

MINUTES OF REGULAR CITY COUNCIL MEETING CITY OF TOMBALL, TEXAS



**MONDAY, SEPTEMBER 17, 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 Brown
Councilman Dodson
Councilman Hudgens
Councilman Townsend

Excused Absence: Councilman Stoll

Others present:

City Manager – George Shackelford
Assistant City Manager – Christal Weber
City Secretary – Doris Speer
City Attorney – Loren Smith
Police Chief – Robert Hauck
Director of Public Works – David Kauffman
Fire Chief – Randy Parr
Finance Director – Glenn Windsor
Marketing Director – Mike Baxter
City Planner – Rebeca Guerra
Assistant City Engineer – Lori Lakatos
Assistant City Planner – Rodney Schmidt
Chief-NWEMS – Brian Petrilla
Tiffani Wooten – TEDC Coordinator

2.0 Invocation

- Led by Pastor Wayne Graumann, Salem Lutheran Church

3.0 Pledges to U. S. and Texas Flags

- Led by Webelos Cub Scout Pack #3461

4.0 No public comments were received.

5.0 Reports and Announcements:

- **September 24, 2012 – Public Hearing on Proposed Tax Rate – 5 p.m.**
- **September 29, 2012 – Bugs, Brew & Barbecue, VW Show and MusicFest – 9:00 a.m.-6:00 p.m.**
- **October 1, 2012 – Vote on Proposed Tax Rate – 6:00 p.m.**
- **October 2, 2012 – Annual National Night Out at the Depot – 6:00-8:00 p.m.**
- **October 8, 2012 – Vote on Proposed Tax Rate – 5:00 p.m.**
- **October 13, 2012 - 2nd Saturday at the Depot —“Zomball in Tomball” – 5:00 p.m.**
- **October 27, 2012 – Tomball Bluegrass Festival – 11:30 a.m.-6:00 p.m.**
- **Walk Tomball!** – Every Saturday at 8:00 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

6.0 Motion was made by Councilman Dodson, second by Councilman Brown, to approve the Minutes of the Following Meetings:

- September 4, 2012 - Special City Council and Planning and Zoning Commission Meeting
- September 4, 2012 - Regular City Council Meeting

Motion carried unanimously.

7.0 Old Business:

- 7.1 Motion was made by Councilman Townsend, second by Councilman Dodson, to approve, on Second Reading, Resolution No. 2012-22-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 Stripes LLC to make direct Incentives to, or expenditures for, assistance with infrastructure costs related to the development and construction of a commercial building to be located at the northwest corner of S.H. 249 and Holderrieth Road in Tomball, Texas. The estimated amount of expenditures for such Project is \$21,000. Vote was as follows:

Motion carried unanimously.

- 7.2 Motion was made by Councilman Townsend, second by Councilman Dodson, to approve, on Second Reading, Resolution No. 2012-23-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 Baker Hughes Incorporated, to make direct incentives to, or expenditures for, assistance with infrastructure costs for the promotion of new or expanded business development related to the construction of a commercial facility to be located at the northeast corner of FM 2920 and FM 2978 in the City of Tomball's extraterritorial jurisdiction (ETJ). The estimated amount of expenditures for such Project is \$912,889.00. Vote was as follows:

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

Motion carried, 3 votes Aye, 1 vote Nay.

- 7.3 Motion was made by Councilman Townsend, second by Councilman Brown, to adopt, on Second Reading, Ordinance No. 2012-30, an Ordinance of the City of Tomball, Texas, amending its Comprehensive Zoning Ordinance by amending Section 43.8 ("Temporary Structures & Uses") allowing governmental entities and publicly funded school districts to utilize temporary buildings under certain conditions; Providing for 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.

Following discussion to limit application of the ordinance to publicly funded school districts only, motion was amended by Councilman Townsend, second by Councilman Brown, to adopt, on Second Reading, Ordinance No. 2012-30, an Ordinance of the City of Tomball, Texas, amending its Comprehensive Zoning Ordinance by amending Section 43.8 ("Temporary Structures & Uses") allowing publicly funded school districts to utilize temporary buildings under certain conditions; Providing for 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, with the requested amendments to the ordinance to (1) delete "the use of leased property," (2) add the requirement that "temporary buildings be placed only on an active school campus where students are in attendance during the regular school year," (3) to add the requirement that the ordinance specifically state that "Council permission is required to initially place the temporary building on-site," (4) to add the requirement that the buildings be screened with landscaping, not a fence, unless the remainder of the campus is fenced," and (5) to exclude governmental entities.

Motion was further amended by Councilman Townsend, second by Councilman Brown, to adopt, on Second Reading, Ordinance No. 2012-30, an Ordinance of the City of Tomball,

Texas, amending its Comprehensive Zoning Ordinance by amending Section 43.8 (“Temporary Structures & Uses”), allowing publicly funded school districts to utilize temporary buildings under certain conditions; Providing for 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, with the requested additional amendment to the ordinance to (6) require that “an independent building inspection must be performed for each building upon request for extension of the use of temporary buildings”.

