

**YOLANDA FORD**  
Mayor

**VASHAUNDR A EDWARDS**  
Councilmember at Large Position No. 1

**CHRIS PRESTON**  
Mayor Pro Tem  
Councilmember at Large Position No. 2



**CHERYL STERLING**  
Councilmember District A  
**JEFFREY L. BONEY**  
Councilmember District B  
**ANTHONY G. MAROULIS**  
Councilmember District C  
**FLOYD EMERY**  
Councilmember District D

## CITY COUNCIL SPECIAL MEETING MINUTES

The City Council of the City of Missouri City, Texas, met in special session on **Monday, July 6, 2020**, at the City Hall, Council Chamber, 1522 Texas Parkway, Missouri City, Texas, 77489, at **5:30 p.m.** to consider the following.

*Due to the COVID 19 Disaster and the Center for Disease Control's recommendation regarding social distancing measures, the Mayor, City Council, City Staff members, and members of the public were not physically present during this meeting. The meeting was made possible through the cloud-based video conferencing platform Zoom.*

### 1. CALL TO ORDER

Mayor Ford called the meeting to order at 5:30 p.m.

Those also present: Mayor Pro Tem Preston, Councilmembers Edwards, Sterling, Boney, Maroulis, and Emery; Interim City Manager Atkinson, City Attorney Iyamu, City Secretary Jackson, Assistant City Manager Martel, Director of Communications Walker, Director of Public Works Kumar, Director of Human Resources and Organizational Development Russell, Director of Economic Development Esch, Assistant Director of Public Works Brouhard, and Assistant City Attorney Santangelo.

### 2. DISCUSSION/POSSIBLE ACTION

- (a) Discuss the enforcement of certain laws on private streets and the operational cost of accepting certain private streets.

Assistant City Attorney Santangelo revisited the determination criteria regarding whether a street in the City was public or private and recapped what City services could be performed on private streets. Santangelo also reviewed the analysis as it related to the Meadowcreek subdivision, Section 4, and provided recommendations. If Council decided to convert the private streets in Meadowcreek and maintain them, Santangelo recommend creating a resolution to do so. Director of Public Works Kumar spoke about the evaluation on street infrastructure, technical mandates and cost consideration on the private streets in Meadowcreek subdivision, Section 4.

**Jim Fonteneaux, Sr.**, was provided with 15 minutes to speak as Delbert Simperts, Willie Jones, Dawn Bailey, and Trina Powers yielded their public comments time to him. Fonteneaux addressed concerns regarding the public/private streets in the Meadowcreek subdivision. He asked about the municipal authority use of the streets; and, he asked for the City to look into what their responsibility was towards the subdivision. Fonteneaux also yielded his minutes to Mr. Simperts.

**Delbert Simperts**, 2614 Creekway Circle, addressed concerns regarding the public/private streets in the Meadowcreek subdivision. He was concerned what Police were allowed to do on public streets.

Mayor Ford asked that if repairs and damages have been looked into and what were the costs of those. Interim City Manager Atkinson stated it was the first time staff heard about such damages during

construction. Director Kumar spoke about complaints received in June 2018 about trucking companies trespassing into private streets. He noted staff installed directional signs and directed the contractor not to use private streets.

Mayor Ford asked if the City was allowed to put an ordinance in place to manage what could and could not occur on private streets. Santangelo asked if it would be a maintenance ordinance. Ford would like to make the streets safe and officers could cite violations. Santangelo stated there were laws police could enforce on private streets. City Attorney Iyamu added that an ordinance stated certain rules should be enforced and place charges against violators.

Mr. Fonteneaux, Sr. asked if the City had made a determination if they were going to repair on Ashmont and who would make the decision. City Attorney Iyamu stated they would have to look into whether claims were made at that time and if the claims were forwarded on. Atkinson stated staff made attempts by placing signs but would look into this to see what could be done.

Councilmember Emery asked if in the past they had made repairs to private streets due to damage caused by construction. Director Kumar stated the City had not made any repairs regarding Ashmont as no requests were made. Kumar noted the City installed signs but staff did not receive requests to repair damages during or after construction. Atkinson asked if there were any situations, other than Ashmont, that may have had subsequent damage by a project from the City. Kumar stated he was not aware of any but they would look into it. Assistant Director of Public Works Brouhard stated he did not know of any private street damage but noted that when one of their contractors does damage to private property, they have them repair it.

