

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



MONDAY, SEPTEMBER 15, 2014

6:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, September 15, 2014 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 Senior Pastor, Tim Niekerk, Salem Lutheran Church

3.0 Pledges to U.S. and Texas Flags

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

- September 27, 2014 – **4th Annual Bugs, Brew & Barbeque Festival**
- October 7, 2014 – **Mayor's Coffee, Cisco's Salsa, Sol de Luna** - 5:30 p.m.-7:00 p.m.
- October 11, 2014 – **2nd Annual “Sherine’s Stride” 5K Run and 1-Mile Kids Run for Breast Cancer Awareness**
- October 20-31, 2014 – Early Voting for **November 4, 2014 Local Option Election**
- October 25, 2014 – **3rd Annual Tomball Bluegrass Festival**
- **November 4, 2014 (Tuesday) – Local Option Election, City Hall, 7:00 a.m.-7:00 p.m.**
- November 8, 2014 – **6th Annual 5K Tomball Dash (Woodforest Bank)**
- **Walk Tomball!** – Every Saturday at **9:00 a.m.** at the Depot
- Reports by City staff and members of council about items of community interest on which no action will be taken

6.0 Approve the Minute of the September 2, 2014 Regular City Council Meeting

7.0 Old Business:

- 7.1 Adopt, on Second Reading, Ordinance No. 2014-26, an Ordinance of the City of Tomball, Texas, Establishing Rates and Charges for Potable Water, Sanitary Sewer, Natural Gas, and Garbage Collection and Disposal Services; Repealing Ordinance No. 2013-12 and All Other Ordinances or Parts of Ordinances Inconsistent or in Conflict Herewith; Providing for an Effective Date; Providing Other Matters Relating to the Subject; and Providing for Severability

8.0 New Business:

- 8.1 Receipt of Report from Tomball Regional Health Foundation to City Council
- 8.2 Appoint/Reappoint Members to the Tomball Regional Health Foundation for Terms Expiring September 1, 2014
- 8.3 Adopt \$0.230000 as the Portion of the Tax Rate to Fund the Interest and Sinking (Debt Service) Fund for Fiscal Year 2014-2015
- 8.4 Adopt \$0.111455 as the Portion of the Tax Rate to Fund the Maintenance and Operations (M&O) Fund for Fiscal Year 2014-2015
- 8.5 Adopt, on First Reading, Ordinance No. 2014-30, an Ordinance of the City of Tomball, Texas, Setting the Total Tax Levy of \$0.341455/\$100 of taxable value for the Year 2014 on all Real and Personal Property located in the City of Tomball, Texas; Providing for Penalty, Interest, and Additional Penalty on Taxes Not Timely Paid; and Providing Other Matters Relating to the Subject.

8.6 Adopt, on First Reading, Ordinance No. 2014-31, an Ordinance of the City of Tomball, Texas, Adopting and Enacting a New Code for the City of Tomball, Texas; Providing for the Repeal of Certain Ordinances not included Therein; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; Providing when Such Code and This Ordinance shall become Effective; Directing Publication of the Caption of This Ordinance; Finding that the Meetings at which This Ordinance is Considered are Open to the Public; Providing for Severability and the Repeal of Conflicting Ordinances; and Providing Other Details Relating to the Passage of This Ordinance (Link to Code: <http://www.ci.tomball.tx.us/Archive.aspx?AMID=48>).

8.7 Consideration to approve **ZONING CASE P14-145**: Request by TNRG Development LLC, on behalf of Frank P. Fontana, to Amend the City's Zoning Ordinance by Rezoning Approximately 20.64 acres of Land, Legally Described as Tracts 4H-1 and 4L-2, Abstract 632, C.N. Pillot, Within the City of Tomball, Harris County, Texas, Generally Located West of South Cherry Street, North of Holderrieth Road, From the General Retail District to the Light Industrial District.

- Conduct a Public Hearing on **ZONING CASE P14-145**
- Adopt, on First Reading, Ordinance No. 2014-32, an Ordinance of the City of Tomball, Texas, Amending its Zoning Ordinance by Changing the Zoning District Classification of Approximately 20.64 Acres of Land, Legally Described as Tracts 4H-1 and 4L-2, Abstract 632, C.N. Pillot, Within the City of Tomball, Harris County, Texas, From the General Retail District to the Light Industrial District; Said Property Being Generally Located West of South Cherry Street, North of Holderrieth Road; Providing for the Amendment of the Official Zoning Map of the City; Providing for Severability; Providing for a Penalty of an Amount not to Exceed \$2,000 for Each Day of Violation of any Provision Hereof, Making Findings of Fact; and Providing for Other Related Matters.

8.8 Consideration to approve **ZONING CASE P14-153**: Request by Southern Knights Inc. to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from High Density Residential to Employment/Office.

- Conduct a Public Hearing on **ZONING CASE P14-153**
- Adopt, on First Reading, Ordinance No. 2014-33, an Ordinance Of The City Of Tomball, Texas, Amending Its Comprehensive Plan by Changing the Future Land Use Classification of Approximately 4.31 Acres of Land, Legally Described as Tract 2, Howe Tract, Within The City Of Tomball, Harris County, Texas, from High Density Residential to Employment/Office; Said Property Being Generally Located Between Michel Road and Theis Lane, West of Johnson Road; Providing for the Amendment Of The Comprehensive Plan of The City; Providing for

Severability; Providing for a Penalty Of An Amount Not To Exceed \$2,000 for Each Day Of Violation of Any Provision Hereof, Making Findings of Fact; and Providing for Other Related Matters.

- 8.9 Consideration to approve **ZONING CASE P14-154**: Request by Southern Knights Inc. to amend the City's Zoning Ordinance by rezoning approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from the Duplex District to the Commercial District.
- Conduct a Public Hearing on **ZONING CASE P14-154**
 - Adopt, on First Reading, Ordinance No. 2014-34, an Ordinance of The City of Tomball, Texas, Amending Its Zoning Ordinance by Changing the Zoning District Classification of Approximately 4.31 Acres of Land, Legally Described as Tract 2, Howe Tract, Within The City of Tomball, Harris County, Texas, from The Duplex District to The Commercial District; Said Property Being Generally Located Between Michel Road and Theis Lane, West of Johnson Road; Providing for The Amendment of The Official Zoning Map of The City; Providing for Severability; Providing for a Penalty of an Amount not to Exceed \$2,000 for Each Day of Violation of Any Provision Hereof, Making Findings of Fact; and Providing For Other Related Matters.
- 8.10 Consideration to approve **ZONING CASE P14-159**: Request by the City of Tomball to amend Section 38.2 ("Use Charts") of the City's Zoning Ordinance to allow "Dance/Drama/Music Schools (Performing Arts, Martial Arts)" with a Conditional Use Permit in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts.
- Conduct a Public Hearing on **ZONING CASE P14-159**
 - Adopt, on First Reading, Ordinance No. 2014-35, an Ordinance of The City of Tomball, Texas, Amending Its Zoning Ordinance by Amending Section 38.2 ("Use Charts") by Allowing a "Dance/Drama/Music Schools (Performing Arts, Martial Arts)" With a Conditional Use Permit in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts; 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.
- 8.11 Approve an Interlocal Agreement between Harris County and the City of Tomball to Provide a Contingency Plan for Assistance with Removing Debris in the City of Tomball Resulting from a Natural or Manmade Incident.
- 8.12 Approve Resolution No. 2014-17, a Resolution of the City of Tomball, Texas, adopting the City of Tomball's Investment Policy, as set forth in the City's Administrative Policy No. 13, entitled "Investment Policy"

9.0 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 11th day of September 2014 by 6:00 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.

Regular City Council Agenda Item Data Sheet

Meeting Date: September 15, 2014

Topic:

- Led by Senior Pastor, Tim Niekerk, Salem Lutheran Church

Background:

Origination:

Council

Recommendation:

N/A

Funding:

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

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

Regular City Council

Agenda Item

Meeting Date: September 15, 2014

Data Sheet

Topic:

- September 27, 2014 – **4th Annual Bugs, Brew & Barbeque Festival**
- October 7, 2014 – **Mayor's Coffee, Cisco's Salsa, Sol de Luna** - 5:30 p.m.-7:00 p.m.
- October 11, 2014 – **2nd Annual "Sherine's Stride" 5K Run and 1-Mile Kids Run for Breast Cancer Awareness**
- October 20-31, 2014 – Early Voting for **November 4, 2014 Local Option Election**
- October 25, 2014 – **3rd Annual Tomball Bluegrass Festival**
- **November 4, 2014 (Tuesday) – Local Option Election, City Hall, 7:00 a.m.-7:00 p.m.**
- November 8, 2014 – **6th Annual 5K Tomball Dash (Woodforest Bank)**
- **Walk Tomball!** – Every Saturday at **9:00 a.m.** at the Depot
- Reports by City staff and members of council about items of community interest on which no action will be taken

Background:

Origination:

Various

Recommendation:

N/A

Funding:

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

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

Regular City Council Agenda Item Data Sheet

Meeting Date: September 15, 2014

Topic:

Approve the Minute of the September 2, 2014 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
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Draft Minutes - September 2, 2014 City Council Meeting

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



TUESDAY, SEPTEMBER 2, 2014

6:00 P.M.

1.0 Call to Order

The Council meeting was called to order at 6:00 p.m. by Mayor Pro Tem Hudgens. Other members present:

Councilman Stoll
Councilman Degges
Councilman Townsend
Councilman Klein Quinn

Excused Absence: Mayor Fagan - Excused

Others present:

City Manager – George Shackelford
Assistant City Manager/Police Chief – Robert Hauck
City Secretary – Doris Speer
City Attorney – Loren Smith
Fire Chief – Randy Parr
Director of Public Works – David Kauffman
Marketing Director – Mike Baxter
Community Development Director – Craig Meyers
City Engineer – Lori Lakatos
Finance Director – Glenn Windsor
Executive Director-TEDC – Kelly Violette

2.0 Invocation was led by the Reverend Thomas Hopper, St. Anne's Catholic Church

3.0 Pledges to U. S. and Texas Flags were led by Randy Parr.

4.0 No public comments were received.

5.0 Reports and Announcements:

- ***Tomball City Pool - 2014 Swim Season - Jerry Matheson Park Pool*** closed on September 1, 2014.
- September 13, 2014 – ***2nd Annual “New Life” 5K and Kid’s Walk Fundraiser (Tomball Pregnancy Center and Salem Lutheran)***
- September 13, 2014 - ***2nd Saturday at the Depot - “Barnyard”*** - 6:00 p.m.
- September 27, 2014 – ***4th Annual Bugs, Brew & Barbeque Festival***
- October 7, 2014 – ***Mayor’s Coffee, Cisco’s Salsa, Sol de Luna*** – 5:30 p.m.-7:00 p.m.
- October 11, 2014 - ***2nd Annual “Sherine’s Stride” 5K Run and 1-Mile Kids Run for Breast Cancer Awareness***
- October 20-31, 2014 – Early Voting for ***November 4, 2014 Local Option Election***
- October 25, 2014 – ***3rd Annual Tomball Bluegrass Festival***
- ***November 4, 2014 (Tuesday) – Local Option Election, City Hall, 7:00 a.m.-7:00 p.m.***
- November 8, 2014 – ***6th Annual 5K Tomball Dash (Woodforest Bank)***
- ***Walk Tomball!*** – Every Saturday at 8:00 a.m. at the Depot – **NOTE: Beginning September 6, walk will begin at 9:00 a.m.**
- Reports by City staff and members of council about items of community interest on which no action will be taken:
 - Mike Baxter presented a report on the success of the ***Texas Music Festival***.

6.0 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve the Minutes of the August 18, 2014 Regular City Council Meeting.

Motion carried unanimously.

7.0 Old Business:

7.1 Motion was made by Councilman Townsend, second by Councilman Degges, to adopt, on Second Reading, **Ordinance No. 2014-23**, an Ordinance of the City of Tomball, Texas, Establishing an Emergency Management Program by Amending Chapter 22, Emergency Management, by Deleting Chapter 22 in Its Entirety and Adopting a New Chapter 22, Emergency Management; Establishing Program Response and Recovery Phase of Comprehensive Emergency Management; Acknowledging the Office of Emergency Management Director; Authorizing the Appointment of an Emergency Management Coordinator; and Providing for the Duties and Responsibilities of those Offices; Identifying an Operational Organization; Granting Necessary Powers to Cope with All Phases of Emergency Management which Threaten Life and Property in the City of Tomball; Authorizing Cooperative and Mutual Aid Agreements for Relief Work between This and Other Cities or Countries and for Related Purposes; Repealing Ordinance No. 92-16, Passed, Approved and Adopted on October 19, 1992; Providing for Severability; and Making Other Findings Related Thereto. 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.

- 7.2 Motion was made by Councilman Stoll, second by Councilman Townsend, to adopt, on Second Reading, Ordinance No. 2014-25, an Ordinance of the City Council of the City of Tomball, Texas, Adopting the Budget for the City of Tomball, Texas, for Fiscal Year 2014-2015; and Authorizing the City Manager to Approve Intra-Departmental (Within the Same Department Only) Transfers of Budgeted Funds; and Amending the Budget for the 2013-2014 Fiscal Year in Accordance with Actual Expenditures; and Providing other Details Relating to the Passage of This Ordinance. 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.

- 7.3 Motion was made by Councilman Degges, second by Councilman Townsend, to adopt, on Second Reading, Ordinance No. 2014-27, an Ordinance of the City of Tomball, Texas, Amending Its Zoning Ordinance, by Approving a Planned Development (PD) District of Approximately 39.4 Acres of Land, Legally Described as Reserve A, Block 1, North Harris County Concordia Lutheran High School and Tracts 4, 4A, 4B, and 5, Abstract 629, J. Pruitt; within the City of Tomball, Harris County, Texas; Amending the Official Zoning Map of the City to Reflect the PD to be Known as PD District #7 (PD-7); Adopting a Concept Plan and Regulations Applicable to PD-7; 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.

- 7.4 Motion was made by Councilman Townsend, second by Councilman Klein Quinn, to adopt, on Second Reading, Ordinance No. 2014-28, an Ordinance Altering the *Prima Facie* Speed Limits Established for Vehicles under the Provisions of §545.356, Texas Transportation Code, upon the Basis of an Engineering and Traffic Investigation, upon Certain Streets and Highways, or Parts Thereof, Within the Corporate Limits of the City

of Tomball, as Set Out in This Ordinance, and Providing a Penalty of a Fine in an Amount Not to Exceed Two Hundred Dollars (\$200.00) for the Violation of this Ordinance. 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 Ratify the FY 2014-2015 Budget and Find that the Proposed Tax Rate of \$.341455/\$100 of Value Does Not Exceed the Effective Tax Rate and Will Generate Less Property Tax Revenue than the FY 2013-2014 Budget.

Motion carried unanimously.

- 8.2 Mayor Pro Tem Hudgens announced that no Public Hearings on the Proposed Tax Rate for 2014 will be required.

No action necessary.

- 8.3 Motion was made by Councilman Stoll, second by Councilman Townsend, to approve a Long-Term Use Agreement between the City of Tomball and Tomball Farmers Market Allowing Tomball Farmers Market to Use City of Tomball Property Located at 105-A Cherry Street.

Motion carried unanimously.

- 8.4 Motion was made by Councilman Townsend, second by Councilman Stoll, to cast Ballot for Place 1 – Robert T. Herrera, Place 2 – John W. Fullen, Place 3 – George Shackelford, and Place 4 – Peter Vargas, for the Texas Municipal League Intergovernmental Risk Pool Board of Trustees (TML-IRP).

Motion carried unanimously.

- 8.5 Motion was made by Councilman Degges, second by Councilman Klein Quinn, to approve the Tomball Economic Development Corporation (TEDC) Fiscal Year 2014-2015 Budget

Motion carried unanimously.

- 8.6 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve, as a Project of the Corporation, an agreement with Advanced Pressure Systems, L.P., to make direct incentives to or expenditures for equipment expansion for the creation and retention of primary jobs for Advanced Pressure Systems. The estimated amount of expenditures for such project is \$22,500.00.

Motion carried unanimously.

- 8.7 Motion was made by Councilman Stoll, second by Councilman Klein Quinn, to approve the First Amendment to Economic Development Agreement between the Tomball Economic Development Corporation and Inline Services, Inc. for additional funding of \$21,129.00.

Motion carried unanimously.

- 8.8 Motion was made by Councilman Degges, second by Councilman Stoll, to approve, as a Project of the Corporation, an agreement with Compass Instruments, LLC, to make direct incentives to, or expenditures for, the creation or retention of primary jobs associated with the relocation and development of a manufacturing facility located at 321 South Persimmon Street, Tomball, TX. The estimated amount of expenditures for such Project is \$45,000.00.

Motion carried unanimously.

- 8.9 Motion was made by Councilman Townsend, second by Councilman Degges, to approve the Assignment of Development Agreement regarding the Assignment of Annual Assessment Collections for PID No. 1, Pine Country of Texas.

