



# City of Richmond

*Where History Meets Opportunity*

## Monument Ad Hoc Committee Workshop via Video Conference call (pursuant to Texas Government Code, Section 551.127)

Thursday, October 8, 2020 at 3:00 P.M.

### Join Zoom Meeting

<https://zoom.us/j/91210034333>

Meeting ID: 912 1003 4333

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Meeting ID: 912 1003 4333

Find your local number: <https://zoom.us/u/abtsxb9aS7>

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### AGENDA

- A1. Call to Order, Quorum Determined, Meeting Declared Open.
- A2. Approve minutes of meeting held on September 24, 2020.
- A3. Public hearing to receive comments related to the proposed City/County joint relocation of the artifact, commonly known as the Jay Bird monument or the Frost, Gibson and Shamblin monument located at the southeast corner of the City Hall site, 402 Morton Street, Richmond, Texas, to a historic cemetery in Fort Bend County, and telling the complete story of the event.
- A4. Review and discuss Interlocal Agreement between the City of Richmond and Fort

*Any item on this posted agenda may be discussed in Executive Session provided it is within one of the permitted categories under Chapter 551 of the Texas Government Code.*

Monument Ad Hoc Committee Agenda

October 8, 2020

Page 1 of 2

Bend County related to the relocation of the artifact.

- A5. Review and discuss language providing historic context related to the artifact.
- A6. Discuss and consider taking action on recommendations to the City Commission related to the artifact commonly known as the Jay Bird monument or the Frost, Gibson and Shamblin monument.
- A7. Set Future Meeting date(s).
- A8. Discuss Future agenda items.
- A9. Adjournment.

If, during the course of the meeting covered by this Agenda, the Commission shall determine that an executive session of the Commission, should be held or is required in relation to any item included in this Agenda, then such executive session, as authorized by the Texas Open Meetings Act, will be held by the Board at the date, hour, and place given in this Agenda concerning any and all subjects and for any and all purposes permitted by Sections 551.071-551.084 of the Texas Government Code, including, but not limited to, Section 551.071 – for purpose of a private consultation with the Board’s attorney on any or all subjects or matters authorized by law.

**NOTICE OF ASSISTANCE AT THE PUBLIC MEETING**

The City of Richmond City Commission meetings are available to all persons regardless of disability. This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations, should you require special assistance, must be made 48 hours prior to this meeting. Braille is not available. Please contact the City Secretary’s office at (281) 342-5456 ex. 505 for needed accommodations. If you have any questions please let me know.

Terri Vela



# City of Richmond

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## **Monument Ad Hoc Committee Workshop**

Thursday, October 8, 2020 at 3:00 p.m.

A1. Call to Order, Quorum Determined, Meeting Declared Open.



# City of Richmond

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## **Monument Ad Hoc Committee Workshop**

Thursday, October 8, 2020 at 3:00 p.m.

A2. Approve minutes of meeting held on September 24, 2020.



STATE OF TEXAS  
COUNTY OF FORT BEND  
CITY OF RICHMOND

The Monument Ad Hoc Committee for the City of Richmond, Texas met on September 24, 2020 at 3:00 p.m.

Committee Chairman Alex BeMent proceeded to call the meeting to order at 3:00 p.m. via video conference pursuant to Texas Government Code, Section 551.125, as amended, and as modified by the temporary suspension of various provisions thereof effective March 16, 2020, by the Governor of Texas in accordance with the Texas Disaster Act of 1975, all as related to the Governor's proclamation on March 13, 2020, certifying that the COVID-19 pandemic poses an imminent threat of disaster and declaring a state of disaster for all counties in Texas. All members of the public may participate in the meeting via video conference call.

A quorum was present, with the following members in attendance:

Alex BeMent, Committee Chair (City Commissioner, Position 4)  
Terri Vela, City Manager  
Rob Quarles, Representative of Vincent Morales, County Commissioner Precinct 1- Absent  
Keely Knipling, Vice President of the Fort Bend History Association  
Gary Smith, City Attorney  
Roy Cordes, County Attorney - Absent

Agenda item A2, Approve the minutes of the meeting on September 17, 2020. Committee Member Vela stated the date of the meeting needed to be corrected from September 24, 2020 to September 17, 2020. Committee Chair BeMent made the motion to approve the minutes from September 17, 2020 meeting with the noted correction. Committee Member Knipling seconded the motion. The vote was unanimous to approve, and the agenda item was closed.

