

MINUTES OF REGULAR CITY COUNCIL MEETING CITY OF TOMBALL, TEXAS



**MONDAY, MAY 21, 2012
6:00 P.M.**

1.0 Call to Order

The Council meeting was called to order by Mayor Gretchen Fagan. Other members present were:

Councilman Stoll
Councilman Brown
Councilman Townsend
Councilman Dodson
Councilman Hudgens

Others present:

City Manager – George Shackelford
Assistant City Manager – Christal Weber
City Secretary – Doris Speer
City Attorney – Loren B. Smith
Police Sergeant – Danny Arriaga
Director of Public Works – David Kauffman
Director Community Development – Narciso Lira
Fire Chief – Randy Parr
Finance Director – Glenn Windsor
Marketing Director – Mike Baxter
Assistant City Planner – Rodney Schmidt
Community Events Coordinator – Rosalie Dillon
Chief-NWEMS – Brian Petrilla

2.0 Invocation

- Led by Pastor Bryan Donahoo, Graceview Baptist Church

3.0 Pledges to U. S. and Texas Flags

- Led by Cooper Cason and Courtlynn Noack, Members of the Tomball High School Student Council

4.0 Canvass of Election

Escrutinio de la Elección

Kiểm Phiếu của Cuộc Bầu Cử

The Canvass of the May 12, 2012 General City Election was presented by Mary Coats, Election Judge.

El escrutinio de la Elección General de la Ciudad del 12 de mayo de 2012 fue presentado por Mary Coats, Jueza electoral.

Việc Kiểm Phiếu của Cuộc Bầu Cử Tổng Quát Thành Phố ngày 12 tháng Năm 2012 đã được bà Mary Coats, Trưởng Ban Điều Hành Cuộc Bầu Cử đệ trình.

2012年5月12日普通市選舉結果調查已由Mary Coats 選務官員呈獻。

- 4.1 Motion was made by Councilman Dodson, second by Councilman Brown, to adopt Resolution No. 2012-12, a Resolution and Order Canvassing the Returns and Declaring the Results of the General City Election Held on May 12, 2012.

El Concejal Dodson hizo la moción, secundada por el Concejal Brown, para adoptar la Resolución Nro. 2012-12, una Resolución y Orden de Escrutinio y Declaración de Resultados de la Elección General Celebrada el 12 de mayo de 2012.

Kiến Nghị được Nghị Viên Dodson đưa ra, có sự tán thành của Nghị Viên Brown, để Thông Qua Nghị Quyết Số 2012-12 và Yêu Cầu Kiểm Phiếu Bầu và Tuyên Bó các Kết Quả của Cuộc Bầu Cử Tổng Quát tổ chức ngày 12 tháng Năm, 2012.

委員Dodson執行動議，委員 Brown 支持，正式通過決議號 2012-12，

一決議及命令2012年5月12日普通市選舉結果調查及宣佈。

Motion carried unanimously.

Moción aceptada por unanimidad.

Kiến nghị được nhất trí thông qua.

~~動議無異議也通過。~~

- 4.2 The Oath of Office was administered by Mayor Fagan to Mark Stoll as the newly elected Councilman, Position 2 and to Derek S. Townsend, Sr. as the newly elected Councilman, Position 4.

El Juramento al Cargo fue administrado por la Alcaldesa Fagan a Mark Stoll como nuevo Concejal, Posición 2 y a Derek S. Townsend, Sr. como nuevo Concejal, Posición 4.

Tuyên Thệ Nhậm Chức đã được tiến hành bởi Thị Trưởng Fagan cho Mark Stoll là Nghị Viên mới được bầu chọn, Vị Trí 2 và cho Derek S. Townsend, Sr. Nghị Viên mới được bầu chọn, Vị Trí 4.

