

**Notice of City Council Meeting
AGENDA**

October 12, 2021 at 6:00 PM

NOTICE TO THE PUBLIC IS HEREBY GIVEN the Montgomery City Council will conduct its City Council Meeting scheduled for **6:00 PM on Tuesday, October 12, 2021**, 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 www.montgomerytexas.gov under Agenda/Minutes and then select **Live Stream Page (located at the top of the page)**. The Meeting Agenda Pack will be posted online at www.montgomerytexas.gov. The meeting will be recorded and uploaded to the City's website.

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE TO FLAGS

VISITOR/CITIZENS FORUM:

Any citizen with business not scheduled on the agenda may speak to the City Council. Prior to speaking, each speaker must be recognized by the Mayor. City Council may not discuss or take any action on an item but may place the issue on a future agenda. The number of speakers along with the time allowed per speaker may be limited.

CONSENT AGENDA:

- 1.** Matters related to the approval of minutes of the September 28, 2021, Workshop Meeting and September 28, 2021, Regular Meeting.

CONSIDERATION AND POSSIBLE ACTION:

- 2.** Consideration and possible action regarding an Application for a BG- Wine and Beer Retailer's Permit by Grillin' Gunner Inc. operating as the Old Montgomery Steakhouse located at 204 McCown Street, Montgomery.
- 3.** Consideration and possible action regarding adoption of the following Resolution: RESOLUTION BY THE CITY COUNCIL FOR THE CITY OF MONTGOMERY, TEXAS, DESIGNATING THE COURIER NEWSPAPER AS THE OFFICIAL NEWSPAPER FOR THE CITY OF MONTGOMERY AND AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A CONTRACT.
- 4.** Update from Public Works Director on tentative timeline for smoke testing of sewer lines.
- 5.** Consideration and possible action on Procedural Rules for Montgomery City Council Meetings.
- 6.** Consideration and possible action on nominations for Montgomery County Appraisal District Board (MCAD) of Directors Election for the 2022-2023 term.
- 7.** Update and discussion on proposed revisions to the Vendor Ordinance relating to Mobile Food Units.

EXECUTIVE SESSION:

The City Council reserves the right to discuss any of the items listed specifically under this heading or for any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding real property),551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Government Code of the State of Texas.

8. Adjourn into Closed Executive Session as authorized by the Texas Open Meetings Act, Chapter 551 of the Government Code, in accordance with the authority contained in the following: a) Section 551.071 (consultation with attorney) and 551.074 (personnel matters) Annual Review of the City Administrator.

Reconvene into Regular Session.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

9. Consideration and possible action regarding item(s) listed on the Executive Session.

COUNCIL INQUIRY:

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

ADJOURNMENT

/s/Susan Hensley

Susan Hensley, 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 October 8, 2021 at 4:00 p.m. I further certify that the following news media was notified of this meeting as stated above: The Courier

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.

MINUTES OF WORKSHOP MEETING

September 28, 2021

MONTGOMERY CITY COUNCIL

CALL TO ORDER

Mayor Countryman declared a quorum was present and called the meeting to order at 5:30 p.m.

Present:	Sara Countryman	Mayor
	Carol Langley	City Council Place # 1
	T.J. Wilkerson	City Council Place # 3
	Julie Davis	City Council Place # 4
	Byron Sanford	City Council Place # 5

Absent:	Kevin Lacy	City Council Place # 2
---------	------------	------------------------

Also Present:	Richard Tramm	City Administrator
	Dave McCorquodale	Assistant City Administrator
	Susan Hensley	City Secretary
	Alan Petrov	City Attorney

INVOCATION

T.J. Wilkerson gave the Invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

VISITOR/CITIZENS FORUM:

Any citizen with business not scheduled on the agenda may speak to the City Council. Prior to speaking, each speaker must be recognized by the Mayor. Council may not discuss or take any action on an item but may place the issue on a future agenda. The number of speakers along with the time allowed per speaker may be limited.

Kevin Lacy arrived at 5:37 p.m.

WORKSHOP MEETING:1. Presentation regarding Redbird Meadow Development (Kammerer Tract)

Mr. Tramm said on September 23, 2021, the Mayor, City staff, and consultants held a preliminary meeting with the developer and their consultants for the planned Redbird Meadow Development on the property previously discussed as the Kammerer Tract. Mr. Tramm said the developer has asked to make an introductory presentation to City Council.

Mr. Tramm said they will continue to work with the developer on an agreement that will come before City Council for approval at a future date.

Mr. Perry Senn, one of the owners of Redbird Meadow Development said they have been in the developing business for more than 30 years. Mr. Senn said they have completed 20-25 projects ranging from 25 acres to 800 acres. Mr. Senn said the last project they just finished took them 18 years to complete, which is on the Grand Parkway in Katy. Mr. Senn said the estimated value they created on that project alone was over \$600 million and has 1,000 homes. Mr. Senn said other projects include Walmart, Kroger, Amazon, and other businesses and restaurants. Mr. Senn said they have a project near Montgomery called Pine Lake Coves with 320 acres. Mr. Senn said it is a smaller community in the City of Conroe. Mr. Senn said they did a public, private partnership with the city and agreed to build a water plant and a wastewater treatment plant and then get reimbursed from that City. Mr. Senn said they started selling 75 permits and 53 homes have already been sold.

Mr. Senn said they are keeping the name Redbird Meadow Ranch for this project, and they intend to keep the property looking the same. Mr. Senn said there will be a total of 552 home sites with the smallest property being 60 x 140 square feet, there will be 85 x 170 and 110 x 200 which are half-acre lots. Mr. Senn said the average home value will be \$650,000. Mr. Senn said they will generate the taxable value to \$358 million.

Mr. Senn said they have asked the City of Montgomery to annex them into the City. Mr. Senn said they are not a utility user and are going to help with the City utilities and pay their share to help support the City. Mr. Senn said they will also create an in-City MUD, which will be an additional tax to their residents that live in their community only.

Mr. Senn said they will end up with at least two, maybe three builders and most of them are national home builders, with no production builders as these will be custom homes.

Ms. Annette Stephens, an attorney with Allen Boone Humphries Robinson, LLP (ABHR) said they represent and create special districts for residential and commercial development. Ms. Stephens gave a slideshow presentation regarding Municipal Utility Districts in Texas, which is on file with the City.

Ms. Stephens said it is created over a limited area to provide water, sewer, drainage, parks and recreational facilities, and roads. Ms. Stevens said those are the only types of services and utilities they provide.

Ms. Stephens said the biggest benefit of the MUD is the new growth pays for itself. Ms. Stephens said the district that is created will create enough taxable value to eventually pay for through the tax-exempt bonds the utilities that serve the land within its boundaries.

Ms. Stephens said another primary benefit is it creates high-quality infrastructure. Ms. Stephens said a Municipal Utility District is highly regulated in the State of Texas. Ms. Stephens said all public infrastructure has to be in compliance not only with the City codes, but also TCEQ regulations.

Ms. Stephens said the Municipal Utility District is governed by its own Board and levies its own tax, so the residents within the MUD will be entitled to vote for the Board, run for the Board, and they will be the ones that will be controlling the tax rate in their district.

Ms. Stephens said one of the key components and something that Texas prides itself on is affordable new housing. Ms. Stephens said one of the reasons for this is the ability of the special districts to finance their infrastructure.

Ms. Stephens said MUDs are very prevalent in the State of Texas. Ms. Stephens said MUDs have been used to develop almost all the major master-planned communities in the greater Houston area. Ms. Stephens said the reason for this is that the infrastructure costs can be absorbed by the community.

Ms. Stephens said the TCEQ highly regulates MUDs and they only allow MUDs to sell bonds to reimburse the developer once their suspicion is above the ground taxable value and there has to be several homes on the ground with enough value in this area of Montgomery County to reimburse the developer at a tax rate not to exceed \$1.50, which includes the City's tax rate.

Ms. Stephens said MUDs can only exercise those powers expressly granted in the Texas Water Code. Ms. Stephens said plans for public infrastructure are subject to all City codes and ordinances; infrastructures regulated by the TCEQ are subject to EPA requirements.

Ms. Stephens said there are two ways to create MUDs. Ms. Stephens said one is through TCEQ and the other is through the Texas legislature. Ms. Stephens said if a MUD is in a city's ETJ or corporate limits, the city must consent to the creation of the MUD. Ms. Stephens said in connection with the consent, the landowner and the city negotiate other terms for providing services to the MUD, including a development agreement and utility agreement. Ms. Stephens said the city is partners with the MUD in setting forth development expectations.

Ms. Stephens said a MUD is governed by a five-member Board that is initially appointed by the TCEQ and later elected by residents in the MUD. Ms. Stephens said elections are conducted in accordance with the requirements of the Texas Election Code. Ms. Stephens said the Board oversees the management of the MUD and is charged with developing facilities in the manner that is in the best interest of residents and the landowner. Ms. Stephens said the MUD employs several professional consultants to advise the board and make recommendations on action items.

Ms. Stephens said no tax or bail bonds may be issued by the MUD until they are voted on by the residents of the district.

Julie Davis asked if the MUD is in place of the City tax and not in conjunction with it. Ms. Stephens said if a MUD is in the ETJ and not within the boundaries of the City, there is no City overlap. Ms. Stephens said if the MUD is within the boundaries of the City it is in conjunction with the City tax. Ms. Stephens said that is something a developer has to take into consideration and more when they set the tax rate because they want to make sure that it is a competitive tax rate. Mr. Alan Petrov, City Attorney said it also has to be disclosed when people buy property, so people buying houses in the MUD know what the tax rate is going to be.

Julie Davis asked if a PID was considered over a MUD. Julie Davis said she would like the taxpayers to not have this overwhelming MUD tax.

Ms. Stephens said a PID is very different, whereas it is an assessment as opposed to a tax. Julie Davis said it is a flat fee that has an expiration term. Ms. Stephens said yes it does. Ms. Stephens said a PID will levy an assessment to reimburse the developer for infrastructure costs. Ms. Stephens said if you are reimbursed on a pay-as-you-go basis from an annual collection of assessments it would take many years for the developer to be reimbursed. Ms. Stephens said a bond that is payable from an assessment is a more efficient way to reimburse; there is a much higher interest rate and a PID is not a distinct political subdivision. Ms. Stephens said it is an entity that is created by the city and would be part of the city's portfolio. Ms. Stephens said it is a decision that needs to be made on whether or not to allow PID debt to be on the books at a much higher interest rate. Ms. Stephens said it is difficult to collect and enforce as opposed to having a tax. Ms. Stephens said the development decision for a MUD, while there is an overlay of tax, typically what the homeowner receives is the benefits and the amenities associated with high-quality infrastructure. Ms. Stephens said a tax also will only be levied for so long as the MUD is in existence. Ms. Stephens said eventually after the debt is all paid off the city can dissolve the MUD.

Julie Davis asked if they are allowed to set any kind of limits within the dollar that they cannot exceed \$1.50 and are they able to set any limits regarding their MUD assuming City Council is even going to approve it. Mr. Petrov said the City is entitled to enter into a development agreement and they can set out parameters that are typically part of that process.

Mr. Senn said their MUD tax is not creating a tax on existing homeowners within the City and it is only for their community.

Julie Davis said they are asking to be annexed and they are extremely grateful for a \$358 million asset adding to the City, but those 552 homes are constituents that will then be a part of the City that they will have to answer to. Julie Davis said she understands it is not a tax to the current residents, but it is a tax to the future residents, which means it is a tax to the current residents because then they all live and work together.

Mayor Countryman said this MUD does not affect what she pays yearly. Mayor Countryman said if you move into this subdivision, it is your choice and you voluntarily take on that tax when you move into a MUD community.

Ms. Stephens said there is a notice to purchasers that they are required to file concerning the MUD tax.

Byron Sanford asked if the City staff has a projection based on the evaluation and current City tax. Byron Sanford asked if \$1.5 million per year was projected for the City. Mayor Countryman said they would not know the future taxes. Byron Sanford said if it was projected today and kept at \$0.40.

Mr. Roznovsky, City Engineer said back in January when they did the feasibility study the estimated value was \$258 million and based on that number for the event service rate you are looking at approximately \$293,000 a year and operations maintenance tax rate possibly \$690,000 a year. Mr. Roznovsky said that is two-thirds of what it is now and add \$100 million on top of that.

Mayor Countryman thanked Mr. Senn and Ms. Stephens for their time and presentation.

EXECUTIVE SESSION:

The City Council reserves the right to discuss any of the items listed specifically under this heading or for any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding real property), 551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Government Code of the State of Texas.

There was no Executive Session held.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

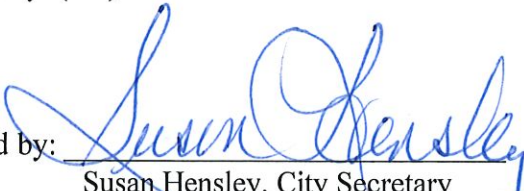
COUNCIL INQUIRY:

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

No inquiries from City Council.

ADJOURNMENT

Kevin Lacy moved to adjourn at 6:00 p.m. Byron Sanford seconded the motion, the motion carried unanimously. (5-0)

Submitted by:  Date Approved: _____
Susan Hensley, City Secretary

Mayor Sara Countryman

MINUTES OF REGULAR MEETING

September 28, 2021

MONTGOMERY CITY COUNCIL

CALL TO ORDER

Mayor Countryman declared a quorum was present and called the meeting to order at 6:01 p.m.

Present:	Sara Countryman	Mayor
	Carol Langley	City Council Place # 1
	Kevin Lacy	City Council Place # 2
	T.J. Wilkerson	City Council Place # 3
	Julie Davis	City Council Place # 4
	Byron Sanford	City Council Place # 5

Absent:

Also Present:	Richard Tramm	City Administrator
	Dave McCorquodale	Assistant City Administrator
	Susan Hensley	City Secretary
	Alan Petrov	City Attorney

INVOCATION

Byron Sanford gave the Invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

1. Consideration and possible action regarding adopting a Proclamation for World Teachers’ Day on October 5, 2021.

Mayor Countryman read the Proclamation:

WHEREAS, the City of Montgomery's future strength depends on providing a high-quality education to all students; and

WHEREAS, teacher quality matters more to student achievement than any other school-related factor; and

WHEREAS, teachers spend countless hours preparing lesson plans and supporting students; and WHEREAS, our Montgomery Independent School District teachers have demonstrated great resilience, adaptability, and creativity during the COVID-19 crisis; and

WHEREAS, our community recognizes and supports its teachers in educating the children of this community; and

WHEREAS, #TeachersCan is a statewide movement supported by more than 125 partnering businesses and organizations committed to elevating the teaching profession and honoring the critical role teachers play in the success of Texas; and

NOW, THEREFORE, BE IT RESOLVED that the City of Montgomery City Council joins #TeachersCan and its partnering entities across Texas in celebrating World Teachers' Day and proclaims October 5, 2021, to be Montgomery Teachers' Day; and

BE IT FURTHER RESOLVED that the City of Montgomery Mayor and members of the City Council encourages members of our community to personally express appreciation to our teachers and display a light blue ribbon outside your homes or businesses the week of October 5 as a symbol of support for our Montgomery Independent School District educators.

PASSED, APPROVED AND ADOPTED this 28th day of September 2021.

Mayor Countryman presented Dr. Heath Morrison, Montgomery Independent School District Superintendent, with the proclamation.

Mayor Countryman said she needed City Council to make a motion to accept the consideration and possible action for item #1.

Julie Davis moved to accept item #1 as presented. Kevin Lacy seconded the motion, the motion carried unanimously. (5-0)

VISITOR/CITIZENS FORUM:

Any citizen with business not scheduled on the agenda may speak to the City Council. Prior to speaking, each speaker must be recognized by the Mayor. Council may not discuss or take any action on an item but may place the issue on a future agenda. The number of speakers along with the time allowed per speaker may be limited.

Mrs. Jenny Stewart of 205 Kings Lane, Montgomery, Texas said she wanted to thank everyone with the City who is doing the smoke testing through the sewer lines on Lone Star Estates. Mrs. Stewart said she is also requesting a copy of the smoke testing report and any findings in Lone Star Estates. Mrs. Stewart said the good news is snakes were flushed out. Mrs. Stewart said one house had two snakes removed from the toilet and another house had one snake removed.