Agenda item A3, Discuss and consider approval of notice to submit claim to artifact. Committee Member Vela suggested this agenda item should be discussed with Agenda item A5. Committee Chair BeMent made the motion to table agenda item A3. Committee Member Knipling seconded the motion and the vote was unanimous to table the item.

Agenda item A4, Discuss and consider approval of notice of public comment. City Attorney Gary Smith stated if A5 were discussed before A4, A4 would make more sense. City Attorney confirmed the notice had been revised since the meeting packet was posted.

Agenda item A5, Discuss information needed to fulfil the charge for possible recommendations to the City Commission. Committee Chair BeMent stated that Fort Bend County has graciously offered to cover the costs of relocating the monument locally. One of the locations that has been discussed is the Hodges Bend Cemetery located at 17245 Old Richmond Road, Sugar Land, Texas. The cemetery is an historic cemetery that was started in 1831. The last burial took place in 1942. J. M. Shamblin's grave is located at the cemetery. Shamblin is one of the individuals listed on the monument. The County Commissioners Court has voted to authorize Ken Cannata, Chief Litigation Division and Roy Cordes, County Attorney to discuss with City staff the assistance the County would provide in relocating the monument. Committee Member Vela indicated an Interlocal Agreement would be needed with the relocation costs between the City and the County as well as an agreement with the third party that is contracted to be responsible for the relocation. Therefore, there would be two agreements. The public comments would be input concerning the City of Richmond and Fort Bend County working together, identifying the location and determining the costs. Committee Member Knipling inquired if the offer from the County was exclusive to relocating at Hodges Bend Cemetery. The offer is was not limited to Hodges Bend but must remain in Fort Bend County. The Morton Cemetery in Richmond was also discussed as an option. City Attorney Smith reviewed the two notices for publication. Committee Member Knipling stated it should be shared that the Committee is clear and has a consensus with the direction the committee is headed with the discussion. Additional language regarding the rules of public comments is not necessary for the publication. It was also stated if the budget would allow for modification and signage to tell the complete story. Committee Member Vela stated an application has been submitted to the state for a historical marker relating to the conflict, however it was declined.

During the meeting, City Attorney Smith emailed out the revised notice to be published for the committee's review. Committee Member Vela made the motion to approve the notice and modify the motion to include 3:00 p.m. time and the changes to the purpose. Committee Chair BeMent seconded the motion and the vote was unanimous to approve.

Agenda item A6, Set Future Meeting date(s). October 8, 2020 at 3:00 p.m. was suggested and agreed upon.

Agenda item A7. Discuss Future Agenda Items. Committee Member Knipling acknowledged the Fort Bend History Association would review the language for a marker to potentially place next to City Hall. Committee Chair BeMent expressed that phase 2 did not need to extend beyond the scope of this committee.

With no further business to discuss, Committee Chairman BeMent declared the meeting adjourned at 3:40 p.m.

APPROVED:

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Alex BeMent, Committee Chairman

Attest:

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Laura Scarlato, City Secretary



# City of Richmond

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## **Monument Ad Hoc Committee Workshop**

Thursday, October 8, 2020 at 3:00 p.m.

- A3. Public hearing to receive comments related to the proposed City/County joint relocation of the artifact, commonly known as the Jay Bird monument or the Frost, Gibson, and Shamblin monument located at the southeast corner of the City Hall site, 402 Morton Street, Richmond, Texas, to a historic cemetery in Fort Bend County, and telling the complete story of the event.



## NOTICE OF PUBLIC HEARING

**LOCATION/DATE:** The City of Richmond Obelisk/Monument Ad Hoc Committee will hold a public hearing on Thursday, October 8, 2020, at 3 p.m. In compliance with the recommendation of the CDC and other governmental agencies, to limit meetings to less than ten persons and avoid the spread of the COVID19 Virus, the Ad Hoc Committee meeting will be held as a teleconference on Zoom virtual meeting platform. Following are the details to join the Zoom Meeting.

Details to join the Zoom Meeting will be included on the Meeting Agenda posted on the City of Richmond Website; <https://www.richmondtx.gov/> and on the City Hall Bulletin Board located at 402 Morton Street, Richmond, TX 77469.