Motion carried unanimously.

- 8.10 Motion was made by Councilman Degges, second by Councilman Townsend, to approve and authorize the City Manager to Execute the Pipeline Relocation/Reimbursement Agreement with Tortuga Operating Company ("Tortuga"), in the Amount of \$85,199.00.

Motion carried unanimously.

- 8.11 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve Live Oak Center; A Subdivision of land containing 0.3335 acre, more or less, being a Replat of all of Lot 4, the adjoining 3.30 feet of Lot 3, and the adjoining south 10' of a 200' wide alley, in Block 10, of Main Street Addition, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 15, Page 43 of the map records of Harris County, Texas.

Motion carried unanimously.

- 8.12 Motion was made by Councilman Townsend, second by Councilman Stoll, to read Ordinance No. 2014-26 by Caption only.

Motion carried unanimously.

Motion was made by Councilman Stoll, second by Councilman Klein Quinn, to adopt, on First Reading, Ordinance No. 2014-26, an Ordinance of the City of Tomball, Texas, Establishing Rates and Charges for Potable Water, Sanitary Sewer, Natural Gas, and Garbage Collection and Disposal Services; Repealing Ordinance No. 2013-12 and All Other Ordinances or Parts of Ordinances Inconsistent or in Conflict Herewith; Providing for an Effective Date; Providing Other Matters Relating to the Subject; and Providing for Severability. 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.

- 8.13 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve Resolution No. 2014-17, a Resolution of the City of Tomball, Texas, adopting the City of Tomball's Investment Policy, as set forth in the City's Administrative Policy No. 13, entitled "Investment Policy".

Motion was made by Councilman Townsend, second by Councilman Stoll, to TABLE consideration of Resolution No. 2014-17, a Resolution of the City of Tomball, Texas, adopting the City of Tomball's Investment Policy, as set forth in the City's Administrative Policy No. 13, entitled "Investment Policy" to the September 15, 2014 Council meeting, in order to obtain information regarding brokerage CDs and off-shore banking.

Motion to **TABLE** carried unanimously.

- 8.14 Council recessed at 6:41 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:

- Sec. 551.071 - Private Consultation with Attorney in Closed Meeting Regarding a Matter of Potential Litigation that the Duty of the Attorney Requires be Held in Closed Session
- Sec. 551.072 – Deliberations Regarding Real Property

Upon reconvening in regular session at 7:32 p.m., the following items were considered and action taken:

Motion was made by Councilman Townsend, second by Councilman Stoll, to remove Items 8.15, 8.16, and 8.17 from the table.

Motion to remove from table carried unanimously.

- 8.15 Motion to Amend was made by Councilman Townsend, second by Councilman Stoll, “that the City of Tomball authorize the use of the power of eminent domain to acquire the 3.608 acre right-of-way for drainage purposes, owned by James Midkiff for the M121 Drainage Project”, and to approve Resolution No. 2014-02, a Resolution of the City Council of the City of Tomball, Texas Determining that a 3.608 Acre Tract of Land is Needed for Use as a Drainage Channel as Part of the M121 Drainage Project for the City of Tomball, Texas; and Authorizing the Institution of Eminent Domain Proceedings, with amending language in Resolution No. 2014-02, paragraph 1, line 3, from “in the City of Tomball” to “for the City of Tomball”. 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 as AMENDED carried, 3 votes Aye, 2 votes Nay.

- 8.16 Motion to Amend was made by Councilman Degges, second by Councilman Stoll, “that the City of Tomball authorize the use of the power of eminent domain to acquire the 8.288 acre right-of-way for drainage purposes, owned by Carolyn Ann Lang for the M121 Drainage Project”, and to approve Resolution No. 2014-03, a Resolution of the City Council of the City of Tomball, Texas, Determining that 8.288 Acre Tract of Land is Needed for Use as a Drainage Channel as Part of the M121 Drainage Project for the City of Tomball, Texas; and Authorizing the Institution of Eminent Domain Proceedings, with amending language in Resolution No. 2014-02, paragraph 1, line 3, from “in the City of Tomball” to “for the City of Tomball”. 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 as AMENDED carried, 3 votes Aye, 2 votes Nay.

- 8.17 Motion to Amend was made by Councilman Degges, second by Councilman Stoll, “that the City of Tomball authorize the use of the power of eminent domain to acquire the 3.001 acre right-of-way for drainage purposes, owned by Martha J. Michel, Trustee of Michel Family Irrevocable Trust for the M121 Drainage Project”, and to approve Resolution No. 2014-21, a Resolution of the City Council of the City of Tomball, Texas,

determining that 3.001 Acre Tract of Land is Needed for Use as a Drainage Channel as Part of the M121 Drainage Channel as Part of the M121 Drainage Project for the City of Tomball, Texas; and Authorizing the Institution of Eminent Domain Proceedings, with amending language in Resolution No. 2014-02, paragraph 1, line 3, from “in the City of Tomball” to “for the City of Tomball”. 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 as AMENDED carried, 3 votes Aye, 2 votes Nay.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this the _____ day of _____ 2014.

Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Mayor

Regular City Council

Agenda Item

Meeting Date: September 15, 2014

Data Sheet

Topic:

Adopt, on Second Reading, Ordinance No. 2014-26, an Ordinance of the City of Tomball, Texas, Establishing Rates and Charges for Potable Water, Sanitary Sewer, Natural Gas, and Garbage Collection and Disposal Services; Repealing Ordinance No. 2013-12 and All Other Ordinances or Parts of Ordinances Inconsistent or in Conflict Herewith; Providing for an Effective Date; Providing Other Matters Relating to the Subject; and Providing for Severability

Background:

Municipal Code Corporation, the firm handling the recodification of Tomball's code of ordinances, has suggested that we put as many of the City's fees in the Master Fee Schedule as possible.

Ordinance No. 2014-26 will establish putting the rates for water, sewer, gas and sanitation services in the Master Fee schedule, enabling Council to revise the rates as needed, without having to adopt an Ordinance with two readings.

There are no increases in the rates for water, sewer or gas for Fiscal Year 2014-2015.

Origination:

Glenn Windsor, CPA, Finance Director

Recommendation:

Adopt Ordinance No. 2014-26 on Second Reading

Funding:

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

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Ordinance No. 2014-26 - Utility Rates

ORDINANCE NO. 2014-26

**AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS,
ESTABLISHING RATES AND CHARGES FOR POTABLE WATER,
SANITARY SEWER, NATURAL GAS, AND GARBAGE
COLLECTION AND DISPOSAL SERVICES; REPEALING
ORDINANCE NO. 2013-12 AND ALL OTHER ORDINANCES OR
PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT
HEREWITH; PROVIDING FOR AN EFFECTIVE DATE;
PROVIDING OTHER MATTERS RELATING TO THE SUBJECT;
AND PROVIDING FOR SEVERABILITY.**

* * * * *

WHEREAS, pursuant to Section 82-50 of the Code of Ordinances of the City of Tomball, Texas, the rates and charges for the consumption of utility services furnished by the city, as well as the charges and fees for connection thereto, shall be as determined by the City Council from time to time and on file in the office of the City Secretary; and

WHEREAS, pursuant to Section 62-37 of the Code of Ordinances of the City of Tomball, Texas, the fees and charges to be made and collected for the collection and removal of garbage and trash within the city shall be as determined by the City Council from time to time and on file in the office of the City Secretary; and

WHEREAS, the City Council now deems it necessary and appropriate to adjust such rates and charges heretofore established; now therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL:

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

Section 2. Definitions. For the purposes of this Ordinance, the following words shall have the meanings ascribed thereto:

- a. Residential shall mean a residential dwelling unit receiving service for which metering and billing is on an individual basis.
- b. Commercial shall mean all non-residential units, and residential units which are provided service, and are billed, collectively with one (1) or more other residential units.

Section 3. The monthly rates and charges for potable water provided by the City shall be as set forth in the Master Fee Schedule.

Section 4. The monthly rates and charges for sanitary sewer services provided by the City for customers who receive potable water services from the City shall be as set forth in the Master Fee Schedule.

Section 5. The monthly rates and charges for sanitary sewer services provided by the City for customers who do not receive potable water services from the City shall be as set forth in the Master Fee Schedule.

Section 6. The monthly rates and charges for garbage and trash collection and disposal services provided by the City, excluding applicable sales tax, shall be as follows: as set forth in the Master Fee Schedule.

Section 7. The monthly rates and charges for natural gas provided by the City shall be as set forth in the Master Fee Schedule.

Section 8. The charges for connections and disconnections of utility services provided by the City, including those provided at customer request or convenience, or as a result of delinquent accounts, shall be as set forth in the Master Fee Schedule.

Section 9. The charge for damage to utility facilities from (i) customer's tampering with valves, or (ii) customer's damaging meter in any manner, shall be as set forth in the Master Fee Schedule.

Section 10. Delinquent Accounts.

- a. All utility bills, both residential and commercial, shall be due and payable on the close of the last business day of the month. If the month ends on a Saturday, Sunday, or holiday, the bill is due on the prior business day (the last workday of the City at closing time on that day).
- a. Residential customers who are age 65 and over or considered disabled by Social Security may be exempt from penalty fees for late payment upon application accompanied by verifying documentation to the Utilities Supervisor. This exemption may not exceed the final date of benefits designated by the Social Security Administration.
- c. Within two (2) work days following the "Due Date" a "Cut-off Notice" shall be mailed to customer giving notice that following the expiration of seven (7) days following such notice service will be discontinued unless the customer requests a hearing before the Utilities Supervisor regarding such proposed disconnection prior to the expiration of such seven (7) day period.
- d. Upon the showing of good cause and arrangement for prompt payment by a customer, the Utilities Supervisor shall be authorized to withdraw a disconnection order. Any such action by the Utilities Supervisor shall be evidence in writing, outlining the basis for the decision and, if applicable, the required payment schedule for the customer. The Utilities Supervisor shall cause a copy of such order to be delivered to the appropriate billing personnel of the City.

Section 11. Repealer. City of Tomball Ordinance 2013-12 passed and approved the 19th day of August 2013 is hereby repealed. All other ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 12. Severability. 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 of provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each 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 13. Effective Date This ordinance shall be effective October 1, 2014.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 2ND DAY OF SEPTEMBER 2014.

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>

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 15TH DAY OF SEPTEMBER 2014.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN KLEIN QUINN	_____

GRETCHEN FAGAN
Mayor

ATTEST:

DORIS SPEER
City Secretary

Regular City Council Agenda Item Data Sheet

Meeting Date: September 15, 2014

Topic:

Receipt of Report from Tomball Regional Health Foundation to City Council

Background:

Lynn LeBeouf will provide a report to City Council.

Origination:

Tomball Regional Health Foundation

Recommendation:

N/A

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

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Powerpoint Presentation

TOMBALL HOSPITAL AUTHORITY REPORT TO THE TOMBALL CITY COUNCIL

SEPTEMBER 15, 2014

HISTORY

Tomball Hospital Authority was created by City Council Ordinance in 1973 for the purpose of bringing a modern hospital to the Tomball area.

An 11 member Board of Directors was appointed with Class A, B, and C members.

5 Class A members of the Board are appointed by City Council and are required to be residents of the City of Tomball.

Class B and C members (3 members each) are appointed by the Board of Directors for representation from the “Greater Tomball Area” which includes Magnolia, Waller, and Cypress.

No debt obligations were incurred by the City by the creation of the Hospital Authority. The Authority financed the hospital through several Bond indentures and the Authority was responsible for any debt incurred.

In its history, the Tomball Hospital Authority d/b/a Tomball Regional Medical Center has never received financial support from the City of Tomball.

History (Continued)

Tomball Community Hospital opened on July 1, 1976 as a 75 bed hospital.

Within a few years the Hospital, under the direction of the Authority, underwent several expansions.

First to a 140 bed hospital and by 1989, it grew to a 240 bed facility and the name was changed to “Tomball Regional Medical Center” to reflect it’s growing emergence in the community.

By 2002, the facility had grown to a licensed 357 bed Major Medical Center in the heart of Tomball.

Indeed, Tomball Regional Medical Center was ranked in the top 10 hospitals in the Greater Houston Area for Quality by U.S. News and World Reports in 2011 out of 99 hospitals reviewed.

History (Continued)

In early 2011, due to the increased economic and financial pressure of operating a “stand alone” Health Care Facility, the Authority decided to seek a partnership with a larger entity that would have greater leverage in negotiating managed care agreements and cost containment to fulfill the mission of the Authority.

In October of 2011, the Authority sold Tomball Regional Medical Center to a subsidiary of Community Health Systems. All outstanding financial obligations, including the outstanding bond indentures of the Authority were fully satisfied. However, we continue to expense hospital related Medicare Cost Reports, some going back to 2007, and other related hospital related expenses from the period in which we owned the Medical Center. We have expensed a little over \$3,790,162.00 in hospital related cost since last year.

Because the Authority was no longer operating a hospital, a new name was adopted, Tomball Regional Health Foundation, to continue to conduct the business of the Authority and serve the Tomball community

Tomball Regional Health Foundation

Is the name of the Authority.

It is simply, Tomball Hospital Authority, DBA Tomball Regional Health Foundation

The Authority is still a governmental entity organized under Chapter 262 of the Texas Health and Safety Code.

Its governmental status is consistent with its mission to “promote wellness and improve health status for all residents in our communities through programs that enhance access to health care, preventative care and health education.”

The Authority, and its governmental status, allows us to participate in the Texas Department of State Health Services' 1115 Waiver Program for Uncompensated Care. (covered later in this presentation)

Economic Impact of Decisions made by The Authority

Tomball Regional Medical Center is still one of the largest employers in the community

Over \$60 million in salaries and wages annually are infused into the economy based on salaries paid in FYE 2011

The City had benefited from road infrastructure of the Hospital campus, including the current Medical Complex Drive, at no cost to the City

Decision to sell land that created a Long Term Care Facility (Kindred Hospital) in Tomball so residents of our community have the convenience of that type of facility near their home as well as their economic impact through employment and services provided

Significant Tax Revenues being generated by the TRMC Campus to the City and our Schools by the sale of the hospital campus

Economic Impact of Decisions made by The Authority

Working with Lone Star College Tomball for the creation of a Health Science Center for Lone Star College Tomball on the campus of the Hospital through the leasing of the land the new building sits on

Obtained the Following Commitments from Community Health Systems:

- Fund \$50 Million in Capital Improvements for the Hospital over the next 5 years
- Fund \$150K per year for the next 10 years to TOMAGWA Healthcare Ministries
- Reducing the lease payment for the Health Science Center for Lone Star College Tomball to \$1.00 per year for the next 99 years.

Current Projects

1115 Waiver

As a Governmental Entity, we are participating in a 5-year pilot program with the Texas Department of Health and Human Services Commission in the 1115 Waiver Project with the Centers for Medicare and Medicaid Services.

Texas Health and Human Services Commission has received federal approval of a waiver that allows the state to expand Medicaid managed care while preserving hospital funding, provides incentive payments for health care improvements and directs more funding to hospitals that serve large numbers of uninsured patients.

Governmental entities that contribute intergovernmental transfers (IGTs) will have those funds matched by the state, then the Federal Government, and then returned to the Health Care Facility to be used for the funding of uninsured patients

Current Projects

1115 Waiver (Uncompensated Care)

Since February 2012, the Authority, as a governmental public entity, has submitted the following Intergovernmental Transfers (IGT's) to the Texas Health and Human Services Commission on behalf of Tomball Regional Medical Center to fund uninsured care for patients within our service area.

These IGT funds were matched by the State and then forwarded to CMS, who also contributed to that funding and returned the funding directly to Tomball Regional Medical Center for Uncompensated Care (UC)

	(UC)IGT Made	Funding Returned to TRMC
February, 2012	\$937,500.00	\$2,156,250
October, 2012	\$1,792,324.49	\$4,289,910
May, 2013	\$1,853,668.71	\$5,983,724
July, 2013	\$646,331.30	\$1,615,828* (Approximate)
Total:	\$5,229,824.50	\$14,045,712

Current Projects

1115 Waiver (Improving Access To Care)

In addition to the Uncompensated Care portion of the 1115 Waiver, The Authority is also participating in a project to improve access to care for patients that are uninsured or underinsured. This 1115 Waiver Project is worked with the Hospital to create an after hours clinic at TOMAGWA for patients that come to the ER that do not have a medical emergency, but need care and they either do not have insurance or are “under-insured”. This would have expand the hours of the TOMAGWA Clinic into the evening to provide access to care for these individuals. The first IGT for this 4 year project was made in April of last year to provide seed money for clinic start-up cost. Unfortunately, the project did not move forward and was cancelled. We are working with the Hospital to consider other options.

