

**NOTICE OF REGULAR CITY COUNCIL MEETING  
CITY OF TOMBALL, TEXAS**



**MONDAY, DECEMBER 21, 2015**

**6:00 P.M.**

**Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, December 21, 2015 at 6:00 P.M., City Hall, 401 Market Street, Tomball, Texas 77375, for the purpose of considering the following agenda items. All agenda items are subject to action. The Tomball City Council reserves the right to meet in a closed session for consultation with attorney on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.**

1.0 Call to Order

2.0 Invocation

- Led by Pastor Kenny Rodgers, Anointed Faith Family

3.0 Pledges to U.S. and Texas Flags

- Led by Members of the Tomball High School Student Council

4.0 Public Comments and Receipt of Petitions *[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Council/Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in*

*accordance with law.]*

5.0 Reports and Announcements

- December 24-25, 2015 – Christmas Holiday – City Offices closed
- January 1, 2016 – New Year's Day Holiday – City Offices closed
- January 9, 2016 – **2nd Saturday at the Depot**
- Reports by City staff and members of council about items of community interest on which no action will be taken:
  - Denise Fiore – Report on the success of the ***Christmas on Commerce, a 2nd Saturday Event*** event

6.0 Approve the Minutes of the December 7, 2015 Special Joint City Council and TEDC Meeting and the December 7, 2015 Regular City Council Meeting

7.0 New Business:

- 7.1 Award Contract for Project Number 2016-02 - Sale of Improvements Located at 100 Florence Street
- 7.2 Approve Resolution No. 2015-27, a Resolution of the City Council of the City of Tomball, Texas, Supporting the Annual Baseball Parade, to be held in Tomball on Saturday, March 5, 2016
- 7.3 Consideration and Possible Action to Initiate Contemplated Litigation Related to Collection of Hotel Occupancy Taxes Held by KCC, International, LLC, Operating as the La Quinta Inn & Suites for the La Quinta Inn & Suites located at 14000 Medical Complex Drive in Tomball
- 7.4 Approve and Ratify the Assignment of Development Agreement regarding the Assignment of Annual Assessment Collections for PID No. 5, Yaupon Trails (The Development Agreement is "Yaupon Trails" and the Assignment Agreement is "Youpon Trails".)
- 7.5 Update on Status of Recommendations Made as Part of the Community Development Department Development Review Process Evaluation
- 7.6 Consideration to approve **ZONING CASE P15-0122**: Request by the City of Tomball to amend Section 50-82 (b) ("Use Charts") of the Tomball Code of Ordinances by adding "Reception venue" as an additional land use in the City of Tomball.
  - Conduct Public Hearing on **ZONING CASE P15-0122**
  - Adopt, on First Reading, Ordinance No. 2015-25, an Ordinance of the City of Tomball, Texas, Amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by Amending Section 50-82 (b) ("Use Charts") to Add a Land Use and Associated Regulations for "Reception Venue";

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.

8.0 Adjournment

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 17th day of December 2015 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Doris Speer\_\_\_\_\_

Doris Speer  
City Secretary, TRMC

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please feel free to contact the City Secretary's office at (281) 290-1002 or FAX (281) 351-6256 for further information.

AGENDAS MAY ALSO BE VIEWED ONLINE AT [www.ci.tomball.tx.us](http://www.ci.tomball.tx.us).

Regular City Council  
Agenda Item  
Data Sheet

Meeting Date: December 21, 2015

**Topic:**

- Led by Pastor Kenny Rodgers, Anointed Faith Family

**Background:**

**Origination:**

**Recommendation:**

**Funding:**

**Party(ies) responsible for placing this item on agenda:**

| ACTION TAKEN                                             |                                                                                   |       |
|----------------------------------------------------------|-----------------------------------------------------------------------------------|-------|
| APPROVAL                                                 | READINGS PASSED                                                                   | OTHER |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> 1 <sup>ST</sup> <input type="checkbox"/> 2 <sup>ND</sup> |       |

Regular City Council  
Agenda Item  
Data Sheet

Meeting Date: December 21, 2015

**Topic:**

- Led by Members of the Tomball High School Student Council

**Background:**

**Origination:**

**Recommendation:**

**Funding:**

**Party(ies) responsible for placing this item on agenda:**

| ACTION TAKEN                                             |                                                                                   |       |
|----------------------------------------------------------|-----------------------------------------------------------------------------------|-------|
| APPROVAL                                                 | READINGS PASSED                                                                   | OTHER |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> 1 <sup>ST</sup> <input type="checkbox"/> 2 <sup>ND</sup> |       |

# Regular City Council Agenda Item Data Sheet

Meeting Date: December 21, 2015

## Topic:

- December 24-25, 2015 – Christmas Holiday – City Offices closed
- January 1, 2016 – New Year's Day Holiday – City Offices closed
- January 9, 2016 – **2nd Saturday at the Depot**
- Reports by City staff and members of council about items of community interest on which no action will be taken:
  - Denise Fiore – Report on the success of the *Christmas on Commerce, a 2nd Saturday Event* event

## Background:

## Origination:

## Recommendation:

## Funding:

## Party(ies) responsible for placing this item on agenda:

| ACTION TAKEN                                             |                                                                                   |       |
|----------------------------------------------------------|-----------------------------------------------------------------------------------|-------|
| APPROVAL                                                 | READINGS PASSED                                                                   | OTHER |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> 1 <sup>ST</sup> <input type="checkbox"/> 2 <sup>ND</sup> |       |

# Regular City Council Agenda Item Data Sheet

Meeting Date: December 21, 2015

**Topic:**

Approve the Minutes of the December 7, 2015 Special Joint City Council and TEDC Meeting and the December 7, 2015 Regular City Council Meeting

**Background:****Origination:**

City Secretary

**Recommendation:**

N/A

**Funding:****Party(ies) responsible for placing this item on agenda:**

City Secretary

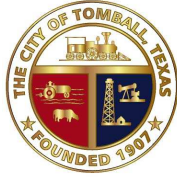
| ACTION TAKEN                                             |                                                                                   |       |
|----------------------------------------------------------|-----------------------------------------------------------------------------------|-------|
| APPROVAL                                                 | READINGS PASSED                                                                   | OTHER |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> 1 <sup>ST</sup> <input type="checkbox"/> 2 <sup>ND</sup> |       |

**ATTACHMENTS:**

Draft Minutes - December 7, 2015 Special Joint City Council and TEDC Meeting

Draft Minutes - December 7, 2015 Regular City Council Meeting

**MINUTES OF THE SPECIAL JOINT TOMBALL CITY COUNCIL  
AND TOMBALL ECONOMIC DEVELOPMENT CORPORATION  
MEETING  
CITY OF TOMBALL, TEXAS**



**MONDAY, DECEMBER 7, 2015**

**5:00 P.M.**

**1.0 Call to Order**

The Council meeting was called to order at 5:01 p.m. by Mayor Fagan. Other members present:

Councilman Hudgens  
Councilman Klein Quinn  
Councilman Townsend  
Councilman Degges  
Councilman Stoll

The Tomball Economic Development Corporation meeting was called to order at 5:02 p.m. by President Fagan. Other members present:

Board Member Richard Bruce  
Board Member Vincent O'Donnell  
Board Member Bill Sumner  
Board Member Lori Klein Quinn

Others present:

City Manager – George Shackelford  
Assistant City Manager – Robert Hauck  
City Secretary – Doris Speer  
City Attorney – Loren Smith  
Finance Director – Glenn Windsor  
Director of Community Development – Craig Meyers  
City Engineer – Lori Lakatos  
Executive Director-TEDC – Kelly Violette  
CSO Administrative Assistant – Tracy Garcia

**2.0 No Public Comments were received.**

3.0 New Business:

3.1 Executive Session: The Tomball City Council and the Tomball Economic Development Corporation recessed at 5:02 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. 551.087 – Deliberations Regarding Economic Development

Upon reconvening into special session at 5:54 p.m., no action was taken.

3.0 Motion was made by Board Member Bill Sumner, second by Board Member Lori Klein Quinn, to adjourn the Tomball Economic Development Corporation meeting.

Motion carried unanimously.

Motion was made by Councilmember Townsend, second by Councilmember Stoll, to adjourn the Tomball City Council meeting.

Motion carried unanimously.

Meetings were adjourned.

PASSED AND APPROVED this the \_\_\_\_\_ day of \_\_\_\_\_ 2015.

\_\_\_\_\_  
Doris Speer, TRMC, CMC  
City Secretary

\_\_\_\_\_  
Gretchen Fagan  
Mayor

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



**MONDAY, DECEMBER 7, 2015**

**6:00 P.M.**

**1.0 Call to Order**

The Council meeting was called to order at 6:03 p.m. by Mayor Fagan. Other members present:

Councilman Hudgens  
Councilman Klein Quinn  
Councilman Townsend  
Councilman Degges  
Councilman Stoll

Others present:

City Manager – George Shackelford  
Assistant City Manager – Robert Hauck  
City Secretary – Doris Speer  
City Attorney – Loren Smith  
Police Chief – Billy Tidwell  
Fire Chief – Randy Parr  
Marketing Director – Mike Baxter  
Finance Director – Glenn Windsor  
Public Works Director – David Esquivel  
Director of Community Development – Craig Meyers  
City Engineer – Lori Lakatos  
City Planner – Harold Ellis  
Executive Director-TEDC – Kelly Violette  
Chief-NWEMS – Brian Bayani  
CSO Administrative Assistant – Tracy Garcia

**2.0** The invocation was led by Bruce Hillegeist, President, Greater Tomball Area Chamber of Commerce.

**3.0** The pledges to U. S. and Texas Flags were led by Dylan Morgan, Member of the Tomball High School Student Council.

4.0 The following public comments were received:

- |                                                 |   |                                                                                                                             |
|-------------------------------------------------|---|-----------------------------------------------------------------------------------------------------------------------------|
| Bill Sumner<br>12321 Zion Road, 77375           | - | Expressed his dissatisfaction with increased traffic and speeding on Zion; requested this issue be addressed.               |
| Jim Ross<br>30722 Country Meadows Dr.<br>77375  | - | Introduced himself to Council; expressed his interest in being appointed to the Tomball Regional Health Foundation.         |
| Bruce Hillegeist<br>29201 Quinn Road, 77375     | - | Thanked City for support in the success of the 50th Annual Holiday Parade and introduced Hannah Carroll, 2016 Miss Tomball. |
| Marvin Rathke<br>13419 Lost Creek Road<br>77375 | - | Expressed his opposition to Item 8.7, Bethel Estates Plat and concerns regarding drainage.                                  |

5.0 Reports and Announcements:

Mayor Fagan presented the Blue Star Flag to Jimmy Whitehead and Tami Seay, parents of Captain Cara Leigh Grausam, and welcomed Captain Grausam and her husband, Gene Grausam, to Tomball.

- December 11-13, 2015 – **2015 Tomball German Christmas Market**
- December 12, 2015 – ***Christmas on Commerce*** – a **2<sup>nd</sup> Saturday at the Depot** Event, from 10:00 a.m.-5:00 p.m.
- December 24-25, 2015 – Christmas Holiday – City Offices closed
- January 1, 2016 – New Year's Day Holiday – City Offices closed
- January 9, 2016 – 2nd Saturday at the Depot
- Reports by City staff and members of Council about items of community interest on which no action will be taken:
  - Billy Tidwell presented a report on the success of the ***"True to the Blue – Our Cops are Tops" at the Depot.***
  - Mike Baxter presented a report on the success of the 3<sup>rd</sup> Annual ***Lamp Post Decorating Contest and "Lamp Post Stroll"***

6.0 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve the Minutes of the November 16, 2015 Regular City Council Meeting.

Motion carried unanimously.

7.0 Old Business:

- 7.1 Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt, on Second Reading, Ordinance No. 2015-24, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of

Ordinances by Granting a Conditional Use Permit (CUP) to Spring Creek County Historical Association to Operate a “Museum”; said Property being Approximately 2.4 Acres, and being Legally Described as Lots 1, 2, 9-16, Block 48, the Southwesterly 20 Feet of Lot 3, and All of Lots 4 – 6, Block 102, Revised Map of Tomball, Recorded under Volume 4 Page 25, of the Map Records of Harris County, Texas; and Lot 8A, a Subdivision as Shown on Map or Plat Recorded under Film Code Number 598155, of the Map Records of Harris County, Texas, generally Located at the Corner of Epps Street and N. Pine Street; Providing Requirements and Conditions for This CUP; 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 Degges      | <u>Aye</u> |
| Councilman Townsend    | <u>Aye</u> |
| Councilman Klein Quinn | <u>Aye</u> |

Motion carried unanimously.

8.0 New Business:

- 8.1 Motion was made by Councilman Stoll, second by Councilman Degges, to appoint Jim Ross to fill the vacancy on the Tomball Regional Health Foundation for the term expiring September 1, 2017.

Motion carried unanimously.

- 8.2 Motion was made by Councilman Hudgens, second by Councilman Stoll, to approve, as a Project of the Corporation, an agreement with Rock Materials to make direct incentives to, or expenditures for, the creation or retention of primary jobs associated with the relocation and development of its operations to be located at 13315 Theis Ln., Tomball, Texas. The estimated amount of expenditures for such Project is \$111,000.00.

