

# **MINUTES OF REGULAR CITY COUNCIL MEETING CITY OF TOMBALL, TEXAS**



**MONDAY, OCTOBER 17, 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  
City Secretary – Doris Speer  
City Attorney – Loren Smith  
Police Chief – Robert Hauck  
Director of Public Works – David Kauffman  
Assistant City Engineer – Lori Lakatos  
Fire Chief – Randy Parr  
Finance Director – Glenn Windsor  
Assistant City Planner – Rodney Schmidt  
Marketing Director – Mike Baxter  
Community Events Coordinator – Rosalie Dillon  
Chief-NWEMS – Brian Petrilla

**2.0** The invocation was led by Brother James Roberson, Hufsmith Church of Christ

**3.0** Pledges to U. S. and Texas Flags were led by Courtlynn Noack and Samuel Freeman, Members of the Tomball High School Student Council

4.0 The following public comments were received:

- |                                                 |                                                                                                              |
|-------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| Marie Heffernan<br>13615 Country Meadows, 77375 | - Requested that the City issue proclamations for each new birth in Tomball                                  |
| Rodney Hutson<br>9431 Rosie Lane, 77354         | - Expressed his support for the proposed tax rate increase                                                   |
| Mary Harvey<br>405 S. Walnut, 77375             | - Expressed her support for the proposed tax rate increase                                                   |
| Pat Bailey<br>1319 Dove Trails, 77375           | - Expressed her support for the proposed tax rate increase                                                   |
| Jim McKinney<br>1306 Dove Trails, 77375         | - Expressed his support for the proposed tax rate increase                                                   |
| Jack Ripley<br>14134 Castor Street, 77375       | - Expressed his opposition to the proposed tax rate increase                                                 |
| Bruce Hillegeist<br>20339 Telge, 77377          | - Expressed his support for Resolution 2011-21, regarding the 46 <sup>th</sup> Annual Tomball Holiday Parade |

5.0 Reports and Announcements:

- **Farmers Market** – 9 a.m.-1:00 p.m. (Every Saturday, September 10-November 12)
- October 22, 2011 – **2<sup>nd</sup> Annual American Heart Association's Northwest Harris County Virtual Heart Walk** to support the American Heart Association – 9:30 a.m.; Heart Walk routes (1, 2 or 3 mile options) begin at The Heart Center at Tomball Regional (north entrance; use free parking garage or adjacent lots)
- October 24, 2011 – Tourism Advisory Committee Meeting – moved to 4:00 p.m.
- October 24, 2011 – Special Council and Planning and Zoning Commission Meeting regarding the Downtown Specific Plan – 6:00 p.m.
- October 28-29, 2011 – **Fire Department Fall Festival, 709 West Main** – 7:00 p.m.-12:00 Midnight
- November 1, 2011 – **Mayor's Coffee**, 5:30 p.m.-7:00 p.m., **Nona's Italian Grill**
- November 7, 2011 - Appointments to Tourism Advisory Committee for Terms expiring December 5, 2011
- November 12, 2011 – **2<sup>nd</sup> Saturday at the Depot – 5:00 p.m.**
- November 19, 2011 – **46<sup>th</sup> Annual Holiday Parade** – 10:00 a.m.
- November 19, 2011 - **Special Walk Tomball** in the **Holiday Parade** behind the *Walk Tomball! It's a Wonderful Life* banner – 10:00 a.m.

- November 19, 2011 – **Tomball Art Walk**, 2:00 p.m.–6:00 p.m.; Free Concert at the Depot, 5:00 p.m.–7:30 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
  - David Kauffman - **Fall Cleanup Week and E-Waste and Shredding Event**
  - Mike Baxter – October 8, 2011 **2nd Saturday at the Depot "Spooktacular"** and October 15, 2011 **Tomball Art Walk**

6.0 Motion was made by Councilman Townsend, second by Councilman Brown, to approve the minutes of the following meetings:

- Regular Council Meeting – October 3, 2011
- Special Council Meeting – October 10, 2011

Motion carried unanimously.

7.0 New Business:

- 7.1 Doris Speer presented the proposed Resolution. Motion was made by Councilman Dodson, second by Councilman Townsend, to approve Resolution No. 2011-21, a Resolution of the City Council of the City of Tomball, Texas, Supporting the 46th Annual Tomball Holiday Parade, "**All Texas, All the Time**" to be held in Tomball on Saturday, November 19, 2011 and to Approve Requested Street Closures and In-kind Services.

Motion carried unanimously.

- 7.2 George Shackelford presented the City Manager's Amendment to the Amended Vested Rights Determination Letter dated September 21, 2011, regarding Timkin Office Park/Chestnut Business Park. Motion was made by Councilman Brown, second by Councilman Stoll, to receive the City Manager's Amendment to the Amended Vested Rights Determination Letter dated September 21, 2011, regarding Timkin Office Park/Chestnut Business Park.

Motion carried unanimously.

- 7.3 Motion was made by Councilman Dodson, second by Councilman Brown, to adopt \$0.230000 as Portion of the Tax Rate for the Interest and Sinking (Debt Service) Fund for FY 2012. Vote was as follows:

|                     |            |
|---------------------|------------|
| Councilman Hudgens  | <u>Aye</u> |
| Councilman Stoll    | <u>Nay</u> |
| Councilman Brown    | <u>Aye</u> |
| Councilman Townsend | <u>Nay</u> |

Councilman Dodson                      Aye

Motion carried, 3 votes Aye, 2 votes Nay.