	Project IGT Made	Funding returned to TRMC
April, 2013	\$67,651.00	\$166,219.07
July, 2014	\$1,919.00	\$0.00 (State Monitoring Cost of the Project)
Budgeted FY 2015	\$351,640.00	Unfortunately, the project did not move forward and was cancelled

Current Projects

1115 Waiver Summary

Since February, 2012, Tomball Hospital Authority's participation as a Governmental Public Entity in the 1115 Waiver Project has enabled funding for uninsured patients as well as improving their access to care in our community in the amount of \$14,213,850.00

Current Projects

TOMAGWA Dental Program

In January of 2013, the Authority provided \$150,000 in start up cost and committed to operational funding in the amount of \$216,000.00 per year for the next 3 years for the TOMAGWA Dental Program for patients who need dental care but are unable to obtain it because of financial resources.

This program is exceeding all expectations and there is a long waiting list for appointments. 620 patients, representing 3,266 patient visits to the clinic and 7,664 services have been provided as of the end of June, 2014. According to TOMAGWA, the “retail” value of these services would be \$1,747,861.00.

A new agreement was entered into with TOMAGWA in July of this year to provide an additional \$35,000.00 in Capital Equipment, \$50,000.00 in unrestricted expansion cost for the Dental Clinic as well as operational funding up to a cap of \$562,869.00 per year for additional personnel and expansion of the number of visits to the Dental Program.

Total funding approved from inception of the program through FY 2015: \$1,121,419.00

Again, consistent with The Authority’s Mission to improve access to care.

Current Projects

Lone Star College Health Science Services

The Authority has approved funding for equipment needed by Lone Star College Tomball's Health Science Center in the amount of \$64,188.00 for the purchase of lab equipment to assist in the training of nurses and pharmacy technicians so that they can have the latest training equipment for these programs.

The Authority also approved funding for an additional nursing instructor for the Nursing Program at \$63,000.00 a year for the next five years totaling \$315,000.00 as well as a special \$75,000.00 Nursing Scholarship Endowment in the name of Elmer Beckendorf that will provide Nursing Scholarships for 1 nursing student per year in perpetuity.

Total Funding: \$454,188.00

Because of the severe nursing shortage in our area, the Authority believes this is an investment in our future health care needs of our community. Again, consistent with our Mission.

Current Projects

City of Tomball

The Authority approved an upgrade to the Emergency Traffic Signal Pre-emption System (E-VIEW System) for the City of Tomball through a grant to the City of Tomball in the amount of, not to exceed, \$328,000.00.

To date, approximately 26 intersections have been installed and working successfully. When an emergency vehicle is dispatched, there is a transponder in each vehicle that will communicate with the red lights in the City and, if necessary, change them to green allowing the vehicles to proceed safely through a green light as opposed to “running hot” through a red light and hoping the other vehicles stop as they proceed. There is approximately \$25,000 remaining in the Grant for additional intersections and vehicle transponders as the need arises.

Fire, EMS, and Police all report increased safety for our first responders and the public as the biggest advantage of the system. It even lets the response vehicle’s know of other first responders approaching the same intersection at the same time, which improves safety for our public. It is too early to determine impact on response times.

Current Projects

Shattered Lives

Shattered Lives is a program designed for High School Students to educate them on the impact of driving while intoxicated. This very emotional program involves our school district as well as our first responders. The Authority was the lead Sponsor for the program at both Tomball ISD High Schools in the amount of \$10,000.00.

An additional \$10,000.00 is budgeted for this year for the program.

Summary

The Authority's Mission Statement says it's purpose is "To promote wellness and improve health status for all residents in our communities through programs that enhance access to health care, preventative care and health education.

It's Vision Statement is "to be a catalyst for measurably improving access to healthcare and health status of the Tomball, Magnolia, Waller and surrounding communities."

YOUR Board of Directors, comprised of both city and community appointees, is making a difference in our community. We look forward to continuing the relationship that we have with the City of Tomball.

Questions?

Regular City Council

Agenda Item

Data Sheet

Meeting Date: September 15, 2014

Topic:

Appoint/Reappoint Members to the Tomball Regional Health Foundation for Terms Expiring September 1, 2014

Background:

Three Class A, City-appointed Board of Directors positions on the Tomball Regional Health Foundation will expire on September 1, 2014. These unpaid, two-year positions are currently held by:

- Ralph Foxworthy - Position 1
- H. Ray Lingo - Position 3
- Ellen Stutts - Position 5

Mr. Foxworthy and Mrs. Stutts have each expressed their desire to continue on the Board of Directors of the Tomball Regional Health Foundation; Mr. Lingo does not wish to be reappointed, leaving a vacancy. The City has also received a letter from the Nominating Committee and the Board of Directors of the Tomball Regional Health Foundation recommending the reappointment of Mr. Foxworthy and Mrs. Stutts due to the long orientation, training and educational commitment required of new and current board members to be effective in their positions. The following individuals have a current application on file and have expressed their interest in serving on the Foundation:

- Michelle Beauvais (currently serving on P&Z)
- John Ford (currently serving on BOA)
- Cary Rasberry
- Tina Roquemore (currently serving on BOA)
- Marcia Moore-Swinehart
- Barbara Tague (currently serving on P&Z)
- Evelyn Torres (currently serving on P&Z)
- Robert Turner
- Brett Tynes (currently serving on BOA)
- Steven Vaughan (currently serving on TEDC)
- Jarmon Wolfe (currently serving on BOA).

As Mayor, I wish to recommend the reappointment of Ralph Foxworthy and Ellen Stutts to the Tomball Regional Health Foundation, Positions 1 and 5, respectively, and the appointment of Steven Vaughan to Position 3. The training curve to serve effectively on the Foundation is significant; reappointing Mr. Foxworthy and Mrs. Stutts would be in the best interests of the Foundation and the community and appointing Steven Vaughan would bring fresh insights to the Foundation.

Copies of applications from citizens currently interested in serving on this Foundation are attached for Council's consideration.

Origination:

Mayor Fagan

Recommendation:

N/A

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

Doris Speer, City Secretary

ACTION TAKEN		
APPROVAL ☐ YES ☐ NO	READINGS PASSED ☐ 1 ST ☐ 2 ND	OTHER

ATTACHMENTS:

Ralph Foxworthy - Application

Ellen Stutts - Application

Michele Beauvais - Application

John Ford - Application

Cary Rasberry - Application

Tina Roquemore - Application

Marcia Moore-Swinehart - Application

Barbara Tague - Application

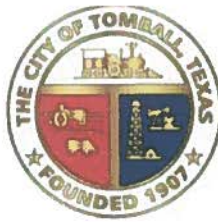
Evelyn Torres - Application

Robert Turner - Application

Brett Tynes - Application

Steven L. Vaughan - Application

Jarmon Wolfe - Application



CITY OF TOMBALL

APPLICATION FOR CITY BOARDS/COMMISSIONS/COMMITTEES

As an Applicant for a City Board, Commission, or Committee, your application will be available to the public. You will be contacted before any action is taken on your appointment to confirm your continued interest in serving. All appointments are made by the Tomball City Council. Incumbents whose terms expire are automatically considered for reappointment unless they indicate non-interest or have been appointed to two (2) consecutive terms. A member who is absent for more than 25% of called meetings (typically, three meetings) in any twelve consecutive months or absent from more than three consecutive meetings, for other than medical reasons, will be automatically removed from service. Applicant must be a citizen of the United States and must reside within the city limits of Tomball unless otherwise stated in the position announcement. Applications will be kept on file for two years and will expire at the end of two years; for instance, an application dated in 2010 will expire in 2012.

Please Type or Print Clearly:

Date: 02-16-2011

Name: RALPH D. FOXWORTHY

Phone: 281-316-7399
(Home)

Address: U-

Phone: 713-829-6839
(Work)

City/State/Zip: TOMBALL TX 77375

Email: ralph.foxworthy@bakerhughes.com

I have lived in Tomball 10 years.

I am X am not a U.S. Citizen

Occupation: Director, Baker Hughes Inc. (26 yrs.)
Currently leading integrations & installations of B.J. Services
company global ERP systems (for 59 countries) to Baker Hughes'
I.T. environment.

Professional and/or Community Activities: Private Pilot, currently working towards
INSTRUMENT license - Hooks Airport, VICE-PRESIDENT of Foxworthy's, LLC;
wife, KAREN - PRESIDENT, of retail business now located in Tomball.

Additional Pertinent Information/References: Two sons & daughter-in-law. All in
Richardson, Texas; work @ U.T. Dallas and also pursuing degrees in
Masters & Bachelors programs.

Applications for the following Council-appointed Boards, Commissions, and Committees will be kept on file in the City Secretary's office (281-290-1002) for two years.

If you are interested in serving on more than one board, please indicate your preference by numbering in order of preference (i.e., 1, 2, 3, etc.)

Decision-Making Boards and Commissions

Meeting Information

() Planning & Zoning Commission

Second Monday each month, 6 p.m.

() Board of Adjustments

To Be Announced; Evenings

Separate Legal Entities

Meeting Information

() Tomball Economic Development Corporation

Fourth Tuesday of the Second Month of Each Quarter, 5:30 p.m. (special meetings may be called)

(X) Tomball Hospital Board

Fourth Wednesday each month, 4 p.m.

I AM INTERESTED IN SERVING ON THE ABOVE-INDICATED BOARDS, COMMISSIONS, AND COMMITTEES.



Signature of Applicant

Please return this application to:

City Secretary
City of Tomball
401 Market Street
Tomball, TX 77375

ELLEN H. STUTTS

CERTIFIED PUBLIC ACCOUNTANT
14011 PARK DRIVE • SUITE 113
TOMBALL, TEXAS 77377

THE TEXAS SOCIETY OF
CERTIFIED PUBLIC ACCOUNTANTS

281-290-0626
281-351-5378 FAX

June 28, 2012

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

Dear Ladies and Gentlemen:

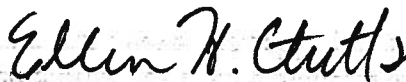
I want to let you know how much I have enjoyed and appreciated these past six years of service as a member of the Board of Directors of the Tomball Regional Hospital Authority. The Hospital has truly been a service to Tomball and our surrounding communities. The opportunity to be part of the planning and guidance of this enterprise has been beneficial to my growth professionally, as well as personally, and I believe that I have been able to contribute along the way.

I am currently serving as Secretary of the Board and Member of the Executive Committee.

I welcome the opportunity to continue my service on this Board and ask that you allow me to do so. If you have any questions of me, I will be happy to speak with you at any time.

Again, thanks for the opportunity to serve and for your kind consideration.

Sincerely,



Ellen H. Stutts

Ellen H. Stutts

31330 Helen Lane
Tomball, Texas 77375
Hm.
Off. 281-290-0626

Tomball High School Graduate - 1967

Southern Methodist University – BBA 1971
University of Houston – Post Bacc. Study – 1974 – 1975

Certified Public Accountant - 1976
Member Texas Society of Certified Public Accountants
Member Houston Chapter – Texas Society of Certified Public Accountants

Member Tomball United Methodist Church
Past Service – Finance Committee Chair during planning and construction of
Sanctuary
Administrative Board
Board of Trustees
Current - Finance Committee

Community volunteer through National Charity League and Junior League of North
Harris County – 1988 – 2002

Tomball Independent School District Trustee – 1993 – 1998
Tomball Hospital Authority Board of Directors – 2006 – Present
Lone Star College Foundation Board of Directors – 2007 - Present

Currently practicing CPA in Tomball working with Income, Trust and Estate Tax issues
as well as accounting and bookkeeping for clients both Business and Individual.

Married to Joe D. Stutts, children Sarah and Tad Weatherford, Katherine Stutts and
William Stutts.



CITY OF TOMBALL

APPLICATION FOR CITY BOARDS/COMMISSIONS/COMMITTEES

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Please Type of Print Clearly:

Date: 6-26-12

Name: Ellen H. Stutts

Phone: _____

Address: 31330 Helen Lane

(Home)

Phone: 281-290-0626

City/State/Zip Tomball Texas 77375

(Work)

Cell: _____

Email: ehstutts@tomballcpas.com

I have lived in Tomball 24 years.

I am ☒ am not ☐ a U.S. Citizen

NOTE: DTAC Board does not require Tomball residency

Occupation: CPA

Professional and/or Community Activities: See Attached

Additional Pertinent Information/References: See Attached

Applications for the following Council-appointed Boards, Commissions, and Committees will be kept on file in the City Secretary's office (281-290-1002) for one year.

If you are interested in serving on more than one board, please indicate your preference by numbering in order of preference (i.e., 1, 2, 3, etc.)

Decision-Making Boards and Commissions

- () Planning & Zoning Commission
() Board of Adjustments

Meeting Information

Second Monday each month, 6 p.m.
To Be Announced; Evenings

Separate Legal Entities

- () Tomball Economic Development Corporation

☒ Tomball Hospital Board

Meeting Information

First Wednesday of January, April, July & October, 9 a.m. (special meetings may be called)
Fourth Wednesday each month, 4 p.m.

Ad Hoc/Advisory Committees

- () Downtown Tomball Advisory Committee
DTAC does not require Tomball residency

Meeting Information

As called

I AM INTERESTED IN SERVING ON THE ABOVE-INDICATED BOARDS, COMMISSIONS, AND COMMITTEES.

Gellen H. Cuthbert
Signature of Applicant

Please return this application to:

City Secretary
City of Tomball
401 Market Street
Tomball, TX 77375



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Please Type or Print Clearly:

Date: 3/20/2011

Name: Michelle Beauvais

Phone: _____

Address: 29502 Imperial Creek Dr.

Phone: 281-831-3332 (Home)

City/State/Zip Tomball, TX. 77377

Cell: _____ (Work)

Email: _____

I have lived in Tomball 4.5 years.

I am ☒ am not ☐ a U.S. Citizen

Occupation: Co owner of American Communications Construction,
Interior Designer

Professional and/or Community Activities: Habitat for Humanity, A.A.R.S
T.A.I.D

Additional Pertinent Information/References: Dana & Trevor Pugh, ANN Marie &
Kwan McWilliams, Laurel & Mark Norris,

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As called

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City of Tomball
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Please Type of Print Clearly:

Date: 1-26-10

Name: John F. Ford

Phone:

Address: 930 Agg Rd.

Phone: 979 680-5439
(Home)
(Work)

City/State/Zip: Tomball Tx 77375

Email: _____

I have lived in Tomball 12 years.

I am ☒ am not ☐ a U.S. Citizen

Occupation: Physical Therapist, Healthcare

Professional and/or Community Activities: Previous Church Board
Chair, Current Board Chair BOA, City of
Tomball

Additional Pertinent Information/References: Ⓟ

Applications for the following Council-appointed Boards, Commissions, and Committees will be kept on file in the City Secretary's office (281-290-1002) for two years.

If you are interested in serving on more than one board, please indicate your preference by numbering in order of preference (i.e., 1, 2, 3, etc.)

Decision-Making Boards and Commissions

Meeting Information

() Planning & Zoning Commission

Second Monday each month, 6 p.m.

(1) Board of Adjustments

To Be Announced; Evenings

Separate Legal Entities

Meeting Information

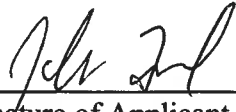
() Tomball Economic Development Corporation

Fourth Tuesday of the Second Month of Each Quarter, 5:30 p.m. (special meetings may be called)

(2) Tomball Hospital Board

Fourth Wednesday each month, 4 p.m.

I AM INTERESTED IN SERVING ON THE ABOVE-INDICATED BOARDS, COMMISSIONS, AND COMMITTEES.



Signature of Applicant

Please return this application to:

City Secretary
City of Tomball
401 Market Street
Tomball, TX 77375



CITY OF TOMBALL

APPLICATION FOR CITY BOARDS/COMMISSIONS/COMMITTEES

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Please Type or Print Clearly:

Date: 7/7/14

Name: Cary E. Rasberry

Phone: _____

Address: 31226 Alice Ln

(Home)

Phone: _____

City/State/Zip Tomball, TX 77375

Cell: 832-499-6128 (Work)

Email: Cary.rasberry@att.net

I have lived in Tomball 15 years. non-consecutive I am ☒ am not ☐ a U.S. Citizen
NOTE: DTAC Board does not require Tomball residency

Occupation: Psychologist, Marketing Consultant, Notary Public
Part-time Minister to Church of Christ
Previous School Teacher and Certified Pharmacy Technician

Professional and/or Community Activities: Tomball Little League Board Member
Previous VP of Tomball Parks & Rec Board
VP of Decker Prairie Cemetery Association
Local Business Rep to Chamber of Commerce

Additional Pertinent Information/References: Bruce Hilkeist, Pete Gloyer.
MA in Counseling Psychology; PhD intern in Health Psychology & Behavioral Medicine
Married, 2 sons and from Tomball

Applications for the following Council-appointed Boards, Commissions, and Committees will be kept on file in the City Secretary's office (281-290-1002) for one year.

If you are interested in serving on more than one board, please indicate your preference by numbering in order of preference (i.e., 1, 2, 3, etc.)