Motion carried unanimously.

- 8.3 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve the Bylaws of the Tomball B&TP Property Owners Association, Inc. related to the Tomball Business and Technology Park, a Project of the Tomball Economic Development Corporation.

Motion carried unanimously.

- 8.4 Motion was made by Councilman Townsend, second by Councilman Degges, to approve, as a Project of the Corporation, an agreement with White Horse

Technology LLC to make direct incentives to, or expenditures for, the creation or retention of primary jobs associated with the relocation and development of its operations to be located at 1626 S. Cherry Street, Tomball, Texas. The estimated amount of expenditures for such Project is \$72,000.00.

Motion carried unanimously.

- 8.5 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve the request from Mr. and Mrs. Bobby Talbott for Gas Service at 12704 Zion Road, located outside the City of Tomball, Without Annexation.

Motion carried unanimously.

- 8.6 Motion was made by Councilman Townsend, second by Councilman Klein Quinn, to authorize the Mayor to execute a contract with Harris County Emergency Services District # 15 for 15 year Term, Expiring December 31, 2030. Vote was as follows:

|                        |            |
|------------------------|------------|
| Councilman Hudgens     | <u>Aye</u> |
| Councilman Stoll       | <u>Nay</u> |
| Councilman Degges      | <u>Aye</u> |
| Councilman Townsend    | <u>Aye</u> |
| Councilman Klein Quinn | <u>Aye</u> |

Motion carried, 4 votes Aye, 1 vote Nay.

- 8.7 Motion was made by Councilman Townsend, second by Councilman Hudgens, to approve BETHEL HEIGHTS: Being a Replat of Hunterwood Estates, a Subdivision of 26.7141 Acres of Land Situated in the Joseph House Survey, Abstract Number 34, of Harris County, Texas, and Abstract Number 20, of Montgomery County, Texas, Being a Replat of Hunterwood Estates, a Subdivision According to the Map or Plat Thereof Recorded in Film Code Number 603231, of the Map Records of Harris County, Texas, and Recorded in Cabinet Z, Sheet 580, of the Map Records of Montgomery County, Texas, Being the Same Land as Described in Deed Recorded Under Clerk's File Number 20130603237, of the Real Property Records of Harris County, Texas. Vote was as follows:

|                        |            |
|------------------------|------------|
| Councilman Hudgens     | <u>Aye</u> |
| Councilman Stoll       | <u>Aye</u> |
| Councilman Degges      | <u>Aye</u> |
| Councilman Townsend    | <u>Nay</u> |
| Councilman Klein Quinn | <u>Nay</u> |

Motion carried, 3 votes Aye, 2 votes Nay.

- 8.8 Motion was made by Councilman Hudgens, second by Councilman Stoll, to award Contract for Bid Number 2016-05 for Vactor Services & Regular Maintenance of Sewer System Components to Source Point Solutions.

Motion carried unanimously.

- 8.9 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve the RFQ selection Process and authorize entering into negotiations with Freese and Nichols, Inc. for the Critical Needs Assessment and CNN Application.

Motion carried unanimously.

- 8.10 Council recessed at 7:58 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. 551.071 - Consultation with the City Attorney regarding a matter that the Attorney's duty requires to be discussed in closed session.
- Sec. 551.072 – Deliberations Regarding the Purchase, Exchange, Lease, or Value of Real Property

Upon reconvening in regular session at 8:24 p.m., no action was taken.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this the 21st day of December 2015.

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Doris Speer, TRMC, CMC  
City Secretary

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Gretchen Fagan  
Mayor

# Regular City Council

## Agenda Item

### Data Sheet

Meeting Date: December 21, 2015

**Topic:**

Award Contract for Project Number 2016-02 - Sale of Improvements Located at 100 Florence Street

**Background:**

In an effort to sell the improvements at 100 Florence St. and to have them moved from the property for the expansion of the Railroad Museum, the City solicited bids to secure the most favorable pricing. In addition to standard bid advertising, bid packets were made available at the Public Works Administration Building and three qualified bids were received. The highest qualified bid offered \$10,352.00 for the house and an additive bid of \$1,052.00 for the metal pole barn for a total bid of \$11,404.00

**Origination:****Recommendation:**

Public Works staff recommends awarding contract for bid number 2016-02 Sale of Improvements at 100 Florence St. to Craig Swinghammer

**Funding:****Party(ies) responsible for placing this item on agenda:**

Public Works Department

| ACTION TAKEN                                             |                                                                                   |       |
|----------------------------------------------------------|-----------------------------------------------------------------------------------|-------|
| APPROVAL                                                 | READINGS PASSED                                                                   | OTHER |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> 1 <sup>ST</sup> <input type="checkbox"/> 2 <sup>ND</sup> |       |

**ATTACHMENTS:**

Bid Tabulation

**Bid Number 2016-02 - Sale of Improvements at 100 Florence St****Bid Tabulation**

| <b>Craig Swinghammer</b> |                     |                  |
|--------------------------|---------------------|------------------|
| <b>Base Bid</b>          | <b>Add/ Alt Bid</b> | <b>Total Bid</b> |
| \$10,352.00              | \$1,052.00          | \$11,404.00      |

| <b>Carol Janisch</b> |                    |                  |
|----------------------|--------------------|------------------|
| <b>Base Bid</b>      | <b>Add/Alt Bid</b> | <b>Total Bid</b> |
| \$10,520.00          | \$0.00             | \$10,520.00      |

| <b>Kathleen Sipe</b> |                    |                  |
|----------------------|--------------------|------------------|
| <b>Base Bid</b>      | <b>Add/Alt Bid</b> | <b>Total Bid</b> |
| \$6,000.00           | \$0.00             | \$6,000.00       |

# Regular City Council

## Agenda Item

Meeting Date: December 21, 2015

## Data Sheet

### Topic:

Approve Resolution No. 2015-27, a Resolution of the City Council of the City of Tomball, Texas, Supporting the Annual Baseball Parade, to be held in Tomball on Saturday, March 5, 2016

### Background:

The Tomball Sports Association requests approval of Resolution No. 2015-27, expressing the City's support of the annual baseball parade, which will be held on Saturday, March 5, 2016. This Resolution is required for submission of TSA's Traffic Control Plan to the Texas Department of Transportation.

The parade will begin on the east side of Tomball Intermediate School, located at the intersection of South Vernon and Main Street (FM 2920), entering School Street, continuing east on Main Street (FM 2920), turning north on Elm Street, and finishing at the Little League Park, located in the Wayne Stovall Sports Complex.

As information regarding the cost of City-provided support services, this is considered a short, simple event, using a 'rolling barricade', and costs are approximately 15% the cost of a normal parade event. The estimated cost for the Public Works Department is \$300 and for the Police Department is \$550 for personnel to manage the parade. In addition, the Fire Department removes one or two vehicles from service to use in the parade as the "rolling barricade," either the tanker and the tower or the tower and the old city pumper. A minimum of two firefighters accompany each vehicle; the estimated total cost of personnel and fuel is \$250.

### Origination:

Tomball Sports Association

### Recommendation:

Approve Resolution No. 2015-27

### Funding:

### Party(ies) responsible for placing this item on agenda:

City Secretary

| ACTION TAKEN                                             |                                                                                   |       |
|----------------------------------------------------------|-----------------------------------------------------------------------------------|-------|
| APPROVAL                                                 | READINGS PASSED                                                                   | OTHER |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> 1 <sup>ST</sup> <input type="checkbox"/> 2 <sup>ND</sup> |       |

### ATTACHMENTS:

Resolution No. 2015-27

TSA Request Letter

**RESOLUTION NO. 2015-27**

**A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF TOMBALL, TEXAS, SUPPORTING THE  
ANNUAL BASEBALL PARADE, TO BE HELD IN  
TOMBALL ON SATURDAY, MARCH 5, 2016.**

\* \* \* \* \*

**WHEREAS** the Tomball Sports Association will undertake its Annual Baseball Parade to kick off the Spring 2016 baseball season, to be held in the City of Tomball at 9:00 a.m. on Saturday, March 5, 2016; and

**WHEREAS** the purpose of the Annual Baseball Parade is to celebrate the beginning of the baseball season and provide an event for our community and the children who enjoy sports; and

**WHEREAS** it is a chance for Tomball area merchants and business people to come out and encourage our young people by attending the Annual Baseball Parade; and

**WHEREAS** the Annual Baseball Parade will begin on the east side of Tomball Intermediate School, located at the intersection of South Vernon and Main Street (FM 2920), entering School Street, then continuing east on Main Street (FM 2920), turning north on Elm Street, and finishing at the Little League Park, located in the Wayne Stovall Sports Complex; and

**WHEREAS** the Tomball Sports Association desires and requests the support and endorsement of the City of Tomball in this community-wide effort;

**NOW, THEREFORE, BE IT RESOLVED** that the City of Tomball and its governing body endorses and supports the efforts of the Tomball Sports Association in promoting and undertaking the Annual Baseball Parade and pledge to encourage this effort to celebrate the beginning of baseball season;

**PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL HELD ON THE 21ST DAY OF DECEMBER 2015.**

\_\_\_\_\_  
GRETCHEN FAGAN, Mayor

ATTEST:

\_\_\_\_\_  
Doris Speer, City Secretary



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**TOMBALL SPORTS ASSOCIATION**

Tomball Little League  
PO BOX 1084  
Tomball, TX 77377

December 8, 2015

Honorable Gretchen Fagan  
City of Tomball Mayor  
401 Market Street  
Tomball, Texas 77375

Dear Mayor Fagan,

This letter is a request for the Tomball City Council to approve a resolution in favor of Tomball Sports Association's Annual Opening Day Parade. This family favorite event kicks off the Spring 2015 baseball season for our players and their families. The parade will be held in Tomball city limits, on Saturday, March 5, 2015, beginning at 9:00am. This coming year, the parade will start at the intersection of School Street (at Tomball Intermediate School) and Main Street (FM2920) and will continue east on Main Street (FM2920), to turn north onto N. Elm Street and finish at the Wayne Stovall Little League baseball park. In its entirety, we expect the parade to last approximately 45 minutes.

We appreciate the City of Tomball's past and ongoing support of our Little League Baseball program. Please contact me with any questions.

Sincerely,

Kari Griggs Martin  
Tomball Sports Association  
Grand Slam Coordinator  
979.218.6175

cc: Billy Tidwell, Tomball Police Department  
David Esquivel, Director of Public Work

# Regular City Council

## Agenda Item

Meeting Date: December 21, 2015

## Data Sheet

### **Topic:**

Consideration and Possible Action to Initiate Contemplated Litigation Related to Collection of Hotel Occupancy Taxes Held by KCC, International, LLC, Operating as the La Quinta Inn & Suites for the La Quinta Inn & Suites located at 14000 Medical Complex Drive in Tomball

### **Background:**

Over the past two years the City has had audits performed by the firm Muni Services to ensure compliance with the local occupancy tax ordinance.

This past year, the La Quinta Inn was audited for the periods of January 1, 2011 through December 31, 2014 and a deficiency in the amount of \$ 27, 056.91 was discovered. A copy of the deficiency letter is attached.

In addition to the audit deficiency, the La Quinta Inn is delinquent in the remittance of the 7% local occupancy tax to the City for the past three quarters which include those ending March 31, June 30, and September 30.

Based upon the amount of rent income that was reported to the State, the amount of local occupancy tax due to the City of Tomball at this time is \$ 97,765.03.

The total amount due to the City of Tomball is \$ 124,821.94 (including penalty and interest) with another quarter closing December 31.

City staff contacted LaQuinta numerous times in the past months. Staff in making attempts to obtain compliance, developed a payment agreement which LaQuinta representatives signed and agreed to all payments of the fees owed. LaQuinta has failed to comply with the written agreement as well as verbal commitments to make payments.

### **Origination:**

Finance

### **Recommendation:**

Authorize the City Attorney to proceed with any action that would ensure recovery of amounts due to the citizens of Tomball.

### **Funding:**

### **Party(ies) responsible for placing this item on agenda:**

Glenn Windsor, CPA Finance Director

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### **ACTION TAKEN**

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|                                                                             |                                                                                                             |              |
|-----------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|--------------|
| <b>APPROVAL</b><br><input type="checkbox"/> YES <input type="checkbox"/> NO | <b>READINGS PASSED</b><br><input type="checkbox"/> 1 <sup>ST</sup> <input type="checkbox"/> 2 <sup>ND</sup> | <b>OTHER</b> |
|-----------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|--------------|

**ATTACHMENTS:**

La Quinta Inn Deficiency Letter



## 2) LA QUINTA INN & SUITES

**Review date:** March 10<sup>th</sup>, 2015

**Review period:** January 1<sup>st</sup>, 2011 through December 31<sup>st</sup>, 2014 (48 Months)

### Review findings

- Property did not have all documentation readily available for audit. Auditor gave hotel additional time to supply back-up documentation for exemptions claimed.
- Auditor received exemption certificates as back-up for exemptions claimed. However, the Certificates were for Religious and Education organizations, which are only exempt from State HOT. Also, the property did not provide copies of the folios
- The audit was originally scheduled for March 10<sup>th</sup>, 2015. Property was not ready for the audit upon arrival. Auditors allowed additional time (Deadline of April 22<sup>nd</sup>, 2015) to supply the back-up documentation to validate \$386,527.22 in Exempt Rent claimed over a 48 month period, and the property failed to comply.

