointing a temporary replacement associate judge to act in place of our the presiding municipal court judge in his absence providing a repealer providing for severability and providing an effective date.

Mayor Pro Tem Olson: So Kim, how goes it?

Duckett: It's wonderful. Just asking Council to approve um judge Shelytha Alexander Simmons just for this time because the judge as I mentioned last week the judge will be out at the Supreme Court and I have a big docket that day we have jury trials at 9: bench trials at 1 pre uh juvenile at 5: and uh regular trial at 6 and I did not want to cancel the that Court night so we searched around no one was close so I um called this called The Judge Alexander just to see if she would be available for all day and she agreed if the council would accept her.

Mayor Pro Tem Olson: Sure. So my question there is how do we um um how is she paid?

Duckett: The judge will um compensate her because he will be compensated for that month for July month so that'll be up to that's an internal Arrangement between them yes there will be nothing additional um outside of his pay so whatever he's paid he will compensate her.

Mayor Pro Tem Olson: Awesome any questions?

Mayor Pro Tem Olson made a motion to accept the item as presented and the motion was seconded by CM Donaldson with all Councilmember voting AYE, motion carried.

### **ADJOURNMENT:**

Mayor Pro Tem Olson: All right. Anybody got anything else? Need a motion to adjourn

CM Fox made a motion to adjourn and the motion was seconded by CM Donaldson with all Councilmembers voting AYE, motion carried.

Meeting adjourned at 6:22 p.m.

Submitted by: \_\_\_\_\_ Date Approved: \_\_\_\_\_  
James Greene, City Secretary

\_\_\_\_\_  
Casey Olson, Mayor Pro Tem

**Montgomery City Council  
AGENDA REPORT**

<b>Meeting Date:</b> June 25, 2024	<b>Budgeted Amount:</b> N/A
<b>Department:</b> Admin	<b>Prepared By:</b> Dave McCorquodale

**Subject**

Consideration and possible action regarding a Development Agreement between the City of Montgomery and Tri Pointe Homes of Texas, LP. (Dev. No. 2410).

**Recommendation**

Discuss the draft agreement details.

**Discussion**

A discussion was had between the developer and the City Council at the June 25 meeting. The attached draft reflects points of that discussion, some of which need additional discussion. Action on the agreement can be postponed until a future meeting if additional time is needed to answer outstanding questions. City Council has the ability to act on the agreement at the meeting if all points are addressed sufficiently, and the option to postpone action as needed.

<b>Approved By</b>		
Assistant City Administrator & Planning & Development Director	Dave McCorquodale	Date: 07/05/2024

**DEVELOPMENT AGREEMENT BETWEEN  
THE CITY OF MONTGOMERY, TEXAS AND TRI POINTE HOMES TEXAS, INC.**

This DEVELOPMENT AGREEMENT (the "Agreement") is entered into between TRI POINTE HOMES TEXAS, INC., a Texas corporation, its successors or assigns ("Developer"), and THE CITY OF MONTGOMERY, TEXAS ("City") to be effective on the date on \_\_\_\_\_, 2024 (the "Effective Date").

**RECITALS**

The Developer intends to acquire approximately 108.8 acres of land, as described on the attached **Exhibit A** (defined herein as the "Tract") in Montgomery County, Texas, of which approximately \_\_\_\_ acres is within the corporate limits of the City and \_\_\_\_ acres is outside the corporate limits of the City. The Developer intends to develop the Tract for primarily single-family residential purposes. The Developer represents that the development of the Tract may be annexed into an existing District to fund certain public infrastructure, and an agreement with the City will provide for long-term certainty concerning development of the Tract. The Developer intends to petition the City for voluntary annexation of the approximately \_\_\_\_ acres (the "Annexation Tract") as described on **Exhibit E** into the corporate limits of the City.

The City is a general law city with all powers except those specifically limited by the Constitution and laws of the State of Texas.

The City wishes to provide for the orderly, safe and healthful development of the Tract, and the City and the Developer agree that the development of the Tract can best proceed pursuant to a development agreement.

**AGREEMENT**

NOW THEREFORE, in consideration of the mutual promises, obligations, and benefits contained herein as well as other good and valuable consideration, the sufficiency of which is acknowledged by the parties, the City and Developer agree as follows:

**ARTICLE I. DEFINITIONS AND EXHIBITS**

1.1 Definitions. Unless the context indicates others, the following words as used in this Agreement shall have the following meanings:

Annexation Tract means approximately \_\_\_\_ acres of land to be annexed by the City upon petition of the Developer, as described in **Exhibit E**.

City means the City of Montgomery, Texas.

District means an existing municipal utility district pursuant to Article XVI, Sec. 59, and Article III, Sec. 52, Texas Constitution, Chapters 49 and 54, Texas Water Code and rules of the TCEQ.