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>Absent</u>

Motion, as amended, carried unanimously.

- 7.4 Motion was made by Councilman Hudgens, second by Councilman Dodson, to adopt on Second Reading, Ordinance No. 2012-31, an Ordinance of the City of Tomball, Texas Temporarily Suspending the Collection of Impact Fees for the Development of Commercial Properties for the Area of the City known as Old Town Tomball, that Area being bounded by Fannin Street, Houston Street, the Railroad Tracks, and Pine Street and including the properties that front on Fannin and Houston Streets adjacent to such area; Providing for Mandatory Review of this Suspension; 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>Absent</u>
Councilman Brown	<u>Aye</u>

Motion carried unanimously.

- 7.5 Discussion was held regarding Regulation of Left-Turns on FM 2920 During Specific Hours. Council requested City staff to contact TxDOT regarding a traffic study; no action necessary.

8.0 New Business:

- 8.1 Mayor Fagan opened the Public Hearing at 6:55 p.m. to Consider First Public Hearing on the Proposed 2012 Tax Rate and Announce that the Second Public Hearing will be held on

September 24, 2012 at 5:00 p.m.; receiving no public comments, Mayor Fagan closed the public hearing at 6:55 p.m.

- 8.2 Mayor Fagan announced that the Vote on the Proposed 2012 Tax Rate will be held on October 1, 2012 at 6:00 p.m. and October 8, 2012 at 5:00 p.m.
- 8.3 Motion was made by Councilman Dodson, second by Councilman Brown, to approve Resolution No. 2012-24, a Resolution of the City Council of the City of Tomball, Texas for the Designation of a Representative and Alternate for the Houston-Galveston Area Council 2013 General Assembly, designating Councilman Townsend as the Representative and Councilman Stoll as the Alternate.

Motion carried unanimously.

- 8.4 Motion was made by Councilman Townsend, second by Councilman Brown, to approve a Development Agreement between the City of Tomball and Stripes, LLC to participate with the Over-Sizing Cost of Water, Sanitary Sewer, and Gas Facility Extensions along Holderrieth Road.

Motion carried unanimously.

- 8.5 Manuel Garcia, GCC Construction addressed Council. Motion was made by Councilman Dodson, second by Councilman Brown, to award Contract for COT Project Bid Number 2012-09, Elm and Fannin Street Parking Lots, E&P Project Number 2010-10032, to Project Management Group, LLC (PMG) in the Amount of \$519,506.10. Vote was as follows:

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

Motion carried, 3 votes Aye, 1 vote Nay.

- 8.6 Motion was made by Councilman Townsend, second by Councilman Hudgens, to authorize Engineering and Planning Department to Negotiate and Prepare Professional Services Agreement with CLR, Inc. for Design of Medical District Sidewalks.

Motion carried unanimously.

- 8.7 Rebecca Guerra presented staff report on **ZONING CASE P12-459**: Request by Craig and Sindija Schneider to amend the City's Comprehensive Zoning Ordinance by rezoning approximately 4.24 acres of land, legally described as Tract 1 R/S 10, Abstract 730, J.S. Smith Survey, within the City of Tomball, Harris County, Texas, generally located

northerly of East Hufsmith Road, easterly of Snook Lane, from the Single-Family Estate Residential-20 District to the Agricultural District. Craig Schneider addressed Council regarding his request.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P12-459** at 7:27 p.m.; receiving no public comments, Mayor Fagan closed the public hearing at 7:27 p.m.
- Motion was made by Councilman Townsend, second by Councilman Brown, to read Ordinance No. 2012-33 by caption only on First Reading.

Motion carried unanimously.

- Motion was made by Councilman Townsend, second by Councilman Brown, to adopt on First Reading, Ordinance No. 2012-33, an Ordinance of the City of Tomball, Texas, amending its Comprehensive Zoning Ordinance by changing the zoning district classification of approximately 4.24 acres of land, legally described as Tract 1 R/S 10, Abstract 730, J.S. Smith Survey, within the City of Tomball, Harris County, Texas, from the Single-Family Estate Residential-20 District to the Agricultural District; said property being generally located northerly of East Hufsmith Road, easterly of Snook Lane; 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 Dodson	<u>Nay</u>
Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Absent</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Aye</u>

Motion carried, 3 votes Aye, 1 vote Nay.

Mayor Fagan called a recess at 7:31 p.m. Upon reconvening into regular session at 7:37 p.m., the following items were considered:

- 8.8 Rebeca Guerra presented the staff report on **ZONING CASE P12-468**: Request by Jeff Presnal, on behalf of 2978 Industrial Properties LLC, to amend the City's Comprehensive Zoning Ordinance by rezoning approximately 6.93 acres of land, legally described as Lot 2, Block 1, Tomball South Commercial within the City of Tomball, Harris County, Texas, generally located northerly of Spell Road, westerly of Hufsmith-Kohrville Road, from the Agricultural District to the Light Industrial District. Jeff Presnal addressed Council regarding his request.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P12-468** at 7:47 p.m.; receiving no public comments, Mayor Fagan closed the public hearing at 7:47 p.m.
- Motion was made by Councilman Townsend, second by Councilman Dodson, to read Ordinance No. 2012-34 by caption only on First Reading.