### Deficiencies identified

- Failure to provide proof of receipts to validate \$386,527.22 of exempt rent.

**Deficiency amount:** \$27,056.91

### Characteristics

|                            |                                                      |
|----------------------------|------------------------------------------------------|
| <b>Number of rooms:</b>    | 67                                                   |
| <b>Average daily rate:</b> | \$106.00                                             |
| <b>Occupancy rate:</b>     | 72%                                                  |
| <b>Gross rents:</b>        | \$6,854,111.70 (Under reported \$59,145.58 to State) |

### Data collected and hotel-supplied property records reviewed:

- Monthly Reports
- Exemption Certificates

# Regular City Council

## Agenda Item

Meeting Date: December 21, 2015

## Data Sheet

### Topic:

Approve and Ratify the Assignment of Development Agreement regarding the Assignment of Annual Assessment Collections for PID No. 5, Yaupon Trails (The Development Agreement is "Yaupon Trails" and the Assignment Agreement is "Youpon Trails".)

### Background:

A development agreement is in place between the City of Tomball and the developer, whereby the City has agreed to collect the annual assessment payments at the same time as property taxes (or provide for the collection of the assessment through the Harris County tax office) and then convey the assessment revenue to the developer annually as a reimbursement for the infrastructure costs detailed in the agreement.

The developer is requesting that there be an assignment of those annual assessment collections to another entity, which is allowable under the agreement subject to the City's consent.

### Origination:

Finance

### Recommendation:

Staff recommends approval of the assignment.

### Funding:

### Party(ies) responsible for placing this item on agenda:

Glenn Windsor, CPA Finance Director

| ACTION TAKEN                                             |                                                                                   |       |
|----------------------------------------------------------|-----------------------------------------------------------------------------------|-------|
| APPROVAL                                                 | READINGS PASSED                                                                   | OTHER |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> 1 <sup>ST</sup> <input type="checkbox"/> 2 <sup>ND</sup> |       |

### ATTACHMENTS:

Youpon Trails Assignment Agreement

Yaupon Trails Development Agreement

**ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT  
AND CONSENT TO ASSIGNMENT OF PID AGREEMENT**

The undersigned, CITY OF TOMBALL, a municipal corporation and a home-rule city in the State of Texas ("City"), does hereby acknowledge its receipt of the notice of Security Agreement effective as of the 3 day of December, 2015, executed by YOUPON TRAILS LTD., LLC, a Texas limited liability company ("Debtor") in favor of GREEN BANK, N.A. ("Secured Party").

The "PID Agreement Proceeds" (as said term is defined in Section 1.1 of the Security Agreement) referenced herein arise from that certain Development Agreement between Debtor and the City dated the ~~6th~~ <sup>16th</sup> day of March, 2015 (the "PID Agreement").

By its execution of this Acknowledgment, the City acknowledges that all of the "PID Agreement Proceeds" have been assigned to Secured Party by Debtor in connection with a loan from Secured Party to Debtor. The City further acknowledges that all such PID Agreement Proceeds should be remitted directly to Secured Party and not to Debtor or any other party, person or entity without the prior express written consent of Secured Party.

Debtor hereby represents and warrants that it has not assigned or attempted to assign any of its right, title, interest, estate, or benefit in and under the PID Agreement Proceeds arising out of the PID Agreement and which are assigned by the Assignment to any other person or entity, other than Secured Party. In consideration of the City's execution of this Acknowledgment, Debtor hereby agrees to pay all reasonable attorneys' fees and expenses incurred by the City and arising out of or in any way related to Debtor's breach of the foregoing representation and warranty.

Secured Party hereby represents and warrants that, with respect to the property described in the attached **Exhibit "A"**, it will not assign or attempt to assign the PID Agreement Proceeds and/or any of its right, title, interest or benefit in and under the PID Agreement unless such assignment strictly complies with the terms of such PID Agreement. In consideration of the City's execution of this Acknowledgment, Secured Party hereby agrees to (i) pay all reasonable attorneys' fees and expenses incurred by the City and arising out of or in any way related to Secured Party's breach of the foregoing representation and warranty, and (ii) immediately return to the City any sum or sums paid by the City to Secured Party upon the final determination by a court of competent jurisdiction that Secured Party was not the party to which such sum or sums were due and payable.

The foregoing representations, warranties, and covenants running in favor of the City are specifically intended to cover all costs of the City for any future litigation, including reasonable attorneys' fees and expenses, other defense costs, and the costs of enforcing the indemnities and hold harmless agreements.

This Acknowledgment may be executed in several counterparts, each of which will be deemed to be an original, and each of which alone and all of which together, shall constitute one and the same instrument, but in making proof of this Acknowledgment it shall not be necessary to produce or account for each copy of any counterpart other than the counterpart signed by the party

against whom this Acknowledgment is to be enforced. This Acknowledgment may be transmitted by facsimile, and it is the intent of the parties for the facsimile of any autograph printed by a receiving facsimile machine to be an original signature and for the facsimile and any complete photocopy of the Acknowledgment to be deemed an original counterpart.

Executed effective as of the 3 day of December, 2015

**ATTESTED:**

CITY OF TOMBALL

By: Betsy Gates  
Name: BETSY GATES  
Title: ASST. CITY SECRETARY

**AGREED AND ACCEPTED:**

CITY OF TOMBALL

By: Robert Hawk  
Name: ROBERT HAWK  
Title: Asst. City Manager

**DEBTOR:**

YOUPON TRAILS LTD., LLC

By: Jean Michael Rebesch  
Jean Michael Rebesch, Managing Member

## **EXHIBIT "A"**

All of YAUPON TRAILS, SECTION 1, a subdivision in Harris County, Texas, according to the map or plat thereof, recorded under Film Code No. 674025 of the Map Records of Harris County, Texas

## **DEVELOPMENT AGREEMENT**

This Development Agreement (this "*Agreement*") is made as of March 16, 2015, by and between the **CITY OF TOMBALL**, a municipal corporation and a home-rule city in the State of Texas (the "*City*"), and **Yaupon Trails LTD LLC** a Texas limited liability company (the "*Developer*").

### **RECITALS**

**WHEREAS**, in accordance with the provisions of Chapter 372, TEX. LOCAL GOV'T CODE, and Resolution No. 2015-05, the City Council of the City of Tomball created the Public Improvement District Number Five (the "*PID*") pursuant to the petition for creation from the owner thereof; and

**WHEREAS**, the City Council of the City has determined that it is in the best interest of the City and the land within the PID to finance the construction of certain PID Improvements (defined below) and that an assessment against the benefited property within the PID should be made; and

**WHEREAS**, the Developer is the owner of certain property within the PID described in Exhibit A and B, and wishes to finance and construct certain PID projects; and

**WHEREAS**, the Developer intends to assist the City in the financing and construction of the PID Improvements, in exchange for the City's agreement to reimburse the Developer in accordance with the terms of this Agreement; now, therefore,

### **AGREEMENT**

For and in consideration of the mutual promises, covenants, obligations, and benefits of this Agreement, the Developer contract and agree as follows:

#### **ARTICLE 1 GENERAL TERMS**

1.01 Definitions. The terms "*Agreement*," "*City*," "*Developer*," "*PID*," and "*PID Agreement*" have the meanings set forth in the preamble hereof, and the following terms shall have the meanings provided below, unless otherwise defined or the context clearly requires otherwise. For purposes of this Agreement, the words "shall" and "will" are mandatory, and the word "may" is permissive.

*Act* shall mean the Public Improvement District Assessment Act, Chapter 372, TEX. LOCAL GOV'T CODE, as amended.

*Assessments* shall mean assessments levied and collected in connection with the PID pursuant to the Act and the Plan, and deposited by the City into a PID Revenue Fund.

*Developer Advances* shall mean any funds advanced by the Developer pursuant to **Section 5.01**, and shall include any interest payable thereon.

*Net Assessments* shall mean the annual deposits of the Assessments into the PID Revenue Fund, less amounts reasonably required or anticipated to be required for the administration and operation of the PID in carrying out its responsibilities hereunder, including a reasonable operating reserve.

*Parties* or *Party* shall mean the City, and the Developer as parties to this Agreement.

*PID Improvements* shall mean the improvements described in **Article 3** hereof.

*PID Revenue Fund* shall mean the special fund established by the City and funded with payments made to the City pursuant to the PID.

*Plan* shall mean the final Service and Assessment Plan for the PID as approved by City Council in accordance with the Act.

*Project* shall mean the residential development within the PID projected to be carried out by the Developer described on Exhibit B.

1.02 Singular and plural; gender. Words used herein in the singular, where the context so permits, also include the plural and vice versa. The definitions of words in the singular herein also apply to such words when used in the plural where the context so permits and vice versa. Likewise, any masculine references shall include the feminine, and vice versa.

## **ARTICLE 2 REPRESENTATIONS**

2.01 Representations of the City. The City hereby represents that:

a. The City is duly authorized and is qualified to do business in the State of Texas and is duly qualified to do business wherever necessary to carry on the operations contemplated by this Agreement.

b. The City has the power, authority and legal right to enter into and perform its obligations set forth in this Agreement, and the execution, delivery and performance hereof, (i) have been duly authorized, (ii) will not, to the best of its knowledge, violate any judgment, order, law or regulation applicable to the City, and (iii) does not constitute a default under or result in the creation of, any lien, charge, encumbrance or security interest upon any assets of the City under any agreement or instrument to which the City is a party or by which the City or its assets may be bound or affected.

c. This Agreement has been duly authorized, executed and delivered and constitutes a legal, valid and binding obligation of the City, enforceable in accordance with its terms.

2.02. Representations of the Developer. The Developer hereby represents that:

a. The Developer is duly authorized, created and existing under the laws of the State of Texas, is qualified to do business in the State of Texas and is duly qualified to do business wherever necessary to carry on the operations contemplated by this Agreement.

b. The Developer has the power, authority and legal right to enter into and perform its obligations set forth in this Agreement, and the execution, delivery and performance hereof, (i) have been duly authorized, (ii) will not, to the best of its knowledge, violate any judgment, order, law or regulation applicable to the Developer or any provisions of the Developer's organizational documents, and (iii) does not constitute a default under or result in the creation of, any lien, charge, encumbrance or security interest upon any assets of the Developer under any agreement or instrument to which the Developer is a party or by which the Developer or its assets may be bound or affected.

c. The Developer has sufficient capital to perform its obligations under this Agreement and will commence construction of the Project within eighteen (18) months of execution of this Agreement.

d. This Agreement has been duly authorized, executed and delivered and constitutes a legal, valid and binding obligation of the Developer, enforceable in accordance with its terms.

### **ARTICLE 3 THE PLAN AND PID IMPROVEMENTS**

3.01 The PID Improvements. The PID Improvements are intended to enhance the proposed implementation of a development within the PID constituting the Project, as more fully described in the Plan.

3.02 PID Improvements description. The PID Improvements consist of acquisition, construction and development of the public improvements within the portion of the PID comprising the Project, as more fully described in Exhibit C, and as described in the Plan. The PID Improvements will be developed pursuant to a schedule consistent with the pace of development of the Project that is mutually agreeable to the Parties. The PID Improvements shall include all engineering, legal and other consultant fees and expenses related to such PID Improvements. The Developer shall be entitled to reimbursement of the project costs described in Exhibit C subject to the limitations contained in Section 3.03 of this agreement.

3.03 General terms of the Plan. The Plan has not yet been adopted by the City. The Parties anticipate that the Plan, at a minimum, will include the PID Improvements described above to serve the land within the PID, and such other facilities as may be agreed upon by the Parties, and that the Assessments shall be assessed in phases to affect only the portions of the PID directly benefited by the PID improvements to be financed by each Assessment. The Assessments shall be based upon the agreed-upon estimated costs of the Public Improvements as reflected in Exhibit C, plus those related costs as deemed reimbursable by the City; however, the Assessments in the Plan shall be formulated in a manner that generally conforms to the equivalent of a \$0.65 tax rate for properties covered by the Plan on a project-wide basis, and a maximum fifteen (15) year payment term for each property covered by the Plan.

3.04. Additional Projects. This Agreement does not apply to any projects not specifically included in the Plan and defined herein unless this Agreement is amended to provide for the design and construction of such additional projects.

#### **ARTICLE 4**

##### **DUTIES AND RESPONSIBILITIES OF THE DEVELOPER**

4.01 Construction manager. The Developer agrees to construct the PID Improvements and to provide and furnish, or cause to be provided and furnished, all materials and services as and when required in connection with the construction of the PID Improvements. The Developer will obtain all necessary permits and approvals from the City and all other governmental officials and agencies having jurisdiction, provide supervision of all phases of construction of the PID Improvements, provide periodic reports of such construction to the City upon request, and cause the construction to be performed in accordance with the Plan.

4.02 Design of the PID Improvements. The Developer shall prepare or cause to be prepared the plans and specifications for the PID Improvements. Prior to the commencement of construction or implementation of the PID Improvements, the plans and specifications must be approved by the City. The PID Improvements shall be designed in accordance with City standards applicable to similar public improvements within the City.