Developer means Tri Pointe Homes Texas, Inc., a Texas corporation, its successors or assigns.

ESFC means that amount of water or wastewater, as applicable, set by the City that constitutes an Equivalent Single Family connection, which amount may be changed from time to time. At the time of this Agreement, an ESFC of water means 225 gallons per day and an ESFC of wastewater means 150 gallons per day.

Facilities means the water distribution, sanitary sewer collection, transportation and treatment, and stormwater collection, detention and drainage systems, roads and improvements in aid thereof, constructed or acquired or to be constructed or acquired by the District to serve lands within its boundaries, and all improvements, appurtenances, additions, extensions, enlargements or betterments thereto, together with all contract rights, permits, licenses, properties, rights-of-way, easements, sites and other interests related thereto.

Parties means the City and the Developer, collectively.

Tract means the approximately 108.8 acres of land to be developed by Developer, as described in **Exhibit A**, and any additional land that may be annexed into the District as approved by the City.

TCEQ means the Texas Commission on Environmental Quality or its successor agency.

1.2. Exhibits. The following Exhibits attached to this Agreement are a part of the Agreement as though fully incorporated herein:

- Exhibit A Metes and Bounds Description of the Tract
- Exhibit B Form of Utility Agreement
- Exhibit C Description of Water Line and Oversized Water Line to serve Tract
- Exhibit D Description of Lift Station and Force Main to serve Tract
- Exhibit E Annexation Tract

ARTICLE II

DEVELOPER OBLIGATIONS

Section 2.1. Utilities.

- a. Water, Sanitary Sewer and Drainage Facilities. Developer agrees that all water, sanitary sewer and drainage facilities to serve the Tract, whether on the Tract or off-site, will be constructed in accordance with the applicable City regulations and ordinances, including the City of Montgomery Code of Ordinances, as amended (the "City Code"). The Developer is responsible for the design and construction

of all internal water and sanitary sewer lines. The City is responsible for the design and construction of the off-site water line and the Oversized Water Line as described in Sections 2.1(b)(2) below, and associated facilities and drainage facilities to serve the Tract. The City will provide retail water and sanitary sewer service to customers within the Tract, all in accordance with a Utility Agreement, the form of which is attached hereto as **Exhibit B**. Following acceptance by the City, the water and sanitary sewer infrastructure, if required as described below, will be owned, operated, and maintained by the City per normal practice and as described in the Utility Agreement. The City agrees to provide the Tract with its ultimate requirements for wastewater treatment and water capacity in accordance with the Utility Agreement and as further described herein.

- b. Water Supply Facilities. The parties acknowledge that the Tract will be developed with ultimate water requirements of 30,600 gpd to serve approximately 136 connections. The City agrees that it has the capacity in its water treatment system to serve the Development; however, the Developer is required to construct certain improvements to the City's water supply system in order to serve the Tract.

1. Water Line. The City agrees to design and construct, at the Developer's cost, a 12" off-site waterline connecting to the City's existing 12" waterline, which shall be routed generally as shown on **Exhibit C** or such other route as is mutually agreed upon by the Parties ("Water Line"). The Water Line will be constructed in public right of way or easement and to the extent necessary, the Developer will be responsible for acquiring any necessary public right of way required for the construction of the Water Line. The Water Line will be sized to serve the Tract; to the extent the City requires the Water Line to be oversized to serve land outside the Tract, the Parties agree to comply with provisions of Section 2.3 below. The Developer will receive Impact Fee credit for funding of the Water Line as described in Section 2.1(d) below.

- i. **Funding**. The City will provide the Developer a cost estimate of the engineering and construction costs of the Water Line, and upon presentation of such estimate, the Developer agrees to deposit with the City the funds due for design (including preliminary design, design, topographic survey, reimbursable expenses, and bid phase services) of the Water Line. The City will be responsible for bidding the Water Line in accordance with competitive bidding laws. Upon receipt and review of bids, the Developer will deposit the amount of the accepted bid plus 10% contingencies, the estimated cost for construction administration and inspection, construction staking, construction materials testing, and reimbursable expenses with the City. The Developer shall have the right to review all bids received for the construction of the Water Line, approve award of the construction contract for the Water Line, and review and approve all pay estimates and change orders

related thereto. The City will keep accurate records of Developer deposits and Water Line costs and make such records available for Developer inspection upon request. Within 45 days of City acceptance of the Water Line, the City shall perform a reconciliation and final accounting and reimburse the Developer any unpaid funds under the construction contract. The City will hold \$3,000 in escrow to cover estimated cost for completion of the one year warranty inspection. After completion of the one year warranty and action by City Council to officially end the warranty period, the City shall perform a reconciliation and final accounting within 45 days and reimburse the Developer any unused funds or request additional funds. Developer will get impact fee credit for all funds expended pursuant to this Section 2.1(b)(1.)(i.) in accordance with Section 2.1(d) below.

