

MINUTES OF REGULAR CITY COUNCIL MEETING CITY OF TOMBALL, TEXAS



**MONDAY, OCTOBER 15, 2012
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

Members absent:

Councilman Dodson - Excused

Others present:

City Manager – George Shackelford
Assistant City Manager – Christal Weber
City Secretary – Doris Speer
City Attorney – Loren Smith
Fire Chief – Randy Parr
Marketing Director – Mike Baxter
City Planner – Rebeca Guerra
Assistant City Engineer – Lori Lakatos
Community Events Coordinator – Rosalie Dillon
Chief-NWEMS – Brian Petrilla

2.0 Invocation

- Led by Rick Brown, Pastor, ChristBridge Church

3.0 Pledges to U. S. and Texas Flags

- Led by Girl Scout Troop #14609

4.0 The following public comments were received:

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| Courtlynn Noack and
Ruth Yañez
Tomball High School Student Council | - Extended invitation to City Council and audience to attend the Homecoming Parade and Rally on October 24, 2012. |
| Tim Miller
16416 Surrey Lane
Stagecoach, TX 77355 | - Stated his opposition to the restrictions on temporary signs contained in the proposed changes to the sign ordinance, Item 9.1. |
| Troy Parsons
406 E. Main, 77375 | - Stated his opposition to the restrictions on temporary signs contained in the proposed changes to the sign ordinance, Item 9.1. |
| Rogelio Valladores
406 e. Main, 77375 | - Did not speak; requested that his opposition to the restrictions on temporary signs contained in the proposed changes to the sign ordinance, Item 9.1, be read into the record. |
| Bruce Hillegeist
GTACC, 77375 | - Expressed his support for Resolution No. 2012-31, Item 9.5, regarding the 47 th Annual Tomball Holiday Parade. |
| Brian McMichael
920 Lawrence, 77375 | - Stated his opposition to the restrictions on temporary signs contained in the proposed changes to the sign ordinance, Item 9.1. |

5.0 Presentations:

- Mayor Fagan presented the **Mayor's Cup** Trophy to the Winner of the 2012 **Mayor's Cup** Blood Drive, to Brian Petrilla, on behalf of Northwest EMS.

6.0 Reports and Announcements:

- **October 27, 2012 – Tomball Bluegrass Festival – 11:30 a.m.-6:00 p.m.**
- November 5, 2012 – Appointments to Tourism Advisory Committee for terms expiring December 5, 2012
- **November 3, 2012 – Tomball Art Walk**
- November 10, 2012 – **Woodforest Run at the Depot – 8:00 a.m.**
- November 10, 2012 – **2nd Saturday at the Depot – 5:00 p.m.**

- November 10, 2012 – ***Bugs, Brew & Barbecue, VW Show and MusicFest***
Re-Do – 9:00 a.m.-6:00 p.m.
- ***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
 - Mike Baxter - ***Bugs, Brew & Barbecue, VW Show and MusicFest***
Re-Do – November 10, 2012 (New Date)

7.0 Motion was made by Councilman Stoll, second by Councilman Townsend, to approve the Minutes of the Following Meetings:

- October 1, 2012 - Regular City Council Meeting
- October 8, 2012 - Special City Council Meeting

Motion carried unanimously.

8.0 Old Business:

8.1 Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt, on Second Reading, Ordinance No. 2012-41, an Ordinance Amending the Code of Ordinances of the City of Tomball, Texas, by Amending Chapter 30, Environment, Article II, Oil and Gas Wells and Pipelines, to Add a New Definition of *Training Well and Training Well Site*, to Section 30-27 of Division 1, Generally, Thereof; Adding a New Section 30-31a, Location and Setback Requirements for Training Well Sites, to Division 1, Generally, Thereof; Adding Location and Setback Requirements for Training Well Sites to the Appeal Provisions of Section 30-32, of Division 1, Generally, Thereof; Adding Language to Section 30-33, Substitute Wells, of Division 1, Generally, to Make Such Regulations Applicable to Training Wells; Adding Language to Section 30-46, Permit Required to Drill or Deepen a Well, or Conduct Seismic Activities, of Division 2, Wells and Seismic Activities Permits, to Make Such Regulations Applicable to Training Wells; Adding Language to Section 30-47, Application and Filing Fee, of Division 2, Wells and Seismic Activities Permits, to Exempt Training Wells from Certain Regulations and Requiring a Filing Fee for a Training Well Application; Adding Language to Section 30-48, Filing of Application and Notice, of Division 2, Wells and Seismic Activities Permits, Exempting Training Wells from the Regulations of Section 30-48; Adding Language to Section 30-49, Granting or Refusal of Permit, of Division 2 Wells and Seismic Activities Permits, Making Regulations Contained Therein Applicable to Training Wells; Adding Language to Section 30-50, Form and Issuance of Permit, of Division 2, Wells and Seismic Activities Permits, Making Regulations Contained Therein Applicable to Training Wells; Adding Language to Section 30-51, Bond Requirements, of Division 2, Wells and Seismic Activities Permits, Exempting Training Wells from the Regulations Contained Therein; Adding Language to Section 30-66, Unlawful to Permit Escape of Mud, Etc., of