官員宣誓已由Mayor Fagan支配 Mark Stoll 視為新當選的委員，席位2及 Derek S. Townsend, Sr. 視為新當選的委員，席位4。

- 4.3 Councilman Dodson nominated Rick Brown as Mayor Pro-Tem and Councilman Stoll nominated Derek Townsend as Mayor Pro-Tem, in Accordance with Section 6.08 of the City of Tomball Home Rule Charter. Nominations ceased. Vote was as follows:

El Concejal Dodson nominó a Rick Brown como Alcalde interino y el Concejal Stoll nominó a Derek Townsend como Alcalde interino en conformidad con la Sección 6.08 de la Carta Orgánica de Gobierno Local de la Ciudad de Tomball. Las nominaciones cesaron. Los votos fueron los siguientes:

Nghị Viên Dodson đề cử Rick Brown làm Thị Trưởng Tạm Thời và Nghị Viên Stoll đề cử Derek Townsend làm Thị Trưởng Tạm Thời, chiếu theo Mục 6.08 của Hiến Chương Điều Lệ Địa Phương Thành Phố Tomball. Việc đề cử đã chấm dứt. Các phiếu bầu như sau:

委員Dodson 提名Rick Brown 為暫時市長及委員Stoll提名Derek

Townsend為暫時市長，根據Tomball市條例憲章6.08節。提名終止。如下投票：

Councilman Hudgens	<u>Rick Brown</u>
Councilman Stoll	<u>Derek Townsend</u>
Councilman Brown	<u>Rick Brown</u>
Councilman Townsend	<u>Derek Townsend</u>
Councilman Dodson	<u>Rick Brown</u>
<i>Concejal Hudgens</i>	<u>Rick Brown</u>
<i>Concejal Stoll</i>	<u>Derek Townsend</u>
<i>Concejal Brown</i>	<u>Rick Brown</u>
<i>Concejal Townsend</i>	<u>Derek Townsend</u>
<i>Concejal Dodson</i>	<u>Rick Brown</u>
Nghị Viên Hudgens	<u>Rick Brown</u>
Nghị Viên Stoll	<u>Derek Townsend</u>
Nghị Viên Brown	<u>Rick Brown</u>
Nghị Viên Townsend	<u>Derek Townsend</u>
Nghị Viên Dodson	<u>Rick Brown</u>
委員 Hudgens	<u>Rick Brown</u>
委員 Stoll	<u>Derek Townsend</u>
委員 Brown	<u>Rick Brown</u>
委員 Townsend	<u>Derek Townsend</u>
委員 Dodson	<u>Rick Brown</u>

Councilman Rick Brown was elected Mayor Pro-Tem.

El Concejal Rick Brown fue elegido Alcalde interino.

Nghị Viên Rick Brown được chọn làm Thị Trưởng Tạm Thời.

委員 Rick Brown 已當選為暫時市長。

5.0 The following public comments were received:

- | | |
|---|---|
| Barbara Tague
503 Inwood, 77375 | - Item 10.2 - Expressed her wish to be reappointed to the Planning and Zoning Commission. |
| Mary Harvey
405 S. Walnut, 77375 | - Item 10.15 - Expressed her support for the proposed purchase of property from the Tomball Independent School District at 217 and 221 West Main. |
| Latrell Shannon
823 Lizzie Lane, 77375 | - Item 10.16 - Expressed her support for the proposed acceptance of donated property located at 0 Holiday Street, near MLK, Jr. Park. |
| Bruce Hillegeist, GTACC
29201 Quinn, 77375 | - Extended invitation to attend visits by Congressman Brady on May 22, at 2:15 p.m. at the Chamber office and by Congressman McCaul on May 23, at Amegy Bank, from 1:00-2:00 p.m. |

6.0 Presentations:

- Mayor Fagan presented Proclamations declaring the following:
 - **National Public Works Week** – May 20-26, 2012
 - **National EMS Week** – May 20-26, 2012
 - **Hurricane Preparedness Week** – May 27-June 2, 2012
 - **Mary W. Roach – Honoring a Life of Dedication** – June 3, 2012

7.0 Reports and Announcements:

- **Quarterly Investment Report** for the 3 months ending 3/31/2012 - The Public Funds Investment Act requires that a report of the City's investments be presented to Council on a quarterly basis. The investment report includes a listing of all investments together with information relating to diversification, cost vs. market values, yield information, and weighted average maturities. At March 31, 2012, the City had total cash equivalents and investments totaling \$ 41,747,411. A copy of the report is attached for review.
- May 26, 2012 – **Memorial Day Weekend Chili Challenge at the Depot** – 11:00 a.m. to 6:00 p.m.
- May 29, 2012 - **Harris County Primary Election**; Runoff Date is July 31, 2012
- June 1, 2012 – **Dedication of Brown-Hufsmith Road** – 1:30 p.m.
- July 4, 2012 – **City of Tomball Fourth of July Celebration – 12:00 Noon-10:00 p.m.**
- **Walk Tomball!** – Every Saturday at 8:00 a.m. at the Depot (**NEW time**)
- Reports by City staff and members of council about items of community interest on which no action will be taken

- 8.0 Motion was made by Councilman Townsend, second by Councilman Dodson, to approve the Minutes of the May 7, 2012 Regular City Council Meeting and May 14, 2012 Special Joint Tomball City Council and Tomball Economic Development Corporation Meeting.

