

MINUTES OF REGULAR CITY COUNCIL MEETING CITY OF TOMBALL, TEXAS



**MONDAY, NOVEMBER 21, 2011
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
Assistant City Secretary – Betsy Gates
City Attorney – Loren Smith
Police Chief – Robert Hauck
Finance Director – Glenn Windsor
Fire Chief – Randy Parr
Assistant City Engineer – Lori Lakatos
Assistant City Planner – Rodney Schmidt
Community Events Coordinator – Rosalie Dillon
Chief-NWEMS – Brian Petrilla
Director-TEDC – Kelly Violette
City Attorney – Scott Bounds

2.0 The invocation was led by Pastor James Clark, First Baptist Church

3.0 Pledges to U. S. and Texas Flags were led by Members of the Tomball High School Student Council, Sheldon Hodge and Jacob Ready.

4.0 The following public comments were received:

Brad Hallmark 28231 Camille Drive, 77375	- Expressed his opposition to Agenda items 8.9 and 8.10; Zoning Case P11-371 & Zoning Case P11-372 Hildreth properties
Gary Henneke 31210 Stella Lane, 77375	Expressed his opposition to Agenda item 8.10, Zoning Case P11-371
Russell Hill 31207 Alice Lane, 77375	Expressed his opposition to Agenda item 8.10 and potential traffic problems diverted to Alice Lane should it pass
David Wood 28227 Camille Drive, 77375	Expressed his opposition to Agenda items 8.9 and 8.10; Zoning Case P11-371 & Zoning Case P11-372 Hildreth properties
Rhonda Bolton 28111 Camille Drive, 77375	Expressed her opposition to Agenda items 8.9 and 8.10; Zoning Case P11-371 & Zoning Case P11-372 Hildreth properties
Donna Hill 31207 Alice Lane, 77375	Read her opposition to item 8.10, Zoning Case P11-371, into the record
Judy Cooper 31106 Stella Lane, 77375	Read her opposition to Hildreth rezoning into the record
Ken Duncan 17507 Sorrel Ridge, Spring, 77388	Read his opposition to rezoning into the record
Linda Wrentz 31203 Antonia Lane, 77375	Read her opposition to Agenda items 8.9 and 8.10 into the record
John Black 31427 Stella Lane, 77375	Read his opposition to item 8.10 into the record
Joyce Godwin 31330 Alice Lane, 77375	Read her opposition to items 8.9 and 8.10 into the record
Thomas Godwin 31330 Alice Lane, 77375	Read his opposition to items 8.9 and 8.10 into the record
Lorraine Benignus 31202 Antonia Lane, 77375	Read her opposition to items 8.9 and 8.10 into the record

Everett Benignus 31202 Antonia Lane, 77375	Read his opposition to items 8.9 and 8.10 into the record
James Wrentz 31203 Antonia Lane, 77375	Read his opposition to items 8.9 and 8.10 into the record
Wayne Thomas 28223 Camille Drive, 77375	Read his opposition to items 8.9 and 8.10 into the record
Nelson Foehner 31207 Antonia Lane, 77375	Read his opposition to items 8.9 and 8.10 into the record
Helen Burchfield 31122 Antonia Lane, 77375	Read her opposition to items 8.9 and 8.10 into the record
Josephine Leonard 31123 Alice Lane, 77375	Read her opposition to items 8.9 and 8.10 into the record
Deborah Pursell 31223 Antonia Lane, 77375	Read her opposition to items 8.9 and 8.10 into the record
Joy Criner 31419 Stella Lane, 77475	Read her opposition to item 8.10 into the record
Patricia Wilcox 28114 Chris Lane, 77375	Read her opposition to item 8.10 into the record
Bruce Hillegeist 20339 Telge, 77377	Expressed his appreciation for City support in successful Chamber Holiday Parade event and introduced Miss Tomball 2012, Lacy Renee Easley

5.0 Mayor Fagan presented to Jennifer Moffitt:

- Proclamation – “Pancreatic Cancer Awareness Month - November 2011

6.0 Reports and Announcements:

- **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
 - o Mike Baxter – November 19, 2011 **Tomball Art Walk**- reported 55 artists and 27 restaurants participated in the very successful final art walk of 2011

- 7.0 Motion was made by Councilman Dodson, second by Councilman Townsend, to approve the minutes of the November 7, 2011 Regular Council Meeting.

Motion carried unanimously.

8.0 New Business:

- 8.1 Mayor Fagan presented the proposed candidates for appointment. Councilman Hudgens nominated Barbara Tague and Mayor Fagan recommended Lori Klein Quinn as candidates to be a Member to the Tomball Economic Development Corporation to fill the unexpired term/vacancy created by resignation of Gary Smith for term expiring May 2, 2012. Vote was as follows:

Councilman Hudgens	–	Barbara Tague
Councilman Stoll	–	Lori Quinn
Councilman Brown	–	Lori Quinn
Councilman Townsend	–	Lori Quinn
Councilman Dodson	–	Lori Quinn

Lori Klein Quinn is appointed to the vacant seat on the Tomball Economic Development Corporation.