### Join Zoom Meeting

<https://zoom.us/j/91210034333>

Meeting ID: 912 1003 4333

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+1 301 715 8592 US (Germantown)

Meeting ID: 912 1003 4333

Find your local number: <https://zoom.us/j/91210034333>

Comments may also be submitted via email or request made to be contacted by phone during the meeting to make comments during the public hearing to the City Secretary at [lscarlato@richmondtx.gov](mailto:lscarlato@richmondtx.gov)

**PURPOSE:** To receive comments related to the proposed City/County joint relocation of the artifact, commonly known as the Jay Bird monument or the Frost, Gibson and Shamblin monument located at the southeast corner of the City Hall site, 402 Morton Street, Richmond, Texas, to a historic cemetery in Fort Bend County, and telling the complete story of the event.

**PRESENTATIONS:** Speakers may be limited to a three (3) minute time to present their comments, reasoning, and recommendations. Speakers may submit written comments in addition to or in lieu of spoken comments by forwarding the written comments to Ad Hoc Committee, Attn: Laura Scarlato, City Secretary, 402 Morton Street, Richmond, Texas 77469; by fax to (281) 232-8626; or by email to [lscarlato@richmondtx.gov](mailto:lscarlato@richmondtx.gov).

A speaker should professionally present the position. This provision shall not be interpreted or applied to prohibit public criticism of the Commission or Committee, including criticism of any act, omission, policy, procedure, program, or service.

**FOR MORE INFORMATION:** Additional information and a map of the subject site are available upon request for review. You may contact the City of Richmond City Secretary's Office by email at [lscarlato@richmondtx.gov](mailto:lscarlato@richmondtx.gov) or by phone at 281-342-5456.



# City of Richmond

*Where History Meets Opportunity*

## **Monument Ad Hoc Committee Workshop**

Thursday, October 8, 2020 at 3:00 p.m.

- A4. Review and discuss Interlocal Agreement between the City of Richmond and Fort Bend County related to the relocation of the artifact.

INTERLOCAL AGREEMENT FOR JOINT PARTICIPATION  
TO RELOCATE THE JAYBIRD MONUMENT

STATE OF TEXAS                   §  
  §  
COUNTY OF FORT BEND       §

This Interlocal Agreement for Joint Participation to Relocate the Jaybird Monument (“Agreement”) is made and entered into pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, by and between the City of Richmond, a municipal corporation and home-rule city of the State of Texas, acting by and through its City Commission, (the “City”), and Fort Bend County, a body corporate and politic under the laws of the State of Texas, acting by and through its Commissioners Court, (the “County”). The City and the County may be referred to herein individually as a “Party” or collectively as the “Parties”.

RECITALS

WHEREAS, a monument referencing H. H. Frost, L. E. Gibson and J. M. Shamblin, commonly referred to as the Jaybird Monument (the “Monument”), currently sits on the southeast corner of the City Hall site at 402 Morton Street,

WHEREAS, the Monument, as consented by Commissioners Court on October 14, 1895, was erected on the site being the former Fort Bend County Courthouse by the Jay Bird Democratic Association of Fort Bend County on March 18, 1896;

WHEREAS, the County conveyed the courthouse land to the City, subject to an easement covering the portion of the land on which the Monument was located in 1940;

WHEREAS, the County released the easement as part of a land exchange in 2013;

WHEREAS, the Parties recognize the public concern of such controversial monuments located in public places and desire to jointly participate in the relocation of the Monument;

WHEREAS, the Commissioners Court finds that the Project contemplated in this Agreement serves a public purpose;

WHEREAS, the City and the County agree to participate in the Project according to the terms of this Agreement; and

WHEREAS, the governing bodies of the City and the County have authorized this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants, agreements and benefits to both Parties, it is agreed as follows:

## AGREEMENT

### Section 1. Incorporation of Recitals

The recitations and recitals set forth above are declared true and correct and are hereby incorporated as part of this Agreement.

### Section 2. Purpose

The purpose of this Agreement is to outline the obligations related to the relocation of the Monument (the "Project").

### Section 3. Ownership

The City asserts that, by virtue of the Monument's long-term and continued presence on property owned by the City and the resulting possession, care, and control of the Monument for the benefit of the Public, the City has sufficient authority to allow the County, its employees, contractors, or other duly authorized agents, to enter 402 Morton Street, Richmond, Texas 77469 to perform the obligations under this Agreement. The City's, as trustee of the public interest, includes the authority to convey the Monument to a third party for the purpose of preserving the Monument.