Mr. Esmeralda of 110 Racetrack Lane, Montgomery, Texas said he and his wife have been residents of Montgomery for five years. Mr. Esmeralda said he was in the Marine Corps for 12 years, was a police officer in Houston for six years, and has been a skater for over 20 years. Mr. Esmeralda said he has been reading over the 2020 Comprehensive Plan and likes how it elaborates a lot on creating public spaces. Mr. Esmeralda said he thinks skate parks could be great architectural art to our community. Mr. Esmeralda says there are eye-sore skate parks, but he is proposing we can create a skate park that the youth can go to that would be an architectural art piece for the community. Mr. Esmeralda said skateboarding was in the Olympics this year and is so diverse, from 13-year-old pro skater girls that are dominating the field, to old-school skaters. Mr. Esmeralda said skateboarding would not be just for younger people but older ones as well. Mr. Esmeralda said there are a lot of benefits to skating and it gives the kids a place to grow in a safe environment in our community. Mr. Esmeralda said he knows there are a lot of parks nearby in Conroe and The Woodlands but he would like to see a skate park in our community. Mr. Esmeralda said the difference for our community would be all the restaurants are within walking distance from the skate park. Mr. Esmeralda said the vision also mentions what it means to be able to make a place for our families to grow, live, work, play, and shop and believes the skate park can do that for the community. Mr. Esmeralda said it also mentions the age distribution with the youth 20 and under making a significant portion of the population in the community. Mr. Esmeralda said he feels there is a gap in that area without things like a skate park, basketball courts, and tennis

and believes the skate park will fill in that gap. Mr. Esmeralda says he hopes they can balance out the recreational growth and commercial growth within the community and hopes the City will consider a skate park.

Mr. Bill Clevenger, 383 Berkley Drive, Montgomery, Texas said coincidentally his wife mentioned to him she will be taking their son and his friends to a skateboard park in Conroe. Mr. Clevenger said it has been mentioned that the newly acquired property purchased by the City on Clepper Street would be an excellent place for a skateboard park.

Mr. Clevenger said he thinks there is a huge gap where kids are left out from ages three to 18 that there is nothing for them to do in this town. Mr. Clevenger said they hang out at the ice cream stand or Burger Fresh but there is nothing to entertain these kids in Montgomery. Mr. Clevenger said they are off to The Woodlands or Houston and he implores the Councilmembers, Mayor, and City Administrator to go out and work with the developers and entice them to come in and sell Montgomery and see if we cannot bring in some development of things for the kids to do to keep the kids in the City and build the essence of community right in our community.

Mr. Kade Jenkins, 14809 Lake Mount Pleasant Road, Montgomery, Texas, owner of Wilderlove Coffee in downtown Montgomery said he wanted to thank everyone at the City for putting in the work and research for looking into possible ordinances and how food trucks operate in other areas for the upcoming workshop meeting. Mr. Jenkins said he looks forward to that meeting on Thursday and is very hopeful they will be able to open at 7:00 a.m., hopeful and excited for what the future holds, and feels certain everyone is thinking about what is best for the City. Mr. Jenkins said he is excited to see how they pave the way for many more people to start small businesses. Mr. Jenkins said his business has been in the downtown area for three months now and hopes their presence has blessed the community and that people have felt seen and loved by them. Mr. Jenkins said one of his favorite parts multiple times each week is whenever Mr. Esmeralda and his wife ride their bikes up there as it feels like a community and feels like home and he hopes to see more of it in downtown Montgomery.

Ms. Beth Gault, 606 College Street, Montgomery, Texas said she is a big library user. Ms. Gault said people do not know how lucky Montgomery is to have a public library and it is very unusual. Ms. Gault said you probably do not realize just how many people use the library. Ms. Gault said it serves constituents in the same district as the schools and gives people a good reason to come to Montgomery

and spend their money here. Ms. Gault said even though it is a County facility it is very important to the economy of this little town. Ms. Gault said according to Texas State Library Archives and Commission through business research, a student at the University of Texas at Austin determined that for every dollar invested in Texas public libraries the community sees a \$4.64 return in access to resources, programming, services, and technology. Ms. Gault said between October 2018 through September 2019, 94,425 people visited the library and checked out 201,155 items. Mayor Countryman said that is the size of Conroe. Ms. Gault said 7,595 people use the free public computers and a lot of people are not even aware there are free public computers to use. Ms. Gault said 8,288 attended in-house library programs for adults, young adults, and children which are still all virtual right now, and 1,024 participated in computer instruction classes ranging from how to use a mouse to much more difficult things. Ms. Gault said the library does all this for free and there are a lot of things people do not know about the library.

Mr. John Champagne said he was not going to talk about recreation and skating but since it was brought up he will. Mr. Champagne said he loves recreation and is still coaching little league baseball. Mr. Champagne said he would think about it long and hard because the core services of the City are toilets, water, police, roads, and sidewalks. Mr. Champagne said it would be nice if the City would comply and supply walking areas for the entire community. Mr. Champagne said this place is really beautiful and to walk around since COVID-19 came, a lot of people have found that it is nice to walk around. Mr. Champagne said he gets skating and asked what percentage of the population would benefit from skating. Mr. Champagne said he is not against it, but as far as priorities are concerned a recreational department can cause a huge drain on the City budget.

Mr. Champagne said he would like a listing of individuals' salaries of the City staff. Mr. Champagne said that would include any benefits not listed as currency such as the use of a company truck and/or car for personal use to come from home to business. Mr. Champagne said if it is listed with a dollar amount he would like to see it in there. Mr. Champagne said he thinks it is part of public information that can be provided.

Mr. Champagne said the last thing is when they gave a variance and special use for Mr. Jacobs property to do his rental of cottages, the variance was based on mitigating the flow that was initiated by cleaning up that property. Mr. Champagne said before that, the shrubs and the brush slowed the flow going downhill which is a pretty severe grade. Mr. Champagne said he does not know firsthand the flooding

situation, but he was driving by during a hard rain and it was coming down pretty good. Mr. Champagne said part of the agreement was to make sure the mitigated area would re-route the flow and he would like to see that done.

CONSENT AGENDA:

2. Matters related to the approval of minutes of September 14, 2021, Public Hearing and Regular Meeting.

Julie Davis moved to accept item #2 as presented. Byron Sanford seconded the motion, the motion carried unanimously. (5-0)

CONSIDERATION AND POSSIBLE ACTION:

3. Consideration and possible action regarding renewal of the 2021-2022 Medical, Dental, AD&D, Life and Vision Benefits with TML Health Benefits Pool.

Mr. Tramm said the renewal rate for January 2022 includes a one percent increase from last year. Mr. Tramm said this coverage will be with Blue Cross Blue Shield through the Texas Municipal League Health Benefits Pool. Mr. Tramm said the City currently pays 100 percent of the full-time employee coverage. Mr. Tramm said this year City Council has authorized the City to pay 50% of the employee's dependent coverage and a chart is provided for review. Mr. Tramm said this is being presented to City Council for approval.

Mr. Tramm said with the coverage through the Texas Municipal League Health Benefits Pool, they go out and obtain coverage for the pool. Mr. Tramm said with the current year about to end, they are switching providers away from United Healthcare to Blue Cross Blue Shield because they were able to obtain better coverage through them.

Julie Davis asked if Mr. Tramm has been able to talk to City staff or department heads to see if they are excited about this. Mr. Tramm said there is a number of those who are preparing for open enrollment, which begins the first week in November. Mr. Tramm said there is staff who chose to cover their family members but not through the City's policy. Mr. Tramm said he knows those he has heard from and talked with directly are for it.

Julie Davis asked if the first or second week of November they will be able to have a number. Mr. Tramm said he will give City Council the information he receives at the first meeting in November but he does not know at that point it will be final, but at least he will be able to give City Council what the indications are. Mr. Tramm said he believes the first meeting is November 9th and he will present the information that he receives.

Julie Davis moved to approve item #3 as presented with a request to follow up by the end of November from Mr. Tramm. Byron Sanford seconded the motion, the motion carried unanimously. (5-0)

4. Consideration and possible action to approve a Professional Services Agreement with Azavar.

Mr. Tramm said Azavar came to his attention as a provider of services related to the collection of lodging taxes, including short-term rentals, which is a service the City was looking for. Mr. Tramm said the City of Conroe is currently among Azavar's satisfied clients which is how they came to his attention. Mr. Tramm said Azavar would provide a portal for the collection of necessary information as well as hotel tax fees related to lodging services. Mr. Tramm said the cost for using the portal is \$8 per report, which would be passed on to the entity paying the lodging taxes.

Mr. Tramm said in addition, Azavar will seek out locations that should be paying taxes and work to collect the taxes owed on a commission basis. Mr. Tramm said for this work Azavar will receive 22% of these new collections for 22 months. Mr. Tramm said they would also perform this service for sales taxpayers and provide reports on sales tax for us for 12 months at no charge. Mr. Tramm said while sales tax reporting is not the primary reason to engage Azavar, this could become part of our future sales tax process that was discussed during the budget workshop. Mr. Tramm said he thinks the additional service would be a good transition for them.

Julie Davis said the contract was a little confusing but she did read the 22 percent for 22 months and paying nothing for 12 months. Julie Davis said at the end of the contract it states the City would pay \$1,800 per year after October 1, 2022. Julie Davis asked if this is an estimate of what the 22 percent will be or is that on top of the 22 percent mentioned. Mr. Tramm said that

would be on top of the 22 percent and that would be an annual fee. Julie Davis asked if they sign up by October 1, 2021, they will then waive the startup fee. Mr. Tramm said it is the annual fee plus the startup and intro fee. Mr. Tramm said the contract did go through the City Attorney's review.

Mayor Countryman said \$17,000 was budgeted for this and knows the City is not collecting tax on Airbnb and other places that are not even breakfast places, just rooms. Mr. Tramm said he knows there are sites out there that should be paying and through this service, they would be seeking them out and getting them into line legally, and the City would be receiving the funds. Mr. Tramm said that is where those numbers are just estimates looking into online portals.

Kevin Lacy asked Mr. Tramm if he thought there were enough rental properties to justify this service. Mr. Tramm said he does because for any amount they bring in they are getting paid a percentage above. Mr. Tramm said if they bring zero in all they are getting is the \$8.00 value fee from the ones who have already filed. Mayor Countryman said if it does not pay for itself in the first year they can easily cancel it. Mr. Tramm said exactly. Mr. Tramm said if in six to 12 months from now there is nothing new coming in they can cancel the service and try something else.

Julie Davis asked if they would get a monthly or quarterly update, and how will they know a year from now before this renews. Mr. Tramm said they can receive either monthly or quarterly reports. Mr. Tramm said his recommendation would be to present it to City Council on a quarterly basis because they could have those entities file through the portal monthly or quarterly. Mr. Tramm said he thinks the limited number they have quarterly is probably the easier way to do it. Mr. Tramm said it is City Council's preference and he is happy to go one way or the other. Mr. Tramm said either way they will be getting information and he will be reporting to City Council with collections.

Kevin Lacy asked if there are neighboring cities doing something similar. Mr. Tramm said yes and they have been relying on them to supply the information to the City. Mr. Tramm said the City of Conroe went to this firm and they were quite satisfied. Mr. Tramm said they tackled the same problem the City was looking at, on a much larger scale.

Mayor Countryman said to be clear this came about because Mr. Jacobs had proposed doing 12-14 cottages and he was going to advertise those on Airbnb. Mayor Countryman said there are other Airbnb's that they are not seeing the taxes received. Mayor Countryman said getting ahead of this wave of Airbnb's is the way of staying since the City does not have a hotel. Mr. Tramm said the fee number mentioned earlier that they put in their budget is just a guess from doing searches on some online portals. Mr. Tramm said they know there is activity out there that is not being related to the City and they are going to have to do something to get it sent to them.

Kevin Lacy said that the few folks he spoke with that they know, like Tom Cronin for example, none is against paying taxes once they are discovered and it is the customer paying for it. Kevin Lacy said he thinks there are a lot more out there which they do not know about. Mr. Tramm said when you go to a hotel you expect there to be a hotel tax.

Julie Davis asked what the limitations are on using the tax money. Mr. Tramm said, generally speaking, it would be used for tourism-type activities or advertising. Julie Davis asked about sidewalks. Mayor Countryman said potentially and thinks Bastrop was able to add sidewalks because of it. Mr. Petrov, City Attorney said if they are related to tourism or promoting tourism and certainly in places like parks which they could help facilitate visitors to use. Mr. Petrov said the statute clearly defines a laundry list of about eight or 10 different things that qualify.

Kevin Lacy asked if City Council gets to choose off that list. Mr. Petrov said that was correct. Julie Davis said they are loosely laid out so a lot of things could fall under it. Mr. Petrov said yes, they are broad categories.

Byron Sanford moved to approve the Professional Services Agreement with Azavar. Kevin Lacy seconded the motion.

Discussion: Julie Davis asked if this was bid out with anyone else or no, this is who Conroe used so we bid with them. Mr. Tramm said he spoke with a couple of other cities and this is the only company name he got and the only one he spoke with. Mr. Tramm said he did not know another company that did this.

Byron Sanford said this is still a new frontier and this is a problem for cities and is a cutting edge deal. Mr. Tramm said yes and he did not know where else to go to once he spoke with the owners that do the same work he does for the City.

Julie Davis asked if a year down the road are they going to bid this and then at that point have other people knocking on their door or are we going to stick with them because we like it. Mr. Tramm said it gives them a year to find out more about who else is in the field. Mr. Petrov said he suspects as the market continues to grow there will be more players in the field.

Julie Davis asked if Airbnb's have to be permitted in the City. Mayor Countryman said she does not think so. Mr. Petrov said that may be something that you want to consider. Mr. Petrov said the whole subject of Airbnb's is the subject of a lot of discussion. Mr. Petrov said different cities treat it in different ways and there are lawsuits about whether or not they can be regulated by a city.

Kevin Lacy asked if they decided not to continue on how much notice would they need to give. Julie Davis said 30 days. Julie Davis asked if they are legally bound to that as a City and said she thought the City was not legally bound by expiration dates. Mayor Countryman said yes, it is in the contract and they only deal with cities.

The motion carried unanimously. (5-0)

5. Consideration and possible action on nominations for Montgomery County Appraisal District Board (MCAD) of Directors Election for the 2022-2023 term.

Mr. Tramm said each jurisdiction is entitled to vote in the election of the Montgomery County Appraisal District's Board of Directors and may nominate a candidate for each of the five positions to be filled. Mr. Tramm said the attached pages include correspondence from MCAD, including Qualifications for an Appraisal District Director. Mr. Tramm said the City of Montgomery has five votes in the election out of 5,000 votes in total.

Mr. Tramm said they must mail the nomination form on or about October 15, 2021, so this item could be deferred to the October 12, 2021 City Council meeting if City Council would like some time to think about any names they would like to put into the nomination.

Mayor Countryman said she thinks they need representation on this side because our appraisals are out of control. Mayor Countryman said some appraisals have jumped 700 percent and we currently do not have a voice there. Mayor Countryman said if anyone out there would like to be a part of it submit your name for the nomination because we need to be heard.

Mr. Tramm said City Council can think about it and come up with names and then come back on October 12, 2021, purposely deferring this item until then.

Julie Davis asked if we are posting this publicly for these five positions. Mr. Tramm said he has not done anything because he wanted to talk with City Council. Mr. Tramm said before they have posted anything in the past the City has not put anything out for the public other than in the City Council meeting. Mr. Tramm said MCAD's responsibility is to circulate this among the general public and the participating entities.

Mr. Petrov said it is a two-step process. Mr. Petrov said the participating entities nominate someone and then different cities can nominate different people. Mr. Petrov said following the nomination period those nominees will be circulated and the cities get to vote from that list of nominees.

Kevin Lacy said they can take a couple of weeks to figure out some names.

Julie Davis said just to clarify City Council needs to obtain five names and if they get more than that then they can vote on the five names they want to nominate at the next City Council meeting.

Mr. Petrov said no, that is not what he is saying. Mr. Petrov said the process under State law is that the participating entities get to nominate people and then can circulate the list of nominees amongst the participating entities and then there is a vote.

Mr. Tramm said sometime after October 15, 2021, before the end of the year they will get the list of nominees back from MCAD for City Council to decide from those names how it will apply those votes.

Julie Davis moved to postpone this item until October 12, 2021, and make a public posting on the City's website to the public for applications. Kevin Lacy seconded the motion, the motion carried unanimously. (5-0)

Mr. Tramm said when they do post they will also post a page with the qualifications so people can know whether or not they may or may not be qualified.

Kevin Lacy asked if it would be posted to the City website. Mr. Tramm said they would post it to the City website and also post a message on the electronic announcement board referencing it and when people call they can direct them. Mr. Tramm said he thinks people will see the sign more than the webpage. Mr. Tramm said the problem is you can only fit so much information on the sign.

Julie Davis said it is not an application, it is more like them sending in their biography.