4.03 Construction contracts. The Developer shall prepare the PID Improvements construction contract documents to ensure that the contract documents are in accordance with the approved plans and specifications. The Developer shall comply with all laws and regulations regarding the bidding and construction of public improvements applicable to similar facilities constructed by the City, including without limitation any applicable requirement relating to payment, performance and maintenance bonds.

4.04. Construction and implementation of the PID Improvements. The Developer shall be responsible for the inspection and supervision of the construction and implementation of the PID Improvements.

a. The Developer shall commence construction of the PID Improvements in a timely fashion to coincide with the expected development of the Project.

b. Upon completion of a contract for the construction of the PID Improvements, the Developer shall provide the City with a final summary of all costs associated with such contract, and show that all amounts owing to contractors and subcontractors have been paid in full evidenced by customary affidavits executed by such contractors. Following completion of a construction contract, the Developer will call for inspection of the applicable PID Improvements by the City, and upon approval thereof as being in compliance with City standards relating thereto, the PID Improvements will be conveyed to the City, subject only to the right to reimbursement for Developer Advances with respect thereto.

## ARTICLE 5 PROJECT FINANCING AND FUNDING

### 5.01. The Developer Advances.

a. In connection with the construction of the PID Improvements the Developer has determined are required to be constructed to serve the Project, the Developer agrees to provide sufficient funds as such become due for all costs thereof (the "Developer Advances"), such as costs of design, engineering, materials, labor, construction, and inspection fees arising in connection with the PID Improvements, including all payments arising under any contracts entered into pursuant to this Agreement.

b. Interest on each Developer Advance shall accrue at a rate one-half of one percent above the highest average interest rate reported by *The Bond Buyer* newspaper in a weekly bond index in the month before the date of this agreement, compounded annually, whether such costs, fees, or expenses are paid or incurred before or after the effective date of this Agreement. The interest rate shall not exceed eight percent (8%). Interest shall be calculated on the basis of a year of 360 days and the actual days elapsed (including the first day but excluding the last day) occurring in the period for which such interest is payable, unless such calculation would result in a usurious rate, in which case interest shall be calculated on the per annum basis of a year of 365 or 366 days, as applicable, and the actual days elapsed (including the first day but excluding the last day).

### 5.02. Repayment of Developer Advances.

a. In consideration of the development and construction of the PID Improvements, the City shall begin repaying the Developer Advances, and shall continue such repayment until repaid in full, on the earliest date that funds are available from the following source, and solely from such source:

(i) the Net Assessments, subject to the limitations set forth in **subsection (c)**.

b. the City shall reimburse the Developer for Developer Advances, plus interest, from Net Assessments from the Project accumulated in the PID Revenue Fund available in accordance with the priorities described in **Section 5.03** below.

c. At such time as funds are available to pay all or any portion of the Developer Advances made hereunder, the City shall hire a certified public accountant at the Developer's expense to calculate the amount due the Developer and prepare and submit a report to the City certifying the amount due the Developer for the Developer Advances being repaid with interest calculated thereon. Such report shall be approved at the earliest practicable time, but not later than 90 days after submission by the Developer of the records required therefor. The City shall make payment to the Developer within 30 days of approval of the accountant's report.

5.03. Priorities. Amounts deposited in the PID Revenue Fund shall be applied in the following order of priority (i) administrative and operating costs of the PID, (ii) payments to the Developer pursuant to **Section 5.02**, above.

## **ARTICLE 6 DEFAULT**

### 6.01. Default.

a. If the City does not perform its obligations hereunder in substantial compliance with this Agreement, in addition to the other rights given the Developer under this Agreement, the Developer may enforce specific performance of this Agreement or seek actual damages incurred by the Developer for any such default.

b. If the Developer fails to commence or complete the PID Improvements or the Project in accordance with the terms of this Agreement, including the failure to fund Developer Advances or commence construction of the Project within eighteen (18) months, the City may terminate this Agreement with respect to its obligations to the Developer and shall be relieved of any obligation to reimburse the Developer for any Developer Advances or seek actual damages incurred for any such default.

c. The Party alleging default shall provide written notice to the other party of such default, and the defaulting party shall have 60 days to remedy the default prior to the declaration of any default hereunder.

## **ARTICLE 7 GENERAL**

7.01. Inspections, audits. The Developer agrees to keep such operating records with respect to the PID Improvements and other activities contemplated by this Agreement and all costs associated therewith as may be required by the City, or by State and federal law or regulation. The Developer shall allow the City access to, and the City shall have a right at all reasonable times to audit, all documents and records in the Developer's possession, custody or control relating to the PID Improvements that the City deems necessary to assist the City in determining the Developer's compliance with this Agreement.

7.02 Developer operations and employees. All personnel supplied or used by the Developer in the performance of this Agreement shall be deemed contractors or subcontractors of the Developer and will not be considered employees, agents, contractors or subcontractors of the City for any purpose whatsoever. The Developer shall be solely responsible for the compensation of all such contractors and subcontractors.

7.03 Personal liability of public officials, legal relations. To the extent permitted by State law, no director, officer, employee or agent of the City shall be personally responsible for any liability arising under or growing out of the Agreement. THE DEVELOPER SHALL INDEMNIFY AND SAVE HARMLESS THE CITY AND ITS RESPECTIVE OFFICERS, REPRESENTATIVES, AND AGENTS FROM ALL SUITS, ACTIONS, OR CLAIMS OF ANY CHARACTER BROUGHT FOR OR ON ACCOUNT OF ANY

INJURIES OR DAMAGES RECEIVED BY ANY PERSON, PERSONS, OR PROPERTY RESULTING FROM THE NEGLIGENT ACTS OF THE DEVELOPER, OR ANY OF ITS AGENTS, OFFICERS, OR REPRESENTATIVES IN PERFORMING ANY OF THE SERVICES AND ACTIVITIES UNDER THIS AGREEMENT.

7.04 Notices. Any notice sent under this Agreement (except as otherwise expressly required) shall be written and mailed, or sent by electronic or facsimile transmission confirmed by mailing written confirmation at substantially the same time as such electronic or facsimile transmission, or personally delivered to an officer of the receiving party at the following addresses:

City of Tomball  
c/o City Manager  
401 Market Street  
Tomball, Texas 77375

PID Contract Administrator  
Hawes Hill Calderon, LLP  
P.O. Box 22167  
Houston, Texas 77092  
Attn: Scott Bean

Yaupon Trails LTD LLC  
c/o Jean Michael Rebesch  
308 W. Parkwood, Suite 108-B  
Friendswood, Texas 77546

Each party may change its address by written notice in accordance with this section. Any communication addressed and mailed in accordance with this section shall be deemed to be given when so mailed, any notice so sent by electronic or facsimile transmission shall be deemed to be given when receipt of such transmission is acknowledged, and any communication so delivered in person shall be deemed to be given when receipted for by, or actually received by the City, or the Developer, as the case may be.

7.05 Amendments and waivers. Any provision of this Agreement may be amended or waived if such amendment or waiver is in writing and is signed by the City and the Developer. No course of dealing on the part of the Parties, nor any failure or delay by one or more of the Parties, with respect to exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, except as otherwise provided in this section.

7.06 Invalidity. In the event that any of the provisions contained in this Agreement shall be held unenforceable in any respect, such unenforceability shall not affect any other provision of this Agreement.

7.07 Successors and assigns. All covenants and agreements contained by or on behalf of a Party in this Agreement shall bind its successors and assigns and shall inure to the benefit of the other Parties, their successors and assigns. The Parties may assign their rights and obligations under this Agreement or any interest herein, only with the prior written consent of the other Parties, and any assignment without such prior written consent, including an assignment by

operation of law, is void and of no effect; provided that, the Developer may make a collateral assignment in favor of a lender without consent. This section shall not be construed to prevent the Developer from selling lots, parcels or other portions of the Project in the normal course of business. If such assignment of the obligations by the Developer hereunder is effective, the Developer shall be deemed released from such obligations. If any assignment of the obligations by the Developer hereunder is deemed ineffective or invalid, the Developer shall remain liable hereunder.

7.08 Exhibits; titles of articles, sections and subsections. The exhibits attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein, except that in the event of any conflict between any of the provisions of such exhibits and the provisions of this Agreement, the provisions of this Agreement shall prevail. All titles or headings are only for the convenience of the parties and shall not be construed to have any effect or meaning as to the agreement between the parties hereto. Any reference herein to a section or subsection shall be considered a reference to such section or subsection of this Agreement unless otherwise stated. Any reference herein to an exhibit shall be considered a reference to the applicable exhibit attached hereto unless otherwise stated.

7.09 Construction. This Agreement is a contract made under and shall be construed in accordance with and governed by the laws of the United States of America and the State of Texas, as such laws are now in effect.

7.10 Entire Agreement. **THIS WRITTEN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**

7.11 Term. This Agreement shall be in force and effect from the date of execution hereof for a term expiring on the date that the Developer Advances have been repaid in full, or January 1 of the year following the date the last assessment payment has been made in accordance with the PID Service and Assessment Plan and Assessment Roll(s).

7.12 Time of the essence. Time is of the essence with respect to the obligations of the Parties to this Agreement.

7.13 Approval by the Parties. Whenever this Agreement requires or permits approval or consent to be hereafter given by any of the parties, the parties agree that such approval or consent shall not be unreasonably conditioned, withheld or delayed.

7.14 Counterparts. This Agreement may be executed in multiple counterparts, each of which when so executed and delivered shall be deemed an original, but such counterparts together shall constitute but one and the same instrument.

7.15 Legal costs. If any Party hereto is the prevailing party in any legal proceedings against another Party brought under or with relation to this Agreement, such prevailing Party shall additionally be entitled to recover court costs and reasonable attorneys' fees from the non-prevailing Party to such proceedings.

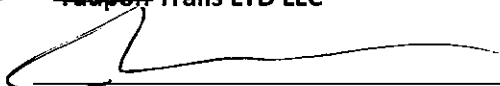
7.16 Further assurances. Each Party hereby agrees that it will take all actions and execute all documents necessary to fully carry out the purposes and intent of this Agreement.

[EXECUTION PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed as of March 16, 2015.

**CITY OF TOMBALL, TEXAS**

By:   
Name: Gretchen Fagan  
Title: Mayor

 ~~Yaupon~~ <sup>Yaupon</sup> Trails LTD LLC  
  
Jean Michael Rebesch, Sole Member

## EXHIBIT A



**Windrose Land Services, Inc**  
3206 Wilcrest Dr., Suite 325  
Houston, Texas 77042  
Phone (713) 458-2281 Fax (713) 461-1151

**Professional Development Consultants**  
Land Surveying, Platting, Project Management and GIS Services  
Firm Registration No. 10108800

### DESCRIPTION OF 10.9460 ACRES OR 476,809 SQ. FT.

A TRACT OR PARCEL CONTAINING 10.9460 ACRES OR 476,809 SQUARE FEET OF LAND, SITUATED IN THE JOSEPH HOUSE SURVEY, ABSTRACT NO. 34, HARRIS COUNTY, TEXAS, BEING ALL OF UNRESTRICTED RESERVE "E" OF FINAL PLAT OF LESLIE'S PARK, MAP OR PLAT THEREOF, RECORDED IN FILM CODE NO. 400005, HARRIS COUNTY MAP RECORDS (H.C.M.R.) AND BEING THE SAME TRACT OF LAND AS DESCRIBED IN THAT CERTAIN DEED OF TRUST BETWEEN LAR PROPERTIES LC AND PATRIOT BANK AS RECORDED IN HARRIS COUNTY CLERK'S FILE NUMBER (H.C.C.F. NO.) 20130365283 AND BEING DESCRIBED AS FOLLOWS WITH ALL BEARINGS BASED ON TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE 4204, NAD 83:

BEGINNING AT A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE LAND SERVICES" SET MARKING THE NORTH END OF A CUTBACK CORNER OF THE INTERSECTION OF THE EAST RIGHT OF WAY (R.O.W.) LINE OF QUINN ROAD (90 FEET WIDE AT THIS LOCATION) AND THE NORTH R.O.W. LINE OF BROWN-HUFFSMITH ROAD (100 FEET WIDE R.O.W.);

THENCE, NORTH 02 DEGREES 10 MINUTES 41 SECONDS WEST, ALONG SAID EAST R.O.W. LINE, A DISTANCE OF 480.73 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE LAND SERVICES" SET ON THE SOUTH LINE OF RESTRICTED RESERVE "A" OF FINAL PLAT OF TOMBALL I.S.D. TRANSPORTATION CENTER, SECTION ONE, MAP OR PLAT THEREOF, RECORDED IN FILM CODE NO. 347073, H.C.M.R. AND MARKING THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, NORTH 87 DEGREES 34 MINUTES 12 SECONDS EAST, ALONG THE SOUTH LINE OF SAID TOMBALL I.S.D. TRANSPORTATION CENTER, A DISTANCE OF 964.34 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE LAND SERVICES" SET MARKING THE NORTHWEST CORNER OF A CALLED 9.997 ACRE TRACT TO TREK INVESTMENTS AS RECORDED IN H.C.C.F. NO. T-767809 AND THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT; FROM WHICH A FOUND 5/8 INCH IRON ROD BEARS FOR REFERENCE NORTH 61 DEGREES 52 MINUTES 39 SECONDS EAST, 0.27 FEET;