- 7.4      Motion was made by Councilman Brown, second by Councilman Dodson, to adopt \$0.111455 as the Portion of the Tax Rate to Fund Maintenance and Operations (M&O) for FY 2012.

Motion carried unanimously.

- 7.5      Motion was made by Councilman Dodson, second by Councilman Brown, to read Ordinance No. 2011-19 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. 2011-19, an Ordinance of the City of Tomball, Texas, Setting the Tax Levy of \$0.341455/\$100 Value Assessed for the Year 2011 on All Taxable Real and Personal Property Located in the City of Tomball, Texas; Allowing for Homestead Exemptions for Property Owners Sixty-Five Years of Age and Over, and for Property Owners Who Qualify for Disability Benefits Under the Federal Old Age, Survivors, and Disability Insurance Program; Providing for Penalty, Interest, and Additional Penalty on Taxes Not Timely Paid; and Providing Other Matters Relating to the Subject. Vote was as follows:

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

Motion carried, 3 votes Aye, 2 votes Nay.      .

George Shackelford requested that Items 7.6 and 7.7 be postponed to allow City staff to gather additional information. Motion was made by Councilman Brown, second by Councilman Dodson to postpone the public hearing and consideration of Ordinance No. 2011-24 until City staff has gathered additional information.

- 7.6      Public Hearing regarding Proposed Ordinance No. 2011-24, Opting Out of the "Super Freeport Exemption" created by Senate Bill 1 and Providing for the Taxation of Tangible Personal Property in Transit ("Goods-in-Transit").

Public Hearing postponed.

- 7.7 Adopt, on First Reading, Ordinance No. 2011-24, an Ordinance of the City of Tomball, Texas, Providing for the Taxation of Tangible Personal Property in Transit, which would otherwise be Exempt from Taxation Pursuant to Texas Tax Code, Section 11.253; Repealing all Ordinances or Parts of Ordinances Inconsistent or In Conflict Herewith; and Providing for Severability.

Consideration of Ordinance No. 2011-24 postponed.

- 7.8 Rodney Schmidt presented the staff report on **ZONING CASE P11-354**: Request by Abandoned Animal Rescue to amend the City's Comprehensive Zoning Ordinance to rezone approximately 5 acres of land, legally described as Lot 61, Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located northerly of Hufsmith Road, westerly of the unimproved Neal Street right-of-way, from the Single-Family Estate Residential-20 District to the Agricultural District.
- Mayor Fagan opened the Public Hearing on **ZONING CASE P11-354** at 6:39 p.m.; the following public comments were received:

|                                                                     |                                                                                                    |
|---------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| Pat Mackinnon<br>Executive Director, AAR<br>23310 Oak Hollow, 77377 | - Expressed her support for the rezoning request.                                                  |
| Angie Fenton<br>10102 Crestwater Circle, 77354                      | - Requested that Ms. Mackinnon speak on her behalf regarding her support for the rezoning request. |
| Louise Owens<br>503 E. Hufsmith, 77375                              | - Expressed her opposition to the rezoning request.                                                |
| George O. Rager<br>22123 Rosewood Trail, 77377                      | - Expressed his support for the rezoning request.                                                  |

No further public comments being received, Mayor Fagan closed the public hearing at 6:48 p.m.

- Motion was made by Councilman Townsend, second by Councilman Brown, to read Ordinance No. 2011-25 by caption only on First Reading.

Motion carried unanimously.

Motion was made by Councilman Stoll, second by Councilman Townsend, to adopt on First Reading, Ordinance No. 2011-25, an Ordinance of the City of

Tomball, Texas, Amending its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 5 acres of land, legally described as lot 61, Tomball Outlots, 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 Hufsmith Road, Westerly of the unimproved Neal Street Right-of-Way; 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>Aye</u> |
| Councilman Brown    | <u>Aye</u> |

Motion carried unanimously.

- 7.9 Rodney Schmidt presented the staff report on **ZONING CASE P11-359**: Request by Richard Middleton, on behalf of M.H.B. Holdings LLC, for a Conditional Use Permit to operate a “Carpet and Rug Cleaning Plant.” The property is an approximately 0.3214 acre site, legally described as Lot 2, Block 66, Tomball Townsite Amending Plat, generally located on the westerly side of Live Oak Street, northerly of Main Street at 212 East Main Street, Tomball, Texas. The site is located in the Old Town & Mixed Use District.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P11-359** at 7:08 p.m.; the following public comment was received:

|                                    |                                                  |
|------------------------------------|--------------------------------------------------|
| Donald Downey<br>29918 Keen, 77377 | - Expressed his support for the rezoning request |
|------------------------------------|--------------------------------------------------|

No further public comments being received, Mayor Fagan closed the public hearing at 7:14 p.m.

- Motion was made by Councilman Stoll, second by Councilman Brown, to read Ordinance No. 2011-26 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. 2011-26, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by granting a Conditional

Use Permit to M.H.B. Holdings LLC, to operate a “carpet and rug cleaning plant”; Said tract being an approximately 0.3214 acre site, and being legally described as lot 2, block 66, Tomball Townsite Amending Plat, generally located on the Westerly side of Live Oak Street, Northerly of Main Street at 212 East Main Street, Tomball, Texas; 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 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 Motion was made by Councilman Townsend, second by Councilman Dodson, to adjourn.

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this 7th day of November 2011.

Doris Speer  
Doris Speer, TRMC  
City Secretary

Gretchen Fagan  
Gretchen Fagan  
Mayor