6. Consideration and possible action on Procedural Rules for Montgomery City Council Meetings.

Mr. Tramm said the concept of having a defined set of procedures has been discussed recently. Mr. Tramm said Procedural Rules were approved and considered by City Council in 2009 but were not adopted. Mr. Tramm said he provided a copy to City Council on September 14, 2021, for review.

Mr. Tramm said the City Attorney has proposed an updated version that is attached to this item as the starting point for City Council's consideration.

Kevin Lacy asked how much of the original were they given a couple of weeks ago and asked Mr. Petrov if that was what he worked off of to come up with this. Mr. Petrov said they did

and based on what they have seen other cities do, they embellished that and made it more extensive.

Kevin Lacy said they know there is an importance of having structure to know what you can and cannot do and we need to have those rules in place. Kevin Lacy said there are a couple of concerns they have regarding the extensive list. Mr. Petrov said if the consensus of City Council is to have a more concise version of rules they can do that as well. Mr. Petrov said different cities do it different ways, but they have found that it is generally good to have some procedural rules that everyone knows what the rules of the game are and not just for City Council but also for the public to know what rules City Council follows and its procedures for City Council meetings which tends to work a little smoother.

Mayor Countryman said maybe because it is so lengthy it probably covers things we have not thought of.

Julie Davis said she has more than a page of questions on this so she wants to counter this with a proposal that they have some kind of a workshop or that she can exchange emails with Mr. Tramm regarding her questions.

Mr. Tramm recommended taking two weeks to receive questions from City Council and staff can get the answers. Mr. Tramm said they can answer all the questions and provide all the answers back to City Council. Mr. Tramm said if, at the next meeting, between those questions and comments from the City Attorney and City Council gets to a place they are comfortable with either making a final copy or having more direction then it is good. Mr. Tramm said if we cannot get to that point then we have to decide to have a workshop and asked if that was acceptable. Julie Davis said that would be very acceptable. Kevin Lacy said they need to have some structure.

Mr. Tramm said this is a good starting point for a conversation and they will be able to get a good consensus from all Councilmembers.

Julie Davis moved to postpone this until the October 12, 2021 meeting with the understanding the entire City Council has that timeline to send questions directly to Mr. Tramm to define this better. Kevin Lacy seconded the motion, the motion carried unanimously. (5-0)

7. Consideration and possible action regarding authorization of the City Engineer to begin design of the 2022 Sanitary Sewer Cleaning and Televising – Phase 1 project.

Mr. Tramm said the attached engineering memo has the details and scope of the proposed project. Mr. Tramm said the City Engineers and the Director of Public Works will discuss and answer questions about the proposal and the City's ongoing infrastructure maintenance efforts.

Mr. Chris Roznovsky, City Engineer said this is what they discussed in the City Council Budget Workshops. Mr. Roznovsky said the older areas of the City including part of downtown and a couple of other small sections will get done this year. Mr. Roznovsky said the following year is the rest of what is shown will be done. Mr. Roznovsky said they leave out the brand new lines from testing. Mr. Roznovsky said also, just to note, all the manholes throughout the City are part of the operator contract and they get inspected annually. Mr. Roznovsky said it will be bid based on about 34,000 feet of pipe that will get inspected and they will come back with a recommendation for repairs, cost estimates, and exhibits. Mr. Roznovsky said they will include that with the manholes so they can look at the budget and see what is available to prioritize the repairs.

Kevin Lacy asked when was the last time these pipes were looked at. Mr. Roznovsky said before that he does not have a good record of when the last inspection was done. Carol Langley said it has been done. Carol Langley said Mr. Roznovsky said the last time was 2017. Carol Langley said she knows it was done before 2017.

Mayor Countryman asked if there is a typical timeframe or schedule that an inspection is done across the City or area and how is it determined. Mr. Roznovsky said they go by pipe age or if a pipe fails. Mr. Roznovsky said there is a 20-year life period for pipes especially for the newer PVC pipe and a lot of the City's pipe is clay. Mr. Roznovsky said their recommendation when they come back for repairs, the ultimate repair is a line replacement of the pipe. Mr. Roznovsky said once that is done it has a 50 plus year life period and they will not need to go

back and continue to look at the line every 10 years because the line should hold up. Mr. Roznovsky said it is still a good idea to inspect, but less frequently.

Kevin Lacy asked if any of these pipes are part of the plan to be replaced. Mr. Roznovsky said no. Mr. Roznovsky said the one that might be replaced and upsized would be the one that runs from SH 105 to the old sewer plant Lift Station No. 2. Mr. Roznovsky said that has potential to be upsized in the future and that depends on how they decide flow will route and the sewer plant plan for the City. Mr. Roznovsky said it is still a good idea to look and get an immediate repair done if needed.

Julie Davis said it is worth mentioning that this is the side of the line that connects to Redbird Meadows and with that projection coming in on growth if they do not get ahead of it and start checking these lines we are going to go digging and will have to check them backwards anyway.

Kevin Lacy asked if they are going to spend \$135,000 to inspect these lines, what would be the difference in going ahead and getting rid of the clay lines now. Mayor Countryman asked what is the shelf life of the remaining lines. Mr. Roznovsky said when they did the analysis for the Kammerer Tract they looked at how it would go through there and how to handle Kammerer Tract, but that is not including Hills of Town Creek Section 5 and everything else is coming on this side of the City making its way and as they are doing Hills of Town Creek Section 5 feasibility which they will present at the second October meeting, it will be relooked at. Mayor Countryman said this is good and also preventative for the future.

Mr. Roznovsky said without a definite timeline he would feel more comfortable looking at this and making any repairs now and not worrying about something failing.

Julie Davis asked if the estimate of cost is just based upon your estimate of what is received back from bids because WGA is not doing it, they are sending it out for bid. Mr. Roznovsky said that is correct. Mr. Roznovsky said it will be advertised on paper and online.

Julie Davis asked what the estimated start time would be. Mr. Roznovsky said the bid would be in December, start construction in February, which will take 45 days to complete, and then

there will be review time and time to put together recommendations. Mr. Roznovsky said that will put the estimated start time closer to Spring 2022.

Kevin Lacy asked if City Council is just authorizing WGA to begin the process of looking at different companies. Mr. Roznovsky said correct. Mr. Roznovsky said once it is bid it will go to award bid, authorize the bid for construction, and after the work is complete, present the results with exhibits and findings and address what is found.

Mr. Roznovsky said they set aside in the budget for this year an amount for repairs and Phase 1 of the extension for immediate repairs. Mr. Roznovsky said there will likely be repairs that will carry over into next year, they will then set that budget, inspect the next phase and continue until they make their way through the entire system.

Mayor Countryman asked Mrs. Stewart what part of town the snakes were found. Mrs. Stewart said at the Williams and Anthony residences.

Julie Davis moved to approve WGA to begin the bid process. Byron Sanford seconded the motion, the motion carried unanimously. (5-0)

8. Consideration and possible action regarding early payoff of the City's loan balance with the Montgomery Economic Development Corporation (MEDC).

Mr. Tramm said the City has a total principal of \$188,684.21 as of September 30, 2021, remaining on the loan from the MEDC. Mr. Tramm said the funds were used to purchase the land at 777 Clepper Street. Mr. Tramm said he would recommend the City Council consider approval of paying off this loan before the end of September versus the end of December 31, 2021, which would save \$471.92 in interest. Mr. Tramm asked City Council if they would rather pay it off later or save almost \$500 in interest.

Julie Davis asked if this payment for the loan is in the budget for 2021-2022. Mr. Tramm said yes. Julie Davis asked what happens to that money in the budget and does it roll into capital infrastructure. Mr. Tramm said City Council can provide direction for those funds at a later

date. Mr. Tramm said if the payments are not made within the next fiscal year that means that money is not spent next year.

Julie Davis said she does not understand why it does not go into capital infrastructure based upon the fact it is an overage. Julie Davis said she would rather leave the funds there and let it payout.

Mr. Tramm said that is why he wanted to present this to City Council. Mr. Tramm said it is perfectly fine to leave the funds in.

Julie Davis asked how many times the funds can roll out at the end of the year.

Mr. Tramm said what City Council did with the budget was moved funds around and put it into capital infrastructure for water and sewer and that is what they did as part of what he will review from his manager report. Mr. Tramm said at the end of the last fiscal year City Council also redirected funds to capital improvement projects and would expect to do that again this year. Mr. Tramm said they can do that as well with the remaining funds this year. Mr. Tramm said he would prefer to pay with cash on hand rather than borrowing funds.

Julie Davis asked how many additional funds they do not have allocated are they rolling over at the end of the year. Mr. Tramm said it will be on next month's report that they know that amount. Mr. Tramm said the amount will be in excess of \$200,000.

Julie Davis moved to pay the principal balance with the understanding that the three months allocated that they would be paying in 2021-2022 budget go to capital infrastructure planning savings and the money that would be budgeted in the next fiscal year gets moved to capital infrastructure savings for the future.

Mr. Tramm said they cannot make the change to that degree because you are asking for a budget amendment, but we can make this action now and at the next meeting present the budget amendment that does what is being asked for.

Mr. Petrov said to move those funds in the next fiscal year to capital projects that is a budget amendment to be made to next year's budget, which is not this agenda item. Mr. Petrov said you can make the approval of this budget item contingent on approval of a budget amendment for the next fiscal year. Mr. Petrov advised it would have to be placed on the next Council Agenda.

Julie Davis moved to approve this agenda item as presented, with the understanding that the October 12, 2021 City Council Agenda will be presented with a budget amendment to reallocate these funds. Kevin Lacy seconded the motion, the motion carried unanimously. (5-0)

9. Consideration and possible action regarding appointment of Planning & Zoning Commission positions expiring on October 1, 2021.

Mr. Tramm said all three members with expiring terms Jeffrey Waddell, Britnee Ghutzman, and Allyson Clark have indicated their interest in serving another term. Mr. Tramm said City staff knows each of them to be valuable members of the Commission and have demonstrated interest in Planning and Zoning, the knowledge of the community, the sense of civic pride, and the ability to maintain partial judgment in matters related to the Commission as required by the ordinance. Mr. Tramm said additionally their dedication to preparing for and attending meetings is evident to all who attend, and staff appreciates having active and informed members serving on the Commission.

Mr. Tramm said the Planning and Zoning Commission saw the departure of a few long-serving members over the past several years, leaving a gap in the institutional knowledge of the Commission. Mr. Tramm said through efforts to include formal training sessions and by discussing background issues related to individual agenda items, along with independent research by the members of the Commission, the current Planning and Zoning Commission is well-placed to serve the City as it works to maintain its historic identity in the face of growing development in the area. Mr. Tramm said staff asks City Council to consider the reappointment of all three members to the Planning and Zoning Commission for another two-year term.

Julie Davis asked who is in Positions 2 and 4. Mr. McCorquodale, Assistant City Administrator said Mr. Bill Simpson was reappointed to Position 2 and Position 4 is held by Merriman Walker.

Julie Davis asked if the positions were posted. Mr. Tramm said no, in the past City Council has just reappointed members and also posted. Mr. Tramm said these three want to continue to serve and there have been no others who have approached them.

Kevin Lacy said he would love to see the positions posted in case other people are interested and would not approach anyone because they do not know to and would rather have others have the opportunity for this.

Mr. McCorquodale said the attendance at the meetings are low, which gives some indication as to why positions were not posted.

Julie Davis asked how long each of these positions has served. Mr. McCorquodale said Jeff Waddell has been here for six years, and the other two Britnee Ghutzman and Allyson Clark this is their first term.

Kevin Lacy moved to appoint Jeff Waddell to Place 1, Britnee Ghutzman to Place 3, and Allyson Clark to Place 5. Byron Sanford seconded the motion. 4 Aye votes, 1 Nay vote by Julie Davis. (4-1)

DEPARTMENTAL REPORTS:

10. City Administrator's Reports for August 2021 – Mr. Tramm, City Administrator said they completed and posted the budget including the amendment made by City Council at the last meeting, which redirected funds for future water and sewer construction to go into the capital projects funds.

Mr. Tramm said a leak was reported at Cedar Crest Mobile Home Park, which was brought to his attention by Julie Davis. Mr. Tramm said the leak was promptly repaired by the park manager and since it was on their internal mainline, the water loss was paid by the park and

not the customers. Mr. Tramm said the owner Ms. Blair Golden sent thanks for advising them of the leak.

Mr. Tramm said the advertising is in process for an auditor. Mr. Tramm said they expect to be prepared for City Council to be able to decide on this at the November 9, 2021, City Council meeting.

Byron Sanford asked if there will be choices or just a recommendation. Mr. Tramm said it will depend on how many he gets in, but he is expecting and anticipating to also collect City Council's choices from which to make a decision. Mr. Tramm said he will have more information by the second meeting in October.

Mr. Tramm said the Workshop for the mobile vendor food truck section of the vendor ordinance is set for 6:00 p.m. on Thursday, September 30, 2021. Mr. Tramm said he expects to have a summary report to City Council by October 12, 2021, and a revised draft ordinance before the October 26, 2021 meeting. Mr. Tramm said they are still taking written comments through Wednesday morning and will send those out to City Council Wednesday afternoon. Mr. Tramm said any comments received after Wednesday morning for the workshop they will supply to City Council in writing and will send the bulk of them out by email. Mr. Tramm said they will determine at the Workshop how much longer they will accept written comments.

Kevin Lacy asked if Mr. Tramm would clarify the Workshop format for Thursday because they have residents that are expecting to be there to talk. Mr. Tramm said City Council will be provided with the written comments and are not expected to be read at the meeting, because they were written comments to the subject matter. Mr. Tramm said there is a public comment portion at the first part of the Workshop and after that, there is a portion for just City Council to work through, which is in the City Council discussion. Mr. Tramm said there will be himself, the City Attorney, and the Development Director present for questions. Mayor Countryman said it is not a forum, just a Workshop. Mr. Petrov said it is a Workshop for City Council to discuss among themselves the direction they want, not a back and forth with the audience.

Mr. Tramm said his vacation is scheduled for October 15th through October 25th.

11. Public Works Report for August 2021 – Mr. Muckleroy, Public Works Director said they repaired a leak on the service line on Prairie Street and completed seven work orders for water leaks.

Mr. Muckleroy said they adjusted the entry gate at Lift Station 13, removed a dead tree from the right-of-way on Houston Street, completed two work orders for streets and right-of-way ditch | drainage issues, repaired LED wall pack lights on the Community Center building and City Hall, replaced an AC unit at Water Plant No. 3, replaced an irrigation node for Community Center roses, and replaced the solar sync on the Memory Park irrigation system. Mr. Muckleroy said Fernland docents reported 462 visitors and provided 54 tours for the month.

Mr. Muckleroy said he attended a meeting with Entergy at City Hall and also attended a meeting with an Eagle Scout project presenter at Memory Park.

Mr. Muckleroy said employee Jack Brown's last day will be this Friday, October 1, 2021, as he will be pursuing a bachelor's degree in computer science full-time. Mr. Muckleroy said he was a great employee for three years and wishes him well.

Kevin Lacy asked if Public Works is responsible for power washing, cleaning, or painting the Community Center. Mr. Muckleroy said yes they are and he needs to get a new quote on paint as they looked at a quote right before COVID-19 and they had to put that on hold. Kevin Lacy asked if they could make the repaired fence match the rest of the fence. Mr. Muckleroy said they have to be careful pressure washing the fence because the grout could be taken completely out. Julie Davis said there is a grout stain. Mr. Muckleroy said he will check on it.

Mayor Countryman asked how the lights are at MLK because she received an email they were hung and everything was good. Mr. Muckleroy said good and they also installed a light at Fernland.

12. Police Report for August 2021 – Byron Sanford asked about the light at Emma's Way during school hours that gets hung up so long you cannot turn left. Chief Solomon said they will have

TxDOT inspect the light. Chief Solomon said there are certain lights during certain times of the day which go from different timers. Byron Sanford said on the good side the traffic on Emma's Way into the subdivision is good and no one is parking over there any longer.

Chief Solomon said the employee health insurance was very high in cost and now that it will be covered 50 percent for dependents he is sure a lot more officers will sign up for it.

Julie Davis asked if Chief Solomon could provide more clarification on the VIPS (Volunteer in Police Services) Program and if it was in conjunction with the two other programs. Chief Solomon said the VIPS program comes out of the CPA class and there are currently six people in the class that will go through that training. Chief Solomon said it would have been completed last month but their training officer became sick. Chief Solomon said the training officer came back yesterday and will resume training today.

Mayor Countryman said she was impressed with all the training that took place last month as it was a lot of training.

Kevin Lacy said he noticed there were eight DWIs on the report. Chief Solomon said that is normal and Montgomery County is getting a lot of DWIs.