Motion carried unanimously.

- Motion was made by Councilman Brown, second by Councilman Townsend, to adopt on First Reading, Ordinance No. 2012-34, an Ordinance of the City of Tomball, Texas, amending its Comprehensive Zoning Ordinance by changing the zoning district classification of approximately 6.93 acres of land, legally described as Lot 2, Block 1, Tomball South Commercial within the City of Tomball, Harris County, Texas, from the Agricultural District to the Light Industrial District; said property being generally located northerly of Spell Road, westerly of Hufsmith-Kohrville Road; 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>Absent</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Dodson	<u>Aye</u>

Motion carried unanimously.

- 8.9 Rebeca Guerra presented the staff report on **ZONING CASE P12-469**: Request by Jeff Presnal, on behalf of 2978 Industrial Properties LLC, to amend the City's Comprehensive Zoning Ordinance by rezoning approximately 17.63 acres of land, legally described as Tract 4B, Abstract 70, Elizabeth Smith Survey, Tract R20-A, Abstract 632, C.M. Pillot Survey, Lot 384, Tomball Outlots, and Tract 385A, Tomball Outlots within the City of Tomball, Harris County, Texas, generally located northerly of Holderrieth Road, westerly of Hufsmith-Kohrville Road, from the Agricultural District, Single-Family Estate Residential-20, and Light Industrial Districts to the Light Industrial District. Jeff Presnal addressed Council regarding his request.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P12-469** at 7:52 p.m.; receiving no public comments, Mayor Fagan closed the public hearing at 7:52 p.m.

- Motion was made by Councilman Dodson, second by Councilman Townsend, to read Ordinance No. 2012-35 by caption only on First Reading.

Motion carried unanimously.

- Motion was made by Councilman Brown, second by Councilman Dodson, to adopt on First Reading, Ordinance No. 2012-35, an Ordinance of the City of Tomball, Texas, amending its Comprehensive Zoning Ordinance by changing the zoning district classification of approximately 17.63 acres of land, legally described as Tract 4B, Abstract 70, Elizabeth Smith Survey, Tract R20-A, Abstract 632, C.M. Pillot Survey, Lot 384, Tomball Outlots, and Tract 385A, Tomball Outlots within the City of Tomball, Harris County, Texas, from the Agricultural, Single-Family Estate Residential-20, and Light Industrial Districts to the Light Industrial District; said property being generally located northerly of Holderrieth Road, westerly of Hufsmith-Kohrville Road; 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 Brown	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Dodson	<u>Aye</u>
Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Absent</u>

Motion carried unanimously.

- 8.10 Rebeca Guerra presented the staff report on **ZONING CASE P12-481**: Request by Jeff Presnal, on behalf of 2978 Industrial Properties LLC, to amend the City's Comprehensive Zoning Ordinance by rezoning approximately 5.61 acres of land, legally described as Lot 4, Block 1, Tomball South Commercial within the City of Tomball, Harris County, Texas, generally located northerly of Spell Road, westerly of Hufsmith-Kohrville Road, from the Agricultural District to the Light Industrial District. Jeff Presnal addressed Council regarding his request.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P12-481** at 7:56 p.m.; receiving no public comments, Mayor Fagan closed the public hearing at 7:56 p.m.
- Motion was made by Councilman Townsend, second by Councilman Dodson, to read Ordinance No. 2012-36 by caption only on First Reading.

Motion carried unanimously.

- Motion was made by Councilman Dodson, second by Councilman Townsend, to adopt on First Reading, Ordinance No. 2012-36, an Ordinance of the City of Tomball, Texas, amending its Comprehensive Zoning Ordinance by changing the zoning district classification of approximately 5.61 acres of land, legally described as Lot 4, Block 1, Tomball South Commercial within the City of Tomball, Harris County, Texas, from the Agricultural District to the Light Industrial District; said property being generally located northerly of Spell Road, westerly of Hufsmith-Kohrville Road; 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 Townsend	<u>Aye</u>
Councilman Dodson	<u>Aye</u>
Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Absent</u>
Councilman Brown	<u>Aye</u>

Motion carried unanimously.

- 8.11 Motion was made by Councilman Townsend, second by Councilman Brown, to reappoint Andrea Walker as Presiding Municipal Court Judge.

Motion carried unanimously.

- 8.12 Executive Session: The Tomball City Council recessed at 7:59 p.m. to meet 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
- Sec. 551.074 – Deliberations Regarding Personnel Matters – Evaluation of City Manager

Upon reconvening into Regular Session at 8:20 p.m. the following item was considered and action taken:

- 8.13 Motion was made by Councilman Dodson, second by Councilman Townsend, to approve the Extension of the Employment Contract for George Shackelford, City Manager, with amendments determined by Council.

Motion carried unanimously.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this 1st day of October 2012.

Doris Speer
Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Gretchen Fagan
Mayor