ii. **Timing.** The City is obligated to begin design of the Water Line upon execution of this Agreement and receipt of the deposit of design fees, and begin construction of the Water Line within six (6) months of execution of this Agreement and receipt of the deposit for all construction-related expenses. The Developer and the City understand that there are certain factors outside of both the Developers and City's control. The Developer agrees to timely fund such design and construction. In the event that the City does not timely commence design and/or construction of the Water Line in accordance with this Agreement, the City agrees that the Developer may design and construct the Water Line to meet its development needs and receive Impact Fee credit for such costs as stated in Section 2.1(d) below.

iii. **Ownership.** The City will accept such Water Line for ownership and operation in accordance with the terms of the Utility Agreement subject to a one-year maintenance bond to be enforceable by the City from the contractor.

2. *Oversized Water Line Through the Tract.* The Developer agrees to design and construct, at the Developer's cost, a 12" looped waterline, which shall be routed generally as shown on **Exhibit C** or such other route as is mutually agreed upon by the Parties ("Oversized Water Line"). The Oversized Water Line will be constructed in public right of way or easement and to the extent necessary, the Developer will be responsible for acquiring any necessary public right of way required for the construction of the Oversized Water Line. Developer agrees to provide a copy of all bids received and a summary illustrating the additional cost to the City at the time of bidding. The City will accept such Oversized Water Line for ownership and operation in accordance with the terms of the



Utility Agreement subject to a one-year maintenance bond to be enforceable by the City from the contractor. City agrees to pay for the difference in the cost for the Oversized Water Line compared to the cost of an 8” water line along the same route. Upon City acceptance of the Oversized Water Line and commencement of the one-year warranty period City agrees to pay for the cost for the Oversized Water Line upon City acceptance of the one-year warranty period.

- c. Wastewater Treatment Facilities. The parties acknowledge that the Tract's ultimate wastewater requirements of 20,400 gpd to serve approximately 136 connections. The City agrees that it has permitted capacity in its wastewater treatment system to serve the Tract.
1. *Lift Station Site, Public Sanitary Sewer Lift Station and Force Main*. The Developer agrees to dedicate in fee simple title, a site agreeable to the City (the “Lift Station Site”), to construct a public sanitary sewer lift station (the “Lift Station”). The City agrees to design and construct an off-site force main to serve the Tract (the “Force Main”). The Lift Station and Force Main will serve the Tract as generally shown on **Exhibit D**. The Developer will acquire any necessary right of way for construction of the Force Main.
    - i. **Funding of Lift Station and Force Main**. The City will provide the Developer a cost estimate of the engineering and construction costs of the Lift Station and a cost estimate of the engineering and construction costs of the Force Main, and upon presentation of such estimates, the Developer agrees to deposit with the City the funds due for design (including preliminary design, design, topographic survey, reimbursable expenses, and bid phase services) of the Lift Station and Force Main. The City will be responsible for bidding the Lift Station and Force Main in accordance with competitive bidding laws. Upon receipt and review of bids, the Developer will deposit the amount of the accepted bid plus 10% contingencies, the estimated cost for construction administration and inspection, construction staking, construction materials testing, and reimbursable expenses with the City. The Developer shall have the right to review all bids received for the construction of the Lift Station and Force Main, approve award of the construction contract for the Lift Station and Force Main, and review and approve all pay estimates and change orders related thereto. The City will keep accurate records of Developer deposits and Lift Station and Force Main costs and make such records available for Developer or District inspection upon request. Within forty-five (45) days of City acceptance of the Lift Station and Force Main, the City shall perform a reconciliation and final accounting and reimburse the Developer any unpaid funds under the construction contract. The

City will hold \$3,000 in escrow to cover estimated cost for completion of the one year warranty inspections. After completion of the one year warranties and action by City Council to officially end the warranty periods, the City shall perform a reconciliation and final accounting within 45 days and reimburse the Developer any unused funds or request additional funds.

