

MINUTES OF REGULAR CITY COUNCIL MEETING CITY OF TOMBALL, TEXAS



**MONDAY, JANUARY 7, 2013
6:00 P.M.**

1.0 Call to Order

The Council meeting was called to order at 6:00 p.m. by Mayor Gretchen Fagan. Other members present were:

Councilman Hudgens
Councilman Stoll
Councilman Brown
Councilman Townsend
Councilman Dodson

Others present:

City Manager – George Shackelford
Assistant City Manager – Christal Weber
City Secretary – Doris Speer
City Attorney – Loren Smith
City Planner – Rebeca Guerra
Assistant City Engineer – Lori Lakatos
Community Events Coordinator – Rosalie Dillon
IT Director – Doug Tippey
GIS/IT Tech – Ben Lato
Assistant Fire Chief – Jonathan Fontenot
Fire Inspector – Doug Sanguedolce
TEDC-Executive Director – Kelly Violette

2.0 Invocation

- Led by Dr. Robert Rush, First Presbyterian Church

3.0 Pledges to U. S. and Texas Flags

- Led by Rosalie Dillon

4.0 No Public Comments were received. Public comments related to agenda items will be received before each item of business is discussed.

5.0 Reports and Announcements:

- January 12, 2013 – **2nd Saturday at the Depot** – 5:00 p.m.
- January 30, 2013 through March 1, 2013 – Period to File Application for Place on Ballot for the May 11, 2013 General City Election
- **Walk Tomball!** – Every Saturday at 9:00 a.m. at the Depot
- Reports by City staff and members of Council about items of community interest on which no action will be taken
 - Doug Tippey and Ben Lato presented information regarding the launch of the City of Tomball's New Website

6.0 Motion was made by Councilman Townsend, second by Councilman Dodson, to approve the Minutes of the December 17, 2012 Special City Council Meeting and December 17, 2012 Regular City Council Meeting.

Motion carried unanimously.

7.0 Old Business:

7.1 Motion was made by Councilman Townsend, second by Councilman Brown, to adopt on Second Reading, Resolution No. 2012-35-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving the Tomball Economic Development Corporation's Project to Expend Funds in accordance with an Economic Development Agreement by and between the Corporation and One Moore Holdings Inc., to make direct incentives to, or expenditures for, assistance with infrastructure costs for the promotion of new or expanded business enterprise related to the construction of a commercial facility to be located at 15423 FM 2920, Tomball, TX 77375. The estimated amount of expenditures for such Project is \$56,425.00. Vote was as follows:

Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Dodson	<u>Aye</u>
Councilman Hudgens	<u>Aye</u>

Motion carried unanimously.

7.2 Motion was made by Councilman Townsend, second by Council Stoll, to Remove the Question from the Table.

Motion to Remove the Question from the Table carried unanimously.

Mayor Fagan opened the Public Hearing at 6:21 p.m. to consider **ZONING CASE P12-510**: City-initiated text amendment to the Tomball Comprehensive Zoning Ordinance (Ordinance No. 2008-01) to amend Section 42.4 (“Fences in Residential Areas”). The following public comment was received:

Dennis Bell 31215 Antonia Lane (Email)	- Mr. Bell requests regarding access gates were read into the record.
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Receiving no further public comments, Mayor Fagan closed the public hearing at 6:22 p.m.

Motion was made by Councilman Stoll, second by Councilman Brown, to read Ordinance No. 2012-51 by caption only on First Reading.

Motion carried unanimously.

Motion was made by Councilman Stoll, second by Councilman Brown, to adopt on First Reading, Ordinance No. 2012-51, an Ordinance of The City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by Amending Section 42.4 (“Fences In Residential Areas”); Providing for a Penalty of an Amount Not to Exceed \$2,000 for Each Day of Violation of Any Provision Hereof; Making Findings of Fact; and Providing for Other Related Matters.

Motion to amend was made by Councilman Stoll, second by Councilman Brown, to adopt on First Reading, Ordinance No. 2012-51, an Ordinance of The City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by Amending Section 42.4 (“Fences In Residential Areas”); Providing for a Penalty of an Amount Not to Exceed \$2,000 for Each Day of Violation of Any Provision Hereof; Making Findings of Fact; and Providing for Other Related Matters, by deleting the word “etc.” from Section 42.4.B, and by amending Section 42.4.A to read “No fence or gate in a residential district, except as specified in Subsection E, shall exceed eight (8) feet in height. Fences and gates shall be maintained in good repair at all times, including, but not limited to, ensuring that there be no missing, broken, or leaning slats or panels, and that the condition not to endanger life or property. Such maintenance shall be the responsibility of the owner of the property on which the fence or gate is located.”