Decision-Making Boards and Commissions

- ☒ Planning & Zoning Commission
☒ Board of Adjustments

Meeting Information

Second Monday each month, 6 p.m.
To Be Announced; Evenings

Separate Legal Entities

☐ Tomball Economic Development Corporation

☒ Tomball Hospital Board

Meeting Information

First Wednesday of January, April, July & October, 9 a.m. (special meetings may be called)
Fourth Wednesday each month, 4 p.m.

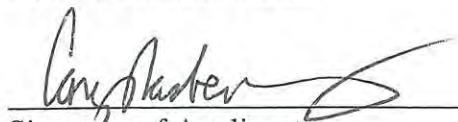
Ad Hoc/Advisory Committees

☒ Downtown Tomball Advisory Committee
DTAC does not require Tomball residency

Meeting Information

As called

I AM INTERESTED IN SERVING ON THE ABOVE-INDICATED BOARDS, COMMISSIONS, AND COMMITTEES.



Signature of Applicant

Please return this application to:

City Secretary
City of Tomball
401 Market Street
Tomball, TX 77375



Board Member Election on Disclosure

An appointed Board Member may choose whether or not to allow public access to the information in the custody of the City relating to the Board Member's home address, home telephone number, cellular and pager numbers (if not paid for by City), emergency contact information, personal email address, and information that reveals whether the person has family members.

Each Board Member shall state his/her choice in writing to the City Secretary's Office. If a Board Member elects not to allow public access to this information, the information is protected by Sections 552.024 and 552.117 of the Public Information Act and rulings of the Texas Attorney General. If a Board Member fails to report his/her choice, the information may be subject to public access.

If during the course of their term a Board Member wishes to close or open public access to the information, the individual may request in writing to the City Secretary's Office to close or open access as the case may be. A Board Member may request to close or open public access to the information by submitting a written request to the City Secretary's Office. Only the City Secretary's Office is allowed to disclose the information listed above.

(Please strike through any information that you do not wish to be made accessible to the public)

Please complete the information below and return
to the City Secretary's Office within fourteen days of receipt.



I **DO** elect public access to my: (please indicate items you would like available, if any)

~~home address~~

~~home telephone number~~

✓ personal email address

✓ cell or pager numbers not paid for by the City

~~emergency contact information~~

✓ information that reveals whether I have family members.

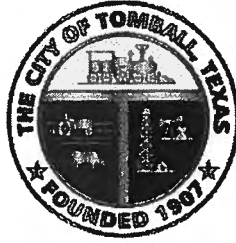


I **DO NOT** elect public access to my home address, home telephone number, cell or pager numbers, emergency contact information, or any information that reveals whether I have family members.

Board Member's Signature

Date

Board Member's Printed Name



CITY OF TOMBALL

APPLICATION FOR CITY BOARDS/COMMISSIONS/COMMITTEES

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Please Type or Print Clearly:

Date: 5-9-2012

Name: Christine (Tina) Roquemore

Phone: _____
(Home)

Address: _____

Phone: _____
(Work)

City/State/Zip Tomball, Tx 77375

Cell: _____

Email: _____

I have lived in Tomball 9 years.

I am ☒ am not ☐ a U.S. Citizen

NOTE: DTAC Board does not require Tomball residency

Occupation: I work part-time for the following businesses:
- NONNIE'S SODA FOUNTAIN
- ASHELYNN MANOR
- EXQUISITE REFLECTIONS

Professional and/or Community Activities: Tomball Republican Women Club,
DOWN SYNDROME ASSOC OF HOUSTON, HIDDEN MIRACLES
PARENT NETWORK, SPECIAL OLYMPICS OF TEXAS.

Additional Pertinent Information/References: With a special needs daughter now in high school, my time to be involved has increased. My first choice for this time is to be more involved than just my attending City Council meetings.

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If you are interested in serving on more than one board, please indicate your preference by numbering in order of preference (i.e., 1, 2, 3, etc.)

Decision-Making Boards and Commissions

- ☒ Planning & Zoning Commission
☒ Board of Adjustments

Meeting Information

Second Monday each month, 6 p.m.
To Be Announced; Evenings

Separate Legal Entities

- ☒ Tomball Economic Development Corporation

☐ Tomball Hospital Board

Meeting Information

First Wednesday of January, April, July & October, 9 a.m. (special meetings may be called)
Fourth Wednesday each month, 4 p.m.

Ad Hoc/Advisory Committees

- ☒ Downtown Tomball Advisory Committee
DTAC does not require Tomball residency

Meeting Information

As called

I AM INTERESTED IN SERVING ON THE ABOVE-INDICATED BOARDS, COMMISSIONS, AND COMMITTEES.


Signature of Applicant

Please return this application to:

City Secretary
City of Tomball
401 Market Street
Tomball, TX 77375



CITY OF TOMBALL

APPLICATION FOR CITY BOARDS/COMMISSIONS/COMMITTEES

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Please Type or Print Clearly:

Date: 2/18/2013

Name: MARCIA MOORE SWINEHART

Phone: _____
(Home)

Address: _____

Phone: _____
(Work)

City/State/Zip TOMBALL, TX 77375

Cell: _____

Email: _____

I have lived in Tomball 13 years.

I am X am not ____ a U.S. Citizen

NOTE: DTAC Board does not require Tomball residency

Occupation: RETIRED: Tomball Regional Hospital/VP. H.R.

Professional and/or Community Activities: HR CONSULTING FOR NOT-FOR PROFIT, NWEMS + TOMAGWA

Additional Pertinent Information/References:

*Very interested in serving
Community w/ Hospital Foundation*

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Decision-Making Boards and Commissions

- () Planning & Zoning Commission
() Board of Adjustments

Meeting Information

Second Monday each month, 6 p.m.
To Be Announced; Evenings

Separate Legal Entities

- () Tomball Economic Development Corporation

Meeting Information

First Wednesday of January, April, July &
October, 9 a.m. (special meetings may be
called)
Fourth Wednesday each month, 4 p.m.

- (X) Tomball Hospital Board *(Foundation)*

Ad Hoc/Advisory Committees

- () Downtown Tomball Advisory Committee
DTAC does not require Tomball residency

Meeting Information

As called

I AM INTERESTED IN SERVING ON THE ABOVE-INDICATED BOARDS, COMMISSIONS, AND COMMITTEES.

Barbara Moore Spivehart

Signature of Applicant

Please return this application to:

City Secretary
City of Tomball
401 Market Street
Tomball, TX 77375

RESUME

Marcia Moore Swinehart

Tomball, Texas 77375

Education: Portland State University, Portland, Oregon – 1969-1972- Education Major

Work History:

1969-1975 – Various part time retail jobs and self employment.

1976-1979- Snelling and Snelling, Portland, Oregon

Employment Counselor: Recruitment, placement for office and clerical applicants. Job search, employment counseling and applicant counseling. Fee paid and applicant paid. Collections and billing. Award winning for placements.

1979-1980 – Preferred Personnel, Portland, Oregon

Employment Counselor: Managed a small team of counselors who recruited and placed in all job areas in the city. Responsibility for A/R, A/P, payroll and commissions.

1980-1990- Tomball Community Hospital, Tomball, Texas

Hired as Collections Coordinator and promoted to Business Office Coordinator for eighteen months. Promoted to Director of Personnel

Hired, recruited and managed employee retention programs. Was responsible for employee counseling, management development programs and employee orientation. Grievance counseling and resolutions. Benefit administration, policy development and renewals. Joint Commission ready at all times. Board presentations as required.

1990-1993- East Texas Regional Healthcare Systems- Tyler, Texas

1990- 91- Director of Community Education. Responsible for outreach community programs in a 5 county service area. Program development, management of staffing and placement to meet the needs of those in need of services. Meals on Wheels management and other programs as needed. Managed CME for system physicians and brought into Tyler various speakers and educators to meet requirements.

1991-1996-Director on International Recruitment- a for-profit company owned by East Texas Regional Healthcare System

Recruitment of international nurses, physical therapists, occupational therapists and med. techs for system wide hospitals in three counties. Development of outside the system hospitals and healthcare systems in a thirty two (32) states. Developed recruiting relationships in Universities to support the supply of qualified applicants. Managed US Immigration standards and state licensures. Worked and traveled to recruit in Australia, New Zealand, The Philippines, Canada, South Africa, The Netherlands, England, Ireland and Israel.

Developed and wrote programs for US hospitals to make the international placement successful and long term. Negotiated contracts and discounted airline fares for incoming placements of over 600 per year.

Developed and managed a Locum business of traveling therapists within thirty two (32) states. Immigration and licensure departments directly reported to me as well as all placement personnel and orientation counselors. Guest speaker as requested with Texas Hospital Association.

1996-2011- Tomball Regional Hospital, Tomball, Texas

Vice President of Human Resources- Was responsible for recruitment and retention. Managed all Wage and Hour, EEOC and other State and Federal regulations related to employees and benefits within this growing hospital. Responsible for recruitment of The Heritage, Home Health, Texas Sports Medicine through each expansion of services. Managed and developed benefits for a growing staff of approximately 2000 employees.

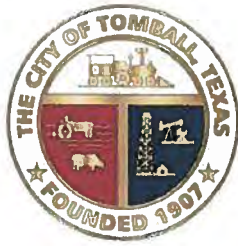
Managed conflict resolution, wrote and presented management development programs on an annual basis that assisted in limiting EEOC claims, employee turnover reduction and general employment liability. Significantly reduced Worker's Compensation claims and

actively managed the day to day operations within my department. Served as a counselor and management support of all department directors. Actively served on the Compliance Committee, Employee Safety, Benefits committee and others as directed by the CEO. Responsible for HR policy development and standards. Maintained the lowest turnover rate in Harris County for many years as well as filling our vacancies rapidly as benchmarked by hospital associations.

The management of special short term and long term projects, Joint Commission compliance, reductions of staff and employee relations.

References: Lynn LeBouef- Past CEO of Tomball Regional Hospital

Other References upon request.



CITY OF TOMBALL

APPLICATION FOR CITY BOARDS/COMMISSIONS/COMMITTEES

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Please Type of Print Clearly:

Date: May 16, 2012

Name: Barbara Tague

Phone: _____ (Home)

Address: 503 Inwood St

Phone: _____ (Work)

City/State/Zip Tomball, Tx 77375

Cell: _____

Email: _____

I have lived in Tomball 39 years.

I am ☒ am not ☐ a U.S. Citizen

NOTE: DTAC Board does not require Tomball residency

Occupation: Retired

Professional and/or Community Activities: PLANNING & Zoning Commission, Tomball
Area Local Emergency planning Committee - Sec/Treas, Board of
Adjustments, Zoning Commission - Vice Chairman, Tomball CERT
Program Manager/Coordinator - See attached

Additional Pertinent Information/References: See attached

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Decision-Making Boards and Commissions

(1) Planning & Zoning Commission

(3) Board of Adjustments

Meeting Information

Second Monday each month, 6 p.m.

To Be Announced; Evenings

Separate Legal Entities

(2) Tomball Economic Development Corporation

 Tomball Hospital Board

Meeting Information

First Wednesday of January, April, July & October, 9 a.m. (special meetings may be called)

Fourth Wednesday each month, 4 p.m.

Ad Hoc/Advisory Committees

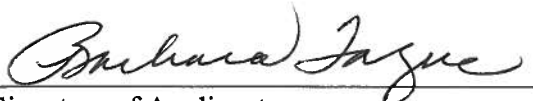
(4) Downtown Tomball Advisory Committee

DTAC does not require Tomball residency

Meeting Information

As called

I AM INTERESTED IN SERVING ON THE ABOVE-INDICATED BOARDS, COMMISSIONS, AND COMMITTEES.


Signature of Applicant

Please return this application to:

City Secretary
City of Tomball
401 Market Street
Tomball, TX 77375

May 16, 2012

City of Tomball
401 Market Street
Tomball, Texas 77375

Attn: Honorable Mayor Gretchen Fagan
Mr. Rick Brown, City Council
Mr. Preston Dodson, City Council
Mr. Field Hudgens, City Council
Mr. Mark Stoll, City Council
Mr. Derek Townsend, City Council
Mr. George Shackelford, City Manager

Dear Mayor Fagan and City Council,

I would like to thank you for the opportunity to have served my first term on the Zoning and Planning Commission.

I would like to be considered for reappointment to the Planning and Zoning Commission so I can continue to serve the City of Tomball now and in the future.

My experience in serving on the Planning and Zoning Commission, Zoning Commission has given me the opportunity to understand the importance of the impact of the commission's decisions and recommendations on our community.

Through the Lone Star College Small Business Development affiliation with the Community Development Institute, I have completed 5 years in their program for my Professional Community Economic Development Certification. I have completed their basic 3 year course plus 2 years of Advanced Classes in Business Retention and Economic Investment, and Making Good Decisions on Incentives. I continue to do this so I can be aware of any new regulations and changes in government that could affect Tomball.

I would like to continue to serve the city with my experience on the Planning and Zoning Commissions and the PCED Certification classes and as a resident of Tomball.

Sincerely,

Barbara Tague

Barbara Tague

Cc. file

EXPERIENCE – PROFESSIONAL AND COMMUNITY

Harris County Citizen Corps, under the Office of the Harris County Office of Homeland Security and Emergency Management 2008

Administrative Assistant

- Administrative Assistant for the Harris County CERT (Community Emergency Response Team) Program, Division of the Harris County Citizen Corps.

Downtown Tomball Association

2002 - Present

President

- President and founding charter member
- Incorporated the organization as a 501 (6) C
- Served as secretary, Vice president and President
- Increased membership 50%
- Developed relationship with City of Tomball, Greater Tomball Chamber of Commerce
- Monthly column for the HCN – Tomball/Magnolia Potpourri newspaper for the DTA

Tomball Cert Coordinator

2006 – Present

- Responsible for Tomball CERT program
- Promote CERT program throughout the community
- Represent CERT and DTA on TALEPC
- Assisted at Transtar during Hurricane Gustav and Ike
- Volunteer Coordinator for Tomball PODs – Hurricane IKE
- EOC Liaison for Tomball CERT program
- Member of Tomball Fire Corp – Tomball Fire Academy Alumni
- Coordinate CERT monthly training and meetings
- Harris County CERT Rodeo 2009 Committee - Administration and Finance Chair
- Harris County CERT Rodeo 2010 Committee Chairman

Tomball Area Local Emergency Planning Committee

2006 – Present

- Secretary/Treasurer
- Administrative and financial duties
- Keep records of committee
- Record and distribute minutes
- Keep records of committee members
- Maintain bank account and financial records
- Liaison with Tomball CERT program and Fire Corp

City of Tomball Planning and Zoning Commission

June 2010 - Present

President

- President and founding member
- Served as Treasurer, Vice president, Membership, and President
- Developed strategic plan for CVB
- Responsible for incorporation, constitution and bylaws.
- Design booths for tourism expos, business expo and travel shows

City of Tomball Board of Adjustments – Alternate No. 2

2009 – June, 2010

Appointed in March 2009

Vice Chairman

- Developed City of Tomball Zoning Ordinances with Consultants, Sefko and Dunkin
- Designed Zoning Map and districts
- Chaired public hearings
- Spoke at organization meetings as representative of Zoning Commission

City of Tomball Centennial Commission

2004 – 2009

2nd Vice president

- Incorporated the commission as a 501 (6) C, oversaw trademarking of Centennial logo and licensing agreements
- Chairman – Publicity Committee
- Chairman – Grounds/Operations -Tomball Heartbeat Festival – 3 day festival with 20,000 in attendance.

**Great Northwest Houston Convention and Visitors Bureau
President**

2004-present

- President and founding member
- Served as Treasurer, Vice president, Membership, and President
- Developed strategic plan for CVB
- Responsible for incorporation, constitution and bylaws.
- Design booths for tourism expos, business expo and travel shows

Tomball Independent School District Facility Study Finance Sub Committee

2006

- Member of Finance Sub Committee worked with TISD CFO.
- Tasked with the development of a plan for financing facilities for student and program growth for TISD
- Focus on TISD fiscal condition and future stability in the business environment.
- Recommendations were based on a consensus of the findings and conclusions regarding additional debt issuance.
- Developed various scenarios on varied amounts of bond issuances from \$64M to \$150M
- Recommended tax rate with M & O, I & S breakdown

Red Awning Antiques/ HADL Enterprises

1996 – 2006

- Owner of 15 dealer antique co-op
- Responsible for all aspects of business from payroll to merchandising
- Bought and sold estates

Patriot Kennels

1981 – Present

- Handled and show dogs throughout the United States, both as a breeder/owner and as a professional handler.