- ii. **Developer Reimbursement of Lift Station.** The City agrees to reimburse the Developer for design and constructions costs of the Lift Station less the Developer's pro rata share of the Lift Station capacity (the "Developer's Reimbursable Share"). Developer's Reimbursable Share will be calculated by the City engineer. The City agrees to make annual payments to the Developer in an amount not to exceed \_\_\_\_\_, until the Developer's Reimbursable Share is paid in full. The first payment is due upon the one year anniversary of the Effective Date of this Agreement.
  - iii. **Timing.** The City is obligated to begin design of the Lift Station and Force Main upon execution of this Agreement and receipt of the deposit of design fees, and begin construction of the Lift Station and Force Main within six (6) months of execution of this Agreement and receipt of the deposit for all construction-related expenses. The Developer and the City understand that there are certain factors outside of both the Developers and City's control. The Developer agrees to timely fund such design and construction of the Lift Station and Force Main. In the event that the City does not timely commence design and/or construction of the Force Main in accordance with this Agreement, the City agrees that the Developer may design and construct the Force Main to meet its development needs.
  - iv. **Ownership.** The City will accept such Lift Station and Force Main for ownership and operation in accordance with the terms of the Utility Agreement subject to a one-year maintenance bond to be enforceable by the City from the contractor.
- d. **Impact Fees.** Subject to Sections 2.1(b) and 2.1(c) above, the Developer agrees to pay all City adopted impact fees for water supply facilities and wastewater treatment facilities ("Impact Fees") in accordance with the City's adopted capital improvements plan. Except as expressly provided herein, the Developer will be assessed impact fees and pay at the time of platting.
- e. **Drainage Facilities.** The Developer will submit a drainage study to the City prior to approval of construction plans. All drainage and detention facilities must be designed and constructed in accordance with the City Code and any applicable Montgomery County standards. The City agrees to allow culverts and public roads within public road right of way as restrictors or control structures for detention

facilities. All onsite storm sewer systems will be designated as public facilities and accepted by the City upon completion. Any detention ponds will not be accepted by the City but owned and maintained by the Developer.

Section 2.2. Road Improvements.

- a. Public Road Improvements. Any public road improvements constructed within the Tract, shall be constructed in accordance with the City Code. The Developer will obtain any easements or rights-of-way necessary for construction of public road improvements inside the boundaries of the Tract; however, to the extent additional easements or rights-of-way are necessary to construct public road improvements outside the boundaries of the Tract on land not owned by the Developer, the Developer is responsible for obtaining such easements or rights-of-way, at Developer's cost. Once constructed, all public road improvements shall be dedicated to and accepted by the City for operation and maintenance.
- b. Pedestrian Mobility Improvements. The Developer is responsible for the design and construction of sidewalks on both sides of each road internal to the Tract, in accordance with the City's design manual. The Developer is also responsible for the design and construction of pedestrian trails leading to and surrounding the detention pond(s). The City will be responsible for maintenance of the sidewalks along the roads upon acceptance of the street infrastructure. The Developer will be responsible for ownership and maintenance of pedestrian trails leading to and around the detention pond(s).

Section 2.3. Oversizing. If the City requires portions of the Facilities to be constructed to a size larger than would be required pursuant to the City Code to serve the Tract, the City will pay or cause to be paid the incremental costs to construct such excess capacity in accordance with state law. Prior to award of any contract in which oversized Facilities will be built, the Developer will present the City with the bids and bid tabulations, and the City and the Developer (in accordance with the Utility Agreement) must agree to the incremental costs based on such bid or the Developer is not required to oversize the Facilities. The City will pay its pro rata share of the oversized facilities upon award of the construction contract for such facilities.

ARTICLE III.  
DEFAULT AND TERMINATION

Section 3.1. Material Breach of Agreement. It is the intention of the parties to this Agreement that the Tract be developed in accordance with the terms of this Agreement.

(a) The parties acknowledge and agree that any substantial deviation by the Developer from the material terms of this Agreement would frustrate the intent of this Agreement, and, therefore, would be a material breach of this Agreement. A material breach of this Agreement by the Developer shall be deemed to have occurred in the event of failure of the Developer to comply with a provision of this Agreement or the City Code provisions applicable to the Tract.

(b) The parties acknowledge and agree that any substantial deviation by the City from the material terms of this Agreement would frustrate the intent of this Agreement and, therefore, would be a material breach of this Agreement. A material breach of this Agreement by the City shall be deemed to have occurred in the following instances:

- (i) An attempt by the City to dissolve the District without complying with the terms of this Agreement or in violation of the provisions of the Utility Agreement;
- (ii) An attempt by the City to delay or limit reimbursement to the Developer in violation of the provisions of this Agreement; or
- (iii) An attempt by the City to enforce any provisions of the City Code within the Tract that is inconsistent with the terms and conditions of this Agreement.

In the event that a party to this Agreement believes that another party has, by act or omission, committed a material breach of this Agreement, the provisions of this Article III shall provide the remedies for such default.