Division 3, Well Operation, Making Regulations Contained Therein Applicable to Training Wells; Adding Language to Section 30-67, Remedial Well Work, of Division 3, Well Operation, Making Regulations Contained Therein Applicable to Training Wells; Adding Language to Section 30-68, Reworking a Well, Deeper Drilling; Supplemental Permit Required, of Division 3, Well Operation, Making Regulations Contained Therein Applicable to Training Wells; Adding New Sections 30-70, Noise, 30-71, Lighting, and 30-72, Buffering, to Division 3, Well Operation, Providing Regulations for Noise, Lighting and Buffering for Training Wells; Providing a Penalty of up to \$2,000.00 for Violations with Each Day Constituting a Separate Violation; Providing for the Publication of This Ordinance; Providing for Severability; and Making Other Findings and Provisions Related Thereto. Vote was as follows:

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

Motion carried, 3 votes Aye, 1 vote Nay

- 8.2 Motion was made by Councilman Townsend, second by Councilman Stoll to adopt, on Second Reading, Ordinance No. 2012-42, an Ordinance Amending the Code of Ordinances of the City of Tomball, Texas, by Amending Section 14-293, Special Provisions, of Division 4, Permits and Inspections, of Article IV, Electricity, of Chapter 14, Buildings and Building Regulations, to Allow Aluminum Conductors to be Installed in New Commercial Buildings, 5,000 Square Feet or Larger, on All Service Entrance Conductors and Feeder Conductors Sized 4/0 and Larger; Providing a Penalty of up to \$2,000.00 for Each Violation of Any Provision Hereof; Providing for Severability; Providing for the Publication of This Ordinance; and Making Other Findings and Provisions Related Thereto. Vote was as follows:

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

Motion carried unanimously.

- 8.3 Motion was made by Councilman Townsend, second by Councilman Stoll, to read Ordinance No. 2012-20 by caption only on First Reading.

Motion carried unanimously.

Motion was made by Councilman Brown, second by Councilman Stoll, to adopt, on First Reading, Ordinance No. 2012-20, an Ordinance Deleting Article IV., Electricity, of Chapter 14, Buildings and Building Regulations, of the Code of Ordinances of the City of Tomball, Texas, in Its Entirety and Substituting Therefor a New Article IV., Electricity, of Chapter 14, Buildings and Building Regulations; Repealing all Ordinances or Parts of Ordinances Inconsistent or in Conflict Herewith; Providing a Penalty in an Amount of Not More Than \$2,000 for Violation of Any Provision Hereof; Providing for Savings and Severability; Providing for Publication; and Making Other Provisions and Findings Related Thereto. Vote was as follows:

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

Motion carried unanimously.

9.0 New Business:

- 9.1 Motion was made by Councilman Hudgens, second by Councilman Townsend, to read Ordinance No. 2012-22 by caption only on First Reading.

Motion carried unanimously.

Motion was made by Councilman Hudgens, second by Councilman Brown. to adopt, on First Reading, Ordinance No. 2012-22, an Ordinance of the City of Tomball, Texas Amending the Code of Ordinances of the City by Amending and/or Adding Definitions of *Aircraft, Awning Sign, Bandit Sign, Banner Sign, Billboard, Flag Sign, Inflatable Sign, Living Or Human Sign, Marquee Sign, Message Board, Monument Sign, Pole Sign, Premises, Temporary Sign, Wayfinding Sign, and Window Sign* to Section 60-1, Definitions, of Article I, In General, of Chapter 60, Signs; Amending Section 60-4, Sign Administrator and Enforcement, of Article I, In General, of Chapter 60, Signs, to Delete Reference to Rules and Regulations for Appeals to City Council; Amending Section 60-3, Classifications, of Article I, In General, of Chapter 60, Signs, to Add Window Sign as a Classification of Signage; Deleting Subsection (b)(3), Exceptions, Other Signs, from Section 60-5, Sign Permits and Fees, of Article I, In General, of Chapter 60, Signs, and Adding a New Subsection (b)(3), Exceptions, Other Signs, to Add to the Exceptions to the Permitting Requirements; Amending Subsection (c), Application Procedure, of Section 60-5, Sign Permits and Fees, of Article I, In General, of Chapter 60, Signs, by Adding Marquee and Projecting Signs to the Application Procedure; Amending Section 60-7, Miscellaneous Sign Provisions, of Article I, In General, of Chapter 60, Signs, to Limit Properties to One (1) On-