THENCE, SOUTH 02 DEGREES 18 MINUTES 47 SECONDS EAST, A DISTANCE OF 499.92 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE LAND SERVICES" SET ON THE CURVED NORTH R.O.W. LINE OF BROWN-HUFFSMITH ROAD (BASED ON A WIDTH OF 100 FEET) MARKING THE SOUTHWEST CORNER OF SAID 9.997 ACRE TRACT, THE WEST CORNER OF UNRESTRICTED RESERVE "F" OF SAID LESLIE'S PARK AND THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT; FROM WHICH A FOUND 5/8 INCH IRON ROD BEARS FOR REFERENCE NORTH 13 DEGREES 05 MINUTES 16 SECONDS WEST, 0.28 FEET;

THENCE, ALONG SAID CURVED R.O.W. LINE ON A CURVE TO THE LEFT HAVING A RADIUS OF 2,018.50 FEET, A CENTRAL ANGLE OF 02 DEGREES 13 MINUTES 53 SECONDS, AN ARC LENGTH OF 78.61 FEET AND A CHORD BEARING AND DISTANCE OF SOUTH 89 DEGREES 11 MINUTES 22 SECONDS WEST, 78.61 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE LAND SERVICES" SET FOR A POINT OF TANGENCY;

SHEET 1 OF 2



**Windrose Land Services, Inc**

3200 Wilcrest Dr., Suite 325

Houston, Texas 77042

Phone (713) 458-2281 Fax (713) 461-1151

**Professional Development Consultants**

Land Surveying, Platting, Project Management and GIS Services

Firm Registration No. 10108800

THENCE, SOUTH 88 DEGREES 04 MINUTES 25 SECONDS WEST, CONTINUING WITH SAID NORTH R.O.W. LINE, A DISTANCE OF 873.68 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE LAND SERVICES" SET FOR AN ANGLE POINT;

THENCE, SOUTH 87 DEGREES 34 MINUTES 18 SECONDS WEST, CONTINUING WITH SAID NORTH R.O.W. LINE, A DISTANCE OF 3.96 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE LAND SERVICES" SET MARKING SOUTHERLY END OF A CUTBACK CORNER AND A SOUTHWESTERLY CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, NORTH 47 DEGREES 18 MINUTES 06 SECONDS WEST, A DISTANCE OF 13.11 FEET TO THE PLACE OF BEGINNING AND CONTAINING 10.9460 ACRES OR 476,809 SQUARE FEET OF LAND, AS SHOWN IN JOB NO. 51981 FILED IN THE OFFICES OF WINDROSE LAND SERVICES, INC.



  
MIKE KURKOWSKI  
R.P.L.S. NO. 5101  
STATE OF TEXAS  
51981

09/10/14  
DATE

## EXHIBIT B

### Description of Residential Development



## **EXHIBIT C**

### **The PID Improvements**

Storm & Detention - \$470,350.

Water Distribution - \$81,450.

Sanitary Distribution - \$125,800

Paving - \$341,625

Electrical, Gas, & Street Lights - \$62,500

TOTAL EST - \$1,081,725

Landscaping - \$103,000

# Regular City Council

## Agenda Item

Meeting Date: December 21, 2015

## Data Sheet

### Topic:

Update on Status of Recommendations Made as Part of the Community Development Department Development Review Process Evaluation

### Background:

In September 2014, Marsh Darcy Partners completed an evaluation of the City of Tomball's development review process and as part of the evaluation identified 83 recommendations. The 83 recommendations touched on enhancements to organizational culture, customer relations, communications, website content, integrated software as well as recommendations to updating codes, development applications and procedural changes to Engineering, Planning, Building, City Management and City Council. City Council was briefed on the progress of implementation of departmental changes back in February 2015 and this latest update touches on changes made since February 2015.

After the briefing in February 2015, 28 items remained to complete. Recently completed items include the development of a department vision statement, website enhancements, creating checklists, updating of forms and implementation of Community Development software.

Remaining outstanding items include the hosting of a development forum, improvements to GIS functionality, re-evaluation of fire sprinkler requirements, commencing an update to the Comprehensive Plan and the discontinuation of bringing plats to City Council for approval. It is the goal to initiate the completion of these remaining items in 2016.

### Origination:

Community Development Department

### Recommendation:

### Funding:

### Party(ies) responsible for placing this item on agenda:

Community Development Department

| ACTION TAKEN                                             |                                                                                   |       |
|----------------------------------------------------------|-----------------------------------------------------------------------------------|-------|
| APPROVAL                                                 | READINGS PASSED                                                                   | OTHER |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> 1 <sup>ST</sup> <input type="checkbox"/> 2 <sup>ND</sup> |       |

### ATTACHMENTS:

Updated Matrix

Original Matrix

Background Information

## Community Development Department Review Recommendations-Update from Previous Update on 2/2/15

| Cntrl #                       | Category | Recommendation                                                                               | Priority | Projected Date | Comments                                                                                                                                                                   |
|-------------------------------|----------|----------------------------------------------------------------------------------------------|----------|----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Organizational Culture</i> |          |                                                                                              |          |                |                                                                                                                                                                            |
| 1 (1)                         | 1        | Create a departmental vision statement                                                       | 3        | Completed      | Posted on the CDD web page                                                                                                                                                 |
| <i>Customer Relations</i>     |          |                                                                                              |          |                |                                                                                                                                                                            |
| 2 (10)                        | 2        | Host forums for development/building community                                               | 2        | Not completed  | To be planned in 2016 (date TBD), waiting on new positions to be filled; introduce staff, Q&A, etc.                                                                        |
| <i>Communication</i>          |          |                                                                                              |          |                |                                                                                                                                                                            |
| 3 (14)                        | 3        | Add FAQs page on the website                                                                 | 2        | Completed      | FAQs are located on the Community Development website                                                                                                                      |
| <i>Planning Division</i>      |          |                                                                                              |          |                |                                                                                                                                                                            |
| 4 (18)                        | 1        | Establish a Site Plan review goal (limit on cycles)                                          | 2        | Completed      | Our norm is 1-2 reviews, however if comments are not addressed by applicants follow-up review is required.                                                                 |
| <i>Engineering</i>            |          |                                                                                              |          |                |                                                                                                                                                                            |
| 5 (27)                        | 2        | Create an Assistant City Engineer position                                                   | 1        | Cancelled      | Shifted CIP Program Management to Public Works Department. This better distributed engineering workload, and eliminated the need for Assistant City Engineer at this time. |
| 6 (28)                        | 3        | Begin tracking data on the number of infrastructure inspections performed                    | 3        | Completed      | Being tracked by Public Works Department Construction Manager.                                                                                                             |
| 7 (29)                        | 4        | Improve functionality of GIS and allow more on-line access to GIS data for outside engineers | 3        | 2017 Budget    | Joint exploration effort between IT & CDD - Possible action FY 2016-2017, new software or system enhancements will be determined, if needed, by IT                         |

| Cntrl #             | Category | Recommendation                                                                            | Priority | Projected Date | Comments                                         |
|---------------------|----------|-------------------------------------------------------------------------------------------|----------|----------------|--------------------------------------------------|
| <i>Building</i>     |          |                                                                                           |          |                |                                                  |
| 8 (30)              | 1        | Create plan review checklists                                                             | 2        | Completed      | Internal only to ensure consistency              |
| 9 (32)              | 3        | Create inspection checklists                                                              | 2        | Completed      | Internal only to ensure consistency              |
| 10 (40)             | 11       | In FAQs, include examples of types of projects that require permits and those that do not | 2        | Completed      | Posted on website                                |
| <i>Fire Marshal</i> |          |                                                                                           |          |                |                                                  |
| 11 (42)             | 2        | Assist Council in re-evaluating the current fire sprinkler requirements                   | 3        | On hold        | To be determined by new Fire Marshal             |
| <i>Software</i>     |          |                                                                                           |          |                |                                                  |
| 12 (45)             | 3        | Allow inspectors to input results from the field                                          | 1        | Completed      | Implementing with MyGov                          |
| 13 (46)             | 4        | Allow customers to see plan review status                                                 | 1        | Completed      | Implementing with MyGov                          |
| 14 (47)             | 5        | Land management system to track actions and past approvals related to each parcel         | 1        | Completed      | Implementing with MyGov                          |
| 15 (48)             | 6        | Incorporate data field to track plat applications and locate recorded plats               | 1        | Completed      | Implementing with MyGov                          |
| 16 (49)             | 7        | Send automatic notifications to staff to begin review                                     | 1        | Completed      | Implementing with MyGov                          |
| 17 (50)             | 8        | Send automatic notifications of stop work orders                                          | 1        | Completed      | Implementing with MyGov                          |
| 18 (51)             | 9        | Communicate the approval status of applications                                           | 1        | Completed      | Implementing with MyGov                          |
| 19 (52)             | 10       | Fully integrated                                                                          | 1        | Completed      | Implementing with MyGov                          |
| 20 (53)             | 11       | Link to Firehouse                                                                         | 1        | n/a            | Fire Marshal to use MyGov for development review |

| Cntrl #                 | Category | Recommendation                                                                                 | Priority | Projected Date | Comments                                                                                                                                            |
|-------------------------|----------|------------------------------------------------------------------------------------------------|----------|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|
| 21 (54)                 | 12       | Able to attach electronic files                                                                | 1        | Completed      | Implementing with MyGov                                                                                                                             |
| 22 (55)                 | 13       | Capable of accepting electronic plan submittals                                                | 1        | Completed      | Implementing with MyGov                                                                                                                             |
| <i>Zoning Ordinance</i> |          |                                                                                                |          |                |                                                                                                                                                     |
| 23 (57)                 | 2        | Annual update of the future land use plan coinciding with the annual comprehensive plan review | 3        | 2017 Budget    | On-going; comprehensive plan update- consider budgeting in FY 2016-2017                                                                             |
| 24 (60)                 | 5        | Delete Parking provisions for an increase in parking greater than 50%                          | 3        | Completed      | Each case is unique and is handled through Special Exceptions, parking shortages require approval of a Special Exception from BOA per current codes |
| <i>Subdivision Code</i> |          |                                                                                                |          |                |                                                                                                                                                     |
| 25 (62)                 | 3        | Discontinue the submittal of plats to City Council for approval                                | 1        | Pending        | Need concurrence from City Council, no Code amendments needed                                                                                       |
| <i>Applications</i>     |          |                                                                                                |          |                |                                                                                                                                                     |
| 26 (74)                 | 1        | Add "conditional" statement to all forms                                                       | 1        | Completed      |                                                                                                                                                     |
| 27 (75)                 | 2        | Add submittal checklists to all applications                                                   | 3        | Completed      |                                                                                                                                                     |
| 28 (76)                 | 3        | Re-label all forms to reflect "Community Development Department/_____ Division"                | 1        | Completed      |                                                                                                                                                     |

| Cntrl #        | Category | Recommendation                                                                                                                                                                                   | Priority | Projected Date | Comments                                      |
|----------------|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|----------------|-----------------------------------------------|
| 29 (77)        | 4        | Add a full preamble to all forms to include: "Application Submittal", "Application Processing", "Time", "Appeals"                                                                                | 2        | Completed      |                                               |
| 30 (80)        | 7        | Update all forms to a "fillable forms" format                                                                                                                                                    | 2        | Completed      |                                               |
| 31 (81)        | 8        | Single Family Site Plan and Site Plan Applications contain requirements to submit exterior building materials and colors but there is no code basis for this requirement                         | 1        | Completed      | Only in OTMU District - added to applications |
| 32 (82)        | 9        | Add Revision Date to Building Division forms                                                                                                                                                     | 2        | Completed      |                                               |
| <i>Website</i> |          |                                                                                                                                                                                                  |          |                |                                               |
| 33 (83)        | 1        | Display the following links on the CDD main page: "Schedule a Pre-Development Meeting", Development Guide, Plan Review checklists, Inspection checklists, FAQs, Approved tree and landscape list | 2        | Completed      |                                               |