### Section 4. Right of Entry

Further, upon ten (10) days' notice, the City hereby authorizes the County, its employees, contractors, or other duly authorized agents to enter 402 Morton Street, Richmond, Texas 77469 to enter the City-owned property and relocate the monument to Hodges Bend Cemetery (the "Cemetery"), a third party that has expressed an interest in accepting and has agreed to accept the Monument for relocation.

### Section 5. Project

A. The County is responsible for managing the Project in accordance with approved specifications and compliance with the applicable laws. This responsibility shall include the management of the disassembly, transportation and reassembly of the Monument at the final destination. The County will engage a contractor to enter the property and perform the relocation obligations under this Agreement, at its sole cost and expense. The County may, in its sole discretion, engage a contractor to install certain structures, equipment and/or devices around the Monument to provide security at the final destination. The City acknowledges and accepts the fact that County is obligated to follow Chapter 262 of the Texas Local Government Code as it relates to the award of the contract.

B. Prior to the execution of this Agreement, the City shall reach an Agreement with the Cemetery to accept the Monument after delivery by the County by actual conveyance of all interest in the Monument by the City to the Cemetery.

C. During the work on the Project, the City shall have the right to review and to inspect the work in progress. However, the City agrees that the County is the contracted party and the City shall not provide any direction to the contractor.

D. The County shall have no obligation to restore the ground surface after disassembly and removal of the Monument.

#### Section 6. Liabilities

The City and County are entitled to the immunities and defenses of the Texas Tort Claims Act.

#### Section 7. Maintenance

The terms of the Cemetery's acceptance of the monument shall provide for allocating the maintenance obligations.

#### Section 8. Limit of Appropriation

The City clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that the County shall have available the total maximum sum of one hundred thousand dollars and no/100 (\$100,000.00) specifically allocated to fully discharge any and all liabilities County may incur.

#### Section 9. Insurance Requirements

County agrees that it will require Contractor's insurance policies name City as well as County as additional insureds on all policies except for Workers' Compensation and Professional Liability. Any such insurance policies shall include at least the following minimum coverage:

A. Worker's Compensation in the amount required by law. The policy shall include the All States Endorsement.

B. Comprehensive General Liability Insurance including contractual liability insurance, \$1,000,000 per occurrence, \$2,000,000 aggregate (defense costs excluded from face amount of policy).

C. Comprehensive Automobile Liability Insurance, including owned, non-owned and hired vehicles used for the Project, with bodily injury and property damage with a combined limit of not less than \$1,000,000 each occurrence.

Section 10. Assignment

No party hereto shall make, in whole or in part, any assignment of this Agreement or any obligation hereunder without the prior written consent of the other party.

Section 11. No Third Party Beneficiaries

The parties do not intend that any specific third party obtain a right by virtue of the execution or performance of this Agreement.

Section 12. Notices

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, or delivered to the following addresses:

County: Fort Bend County  
Attn: County Judge  
401 Jackson Street, 1st Floor  
Richmond, Texas 77469

City: City of Richmond, Texas  
Attn: Terri Vela, City Manager  
402 Morton Street  
Richmond, Texas 77469

Section 13. Entire Agreement

This Agreement contains the entire agreement between the parties relating to the rights granted and the obligations assumed. Any modifications concerning this instrument shall be of no force or effect, unless a subsequent modification in writing is signed by all parties hereto.

Section 14. Execution

This Agreement has been executed by the City and the County upon and by the authority of their respective governing bodies. This Agreement shall become effective on the date executed by the final party and remain in effect until the Project is complete.

[EXECUTION PAGE FOLLOWS.]

FORT BEND COUNTY, TEXAS

CITY OF RICHMOND, TEXAS

\_\_\_\_\_  
KP George, County Judge

\_\_\_\_\_  
Evalyn W. Moore, Mayor

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

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

ATTEST:

ATTEST:

\_\_\_\_\_  
Laura Richard, County Clerk

\_\_\_\_\_  
Laura Scarlato, City Secretary

**AUDITOR'S CERTIFICATE**

I hereby certify that funds are available in the amount of \$\_\_\_\_\_ to accomplish and pay the obligation of Fort Bend County under this contract.

\_\_\_\_\_  
Robert Ed Sturdivant, County Auditor



# City of Richmond

*Where History Meets Opportunity*

## **Monument Ad Hoc Committee Workshop**

Thursday, October 8, 2020 at 3:00 p.m.