Motion carried unanimously.

9.0 Old Business:

- 9.1 Motion was made by Councilman Stoll, second by Councilman Dodson, to adopt, on Second Reading, Ordinance No. 2012-08, an Ordinance Creating City of Tomball, Texas Reinvestment Zone No. 3; an Approximately 7.2854-Acre Tract of Land, Located at 915 Cherry Street within the City of Tomball, Harris County, Texas; Making Certain Findings; Repealing Ordinances Inconsistent or in Conflict Herewith; 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.

10.0 New Business:

- 10.1 Motion was made by Councilman Brown, second by Councilman Dodson, to Reappoint Evelyn Torres-Chervenak and Barbara Tague to their current positions on the City of Tomball Planning and Zoning Commission, with new terms expiring June 1, 2015.

Motion carried unanimously.

- 10.2 Motion was made by Councilman Dodson, second by Councilman Hudgens, to approve Resolution No. 2012-13, a Resolution of the City Council of the City of Tomball, Texas, Supporting the Fifth Annual Homecoming Parade and Pep Rally, to be held at the Tomball Depot, Sponsored by the Tomball Independent School District and the Tomball High School Student Council, on Wednesday, October 24, 2012.

Motion carried unanimously.

- 10.3 Motion was made by Councilman Dodson, second by Councilman Brown, to approve Resolution No. 2012-14, a Resolution of the City Council of the City of Tomball, Texas, Sponsoring the July 4th Celebration, to be held in Tomball on Wednesday, July 4, 2012, and Closing a Portion of State Highway 249 Business from Hicks Street to the North Entrance to Krogers in Tomball Marketplace from 2:00 p.m. until 10:00 p.m., and

Authorizing the City Manager to Issue a Letter to TXDot Requesting the Closure of the Designated Portion of State Highway 249 Business.

Motion carried unanimously.

- 10.4 Motion was made by Councilman Hudgens, second by Councilman Brown, to approve Tax Abatement Agreement between City of Tomball and American National Carbide for Improvements to be Constructed in Tax Abatement Reinvestment Zone No. 3.

Motion carried unanimously.

- 10.5 Motion was made by Councilman Brown, second by Councilman Stoll, to approve the Multi-Year (3-Year) Engagement Agreement Letter with the Firm of Weaver and Tidwell, LLP, to Conduct City of Tomball Financial Audits for Fiscal Years 2012, 2013, and 2014 (Independent Audit Services Proposal - RFP No. 2012-04).

Motion carried unanimously.

- 10.6 Rodney Schmidt presented the staff report on **ZONING CASE P12-427**: Public Hearing to consider a Request by Paula Rodriguez to amend the City's Comprehensive Zoning Ordinance by rezoning approximately 1.36 acres of land, legally described as Tract 10, Meadow Lark Hill (Unrecorded), within the City of Tomball, Harris County, Texas, generally located easterly of Johnson Road, southerly of Michel Road, from the Duplex Residential District to the Commercial District.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P12-427** at 6:45 p.m.; receiving no public comments, Mayor Fagan closed the public hearing at 6:45 p.m.
- Motion was made by Councilman Townsend, second by Councilman Stoll, to read Ordinance No. 2012-09 by caption only on First Reading.

Motion carried unanimously.

- Motion was made by Councilman Dodson, second by Councilman Brown, to adopt, on First Reading, Ordinance No. 2012-09, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 1.36 acres of land, Legally described as Tract 10, Meadow Lark Hill (Unrecorded), Within the City of Tomball, Harris County, Texas, from the Duplex Residential District to the Commercial District; Said property being generally located easterly of Johnson Road, southerly of Michel 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 Dodson	<u>Aye</u>
Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Nay</u>

Motion carried, 4 votes Aye, 1 vote Nay.