Barbara A. Tague, Pet Stylist

1988 - 2002

- Affiliated with Tomball Veterinary Clinic
- Retired with 2000 clients
- Specialized in geriatric, difficult and large animals,
- Member of IPGA and IPGA - Texas State Representative, Proctor for certification of Master Groomers, taught IPGA seminars

PROFESSIONAL/ COMMUNITY ACTIVITIES

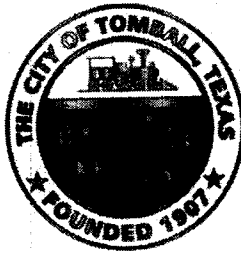
Harris County Republican Party Precinct 529 Chairman

**Elected 2008, 2010, 2012
Candidate**

- Harris County Republican Party Finance Committee – Roots Program Sub-Committee Chair, Chairman of the Small Donor Program
 - Texas Federation of Republican Women – 2009 State Convention Logistics Chairman
 - Texas Federation of Republican Women – 2010 – 2013 Board of Directors
 - *Special Committee Chairman* – 2011-2013 State Convention Coordinator
 - 2013 Convention Site Selection Committee Member
 - 2015 Convention Site Selection Committee Co-Chairman
 - Tomball Republican Women – Founder and President 2010-present
 - Greater Houston Council of Federated RW – 3rd Vice president/ Special Events 2009, 2010, Newsletter Editor-2012
 - Tomball Pachyderm Club – Board of Directors 2006 – 2012 , Vice president 2010 -2012
 - Delegate Precinct Convention 2008,2010
 - Attended Senatorial District 7 Convention – 2008, 2010,2012
 - Delegate to Republican State Convention - 2008, 2010, 2012
 - Tomball Liaison to Ted Cruz for Attorney General Campaign, 2010-2012
 - Tomball Liaison for Congressman McCaul Campaign, 2008,2010,2012
-
- Greater Tomball Chamber of Commerce – Government and Legislative Committee –
 - State and Federal legislative sub- committee chairman
 - Greater Tomball Chamber of Commerce – Mobility and Transportation Committee
 - Greater Tomball Chamber of Commerce – Miss Tomball Pageant Committee, Chairman's Ball Committee, Tomball Night Committee
 - 249 Partnership
 - Tomball Area Development Group
-
- Tomball Local Emergency Planning Committee – Secretary/Treasurer
 - Tomball CERT (Community Emergency Response Team) Coordinator
 - Harris County CERT Rodeo 2009 Administrative/ Finance Chairman
 - Harris County CERT Rodeo 2010 Chairman
 - Tomball Fire Academy Alumni, Class I – 2008 – Fire Corps member
 - Hurricane IKE – Supervised PODS and coordinated over 300 volunteers for and with Tomball Fire Department at the Tomball PODs for Tomball Local Emergency Planning Committee, Harris County OEM, FEMA and State Representative Debbie Riddle. Also Tomball Community Volunteer Clean Up Program. Supervised the CERT response teams during Hurricane IKE.
 - Mission Tomball – volunteer
 - Tri County Fires - Coordinated the volunteers for the Tri County Fire Donation Site – Tomball Fire Dept.

PROFESSIONAL MEMBERSHIPS

- Texas Federated Republican Women – Patron 2009-2010
- National Association of Republican Women
- Texas Festival and Events Association
- Texas Tourism Industry Association
- American Spaniel Club
- Texas Downtown Association
- Great Northwest Houston Convention and Visitors Bureau
- Greater Tomball Area Chamber of Commerce
- CYFair Houston Chamber of Commerce
- Leadership North Houston Alumni
- BREI Association (Business Retention, Economic and Investment Assn)



CITY OF TOMBALL

APPLICATION FOR CITY BOARDS/COMMISSIONS/COMMITTEES

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Please Type or Print Clearly:

Date: May 18, 2012

Name: Evelyn Torres - Chervenak

Phone: _____ (Home)

Address: 111 McPhail

Phone: _____ (Work)

City/State/Zip Tomball TX 77375

Cell: _____

Email: _____

I have lived in Tomball 5 years.

I am ☒ am not ☐ a U.S. Citizen

NOTE: DTAC Board does not require Tomball residency

Occupation: Accountant

Professional and/or Community Activities: _____

Additional Pertinent Information/References: _____

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Decision-Making Boards and Commissions

- ☒ Planning & Zoning Commission
() Board of Adjustments

Meeting Information

Second Monday each month, 6 p.m.
To Be Announced; Evenings

Separate Legal Entities

- ☒ Tomball Economic Development Corporation

Meeting Information

First Wednesday of January, April, July & October, 9 a.m. (special meetings may be called)

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Fourth Wednesday each month, 4 p.m.

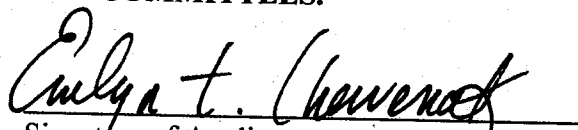
Ad Hoc/Advisory Committees

- () Downtown Tomball Advisory Committee
DTAC does not require Tomball residency

Meeting Information

As called

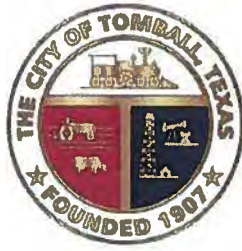
I AM INTERESTED IN SERVING ON THE ABOVE-INDICATED BOARDS, COMMISSIONS, AND COMMITTEES.



Signature of Applicant

Please return this application to:

City Secretary
City of Tomball
401 Market Street
Tomball, TX 77375



CITY OF TOMBALL

APPLICATION FOR CITY BOARDS/COMMISSIONS/COMMITTEES

As an Applicant for a City Board, Commission, or Committee, your application will be available to the public. You will be contacted before any action is taken on your appointment to confirm your continued interest in serving. All appointments are made by the Tomball City Council. Incumbents whose terms expire are automatically considered for reappointment unless they indicate non-interest or have been appointed to two (2) consecutive terms. A member who is absent for more than 25% of called meetings in any twelve consecutive months or absent from more than two consecutive meetings, for other than medical reasons, will be automatically removed from service. Applicant must be a citizen of the United States and must reside within the city limits of Tomball unless otherwise stated in the position announcement. Applications will be kept on file for two years and will expire at the end of two years; for instance, an application dated in 2012 will expire in 2014.

Please Type or Print Clearly:

Date: 2/27/2013

Name: ROBERT TURNER

Phone: _____

(Home)

Address: _____

Phone: _____

(Work)

City/State/Zip TOMBALL, TX 77375

Cell: _____

Email: _____

I have lived in Tomball 6 years.

I am ☒ am not ☐ a U.S. Citizen

NOTE: DTAC Board does not require Tomball residency

Occupation: DENTIST

Professional and/or Community Activities: _____

Additional Pertinent Information/References: _____

Applications for the following Council-appointed Boards, Commissions, and Committees will be kept on file in the City Secretary's office (281-290-1002) for one year.

If you are interested in serving on more than one board, please indicate your preference by numbering in order of preference (i.e., 1, 2, 3, etc.)

Decision-Making Boards and Commissions

- ☐ Planning & Zoning Commission
☐ Board of Adjustments

Meeting Information

Second Monday each month, 6 p.m.
To Be Announced; Evenings

Separate Legal Entities

- ☐ Tomball Economic Development Corporation

Meeting Information

First Wednesday of January, April, July & October, 9 a.m. (special meetings may be called)

- ☒ Tomball Hospital Board

Fourth Wednesday each month, 4 p.m.

Tomball Regional Health Foundation

Ad Hoc/Advisory Committees

- ☐ Downtown Tomball Advisory Committee
DTAC does not require Tomball residency

Meeting Information

As called

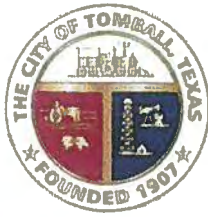
I AM INTERESTED IN SERVING ON THE ABOVE-INDICATED BOARDS, COMMISSIONS, AND COMMITTEES.



Signature of Applicant

Please return this application to:

City Secretary
City of Tomball
401 Market Street
Tomball, TX 77375



CITY OF TOMBALL

APPLICATION FOR CITY BOARDS/COMMISSIONS/COMMITTEES

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Please Type of Print Clearly:

Date: 1-29-2010

Name: Brett Tynes

Phone:

Address: _____

Phone: (281) 516-3870
(Home)
(Work)

City/State/Zip: Tomball, TX 77375

Email: btynes@hiddenvul.com

I have lived in Tomball 12+ years.

I am ☒ am not _____ a U.S. Citizen

Occupation: Investment Manager / Business Owner

Professional and/or Community Activities: Tomball Chamber of Commerce
TISO Re-Alignment Committee, City of Tomball - Board of Adjustments,
Accredited Asset Mgmt Specialist (AAMS), Securities Registrations (7, 63, 66, 8)

Additional Pertinent Information/References: Kean Register - Former City Mgr - Bray Tr
Mark Youngjohn - Former CDBG Grant Coord - City of C.S., Dennis
David Luback - 835 Baker, Preston Addison - Baker Dr - P & Z Commission

Applications for the following Council-appointed Boards, Commissions, and Committees will be kept on file in the City Secretary's office (281-290-1002) for two years.

If you are interested in serving on more than one board, please indicate your preference by numbering in order of preference (i.e., 1, 2, 3, etc.)

Decision-Making Boards and Commissions

Meeting Information

() Planning & Zoning Commission

Second Monday each month, 6 p.m.

(1) (✓) Board of Adjustments *Currently serving 2yr term*

To Be Announced; Evenings

Separate Legal Entities

Meeting Information

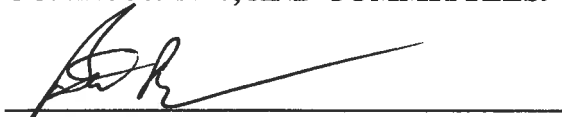
() Tomball Economic Development Corporation

Fourth Tuesday of the Second Month of Each Quarter, 5:30 p.m. (special meetings may be called)

(2) (✓) [?] Tomball Hospital Board *- Possibly Interested
Serving here if needed - Need more info.*

Fourth Wednesday each month, 4 p.m.

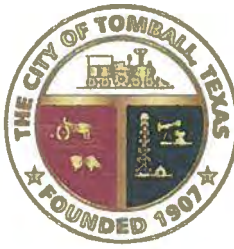
I AM INTERESTED IN SERVING ON THE ABOVE-INDICATED BOARDS, COMMISSIONS, AND COMMITTEES.



Signature of Applicant

Please return this application to:

City Secretary
City of Tomball
401 Market Street
Tomball, TX 77375



CITY OF TOMBALL

2009

APPLICATION FOR CITY BOARDS/COMMISSIONS/COMMITTEES

As an Applicant for a City Board, Commission, or Committee, your application will be available to the public. You will be contacted before any action is taken on your appointment to confirm your continued interest in serving. All appointments are made by the Tomball City Council. Incumbents whose terms expire are automatically considered for reappointment unless they indicate non-interest or have been appointed to two (2) consecutive terms. A member who is absent for more than 25% of called meetings in any twelve consecutive months or absent from more than two consecutive meetings, for other than medical reasons, will be automatically removed from service. Applicant must be a citizen of the United States and must reside within the city limits of Tomball unless otherwise stated in the position announcement. 2009 applications expire on December 31, 2009; a new application will be required in 2010.

Please Type or Print Clearly:

Date: April 3, 2009

Name: Steven L. Vaughan

Phone:

(Home)

Address: 13322 Wildwood

Phone: 281-413-4193

(Work)

Email:

I have lived in Tomball 18 years.

I am ☒ am not ☐ a U.S. Citizen

Occupation: Community Banking Consultant

Professional and/or Community Activities: _____

Banking and Finance and small business development

Additional Pertinent Information/References: member of organizing board of Tomball EDC

Applications for the following Council-appointed Boards, Commissions, and Committees will be kept on file in the City Secretary's office (281-290-1002) for one year.

If you are interested in serving on more than one board, please indicate your preference by numbering in order of preference (i.e., 1, 2, 3, etc.)

Decision-Making Boards and Commissions

- () Planning & Zoning Commission
() Board of Adjustments

Separate Legal Entities

- (X) Tomball Economic Development Corporation

() Tomball Hospital Board

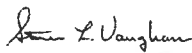
Meeting Information

Second Monday each month, 6 p.m.
To Be Announced; Evenings

Meeting Information

First Wednesday of January, April, July & October, 9 a.m. (special meetings may be called)
Fourth Wednesday each month, 4 p.m.

I AM INTERESTED IN SERVING ON THE ABOVE-INDICATED BOARDS, COMMISSIONS, AND COMMITTEES.



Digitally signed by Steven L. Vaughan
DN: cn=Steven L. Vaughan, c=US,
email=svaughender@gmail.com
Reason: I attested to the accuracy and
integrity of this document
Date: 2009.04.03 10:48:24 -0500

Signature of Applicant

Please return this application to:

City Secretary
City of Tomball
401 Market Street
Tomball, TX 77375



CITY OF TOMBALL

APPLICATION FOR CITY BOARDS/COMMISSIONS/COMMITTEES

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Please Type or Print Clearly:

Date: 12/5/13

Name: Jarmon Wolfe

Phone: 281-351-9590

Address: _____

(Home)

Phone: 281-220-3575

(Work)

City/State/Zip Tomball, TX. 77375

Cell: _____

Email: jarcarwolfe@comcast.net

I have lived in Tomball 12 years.

I am X am not ____ a U.S. Citizen

NOTE: DTAC Board does not require Tomball residency

Occupation: Care Coordinator, C3 Healthcare Partners

Professional and/or Community Activities: DTAC, Alternate Member BOA

Additional Pertinent Information/References: _____

Applications for the following Council-appointed Boards, Commissions, and Committees will be kept on file in the City Secretary's office (281-290-1002) for one year.

If you are interested in serving on more than one board, please indicate your preference by numbering in order of preference (i.e., 1, 2, 3, etc.)

Decision-Making Boards and Commissions

- (1) Planning & Zoning Commission
- (2) Board of Adjustments

Meeting Information

Second Monday each month, 6 p.m.
To Be Announced; Evenings

Separate Legal Entities

- () Tomball Economic Development Corporation

- () Tomball Regional Health Foundation

Meeting Information

First Wednesday of January, April, July & October, 9 a.m. (special meetings may be called)
Fourth Wednesday each month, 4 p.m.

Ad Hoc/Advisory Committees

- (3) Downtown Tomball Advisory Committee
- DTAC does not require Tomball residency

Meeting Information

As called

Non-profit Corporation Boards

- () Tomball Legacy Fund, Inc.
- Position 7, Tomball Legacy Fund, does not require Tomball residency

Meeting Information

As called

I AM INTERESTED IN SERVING ON THE ABOVE-INDICATED BOARDS, COMMISSIONS, AND COMMITTEES.



Signature of Applicant

Please return this application to:

City Secretary
City of Tomball
401 Market Street
Tomball, TX 77375



Board Member Election on Disclosure

An appointed Board Member may choose whether or not to allow public access to the information in the custody of the City relating to the Board Member's home address, home telephone number, cellular and pager numbers (if not paid for by City), emergency contact information, personal email address, and information that reveals whether the person has family members.

Each Board Member shall state his/her choice in writing to the City Secretary's Office. If a Board Member elects not to allow public access to this information, the information is protected by Sections 552.024 and 552.117 of the Public Information Act and rulings of the Texas Attorney General. If a Board Member fails to report his/her choice, the information may be subject to public access.

If during the course of their term a Board Member wishes to close or open public access to the information, the individual may request in writing to the City Secretary's Office to close or open access as the case may be. A Board Member may request to close or open public access to the information by submitting a written request to the City Secretary's Office. Only the City Secretary's Office is allowed to disclose the information listed above.

(Please strike through any information that you do not wish to be made accessible to the public)

**Please complete the information below and return
to the City Secretary's Office within fourteen days of receipt.**

☒ I **DO** elect public access to my: (please indicate items you would like available, if any)

___ home address

☒ home telephone number

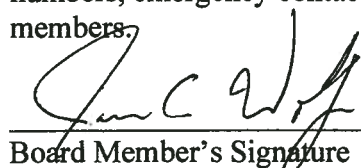
☒ personal email address

___ cell or pager numbers not paid for by the City

___ emergency contact information

___ information that reveals whether I have family members.

☐ I **DO NOT** elect public access to my home address, home telephone number, cell or pager numbers, emergency contact information, or any information that reveals whether I have family members.


Board Member's Signature

12/5/13
Date

Jarmon Wolfe
Board Member's Printed Name

Regular City Council

Agenda Item

Data Sheet

Meeting Date: September 15, 2014

Topic:

Adopt \$0.230000 as the Portion of the Tax Rate to Fund the Interest and Sinking (Debt Service) Fund for Fiscal Year 2014-2015

Background:

During the budget process and in the published Effective Tax Rate and Rollback calculations, \$0.230000 was the recommended allocation of the total tax rate of \$0.341455 to be used to fund the payment of the City's tax-supported debt. The actual ordinance adopting the tax rate for the City of Tomball for FY 2013-2014 will appear later on the agenda.

This item is only to adopt the allocation of \$0.230000 as the designated portion of the tax rate to the support the Interest and Sinking (Debt Service) Fund for Fiscal Year 2014-2015, as required by state law.

Origination:

City Secretary

Recommendation:

Adoption of \$0.230000 as the portion of the tax rate to support the Interest and Sinking (Debt Service) Fund for FY 2014-2015.