#### Section 3.2. Notice of Developer's Default.

a. The City shall notify Developer in writing of an alleged failure by the Developer to comply with a provision of this Agreement, describing the alleged failure with reasonable particularity. Developer shall, within thirty (30) days after receipt of the notice or a longer period of time as the City may specify in the notice, either cure the alleged failure or, in a written response to the City, either present facts and arguments in refutation or excuse of the alleged failure or state that the alleged failure will be cured and set forth the method and time schedule for accomplishing the cure.

b. The City shall determine: (i) whether a failure to comply with a provision has occurred; (ii) whether the failure is excusable; and (iii) whether the failure has been cured or will be cured by Developer. The alleged defaulting party shall make available to the City, if requested, any records, documents or other information necessary to make the determination, except to the extent that such information is protected by attorney/client privilege.

c. If the City determines that the failure has not occurred, or that the failure either has been or will be cured in a manner and in accordance with a schedule reasonably satisfactory to the City, or that the failure is excusable, the determination shall conclude the investigation.

d. If the City determines that a failure to comply with a provision has occurred and that the failure is not excusable and has not been or will not be cured by Developer in a manner and in accordance with a schedule reasonably satisfactory to the City, then the City may pursue any and all remedies it has at law or equity.

#### Section 3.3. Notice of City's Default.

a. Developer shall notify the City in writing specifying any alleged failure by the City to comply with a provision of this Agreement, describing the alleged failure with reasonable particularity. The City shall, within thirty (30) days after receipt of the notice or the longer period of time as Developer may specify in the notice, either cure the alleged failure or, in a written response to Developer, either present facts and arguments in refutation or excuse of the alleged failure or state that the alleged failure will be cured and set forth the method and time schedule for accomplishing the cure.

b. Developer shall determine: (i) whether a failure to comply with a provision has occurred; (ii) whether the failure is excusable; and (iii) whether the failure has been cured or will be cured by the City. The City shall make available to the Developer, if requested, any records, documents or other information necessary to make the determination that are subject to the Public Information Act, Chapter 551, Texas Government Code.

c. If Developer determines that the failure has not occurred, or that the failure either has been or will be cured in a manner and in accordance with a schedule reasonably satisfactory to Developer, or that the failure is excusable, the determination shall conclude the investigation.

d. If Developer determines a failure to comply with a provision has occurred and that the failure is not excusable and has not been or will not be cured by the City in a manner and in accordance with a schedule reasonably satisfactory to Developer, then Developer may pursue any and all remedies it has at law or equity.

Section 3.4. Remedies. In addition to all the rights and remedies provided under the laws of the State of Texas, because of the peculiar damage each party hereto might suffer by virtue of a default by another party, each party shall be entitled to the equitable remedy of specific performance or mandamus, as well as all other legal and equitable remedies available.

ARTICLE VI.  
CITY’S CONSENT TO ANNEXATION; VOLUNTARY ANNEXATION;  
DISTRICT ANNEXATION OF LAND

Section 4.1. Consent to Annexation of City. After the Developer acquires the Tract, Developer will submit to the City its petition for annexation of the Annexation Tract into the corporate limits of the City. The City hereby agrees that it shall not annex the Tract into the corporate limits of the City until ten (10) days after Developer closes on the purchase and sale of the Tract and at such time the Annexation Tract shall be entitled to all the rights and privileges and bound by all regulations of the City.

Section 4.2. Consent to Inclusion of Tract into Existing District. In the event the Developer submits a request for the Tract to be annexed into an existing District after Developer acquires the Tract and within three (3) years from the Effective Date of this Agreement, the City hereby agrees that it shall approve a resolution consenting to the inclusion of the Tract into an existing District, and the City agrees that the resolution will be deemed to constitute the City's consent to inclusion of the Tract into an existing District. No further action will be required on the part of the City to evidence its consent; however, the

City agrees to provide any additional confirmation of its consent that may be required by the Developer if requested to do so.

## ARTICLE V.

### MISCELLANEOUS

Section 5.1. Sale of Tract; Assignability. Any agreement by Developer to sell the entirety or any portion of the Tract to a person intending to develop the tract or such portion thereof (a "Successor Developer," whether one or more) and any instrument of conveyance for the entirety or any portion of the Tract to such Successor Developer shall recite and incorporate this Agreement and provide that this Agreement be binding on such Successor Developer. This Agreement is not intended to be, and shall not be, binding on the ultimate purchasers of parcels out of the Tract. This Agreement is assignable upon written notice to the City; such notice of assignment shall be given within 30 days of an assignment and such notice shall include evidence that the assignee has assumed the obligations under this Agreement.

Section 5.2. Force Majeure. In the event a party is rendered unable, wholly or in part, by force majeure, to carry out any of its obligations under this Agreement, it is agreed that on such party's giving notice and full particulars of such force majeure in writing to the other parties as soon as possible after the occurrence of the cause relied upon, then the obligations of the party giving such notice, to the extent it is affected by force majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability so caused to the extent provided, but for no longer period. Such cause shall as far as possible be remedied with all reasonable dispatch.

The term "force majeure" as used herein shall include, but not be limited to, acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy or of terrorism, war, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, droughts, tornadoes, hurricanes, arrests and restraints of governments and people, suspension of issuance of permits by environmental agencies outside the control of any party, explosions, breakage or damage to machinery or pipelines and any other incapacities of any party, whether similar to those enumerated or otherwise, and not within the control of the party claiming such inability, which by the exercise of due diligence and care such party could not have avoided.