Councilmember Boney asked about the restrictions governing and maintenance of private property. Santangelo stated the document noted that the Meadowcreek HOA had full control and discretion towards improvement and maintenance. Boney asked if it was possible to establish a Public Improvement District (PID) for the Meadowcreek patio homeowners and they could pay improvement items over time. Iyamu stated if the majority of property owners in the area elect to put a PID on the property it may be possible but they would have to look into this.

Mr. Simperts noted the parking area was the responsibility of the HOA and not the private streets. Councilmember Maroulis asked if they had an answer about if use constitutes acceptance. Iyamu stated they would have to look into what happened when Ashmont was created and determine if what occurred was sufficient to become use for the purposes of acceptance. She noted that if Council desired the City could file a petition for a determination or judgement by the court to determine whether the street was public or private. Mr. Fonteneaux, Sr., asked that Council get a copy of the Quail Valley patio home plat as they have identical provisions.

Councilmember Emery asked that Police Chief Berezin address the safety issues and if we have jurisdiction from police that enter for violations. If not, could the City create an ordinance that addresses police concerns in Meadowcreek. Police Chief Berezin stated they enforce every law with the exception of several transportation code violations. Berezin noted the City Council could enact an ordinance that would give police authority to enforce traffic violations in the private streets. If the ordinance were established in the Meadowcreek subdivision, they would have to establish it for all the private streets in the City.

Mr. Fonteneaux, Sr., noted there was a lien provision attached to the residents for the maintenance of the streets. Councilmember Boney asked that staff look into the PIDs and bring back their findings to City Council. Mayor Ford asked that staff provide responses to all inquiries received. Mr. Fonteneaux, Sr., asked if they could bring in a real estate attorney. Iyamu stated if they would like a specific determination on whether the street was public or private, it would be beneficial to have a court make that determination and be able to move forward. If not, they could enforce rules of the road or the City deciding to take it over. Simperts asked who would represent section 4. Iyamu stated the HOA or an expert in place.

Mayor Ford asked how they would move forward if a City contractor caused damages. Iyamu stated the operations team would research the damages and they could still move forward as the items could be looked at simultaneously. Director Kumar clarified they had concerns from residents for the use of construction trucks and signs were placed; however, the HOA failed to provide them with a document or petition for repairs and noted the street was about 50 years old and was reaching the useful life based on the index. Mayor Ford asked that staff provide responses to all inquiries received and they would circle back on if they would submit a petition to the court.

At 7:17 p.m., without objection, City Council recessed the special City Council meeting.

At 8:55 p.m., City Council reconvened the special City Council meeting. Mayor Ford conducted another roll call.

- (b) Discuss a proposed ordinance establishing a single municipal court panel and duties for the presiding judge.

City Attorney Iyamu presented draft language for ordinance establishing a single municipal court panel and duties for the presiding judge.

- (c) Consider and discuss the charter review process.

City Attorney Iyamu presented an overview of the charter review commission process and a timeline.

- (d) Consider and discuss the use of City resources by councilmembers.

City Attorney Iyamu noted the item was added to the agenda as two or more Councilmembers had questions about the ideas or how the City does business. Councilmember Boney stated he had requested clarity on the use of city resources such as the city letterhead and/or the Communications Department for events. He would also like either an ordinance or a protocol to be established for the use of these City resources. Iyamu stated City resources might be utilized for city business. She noted Council as a whole would make the determination on how to utilize city resources; and, noted her office was preparing a draft ordinance to include parameters and it would be presented within the next 30 days. Councilmember Boney clarified that there was no protocol in place at this time and that any councilmember could utilize city resources in the same manner. Iyamu clarified that the recommendation was to use City resources for a public purpose and that purpose was generally determined by a vote from Council. She noted members could do individual letters but it would depend on the capacity if it were official or not. Mayor Ford stated City resources should be used for City business.

Councilmember Emery asked if communication goes out on City business, should all Councilmembers sign off or be made aware of the use of resources. Iyamu asked for further clarification. Emery stated he was speaking in regards to if a Councilmember wants to utilize City letterhead to convey a city position. Iyamu recommended that if the goal were to convey a city position, then the City Council would need to vote on the matter. Emery asked if the guidelines would be spelled out. Iyamu stated they could add language to the ordinance. She noted they had a resolution in place that discussed city resources in relation to an election.