Funding:

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

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

Regular City Council

Agenda Item

Meeting Date: September 15, 2014

Data Sheet

Topic:

Adopt \$0.111455 as the Portion of the Tax Rate to Fund the Maintenance and Operations (M&O) Fund for Fiscal Year 2014-2015

Background:

During the budget process, \$0.111455 was the recommended allocation of the total tax rate of \$0.341455 to be used to fund operations and maintenance expenditures in the General Fund. The actual ordinance to approve the total tax rate of \$0.341455 will appear later on the agenda.

This item is only to adopt the allocation of \$0.111455 to fund the Maintenance and Operations Fund of the City's Budget for Fiscal Year 2014-15, as required by State law.

Origination:

City Secretary

Recommendation:

Adopt \$0.111455 as the portion of the tax rate to fund maintenance and operations for FY 2013-2014

Funding:

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

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

Regular City Council

Agenda Item

Data Sheet

Meeting Date: September 15, 2014

Topic:

Adopt, on First Reading, Ordinance No. 2014-30, an Ordinance of the City of Tomball, Texas, Setting the Total Tax Levy of \$0.341455/\$100 of taxable value for the Year 2014 on all Real and Personal Property located in the City of Tomball, Texas; Providing for Penalty, Interest, and Additional Penalty on Taxes Not Timely Paid; and Providing Other Matters Relating to the Subject.

Background:

The previous two items on the agenda approved the allocation of the proposed tax rate for Fiscal Year 2014-2015 (Tax Year 2014) as \$0.230000 for the Interest & Sinking Fund and \$0.111455 to Maintenance and Operations, for a total tax rate of \$0.341455.

Adoption of Ordinance No. 2014-30 on second reading will adopt the tax rate and provide for the levying of the 2014 tax rate; the second reading will take place at the October 6, 2014 Regular Council meeting at 6:00 p.m.

Origination:

Glenn Windsor, CPA Finance Director

Recommendation:

Adopt Ordinance No. 2014-30 on First Reading

Funding:

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

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Ordinance No. 2014-30

Notice of Effective Tax Rate

ORDINANCE NO. 2014-30

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, SETTING THE TAX LEVY OF \$0.341455 FOR THE YEAR 2014 ON ALL TAXABLE REAL AND PERSONAL PROPERTY LOCATED IN THE CITY OF TOMBALL, TEXAS; PROVIDING FOR PENALTY, INTEREST, AND ADDITIONAL PENALTY ON TAXES NOT TIMELY PAID; AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT.

* * * * *

WHEREAS, pursuant to the provisions of the Constitution and Laws of the State of Texas, the City Council of the City of Tomball, Texas, is vested with the power to levy, assess and collect an annual tax upon all taxable real and personal property located within the City Limits, and said power allowing for the granting of homestead exemptions for all City of Tomball property owners sixty-five years of age and over or who are disabled; and

WHEREAS, pursuant to the Charter of the City of Tomball, this ordinance has been read two (2) times and considered at two (2) sessions of the City Council, and published in the City's official newspaper after the first reading; and

WHEREAS, the Council is required to set a tax rate, expressed as a rate per hundred-dollar valuation of said property, located in the City of Tomball, January 1, 2014; and

WHEREAS, Section 26.05 of the Texas Property Tax Code provides that before the later of September 30th or the 60th day after the date the certified appraisal roll is received by the taxing unit, the governing body of each taxing unit shall adopt a tax rate for the current tax year; and

WHEREAS, such Section further provides that where the tax rate consists of two components (one which will impose the amount of taxes needed to pay the unit's debt service and the other which will impose the amount of taxes needed to fund maintenance and operation expenditures of the unit for the next year), each of the components must be approved separately; and

WHEREAS, the proposed tax rate for the current tax year of the City of Tomball, Texas, consists of two components, a tax rate of \$0.230000 cents per \$100.00 dollars of taxable value for the

purpose of paying the accruing interest and to provide a sinking fund for payment of the indebtedness of the City, and a tax rate of \$0.111455 cents per \$100.00 dollars of taxable value for the purpose of funding the maintenance and operation expenditures of the City for the next fiscal year; and

WHEREAS, City Council has approved, by separate motions, the tax rates heretofore specified for each of said components; and

WHEREAS, all notices and hearings required by law as a prerequisite to the passage, approval, and adoption of this Ordinance have been timely and properly given and held;

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

Section 1. The facts and recitations set forth in the preamble of this Ordinance are found to be true and correct and are hereby adopted, ratified, and confirmed.

Section 2. That said tax levied as aforesaid, based upon valuations established by Harris County Appraisal District, will be sufficient to meet the requirements of the City for the Budget Year 2014-2015.

Section 3. There is hereby levied, for the tax year 2014, to fund the City's fiscal year 2014-2015 municipal budget, an ad valorem tax at the total rate of thirty-four and one thousand four hundred fifty-five ten-thousandths cents (\$0.341455) on each One Hundred Dollars (\$100.00) of assessed valuation on all property, real, personal, and mixed, within the corporate limits of the City, upon which an ad valorem tax is authorized by law to be levied by the City of Tomball, Texas. All such taxes shall be assessed and collected in current money of the United States of America.

Section 4. Of such total tax levied in Section 2 hereof, \$0.111455 is levied to fund maintenance and operation expenditures of the City for the fiscal year 2014-2015. Of the total tax levied in Section 2 hereof, \$0.230000 is levied for the purpose of paying the interest on bonds, warrants,

certificates of obligation, or other lawfully authorized evidence of indebtedness issued by the City of Tomball, Texas, including the various installments of principal due on the serial bonds, warrants, certificates of obligation, or other lawfully authorized evidence of indebtedness issued by the City as such installments shall respectively mature, in the fiscal year 2014-2015.

Section 5. This year's levy to fund maintenance and operations expenditures exceeds last year's maintenance and operations tax levy. **THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE.**

GENERAL FUND - TO FUND MAINTENANCE AND OPERATION EXPENDITURES OF THE CITY:	\$0.111455
---	------------

INTEREST & SINKING - FOR DEBT SERVICE:	\$0.230000
--	------------

With reference to the tax rate of \$0.230000 for the Interest and Sinking Fund for bonded indebtedness, this rate, representing 67.3588% of the total \$0.341455 tax, shall apply to the gross amount of current taxes to be collected.

Section 6. All ad valorem taxes levied hereby, in the total amount of \$0.341455 on each One Hundred Dollars (\$100.00) of assessed valuation, as reflected by Sections 2 and 3 hereof, shall be due and payable on or before January 31, 2015. All ad valorem taxes due the City of Tomball, Texas, and not paid on or before January 31st following the year for which they were levied, shall bear penalty and interest, and if not paid before July 1st shall incur an additional penalty of twenty percent (20%), as prescribed in the Texas Property Tax Code.

Section 7. All ordinances and parts of ordinances inconsistent or in conflict herewith are hereby repealed to the extent of such conflict.

Section 8. If any provision of this Ordinance is found to be invalid or unconstitutional by a court of competent jurisdiction, the same shall not invalidate or impair the validity, force, or effect of any other provision of this Ordinance.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 15TH DAY OF SEPTEMBER 2014.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN KLEIN QUINN	_____

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT A SPECIAL MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 6TH DAY OF OCTOBER 2014.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN KLEIN QUINN	_____

GRETCHEN FAGAN, MAYOR
City of Tomball

ATTEST:

DORIS SPEER, City Secretary
City of Tomball

2014 Property Tax Rates in City of Tomball

This notice concerns the 2014 property tax rates for City of Tomball. It presents information about three tax rates. Last year's tax rate is the actual tax rate the taxing unit used to determine property taxes last year. This year's *effective* tax rate would impose the same total taxes as last year if you compare properties taxed in both years. This year's *rollback* tax rate is the highest tax rate the taxing unit can set before taxpayers start rollback procedures. In each case these rates are found by dividing the total amount of taxes by the tax base (the total value of taxable property) with adjustments as required by state law. The rates are given per \$100 of property value.

Last year's tax rate:

Last year's operating taxes	\$1,662,244
Last year's debt taxes	\$3,430,229
Last year's total taxes	\$5,092,473
Last year's tax base	\$1,491,403,845
Last year's total tax rate	\$0.341455/\$100

This year's effective tax rate:

Last year's adjusted taxes (after subtracting taxes on lost property)	\$5,082,886
÷ This year's adjusted tax base (after subtracting value of new property)	\$1,478,882,427
=This year's effective tax rate	\$0.343697/\$100

(Maximum rate unless unit publishes notices and holds hearings.)

This year's rollback tax rate:

Last year's adjusted operating taxes (after subtracting taxes on lost property and adjusting for any transferred function, tax increment financing, state criminal justice mandate, and/or enhanced indigent healthcare expenditures)	\$5,064,955
÷ This year's adjusted tax base	\$1,478,882,427
=This year's effective operating rate	\$0.342485/\$100
x 1.08=this year's maximum operating rate	\$0.369883/\$100
+ This year's debt rate	\$0.230055/\$100
= This year's total rollback rate	\$0.599938/\$100
-Sales tax adjustment rate	\$0.225668/\$100
=Rollback tax rate	\$0.374270/\$100

Statement of Increase/Decrease

If City of Tomball adopts a 2014 tax rate equal to the effective tax rate of \$0.343697 per \$100 of value, taxes would increase compared to 2013 taxes by \$94,692.

Schedule A - Unencumbered Fund Balance

The following estimated balances will be left in the unit's property tax accounts at the end of the fiscal year. These balances are not encumbered by a corresponding debt obligation.

Type of Property Tax Fund	Balance
General Fund	12,281,443
Special Revenue Funds	929,881

Schedule B - 2014 Debt Service

The unit plans to pay the following amounts for long-term debts that are secured by property taxes. These amounts will be paid from property tax revenues (or additional sales tax revenues, if applicable).

Description of Debt	Principal or Contract Payment to be Paid from Property Taxes	Interest to be Paid from Property Taxes	Other Amounts to be Paid	Total Payment
Series 2010 Refunding Bonds	270,000	19,970	0	289,970
Series 2011 Refunding Bonds	513,000	113,085	0	626,085
2011 Lease - Fire Truck	535,464	20,615	0	556,079
2015 Lease - Fire Truck	68,104	27,200	0	95,304
Series 2012 Certificates of Obligation	585,000	459,819	0	1,044,819
Series 2013 Refunding Bonds	490,000	57,888	0	547,888
Series 2013 Certificates of Obligation	340,000	184,913	0	524,913
Total required for 2014 debt service				\$3,685,058
- Amount (if any) paid from Schedule A				\$213,000
- Amount (if any) paid from other resources				\$0
- Excess collections last year				\$0
= Total to be paid from taxes in 2014				\$3,472,058
+ Amount added in anticipation that the unit will collect only 100.00% of its taxes in 2014				\$0
= Total debt levy				\$3,472,058

Schedule C - Expected Revenue from Additional Sales Tax

In calculating its effective and rollback tax rates, the unit estimated that it will receive \$3,405,840 in additional sales and use tax revenues.

This notice contains a summary of actual effective and rollback tax rates' calculations. You can inspect a copy of the full calculations at 1001 Preston, Houston, TX 77002.

Name of person preparing this notice: Mike Sullivan
Title: Harris County Tax Assessor-Collector
Date Prepared: 08/28/2014

Regular City Council

Agenda Item

Meeting Date: September 15, 2014

Data Sheet

Topic:

Adopt, on First Reading, Ordinance No. 2014-31, an Ordinance of the City of Tomball, Texas, Adopting and Enacting a New Code for the City of Tomball, Texas; Providing for the Repeal of Certain Ordinances not included Therein; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; Providing when Such Code and This Ordinance shall become Effective; Directing Publication of the Caption of This Ordinance; Finding that the Meetings at which This Ordinance is Considered are Open to the Public; Providing for Severability and the Repeal of Conflicting Ordinances; and Providing Other Details Relating to the Passage of This Ordinance (Link to Code: <http://www.ci.tomball.tx.us/Archive.aspx?AMID=48>).

Background:

Municipal Code Corporation has completed the recodification of the City of Tomball's Code of Ordinances through June 16, 2014.

Ordinance No. 2014-31 adopts the New Code of Ordinances for the City and includes the zoning ordinance and updates through Ordinance No. 2014-13, amending the Home Rule Charter as a result of the May 10, 2014 Special Election.

Ordinances adopted after passage of Ordinance No. 2014-13 will be included in Supplement No. 1. Tomball is currently scheduled for semi-annual supplements, but this schedule can be adjusted as desired.

Due to the volume of the recodified Code of Ordinances (816 pages), a link is provided to the City's website to view the Code in its entirety - <http://www.ci.tomball.tx.us/Archive.aspx?AMID=48>.

Origination:

Doris Speer, City Secretary

Recommendation:

Adopt Ordinance No. 2014-31 on First Reading

Funding:

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

Doris Speer, City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Ordinance No. 2014-31

ORDINANCE NO. 2014-31

**AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS,
ADOPTING AND ENACTING A NEW CODE FOR THE
CITY OF TOMBALL, TEXAS; PROVIDING FOR THE
REPEAL OF CERTAIN ORDINANCES NOT INCLUDED
THEREIN; PROVIDING A PENALTY FOR THE
VIOLATION THEREOF; PROVIDING FOR THE MANNER
OF AMENDING SUCH CODE; PROVIDING WHEN SUCH
CODE AND THIS ORDINANCE SHALL BECOME
EFFECTIVE; DIRECTING PUBLICATION OF THE
CAPTION OF THIS ORDINANCE; FINDING THAT THE
MEETINGS AT WHICH THIS ORDINANCE IS
CONSIDERED ARE OPEN TO THE PUBLIC; PROVIDING
FOR SEVERABILITY AND THE REPEAL OF
CONFLICTING ORDINANCES; AND PROVIDING OTHER
DETAILS RELATING TO THE PASSAGE OF THIS
ORDINANCE.**

* * * * *

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL:

Section 1. The Code entitled "Code of Ordinances, City of Tomball, Texas," published by Municipal Code Corporation, consisting of chapters 1 through 50, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before June 16, 2014, and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 3. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine not exceeding five hundred dollars (\$500.00), except for:

- (1) violations of municipal ordinances that govern fire, safety, zoning, public health and sanitation, including dumping of refuse, vegetation and litter violations, in which the maximum fine shall be two thousand dollars (\$2,000.00) for each offense; and
- (2) violations of traffic laws which are punishable as a Class C misdemeanor shall be punished by a fine not to exceed two hundred dollars (\$200.00).

However, no penalty shall be greater or less than the penalty provided for the same or similar offense under the laws of the state.

Each act of violation and each day upon which any such violation shall continue or occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Section 5. Additions or amendments to the Code when passed in such form as to indicate the intention of the City Council to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after June 16, 2014, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 7. 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 of provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each 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 8. The City Secretary of the City of Tomball, Texas, is hereby directed to publish this Ordinance in the official newspaper of the City of Tomball, Texas, in compliance with the provisions of Section 6.14(a) of the City Charter, which publication shall be sufficient if it contains the title of this Ordinance and the penalty provided for violation thereof.

Section 9. It is hereby found and determined that the meetings at which this Ordinance was passed were open to the public, as required by Article 6252-17, V.A.T.C.S., and that advance public notice of time, place, and purpose of said meeting was given.

Section 10. All rights and remedies which have accrued in favor of the City under this chapter and amendments thereto shall be and are preserved for the benefit of the City.

All ordinances in force when this Ordinance becomes effective and which ordinances are inconsistent herewith or in conflict with this Ordinance are hereby repealed, insofar as said ordinances are inconsistent or in conflict with this Ordinance.

The provisions of this Ordinance shall be included and incorporated in the Code of Ordinances of the City of Tomball, Texas, as an amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Section 11. This ordinance shall become effective October 15, 2014.

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 15TH DAY OF
SEPTEMBER 2014.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN KLEIN 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 6TH DAY OF OCTOBER
2014.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN KLEIN QUINN	_____

GRETCHEN FAGAN, MAYOR
City of Tomball

ATTEST:

DORIS SPEER, City Secretary
City of Tomball

Regular City Council

Agenda Item

Meeting Date: September 15, 2014

Data Sheet

Topic:

Consideration to approve **ZONING CASE P14-145**: Request by TNRG Development LLC, on behalf of Frank P. Fontana, to Amend the City's Zoning Ordinance by Rezoning Approximately 20.64 acres of Land, Legally Described as Tracts 4H-1 and 4L-2, Abstract 632, C.N. Pillot, Within the City of Tomball, Harris County, Texas, Generally Located West of South Cherry Street, North of Holderrieth Road, From the General Retail District to the Light Industrial District.