Premise Temporary Banner or Flag Sign and Adding Regulations for Message Board and Marquee Signs; Amending Section 60-8, On-Premises Sign Provisions, of Article I, In General, of Chapter 60, Signs, to Provide that On-Premise Signs shall Adhere to the Visibility Triangle Requirements of Chapter 66 of the Code of Ordinances; Amending Section 60-9, Off-Premises Sign provisions, of Article I, In General, of Chapter 60, Signs, to Limit Properties to No More than Two (2) Off-Premise Signs; Adding a New Section 60-12, Attention-Getting Devices, to Article I, In General, of Chapter 60, Signs, to Prohibit Attention-Getting Devices as Defined Herein; Adding a New Section 60-13, Billboards, to Article I, In General, of Chapter 60, Signs, to Prohibit New Billboards within the City or Its Extraterritorial Jurisdiction and Providing Regulations for the Replacement or Restoration of Existing Billboards; Adding a Section 60-14, Prohibited Signage, to Article I, In General, of Chapter 60, Signs, Prohibiting the Types of Signs Described Therein; Amending Section 60-29, Height Limitations, of Article II, Design and Structural Requirements, of Chapter 60, Signs, to Limit On-Premise Signs to a Height No Greater than 42 Feet from the Natural Grade Level of the Ground Surface, Requiring that Projecting and Marquee Signs Shall Not Exceed Eight (8) Feet above the Roof Level, and Requiring that No Off-Premise Sign shall Exceed a Height of 12 Feet from the Natural Grade Level of the Ground Surface; Deleting Section 60-30, Size Limitation, of Article II, Design and Structural Requirements, of Chapter 60, Signs, and Adding a New Section 60-30, Size Limitation, to Limit On-Premise Wall Signs to a Face Area of 300 Square Feet or Less per Building Face, to Limit CEVMS Signs to a Face Area of 32 Square Feet for a Single Business Use or 50 Square Feet for a Multi-Tenant Use, and Limiting Off-Premise Signs to a Face Area Not to Exceed 40 Square Feet; Deleting from Article II, Design and Structural Requirements of Chapter 60, Signs, Section 30-33, Portable Signs, in Its Entirety; Adding a New Section 60-33, Wayfinding Signs, to Article II, Design and Structural Requirements, of Chapter 60, Signs, to Limit On Premises Wayfinding Signs to a Maximum Sign Face Area of 12 Square Feet, to Limit Off Premises Wayfinding Signs to a Maximum Sign Face Area of 40 Square Feet, Requiring a Wayfinding Guide Sign Plan to be Approved by Sign Administrator and Providing Other Regulations regarding Wayfinding Signs; Adding a New Section 60-34, Flags and Flag Signs, to Article II, Design and Structural Requirements, of Chapter 60, Signs, to Limit Flag Signs to a Maximum of Three (3) Flag Signs per Premises, Including One (1) Corporate Flag and Providing Other Regulations for the Height, Lighting and Other Matters Related to Flag Signs; Providing for Severability; Providing a Penalty of Up to \$2,000.00 for Violations with Each Day Constituting a Separate Violation; Providing for the Publication of This Ordinance; and Making Other Findings and Provisions Related Thereto.

Motion to Amend was made by Councilman Hudgens, second by Councilman Brown. to adopt, on First Reading, Ordinance No. 2012-22, an Ordinance of the City of Tomball, Texas Amending the Code of Ordinances of the City by Amending and/or Adding Definitions of *Aircraft*, *Awning Sign*, *Bandit Sign*,