Mayor Ford asked what the issue was. Councilmember Boney stated what prompted his curiosity was a letter sent out by Mayor Ford on city letterhead addressing a situation involving a former employee running for an elected position as if it were the position of the City. Mayor Ford clarified there was no position taken; the letter verified the former employee's court order. Boney asked if the former employee was terminated and if they admitted guilt at any time. He asked what they could and could not share with the public on city resources as an official position and if all Councilmembers have that exact equal authority. Ford stated the letter clarified and spoke about the court order and that was the only position placed on the letter. Iyamu

stated if they would want a recommendation in public they would need to take a vote and if not she recommended going into closed executive session. Councilmember Sterling requested clarification on the agenda item and the motion. Mayor Pro Tem Preston asked what would be discussed. City Attorney Iyamu noted she would make a legal recommendation on the item in public, and the vote would be on whether Council would like to receive that recommendation in public or in private. Preston asked Iyamu for her legal recommendation. Iyamu recommended receiving legal advice in private.

Councilmember Boney moved to receive legal advice in an open meeting about the use of city resources. Councilmember Maroulis seconded. **MOTION FAILED.**

Ayes: Councilmember Boney, Councilmember Maroulis and Councilmember Emery  
Nays: Mayor Ford, Mayor Pro Tem Preston, Councilmember Edwards, and Councilmember Sterling

Councilmember Maroulis asked if they had an event on the weekend and employees were working, were they paid overtime and if so, where does that come from the budget. Interim City Manager Atkinson stated all departments work to adjust schedules and other times employees would be paid overtime. He stated overtime would be authorized through their supervisor. Councilmember Boney asked for clarity on if he could send information out from an employee file. City Attorney Iyamu that would be discussed in closed session.

Councilmember Maroulis moved to receive legal advice in closed executive session. Councilmember Emery seconded. **MOTION PASSED.**

Ayes: Mayor Pro Tem Preston, Councilmember Edwards, Councilmember Sterling, Councilmember Maroulis and Councilmember Emery  
Nays: Mayor Ford and Councilmember Boney

Councilmember Emery asked if City Attorney Iyamu would have enough time to prepare for the issue. City Attorney Iyamu stated she would.

### **3. CLOSED EXECUTIVE SESSION**

At 9:23 p.m., City Council moved into closed executive session to receive legal advice from the City Attorney and pursuant to Sections 551.074 and 551.087 of the Texas Government Code.

**Texas Government Code, Section 551.074** – Deliberations concerning the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee: the city manager, the city attorney and the city secretary.

**Texas Government Code, Section 551.087** – Deliberations regarding commercial or financial information that the governmental body received from a business prospect that the governmental body seeks to locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations: retail shopping center.

### **4. RECONVENE**

At 12:19 a.m., City Council reconvened into open session.

Councilmember Maroulis stepped away from the dais at 12:20 a.m.

Councilmember Edwards stated they had a plethora of well-qualified candidates, and in her opinion, they saved the City a lot of money by taking the time to interview and go through their applications, and weeding those out who do not qualify.

Councilmember Boney stated the process of the City Manager search performed was completely flawed. Boney also stated he was unaware Council would be conducting the final interviews for the City Manager position this evening and said one of the Council's top two candidates had decided to remove their name from the process. He said this was concerning for him and he was completely against it.

Edwards noted Council had made a motion to move forward to interview the last two candidates and that Boney had time to prepare. Boney stated a motion was made but he was not made aware as he had been made aware previous times.

Councilmember Emery stated the process of finding candidates to save money would actually cost more money and was a disservice to the citizens of the City. Boney asked Director Russell how much was spend on the process of using Baker Tilly. Director Russell said he believed it was less than \$2,000, but would get the number to City Council.

Councilmember Emery asked if they did a contract with Jones that they do it with a four-month probation period and include no severance until a year of service was been provided to the City. Mayor Ford noted Jones was a licensed City Manager and there would be a difference in the contract. Ford stated when she picked her top five, she was specifically looking for licensed candidates for the very reason of them coming in with experience and understanding the city manager role.

Councilmember Edwards moved to appoint Odis Jones as the City Manager. Mayor Pro Tem Preston seconded. **MOTION PASSED.**

Ayes: Mayor Ford, Mayor Pro Tem Preston, Councilmember Edwards and Councilmember Sterling  
Nays: Councilmember Boney and Councilmember Emery  
Absent: Councilmember Maroulis

Mayor Ford stated she would contact Jones to determine if he was interested in moving forward with the City and then they could move forward with a contract.

**3. ADJOURN**

The special City Council meeting adjourned at 12:30 a.m.

Minutes PASSED AND APPROVED this the 20<sup>th</sup> day of July 2020.

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Maria Jackson, City Secretary