- A5. Review and discuss language providing historic context related to the artifact.



When General Robert E. Lee surrendered to General Ulysses S. Grant on April 9, 1865, it marked the end of the Civil War, but it did not mean that the work of the Union was over. The Southern states had to be brought back into the fold and the issue of slavery in the South had to be settled.

General Gordon Granger was sent to Texas in June 1865. When he arrived in Galveston on June 19, he had *General Order No. 3* read aloud. This proclamation announced that all enslaved people were free and this date has since been celebrated annually as Juneteenth. Part of the reason Granger and his occupying army had been sent to Texas was to make sure that nothing got out of hand with the freeing of the enslaved peoples. While there were celebrations across Texas as the slaves learned that they were free, there were also many questions. Would each slave be entitled to land and property from those that had previously owned them? The slaves were instructed to stay where they were until something could be figured out.

Unlike most of the South, Texas had very minimal property damage. Not only was Texas spared the scorched Earth and battle scars that the rest of the South suffered, but farms had been planted and crops harvested the whole time.

No matter the damage, or lack thereof, Texas still had to be readmitted to the Union, which meant following the guidelines set down for Reconstruction. After the assassination of Abraham Lincoln, Reconstruction terms were left up to President Andrew Johnson. This was known as Presidential Reconstruction. It became very apparent that Congress was unhappy with his terms, and Radical Reconstruction was instituted.

Presidential Reconstruction dictated that each state must:

- Abolish slavery
- Swear loyalty to the Union
- Pay off war debt

Radical Reconstruction terms:

- Divided the South into five military-controlled districts
- Each state had to rewrite their constitution, subject to approval by Congress
  - All males, regardless of race, except former Confederate leaders, were permitted to participate in the constitutional conventions that formed the new governments in each state
- Each state was required to grant voting rights to black men
- All states had to ratify the 14<sup>th</sup> Amendment, which granted citizenship and equal protection under the law to all born in the United States, in order to be readmitted to the Union

Starting on May 16, 1867, fifteen registration districts were created in Texas to register African American voters. Texas organized a Constitutional Convention in 1868 and, for the first time, African Americans voted to elect members to this convention; eleven African Americans were elected to help rewrite the Texas Constitution. The 1868-69 Constitutional Convention produced one of the most forward-thinking constitutions that Texas has ever had. With the ratification of the 13<sup>th</sup> and 14<sup>th</sup> amendments, Texas was readmitted to the Union in 1871.

Organizations rose up to help the recently enfranchised freed peoples. The Freedman's Bureau was started in 1865 to provide help with food, housing, and medical aid, and to start schools and offer legal help. The Union League was established in the North in 1861 as a secret organization to mobilize African American voters and support the Republican agenda. Fort Bend resident Walter Burton later became the president of the Union League in Fort Bend County. Churches of various denominations were instrumental in enfranchising the newly freed people. Religious organizations helped to build schools, and preaching from the pulpit became good practice for early African American legislators.

Walter Moses Burton was elected Sheriff and Tax Collector for Fort Bend County in 1869, becoming the first black sheriff in the United States. This was the chief elected political office of the county and he held it for four years. According to Wharton's History of Fort Bend County, the first four years of the Republican regime were tolerated in Fort Bend County because of the character of Walter Burton; he was "*respectful and careful not to annoy or antagonize his white constituents.*"

Lloyd "Mac" Henry McCabe was born to free parents in New York in 1847. He moved to Texas in 1870. Walter Moses Burton wrote a letter to Governor Edmund Davis and got McCabe appointed the Fort Bend County Registrar. He was elected to the Texas State Constitutional Convention of 1875, and he was appointed to the committee dealing with the educational system. After this brief term on the state level, McCabe served as the District Clerk of Fort Bend County from 1876-1880. Clarence Wharton remarked in his History of Fort Bend County that those who have examined notes left by McCabe about the proceedings of the court were "*impressed that they were well written and well kept.*" He lived in Fort Bend County until he died in 1930.

In 1873, when Walter Moses Burton decided to run for the Senate, Fort Bend County's prominent citizens became worried that their next sheriff would not have the same upstanding character as Burton. They had offered to let Burton run on the Democratic ticket, but he refused and ran on the Republican ticket instead.