Kevin Lacy asked how Wine Fest event went. Chief Solomon said Wine Fest went very well and was successful. Chief Solomon said he does not think the crowd was as large as 2019, but it was a very good crowd. Chief Solomon said he attended and there were no arrests made.

Kevin Lacy asked if the new radios came in handy. Chief Solomon said absolutely and having purchased them is certainly paying off and allowed them to remain in contact.

13. Court Report for August 2021 – Mrs. Kimberly Duckett, Court Administrator said for the Court Report for August they collected \$34,639.40 in revenue and the total amount of citations was 126.

Mayor Countryman said it looks like our revenue if compared with the revenue staying in the \$30's average and in 2020 it was in the \$20's. Mayor Countryman asked why was there such

a significant jump in average. Mayor Countryman said partially people were using their stimulus checks to pay for their warrants, but are we going through a lot more warrants now, and are they able to collect on those. Mrs. Duckett said 2020 was the year of COVID-19 and people have been starting to pay more. Mrs. Duckett said they are trying different ways to collect revenue and it could be a dollar amount or doing community service, so it is different avenues they are trying to collect money.

Julie Davis said they were less than half on their citations for 2020.

Kevin Lacy said in 2018 there were a lot of months that they had \$55,000, \$52,000, \$51,000 so collections have gone down quite a bit in the last couple of years. Mrs. Duckett said they fluctuate amongst the years, but she thinks this year has been very good compared to last year.

Julie Davis said this is not like a collection or debt service, this is how much was collected on citations that were issued. Mrs. Duckett said that is correct.

Kevin Lacy asked if there was a way to break down how much is from the warrant officer and how much is from walk-ins. Mrs. Duckett said she cannot break it down from walk-ins but can break it down from the warrant officer for what warranty collects, because sometimes when he makes a call those people do come in to pay their citation.

14. Utility Report for August 2021 – Mr. Tramm said this month there were over \$24,000 in permit fees that covered 35 permits, and there were 27 construction permits on the last report.

Mr. Tramm said one of the questions he occasionally gets is regarding flags sold. Mr. Tramm said they sell flags for \$5.00 each or \$9.00 for a set of the Texas and American flag.

Mr. Tramm said the right-of-way fees are primarily telecommunication lines that are operating in the City.

Mr. Tramm said the continued dry weather on the City water usage showed we are trending higher on the water pumping. Mr. Tramm said one thing he would like to mention is Homecoming Park drinking water fountain almost always has zeros reported and is because there is a water fountain on a water meter that measures gallons of water in thousands.

Mayor Countryman asked what happened with the Cedar Brake Park restrooms, as there was a huge spike. Mr. Tramm said the 12,000 was in August 2020 and the 1,000 was in August 2021. Mayor Countryman said she thought there was a leak.

15. Water Operations Report for August 2021 – Mr. Mike Williams, Vice President of H2O Innovation, said for the district alerts the power outages are starting to drop off. Mr. Williams said Energy made their repairs in early August and the alerts are remaining low.

Mr. Williams said the wastewater plant flow detail for this month was 5,078,000 gallons, the daily peak flow on August 16, 2021, was 235,000 gallons, and the average daily flow was 163,800 gallons.

Mr. Williams said all systems complied with the effluent monitoring report and total rainfall for the month was recorded at half an inch.

Mr. Williams said they pumped a total of 14,408,000 gallons, flushed 474,000 gallons, and sold 13,579 gallons with a 98 percent accountability.

16. Finance Report for August 2021 – Mr. Anthony Lasky, Senior Accounting Clerk presented his report to City Council. Mr. Lasky said he wanted to clarify that out of the loan which will be paid off, it is not going to affect the budget because it is a liability and it will reduce the reserves.

Mr. Lasky said there is seven months reserve in the general operating fund, two years reserve in MEDC, and in the utility fund there is 11 months reserve.

Mayor Countryman asked what is a healthy reserve amount for a city to have. Mr. Lasky said typically you want to have six months' worth. Mr. Lasky said the City has seven months' reserve.

Mr. Lasky said the cash flow report on the first two line items shows there were excess funds for the Kroger and Pizza Shack Projects. Mr. Lasky said they were completed and those monies have since been transferred back to the general fund, so now those accounts have \$10.00 in there in case there are projects in the future they can use those and do not have to worry about those funds until future notice.

Mr. Lasky said sales tax collected was \$466,305.61 for August. Mr. Lasky said they collected \$168,494.45 for the American Rescue Plan and those funds have since been transferred to capital projects.

Mayor Countryman asked if those funds have to be used for specific things. Mr. Lasky said only for certain projects.

Mr. Lasky said they did pay one of the 380 Agreements to Cheatham Management, LLC for \$36,891.84.

Mr. Lasky said they received \$349,000 that went into the general fund with a total of \$2,605,000 in the sales tax category which is 18 percent over what was budgeted.

Mr. Lasky said total revenues this far is \$4,331,000, which is 28 percent over what was budgeted. Mr. Lasky said they received \$273,783.75 for September.

Mr. Lasky said there were expenditures for August of \$4,197,000 which is seven percent over and the City is still doing well in the excess revenues.

Mr. Lasky said the debt service payment was paid off on August 26, 2021, so the next payment will be due March 1, 2022, which will include principal and interest.

Julie Davis said there is an empty fund under construction funds which is called building funds and asked if this is the new line item for infrastructure savings or do they have a line item specifically where they can watch the infrastructure savings build so when they are talking about something like the \$168,000 rather than it sitting in the general fund it is specifically set aside for capital infrastructure. Mr. Lasky said the TexPool construction fund is where that money went and it is being tracked in that fund.

Julie Davis asked moving forward on October 1, 2021, how are we tracking capital project infrastructure money that will be set aside. Mr. Lasky said whenever we use those funds we will make sure to transfer that out and use that toward those infrastructure projects. Julie Davis said you are referring to the TexPool \$168,000 and she is talking about something different. Julie Davis said at the last meeting City Council voted to take this 18 percent of a sales tax that comes in that is over budgeted and move all of that money to a savings account for capital improvement infrastructure. Julie Davis said her concern is that if that is transferred to the general fund then you begin to spend it. Julie Davis asked if there is an allocated line item or

account reserved for capital improvement infrastructure. Julie Davis said she would like to see it build over the years so the public knows what we have reserved. Mr. Lasky said they can create a separate account. Mr. Tramm said the last fiscal year they set aside one for future capital savings and when they finished the budget for this year they set money aside for that purpose. Mr. Tramm asked Mr. Lasky how can City Council can see that money is accumulated and tracked. Mr. Tramm said it may just mean we need to make a change in the report. Mr. Lasky said he can do that or have a separate account. Mr. Lasky said he can open a new TexPool account and put that money aside. Julie Davis said she would like a separate account.

17. Quarterly Investment Report for Period Ending June 20, 2021

18. Sales Tax Report for September 2021 – Mr. Tramm said last month the representatives from Sales Revenue, Inc. (SR) were here and they will be out every three months.

Mr. Tramm said the number of sales tax filers for September 2021 was 2,045. Mr. Tramm said it is up 6.9 percent from the previous year.

Mr. Tramm said looking at the top sales tax filers over the last 12 months the top five are the McCoy Corporation, Kroger Texas, The Other Side, Inc. which is Chick-Fil-A, Brookshire Brothers, and Azzip Enterprises which is Pizza Shack.

Julie Davis said she is very proud that in a 4.5 square mile town that the top five sales tax filers are all local brick and mortars.

Mr. Tramm said tomorrow he will be sending City Council members a confidential version of this report.

19. City Engineer's Report for August 2021 – Mr. Chris Roznovsky, City Engineer presented his report to City Council.

Mr. Roznovsky said the for the Downtown Waterline Replacement Project there was a tie-in last night at College and Pond Streets that was completed. Mr. Roznovsky said they have two more tie-ins at Caroline and Pond Streets and then the tie-in work will be complete.

Mr. Roznovsky said the Water Plant No. 3 Improvements Project will begin in October.

Mr. Roznovsky said they did have a walk-through of the plans and review for the Water Plant No. 3 Generator Project and also for the ditch regrading and sanitary sewer rehabilitation on Baja and MLK Drive.

Mr. Roznovsky said as of today TxDOT is reviewing the process for the FM 1097 Speed Study.

Mr. Roznovsky said they did receive a draft report for Buffalo Springs and SH-105 for the Traffic Signal Analysis.

Mayor Countryman asked if there is a limitation for a city our size regarding how many traffic lights are needed on one straight road. Mr. Roznovsky said there is not a limit.

Mayor Countryman asked how many feet apart do traffic lights need to be. Mr. Roznovsky said along the TxDOT road those are local city streets. Mayor Countryman said she is talking about Pizza Shack to the high school on SH 105. Mayor Countryman asked if TxDOT can regulate how many lights are in that area. Mr. Roznovsky said he does not have that number offhand. Julie Davis asked Mr. Roznovsky to follow up with the information.

Mr. Roznovsky said for the Hills of Town Creek, Section 5, and Porter Farms they will have those feasibility study results at the second meeting in October.

Mr. Roznovsky said plan reviews are listed and ongoing construction for public infrastructure is ongoing.

Mr. Roznovsky said regarding the one-year warranty inspection for Hills of Town Creek Section 3, as of earlier today they reinspected the cul-de-sac and they will go back out this week to review the issues.

Mr. Roznovsky said the FM 149 and SH-105 northbound right turn lane has been delayed due to utility relocation delays.

Julie Davis asked what the timeline is on the Montgomery Food Truck Park because Pastor Mike who lives here in Montgomery announced he is pulling out of Deacon Baldy's in Magnolia to come to the Montgomery Food Truck Park. Mr. Roznovsky said they have not received revised plans. Mayor Countryman said she was working with them because TxDOT approved everything in February or March and they never sent it to them. Mayor Countryman asked Mr. Roznovsky if he knows if that has been rectified. Mr. Roznovsky said that was one

of the questions they asked to provide the backup for the TxDOT approval and has not received a response to that yet.

Byron Sanford asked given the stage they are at on Hills of Town Creek Section 5 what is a reasonable estimate of when they will complete Emma's Way to Lone Star. Mr. Roznovsky said it will be based on the development as a whole, which is probably a year.

Julie Davis moved to accept the Departmental Reports as presented. Kevin Lacy seconded the motion. The motion carried unanimously. (5-0)

EXECUTIVE SESSION:

The City Council reserves the right to discuss any of the items listed specifically under this heading or for any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding real property), 551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Government Code of the State of Texas.

20. Adjourn into Closed Executive Session as authorized by the Texas Open Meetings Act, Chapter 551 of the Government Code, in accordance with the authority contained in the following: a) Section 551.071 (consultation with attorney), and 551.072 (deliberation regarding real property) concerning the proposed development of the Kammerer Tract by Redbird Development.

Mayor Countryman moved to adjourn into Executive Session at 7:50 p.m.

Mayor Countryman reconvened into regular Session at 8:55 p.m.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

21. Consideration and possible action regarding item(s) listed on the Executive Session.

No action was taken.

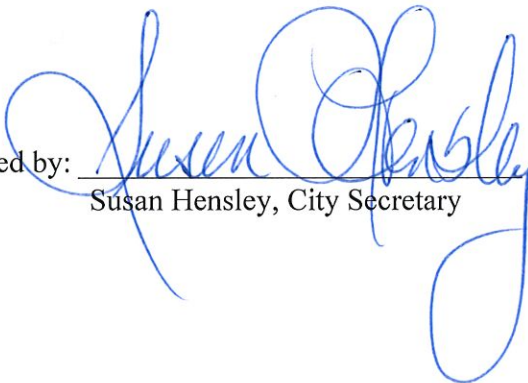
COUNCIL INQUIRY:

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.

No inquiries were made.

ADJOURNMENT

Kevin Lacy moved to adjourn at 8:55 p.m. Julie Davis seconded the motion, the motion carried unanimously. (5-0)

Submitted by: 
Susan Hensley, City Secretary

Date Approved: _____

Mayor Sara Countryman

Montgomery City Council
AGENDA REPORT

Meeting Date: 10/12/2021	Budgeted Amount: N/A
Department: Administration	Prepared By: Susan Hensley, City Secretary & Director of Administrative Services

Subject

Consideration and possible action regarding an Application for a BG- Wine and Beer Retailer’s Permit by Grillin’ Gunner Inc. operating as the Old Montgomery Steakhouse located at 204 McCown Street, Montgomery.

Recommendation

Approval of the Application for a BG – Wine and Beer Retailer’s Permit for Grillin’ Gunner Inc. operating as the Old Montgomery Steakhouse located at 204 McCown Street, Montgomery.

Discussion

The Montgomery Code of Ordinances states the following:

***City Code - Sec. 6-33.** – Approval of license application by City Council. After all the requirements for a license application under the provisions of this article have been met as determined by the City Administrator, the application shall be presented to the City Council for approval at a public meeting.*

A map showing the establishment is in compliance of the 300-foot distance requirement from any church, school or hospital has been attached for your reference. (***City Code – Sec. 6-60***)

Approved By		
Susan Hensley, City Secretary & Director of Administrative Services		Date: 10/06/2021
City Administrator Richard Tramm		Date: 10/06/2021



City of Montgomery
Alcohol Beverage
License Application

City of Montgomery, Texas
P.O. Box 708
Montgomery, Texas 77356
936-597-3288
www.montgomerytexas.gov

Item 2.

APPLICATION FOR THE SALE OF ALCOHOLIC BEVERAGE LICENSE

Date Received by the City: 10/06/2021

1. Type of Alcoholic Beverage License: (attach completed TABC Application Form)

- (1) Category A - Off Premises Consumption Sale of All Alcoholic Beverages - Package Store
X (2) Category B - Off Premises Consumption Sale of Wine, Beer or Ale. (BE)
(3) Category C - Off Premises Consumption Sale of Beer.
(4) Category D - On Premises Consumption Sale of Beer, Wine and Mixed beverages - Restaurant or Cafe, where the sale of beer, wine and mixed beverage on the premises would be incidental to the restaurant or cafe.
(5) Category E - On Premises Consumption Sale of Beer, Wine and Mixed beverages - Tavern, Lounge, or Bar. The sale of Beer, Wine and Mixed beverages for On-Premises Consumption being the principal business line.
(6) Category F - Warehouse storage of Beer, Wine or Liquor for Distributors - No sale of Beer for on or Off-Premises Consumption permitted on the Premises.

2. Legal Description of the property for which License is sought. (Either by Lot and Block number or by a Metes and Bounds Description: 204 MCCOWN ST. MONTGOMERY, TX 77356

3. Exact Nature of the Business to be operated. (Must be fully described in cover letter on company letterhead).

4. Attach a Plat of the property to the Application showing the improvements, parking areas, location of signage and other structures on the property and within three hundred (300) feet to scale.

5. Description of signs and the hours they will be operated to be attached as a separate document.

6. Attach floor plan of the building in which the business is to be conducted (showing fixtures, furniture, restrooms, kitchen and other equipment).

7. Attach a verified statement stating that the building is not within three hundred (300) feet of a church, school or hospital and that the building is in compliance with the requirements of this chapter for separate and adequate toilet facilities for men and women if used for on-premises consumption of beer, liquor or wine. This can be included in cover letter.

8. Business Owner: Wayne Kung Phone:
Address: 204 MCCOWN ST MONTGOMERY TX 77356
Home Address: Phone
Check if you are leasing property: []

9. Land Owner: Phone:
Address:

10. Business Partners: Phone:
Address:
Home Address: Phone:

This is to certify that I, Wayne Kung have complied with all State, County, Codes and Regulations of the City of Montgomery, Texas.

Wayne Kung or
Business Owner and/or Lessee Partner if Applicable



Old Montgomery Steakhouse
204 McCown St Montgomery, TX 77356

Grillin' Gunner will continue to operate Old Montgomery Steakhouse, the restaurant will serve the current menu and soon update with modern offerings. The restaurant currently is offering Breakfast, Lunch, and Dinner. Grillin' Gunner will continue to offered the same and also continue to employed the current staffs.

According to Google Map and Physical observation, I certify there are no church, school, hospital within 300 feet of the restaurant.