Motion to Amend the Amended Motion was made by Councilman Stoll, second by Councilman Brown, to adopt on First Reading, Ordinance No. 2012-51, an Ordinance of The City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by Amending Section 42.4 (“Fences In Residential Areas”); Providing for a Penalty of an Amount Not to Exceed \$2,000 for Each Day of Violation of Any

Provision Hereof; Making Findings of Fact; and Providing for Other Related Matters, by adding “Chain link fencing may be utilized within the area of a rear yard, as defined in Section 45.2.” to Section 42.4.B, in addition to the previously stated proposed amendment. Vote was as follows:

Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Nay</u>
Councilman Dodson	<u>Aye</u>
Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>

Motion to Amend the Amended Motion carried, 4 votes Aye, 1 vote Nay.

- 7.3 Motion was made by Councilman Townsend, second by Councilman Dodson, to adopt, on Second Reading, Ordinance No. 2012-50, an Ordinance of the City of Tomball, Texas, amending its Comprehensive Zoning Ordinance by amending Section 38.2 (“Use Charts”) of the City’s Comprehensive Zoning Ordinance (Ordinance No. 2008-01) by creating a new land use called “Training Well,” permitting it by right in the Light Industrial District, and assigning it a parking requirement of one parking space per acre of land area; creating a new Section 43.9 (“Training Wells and Training Well Sites”) to regulate training wells and training well sites; and amending Section 45.2 (“Definitions”) by creating a definition for “Training Well” and “Training Well Site;” providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof; making findings of fact; and providing for other related matters. Vote was as follows:

Councilman Townsend	<u>Aye</u>
Councilman Dodson	<u>Aye</u>
Councilman Hudgens	<u>Nay</u>
Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>

Motion carried, 4 votes Aye, 1 vote Nay.

- 7.4 Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt on Second Reading, Ordinance No. 2012-53, an Ordinance of the City of Tomball, Texas, amending its Comprehensive Plan by changing the future land use classification of approximately 96.94 acres of land from Mixed Use to Business/Industrial; same being a 3.143 acre tract of land out of the Jesse Pruitt Survey, Abstract No. 629 in Harris County, Texas, said 3.143 acre tract of land being all of that 3.1378 acre tract of land (by deed) deeded to Mary McGill Criner Adickes, trustee, as recorded in clerk’s file no. H271449 of the official public records of real property of Harris County, Texas, said 3.143 acre tract of land also being a portion of Lot 463, Tomball Townsite as recorded in volume 2, page 65 of

the map records of Harris County, Texas; being a 0.610 acre tract of land out of the Jesse Pruitt Survey, abstract no. 629 in Harris County, Texas, said 0.610 acre tract of land being all of the remainder of that 30 foot wide unnamed road lying between Lot 459, Lot 460, Lot 461, Lot 462, Lot 463, Lot 464, Lot 465, and Lot 466, as shown on said Tomball Townsite, as recorded in volume 2, page 65 of the map records of Harris County, Texas; being a 49.544 acre tract of land out of the Jesse Pruitt Survey, abstract no. 629 in Harris County, Texas, said 49.544 acre tract of land being all of that 49.547 acre tract of land (by probate) conveyed to Ronald J. Collins, Donald Claude Childress, Roy A. Johlke, and Susan Lorraine Dietz Varsel, individually and as administrator of the estate of Adell G. Dietz, also known as Adell G. Johlke Dietz, deceased, by cause no. 407636 of the probate records of Harris County, Texas, said 49.544 acre tract of land also being a portion of Lot 448, Lot 449, Lot 460, Lot 461, the remainder of Lot 447, the remainder of Lot 459, the remainder of Lot 462, the remainder of Lot 464, the remainder of Lot 465, and the remainder of Lot 466, Tomball Townsite, as recorded in volume 2, page 65 of the map records of Harris County, Texas; being a 23.624 acre tract of land out of the Jesse Pruitt Survey, Abstract No. 629 in Harris County, Texas, said 23.624 acre tract of land being all of that 23.5935 acre tract of land (by deed) deeded to Cypressbrook 2920, LP, as recorded in document no. 20070522269 of the official public records of real property of Harris County, Texas, said 23.624 acre tract of land being more particularly described by metes and bounds as follows; and being a 20.021 acre tract of land out of the Jesse Pruitt Survey, abstract no. 629 in Harris County, Texas, said 20.021 acre tract of land being a portion of the remainder of a 23.6963 acre tract of land (by deed) deeded to ABCO Land Corporation as recorded in document no. 200265255 of the official public records of real property of Harris County, Texas, from Mixed Use to Business/Industrial; said property being generally located on the northeast corner of F.M. 2920 and F.M. 2978; providing for the amendment of the Comprehensive Plan of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters. Vote was as follows:

Councilman Dodson	<u>Aye</u>
Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Aye</u>

Motion carried unanimously.

- 7.5 Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt on Second Reading, Ordinance No. 2012-54, an Ordinance of the City of Tomball, Texas, amending its Comprehensive Zoning Ordinance by changing the zoning district classification of approximately 96.94 acres of land, generally

located on the northeast corner of F.M. 2920 and F.M. 2978, from the Agricultural District to the Light Industrial District; same being a 3.143 acre tract of land out of the Jesse Pruitt Survey, Abstract No. 629 in Harris County, Texas, said 3.143 acre tract of land being all of that 3.1378 acre tract of land (by deed) deeded to Mary McGill Criner Adickes, Trustee, as recorded in clerk's file no. H271449 of the official public records of real property of Harris County, Texas, said 3.143 acre tract of land also being a portion of Lot 463, Tomball Townsite as recorded in volume 2, page 65 of the map records of Harris County, Texas; being a 0.610 acre tract of land out of the Jesse Pruitt Survey, abstract no. 629 in Harris County, Texas, said 0.610 acre tract of land being all of the remainder of that 30 foot wide unnamed road lying between Lot 459, Lot 460, Lot 461, Lot 462, Lot 463, Lot 464, Lot 465, and Lot 466, as shown on said Tomball Townsite, as recorded in volume 2, page 65 of the map records of Harris County, Texas; being a 49.544 acre tract of land out of the Jesse Pruitt Survey, abstract no. 629 in Harris County, Texas, said 49.544 acre tract of land being all of that 49.547 acre tract of land (by probate) conveyed to Ronald J. Collins, Donald Claude Childress, Roy A. Johlke, and Susan Lorraine Dietz Varsel, individually and as administrator of the estate of Adell G. Dietz, also known as Adell G. Johlke Dietz, deceased, by cause no. 407636 of the probate records of Harris County, Texas, said 49.544 acre tract of land also being a portion of Lot 448, Lot 449, Lot 460, Lot 461, the remainder of Lot 447, the remainder of Lot 459, the remainder of Lot 462, the remainder of Lot 464, the remainder of Lot 465, and the remainder of Lot 466, Tomball Townsite, as recorded in volume 2, page 65 of the map records of Harris County, Texas; being a 23.624 acre tract of land out of the Jesse Pruitt Survey, abstract no. 629 in Harris County, Texas, said 23.624 acre tract of land being all of that 23.5935 acre tract of land (by deed) deeded to Cypressbrook 2920, LP, as recorded in document no. 20070522269 of the official public records of real property of Harris County, Texas, said 23.624 acre tract of land being more particularly described by metes and bounds as follows; and being a 20.021 acre tract of land out of the Jesse Pruitt Survey, abstract no. 629 in Harris County, Texas, said 20.021 acre tract of land being a portion of the remainder of a 23.6963 acre tract of land (by deed) deeded to ABCO Land Corporation as recorded in document no. 200265255 of the official public records of real property of Harris County, Texas; providing for the amendment of the official zoning map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters. Vote was as follows:

Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Dodson	<u>Aye</u>

Motion carried unanimously.

- 7.6 Motion was made by Councilman Brown, second by Councilman Stoll, to adopt on Second Reading, Ordinance No. 2012-55, an Ordinance of the City of Tomball, Texas, amending its Comprehensive Plan by changing the future land use classification of approximately 16.1 acres of land, legally described as Lots 1, 2, 3, 4, 5, 6, and 7, Block 1 and Lots 1, 2, 3, 4, 5, and 6, Block 2, Chestnut Business Park, within the City of Tomball, Harris County, Texas, from Medium Density Residential to Business/Industrial; said property being generally located easterly of South Chestnut Street, southerly of Timkin Road; providing for the amendment of the Comprehensive Plan of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters. Vote was as follows:

Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Dodson	<u>Aye</u>
Councilman Hudgens	<u>Aye</u>

Motion carried unanimously.