## Community Development Department Review Recommendations

| Cntrl #                        | Category | Recommendation                                                                                           | Priority | Projected Date | Comments                                                                                                                                |
|--------------------------------|----------|----------------------------------------------------------------------------------------------------------|----------|----------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| <i>Organizational Culture</i>  |          |                                                                                                          |          |                |                                                                                                                                         |
| 1                              | 1        | Create a departmental vision statement                                                                   | 3        | Completed      | Posted on the CDD web page                                                                                                              |
| 2                              | 2        | Hold departmental staff meetings                                                                         | 1        | Completed      | CDD has met periodically but first regularly scheduled monthly meeting will be held 01/28/2015                                          |
| 3                              | 3        | Reinforce the use of "Community Development Department"                                                  | 1        | Completed      | On-going - this is becoming the norm                                                                                                    |
| <i>City Council/Management</i> |          |                                                                                                          |          |                |                                                                                                                                         |
| 4                              | 1        | Convene a workshop to discuss the MDP report                                                             | 1        | Completed      | Presentation made to council on 10/13/2014                                                                                              |
| 5                              | 2        | Host joint City Council - P&Z Commission workshops                                                       | 3        | Completed      |                                                                                                                                         |
| 6                              | 3        | City Council should interview P&Z candidates before appointment                                          | 3        | Completed      | Consultant recommendation to Council                                                                                                    |
| 7                              | 4        | Prepare a policy requiring building/fire codes be adopted within one year of publication of new versions | 3        | Completed      | Staff recommends adoption within 2-3 years of new codes. Allows for assessment of new code impact prior to implementation               |
| 8                              | 5        | Conduct annual review of zoning ordinance & subdivision code to address issues                           | 3        | Completed      | On-going amendments are being brought forward (ex. Texas Star Gymnastics Text Amendment/CUP/ GR - Height, SF-20-E setbacks & sign code) |
| <i>Customer Relations</i>      |          |                                                                                                          |          |                |                                                                                                                                         |
| 9                              | 1        | Conduct a Customer Survey                                                                                | 2        | Completed      | Question Pro Survey completed                                                                                                           |
| 10                             | 2        | Host forums for development/building community                                                           | 2        | Not completed  | To be planned in 2016 (date TBD), waiting on new positions to be filled; introduce staff, Q&A, etc.                                     |

| Cntrl #                  | Category | Recommendation                                                                                                         | Priority | Projected Date | Comments                                                                                                                                                                           |
|--------------------------|----------|------------------------------------------------------------------------------------------------------------------------|----------|----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 11                       | 3        | Host professional development opportunities for staff with speakers from the local business community                  | n/a      | Completed      | We have not hosted professional development opportunities but have routinely attended Texas APA, TFMA, H-GAC, CDI, UTCLE, Chamber events, TML webinars, ULI webinars               |
| <i>Communication</i>     |          |                                                                                                                        |          |                |                                                                                                                                                                                    |
| 12                       | 1        | Develop a checklist of topics covered in pre-development and DRC meetings                                              | 1        | Completed      | DRC Checklist completed                                                                                                                                                            |
| 13                       | 2        | Conduct Pre-Construction meetings for large projects or homebuilders/contractors                                       | 1        | Completed      | Available upon request for significant projects/new contractors and developers - (Ex: Princeton Homes for Raleigh Creek & Reserves of Spring Creek)                                |
| 14                       | 3        | Add FAQs page on the website                                                                                           | 2        | Completed      | FAQs are located on the Community Development website                                                                                                                              |
| 15                       | 4        | Publicize and distribute Development Guide                                                                             | 1        | Completed      | Placed on the CDD Home Page and printed for front lobby, also on Twitter and Facebook                                                                                              |
| 16                       | 5        | Establish a 24 hour return policy on phone calls and emails                                                            | 1        | Completed      | Reiterated this policy to all staff and will ensure we continue to do so                                                                                                           |
| 17                       | 6        | Post technical criteria, interpretations or process changes to website 30 days in advance of the effective date        | 3        | Completed      | Began with change to Building Inspections, others as needed, located on applicable Community Development web pages                                                                 |
| <i>Planning Division</i> |          |                                                                                                                        |          |                |                                                                                                                                                                                    |
| 18                       | 1        | Establish a Site Plan review goal (limit on cycles)                                                                    | 2        | Completed      | The goal is always 1-2 reviews, however circumstances tend to arise where comments are not addressed by applicants                                                                 |
| 19                       | 2        | Establish a policy that no new comments can be added after first review                                                | 1        | Completed      | On-going. Addressing comments can create new ones, health/safety issues need to be addressed if initially missed                                                                   |
| 20                       | 3        | Reinforce the intent that site plans are to be evaluated for compliance with regulations "to the best extent possible" | 3        | Completed      | Reiterated this policy to all staff and will ensure we continue to do so, staff will bring forward appeals, special exceptions and variances to the Board of Adjustments as needed |
| 21                       | 4        | Conduct training for new P&Z Commissioners                                                                             | 3        | Completed      | Training has been provided in 2013 and 2015                                                                                                                                        |
| 22                       | 5        | Deliver staff reports no later than the Thursday prior to the meeting                                                  | 1        | Completed      | On-going                                                                                                                                                                           |

| Cntrl #            | Category | Recommendation                                                                                       | Priority | Projected Date | Comments                                                                                                                                                                                                                                          |
|--------------------|----------|------------------------------------------------------------------------------------------------------|----------|----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 23                 | 6        | Conduct a review of recent BOA cases to identify possible code changes                               | 2        | Completed      | On-going; In 2014: Identified 8 set-back variance cases, 3 parking special exceptions (Examples: Single-Family 20 setbacks change, GR District heights) - Proposing text amendments for SF 20 setback change & GR District heights (Ex: Marriott) |
| 24                 | 7        | Include a possible compromise solution in staff reports to BOA when recommending denial              | 1        | Completed      | Conditions included                                                                                                                                                                                                                               |
| 25                 | 8        | Define the difference between "pre-development" and "DRC" meeting and applicant requirements of each | 1        | Completed      | Pre-development meeting are informal & generally single focused minor projects (Ex: building & site plans) DRC meetings are formal and involve all CDD staff, usually for a significant development (Ex: Will Benson, Yaupon Development)         |
| <i>Engineering</i> |          |                                                                                                      |          |                |                                                                                                                                                                                                                                                   |
| 26                 | 1        | Deliver plat review staff reports no later than the Thursday before the P&Z meeting                  | n/a      | n/a            | Recommend no change; would need to change submittal deadline which would be problematic for applicants                                                                                                                                            |
| 27                 | 2        | Create an Assistant City Engineer position                                                           | 1        | Cancelled      | Shifted CIP Program Management to Public Works Department                                                                                                                                                                                         |
| 28                 | 3        | Begin tracking data on the number of infrastructure inspections performed                            | 3        | Moved to PW    | To be tracked by Public Works Department since Construction Manager position was moved                                                                                                                                                            |
| 29                 | 4        | Improve functionality of GIS and allow more on-line access to GIS data for outside engineers         | 3        | 2017 Budget    | Joint exploration effort between IT & CDD - Possible action FY 2016-2017, new software or system enhancements will be determined, if needed, by IT                                                                                                |

| Cntrl #             | Category | Recommendation                                                                                                                                                             | Priority | Projected Date | Comments                                                                                                        |
|---------------------|----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|----------------|-----------------------------------------------------------------------------------------------------------------|
| <i>Building</i>     |          |                                                                                                                                                                            |          |                |                                                                                                                 |
| 30                  | 1        | Create plan review checklists                                                                                                                                              | 2        | Completed      | Internal only to ensure consistency                                                                             |
| 31                  | 2        | Establish back-up for Building Official (on-call contract or plan reviewer position)                                                                                       | 1        | Completed      | Contract in place - GMS Home Inspection Service                                                                 |
| 32                  | 3        | Create inspection checklists                                                                                                                                               | 2        | Completed      | Internal only to ensure consistency                                                                             |
| 33                  | 4        | Consider a "yellow tag" inspection result option (Correct and Proceed)                                                                                                     | 1        | Completed      | On-going; Green tag with corrected notes                                                                        |
| 34                  | 5        | Assign inspectors to geographic regions                                                                                                                                    | n/a      | n/a            | Not necessary                                                                                                   |
| 35                  | 6        | Establish a policy that when one inspector has to follow up for another, he is only to inspect the red tagged item                                                         | 1        | Completed      | Building Official will conduct quality/follow-up inspections as needed                                          |
| 36                  | 7        | Pair up inspectors/Building Official to perform inspections together                                                                                                       | 1        | Completed      | On-going                                                                                                        |
| 37                  | 8        | Establish a clear protocol that the Building Official has authority to issue the certificate of occupancy & establish mechanisms for resolving conflicts between divisions | 1        | Completed      | On-going; documented in Guardian Tracking                                                                       |
| 38                  | 9        | Provide back-up to the Permits Technician                                                                                                                                  | 1        | Completed      | Personnel assigned and in training; all front office staff will work 5-day work weeks beginning in January 2015 |
| 39                  | 10       | Require electronic submittals of approved plans and "as-builts"                                                                                                            | 1        | Completed      | Required and on-going                                                                                           |
| 40                  | 11       | In FAQs, include examples of types of projects that require permits and those that do not                                                                                  | 2        | Completed      | Posted on website                                                                                               |
| <i>Fire Marshal</i> |          |                                                                                                                                                                            |          |                |                                                                                                                 |
| 41                  | 1        | Create plan review checklists                                                                                                                                              | 2        | Completed      | Internal only to ensure consistency                                                                             |
| 42                  | 2        | Assist Council in re-evaluating the current fire sprinkler requirements                                                                                                    | 3        | On hold        | To be determined by new Fire Marshal                                                                            |

| Cntrl #         | Category | Recommendation                                                                    | Priority | Projected Date | Comments                                                                                  |
|-----------------|----------|-----------------------------------------------------------------------------------|----------|----------------|-------------------------------------------------------------------------------------------|
| <i>Software</i> |          |                                                                                   |          |                |                                                                                           |
| 43              | 1        | Retain a consultant to assist in the software vendor selection process            | n/a      | n/a            | Evaluation done internally, selected MyGov in April 2015 and have been implementing since |
| 44              | 2        | Allow for automated inspection requests                                           | 1        | Completed      | Displayed on adques in the lobby, on website, Twitter and Facebook                        |
| 45              | 3        | Allow inspectors to input results from the field                                  | 1        | Completed      | Implementing with MyGov                                                                   |
| 46              | 4        | Allow customers to see plan review status                                         | 1        | Completed      | Implementing with MyGov                                                                   |
| 47              | 5        | Land management system to track actions and past approvals related to each parcel | 1        | Completed      | Implementing with MyGov                                                                   |
| 48              | 6        | Incorporate data field to track plat applications and locate recorded plats       | 1        | Completed      | Implementing with MyGov                                                                   |
| 49              | 7        | Send automatic notifications to staff to begin review                             | 1        | Completed      | Implementing with MyGov                                                                   |
| 50              | 8        | Send automatic notifications of stop work orders                                  | 1        | Completed      | Implementing with MyGov                                                                   |
| 51              | 9        | Communicate the approval status of applications                                   | 1        | Completed      | Implementing with MyGov                                                                   |
| 52              | 10       | Fully integrated                                                                  | 1        | Completed      | Implementing with MyGov                                                                   |
| 53              | 11       | Link to Firehouse                                                                 | 1        | n/a            | Fire Marshal to use MyGov for development review                                          |
| 54              | 12       | Able to attach electronic files                                                   | 1        | Completed      | Implementing with MyGov                                                                   |
| 55              | 13       | Capable of accepting electronic plan submittals                                   | 1        | Completed      | Implementing with MyGov                                                                   |

| Cntrl #                 | Category | Recommendation                                                                                                                                                                                                                                                       | Priority | Projected Date | Comments                                                                                                                                                                                                                            |
|-------------------------|----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Zoning Ordinance</i> |          |                                                                                                                                                                                                                                                                      |          |                |                                                                                                                                                                                                                                     |
| 56                      | 1        | Codification of ordinances revising the zoning code                                                                                                                                                                                                                  | 1        | Completed      | Late 2014                                                                                                                                                                                                                           |
| 57                      | 2        | Annual update of the future land use plan coinciding with the annual comprehensive plan review                                                                                                                                                                       | 3        | 2017 Budget    | On-going; comprehensive plan update- consider budgeting in FY 2016-2017                                                                                                                                                             |
| 58                      | 3        | Add a "staff-approved deviations" section for greater flexibility for unique situations where the full intent of the code cannot be achieved                                                                                                                         | n/a      | Completed      | Staff will track case issues and evaluate solutions with City Management, we bring issues to City Management's attention when necessary to address staff-approved deviations since our current codes do not permit that flexibility |
| 59                      | 4        | Allow for simultaneous site plan review and building plan review                                                                                                                                                                                                     | 1        | Completed      | Not ideal but will do on case-by-case basis when applicant justified urgency exists (Ex: Planet Fitness)                                                                                                                            |
| 60                      | 5        | Delete Parking provisions for an increase in parking greater than 50%                                                                                                                                                                                                | 3        | Completed      | Each case is unique and is handled through Special Exceptions, parking shortages require approval of a Special Exception from BOA per current codes                                                                                 |
| <i>Subdivision Code</i> |          |                                                                                                                                                                                                                                                                      |          |                |                                                                                                                                                                                                                                     |
| 61                      | 1        | Allow for exemptions from platting for: permits for repair or remodeling of an existing structure or site improvements involving no increase in square footage of any enclosed structure and permits for demolition or removal of a structure from a parcel or tract | 3        | Completed      | Already the case, this was identified by the consultant as an "issue" however this policy has been the case for some time now, so no proposed change                                                                                |
| 62                      | 3        | Discontinue the submittal of plats to City Council for approval                                                                                                                                                                                                      | 1        | Pending        | Need concurrence from City Council, no Code amendments needed                                                                                                                                                                       |
| 63                      | 4        | Allow acceptance of dedicated improvements to be approved by the City Engineer (discontinue Council approval)                                                                                                                                                        | 1        | Completed      | On-going                                                                                                                                                                                                                            |
| 64                      | 5        | Codify Old Town Lot Joinders into the Subdivision Code and remove certain restrictions                                                                                                                                                                               | 1        | Completed      | On-going                                                                                                                                                                                                                            |