- Conduct a Public Hearing on **ZONING CASE P14-145**
- Adopt, on First Reading, Ordinance No. 2014-32, an Ordinance of the City of Tomball, Texas, Amending its Zoning Ordinance by Changing the Zoning District Classification of Approximately 20.64 Acres of Land, Legally Described as Tracts 4H-1 and 4L-2, Abstract 632, C.N. Pillot, Within the City of Tomball, Harris County, Texas, From the General Retail District to the Light Industrial District; Said Property Being Generally Located West of South Cherry Street, North of Holderrieth Road; Providing for the Amendment of the Official Zoning Map of the City; Providing for Severability; Providing for a Penalty of an Amount not to Exceed \$2,000 for Each Day of Violation of any Provision Hereof, Making Findings of Fact; and Providing for Other Related Matters.

Background:

On July 14, 2014, the applicant submitted a rezoning application requesting the property's zoning classification be changed from General Retail District to Light Industrial District to accommodate the "development of multiple crane ready commercial/light industrial buildings for this business park", which is further described in the Rezoning Staff Report.

On September 8, 2014, the Planning and Zoning Commission, after conducting a public hearing, unanimously recommended denial of Zoning Case P14-145.

Origination:

TNRG Development, LLC

Recommendation:

Denial

Funding:

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

Community Development Department

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Ordinance No. 2014-32

Notice of Public Hearing

Property Owner Notification Letter

P14-145 Staff Report

ORDINANCE NO. 2014-32

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS ZONING ORDINANCE BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 20.64 ACRES OF LAND, LEGALLY DESCRIBED AS TRACTS 4H-1 AND 4L-2, ABSTRACT 632, C.N. PILLOT, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS, FROM THE GENERAL RETAIL DISTRICT TO THE LIGHT INDUSTRIAL DISTRICT; SAID PROPERTY BEING GENERALLY LOCATED WEST OF SOUTH CHERRY STREET, NORTH OF HOLDERRIETH ROAD; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

* * * * *

Whereas, the owner of approximately 20.64 acres of land, legally described as Tracts 4H-1 and 4L-2, Abstract 632, C.N. Pillot, generally located west of South Cherry Street, north of Holderrieth Road, in the City of Tomball, Harris County, Texas, (the "Property"), have requested that the Property be rezoned; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days written notice of that hearing to the owners of land within two hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the proposal to change the zoning for the Property from the General Retail District to the Light Industrial District; and

Whereas, the public hearing was held at least forty (40) calendar days after the City's receipt of the request for rezoning; and

Whereas, the Planning & Zoning Commission recommended in its final report that City Council deny such proposed change in the zoning district classification of the Property; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing on the proposal to change the zoning district classification for the Property from the General Retail District to the Light Industrial District, the City Council held the public hearing on the proposal to change the zoning for the Property and the City Council considered the final report of the Planning & Zoning Commission regarding the change of zoning district classification; and

Whereas, the City Council deems it appropriate to grant such proposed change in the zoning district classification of the Property.

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

Section 1. The City Council finds that the facts and matters set forth in the preamble of this Ordinance are true and correct.

Section 2. The zoning classification of the Property is hereby changed from the General Retail District to the Light Industrial District subject to the regulations, restrictions, and conditions hereafter set forth.

Section 3. The Official Zoning Map of the City of Tomball, Texas shall be revised and amended to show the designation of the Property as Light Industrial District, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification for the Property to the Light Industrial District as described 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.

Section 7. City Council finds and determines that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Tex.Gov't. Code ch. 551.

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 15TH DAY OF SEPTEMBER 2014.

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 6TH DAY OF OCTOBER 2014.

COUNCILMAN HUDGENS _____
COUNCILMAN STOLL _____
COUNCILMAN DEGGES _____
COUNCILMAN TOWNSEND _____
COUNCILMAN QUINN _____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
SEPTEMBER 8, 2014
&
CITY COUNCIL
SEPTEMBER 15, 2014**



Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, September 8, 2014, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, September 15, 2014, at 6:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P14-145: Request by TNRG Development LLC, on behalf of Frank P. Fontana, to amend the City's Zoning Ordinance by rezoning approximately 20.64 acres of land, legally described as Tracts 4H-1 and 4L-2, Abstract 632, C.N. Pillot, within the City of Tomball, Harris County, Texas, generally located west of South Cherry Street, north of Holderrieth Road, from the General Retail District to the Light Industrial District.

COMPREHENSIVE PLAN CASE P14-153: Request by Southern Knights Inc. to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from High Density Residential to Employment/Office.

ZONING CASE P14-154: Request by Southern Knights Inc. to amend the City's Zoning Ordinance by rezoning approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from the Duplex District to the Commercial District.

ZONING CASE P14-159: Request by the City of Tomball to amend Section 38.2 ("Use Charts") of the City's Zoning Ordinance to allow "Dance/Drama/Music Schools (Performing Arts, Martial Arts)" with a Conditional Use Permit in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning & Zoning Commission serves as a recommendation to the City Council and is not a final action on the requests. Should the Planning & Zoning Commission vote to table a decision/recommendation on these cases, the date and time of a future meeting will be specified and the City Council will not review the subject cases until such a decision/recommendation is forwarded to the City Council by the Planning & Zoning Commission. The applications are available for public inspection Monday through Friday, holidays excepted, at the Public Works Building, located at 501 James Street, Tomball, TX 77375. Further information may be obtained by contacting the Assistant City Planner, Rodney Schmidt, at (281) 290-1410, rschmidt@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 3rd day of September 2014 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Craig Meyers

Craig Meyers

Director of Community Development

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.



Notice of Public Hearing

YOU ARE INVITED TO ATTEND Public Hearings before the **PLANNING & ZONING COMMISSION** and **CITY COUNCIL** of the City of Tomball regarding the following item:

CASE NUMBER: P14-145

APPLICANT: TNRG Development LLC, on behalf of Frank P. Fontana

LOCATION: West of South Cherry Street, north of Holderrieth Road

PROPOSAL: Request to amend the City's Zoning Ordinance by rezoning approximately 20.64 acres of land, legally described as Tracts 4H-1 and 4L-2, Abstract 632, C.N. Pillot, within the City of Tomball, Harris County, Texas, from the General Retail District to the Light Industrial District.

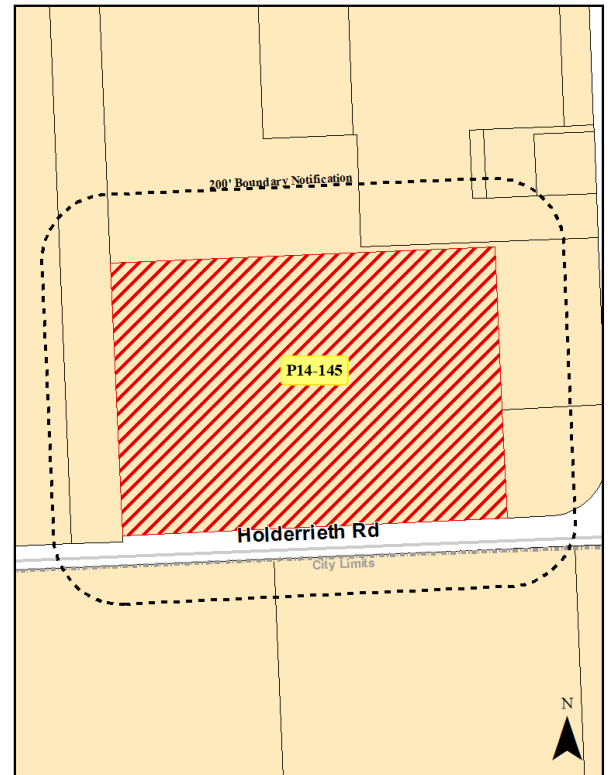
CONTACT: Rodney Schmidt

PHONE: (281) 290-1410

E-MAIL: rschmidt@tomballtx.gov

Interested parties may contact the City of Tomball between 8:00 a.m. and 5:00 p.m. Monday through Friday for further information. The application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Community Development Department office, located at 501 James Street, Tomball, TX 77375. The staff report will be available no later than 4:00 p.m. on the Friday preceding the meeting.

This notice is being mailed to all owners of real property within 200 feet of the request as such ownership appears on the last approved Harris County Appraisal District tax roll. Interested parties may appear and speak on the project or the staff recommendation at the meeting. Written comments may also be submitted for consideration.

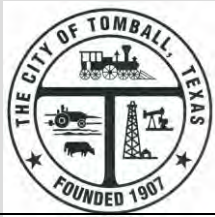


**Planning & Zoning Commission
Public Hearing:
Monday, September 8, 2014, 6:00 PM**

**City Council Public Hearing:
*Monday, September 15, 2014, 6:00 PM**

**The Public Hearings will be held in the
City Council Chambers, City Hall
401 Market Street, Tomball, Texas**

*Should the Planning & Zoning Commission vote to table the recommendation on the case, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a recommendation is forwarded to the City Council by the Planning & Zoning Commission.



Rezoning Staff Report

Planning & Zoning Commission Public Hearing Date: September 8, 2014

Rezoning Case: P14-145
Property Owner(s): Frank P. Fontana
Applicant(s): TNRG Development LLC
Legal Description: Tracts 4H-1 and 4L-2, Abstract 632, C.N. Pillot
Location: West of South Cherry Street, north of Holderrieth Road (Exhibit "A")
Area: 20.64 acres
Present Zoning & Use: General Retail (GR) District (Exhibit "B")/ Vacant (Exhibit "C")
Comp Plan Designation: Employment/Office (Exhibit "D")
Proposed Zoning and Use: Light Industrial District¹ / Business park
Adjacent Zoning & Use:
North: Agricultural District / Agricultural land, vacant land, single-family residence, and Future City of Tomball drainage channel
South: Unzoned City of Tomball Extraterritorial Jurisdiction (ETJ) / Holderrieth Road right-of-way (ROW), agricultural land, and single-family residence
West: GR, Commercial, and Agricultural Districts / Future City of Tomball drainage channel and agricultural land
East: GR District / Agricultural land and vacant land

BACKGROUND

On July 14, 2014, the applicant turned in a rezoning application (Exhibit "E") requesting the property's zoning classification be changed from General Retail District to Light Industrial District to accommodate the "development of multiple crane ready commercial/light industrial buildings for this business park."

ANALYSIS

The applicant is requesting that the property be rezoned from the General Retail District to Light Industrial District. According to Section 31.1 of the Zoning Ordinance:

¹ Any use permitted in the proposed district would be allowed at this location if the zoning is changed. Furthermore, the Planning & Zoning Commission and City Council may consider zoning classifications other than that sought by the applicant for this property.

The LI, Light Industrial, district is intended primarily for the conduct of light manufacturing, assembling and fabrication activities, and for warehousing, research and development, wholesaling and service operations that do not typically depend upon frequent customer or client visits. Such uses do require accessibility to major thoroughfares, major highways, and/or other means of transportation such as the railroad.

There are several land uses in the vicinity of the subject site. To the north are agricultural land, vacant land, a single-family residence, and a future City of Tomball drainage channel; to the south are Holderrieth Road ROW, agricultural land, and a single-family residence; to the west are a future City of Tomball drainage channel and agricultural land; and to the east are agricultural land and vacant land. Light Industrial District appears to be incompatible with the existing single-family residential and agricultural land uses in the vicinity.

There are several zoning classifications in the vicinity of the subject site. To the north is the Agricultural District; to the south is unzoned City of Tomball ETJ; to the west are the GR, Commercial, and Agricultural Districts; and to the east is the GR District. The Light Industrial District appears to be incompatible with the Agricultural District which is classified as a “Residential Zoning District” in Section 38 of the Zoning Ordinance.

The Comprehensive Plan (CP) identifies the subject site as Employment/Office. The CP states:

Employment/Office indicates where employment uses that are not industrially focused should occur. These uses include corporate headquarters, regional offices, professional offices, light enclosed manufacturing or assembly facilities, office/showrooms, and small business office suites. Some retail activities are permitted in this land use to support offices and employment operations. It is expected that these uses will have a regular flow of traffic at the start and end of the regular business day. These uses will not produce large amounts of ambient noise, light, or vibration.

The Light Industrial District, which is the City’s most intensive zoning district, appears to be inconsistent with the Employment/Office classification and appears to be more consistent with the Business/Industrial classification, which is the City’s most intensive CP designation.

Additionally, this request appears to create a situation known as “spot zoning” which has been deemed illegal in the State of Texas. Spot zoning occurs when a single property is zoned differently than those lands which are immediately adjacent to it. As illustrated above, this request is inconsistent with the zoning designations of those properties in the surrounding area. The nearest Light Industrial District is approximately one-half mile to the northeast.

ZONING CONSIDERATIONS

In making its recommendation regarding a proposed zoning change, the Planning & Zoning Commission shall consider the following factors:

- A. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned, and their relationship to the general area and to the City as a whole.**

Light Industrial District appears to be incompatible with the existing single-family residential and agricultural land uses in the vicinity.

- B. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area.**

The proposed rezoning is not anticipated to negatively impact any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area.

- C. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such vacant land unavailable for development.**

There is no land zoned Light Industrial District in the vicinity of the subject site. However, there are numerous vacant properties elsewhere in the City already zoned Light Industrial District.

- D. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change.**

There has been steady development City-wide in the Light Industrial District.

- E. How other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved.**

If the proposed zoning change is approved, few, if any affects on other areas designated for similar developments are anticipated.

- F. Any other factors that will substantially affect the public health, safety, morals, or general welfare.**

The proposed rezoning appears to be a spot zoning request which is not permitted in the State of Texas. Because a City's authority to enforce its zoning ordinance is considered a police power to protect the public's health, safety, and welfare, and because spot zoning has been determined to be contrary to this police power, to allow this request may affect the public's health, safety, and welfare.

- G. Whether the request is consistent with the Comprehensive Plan.**

The Light Industrial District, which is the City's most intensive zoning district, appears to be inconsistent with the Employment/Office classification and appears to be more consistent with the Business/Industrial classification, which is the City's most intensive CP designation.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on August 26, 2014. No public comment forms have been received as of August 29, 2014.

RECOMMENDATION

Based on the findings outlined in the analysis and zoning considerations sections of this staff report, City staff recommends **DENIAL** of Rezoning Case P14-145.

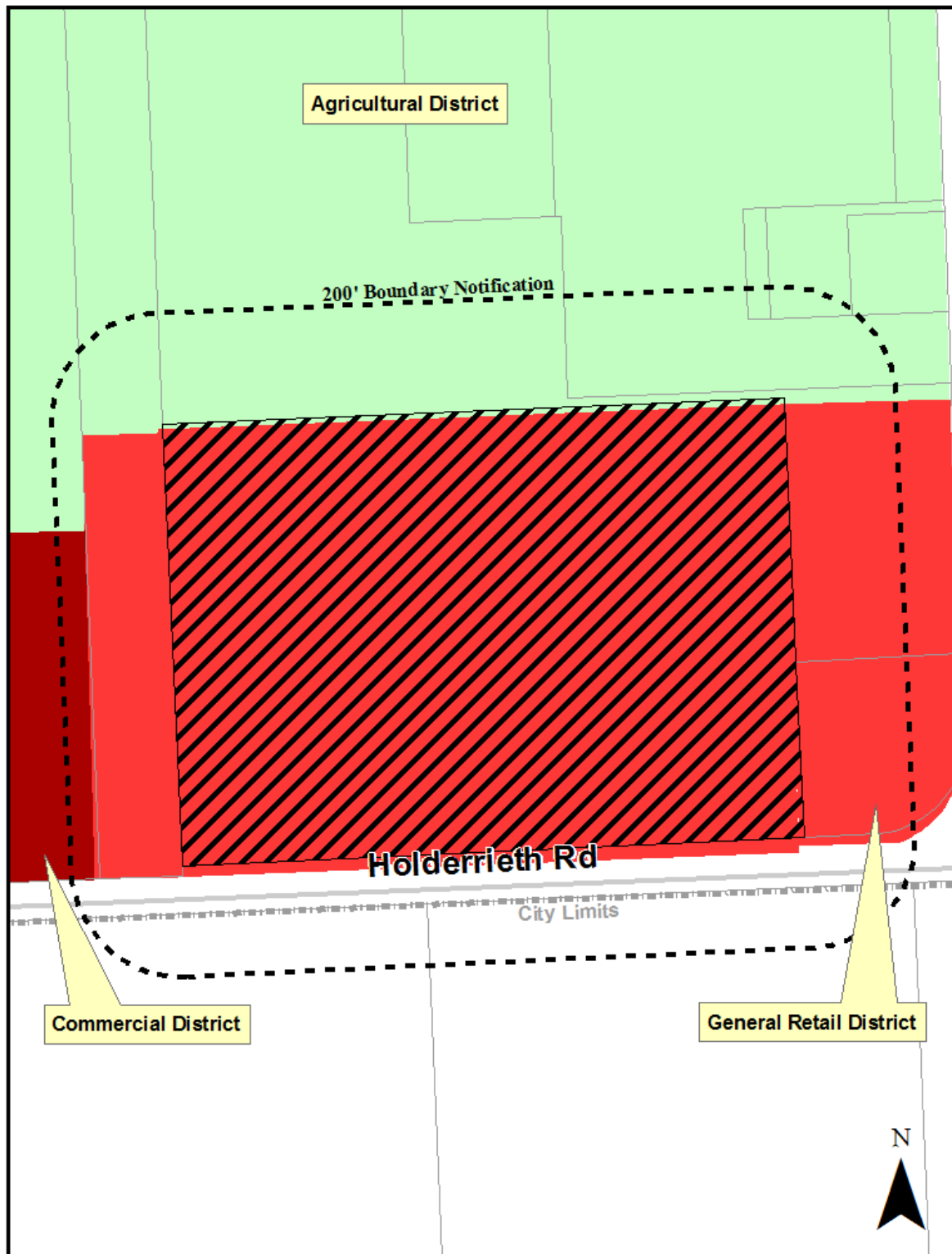
EXHIBITS

- A. Aerial Photo
- B. Zoning Map
- C. Site Photos
- D. Future Land Use Map
- E. Rezoning Application