Banner Sign, Billboard, Flag Sign, Inflatable Sign, Living Or Human Sign, Marquee Sign, Message Board, Monument Sign, Pole Sign, Premises, Temporary Sign, Wayfinding Sign, and Window Sign to Section 60-1, Definitions, of Article I, In General, of Chapter 60, Signs; Amending Section 60-4, Sign Administrator and Enforcement, of Article I, In General, of Chapter 60, Signs, to Delete Reference to Rules and Regulations for Appeals to City Council; Amending Section 60-3, Classifications, of Article I, In General, of Chapter 60, Signs, to Add Window Sign as a Classification of Signage; Deleting Subsection (b)(3), Exceptions, Other Signs, from Section 60-5, Sign Permits and Fees, of Article I, In General, of Chapter 60, Signs, and Adding a New Subsection (b)(3), Exceptions, Other Signs, to Add to the Exceptions to the Permitting Requirements; Amending Subsection (c), Application Procedure, of Section 60-5, Sign Permits and Fees, of Article I, In General, of Chapter 60, Signs, by Adding Marquee and Projecting Signs to the Application Procedure; Amending Section 60-7, Miscellaneous Sign Provisions, of Article I, In General, of Chapter 60, Signs, to Limit Properties to One (1) On-Premise Temporary Banner or Flag Sign and Adding Regulations for Message Board and Marquee Signs; Amending Section 60-8, On-Premises Sign Provisions, of Article I, In General, of Chapter 60, Signs, to Provide that On-Premise Signs shall Adhere to the Visibility Triangle Requirements of Chapter 66 of the Code of Ordinances; Amending Section 60-9, Off-Premises Sign provisions, of Article I, In General, of Chapter 60, Signs, to Limit Properties to No More than Two (2) Off-Premise Signs; Adding a New Section 60-12, Attention-Getting Devices, to Article I, In General, of Chapter 60, Signs, to Prohibit Attention-Getting Devices as Defined Herein; Adding a New Section 60-13, Billboards, to Article I, In General, of Chapter 60, Signs, to Prohibit New Billboards within the City or Its Extraterritorial Jurisdiction and Providing Regulations for the Replacement or Restoration of Existing Billboards; Adding a Section 60-14, Prohibited Signage, to Article I, In General, of Chapter 60, Signs, Prohibiting the Types of Signs Described Therein; Amending Section 60-29, Height Limitations, of Article II, Design and Structural Requirements, of Chapter 60, Signs, to Limit On-Premise Signs to a Height No Greater than 42 Feet from the Natural Grade Level of the Ground Surface, Requiring that Projecting and Marquee Signs Shall Not Exceed Eight (8) Feet above the Roof Level, and Requiring that No Off-Premise Sign shall Exceed a Height of 12 Feet from the Natural Grade Level of the Ground Surface; Deleting Section 60-30, Size Limitation, of Article II, Design and Structural Requirements, of Chapter 60, Signs, and Adding a New Section 60-30, Size Limitation, to Limit On-Premise Wall Signs to a Face Area of 300 Square Feet or Less per Building Face, to Limit CEVMS Signs to a Face Area of 32 Square Feet for a Single Business Use or 50 Square Feet for a Multi-Tenant Use, and Limiting Off-Premise Signs to a Face Area Not to Exceed 40 Square Feet; Deleting from Article II, Design and Structural Requirements of Chapter 60, Signs, Section 30-33, Portable Signs, in Its Entirety; Adding a New Section 60-33, Wayfinding Signs, to Article II, Design and Structural Requirements, of Chapter 60, Signs, to Limit On Premises Wayfinding Signs to a Maximum Sign Face Area of 12 Square Feet, to Limit Off Premises Wayfinding Signs to a

Maximum Sign Face Area of 40 Square Feet, Requiring a Wayfinding Guide Sign Plan to be Approved by Sign Administrator and Providing Other Regulations regarding Wayfinding Signs; Adding a New Section 60-34, Flags and Flag Signs, to Article II, Design and Structural Requirements, of Chapter 60, Signs, to Limit Flag Signs to a Maximum of Three (3) Flag Signs per Premises, Including One (1) Corporate Flag and Providing Other Regulations for the Height, Lighting and Other Matters Related to Flag Signs; Providing for Severability; Providing a Penalty of Up to \$2,000.00 for Violations with Each Day Constituting a Separate Violation; Providing for the Publication of This Ordinance; and Making Other Findings and Provisions Related Thereto, by correcting typographical errors, adding the suggested modifications presented by the City Planner, and leaving the section(s) on human signs as proposed. Vote was as follows:

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

Motion carried, 3 votes Aye, 1 vote Nay.