- 10.7 Rodney Schmidt presented the staff report on **ZONING CASE P12-428**: Public Hearing to Consider a Request by Paula Rodriguez, on behalf of Ronald Rodriguez, to amend the City's Comprehensive Zoning Ordinance by rezoning approximately 1.36 acres of land, legally described as Tract 11, Meadow Lark Hill (Unrecorded), within the City of Tomball, Harris County, Texas, generally located easterly of Johnson Road, southerly of Michel Road, from the Duplex Residential District to the Commercial District.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P12-428** at 6:54 p.m.; receiving no public comments, Mayor Fagan closed the public hearing at 6:54 p.m.
- Motion was made by Councilman Brown, second by Councilman Hudgens, to read Ordinance No. 2012-10 by caption only on First Reading.

Motion carried unanimously.

- Motion was made by Councilman Dodson, second by Councilman Hudgens, to adopt on First Reading, Ordinance No. 2012-10, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 1.36 acres of land, Legally described as Tract 11, Meadow Lark Hill (Unrecorded), Within the City of Tomball, Harris County, Texas, from the Duplex Residential District to the Commercial District; Said property being generally located easterly of Johnson Road, southerly of Michel 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>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Nay</u>
Councilman Dodson	<u>Aye</u>

Motion carried, 4 votes Aye, 1 vote Nay.

- 10.8 Rodney Schmidt presented the staff report on **ZONING CASE P12-429**: Public Hearing to Consider a Request by the City of Tomball to amend the City's Comprehensive Zoning Ordinance by rezoning approximately 1.36 acres of land, legally described as Tract 7, Meadow Lark Hill (Unrecorded), within the City of Tomball, Harris County, Texas, generally located easterly of Johnson Road, northerly of Theiss Lane, from the Duplex Residential District to the Commercial District.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P12-429** at 6:58 p.m.; receiving no public comments, Mayor Fagan closed the public hearing at 6:58 p.m.
- Motion was made by Councilman Dodson, second by Councilman Stoll, to read Ordinance No. 2012-11 by caption only on First Reading.

Motion carried unanimously.

- Motion was made by Councilman Brown, second by Councilman Brown, to adopt, on First Reading, Ordinance No. 2012-11, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 1.36 acres of land, Legally described as Tract 7, Meadow Lark Hill (Unrecorded), Within the City of Tomball, Harris County, Texas, from the Duplex Residential District to the Commercial District; Said property being generally located easterly of Johnson Road, northerly of Theiss 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 Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Nay</u>
Councilman Dodson	<u>Aye</u>
Councilman Hudgens	<u>Aye</u>

Motion carried, 4 votes Aye, 1 vote Nay.

- 10.9 Rodney Schmidt presented the staff report on **ZONING CASE P12-430**: Public hearing to Consider a Request by David Quinn, on behalf of Tomball Tomahawk Properties, LLC, for a Conditional Use Permit to operate a "Barber/Beauty Shop (No Related School/College)." The property is an approximately 0.85 acre site, legally described as Lot 1, Block 1, Tomahawk Properties, generally located on the easterly side of Baker

Drive, southerly of Inwood Street. The site is located in the Single-Family Residential-6 District with a vested rights classification of Office District.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P12-430** at 7:09 p.m.; the following public comments were received:

Harry Byrd
602 N. Hickory, 77375

- Expressed his opposition to approval of the proposed Conditional Use Permit by City Council.

Earle Oldham
610 Inwood, 77375

- Expressed his opposition to approval of the proposed Conditional Use Permit by City Council.

David Tague
503 Inwood, 77375

- Expressed his opposition to approval of the proposed Conditional Use Permit by City Council.

Christine Roquemore
614 N. Hickory, 77375

- Expressed his opposition to approval of the proposed Conditional Use Permit by City Council.

Dan Adkisson
500 Inwood, 77375

- Expressed his opposition to approval of the proposed Conditional Use Permit by City Council.

Hoyt Tolleson
523 N. Pecan, 77375

- Did not wish to speak; asked that his opposition to the proposed Conditional Use Permit be read into the record.

Mary Coats
422 N. Pecan, 77375

- Did not wish to speak; asked that her opposition to the proposed Conditional Use Permit be read into the record.

Gayle Odom
514 N. Pecan, 77375

- Did not wish to speak; asked that her opposition to the proposed Conditional Use Permit be read into the record.

Emily McClinton
407 S. Pecan, 77375

- Did not wish to speak; asked that her opposition to the proposed Conditional Use Permit be read into the record.