Section 5.3. Law Governing. This Agreement shall be governed by the laws of the State of Texas, and no lawsuit shall be prosecuted on this Agreement except in a federal or state court of competent jurisdiction.

Section 5.4. No Additional Waiver Implied. No waiver or waivers of any breach or default (or any breaches or defaults) by any party hereto of any term, covenant, condition, or liability hereunder, or the performance by any party of any duty or obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstances.

Section 5.5. Addresses and Notice. Unless otherwise provided in this Agreement, any notice, communication, request, reply, or advise (herein severally and collectively, for convenience, called "Notice") herein provided or permitted to be given, made, or accepted by any party to another (except bills), must be in writing and may be given or be served by depositing the same in the United States mail postpaid and registered or certified and addressed to the party to be notified. Notice deposited in the mail in the manner hereinabove described shall be conclusively deemed to be effective, unless otherwise stated in this Agreement, from and after the expiration of three (3) days after it is deposited. Notice given in any such other manner shall be effective when received by the party to be notified. For the purpose of notice, addresses of the parties shall, until changed as hereinafter provided, be as follows:

If to the City, to:

City of Montgomery, Texas  
101 Old Plantersville Road  
Montgomery, TX 77535  
Attention: City Administrator

With a copy to City attorney:

Johnson Petrov LLP  
2929 Allen Parkway, Suite 3150  
Houston, TX 77019  
Attention: Alan P. Petrov

If to the Developer, to:

Tri Pointe Homes Texas, Inc.  
19540 Jamboree Road, Suite 300  
Irvine, CA 92612  
Attention: Thomas J. Mitchell, President

With a copy to \_\_\_\_\_:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The parties shall have the right from time to time and at any time to change their respective addresses and each shall have the right to specify any other address by at least fifteen (15) days' written notice to the other parties.

Section 5.6. Merger and Modification. This Agreement, including the exhibits that are attached hereto and incorporated herein for all purposes, embodies the entire agreement

between the parties relative to the subject hereof. This Agreement shall be subject to change or modification only with the mutual written consent of all the parties.

Section 5.7. Severability. The provisions of this Agreement are severable, and if any part of this Agreement or the application thereof to any person or circumstances shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of part of this Agreement to other persons or circumstances shall not be affected thereby.

Section 5.8. Benefits of Agreement. This Agreement is for the benefit of the City and Developer, and shall not be construed to confer any benefit on any other person except as expressly provided for herein.

Section 5.9. Recordation. The City shall record this Agreement and any amendments thereof in the deed records of Montgomery County. In addition, any assignments of this Agreement shall be recorded in the deed records of Montgomery County. This Agreement, when recorded, shall be a covenant running with the land and binding upon the Tract, the parties and their assignees during the term of this Agreement. However, this Agreement shall not be binding upon and shall not constitute any encumbrance to title as to any purchaser of a tract or lot within the Tract who does not intend to resell, subdivide or develop the tract or lot in the ordinary course of business.

Section 5.10. Term. This Agreement shall be in force and effect from the Effective Date and continue for a term of thirty (30) years unless otherwise previously terminated pursuant to some term or condition of this Agreement or by express written agreement by the City and Developer. Upon expiration of thirty (30) years from the Effective Date of this Agreement, this Agreement may be extended upon mutual consent of the Developer and the City.

Section 5.11. Authority for Execution. The City hereby certifies, represents and warrants that the execution of this Agreement is duly authorized and adopted in conformity with City Code. The Developer hereby certifies, represents and warrants that the execution of this Agreement is duly authorized and adopted in conformity with the articles of incorporation and bylaws or partnership agreement of such entity.

(Signature Pages to Follow)



Executed by the Developer and the City to be effective on the Effective Date.

**TRI POINTE HOMES TEXAS, INC.**  
a Texas corporation

By:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By:

Name: Thomas J. Mitchell  
Title: President

STATE OF TEXAS

§  
§  
§

COUNTY OF MONTGOMERY

This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by Thomas J. Mitchell, President of Tri Pointe Homes Texas, Inc., a Texas corporation, on behalf of said corporation.

\_\_\_\_\_  
Notary Public, State of Texas

(NOTARY SEAL)

**CITY OF MONTGOMERY, TEXAS**

\_\_\_\_\_  
Sara Countryman, Mayor

ATTEST:

\_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF TEXAS           §  
  §  
COUNTY OF MONTGOMERY   §

This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by Sara Countryman, Mayor, City of Montgomery, Texas, on behalf of said City.