*"That was seventeen years after the close of the Civil War, yet [Walter Burton, an African American] was representing a senatorial district in Texas where the Democratic vote of the whole state was 4 to 1 as compared to the Republican."*

-Norman G. Kittrell

Governors who have been, and other public men of Texas

Henry C. Ferguson was born into slavery in Jasper County, Texas. He was owned by a man named Ferguson and took this surname when he was emancipated at the age of 30. Starting in 1869, he made a name for himself as a police officer in Houston, where he was noted as being discrete and brave. When Walter Moses Burton decided to run for the Texas Senate, Ferguson ran for Sheriff of Fort Bend County. He served as the Sheriff for two terms and then as the Tax Assessor until 1888. When he was first elected, he did not meet the land ownership requirements for elected officials, so upstanding citizens of the county made his bond. He kept up Burton's policy of having a white

deputy arrest all white accused criminals. In his book, Clarence Wharton wrote that Ferguson “*was the acknowledged political leader in Fort Bend*” for thirty years.

Just as organizations had sprung up to help the recently enfranchised former slaves at the end of the Civil War, organizations began to spring up in the 1880s to disenfranchise the African Americans once again. Frustrated with African-American control of politics and what they saw as corrupt county government, a group of young white men formed The Young Men’s Democratic Club of Fort Bend County in 1888. The club hoped to unite white Democrats in Fort Bend, but instead two factions formed: Jaybirds and Woodpeckers. The Jaybirds wanted county government without African-American office holders while the Woodpeckers, who held all the political positions in the county or bonded the people that did, wanted to keep things as they were.

Tensions rose throughout 1888 as both sides prepared to campaign for the coming election. Jaybird J. M. Shamblin was killed in August. Some at the time attributed this to the Woodpeckers, but it is more likely that he was killed over a bale of cotton stolen from him earlier that year. Then Henry Frost, another leading Jaybird was shot on his way home. He survived, but again Woodpeckers were suspected of the crime. It was thought that blacks were responsible for both attacks and indeed one former slave, William Caldwell was convicted of Shamblin’s murder and executed.

In September 1888, the Jaybirds gathered a mob at the courthouse and drove seven African American leaders out of the county. The men driven out were given ten hours to leave, and all were driven out without any bloodshed. Those seven men were C. M. Ferguson (younger brother of Henry Ferguson, tax collector), H. G. Lucas, Peter Warren, J. D. Davies, Tom Taylor, Jack Taylor, and C. M. Williams.

C. M. Ferguson was Charles Ferguson, the little brother of Henry Ferguson. After he returned from Fisk University, he was elected District Clerk of Fort Bend County; he served three terms, six years, in this position. In the weeks leading up to the September 1888 mob, Ferguson could tell that his life, family, and property were in danger. He left the county before the mob got to his house and soon moved [AH1]his entire family to Tennessee to safety. Ferguson went on to be nominated from Texas to the Republican National Conventions in 1888, 1892, 1896, 1900, and 1904. [AH2]

Each faction endorsed tickets for county offices and the campaign became bitter with harsh words being thrown out by each side. The Woodpeckers won the county elections in 1888. That was not enough for Kyle Terry, a Jaybird turned Woodpecker, who killed his Jaybird opponent in that election, Ned Gibson, in Wharton while they were both there for a trial in June of 1889. Terry then fled Fort Bend County.

The Jaybirds were determined to get revenge for the killings at the next slightest provocation. Texas Rangers were sent to Richmond to keep the peace. On the afternoon of August 16, shots suddenly rang out along Morton St between J. W. Parker, W. T. Wade and the Gibson brothers, Volney and Guilf. The Woodpeckers were chased back into the county courthouse, which at the time was on Morton St. The Jaybirds surrounded the courthouse and fired upon the Woodpeckers who returned fire. Four Texas Rangers arrived but did little as they were outnumbered by the combatants on both sides. Eventually, the firing ceased and the wounded and dead were tended by the survivors.

Dead Woodpeckers included Sheriff T. J. Garvey and Jake Blakely. Judge J. W. Parker and Deputy Sheriff Harry Mason were wounded. Jaybird Henry Frost was mortally wounded and would die after a few days. Other wounded Jaybirds were Volney Gibson and William Andrus. Ranger

Frank Schmidt was also wounded and Robie Smith an innocent African American girl on an errand was also killed.

Governor L. S. Ross sent in the Houston Light Guard to control the situation and then came down himself to negotiate an end to the hostilities. Soon after most of the Woodpeckers left the county. Kyle Terry was killed later by Jaybirds in Galveston in 1890 when both arrived for trials at the Courthouse there.