- 7.7 Motion was made by Councilman Dodson, second by Councilman Brown, to adopt on Second Reading, Ordinance No. 2012-56, an Ordinance of the City of Tomball, Texas, amending its Comprehensive Zoning Ordinance, by approving a Planned Development District ("PDD") of approximately 16.1 acres of land, legally described as Lots 1, 2, 3, 4, 5, 6, and 7, Block 1 and Lots 1, 2, 3, 4, 5, and 6, Block 2, Chestnut Business Park, within the City of Tomball, Harris County, Texas; amending the official zoning map of the City to reflect the PD to be known as Planned Development District #3 (PD-3); adopting a concept plan and regulations applicable to PD-3; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters. Vote was as follows:

Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Dodson	<u>Aye</u>
Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>

Motion carried unanimously.

- 7.8 Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt on second Reading, Ordinance No. 2012-57, an Ordinance of the City

of Tomball, Texas, amending its Comprehensive Zoning Ordinance by amending Ordinance 2012-21 (Conditional Use Permit #8) by removing the condition that “Outside storage shall be limited to a maximum of five (5) percent of the total lot area or 1,546 square feet;” containing findings and other provisions relating to the subject; providing a penalty in an amount not to exceed two thousand dollars for violations hereof; and providing for severability. Vote was as follows:

Councilman Townsend	<u>Aye</u>
Councilman Dodson	<u>Aye</u>
Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>

Motion carried unanimously.

- 7.9 Motion was made by Councilman Dodson, second by Councilman Townsend, to adopt, on Second Reading, Ordinance No. 2012-58, an Ordinance of the City of Tomball, Texas, Finding and Determining that Public Convenience and Necessity no longer Require the Continued Existence of a Roadway Right-of-Way Containing 1.1794 Acres Tract of Land Situated in the Jesse Pruitt Survey, Abstract Number 629, Harris County, Texas, and Being out of Lot 171, Tomball Townsite, a Subdivision Recorded in Volume 2, Page 65 of the Map Records of Harris County, Texas, and Being out of a 1.145 Acre Tract as Conveyed to the City of Tomball by Deed Recorded in County Clerk’s File Number J819958, Film Code Number 002-64-1847 of the Official Public Records of Real Property of Harris County Texas, within the City of Tomball, Harris County, Texas; Vacating, Abandoning, and Closing Said Roadway Right-of-Way; Authorizing the Mayor to Execute and the City Secretary to Attest, Respectively, a Quitclaim Deed Conveying Said Abandoned Roadway Right-of-Way to Jacquelyn D. Marshall; Providing for Severability; and Containing Other Provisions Relating to the Subject. Vote was as follows:

Councilman Dodson	<u>Aye</u>
Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Aye</u>

Motion carried unanimously.

8.0 New Business:

- 8.1 Dan Adkisson addressed Council regarding the TAL Juried Spring and Fall Art Shows. Motion was made by Councilman Stoll, second by Councilman Brown, to

approve Request by Tomball Art League (TAL) for City Sponsorship through In-Kind Services, Including Waiver of Rental Fee and Portion of Personnel Fees for the Use of the Community Center, Tables, Chairs, and Personnel to Open and Close the Building for the TAL Juried Spring and Fall Art Shows, from 1:30 p.m. to 4:00 on Friday, March 8, 2013 and Friday, September 13, 2013 for pre-registration of artwork and from 7:30 a.m. to 5:00 p.m., on Saturday, March 9, 2013 and Saturday, September 14, 2013 for the Juried Art Shows.

Motion carried unanimously.

- 8.2 Motion was made by Councilman Dodson, second by Councilman Brown, to approve Resolution No. 2013-02, a Resolution of the City Council of the City of Tomball, Texas, Supporting the Annual Baseball Parade, to be Held in Tomball on Saturday, March 23, 2013.

Motion carried unanimously.