- 8.2 Kelly Violette presented an overview of the proposed Project. Motion was made by Councilman Stoll, second by Councilman Townsend, to approve, as a Project of the Corporation, an agreement with Houston Poly Bag I, Ltd, to make direct incentives to or expenditures for equipment expansion for the creation and retention of primary jobs for Houston Poly Bag I, Ltd. The estimated amount of expenditures for such project is an amount not to exceed \$80,000.00.

Motion carried unanimously.

- 8.3 Lori Lakatos presented an overview of the proposed Agreement. Motion was made by Councilman Dodson, second by Councilman Brown, to approve and authorize City Manager to execute Professional Services Agreement with AECOM Technical Services, Inc. (AECOM) for services related to Utilities GIS in the amount of \$150,000.

Motion carried unanimously.

- 8.4 Kelly Violette presented an overview of the proposed Amendment. Motion was made by Councilman Townsend, second by Councilman Stoll, to approve First Amendment to Economic Development Agreement between the Tomball Economic Development Corporation and Stripes L.L.C. for additional funding of \$15,400.

Motion carried unanimously.

- 8.5 Kelly Violette presented an overview of the proposed Resolution. Motion was made by Councilman Brown, second by Councilman Dodson to approve, on First Reading Resolution No. 2011-24-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 ValueBank Texas to Make Direct Incentives to, or Expenditures for, relocation and rent assistance for new or expanded business enterprise; Containing Other Provisions Relating to the Subject; and Providing for Severability, Approving, as a Project of the Corporation, an agreement with ValueBank Texas to make direct incentives to, or expenditures for, relocation and rent assistance for new or expanded business enterprise to be located at 990 Village Square, Suite P, Tomball, Texas. The estimated amount of such expenditures for such Project is \$15,750.00. 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 to 1 vote Nay.

- 8.6 Mayor Fagan presented the proposed candidates for the Tourism Advisory Committee. Motion was made by Councilman Dodson, second by Councilman Brown to re-appoint Ken Shuman, Holly Cook and Kevin Lala to their respective positions on the Tourism Advisory Committee. 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 carried, 4 votes Aye to 1 vote Nay.

- 8.7 Rodney Schmidt presented the staff report for **ZONING CASE P11-360:** Request by First Baptist Church of Tomball to amend the City's Comprehensive Zoning Ordinance to rezone approximately 32.03 acres of land, legally described as Reserve A, Block 1, First Baptist Church of Tomball, within the City of Tomball, Harris County, Texas, generally located southerly of Hicks Street, westerly of Quinn Road, from the Commercial and Old Town & Mixed Use Districts to the Commercial District.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P11-360** at 6:50 p.m.; the following public comment was received:

Pastor James Clark 15822 Birchview Drive, 77377	- Expressed his appreciation and thanks for the Planning & Zoning Commission and the City Council for helping with the zoning Ordinance for the First Baptist Church
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Mayor Fagan closed the public hearing at 6:51 p.m.

- Motion was made by Councilman Townsend, second by Councilman Brown, to read Ordinance No. 2011-27 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. 2011-27, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 32.03 acres of land, legally described as Reserve A, Block 1, First Baptist Church of Tomball, within the City of Tomball, Harris County, Texas, generally located southerly of Hicks Street, westerly of Quinn Road, from the C-Commercial and OT/MU-Old Town & Mixed Use Districts to the C-Commercial District; 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.

- 8.8 Rodney Schmidt presented the staff report for **ZONING CASE P11-362:** Request by Leslie Lagerquist, on behalf of Catlin Joint Venture, to amend the City's Comprehensive Zoning Ordinance to rezone approximately 0.17 acres of land, legally described as Lot 9, Block 7, Main Street Addition, within the City of Tomball, Harris County, Texas, generally located northerly of Barbara Street, easterly of Raymond Avenue, from the Commercial District to the Old Town and Mixed Use District.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P11-362** at 6:57 p.m.; the following public comment was received:

Leslie Lagerquist 30711 William Juergens, 77375	- Expressed his appreciation and thanks as this zoning will help facilitate sale of lot that will help their balance sheet
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- Mayor Fagan closed the public hearing at 6:57 p.m.
- Motion was made by Councilman Townsend second by Councilman Stoll, to read Ordinance No. 2011-28 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. 2011-28, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 0.17 acres of land, legally described as Lot 9, Block 7, Main Street Addition, within the City of Tomball, Harris County, Texas, generally located northerly of Barbara Street, easterly of Raymond Avenue, from the C-Commercial District to the OT/MU-Old Town and Mixed Use District; 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>Aye</u>
Councilman Dodson	<u>Aye</u>
Councilman Hudgens	<u>Aye</u>

Motion carried unanimously.