- 9.2 Rebeca Guerra presented the staff report on **ZONING CASE P12-483**: Request by Tomball & Magnolia Properties, LLC to amend the City's Comprehensive Zoning Ordinance by rezoning approximately 1.01 acres of land, legally described as Lot 1, Block 1, Northwest Houston Heart Center within the City of Tomball, Harris County, Texas, generally located northerly of Alma Street, between Holderrieth Boulevard and Lawrence Avenue, from the Single-Family Residential-6 District to the Commercial District.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P12-483** at 7:02 p.m.; receiving no public comments, Mayor Fagan closed the public hearing at 7:02 p.m.
- Motion was made by Councilman Townsend, second by Councilman Brown, to read Ordinance No. 2012-43 by caption only on First Reading.

Motion carried unanimously.

- Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt, on First Reading, Ordinance No. 2012-43, an Ordinance of the City of Tomball, Texas, amending Its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of Approximately 1.01 Acres of Land, Legally Described as Lot 1, Block 1, Northwest Houston Heart Center, within the City of Tomball, Harris County, Texas, from the Single-Family Residential-6 District to the Commercial District; said Property

being Generally Located Northerly of Alma Street, between Holderrieth Boulevard and Lawrence Avenue; 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>Nay</u>
Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Nay</u>
Councilman Dodson	<u>Absent</u>

A tie vote resulting, Mayor Fagan cast vote:

Mayor Fagan	<u>Nay</u>
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Motion FAILED, 2 votes Aye, 3 votes Nay.

- 9.3 Rebeca Guerra presented the staff report on the Zoning Case P12-484 – Ordinance No. 2012-44 (Barbara & Lawrence).

- Mayor Fagan opened the Public Hearing on **ZONING CASE P12-484** at 7:11 p.m.; the following public comment was received:

Cameron Steiner 206 Lawrence, 77375	-	Not opposed to the zoning case, but fears that eminent domain may ultimately take his property, too.
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Receiving no additional public comments, Mayor Fagan closed the public hearing at 7:13 p.m.

- Motion was made by Councilman Townsend, second by Councilman Stoll, to read Ordinance No. 2012-44 by caption only on First Reading.

Motion carried unanimously.

- Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt, on First Reading, Ordinance No. 2012-44, an Ordinance of the City of Tomball, Texas, amending Its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of Approximately 0.32 Acres of Land, Legally Described as Lots 11 and 12, Block 6, Main Street-Tomball, within the City of Tomball, Harris County, Texas, from the Single-Family Residential-6 District to the Commercial District; said Property being

Generally Located at the Southeast Corner of Barbara Street and Lawrence Avenue; 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 Stoll	<u>Nay</u>
Councilman Brown	<u>Nay</u>
Councilman Townsend	<u>Nay</u>
Councilman Dodson	<u>Absent</u>
Councilman Hudgens	<u>Nay</u>

Motion FAILED unanimously.

- 9.4 Discussion was held and regarding Jacqueline Angelo's Request for the City to Acquire the School Street Right-of-Way.

No action required.

- 9.5 Motion was made by Councilman Townsend, second by Councilman Brown, to approve Resolution No. 2012-31, a Resolution of the City Council of the City of Tomball, Texas, Supporting the 47th Annual Tomball Holiday Parade, "***Candy Canes and Christmas Carols***", to be held in Tomball on Saturday, November 17, 2012 and to Approve Requested Street Closures and In-kind Services.

Motion carried unanimously.

- 9.6 Motion was made by Councilman Brown, second by Councilman Townsend, to approve the Following Plats, as Recommended by Planning and Zoning Commission:

- **ABBREVIATED PLAT PATEL PLAZA**: Being a Subdivision of 0.3214 Acre, being comprised of Lots 1 and 2 in Block 41 of Tomball Townsite; situated in the William Hurd Survey, Abstract No. 371 according to the Map or Plat thereof recorded in Volume 2, Page 65 of the Map Records of Harris County, Texas.
- **DAKOTA PINES FINAL PLAT**: A Subdivision of 5.0005 Acres of land situated in the John S. Smith Survey, Abstract No. 730, Harris County, Texas; Being a Replat of a portion of a Tract of land containing a called 21.922 Acres, Being a portion of a Tract of land containing called 52 Acres as described in Deed to Park Place Assembly of God Church under Clerk's File No. E330792 of the Real Property Records of Harris County, Texas.

- **POINT SOUTH BUSINESS PARK FINAL PLAT**: Being a Subdivision of 3.9078 Acres of land out of the Claude M. Pillot Survey, Abstract No. 632, in the City of Tomball, Harris County, Texas.

Motion carried unanimously.

10.0 Motion was made by Councilman Brown, second by Councilman Stoll, to adjourn.

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this 5th day of November 2012.

Doris Speer
Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Gretchen Fagan
Mayor