Sincerely

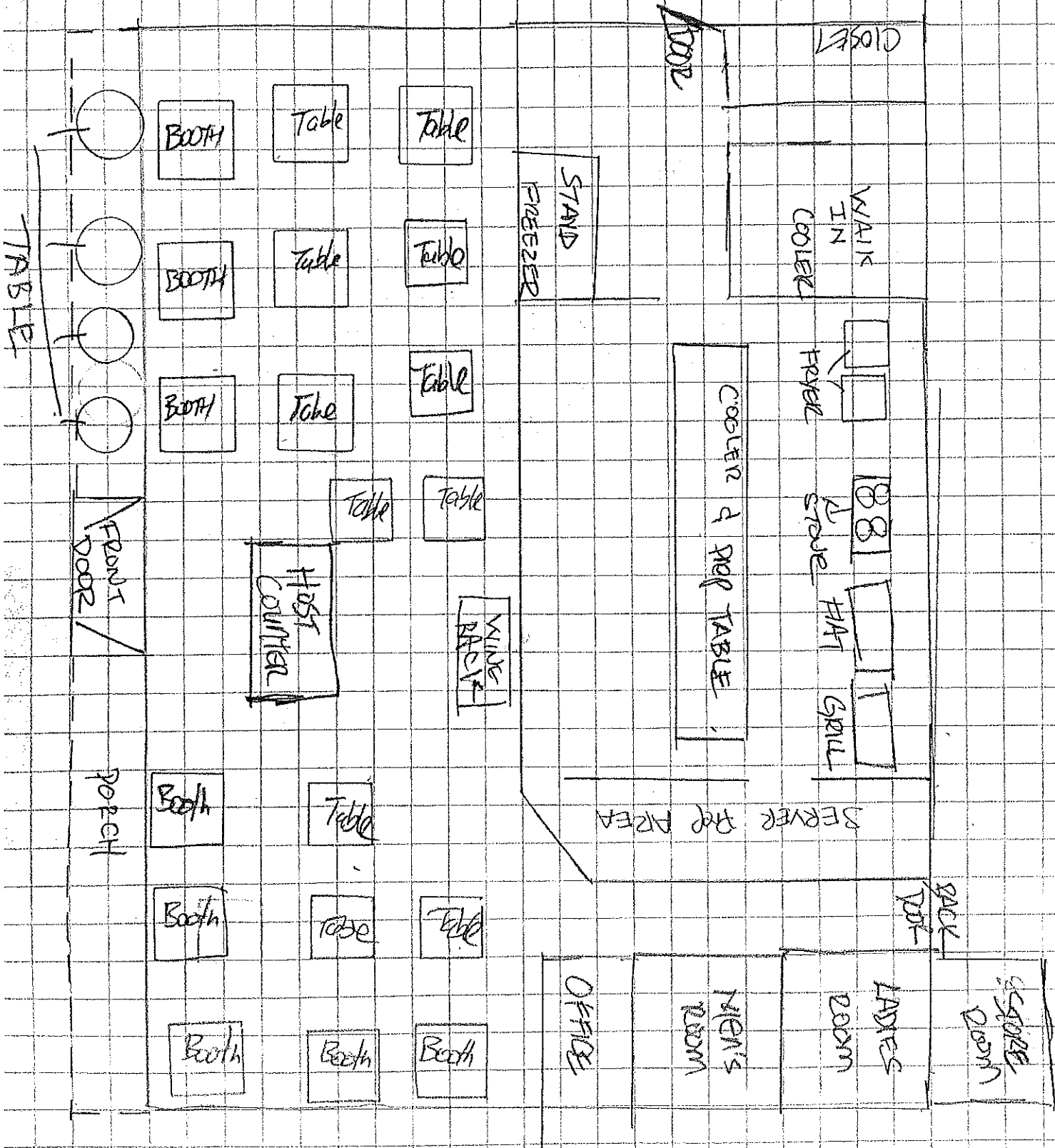
Wayne Kung

A handwritten signature in black ink that reads "Wayne Kung". The signature is written in a cursive style with a large, stylized "W" and "K".



Old Montgomery Steakhouse
204 McCown St Montgomery, TX 77356

Sunday	07:00am — 09:00pm
Monday	07:00am — 09:00pm
Tuesday	07:00am — 09:00pm
Wednesday	07:00am — 09:00pm
Thursday:	07:00am — 09:00pm
Friday	07:00am — 09:00pm
Saturday	07:00am — 09:00pm





Office of the Secretary of State

CERTIFICATE OF FILING OF

Grillin' Gunner, Inc.
File Number: 804206526

The undersigned, as Deputy Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic For-Profit Corporation has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Deputy Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 08/25/2021

Effective: 08/25/2021



A handwritten signature in black ink, appearing to read "Jose A. Esparza".

Jose A. Esparza
Deputy Secretary of State



Office of the Secretary of State
Corporations Section
P.O. Box 13697
Austin, Texas 78711-3697
(Form 503)

Filed in the Office of the
Secretary of State of Texas
Filing #: 804206526 9/17/2021
Document #: 1079871860002
Image Generated Electronically
for Web Filing

**ASSUMED NAME CERTIFICATE
FOR FILING WITH THE SECRETARY OF STATE**

1. The assumed name under which the business or professional service is or is to be conducted or rendered is:

OLD MONTGOMERY STEAK HOUSE

2. The name of the entity as stated in its certificate of formation, application for registration, or comparable document is:

Grillin' Gunner, Inc.

3. The state, country, or other jurisdiction under the laws of which it was incorporated, organized or associated is **TEXAS**

4. The period, not to exceed 10 years, during which the assumed name will be used is :

09/17/2031

5. The entity is a : **Domestic For-Profit Corporation**

6. The entity's principal office address is:

204 MCGOWN ST., MONTGOMERY, TX, USA 77356

7. The county or counties where business or professional services are being or are to be conducted or rendered under such assumed name are:

ALL COUNTIES

8. The undersigned, if acting in the capacity of an attorney-in-fact of the entity, certifies that the entity has duly authorized the attorney-in-fact in writing to execute this document. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument.

Grillin' Gunner, Inc.

Name of the entity

By: **WAYNE KUNG**



TEXAS ALCOHOLIC
BEVERAGE COMMISSION
Texas Helping Businesses & Protecting Communities

DQC# 2021150
PAGES 4

Document reference ID : 10939

Licensing Application Summary

You must review your application and confirm that the information displayed here is correct. Select **Review and Confirm** to continue and make the payment. If the information is not correct, select **Next** to return to the application, edit the data as needed and finalize the submission. If you need to store the application packet for your records, select **Download**.

Application ID: 10939

Applicant Name: Grillin Gunner Inc

License Type applied for: Wine and Malt Beverage Retailer's On-Premise Permit (BG)

Address: 204 McCown St, Montgomery, TX, 77356

Email Address: Wckung3@gmail.com

Phone Number: 281-840-7279

Business Structure: Corporation

Business Name: Grillin Gunner Inc

FEIN/SSN Number:

Historically Underutilized Business: No

Veteran-owned business: Yes

Secretary of State Filing Number: 804206526

Date Filed: 8/25/2021 12:00:00 AM

Filing State: TX

Principal Parties

Principal Parent Entity	Principal Party	Role
Grillin Gunner Inc	Wayne Kung	Director

Location Address

Address: 204 mccown, Montgomery , TX, United States 77356

Location Investment

Investment Category	Investment By	Amount Invested
Principal	Wayne Kung	\$550000.00

CERTIFICATE OF CITY SECRETARY FOR: (MB, BG & BE)

Section 11.37 & 61.37

Not later than the 30th day after the date a prospective applicant for a license or permit requests certification, the city secretary or clerk shall certify whether the location or address given in the request is in a wet area and whether the sale of alcoholic beverages for which the license or permit is sought is prohibited by ordinance.

I hereby certify on this _____ day of _____, _____, that the location for which the license/permit is sought is inside the boundaries of this city or town, in a "wet" area for such license/permit, and not prohibited by charter or ordinance in reference to the sale of such alcoholic beverages.

- MB** Mixed Beverage Permit
- MB/FB (RM)** Mixed Beverage Restaurant Permit with Food and Beverage Certificate (MB must also hold a Food and Beverage Certificate)
- BG/FB** Wine and Beer Retailer's Permit with Food and Beverage Certificate (BG must also hold a Food and Beverage Certificate)
- BG** Wine and Beer Retailer's Permit - Election for given location was held for:
 - legal sale of beer/wine (17%) on-premise **AFTER** Sept. 1, 1999
 - legal sale of beer/wine (14%) on-premise **BEFORE** Sept. 1, 1999
- BE** Beer Retail Dealer's On-Premise License

OR

I hereby refuse on this _____ day of _____, 20 _____ to certify this location.

SIGN _____, TEXAS
HERE City Secretary/Clerk City

SEAL

CERTIFICATE OF COUNTY CLERK FOR: (MB, BG & BE)

Section 11.37 & 61.37

Not later than the 30th day after the date a prospective applicant for a license or permit requests certification, the city secretary or clerk shall certify whether the location or address given in the request is in a wet area and whether the sale of alcoholic beverages for which the license or permit is sought is prohibited by ordinance.

I hereby certify on this 27th day of September, 2021, that the location for which the license/permit is sought is in a "wet" and is not prohibited by any valid order of the Commissioner's Court.

- MB Mixed Beverage Permit
- MB/FB Mixed Beverage Restaurant Permit with Required Food and Beverage Certificate
- BG/FB Wine and Beer Retailer's Permit with Required Food and Beverage Certificate
- BG Wine and Beer Retailer's Permit - **Election for given location was held for:**
 - legal sale of beer/wine (17%) on-premise **AFTER** Sept. 1, 1999
 - legal sale of beer/wine (14%) on-premise **BEFORE** Sept. 1, 1999
- BE Beer Retail Dealer's On-Premise License

OR

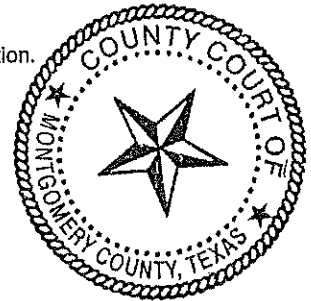
I hereby refuse on this _____ day of _____, 20_____ to certify this location.

SIGN
HERE

Mark Turnbull Montgomery
County Clerk County

by: Chanda M. Aubrey, Deputy

SEAL



COMPTROLLER OF PUBLIC ACCOUNTS CERTIFICATES

I hereby certify on this _____ day of _____, _____, the applicant holds or has applied for and satisfies all legal requirements for the issuance of a Sales Tax Permit under the Limited Sales, Excise and Use Tax Act or the applicant as of this date is not required to hold a Sales Tax Permit.

Sales Tax Permit Number _____

Outlet Number _____

Print Name of Comptroller Employee _____

Print Title of Comptroller Employee _____

SIGN _____ FIELD OFFICE _____
HERE

SEAL

PUBLISHER'S AFFIDAVIT

Name of newspaper	
City, County	
Dates notice published in daily/weekly newspaper (MM/DD/YYYY)	
<i>Publisher or designee certifies attached notice was published in newspaper stated on dates shown</i>	
Signature of publisher or designee	
Sworn to and subscribed before me on this date	
Signature of Notary Public	
SEAL	
ATTACH PRINTED COPY OF THE NOTICE	

Montgomery City Council
AGENDA REPORT

Meeting Date:	October 12, 2021	Budgeted Amount:	
Department:	Administration	Prepared By:	Susan Hensley, City Secretary & Director of Administrative Services

Subject

Adopt a Resolution naming the Official Newspaper for the City of Montgomery.

Recommendation

Adopt a Resolution naming the Conroe Courier as the Official Newspaper for the City of Montgomery.

Discussion

Please find attached, a copy of the proposed Resolution to designate the Conroe Courier as the Official newspaper for the year. The Texas Local Government Code requires that the City adopt a newspaper as follows:

LGC§52.004. OFFICIAL NEWSPAPER. (a) As soon as practicable after the beginning of each municipal year, the governing body of the municipality shall contract, as determined by ordinance or resolution, with a public newspaper of the municipality to be the municipality's official newspaper until another newspaper is selected.

(b) The governing body shall publish in the municipality's official newspaper each ordinance, notice, or other matter required by law or ordinance to be published.

Approved By:

City Administrator Richard Tramm		Date: 10/06/2021
---	--	------------------

RESOLUTION NO. 2021-

RESOLUTION BY THE CITY COUNCIL FOR THE CITY OF MONTGOMERY, TEXAS, DESIGNATING THE COURIER NEWSPAPER AS THE OFFICIAL NEWSPAPER FOR THE CITY OF MONTGOMERY AND AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A CONTRACT

WHEREAS, the City of Montgomery is required to adopt an official municipal newspaper at the beginning of each fiscal year, as per Chapter 52.004 of the Texas Local Government Code; and

WHEREAS, the *Courier*, a newspaper in Montgomery County has a large circulation, is printed daily, and meets the statutory requirements for official newspapers.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF MONTGOMERY, TEXAS THAT:

Section 1: The City Council designated the *Courier* as the City of Montgomery's official newspaper for fiscal year 2021-2022.

Section 2: The City of Montgomery shall publish in the *Conroe Courier* each ordinance caption, public notice or other matter required by law or ordinance to be published.

Section 3: The City Council authorizes the City Administrator to execute a contract for services to be provided by the *Courier*.

PASSED AND APPROVED this 12th day of October 2021.

CITY OF MONTGOMERY, TEXAS

Sara Countryman, Mayor

ATTEST:

Susan Hensley, City Secretary

Montgomery City Council
AGENDA REPORT

Meeting Date: October 12, 2021	Budgeted Amount: N/A
Department: Administration	Prepared By: Richard Tramm

Subject

Update from Public Works Director on tentative timeline for smoke testing of sewer lines.

Recommendation

Listen to the update from the Public Works Director and ask questions related to this item. No action is requested for this item.

Discussion

Although we are still early in the process for this item, City of Montgomery Public Works Director Mike Muckleroy will be in attendance to brief City Council on the tentative timeline and what is involved in the smoke testing of sewer lines within the sanitary sewer collection system.

Approved By

City Administrator	Richard Tramm	Date: October 6, 2021

Montgomery City Council
AGENDA REPORT

Meeting Date: October 12, 2021	Budgeted Amount: N/A
Department: Administration	Prepared By: Richard Tramm

Subject

Consideration and possible action on Procedural Rules for Montgomery City Council Meetings.

Recommendation

Discuss and consider this item. Provide input to City Staff and City Attorney on moving forward. The City Attorney will also be available for questions from Council and possible recommendations.

Discussion

This item was first heard at the September 28, 2021, City Council Meeting and was deferred to allow the City Council to review the draft and submit questions and comments for the City Attorney.

The City Attorney has proposed the attached version as the starting point to receive comments and have discussion with City Council on moving this item forward in a way that City Council desires.

Approved By		
City Administrator	Richard Tramm	Date: October 7, 2021

City Council Procedures and Decorum Policy

Sec. 1-100. – City Council Agenda.

(a) The City Administrator is responsible for creating and processing the agenda and agenda materials for City Council meetings. The City Administrator will submit agenda materials as appropriate for review by the City Attorney. The City Secretary is responsible for preparing and posting the agenda and assembling and distributing the agenda packets.

(b) The Mayor or a Council Member may direct the City Administrator in writing to place an item on an agenda for a regular City Council meeting, special meeting, or work session for discussion only. Items must be submitted to the City Administrator no later than 5 p.m. on the Wednesday preceding the week of the City Council meeting.

(c) The City Council, during any scheduled regular or special meeting or work session, may direct the City Administrator to place an item on a future agenda.

(d) A Council Member may request an item to be placed on the agenda for discussion. Should extraordinary staff time be required to address any item, the City Administrator will place the item on future Council agenda for direction and discussion and communicate the agenda change to those requesting the item.

(e) Agenda items placed on the agenda by the Mayor or members of the City Council previously considered and whereby action was taken by the City Council may not be placed on a future agenda for reconsideration within three months of such action unless either directed by a majority of the City Council to the City Administrator during any scheduled regular or special meeting or work session, directed by the Mayor and one Council Member in writing to the City Administrator.

In all cases, at least one member of the City Council who is requesting that the item be renewed on an agenda shall have been on the prevailing side of the previous vote on the item.

Sec. 1-110. – Types of Meetings.

(a) **Regular Meetings:** The City of Montgomery regular City Council meetings are held on the second and fourth Tuesday of each month, at such time as may be set by the City Council, unless the meeting is rescheduled or cancelled. All regular meetings of the City Council will be held in the City of Montgomery City Hall at 101 Old Plantersville Rd, Montgomery, TX 77356 or at such other location as the City Council may, by motion, resolution or ordinance, designate.

(b) **Work Session Meetings:** A work session is a meeting to discuss or explore matters of interest to the City, review and discuss agenda items, meet with City boards, commissions or committee members, City Staff or officers of civic organizations, governing bodies or individuals specifically invited to the session by the Mayor, City Administrator or the Council. These meetings are informational and no formal action shall be taken unless the posted agenda indicates otherwise. The Mayor may allow any citizen to participate in the discussion at a work session, but only as recognized by the Mayor. The Mayor may end citizen participation in a work session in order to allow the City Council to proceed with discussion.