- 8.9 Rodney Schmidt presented the staff report for **ZONING CASE P11-371**: Request by Peter and Sylvia Hildreth to amend the City's Comprehensive Zoning Ordinance to rezone approximately 6.93 acres of land, legally described as Lots 36, 43, 44, 45, and Reserve D out of the Tomball Hills Addition Plat and Tract 27, Abstract 34, Joseph House Survey, within the City of Tomball, Harris County, Texas, generally located on the easterly side of State Highway 249, northerly of Zion Road, from the Single-Family Residential-9 and Commercial Districts to the General Retail District. (This case will be heard in conjunction with Zoning Case P11-372.)

- Mayor Fagan opened the Public Hearing on **ZONING CASE P11-371** at 7:06 p.m.; the following public comments were received:

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| Otis Bakke
3220 North Fwy Fort Worth TX,
76111 | - Attorney for Pete Hildreth, has tried to communicate with homeowners and spoke with R. Bolton, HOA President, on November 21, 2011. Mr. Bakke requested the Council table consideration of this item. |
| Linda Wrentz
31203 Antonia Lane, 77375 | - Expressed her opposition to the re-zoning request. |
| Pat Bailey
1319 Dove Trails, 77375 | - Expressed her opposition to Council's tabling consideration of the re-zoning request. |
| Deborah Pursell
31223 Antonia Lane, 77375 | - Expressed her opposition to Council's tabling consideration of the re-zoning request. |
| Dennis Bell
31215 Antonia Lane, 77375 | - Expressed his opposition to Council's tabling consideration of the re-zoning request. |
| Sylvia Hildreth
11126 N. Country Club Green
Drive, 77375 | - This has been an ongoing issue. She is not sure what homeowners want. Trees were removed to allow space for equipment. Hildreths have put up a fence three times and have tried to talk to homeowners but homeowners have been having private meetings. |
| Michael Cook
108 Anna, 77375 | - Pete Hildreth's brother-in-law. No residences could be built on Pete's lots anyway because the land slopes too much. |
| Gary Henneke
31210 Stella Lane, 77375 | - Expressed his concerns regarding lack of trees, erosion and asked what Mr. Hildreth might be putting into Spring Creek. |
| John Black
31427 Stella Lane, 77375 | - Long-time Tomball Hills resident - his land slopes and is perfectly fine. |

- Mayor Fagan closed the public hearing at 7:16 p.m.

Councilman Dodson stated that he would abstain from participation in discussion or action on Items 8.9 and 8.10, based on the Conflict of Interest Affidavit previously filed with the City Secretary.

- Motion was made by Councilman Townsend second by Councilman Stoll, to read Ordinance No. 2011-29 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. 2011-29, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 6.928 acres of land, legally described as Lots 36, 43, 44, 45, and Reserve D out of the Tomball Hills Addition Plat and Tract 27, Abstract 34, Joseph House Survey, within the City of Tomball, Harris County, Texas, generally located on the easterly side of State Highway 249, northerly of Zion Road, from the SF-Single-Family Residential-9 and C-Commercial Districts to the GR-General Retail District; 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>Nay</u>
Councilman Townsend	<u>Nay</u>
Councilman Dodson	<u>Abstain</u>
Councilman Hudgens	<u>Nay</u>
Councilman Stoll	<u>Nay</u>

Motion FAILED unanimously.

- 8.10 In conjunction with Zoning Case P11-371, Rodney Schmidt presented the staff report for **ZONING CASE P11-372** Request by Peter and Sylvia Hildreth for a Conditional Use Permit to operate “Tool and Machinery Rental (with Outdoor Storage)” and “Warehouse” land uses. The property is an approximately 6.93 acre site, legally described as Lots 36, 43, 44, 45, and Reserve D out of the Tomball Hills Addition Plat and Tract 27, Abstract 34, Joseph House Survey, generally located on the easterly side of State Highway 249, northerly of Zion Road. The site is located in the Single-Family Residential-9 and Commercial Districts.

NO action was taken on Item 8.10, due to failure to approve Zoning Case P11-371.

- Conduct a Public Hearing on **ZONING CASE P11-372**
- Adopt on First Reading, Ordinance 2011-30, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by granting a Conditional Use Permit to Peter and Sylvia Hildreth, to operate a “Tool and Machinery Rental (with outdoor storage)” and “Warehouse” land uses. The property is an approximately 6.93 acre site, legally described as Lots 36, 43, 44, 45, and Reserve

D out of the Tomball Hills Addition Plat and Tract 27, Abstract 34, Joseph House Survey, generally located on the easterly side of State Highway 249, northerly of Zion Road. The site is located in the GR-General Retail Districts; 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.

- 8.11 The City Council recessed at 7:34 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 7:50 p.m., no action was taken.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this 5th day of December 2011.

Betsy Gates
Betsy Gates, TRMC
Assistant City Secretary

Gretchen Fagan
Gretchen Fagan
Mayor