| Cntrl #                  | Category | Recommendation                                                                                                                                                                             | Priority | Projected Date | Comments                                                                                                                                                      |
|--------------------------|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Development Guide</i> |          |                                                                                                                                                                                            |          |                |                                                                                                                                                               |
| 65                       | 1        | Place link to document on CDD main page                                                                                                                                                    | 1        | Completed      | Staff to maintain                                                                                                                                             |
| 66                       | 2        | Distribute copies to customers                                                                                                                                                             | 1        | Completed      | The Development Guide is available in our lobby and is located on the Community Development home page, the home page link is included on our email signatures |
| 67                       | 3        | Add/Create visual process flow charts: (1) overall development process (2) include all the approvals needed for CO including third party certifications (3) minor plat and joinder process | 1        | Completed      | In Development Guide                                                                                                                                          |
| 68                       | 4        | Make DRC Meeting Request Form more prominent on the website                                                                                                                                | 1        | Completed      | Complete 11/26/14 - Placed on CDD Home Page                                                                                                                   |
| 69                       | 5        | Add exceptions to platting                                                                                                                                                                 | 1        | Completed      | Added to Development Guide                                                                                                                                    |
| 70                       | 6        | Fix typo in Section 4.2: "three items" to "five items"                                                                                                                                     | 1        | Completed      | Complete 11/26/14                                                                                                                                             |
| 71                       | 7        | Keep the most recent version on the website                                                                                                                                                | 1        | Completed      | Staff to maintain                                                                                                                                             |
| 72                       | 8        | Fix link to "Agreement with Developer for Construction of Public Improvements" on Page 10                                                                                                  | 1        | Completed      | Complete 11/26/14                                                                                                                                             |
| 73                       | 9        | The Building Division is referred to as the "Permits and Inspections Division"                                                                                                             | 1        | Completed      | Complete 11/26/14                                                                                                                                             |
| <i>Applications</i>      |          |                                                                                                                                                                                            |          |                |                                                                                                                                                               |
| 74                       | 1        | Add "conditional" statement to all forms                                                                                                                                                   | 1        | Completed      |                                                                                                                                                               |
| 75                       | 2        | Add submittal checklists to all applications                                                                                                                                               | 3        | Completed      |                                                                                                                                                               |
| 76                       | 3        | Re-label all forms to reflect "Community Development Department/_____ Division"                                                                                                            | 1        | Completed      |                                                                                                                                                               |

| Cntrl #        | Category | Recommendation                                                                                                                                                                                   | Priority | Projected Date | Comments                                                                                                                                                                                              |
|----------------|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 77             | 4        | Add a full preamble to all forms to include: "Application Submittal", "Application Processing", "Time", "Appeals"                                                                                | 2        | Completed      |                                                                                                                                                                                                       |
| 78             | 5        | Update fee schedules                                                                                                                                                                             | 1        | Completed      | Incorporated into Master Fee Schedule                                                                                                                                                                 |
| 79             | 6        | Eliminate the \$25 fee for Zoning Verification Application                                                                                                                                       | n/a      | n/a            | The Zoning Verification Application is a formalized document that takes a few hours to prepare therefore it is recommend to keep the fee, the Master Fee Schedule already includes the applicable fee |
| 80             | 7        | Update all forms to a "fillable forms" format                                                                                                                                                    | 2        | Completed      |                                                                                                                                                                                                       |
| 81             | 8        | Single Family Site Plan and Site Plan Applications contain requirements to submit exterior building materials and colors but there is no code basis for this requirement                         | 1        | Completed      | Only in OTMU District - To be added to applications                                                                                                                                                   |
| 82             | 9        | Add Revision Date to Building Division forms                                                                                                                                                     | 2        | Completed      |                                                                                                                                                                                                       |
| <i>Website</i> |          |                                                                                                                                                                                                  |          |                |                                                                                                                                                                                                       |
| 83             | 1        | Display the following links on the CDD main page: "Schedule a Pre-Development Meeting", Development Guide, Plan Review checklists, Inspection checklists, FAQs, Approved tree and landscape list | 2        | Completed      |                                                                                                                                                                                                       |
|                |          |                                                                                                                                                                                                  |          |                |                                                                                                                                                                                                       |
|                |          | <b>83 Total Recommendations</b>                                                                                                                                                                  |          |                |                                                                                                                                                                                                       |
|                |          | <b>74 Completed Recommendations</b>                                                                                                                                                              |          |                |                                                                                                                                                                                                       |
|                |          | <b>4 Unviable Recommendations</b>                                                                                                                                                                |          |                |                                                                                                                                                                                                       |
|                |          | <b>5 Recommendations Remaining to Complete</b>                                                                                                                                                   |          |                |                                                                                                                                                                                                       |

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## Community Development Department

### Our Vision Statement

The Community Development Department serves to protect public health, safety and welfare and ensures that growth is performed in a responsible manner to preserve the integrity of the City, while fostering an environment of collaboration with the development community.

### What's Going On?

The Community Development Department has produced a [Development Guide](#) to assist local landowners, architects, engineers, developers, and other interested parties to understand the significant phases of the development and building process in the City of Tomball and its extraterritorial jurisdiction (ETJ).

#### Building Division

The Building Division is responsible for code compliance of all ground-up construction within the City of Tomball. The Division reviews all plans for residential construction, remodeling, additions, new commercial and tenant build-outs.

Here you will find more information about our Building Division and material covering building permits and building inspections.

#### Engineering Division

Here you will find more information about our Engineering Division and material regarding applications, the storm water management program, development criteria, the development review committee, floodplain management, and platting.

#### Planning Division

The objective of the Planning Division is to facilitate development in the City of Tomball by advocating a long-term, comprehensive approach to planning in a manner that preserves the values and character of Tomball while providing for strategic and complimentary new-growth.

Here you will be able to obtain information about the City's development requirements and procedures, and planning applications.

## CONTACT US

Craig Meyers, PE, CFM  
Community Development  
Director  
281-290-1412  
[Email Craig](#)

Kim Chandler  
Community Development  
Coordinator  
281-290-1405  
[Email Kim](#)

501 James St.  
Tomball, TX 77375

Fax: 281-351-4735

Hours  
Monday - Friday  
8:00 am - 5:00 pm

### Would you like to schedule a Pre-Development Meeting?

To schedule, you may complete a Pre-Development Meeting [Request Form](#) online and submit it via e-mail to our Community Development Coordinator or fax it to (281) 351-4735.

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COMMUNITY

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## Frequently Asked Questions

[Zoning](#)[Comprehensive Plan](#)[Planning Documents](#)[Planning Applications](#)[Frequently Asked Questions](#)

ONLINE BILL PAY



REPORT A CONCERN



COMMUNITY VOICE



NOTIFY ME

### QUESTION

What is my property zoned?

### ANSWER

If you would like to know the zoning classification of your property, you may view the zoning for every property in the City of Tomball by viewing our [Tomball Zoning Map](#).

However, if you would like an official zoning verification letter from the City identifying your property's zoning classification, please fill out and submit a [Zoning Verification Application](#) at 501 James Street, Tomball, TX 77357.

### QUESTION

What uses are allowed in my zoning district? What can I do with my property?

### ANSWER

The City of Tomball has a [Land Use Matrix](#) which identifies permitted uses of each individual zoning district (residential and non-residential).

If you are looking to develop on your property, you may view our [Zoning Ordinance](#) which establishes land use and development standards for every property in the City. If you have further inquiries or are unsure of where your property falls within the Zoning Ordinance, you may contact the Community Development Coordinator at (281) 280-1405.

If your desired plans do not comply with the current Zoning Ordinance, you may fill out and submit an application for [Rezoning](#) at 501 James Street, Tomball, TX 77357. The submittal requirements can be found on the application. It is highly encouraged that you contact the Community Development Coordinator to discuss the request prior to submitting a zone change application.

Please note all zone change requests have to go before the Planning & Zoning Commission (meeting held second Monday of every month) along with City Council (meetings held first and third Monday of every month) - Once submitted, your request will be placed on the next available meeting agendas after meeting all public noticing requirements.

## CONTACT US

Harold Ellis  
City Planner  
281-290-1491  
[Email Harold](#)

Amelia Lindley  
Assistant City Planner  
281-290-1410  
[Email Amelia](#)

501 James St.  
Tomball, TX 77375

Fax: 281-351-4735

[Staff Directory](#)

Hours  
Monday - Friday  
8:00 am - 5:00 pm

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## Building Permits

The City of Tomball Building Office is open between the hours of 7:45 a.m. and 5:00 p.m. Monday – Thursday, and 7:45 a.m. and 4:00 p.m. on Fridays.

To schedule an inspection, please call our automated line (281) 280-1480. Calls must be received the day before the inspection is needed and no later than 7:00 a.m. the morning of the inspection. All calls received after this time will be scheduled for the following work day.

### Do I Need a Permit?

- [International Building Code](#)
- [International Mechanical Code](#)
- [International Plumbing Code](#)
- [International Residential Code](#)

## Permit Applications

- [Building Permit Fees and Capital Impact](#)
- [Commercial Building Permit](#)
- [Residential Building Permit](#)
- [Plumbing Permit](#)
- [Electrical Permit](#)
- [Roofing Permit](#)
- [Demolition Permit](#)
- [Mechanical Permit](#)
- [Moving Permit](#)

## CONTACT US

Permit Technician  
(281) 280-1402

Building Official  
Ken Cole  
(281) 280-1404  
[kcole@tomballtx.gov](mailto:kcole@tomballtx.gov)

Combination Building  
Inspector  
Daniel Svoboda  
(281) 280-1488  
[dsvoboda@tomballtx.gov](mailto:dsvoboda@tomballtx.gov)



## **ZONING BOARD OF ADJUSTMENTS (BOA)** **SPECIAL EXCEPTION APPLICATION**

**Community Development Department**  
**Planning Division**

**Special Exception Defined:** A special exception is a type of variance, but is differentiated from a variance in that a special exception does not require a finding of a hardship and applies only to nonconforming uses and structures, off-street parking requirements and landscaping requirements.

**APPLICATION SUBMITTAL:** Applications will be **conditionally** accepted on the presumption that the information, materials and signatures are complete and accurate. If the application is incomplete or inaccurate, your project may be delayed until corrections or additions are received.

### **Applicant**

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_

Zip: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_) \_\_\_\_\_ Email: \_\_\_\_\_

### **Owner**

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_

Zip: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_) \_\_\_\_\_ Email: \_\_\_\_\_

**Description of Proposed Project:** \_\_\_\_\_

**Physical Location of Property:** \_\_\_\_\_

[General Location – approximate distance to nearest existing street corner]

**Legal Description of Property:** \_\_\_\_\_

[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

**HCAD Identification Number:** \_\_\_\_\_ **Acreage:** \_\_\_\_\_

**Current Use of Property:** \_\_\_\_\_



# CITY OF TOMBALL

## Single-Family Site Plan Planning Review

### Checklist

|                       |
|-----------------------|
| Review Date:          |
| Planning Case Number: |
| Legal Description:    |
| Planning Reviewer:    |

#### **APPLICATION**

Complete: YES NO

If no, info needed: \_\_\_\_\_

\_\_\_\_\_

#### **ZONING**

Property Zoning: \_\_\_\_\_

Proposed Use: \_\_\_\_\_

Use Permitted: YES NO

#### **PLATTING**

Recorded Plat Name: \_\_\_\_\_

\_\_\_\_\_

Recordation Date: \_\_\_\_\_

Plat obstructions: \_\_\_\_\_

#### **LOT REQUIREMENTS**

|        | <b><u>Required</u></b> | <b><u>Provided</u></b> |
|--------|------------------------|------------------------|
| Area:  | _____                  | _____                  |
| Width: | _____                  | _____                  |
| Depth: | _____                  | _____                  |

#### **LOT COVERAGE**

Required: \_\_\_\_\_ %

Provided: \_\_\_\_\_ %

#### **HEIGHT (Primary) (Accessory)**

Max: \_\_\_\_\_

Proposed: \_\_\_\_\_

#### **SETBACKS (Primary)**

|        | <b><u>Required</u></b> | <b><u>Provided</u></b> |
|--------|------------------------|------------------------|
| Front: | _____                  | _____                  |
| Rear:  | _____                  | _____                  |
| Sides: | _____                  | _____                  |

#### **SETBACKS (Accessory)**

|        | <b><u>Required</u></b> | <b><u>Provided</u></b> |
|--------|------------------------|------------------------|
| Front: | _____                  | _____                  |
| Rear:  | _____                  | _____                  |
| Sides: | _____                  | _____                  |

#### **SIDEWALKS**

Required: YES NO

Provided: YES NO

#### **OFF-STREET PARKING**

Required: \_\_\_\_\_

Provided: \_\_\_\_\_

#### **FENCING**

Location: \_\_\_\_\_

Height: \_\_\_\_\_

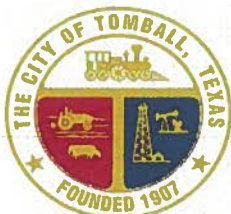
#### **DRIVEWAY MATERIAL**

Required: \_\_\_\_\_

Provided: \_\_\_\_\_

**COMMENTS** \_\_\_\_\_

\_\_\_\_\_

**COMMERCIAL BUILDING PERMIT APPLICATION****CITY OF TOMBALL**

501 James Street  
Tomball, Texas 77375

Office: (281) 290-1402 Fax: (281) 351-4735

Date: \_\_\_\_\_

Permit Number: \_\_\_\_\_  
(Assigned by Permit Office)