(c) **Special Meetings:** Special meetings may be called by the Mayor, the City Administrator, or by any two (2) members of the City Council. The call for a special meeting shall be filed with the City Secretary in

written form, and the City Secretary shall cause the posting of notice of the meeting as governed by applicable law.

(d) Emergency Meeting: In case of emergency or urgent public necessity, as defined by State law and confirmed by the City Attorney when practical, which shall be expressed in the notice of the meeting, an emergency meeting may be called by the Mayor, City Administrator or his/her designee, or two members of the City Council, and it shall be sufficient if the notice is posted at least two hours before the meeting is convened.

(e) Closed Meeting: The City Council may meet in a closed meeting but only under conditions allowed by applicable law. Details discussed in closed meetings shall be considered confidential and shall not be discussed or disclosed outside the meeting.

(f) Recessed Meetings. Any meeting of the City Council may be recessed to a later time provided that no recess shall be for a period longer than twenty-four hours from the time the meeting is recessed.

Sec. 1-120. – Quorum.

A quorum at any meeting of the City Council will be established by the presence of three (3) members of Council. The Mayor shall not count as a Council Member for the establishment of a quorum.

Sec. 1-130. – Order of Business.

The regular City Council meeting will be generally conducted in the following order, unless otherwise specified. If the Mayor or any member of Council wishes to change the order of business, a proper motion must be made followed by a second, and then passed by the affirmative vote of a majority of the Council Members present and voting. An executive session may be held at any time during a meeting pursuant to applicable State law.

(a) Executive Session:

(1) Conduct Executive Session – Items to be discussed in closed meeting under conditions allowed by applicable law. The City Council may not take final action during Executive Session. It is understood and agreed that information discussed in Executive Session is considered confidential and should remain so until the Council takes action in public on the matter. Any final action resulting from an Executive Session discussion must be taken during the open public session.

(b) Work Session Agenda:

(1) Discussion of consent items – Council review and discussion of items that are by nature routine and typically require little or no Council deliberation.

(2) Questions regarding regular agenda items – Council review and discussion of regular agenda items. Council may ask questions of Staff, receive a brief presentation, and request additional information prior to consideration during the regular meeting.

(3) Written or verbal presentations or discussions – Council updates and discussions regarding items, some of which may not be included as part of the regular meeting agenda.

(4) Executive Session (if needed) - Items to be discussed in closed meeting under conditions allowed by applicable law. The City Council may not take final action during executive session. It is understood and

agreed that information discussed in Executive Session is considered confidential and should remain so until the Council takes action in public on the matter. Any final action resulting from an Executive Session discussion must be taken during the open public session.

(5) Adjourn

(c) Regular Meeting Agenda:

(1) Call to order – Chair officially calls the meeting to order.

(2) Invocation – Each agenda of a regularly scheduled City Council meeting shall provide an item allowing for an invocation(s).

(3) Pledge of Allegiance – Each agenda of a regularly scheduled City Council meeting shall provide an item for the recital of the “Pledge of Allegiance” to both the United States flag and the Texas flag.

(4) Presentations – The agenda shall provide a time when proclamations, recognitions, general reports, and updates may be presented to the City Council.

(5) Public Comment – The time for the public to address the City Council on any subject. However, the City Council cannot discuss items presented under “persons to be heard” nor take any action thereon other than consideration of the placement of said item on a future agenda as a discussion item or refer the item to Staff for research and possible future action. There shall be a time limit of three (3) minutes allotted for each “person to be heard” portion of any regularly scheduled City Council meeting.

(6) Consent agenda - Shall contain routine, non-controversial items that require City Council action but need little or no Council deliberation. An item can be removed from the consent agenda by the City Administrator, Mayor, or any two members of City Council, and will be considered after approval of the consent agenda.

(7) Old business – Business items pending from previous City Council meetings.

(8) New business – New or amended ordinances, resolutions, or policies that City Members or City Staff wish to have the City Council consider.

(9) Discussion items – Items to be presented or discussed with City Council in order to garner direction from City Council. No action shall be taken on discussion items.

(10) Executive Session (if needed) – Items to be discussed in closed meeting under conditions allowed by applicable law. The City Council may not take final action during executive session. It is understood and agreed that information discussed in Executive Session is considered confidential and should remain so until the Council takes action in public on the matter. Any final action resulting from an Executive Session discussion must be taken during the open public session.

(11) Adjourn

Sec. 1-140. – General Procedures.

(a) General Procedure: General rules of parliamentary procedure as defined herein, consistent with the any applicable City ordinance, statute or other legal requirement, shall govern the proceedings of the City Council. To the extent not inconsistent with these rules, the City Council shall use Robert’s Rules of Order

as a general guideline for additional rules of parliamentary procedure without being a procedural requirement. Notwithstanding the above, failure to abide by, or adhere to, these rules shall not nullify or negate any action by the City Council. These rules of parliamentary procedure are intended solely as a guideline.

(b) Chair of Meeting: The Mayor shall preside over all meetings of the City Council as the Chair and enforce these rules and procedures during a meeting. In the absence of the Mayor, the Pro Tempore shall assume the Chair responsibility at the meeting. In the absence of the Pro Tempore, the Council will choose a Chair for the meeting.

(c) Authority of the Chair: The Chair person shall make decisions on questions of procedure subject to review respectively by the Council as a whole.

(d) Council Deliberations: The Chair has the responsibility to control the discussion and the order of speakers. Council Members will generally be called upon in the order of the request to speak. Generally, a Council Member may not be recognized to speak subsequently until each Council Member has had an opportunity to obtain the floor. A Council Member holding the floor may address a question to another Council Member and that Council Member may, should they so choose, respond to the question while the floor is still held by the Council Member asking the question.

(e) Limits to Deliberations: After an agenda item is announced by the Chair, the City Council may discuss the item without the need for a motion on the item. Council Members will limit their comments to the subject matter or motion currently being considered.

(f) Repetitious Comments Prohibited: A speaker or Council Member shall not present the same or substantially the same items or arguments to the City Council repeatedly or be repetitious in presenting oral comments. A speaker or Council Member shall not present an argument on a matter previously considered by the City Council at the same session.

(g) Obtaining the Floor: Any member of the Council wishing to speak shall first obtain the floor by making a request for the floor to the Chair. The Chair shall recognize any Council Member who seeks the floor when appropriately entitled to do so.

(h) Motions: Motions may be made by any member of the Council including the Chair. Any member of the City Council may second a motion.

(i) Procedures for Motions: The following is the general procedure for making motions:

(1) The item is presented by Staff or others followed by questions and discussion by Council Members.

(2) A Council Member who wishes to make a motion shall first obtain the floor.

(3) A Council Member who wishes to second a motion shall do so through a request to the Chair.

(4) Before a motion can be discussed, it shall be seconded.

(5) Once the motion has been properly made and seconded, the Chair shall open the matter for further discussion offering the first opportunity to the moving party and, thereafter, to any Council Member properly recognized by the Chair.

(j) Amendments to Motions: When a motion is on the floor and an amendment is offered, the amendment shall be acted upon prior to acting on the main motion. No motion of a subject other than the agenda item under consideration shall be admitted as an amendment. A motion to amend an amendment shall be in order, but one to amend an amendment to an amendment shall not be in order. Action shall be taken on the amended amendment prior to any other action to further amend the original motion.

(k) Continuance of Discussion or Hearings: Any item being discussed or any public hearing at a City Council meeting may, by order, notice, or motion, be continued or tabled to any subsequent meeting.

(l) Voting: All Council Members must vote either “yea” in the affirmative or “nay” in the negative. A present member who does not vote will be officially recorded as a “nay” or negative vote. When a Council Member recuses oneself, that Council Member is not counted as present for quorum purposes and is not deemed to be “voting” for purposes of determining whether there has been a “majority vote of those voting and present”.

(m) Public Hearings: The following is the general procedure for conducting public hearings:

(1) Staff presents report.

(2) City Council Members may ask Staff questions.

(3) The applicant then has the opportunity to present comments, testimony, and/or oral arguments.

(4) City Council Members may ask questions of the applicant.

(5) The Chair opens the public hearing.

(6) Upon opening the public hearing, and before any motion is adopted related to the merits of the issue to be heard, the Chair shall inquire if there is anyone present who desires to speak on the matter which is to be heard or to present evidence regarding the matter.

(7) Members of the public are provided with the opportunity for comments and testimony in accordance with Section 1-150 (d) of the City Council Procedures and Decorum Policy.

(8) A vote by City Council to close the public hearing upon a motion and second.

(9) The applicant may be given the opportunity to respond to questions from the City Council and for closing comment or rebuttal.

(10) The City Council deliberates on the issue.

(11) If the City Council raises new issues through deliberation and a majority of the City Council seeks additional public testimony, additional public comment and testimony is permitted in accordance with Section 1-150 (d) of the City Council Procedures and Decorum Policy.

(12) The City Council deliberates and takes action as needed.

(13) The Chair announces the final decision of the City Council as applicable.

(n) Call for Recess: The Chair may call for a recess of up to fifteen (15) minutes at regular intervals at appropriate points in the meeting agenda, or if requested by any two (2) Council Members.

Sec. 1-150. – Decorum.

(a) General: During Council meetings, Council Members shall preserve order and decorum, shall not interrupt or delay proceedings, and shall obey the rules of the Council. Council Members shall demonstrate respect and courtesy to one another, to City Staff and to members of the public appearing before the Council. Council Members shall seek to phrase and communicate all writings, publications and speeches in a professional and constructive manner.

Council Members may express differing ideas, equitable representation helps promote unity of purpose by allowing the public to be informed of each Member's position during his/her term of office and not only during an election campaign.

Members of the Council will not condone any unethical or illegal activity from any Council Member or members of the Staff. All members of the Council agree to uphold the intent of this policy and to govern their actions accordingly.

(b) Mayoral Responsibilities:

(1) The Mayor shall serve as the Chair of all meetings. The Mayor Pro Tempore shall preside in the absence of the Mayor.

(2) The Mayor shall have a voice in all matters before the Council.

(3) The Chair is responsible for preserving order and decorum and shall keep the meetings orderly by recognizing each Member for discussion, limiting speaking items, encouraging debate among Members, and keeping discussion limited to the agenda item being considered.

(4) The Mayor is the official spokesperson for the Council on all matters unless absent, at which time the Mayor Pro Tempore or appropriate designee will assume the role. The views presented by the Mayor, or the Mayor Pro Tempore in his/her absence, should provide equitable representation of all Council Members.

(5) The Chair will encourage all Council Members to participate in Council discussion and give each Member an opportunity to speak before any Member can speak again on the same subject.

(6) The Mayor is responsible for ensuring that an orientation of all Council Members is conducted following an election. The orientation shall include Council procedures, staff and media relations, current agenda items, municipal leadership training programs, and legal issues governing the behavior of elected officials, etc.

(c) Council Responsibilities

(1) Each Council Member is responsible for being prepared to discuss the agenda.

(2) Each Council Member is required to attend a Council Member Orientation and is encouraged to attend at least one Texas Municipal League-sponsored conference each year in order to stay informed on issues facing municipalities.

(3) It is the responsibility of Council Members to be informed about action taken by the Council in their absence. In the case of an absence from a work session, the Council Member is responsible for obtaining

this information from the City Administrator prior to the Council meeting during which said item is to be voted upon.

(4) When addressing an agenda item, the Council Member shall first be recognized by the Chair, confine comments to the question under debate, avoid reference to personalities, and refrain from impugning the integrity or motives of any other Council Member or Staff Member during debate or vote.

(5) Any Council Member may appeal a ruling by the Chair to the Council as a whole. If the appeal is seconded, the person making the appeal may make a brief statement and the Chair may respond. An appeal may generally be debated by the Members, but each Member may speak only once. The affirmative vote of a majority of the Council Members present and voting shall be necessary to approve the motion.

(6) Any Council Member may ask the Chair to enforce the policy established by the Council. Should the Chair fail to do so, a majority vote of the Council Members present shall require the Chair to enforce the policy.

(7) When a Council Member is appointed to serve as a liaison to a board, committee or commission, the Council Member is responsible for keeping all Council Members informed of significant activities of that board, committee or commission. The appointed Council Member should report the actions of the board, committee or commission during a work session of the City Council.

(8) A member of the Council who wishes to be recognized shall request to speak, but shall not proceed with remarks until recognized and named by the Chair of the Meeting. Remarks shall be confined to the question before the Council.

(9) While a member of the Council is speaking, other members shall not hold private discourse or in any manner interrupt the speaker. In all discussions, disrespectful language and behavior shall be avoided.

(10) Every member of the Council who shall be present at a meeting, when a vote is called for by the Chair shall vote thereon, unless they have recused themselves due to a conflict of interest. A conflict arises when a City Council Member, a relative of that Member, or an entity in which a City Council Member has a substantial interest is actively engaged in an activity that involves the City's decision-making processes. "Decision-making processes" is broader than just voting and includes being involved with any aspect of any decisions the City makes.

(11) A Council Member may not represent any third party before any City board or commission.

(12) All personal communication devices should be placed in a silent mode during any City Council meetings. Personal communication devices shall not be used for communicating City related business during all City Council meetings.

(d) Citizens' participation: The following rules shall be in force for persons in attendance at all meetings of Council:

(1) Persons wishing to address the Council during "persons to be heard" or "public hearings" shall complete a "request to speak" form and present said form to the City Secretary prior to the beginning of the regularly scheduled City Council meeting or immediately following their address to Council. Speakers shall approach the lectern and give his/her name and address before speaking. Speakers shall address the

Mayor and Council with civility that is conducive to appropriate public discussion. All public comments should be addressed through the Mayor. Each speaker will be allowed three (3) minutes to speak. No person shall be allowed to address the Council more than once unless called upon by a City Council Member to do so. There shall be a cumulative time limit of thirty (30) minutes allotted for the “persons to be heard” portion of any regularly scheduled City Council meeting. If the Mayor or any Council Member wishes to extend the time for “persons to be heard”, a proper motion must be made followed by a second, and then passed by the affirmative majority vote of the Council Members present.

City Council Members cannot discuss items presented under “persons to be heard” nor take any action thereon other than consideration of the placement of said item on a future agenda as a discussion item or refer the item to City Staff for research and possible future action.

(2) Persons may not engage in discussions with the Council during Council deliberations unless specifically asked a question by a Council Member. Persons who have been asked a question by a Council Member must be recognized by the Chair before being allowed to speak. The Chair may end any question and answer session between Council Members and a member of the public in order to facilitate the order of business.

(3) Persons may present printed material to be included in the Council agenda packets one week prior to a meeting. Persons may present printed material to the City Secretary to distribute to the Council during a meeting.

(4) Persons attending Council meetings shall remain seated or may stand in the back and come and go so long as it does not disrupt the meeting. Persons in attendance shall not carry signs, placards or other items which could block the view of those behind them or be disruptive to the proceedings. No person attending any Council meeting shall delay the proceedings or refuse to obey the orders of the presiding officer.

(5) Disturbances, transgressions of the rules or disorderly conduct in the Council chamber may cause the transgressor to be removed from the meeting. The Chair of the meeting, shall exercise control over persons who disrupt the meeting in the following ascending order of action:

- a. Call the person to order, advising that person of the infraction.
- b. Advise the person that the infraction must cease immediately or the person will be ordered to leave the meeting.
- c. Order the person to leave the meeting. If the offending person is a member of Council, the Chair shall call for a vote on the expulsion of that member from the meeting, and such vote requires a majority for adoption.

A police officer may remove an individual or individuals for disrupting a meeting as authorized by Texas Penal Code Section 42.05.

(6) Persons are encouraged to attend Council meetings. However, the number admitted shall be limited to the fire safety capacity of the Council chamber as determined by the fire chief or designee. If the capacity is surpassed the Council may adjourn the meeting and move its proceedings to a location that will accommodate a larger number of participants.

Sec. 1-160 - Staff Relations

(a) In order to ensure proper presentation of agenda items by Staff, questions arising from Council Members after receiving their information packet should be, whenever possible, presented to the City Administrator for Staff consideration prior to the Council meeting. This allows Staff the time to address Council Member's concern and provide all Council Members with additional information.

(b) The City Administrator shall designate the appropriate Staff Member to address each agenda item and shall see that each presentation is prepared and presented in order to inform and educate the Council on the issues that require Council action. The presentation should be professional, timely and allow for discussion of options for resolving the issue. As a summary, the Staff Member making the presentation shall make it clear if no Council action is required, or present the Staff recommendation as a part of the presentation, and/or present the specific options for Council consideration.