\_\_\_\_\_  
Notary Public, State of Texas

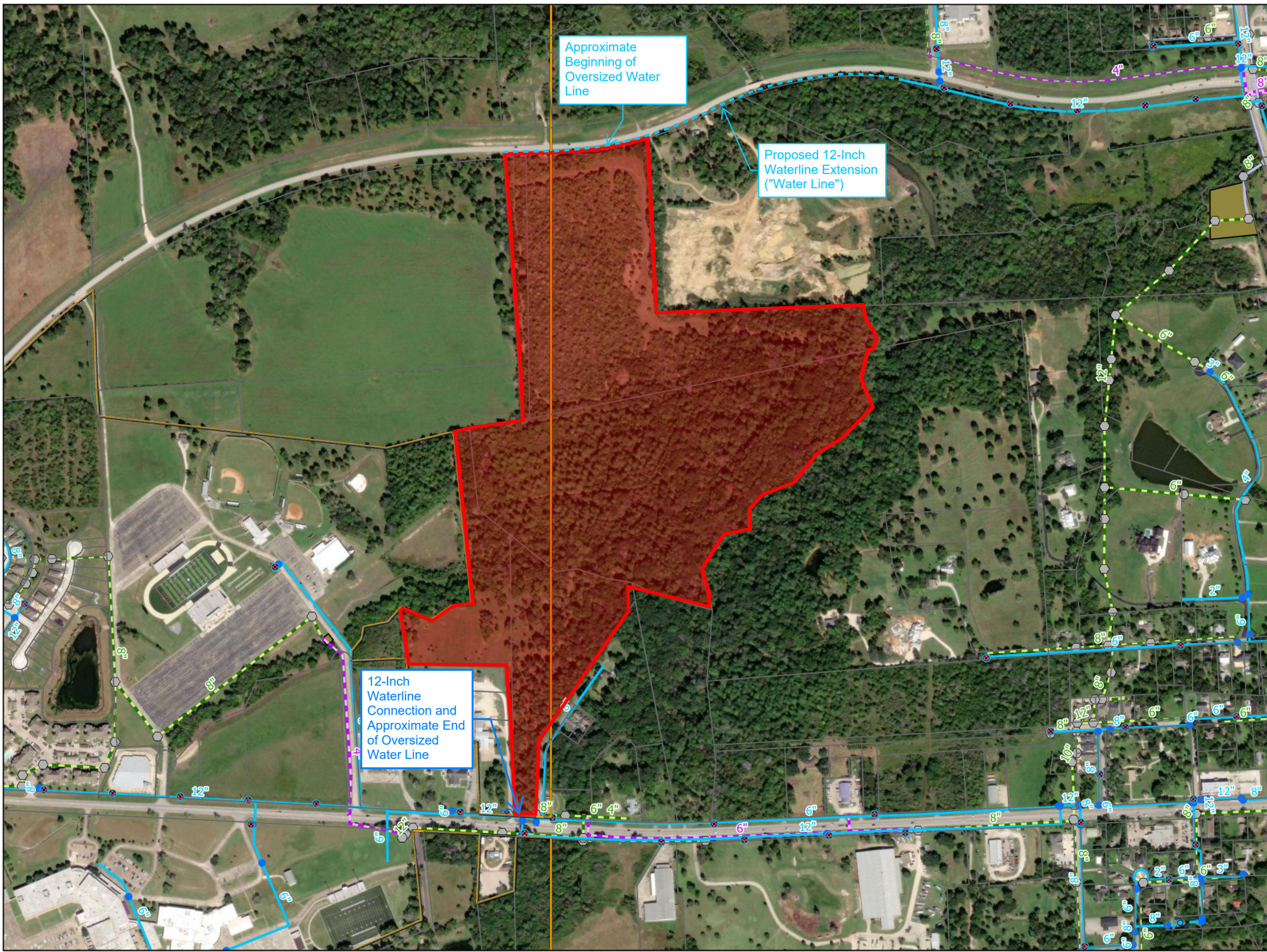
(NOTARY SEAL)

EXHIBIT "A"  
METES AND BOUNDS

DRAFT

EXHIBIT "B"  
UTILITY AGREEMENT

DRAFT



Approximate Beginning of Oversized Water Line

Proposed 12-Inch Waterline Extension ("Water Line")

12-Inch Waterline Connection and Approximate End of Oversized Water Line



- Legend**
- █ Cheatham-Stewart Tract
  - █ City ETJ
  - City Limits
  - Tax Parcel
- Water Infrastructure**
- Hydrant
  - Water Main Valves
  - Water Main
  - Water Plant Facility
- Sanitary Sewer Infrastructure**
- Sanitary Sewer Manhole
  - Sanitary Sewer CCTV
  - Sanitary Sewer Gravity Main
  - Sanitary Sewer Lateral
  - Sanitary Sewer Pressurized Main
  - █ Sanitary Sewer Water Treatment Plant