Physical Address of Project: \_\_\_\_\_

Business or Owner Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Engineer: \_\_\_\_\_ Contact: \_\_\_\_\_ Phone: \_\_\_\_\_

Architect: \_\_\_\_\_ Contact: \_\_\_\_\_ Phone: \_\_\_\_\_

Contractor: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Contractor Phone: \_\_\_\_\_ Contact: \_\_\_\_\_ E-Mail: \_\_\_\_\_

- ☐ NEW COMMERCIAL  
☐ COMMERCIAL ADDITION  
☐ COMMERCIAL SHELL BUILDING  
☐ COMMERCIAL REMODEL/RENOVATION

- ☐ COMMERCIAL BUILD-OUT  
☐ COMMERCIAL ACCESSORY  
☐ SIGN

TEXAS ACCESSIBILITY STANDARD (TAS) PROJECT REGISTRATION NO.: EABPRJ \_\_\_\_\_

Description of Work to be completed: \_\_\_\_\_

Total Project Value: \$ \_\_\_\_\_ Total Square Ft.: \_\_\_\_\_ Occupant Load: \_\_\_\_\_

Occupancy Type: \_\_\_\_\_ Fire Sprinkler: YES \_\_\_\_\_ NO \_\_\_\_\_ LUE ( Living Unit Equivalency): \_\_\_\_\_

Drainage Basin: \_\_\_\_\_ Total Acreage of Site: \_\_\_\_\_ acres Lot: \_\_\_\_\_ Block: \_\_\_\_\_

**TAP AND IMPACT FEES**

|                    | TAP SIZE | TAP FEE | IMPACT FEE | TOTAL |
|--------------------|----------|---------|------------|-------|
| WATER              |          | \$      | \$         | \$    |
| WATER (irrigation) |          | \$      | \$         | \$    |
| SEWER              |          | \$      | \$         | \$    |
| GAS                |          | \$      | \$         | \$    |

**TOTAL: \$** \_\_\_\_\_

Total Gas BTU's: \_\_\_\_\_

Building Plan Review Fee: (Collected when plans are submitted) \$ \_\_\_\_\_ ☐

Fire and Life Safety Plan Review Fee: (Collected when plans are submitted) \$ \_\_\_\_\_ ☐

Driveway Permit Fee: \$ \_\_\_\_\_

Permit Application Fee: \$ \_\_\_\_\_

Total Amount Due: \$ \_\_\_\_\_

I hereby certify that I have read and examined this application and know the same to be true and correct.

Applicant / Contractor (print) \_\_\_\_\_ Date: \_\_\_\_\_

Applicant / Contractor (signature) \_\_\_\_\_ Date: \_\_\_\_\_

Building Official Approval \_\_\_\_\_ Date: \_\_\_\_\_

**Sec. 40-34. - Planning and zoning commission action.**

The planning and zoning commission shall review each plat submitted to it on a preliminary basis and upon a final basis. The planning and zoning commission shall approve any plat if it is in compliance with the provisions of this article and other rules and regulations as may have been or may be adopted by the city council governing plats and/or the subdivision of land. Upon the receipt of a plat, the planning and zoning commission's authorized actions are as follows:

- (1) Grant preliminary approval or preliminary approval with conditions;
- (2) Defer preliminary action until the next regular meeting;
- (3) Grant final approval, if in conformance with the conditions of preliminary approval or final approval, subject to additional conditions; or
- (4) Disapprove any plat, either preliminary or final, if the planning and zoning commission determines that it fails to comply with the policies, standards, or requirements contained in this article or other rules or regulations as may have been adopted by the city council governing plats and/or the subdivision or land.

(Code 1993, § 70-18; Ord. No. 2001-19, § 2, 1-7-2002)

# Regular City Council

## Agenda Item

Meeting Date: December 21, 2015

## Data Sheet

### Topic:

Consideration to approve **ZONING CASE P15-0122**: Request by the City of Tomball to amend Section 50-82 (b) ("Use Charts") of the Tomball Code of Ordinances by adding "Reception venue" as an additional land use in the City of Tomball.

- Conduct Public Hearing on **ZONING CASE P15-0122**
- Adopt, on First Reading, Ordinance No. 2015-25, an Ordinance of the City of Tomball, Texas, Amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by Amending Section 50-82 (b) ("Use Charts") to Add a Land Use and Associated Regulations for "Reception Venue"; 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.

### Background:

On December 14, 2015, the Planning and Zoning Commission approved Zoning Case P15-0122 with a 3-1 vote.

### Origination:

Community Development Department

### Recommendation:

Approval

### Funding:

### Party(ies) responsible for placing this item on agenda:

Community Development Department

| ACTION TAKEN                                             |                                                                                   |       |
|----------------------------------------------------------|-----------------------------------------------------------------------------------|-------|
| APPROVAL                                                 | READINGS PASSED                                                                   | OTHER |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> 1 <sup>ST</sup> <input type="checkbox"/> 2 <sup>ND</sup> |       |

### ATTACHMENTS:

Ordinance

Staff Report

Public Hearing Notification

## ORDINANCE NO. 2015-25

**AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 50 (ZONING) OF THE TOMBALL CODE OF ORDINANCES BY AMENDING SECTION 50-82 (B) (“USE CHARTS”) TO ADD A LAND USE AND ASSOCIATED REGULATIONS FOR “RECEPTION VENUE”; 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.**

\* \* \* \* \*

**WHEREAS**, the City of Tomball has requested that Section 50-82(b) (“Use Charts”) of the Code of Ordinances be amended;

**WHEREAS**, the Planning & Zoning Commission and the City Council of the City of Tomball, Texas, have published notice and conducted public hearings regarding the request to amend Section 50-82(b) (“Use Charts”) of the Code of Ordinances;

**WHEREAS**, all persons desiring to comment on the proposal were given a full and complete opportunity to be heard; and

**Whereas**, the Planning & Zoning Commission recommended in its final report that City Council approve the amendment to Section 50-82(b) (“Use Charts”) of the Code of Ordinances; and

**Whereas**, the City Council deems it appropriate to grant the amendments to Section 50-82(b) (“Use Charts”) of the Code of Ordinances.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, THAT:**

**Section 1.** The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

**Section 2.** Section 50-82(b) (“Use Charts”) of the Code of Ordinances is hereby amended by adding the following:

| Types of Land Uses  | Residential Zoning Districts |         |      |      |   |    |     | Non-Residential Zoning Districts |    |   |    | OT&MU | Parking Ratio<br>(Also see Section 50-112) |
|---------------------|------------------------------|---------|------|------|---|----|-----|----------------------------------|----|---|----|-------|--------------------------------------------|
|                     | AG                           | SF-20-E | SF-9 | SF-6 | D | MF | MHP | O                                | GR | C | LI |       |                                            |
| Personal & Business |                              |         |      |      |   |    |     |                                  |    |   |    |       |                                            |
| Reception venue     | C                            | C       |      |      |   |    |     | C                                | P  | P | P  | P     | 1 space: 4 seats                           |

**Section 3.** Chapter 50 (Zoning) of the Code of Ordinances shall be revised and amended as indicated above.

**Section 4.** This Ordinance shall in no manner amend, change, supplement, or revise any other provision of Chapter 50 (Zoning) of the Code of Ordinances except as indicated above.

**Section 5.** In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

**Section 6.** Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

FIRST READING:

READ, PASSED, AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 21<sup>st</sup> DAY OF DECEMBER 2015.

|                     |       |
|---------------------|-------|
| COUNCILMAN HUDGENS  | _____ |
| COUNCILMAN STOLL    | _____ |
| COUNCILMAN DEGGES   | _____ |
| COUNCILMAN TOWNSEND | _____ |
| COUNCILMAN QUINN    | _____ |

SECOND READING:

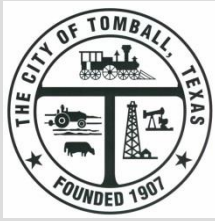
READ, PASSED, AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 4<sup>TH</sup> DAY OF JANURARY 2016.

|                     |       |
|---------------------|-------|
| COUNCILMAN HUDGENS  | _____ |
| COUNCILMAN STOLL    | _____ |
| COUNCILMAN DEGGES   | _____ |
| COUNCILMAN TOWNSEND | _____ |
| COUNCILMAN QUINN    | _____ |

ATTEST:

\_\_\_\_\_  
Gretchen Fagan, Mayor

\_\_\_\_\_  
Doris Speer, City Secretary



## Text Amendment Staff Report

Planning and Zoning Commission Hearing Date: December 14, 2015

City Council Public Hearing Date: December 21, 2015

**ZONING CASE P15-0122:** Request by the City of Tomball to amend Section 50-82 (b) (“Use Charts”) of the Tomball Code of Ordinances by adding “Reception venue” as an additional land use in the City of Tomball.

### **BACKGROUND**

On October 3, 2015, City staff met with the owner of Ella’s Garden about expanding their current operations. Ella’s Garden is a wedding and event venue located at 1415 Ulrich Road. Ella’s Garden would currently be classified as a “Wedding Chapel”, which is not a permitted use in the Single-Family 20 Estate District, and therefore is not able to expand. As Ella’s Garden is a venue for other types of gatherings in addition to weddings, City staff determined the best land use for Ella’s Garden would be “Reception venue”. A “Reception venue” is not a use currently in Tomball’s Land Use Matrix.

Ella’s Garden is requesting that Staff amend Section 50-82 (Use Charts) of the Code of Ordinances to create a new land use for a “Reception venue” and subsequently the City will need to establish which zoning districts the new use would be permitted to operate in and associated parking requirements.

### **PROPOSED AMENDMENTS**

Section 50-82 (Use Charts)

| Types of Land Uses  | Residential Zoning Districts |         |      |      |   |    |     | Non-Residential Zoning Districts |    |   |    | OT&MU | Parking Ratio<br>(Also see Section 50-112) |
|---------------------|------------------------------|---------|------|------|---|----|-----|----------------------------------|----|---|----|-------|--------------------------------------------|
|                     | AG                           | SF-20-E | SF-9 | SF-6 | D | MF | MHP | O                                | GR | C | LI |       |                                            |
| Personal & Business |                              |         |      |      |   |    |     |                                  |    |   |    |       |                                            |
| Reception venue     | C                            | C       |      |      |   |    |     | C                                | P  | P | P  | P     | 1 space: 4 seats                           |

A “Reception venue” to be allowed by right (P) in the Light Industrial, Commercial, and General Retail zoning districts and allowed with a Conditional Use Permit (C) in the Office, Agricultural and Single-Family 20 Estate districts.

## **ANALYSIS**

By creating the proposed new land use, Ella's Garden will be allowed to expand their operations to reach more people in the community and bring more people to Tomball for events. It will also benefit future business owners who wish to establish similar venues in Tomball.

There are other land uses of equal or greater intensity than a "Reception venue" allowed in the Agricultural (AG) and Single-Family 20 Estate (SF-20-E) districts with a Conditional Use Permit. These uses include but are not limited to "Community Center (Public)", "Community or Social Building", "Country Club (Private)", and "School, College or University".

Permitting a "Reception venue" in the Office, AG and SF-20-E districts with the approval of a Conditional Use Permit, allows the Planning & Zoning Commission and City Council to determine the impact and feasibility of the project on a case-by-case basis and if necessary add conditions to an approval to mitigate any potentially adverse impacts.

## **PUBLIC COMMENT**

A public hearing notice was published in the Tomball Tribune on November 30, 2015. No public comment forms have been received as of December 10, 2015.

## **RECOMMENDATION**

Based on the findings outlined in the analysis section of this staff report, City staff recommends **APPROVAL** of Zoning Case P15-0122.

**NOTICE OF PUBLIC HEARING  
CITY OF TOMBALL  
PLANNING & ZONING COMMISSION (P&Z)  
December 14, 2015  
&  
CITY COUNCIL  
December 21, 2015**



Notice is Hereby Given that a Public Hearing will be held by the P&Z of the City of Tomball on **Monday, December 14, 2015, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, December 21, 2015, at 6:00 P.M.** at City Hall, 401 Market Street, Tomball Texas. On such dates, the P&Z and City Council will consider the following:

**ZONING CASE P15-0122:** Request by the City of Tomball to amend Section 50-82 (b) (“Use Charts”) of the Tomball Code of Ordinances by adding “Reception venue” as an additional land use in the City of Tomball.

At the public hearings, parties of interest and citizens will have the opportunity to be heard. All citizens of the City of Tomball, and any other interested parties, are invited to attend. Applications are available for public inspection Monday through Friday, except holidays, at the Public Works Building, located at 501 James Street, Tomball, TX 77375. Further information may be obtained by contacting the Assistant City Planner, Amelia Lindley, at (281) 290-1410 or at [alindley@tomballtx.gov](mailto:alindley@tomballtx.gov).

**C E R T I F I C A T I O N**

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the **10<sup>th</sup>** day of **December 2015** by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Kim Chandler  
Kim Chandler  
Secretary of the Board

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please feel free to contact the City Secretary’s office at (281) 290-1002 or FAX (281) 351-6256 for further information. AGENDAS MAY ALSO BE VIEWED ONLINE AT [www.tomballtx.gov](http://www.tomballtx.gov).