(c) The City Administrator is directly responsible for providing information to all the Council concerning any inquiries by a specific Council Member that is significant in nature and would be beneficial to all Council Members. If the City Administrator or the Staff's time is being dominated or misdirected by a Council Member, it is the City Administrator's responsibility to inform the Mayor.

(d) The City Administrator will exhibit the highest professional and ethical behavior. The City Administrator is responsible for the professional and ethical behavior and discipline of his/her Staff. The City Administrator is also responsible for ensuring that the Staff receives the training and information necessary to address the issues facing municipal government.

(e) Any conflicts arising between the City Staff and the Council will be addressed by the Mayor and the City Administrator.

(f) All Staff Members shall show one another, each Council Member, and the public, respect and courtesy at all times. They are also responsible for making objective, professional presentations to ensure public confidence in the process.

(g) The City Administrator will make sure that the Staff has prepared information needed for the orientation of new Council Members, and inform Council of any available Texas Municipal League conferences and seminars. The City Administrator will also be responsible for meeting personally with new Members and informing them about City facilities, policies and procedures.

Sec. 1-170. – Statements by public officials regarding litigation.

When the City of Montgomery is involved in litigation or a legal dispute, Council Members shall refrain from commenting on settlements, appeals or other issues related to the subject until the matter is resolved. The Mayor, City Administrator or City Attorney shall be authorized to provide any public responses or comments, as needed on matters involving litigation.

Sec 1-200. - Non-Exclusive Rules

The rules set forth shall supersede the Council related portions of the Council relations policy; however, they are not exclusive and do not limit the inherent power and general legal authority of the City Council, or of its presiding officer, to govern the conduct of the City Council meetings as may be considered appropriate from time to time, or in particular circumstances, for purposes of orderly and effective conduct of the affairs of the City.

Sec 1-210. – Disbursement of Council Requested Information

As a general courtesy and to maintain equality in the disbursement of information, documentation or data requested by a Council Member from Staff shall be provided to all members of Council.

Sec. 1-220 – Policy Enforcement

If a Member(s) of the City Council believes this policy has been violated, the topic shall be placed on a meeting agenda following proper procedure (by City Administrator, Mayor, or two members of the City Council).

A determination of violation shall be stated by majority vote of those present during the deliberation. If it is a Member of the Council who is determined to be in violation of this policy, a standard letter of violation signed by the Mayor (or Mayor Pro Tempore, if the letter is going to the Mayor) shall be issued to the person. A copy of the letter shall become a part of the Council Member's official file with the City.

DRAFT

Montgomery City Council
AGENDA REPORT

Meeting Date: October 12, 2021	Budgeted Amount: N/A
Department: Administration	Prepared By: Richard Tramm

Subject

Consideration and possible action on nominations for Montgomery County Appraisal District Board (MCAD) of Directors Election for the 2022-2023 term.

Recommendation

Consider providing nomination(s) for the Montgomery County Appraisal District Board of Directors Election for the 2022-2023 term.

Discussion

This item was originally heard at the September 28, 2021, City Council meeting and was deferred until this meeting to allow for more time for names to come forward.

Each jurisdiction entitled to vote in the election of the Montgomery County Appraisal District’s Board of Directors may nominate a candidate for each of the five positions to be filled. The attached pages include correspondence from MCAD, including Qualifications for an Appraisal District Director. The City of Montgomery has five votes in the election out of 5,000 votes in total.

MISD has submitted the nomination of Adam Simmons, who is a former MISD Board Member and currently serving in the MCAD capacity. The process for nomination was listed on the City website. No names for nomination were received by us at City Hall, as of noon this past Friday. City Council may choose to provide one or more names from their own suggestions. If the Council might wish to support Adam Simmons with its five votes, then no action would be needed tonight as MISD has already submitted his name

The actual election will occur later from the list of nominees.

Approved By		
City Administrator	Richard Tramm	Date: October 8, 2021



MONTGOMERY CENTRAL APPRAISAL DISTRICT

TONY BELINOSKI, RPA
CHIEF APPRAISER

August 2, 2021

City of Montgomery
City Administrator
101 Old Plantersville Rd.
Montgomery, Texas 77316

Re: **REQUEST FOR NOMINATIONS FROM COUNTY, SCHOOL, CITY, & JUNIOR COLLEGE DISTRICTS for the Montgomery Central Appraisal District's Board of Directors Election, 2022-2023 Term**

In accordance with the provisions of Section 6.03 of the Texas Property Tax Code, each jurisdiction entitled to vote in the election of the Montgomery Central Appraisal District's Board of Directors may nominate a candidate for **each** of the five (5) positions to be filled.

To assist you in the nomination process, I am enclosing the eligibility requirements for a board member and a sample resolution. All nominations must be submitted to my attention **by resolution before October 15, 2021**.

Please include a brief biography with each nomination. These biographies will be sent with the Official Ballot to each voting jurisdiction to allow them to familiarize themselves with the qualifications and background of each candidate.

After the nomination period is closed, an Official Ballot will be mailed on or about **October 15, 2021**. Please schedule your agenda accordingly so you may participate in this election of the Board of Directors.

If you have any questions concerning the election, please contact me.

Sincerely,
Tony Belinoski, Chief Appraiser

Enclosures: Eligibility Requirements for Director
Sample Resolution for Nomination

2-CoISDCityLetter-Nominate.doc

SERVICE, EXCELLENCE AND EQUITY IN AD VALOREM TAX ADMINISTRATION

(936) 756-3354 CONROE • (936) 441-2186 METRO • P.O. BOX 2233 • CONROE TEXAS 77305-2233 • www.mcad-tx.org

QUALIFICATIONS FOR AN APPRAISAL DISTRICT DIRECTOR

[Texas Property Tax Code 6.03]

To be eligible to serve on the board of directors, an individual must be a resident of the district and must have resided in the district for at least two years immediately preceding the date the individual takes office.

An individual is **ineligible** to serve if the individual is:

- A person who has appraised property for compensation for use in proceedings or represented property owners for compensation in proceedings in the CAD at any time within the preceding three years is ineligible to serve on the board of directors.
- An employee of a taxing unit in the district [a person may be an elected official of a taxing unit].
- An appraisal district employee
- A person (or spouse) or business entity that contracts with the appraisal district or with a taxing unit in the appraisal district.
- A person (or spouse) or business entity that is a participant in a current lawsuit with the district.
- A person or relative within the second degree by consanguinity or affinity who does business in the appraisal district as a paid property tax agent or fee appraiser whose work involves property taxes.
- A person owing delinquent property taxes. [IF delinquency is older than 60 days] [DOES NOT apply if person is paying delinquent taxes and any penalty and interest under an installment payment agreement or has deferred or abated a suit to collect delinquent taxes.]

1st DEGREE	2nd DEGREE	3rd DEGREE
<p>By Consanguinity</p> <ul style="list-style-type: none"> • Parents • Children <p>By Affinity</p> <ul style="list-style-type: none"> • Spouses of relatives listed under first degree consanguinity • Spouse • Spouse's parents • Spouse's children • Stepparents • Stepchildren 	<p>By Consanguinity</p> <ul style="list-style-type: none"> • Grandparents • Grandchildren • Brothers & sisters <p>By Affinity</p> <ul style="list-style-type: none"> • Spouses of relatives listed by second degree consanguinity • Spouse's grandparents • Spouse's grandchildren • Spouse's brothers & sisters 	<p>By Consanguinity</p> <ul style="list-style-type: none"> • Great grandparents • Great grandchildren • Nieces & nephews • Aunts & uncles <p>By Affinity</p> <ul style="list-style-type: none"> • No prohibitions

STATE OF TEXAS

§
§
§

COUNTY OF MONTGOMERY

RESOLUTION

RESOLUTION SUBMITTING NOMINEE(S) AS CANDIDATE(S) FOR THE
ELECTION OF THE MONTGOMERY CENTRAL APPRAISAL DISTRICT'S
BOARD OF DIRECTORS-2022-2023 TERM.

WHEREAS, the **City of Montgomery** of Montgomery County Texas has been certified by the Chief Appraiser of the Montgomery Central Appraisal District as being eligible and entitled to nominate candidates to be placed on the county-wide ballot for the Montgomery Central Appraisal District's Board of Directors; and

WHEREAS, the City Council has considered such candidates;

THEREFORE BE IT RESOLVED, that the City Council of the City of Montgomery hereby nominates to the Montgomery Central Appraisal District's Board of Directors the following candidate(s).

PASSED AND APPROVED this the _____, 2021.

s\ Title

ATTEST:

s\Title

MONTGOMERY CENTRAL APPRAISAL DISTRICT
Voting Entitlements for County, ISD's and Cities
Board of Directors Election, 2022-2023 Term

District	Votes
Montgomery County	920
Lone Star College	223
Cleveland ISD	1
Conroe ISD	1703
Magnolia ISD	330
Montgomery ISD	294
New Caney ISD	265
Richards ISD	1
Splendora ISD	40
Tomball ISD	45
Willis ISD	175
City of Cleveland	1
City of Conroe	145
City of Houston	15
City of Magnolia	5
City of Montgomery	5
City of Oak Ridge No.	5
City of Panorama Vlge	5
City of Patton Vlge	1
City of Roman Forest	5
City of Shenandoah	8
City of Splendora	1
City of Stagecoach	1
City of Willis	8
City of Woodbranch Vlge	1
City of Woodloch	1
Total County/ISD/City Votes	4,204

Number of County/ISD/City Districts	26
Number of Special Districts	111
Number of All Voting Districts	137

Total County/ISD/City Votes	4,204
Total Special District Votes	796
Total of All Votes	5,000

Montgomery City Council
AGENDA REPORT

Meeting Date: October 12, 2021	Budgeted Amount: N/A
Department: Admin	Prepared By: Dave McCorquodale

Subject

Update and discussion on revisions to the Vendor Ordinance relating to Mobile Food Units.

Recommendation

Review the proposed revisions and provide feedback to staff after discussing the item at the meeting.

Discussion

City staff has updated the draft Vendor Ordinance based on feedback and discussion from the September 30th workshop. A summary of the revisions along with the draft ordinance are included for review. Staff is still discussing the proposed revisions with the city attorney, who has not had time for a thorough review of the attached material.

Approved By

Asst. City Administrator	Dave McCorquodale	Date: 10/07/2021
City Administrator	Richard Tramm	Date: 10/07/2021

Mobile Food Units Regulation Update Summary

October 12, 2021

The following changes are included in the proposed draft ordinance. They are presented for further discussion by City Council and direction to City staff.

- DEFINITIONS:
 - Add/modify “Mobile Food Unit”: *a vehicle mounted, self or otherwise propelled, self-contained food service operation, designed to be readily movable (including, but not limited to catering trucks, trailers, push carts, and roadside vendors) and used to store, prepare, display, serve or sell food. In this article the term is synonymous with the term “mobile food vendor.*
 - Add “Food Establishment” *has the same meaning as assigned to that term by Chapter 228 of the Texas Administrative Code.*
 - Add “Food Truck Park” *means a site or property configured and developed for the purpose of allowing one or more mobile food unit to remain stationary and operating for business. Food truck parks in the City require a Special Use Permit and are subject to all development regulations for food establishments in the City.*
 - Remove “Roadside Food Vendor” (state code referenced does not define the term).
- SPECIAL REQUIREMENTS FOR MOBILE FOOD VENDORS:
 - Remittance of all applicable taxes (e.g., sales tax) for in-City business activity;
 - Replace “50-feet from any street corner or crosswalk” requirement with: [*The placement of the mobile food unit shall not impede traffic nor visually impair any motor vehicle operation within a parking lot, driveway or street.*];
 - Changed hours of operation: Mobile food units not operating as part of a City-approved street festival are restricted to the following times of operation are based on the electrical power source used by the vendor:
 - WITHOUT ELECTRIC GENERATOR (plugged into a constant power source / shore power) – 6:00 a.m. and 9:00 p.m. unless operating under a street festival permit in accordance with Sec. 64-6; and

- WITH ELECTRIC GENERATOR (either on-board or externally-mounted with internal combustion engine) – 9:00 a.m. and 9:00 p.m. unless operating under a street festival permit in accordance with Sec. 64-6. Electric generators must comply with permissible sound levels in accordance with Chapter 34 of the City Code;
- Mobile food units operating within the City limits shall not remain on the same site or property, whether in operation or not, for longer than two consecutive calendar days. (Includes festival exception) A mobile food unit not in compliance with this requirement is considered a food establishment (i.e., a restaurant) and must comply with all City and County requirements for food establishments as well as all City development regulations [including parking, drainage, lighting, utilities, landscape and tree preservation requirements, Historic District compliance if applicable, etc.]. (Continue discussion with city attorney on this; SUP comes into use to address “Food Truck Park”).
- A garbage container located on the outside of or adjacent to the mobile unit is required. The garbage container shall be of sufficient size to contain waste generated from patrons and shall be readily accessible. Trash and waste generated from operations inside the mobile food unit is not allowed to be stored outside of the mobile food unit unless in a City-approved waste collection bin in accordance with Chapter 70 of the City Code of Ordinances.

Mobile Food Units – Follow Up Questions for City Council

- Mobile vendors allowed to operate in the Historic Preservation District?
 - DMC: Encouraging foot-traffic generating, street life-oriented businesses in the Historic Downtown supports the City’s goal of increasing business and social activity in the downtown. It seems like we would encourage this.
- Should we require public restrooms for mobile food vendors?
 - DMC: Suggest we follow the County rule that bathrooms are for employees and must be located within 300-feet. No additional conditions or requirements beyond proof of bathroom accessibility for use by mobile food unit employees at all hours of operation (letter or map showing compliance at application).

ORDINANCE NO. 2021-

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING CITY ORDINANCE NO. 1996-3, DATED JUNE 4, 1996, BY AMENDING CHAPTER 64, "PEDDLERS, SOLICITORS AND VENDORS" OF THE CITY CODE OF ORDINANCES; PROVIDING FOR A PENALTY FOR A VIOLATION OF THIS ORDINANCE; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING A SAVING AND SEVERABILITY CLAUSES; PROVIDING A TEXAS OPEN MEETINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE AFTER PUBLICATION.

WHEREAS, the City Council of the City of Montgomery, Texas ("Council") has investigated and determined that Chapter 64, "Peddlers, Solicitors, and Vendors" of the City of Montgomery, Texas ("City") should be amended and restated in its entirety; and

WHEREAS, the City has complied with all notices and public hearings as required by law; and

WHEREAS, the City Council finds that it will be advantageous, beneficial and in the best interest of the citizens of the City to amend Chapter 64 "Peddlers, Solicitors, and Vendors" of the City's Code of Ordinances in its entirety as set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS THAT:

Section 1. Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

Section 2. Chapter 64 – Peddlers, Solicitors, and Vendors of the City Code of Ordinances, is hereby amended and restated in its entirety, to read as follows:

ADDITIONS ~~DELETIONS~~

Article I. – In General

Sec. 64-1. PURPOSE.

The purpose of this chapter is to protect the public health, safety and general welfare of the citizens of the City by providing for controls and regulations of solicitors, vendors, and similar businesses operating within the City.

Sec. 64-2. - DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Display means to exhibit merchandise in any fashion, including in or upon vehicles, racks, shelves, hangers, or tables or upon the ground.

Donation and/or Recycling Vendor means any organization, entity, or individual engaged in the business of accepting textile or household goods for the purpose of reselling or donating accepted items.

Food establishment has the same meaning as assigned to that term by Chapter 228 of the Texas Administrative Code.

Food truck park means a site or property configured and developed for the purpose of allowing one or more mobile food unit to remain stationary and operating for business. Food truck parks in the City require a Special Use Permit and are subject to all development regulations for food establishments in the City.

Hawker means a peddler who makes noise to advertise his merchandise for sale, either by crying, shouting, ringing of bells or other means. The term "hawking" means to engage in the activities of a hawker.

Merchandise means goods, wares, services, photographs, magazines, plants, animals, fruit, meat, vegetables or other foods, whether cooked or otherwise, which are not offered for subsequent retail sale.

Mobile food unit is a vehicle mounted, self or otherwise propelled, self-contained food service operation, designed to be readily movable (including, but not limited to catering trucks, trailers, push carts, and roadside vendors) and used to store, prepare, display, serve or sell food. In this article the term is synonymous with the term "mobile food vendor". ~~has the same meaning as assigned to that term by rules adopted by the state board of health under the Texas Food, Drug and Cosmetic Act, V.T.C.A., Health and Safety Code Chapter 431.~~

Peddler means a person, including his agents or employees, who goes from person to person, place to place or house to house, and who sells or offers to sell merchandise then in his possession. The term "peddling" means to engage in the activities of a peddler.