- 8.3 Motion was made by Councilman Dodson, second by Councilman Stoll, to approve Resolution No. 2013-01, a Resolution and Order of the City Council of the City of Tomball, Texas, Ordering a Regular City Officer's Election to be Held on Saturday, May 11, 2013; Designating the Polling Places and Appointing Election Officials for such Election; Directing the Giving of Notice of Such Election; and Providing Details Relating to the Holding of such Election
Fue presentada una moción por el Concejal Dodson, secundada por el Concejal Stoll, para aprobar la Resolución Nro. 2013-01, una Resolución y Orden del Consejo Municipal de la Ciudad de Tomball Texas, Ordenando una Elección Regular de Funcionarios Municipales a Celebrarse el sábado 11 de mayo de 2013; Designando los Lugares de Votación y Nombrando a los Oficiales Electorales de tal Elección; Instruyendo que se Notifique Sobre esta Elección; Designando la Fecha de una Elección de Desempate de ser Necesaria; y Proporcionando Detalles Referentes a la Celebración de Tal Elección.
Cuộc Vận Động được tiến hành bởi Ủy Viên Hội Đồng Dodson, tán thành bởi Ủy Viên Hội Đồng Stoll, để chấp thuận Nghị Quyết số 2013-01, một Nghị Quyết và Sắc Lệnh của Hội Đồng Thành Phố Tomball, Texas, Yêu Cầu một Cuộc Bầu Cử Viên Chức Thường Lệ sẽ được tổ chức tại Thành Phố Tomball vào Thứ Bảy, ngày 11 tháng Năm, 2013; Chỉ định các Địa Điểm Bỏ Phiếu và Chỉ Định các Viên Chức Bầu Cử cho Cuộc Bầu Cử đó; Hướng Dẫn việc Đưa Ra Thông Báo của Cuộc Bầu Cử đó; Chỉ Định Ngày Bầu Cử Chung Cuộc nếu cần; và Đưa Ra các Chi Tiết có Liên Quan đến việc Tổ Chức Cuộc Bầu Cử đó.

提案是由市議員Dodson, 第二由市議員Stoll, 批准決議案編號2013-01, 為一德克薩斯州, Tomball市市議會決議及指示, 特指示一市府官員普選, 其將於2013年5月11日, 星期六在Tomball市召開; 並已為此選舉指定投票所地點以及指派選舉官員; 指導發出本選舉之選舉通知; 如需要, 將指定決選日期; 以及提供所有與召開本選舉相關的細節。

Motion carried unanimously.
La moción fue aprobada por unanimidad.
Cuộc Vận Đồng được nhất trí tiến hành.
議案獲得一致通過。

- 8.4 Motion was made by Councilman Stoll, second by Councilman Dodson to amend the master fee schedule to increase the cost of garbage bags from \$10.00 per bundle to \$12.00 per bundle and to Approve Resolution No. 2013-03, a Resolution of the City of Tomball, Texas, Adopting a Master Fee Schedule for Fiscal Year 2012-2013, as amended.

Motion, as amended, carried unanimously.

- 8.5 Nancy Nygaard addressed Council regarding the designation of the official newspaper for 2013. Motion was made by Councilman Dodson, second by Councilman Hudgens, to approve Resolution No. 2013-04, a Resolution of the City Council of the City of Tomball, Texas, Designating the Tomball-Magnolia Tribune as the Official Newspaper for 2013 for Publication of Matters Pertaining to the City of Tomball.

Motion carried unanimously.

- 8.6 Motion was made by Councilman Dodson, second by Councilman Townsend, to approve Appointment of Director by Ballot, Naming Scott Weisinger as the City of Tomball's Nominee to Serve on the Board of Directors of the Lone Star Groundwater Conservation District for a Term Ending January 31, 2017 and Authorize the Mayor to Cast Appointment Ballot on Behalf of the City of Tomball.

Motion carried unanimously.

- 8.7 Motion was made by Councilman Brown, second by Councilman Stoll, to accept the Donation of a Type VI Engine (Brush Truck) from the Texas A&M Forest Service Texas Intrastate Fire Mutual Aid System (TIFMAS) Capacity Building Grant Program.

Motion carried unanimously.

- 8.8 Motion was made by Councilman Brown, second by Councilman Townsend, to approve Encroachment Agreement for Woodforest Boulevard at Tomball Marketplace Shopping Center and Authorize Mayor to Execute Agreement.

Motion carried unanimously.

8.9 Executive Session: The Tomball City Council recessed at 7:29 p.m. in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

- Sec. 551.072 – Deliberations Regarding Real Property

Upon reconvening into Regular Session at 7:35 p.m., no action was taken.

9.0 Motion was made by Councilman Townsend, second by Councilman Dodson, to adjourn.

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this 21st day of January 2013.

Doris Speer
Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Gretchen Fagan
Mayor