The Jaybirds won the battle and formed the Jay Bird Democratic Association of Fort Bend County. Their primary tenets were to provide “honest” county government with voting only by white citizens. Any white citizen opposing the Jaybirds was considered an outcast. For the next 64 years, the Jaybird election functioned as the Democratic primary and a Democrat always got elected to office. As a result of these whites-only elections, the votes of African-American and Latino people did not count.

In 1896, the Jay Bird Democratic Association commissioned and erected a monument on the grounds of the Fort Bend County courthouse, then located on the 400 block of Morton Street in Richmond. This monument, entitled *Our Heroes*, was a memorial to the three Jaybirds who lost their lives during the feuding and battle with the Woodpeckers in 1888 and 1889.

On March 16, 1950, led by black farmer Willie Melton and Arizona Fleming, a black businesswoman, a group of black citizens asked to vote in the 1953 Jaybird primary. When the Jaybirds refused, Melton and supporters filed suit against the Jaybird Association executive committee. The lawsuit asserted that the Jaybird primary rules deprived African-American citizens of their right to participate in the Democratic Party, and violated their rights under the 14<sup>th</sup> and 15<sup>th</sup> Amendments as well as several recently passed Civil Rights Statutes.

On May 1, 1950, Judge T.M. Kennerly issued a legal bombshell and ruled against the Jaybirds. The opinion explained that the Jaybird Democratic Association functioned as a political party and had been created with the sole goal of excluding African-Americans from voting.

The Jaybird Democratic Association did not take the decision lightly and immediately appealed to the Fifth Circuit Court of Appeals based in New Orleans. The Fifth Circuit reversed Judge Kennerly’s order, but that did not stop Melton and his group. Although the financial strain was taking a toll, the group appealed to the Supreme Court of the United States in a case named *Terry v. Adams*.

On January 23, 1953, the Supreme Court heard oral arguments on *Terry v. Adams*.

On May 4, 1953, the Supreme Court ruled 8-1 against the Jaybird Democratic Association. Several justices wrote concurring opinions, but Justice Tom Clark, a native Texan, noted that the Jaybird Primary was simply “an old pattern in a new guise” designed to deprive African-Americans of the vote. The Supreme Court ruled that people of all races must be allowed to vote in the primary. This was a great victory for civil rights in Fort Bend County.

During the first half of the 20<sup>th</sup> Century, the United States Supreme Court heard a series of cases that addressed efforts by white communities to exclude African-Americans through a “white primary” system established in the South after the Civil War. These primaries were unofficial pre-election polls barred to African-Americans, effectively preventing them from having a political influence. In 1953, the Supreme Court decided the last of these white primary cases: *Terry v. Adams*, 345 U.S. 461.

### ***Terry v. Adams***

The case of *Terry v. Adams* began when Willie Melton, a successful African-American farmer, met with Sid Hilliard, a prominent Harris County NAACP leader and President of the Civil Liberties League. With assistance from W.J. Durham, an African-American lawyer and counsel for the NAACP, the group began a letter-writing campaign. They also circulated a petition that read:

***We, the undersigned Negro citizens of Fort Bend County, Texas, wish to participate in all elections held in this, our county, and respectfully petition the Jaybird Association to be allowed to vote in the Primary Election of May 1950.***

Over one hundred people signed the petition, including John Terry, Willie Melton, Jesse Byars, Robert E. Pink, Jr., Charlie Roberts, and Price Jackson, Jr. Each of the signees also showed their eligibility to vote by declaring that they were over the age of 65 and/or had paid their poll tax.

After receiving the letters and petition, Jaybird Democratic Association President, R.M. Darst, called a special meeting for February 27, 1950. Despite one letter hinting at future legal consequences, the Association took no action and sent no reply. According to Melton: “*ignoring the letters and petition and throwing them in the waste basket was the last straw.*”

Although many feared retribution, Melton gathered a staunch group of supporters, including Mrs. Arizona Fleming, owner of the Fort Bend Fraternal Undertaking Company of Richmond. During the next three years, Fleming was dedicated to the cause and worked tirelessly beside Melton to effect change.

On March 16, 1950, Melton and supporters filed suit against the Jaybird Association executive committee. The lawsuit asserted that the Jaybird primary rules deprived African-American citizens of their right to participate in the Democratic Party, and violated their rights under the 14<sup>th</sup> and 15<sup>th</sup> Amendments as well as several recently passed Civil Rights Statutes.