Roadside food vender has the same meaning as assigned to that term by rules adopted by the state board of health under the Texas Food, Drug and Cosmetic Act, V.T.C.A., Health and Safety Code ch. 431.001.

Solicitor means a person, including his agents or employees, who goes from person to person, place to place or house to house, selling, offering for sale or taking orders for the sale of merchandise not then in his possession, or who requests the gift or donation of money, property, services or any other thing of value. The term "soliciting" or "solicitation" means to engage in the activities of a solicitor.

Street means the entire width between the boundary lines of every way publicly maintained, where any part thereof is open to the use of the public for purposes of vehicular travel, including

the ditches, drains, median, sidewalk and esplanade thereof, of any public alley, road, street, avenue, parkway or highway which is located within the city.

Street festival means any event, activity or entertainment sponsored by any organization, entity, or individual which is attended by twenty-five (25) or more persons and conducted in whole or in part within any street and for which admission may be charged or at which peddling, hawking, soliciting, transient dealing, roadside food vending or operation of a mobile food unit shall occur. The term "street festival" shall not include a rally conducted in support of or opposition to a candidate for political office or a ballot proposition in any election called by a federal, state or local unit of government.

Transient dealer means a person, including his agents or employees, who displays and sells or offers to sell merchandise from a fixed location not upon premises which are owned by the person or for which definite arrangements have been made for the lease, hire or rental for a term of at least one month. The term "transient dealing" means to engage in the activities of a transient dealer. *Unattended* means without the continuous presence of a person to personally receive and issue receipts for donated items at the time they are deposited at the UDB.

Unattended Donation Bin or UDB mean an unattended bin, container, dumpster or similar receptacle that is placed outdoors at a location visible from a public place for the purpose of receiving and/or temporarily storing donated food, clothing, shoes, toys, or other personal property.

Sec. 64-3. - EXEMPTION FOR INTERSTATE COMMERCE.

The provisions of this article shall not be deemed applicable to persons engaged in interstate commerce or to any such person to whom application of the provisions of this article would impose a direct and unlawful burden on interstate commerce.

Sec. 64-4. - OPERATION ON PUBLIC PROPERTY.

It shall be unlawful for any person to engage in the business of peddling, hawking, soliciting, transient dealing or roadside food vending within any public street or upon any property owned or leased by the City and located within the City that is not a City-designated location and without a valid permit from the City.

Sec. 64-5. - HOURS OF RESIDENTIAL SOLICITATION.

It shall be unlawful for any person, except with the express advance consent of the owner, to enter in or upon any home or residential premises within the City to solicit or to sell or offer to sell merchandise, except between the hours of 9:00 a.m. and 7:00 p.m.

Sec. 64-6. – STREET FESTIVALS.

Street festivals must obtain a permit from the City prior to the use of any public street or upon any property owned or leased by the City. In addition to the requirements of Section 64-31, street festival organizers are required to provide a Certificate of Insurance listing the City of Montgomery as Additional Insured in an amount established by the City. The organizer of the street festival must maintain and provide to the City a list of all vendors at the event that includes

sufficient information for each vendor to comply with the permit application requirements of this chapter.

- a) Each applicant for a street festival shall be required to file for a permit application, 30-days prior to the event, with the City Secretary.
- b) The fee for street festival permits shall be \$50.00 with a clean-up deposit of \$200.00 that shall be paid prior to the permit issuance.
- c) The street festival permit applicant shall provide detailed application information including, but not limited to:
 - i. identify organization conducting the event and event coordinator contact information;
 - ii. include any authorization(s) for use of private property, street locations and/or street closure requests;
 - iii. list all activities to be conducted at the event;
 - iv. provide detailed site plan showing how event will be set up;
 - v. provide date and time of on-site preparation and clean-up after the event;
 - vi. if alcohol will be sold, a TABC Permit and proof of host liquor liability insurance shall be provided;
 - vii. if animals or livestock are to be used in conjunction with the event, a handwashing station shall be provided, and the location shown on the site plan; and
 - viii. Certificate of Insurance listing the City of Montgomery as additional insured.
- d) Individual vendors operating under a street festival permit are allowed to operate during festival hours.
- e) The event coordinator shall provide a detailed list of all participating vendors including contact information, except mobile food vendors. Food Mobile food vendors ~~and food trucks~~ shall be required to obtain a separate food vendor permit from the City of Montgomery.
- f) The issuance of the street festival permit shall be approved by the City Administrator and coordinated with the Police Chief.
- g) The street festival permit upon approval of the City Administrator shall be issued by the City Secretary.

Sec. 64-7. – DONATION AND/OR RECYCLING VENDORS.

- a) It shall be unlawful for any organization, entity, or individual to conduct donation and/or recycling business activities on any public street or upon any property owned or leased by the City. Donation and/or recycling locations operating on private property within the City must provide notarized written consent of the property owner to the City in addition to vendor application requirements found in Sec. 64-31.
- b) Donation and/or recycling locations must be staffed with at least (1) one attendant continuously during operating hours. Donation bins commonly used in industry practices constitute a location of operation. No donation and/or recycling location shall accept donated goods except between the hours of 8:00 a.m. and 8:00 p.m. Location facilities shall be secured during non-operating hours in a manner that prevents unauthorized items from being left on site. Failure to properly secure the facility location to prevent unlawful dumping is grounds for immediate revocation of the vendor permit.

Secs. 64-8—64-28. - RESERVED.

Article II. - PERMIT

Sec. 64-29. – PERMIT REQUIRED.

It shall be unlawful for any person to engage in the business of peddling, hawking, soliciting, providing donation and/or recycling services of textiles and household goods, transient dealing, ~~roadside food vending~~ or operation of a mobile food unit within the City without having first obtained a permit to engage in such business.

Sec. 64-30. – CLASSIFICATIONS; TERM; FEE.

Except as specifically provided by section 64-32, no permit shall be issued pursuant to this article except upon application accompanied by the fee as currently established or as hereafter adopted by resolution of the city council from time to time.

Class	Term
Peddler	6 months
Hawker	6 months
Solicitor	6 months
Transient Dealer	6 months
Mobile Food Unit	6 months or expiration of food service permit, whichever occurs first
Roadside Food Vendor	6 months or expiration of food service permit, whichever occurs first

Sec. 64-31. – APPLICATION.

~~Not less than ten days prior to the effective date of any permit granted under this article,~~
Each person who shall desire a permit required by this article shall make written application

thereof to the City Secretary on a form prescribed by the City Secretary. Each application shall be accompanied by the required application fee. Such application shall provide the following:

- 1) Full name, address and location of the principal office or place of business of the applicant, and if the applicant is a partnership or firm or joint venture, the full names and addresses of the authorized officers signing the application thereof. If the applicant is a corporation, the applicant shall state the county and state of the corporate location and the names and addresses of its authorized signers.
- 2) The location of operation or sales, including the street address or legal property description thereof. If the applicant is not the owner of such location, then the applicant shall also provide the lease, license, or other evidence of permission of the owner to occupy the premises for the purpose of the application.
- 3) The class of permit requested.
- 4) A statement that the applicant has had no permit issued pursuant to this article revoked in the previous one-year period.
- 5) A full description of the merchandise to be sold or for which the purchase is to be solicited.

Sec. 64-32. - GRANTING OR DENIAL; ISSUANCE; TRANSFER.

Within ten days of receipt of an application for a permit required by this article, the City Secretary shall grant such application and issue the permit and identification badges required by this article or such application shall be deemed denied. The City Secretary shall grant any application which on its face complies with the provisions set forth in section 64-31 and, if applicable, section 64-33, and shall deny any application which fails to meet such requirements. Upon written request of the applicant, the City Secretary shall set forth in writing the reasons for the denial of any permit. If granted, the City Secretary shall issue to the applicant a permit which shall set forth the permit number, the activity permitted, the effective and expiration dates of the permit and the name of the person to which the permit has been granted, and the name of each person authorized to engage in the permitted activity. No permit shall be assignable.

**Sec. 64-33. – SPECIAL REQUIREMENTS FOR MOBILE FOOD UNITS ~~AND~~
~~ROADSIDE FOOD VENDORS.~~**

- a) In addition to the requirements of Section 64-31, each applicant for a permit to operate a mobile food unit, including a mobile unit for the sale of frozen desserts, or to engage in roadside food vending, shall provide a copy of a current food service permit issued by the county health department.
- b) Each applicant for a permit to operate a mobile food unit shall, in addition to any other requirements, provide proof of financial responsibility as required by the Texas Motor Vehicle Safety Responsibility Act, V.T.C.A., Transportation Code Chapter 601,

Subchapter C (V.T.C.A., Transportation Code § 601.051 et seq.) for each person who shall drive or operate the mobile food unit.

- c) Each permit for operation of a mobile food unit or to engage in roadside food vending shall be conditioned upon continuous compliance with all federal, state and local laws or rules adopted under such laws relating to food service, and the permittee shall at all times prominently display a current food service permit issued by the county health department.
- d) Each permit for operation of a mobile food unit shall be conditioned upon continuous compliance with the following:
- 1) Each driver or operator of a mobile food unit shall maintain financial responsibility as required by the Texas Motor Vehicle Safety Responsibility Act, V.T.C.A., Transportation Code, Chapter 601;
 - 2) Remittance of all applicable taxes in accordance with state law for business conducted within the City limits;
 - 2)3) No sales shall be made on any street or roadway where posted speed limits are in excess of 30 miles per hour;
 - 4) No mobile food unit shall be parked within 50 feet of any street corner or crosswalk; The placement of the mobile food unit shall not impede traffic nor visually impair any motor vehicle operation within a parking lot, driveway or street.
 - 3)5) No person shall sell or solicit sales of merchandise from a mobile food unit within 1,000 feet of any public or private school between the hours of 9:00 a.m. and 5:00 p.m.;
 - 6) Mobile food units not operating as part of a City-approved street festival are restricted to the following times of operation based on the electrical power source used by the vendor:
 - a. WITHOUT ELECTRIC GENERATOR (plugged into a constant power source / shore power) – 6:00 a.m. and 9:00 p.m. unless operating under a street festival permit in accordance with Sec. 64-6; and
 - b. WITH ELECTRIC GENERATOR (either on-board or externally-mounted with internal combustion engine) – 9:00 a.m. and 9:00 p.m. unless operating under a street festival permit in accordance with Sec. 64-6. Electric generators must comply with permissible sound levels in accordance with Chapter 34 of the City Code.
 - 7) Mobile food units operating within the City limits shall not remain on the same site or property, whether in operation or not, for longer than two consecutive calendar days. Mobile food units operating as part of a festival are not subject to this requirement. A mobile food unit not in compliance with this requirement is

considered a food establishment and must comply with all City and County requirements for food establishments as well as all City development regulations.

- a. Any site or property developed or configured to accommodate mobile food units for longer than two consecutive calendar days is considered a Food Truck Park and shall require a Special Use Permit in addition to food establishment and development permitting requirements.
- 8) Mobile food units shall be located within 300-feet of a restroom that is accessible to employees during all hours of operation. Portable toilets of any kind are prohibited. If a restroom is provided on a mobile unit, an additional handwashing facility will be required in the room where toilet is located and an additional separate waste tank.
- 9) A garbage container located on the outside of or adjacent to the mobile unit is required. The garbage container shall be of sufficient size to contain waste generated from patrons and shall be readily accessible. Trash and waste generated from operations inside the mobile food unit is not allowed to be stored outside of the mobile food unit unless in a City-approved waste collection bin in accordance with Chapter 70 of the City Code of Ordinances.
- 4)10) The permit issued pursuant to this article shall at all times be conspicuously posted upon the mobile food unit.

Sec. 64-34. – EXCEPTIONS; CHARITIES; PUBLIC WELL-BEING; LIMITED DURATION ACTIVITIES.

- a) Notwithstanding any provision to the contrary contained in this article, no permit fee shall be charged under section 64-30, with respect to the following:
 - 1) Any charitable institution, organization or association organized and conducted exclusively for charitable purposes, and not for private gain or profit.
 - 2) Any individual, association, organization or other entity conducting or staging any concert, exhibition, lecture, entertainment or dance where the gross profits derived therefrom are used solely for charitable or benevolent purposes and not for the purpose of private gain or profit.
 - 3) Any organization, association or other entity holding any convention in the City and sponsoring any entertainment, dance, concert, exhibition, lecture or other event directly and exclusively connected with such convention, provided that any proceeds realized from such convention are devoted to the purposes of the entity sponsoring the same and are not for the purpose of private gain or profit of any individual or entity.
 - 4) Any service club or organization, such as Kiwanis, Rotary or Lions Clubs, nonprofit automobile clubs, chambers of commerce, trade associations, manufacturers' associations, labor organizations, and similar community or professional service

clubs or organizations which do not contemplate the distribution of profits or dividends to the members thereof.

- b) Any person, association, organization or other entity claiming an exemption as provided in Subsection (a) of this Section, shall provide such documentation and/or other evidence as may be required by the City Secretary to substantiate and confirm the exempt status of such person, association, organization or other entity.
- c) All other applicable provisions of this article shall pertain to and be applicable to any such exempted persons, associations, organizations or other entities.

Sec. 64-35. - REVOCATION.

- (a) Any permit issued pursuant to this article may be revoked by the City Secretary if he shall determine that such permit was obtained upon the basis of any intentional false material misrepresentation by the applicant, upon any conduct by the permittee, his agents or employees which arises from or is directly related to the permitted activity and which conduct is a violation of criminal statute, or upon violation by the permittee, his agents or employees of any term or provision of such permit or of this article.
- (b) The City Secretary shall revoke any permit if he shall determine that the permittee, his agents, or employees shall have committed three or more violations of any term or provision of such permit or of this article within the 12-month period immediately preceding such determination, or at any time upon conviction of a violation of any provision of this article.
- (c) Prior to any such revocation, the City Secretary shall provide the permittee notice of any proposed revocation and the grounds therefor and shall afford the permittee an opportunity for hearing. Such notice shall be sufficient if sent to the permittee by registered mail at the address shown on the application for such permit not less than five days prior to the time set forth in such notice of the hearing. Following such hearing, if the City Secretary shall determine that there exist sufficient grounds for revocation of such permit, then such permit shall be deemed immediately revoked.

Sec. 64-36. - APPEALS.

Any person to whom the City Secretary shall have denied a permit or whose permit shall have been revoked under this article may appeal such denial or revocation to an appeal board consisting of the mayor, the City Attorney and the City Secretary. Such appeal shall be made in writing and filed with the City Secretary not more than five days following such denial or revocation by the City Secretary. Within five days of the filing of such appeal, the City Secretary shall provide notice of the appeal hearing to the appealing party, which notice shall be sufficient if sent to the address of such appealing party as shown on the application for the permit. Following such hearing, if the appeal board shall determine that there exist sufficient grounds for denial or revocation of any such permit, then the decision of the City Secretary shall be deemed final. If the appeal board shall determine that sufficient grounds do not exist for denial or

revocation, then the decision of the City Secretary shall be reversed and such permit shall be granted or reinstated.”

Section 3. This amendment to Ordinance No. 1996-3, dated June 4, 1996, as codified in Section 64-2 and Section 64-33 of the Code of Ordinances of the City of Montgomery, Montgomery County, Texas, shall prevail and all other Ordinances in conflict are hereby repealed to the extent of any conflict.

Section 4. If any section, subsection, sentence, clause, provision or part of this Ordinance shall be held invalid for any reason, the remainder of this Ordinance shall not be affected thereby but shall remain in full force and effect.

Section 5. It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, of the Texas Government Code.

Section 6. This Ordinance shall take effect and be in force after its publication as provided by law.

SECTION IV: REPEALING CLAUSE

~~This amendment to Ordinance No. 1996-3, dated June 4, 1996, as codified in Chapter 64 of the Code of Ordinances of the City of Montgomery, Montgomery County, Texas, shall prevail and all other Ordinances and parts of Ordinances in conflict are hereby repealed to the extent of any conflict.~~

SECTION V: SEVERABILITY

~~Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court or competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.~~

SECTION VI: EFFECTIVE DATE UPON PUBLICATION

~~The provisions of this Ordinance will become effective immediately upon adoption by the City Council and publication as provided by law. It is the intent of the Council that the Ordinance apply to every property within the City on which it may apply without violating and state or federal law.~~

PASSED AND APPROVED by the City Council of the City of Montgomery, Texas, on the _____ day of _____, 2021.

THE CITY OF MONTGOMERY, TEXAS

Sara Countryman, Mayor

ATTEST:

Susan Hensley, City Secretary

APPROVED AS TO FORM:

Alan P. Petrov, City Attorney