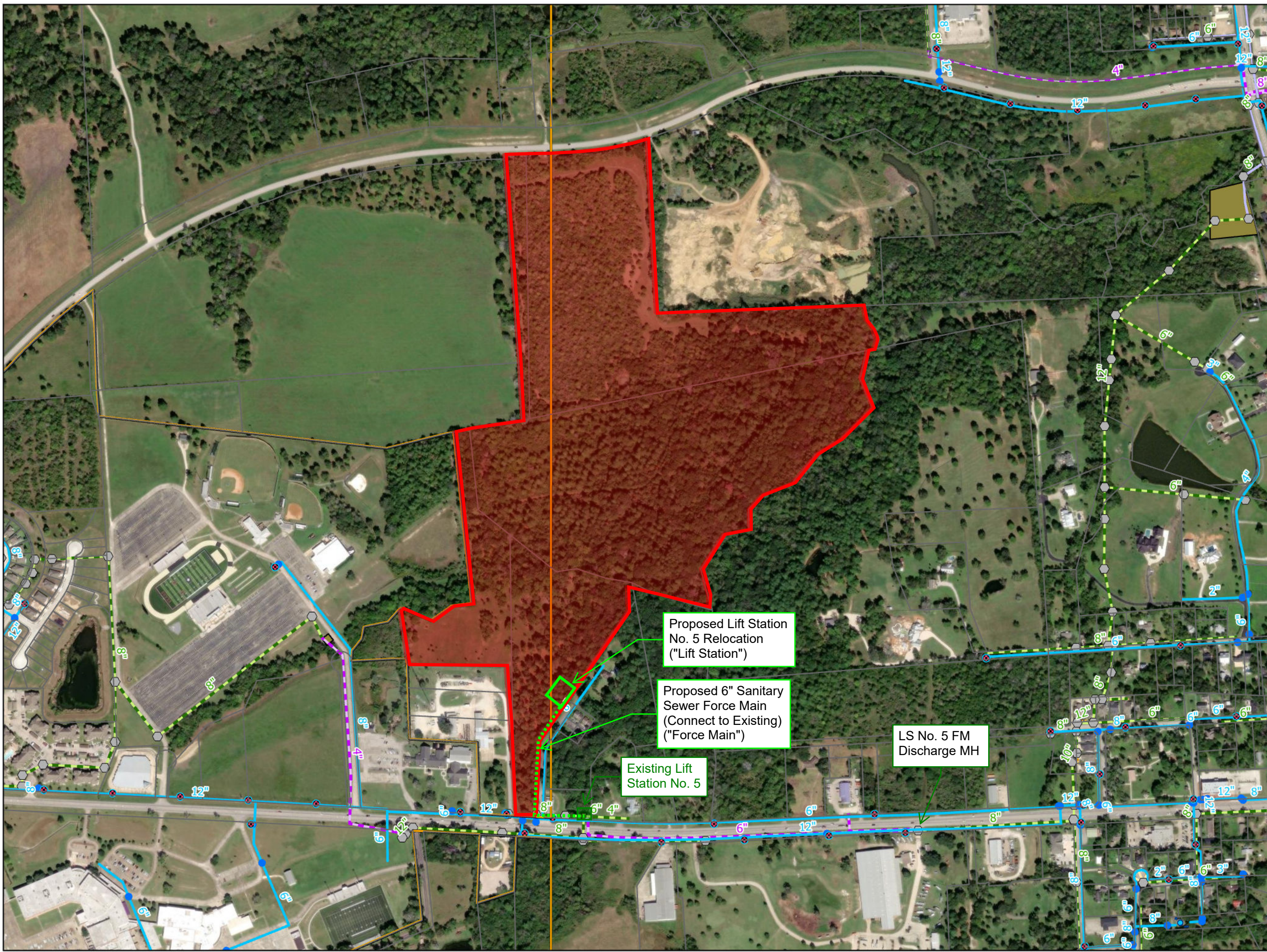
# Tri Pointe Development

## Exhibit C



Disclaimer: This product is offered for graphical purposes only and may not be suitable for legal, engineering, or surveying purposes. The information shown on this exhibit represents the approximate location of property, municipal boundaries or facilities.





- Legend**
- █ Cheatham-Stewart Tract
  - █ City ETJ
  - City Limits
  - Tax Parcel
- Water Infrastructure**
- Hydrant
  - Water Main Valves
  - Water Main
  - █ Water Plant Facility
- Sanitary Sewer Infrastructure**
- Sanitary Sewer Manhole
  - Sanitary Sewer CCTV
  - Sanitary Sewer Gravity Main
  - Sanitary Sewer Lateral
  - Sanitary Sewer Pressurized Main
  - █ Sanitary Sewer Water Treatment Plant

# Tri Pointe Development

## Exhibit D



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