The Jaybird Democratic Association moved to dismiss the suit and argued that the federal court lacked jurisdiction over a private association that simply held a “straw vote” to ensure good government. Both sides agreed not to present the case to a jury so that the matter could be decided before the next primary. During the trial, the Jaybird Association witnesses maintained their position that “*Negroes are not good voters. Some of them are, but a great body of them are not.*”

On May 1, 1950, Judge T.M. Kennerly issued a legal bombshell and ruled against the Jaybirds. The opinion explained that the Jaybird Democratic Association functioned as a political party and had

been created with the sole goal of excluding African-Americans from voting. The opinion also held that the challenging group was entitled to vote in the upcoming primaries.

The Jaybird Democratic Association did not take the decision lightly and immediately appealed to the Fifth Circuit Court of Appeals based in New Orleans. The Fifth Circuit reversed Judge Kennerly's order, but that did not stop Melton and his group.

Although the financial strain was taking a toll, the group appealed to the Supreme Court of the United States.

On January 23, 1953, the Supreme Court heard oral arguments on *Terry v. Adams*. The case had attracted attention in Washington and many leading legal figures appeared to watch; Melton and Arizona Fleming were also in attendance.

During the arguments, the Jaybird Association's attorneys maintained that the sole purpose of the Association was to ensure "good government." But Justice Robert Jackson pointedly asked:

*"Give me a moment to reflect. If I understand clearly, you are saying your party elects "good people" and prohibits voting by blacks to prevent election of "bad people."*

After the Jaybird Association attorney agreed, Justice Jackson summarized the situation:

*"I see. In other words, you first resolve that only angels inherit the earth and next resolve that you are the angels."*

The Jaybird attorney did not reply.

On May 4, 1953, the Supreme Court ruled 8-1 against the Jaybird Democratic Association. Several justices wrote concurring opinions, but Justice Tom Clark, a native Texan, noted that the Jaybird Primary was simply "an old pattern in a new guise" designed to deprive African-Americans of the vote. With its decision, the Supreme Court ended almost ninety-years of discrimination.

Destroying the Jaybird white primary system was not easy, and the legal battle was only one of many the challengers would have to face. Throughout the trial and appeals, Willie Melton and Arizona Fleming received assistance from the Fort Bend community and from the National Association for the Advancement of Colored People, the NAACP.

On May 2, 1950 the Fort Bend Civic Club was organized with the goal of keeping African-American citizens informed on local, state and national politics. The Club also encouraged them to get out and vote, especially in the upcoming May 6 Jaybird Primary. Willie Melton served as President and Arizona Fleming was the Secretary.

The Fort Bend Civic Club proved instrumental in keeping the discrimination case alive. After the Fifth Circuit reversed the trial court decision, the group met to decide whether to take on an expensive appeal to the Supreme Court. The February 21, 1952 meeting in Rosenberg was the largest ever held for the group, and resulted in an all-out effort to fund the appeal to the Supreme Court.

To raise the necessary funds, the Civic Club solicited and received donations from churches and business leaders from around the states. Arizona Fleming herself made substantial financial contributions to the cause.

The Fort Bend Civic Club also held a Freedom Ball at the Powell Point Auditorium in Kendleton. The young woman that sold the most tickets was to be crowned "Freedom Queen." Many young women sold tickets, but the winner proved to be Wilma Melton, daughter of Willie Melton. Ultimately, the Civic Club raised over \$6,000, more than enough to pay for the appeal.



# City of Richmond

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## **Monument Ad Hoc Committee Workshop**

Thursday, October 8, 2020 at 3:00 p.m.

- A6. Discuss and consider taking action on recommendations to the City Commission related to the artifact commonly known as the Jay Bird monument or the Frost, Gibson, and Shamblin monument.





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## **Monument Ad Hoc Committee Workshop**

Thursday, October 8, 2020 at 3:00 p.m.

A7. Set Future Meeting date(s).



# City of Richmond

*Where History Meets Opportunity*

## **Monument Ad Hoc Committee Workshop**

Thursday, October 8, 2020 at 3:00 p.m.

A8. Discuss Future agenda items.



# City of Richmond

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## **Monument Ad Hoc Committee Workshop**

Thursday, October 8, 2020 at 3:00 p.m.

A9. Adjournment.