S. Virginia Scott
414 N. Pecan, 77375

- Did not wish to speak; asked that her opposition to the proposed Conditional Use Permit be read into the record.

James Robinson
515 S. Pecan, 77375

- Did not wish to speak; asked that his opposition to the proposed Conditional Use Permit be read into the record.

Laura Hanks
502 N. Pecan, 77375

- Did not wish to speak; asked that her opposition to the proposed Conditional Use Permit be read into the record.

Brenda Snipes
408 Baker, 77375

- Did not wish to speak; asked that her opposition to the proposed Conditional Use Permit be read into the record.

Receiving no further public comments, Mayor Fagan closed the public hearing at 7:26 p.m.

Property owners, David and Lori Klein Quinn, and Tom Condon, Jr., Broker-Betz Commercial, presented information regarding proposed Conditional Use Permit request and proposed development of property.

- Motion was made by Councilman Stoll, second by Councilman Brown, to read Ordinance No. 2012-12 by caption only on First Reading.

Motion carried unanimously.

- Motion was made by Councilman Hudgens, second by Councilman Stoll to adopt, on First Reading, Ordinance No. 2012-12, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by granting a Conditional Use Permit to Tomball Tomahawk Properties, LLC, to operate a “Barber/Beauty Shop (no related School/College)”;
- Being an approximately 0.85 acre site, Being legally described as Lot 1, Block 1, Tomahawk Properties, generally located on the easterly side of Baker Drive, southerly of Inwood Street; Providing requirements and conditions for this Conditional Use Permit; 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 Brown	<u>Nay</u>
Councilman Townsend	<u>Nay</u>
Councilman Dodson	<u>Nay</u>
Councilman Hudgens	<u>Nay</u>
Councilman Stoll	<u>Nay</u>

Motion FAILED unanimously.

Mayor Fagan announced a short break at 8:16 p.m. Upon reconvening into regular session at 8:21 p.m., the following items were considered:

- 10.10 Motion was made by Councilman Townsend, second by Councilman Brown, to approve the request by Russ Brown, Pine Country Estates, for an off-premise sign at the intersection of FM 2920 and Tomball Cemetery Road. Motion to Amend was made by Councilman Townsend, second by Councilman Brown, to deny the request by Russ Brown for an off-premise sign at the intersection of FM 2920 and Tomball Cemetery Road and to authorize City Staff to proceed with the development and installation of a kiosk sign to serve this location as quickly as possible.

Motion carried unanimously.

- 10.11 Consensus of Council was unanimous to hold a Sign Workshop on June 18, 2012, as part of the regular Council meeting. City Staff will provide redlined ordinance to Council by June 4, 2012.

No action necessary.

- 10.12 Motion was made by Councilman Stoll, second by Councilman Brown, to set June 4, 2012 at 5:00 p.m. for the Joint City Council, Planning and Zoning Commission, and Downtown Tomball Advisory Committee Meeting, to Consider the Draft Tomball Downtown Specific Plan, and to move the starting time for the City Council Meeting on June 4, 2012 to 7:00 p.m.

Motion carried unanimously.

- 10.13 The City Council Recessed at 9:04 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

Upon reconvening into regular session at 9:14 p.m., the following action was taken:

- 10.14 Motion was made by Councilman Dodson, second by Councilman Townsend, to approve the purchase of Lot 12, Block 6 and Lot 1, Block 26, located at 0 Tyler Street, from M. A. Garcia, in the Amount of \$25,200.00.

Motion carried unanimously.

- 10.15 Motion was made by Councilman Brown, second by Councilman Dodson, to approve the Agreement to Purchase and Sell between Tomball Independent School District and the City of Tomball to Purchase Property Located at 217 West Main and 221 West Main, in the Amount of \$299,900.00. 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>Aye</u>

Motion carried, 3 votes Aye, 2 votes Nay.

- 10.16 Motion was made by Councilman Townsend, second by Councilman Dodson, to accept the donation of Lots 16 and 17, Block 69, Being 7,000 Square Feet, Located at 0 Holiday Street, to the City of Tomball by Cappadonna Electrical Management.

Motion carried unanimously.

- 11.0 Motion was made by Councilman Brown, second by Councilman Dodson, to adjourn.

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this 4th day of June 2012.

Doris Speer
Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Gretchen Fagan
Mayor