Exhibit "A"
Aerial Photo



Exhibit "B"
Zoning Map



**Exhibit “C”
Site Photos**



Figure 1: Subject site.
Source: Google Earth



Figure 2: Subject site.
Google Earth

Exhibit "D"
Future Land Use Map

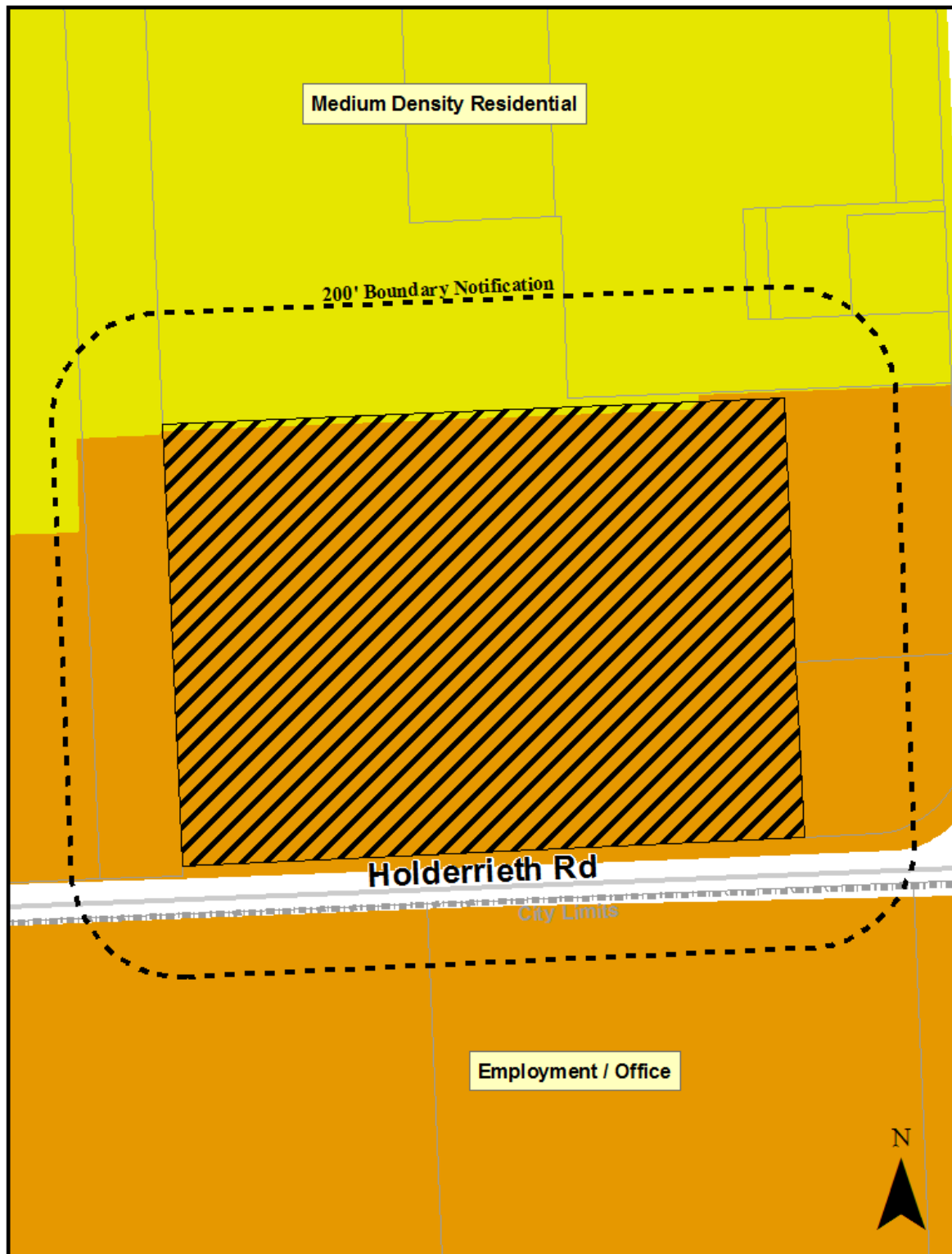


Exhibit "E"
Rezoning Application

Revised 1/20/09



APPLICATION FOR REZONING
Engineering & Planning Department



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: TNR6 Development, LLC Title: _____
Mailing Address: 15120 NW Fwy #190 City: Houston State: TX
Zip: 77040
Phone: (713) 956-1000 Fax: (713) 856-5100 Email: _____

Owner

Name: Frank P. Fontana Title: owner
Mailing Address: 14807 Carlsen Bnd City: Cypress State: TX
Zip: 77429
Phone: (281) 798-2726 Fax: (281) 257-0413 Email: infantana@comcast.net

Engineer/Surveyor (if applicable)

Name: Texas Land Engineers - John Gordes Title: _____
Mailing Address: 550 Westcott # 550 City: Houston State: TX
Zip: 77007
Phone: (281) 576-1085 Fax: (281) 576-1086 Email: John.Gordes@texaslandengineers.com

Description of Proposed Project: _____

Physical Location of Property: APPROX. 899,078 Sq. Ft. / 11,000 SF Frontage on
Holdenrich near intersection of Holdenrich and Cherry St
[General Location - approximate distance to nearest existing street corner]

Legal Description of Property: TRS 4H-1 & 4L-2 ABST 632 CN Pilot
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: General Retail District (GR)

Current Use of Property: vacant land

Proposed Zoning District: Light Industrial District (LI)

Proposed Use of Property: office warehouse

City of Tomball, Texas 501 James Street, Tomball, Texas 77375 Phone: 281-290-1405

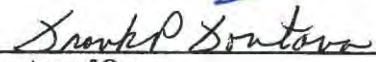
www.ci.tomball.tx.us

HCAD Identification Number: 0440580000281 Acreage: 20.640

Please note: A courtesy notification sign will be placed on the subject property during the public hearing process and will be removed when the case has been processed.

This is to certify that the information on this form is **COMPLETE, TRUE, and CORRECT** and the under signed is authorized to make this application. I understand that submitting this application does not constitute approval, and incomplete applications will result in delays and possible denial.

X  7-11-14
Signature of Applicant Date

X  7-11-14
Signature of Owner Date





July 02, 2014

City of Tomball, Texas
501 James Street
Tomball, TX 77375

Re: Rezoning Request and Application pertaining to approximately 20.64 acres of land, out of the C.M. Pillot Survey, Abstract Number 632, Harris County, Texas and also being out of a 106.5632 acre tract of land described under Harris County Clerk's File Number (H.C.C.F#) L990867.

Planning Staff:

As the applicant to this rezoning request, TNRG Development is respectfully requesting rezoning from GR- (General Retail District) to LI - (Light Industrial District) for an approximate 20.64 acre tract on the North side of Holderrieth Road, also known as the Fontana Tract.

We are proposing the development of multiple crane ready commercial/ light industrial buildings for this business park. We feel it would lend itself as an attractive gateway to the Tomball industrial business park located on the corner of Holderrieth and Huffsmith Kohrville and bring necessary conveniences to the area allowing the larger business to have local support and services from these smaller operations.

We would appreciate your positive consideration of our rezoning request. Should you need additional information or have questions regarding our rezoning request, please call me at 713-744-7473 or via email at bcummings@tnrg.net

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Cummings", with a stylized flourish at the end.

Bill Cummings
TNRG Development

15120 NORTHWEST FREEWAY, SUITE 190 • HOUSTON, TEXAS 77040
713.956.1000 • WWW.TNRG.NET • fax 713.856.5100

Regular City Council

Agenda Item

Meeting Date: September 15, 2014

Data Sheet

Topic:

Consideration to approve **ZONING CASE P14-153**: Request by Southern Knights Inc. to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from High Density Residential to Employment/Office.

- Conduct a Public Hearing on **ZONING CASE P14-153**
- Adopt, on First Reading, Ordinance No. 2014-33, an Ordinance Of The City Of Tomball, Texas, Amending Its Comprehensive Plan by Changing the Future Land Use Classification of Approximately 4.31 Acres of Land, Legally Described as Tract 2, Howe Tract, Within The City Of Tomball, Harris County, Texas, from High Density Residential to Employment/Office; Said Property Being Generally Located Between Michel Road and Theis Lane, West of Johnson Road; Providing for the Amendment Of The Comprehensive Plan of The City; Providing for Severability; Providing for a Penalty Of An Amount Not To Exceed \$2,000 for Each Day Of Violation of Any Provision Hereof, Making Findings of Fact; and Providing for Other Related Matters.

Background:

On July 2, 2014, City staff met with Elizabeth Howe, owner of Southern Knights Assisted Living Center, to discuss the possible expansion of the existing assisted living facility along Johnson Road. Ms. Howe indicated that she wished to construct assisted living "cottages" and a memory impairment section.

On July 23, 2014, the applicant submitted a Comprehensive Plan Amendment Application requesting that the property's designation be changed from High Density Residential to Employment/Office.

On September 8, 2014, the Planning and Zoning Commission, after conducting a public hearing, unanimously recommended approval of Comprehensive Plan Amendment Case P14-153.

Origination:

Southern Knights Inc.

Recommendation:

Adopt Ordinance No. 2014-33 on First Reading

Funding:

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

Community Development Department

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Ordinance No. 2014-33

Notice of Public Hearing

P14-153 Property Owner Notification Letter

P14-153 Staff Report

ORDINANCE NO. 2014-33

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE PLAN BY CHANGING THE FUTURE LAND USE CLASSIFICATION OF APPROXIMATELY 4.31 ACRES OF LAND, LEGALLY DESCRIBED AS TRACT 2, HOWE TRACT, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS, FROM HIGH DENSITY RESIDENTIAL TO EMPLOYMENT/OFFICE; SAID PROPERTY BEING GENERALLY LOCATED BETWEEN MICHEL ROAD AND THEIS LANE, WEST OF JOHNSON ROAD; PROVIDING FOR THE AMENDMENT OF THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

* * * * *

Whereas, the owner of approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, generally located between Michel Road and Theis Lane, west of Johnson Road, in the City of Tomball, Harris County, Texas, (the "Property"), has requested that the Property have its Comprehensive Plan future land use classification changed;

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days written notice of that hearing to the owners of land within two hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the proposal to change the Comprehensive Plan future land use classification for the Property from High Density Residential to Commercial;

Whereas, the public hearing was held at least forty (40) calendar days after the City's receipt of the request to change the Comprehensive Plan future land use classification for the Property;

Whereas, the Planning & Zoning Commission recommended in its final report that City Council approve such proposed change to the Comprehensive Plan future land use classification for the Property;

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing on the proposal to change the Comprehensive Plan future land use classification for the Property from High Density Residential to Employment/Office, the City Council held the public hearing on the proposal to change the Comprehensive Plan future land use classification for the Property and the City Council considered the final report of the Planning & Zoning Commission regarding the change of Comprehensive Plan future land use classification; and

Whereas, the City Council deems it appropriate to grant such proposed change in the Comprehensive Plan future land use classification for the Property.

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

Section 1. The City Council finds that the facts and matters set forth in the preamble of this Ordinance are true and correct.

Section 2. The Comprehensive Plan future land use classification of the Property is hereby changed from High Density Residential to Employment/Office subject to the regulations, restrictions, and conditions hereafter set forth.

Section 3. The Comprehensive Plan of the City of Tomball, Texas-Ordinance 2009-33, ("Tomball Comprehensive Plan – Vision 2030"), shall be revised and amended to show the designation of the Property as Employment/Office.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Tomball, save and except the change in Comprehensive Plan future land use classification of the Property to Employment/Office.

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.

Section 7. City Council finds and determines that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Tex.Gov't. Code ch. 551.

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 15TH DAY OF SEPTEMBER 2014.

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 6TH DAY OF OCTOBER 2014.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN QUINN	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
SEPTEMBER 8, 2014
&
CITY COUNCIL
SEPTEMBER 15, 2014**



Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, September 8, 2014, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, September 15, 2014, at 6:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P14-145: Request by TNRG Development LLC, on behalf of Frank P. Fontana, to amend the City's Zoning Ordinance by rezoning approximately 20.64 acres of land, legally described as Tracts 4H-1 and 4L-2, Abstract 632, C.N. Pillot, within the City of Tomball, Harris County, Texas, generally located west of South Cherry Street, north of Holderrieth Road, from the General Retail District to the Light Industrial District.

COMPREHENSIVE PLAN CASE P14-153: Request by Southern Knights Inc. to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from High Density Residential to Employment/Office.

ZONING CASE P14-154: Request by Southern Knights Inc. to amend the City's Zoning Ordinance by rezoning approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from the Duplex District to the Commercial District.

ZONING CASE P14-159: Request by the City of Tomball to amend Section 38.2 ("Use Charts") of the City's Zoning Ordinance to allow "Dance/Drama/Music Schools (Performing Arts, Martial Arts)" with a Conditional Use Permit in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning & Zoning Commission serves as a recommendation to the City Council and is not a final action on the requests. Should the Planning & Zoning Commission vote to table a decision/recommendation on these cases, the date and time of a future meeting will be specified and the City Council will not review the subject cases until such a decision/recommendation is forwarded to the City Council by the Planning & Zoning Commission. The applications are available for public inspection Monday through Friday, holidays excepted, at the Public Works Building, located at 501 James Street, Tomball, TX 77375. Further information may be obtained by contacting the Assistant City Planner, Rodney Schmidt, at (281) 290-1410, rschmidt@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 3rd day of September 2014 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Craig Meyers

Craig Meyers

Director of Community Development

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.



Notice of Public Hearing

YOU ARE INVITED TO ATTEND Public Hearings before the **PLANNING & ZONING COMMISSION** and **CITY COUNCIL** of the City of Tomball regarding the following item:

CASE NUMBER: P14-153

APPLICANT: Southern Knights Inc.

LOCATION: Between Michel Road and Theis Lane, west of Johnson Road

PROPOSAL: Request to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, from High Density Residential to Employment/Office.

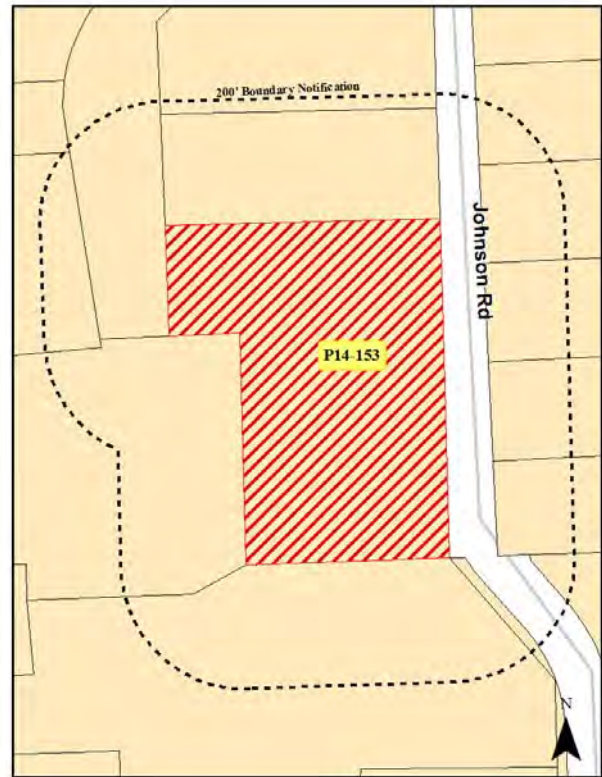
CONTACT: Rodney Schmidt

PHONE: (281) 290-1410

E-MAIL: rschmidt@tomballtx.gov

Interested parties may contact the City of Tomball between 8:00 a.m. and 5:00 p.m. Monday through Friday for further information. The application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Community Development Department office, located at 501 James Street, Tomball, TX 77375. The staff report will be available no later than 4:00 p.m. on the Friday preceding the meeting.

This notice is being mailed to all owners of real property within 200 feet of the request as such ownership appears on the last approved Harris County Appraisal District tax roll. Interested parties may appear and speak on the project or the staff recommendation at the meeting. Written comments may also be submitted for consideration.



**Planning & Zoning Commission
Public Hearing:
Monday, September 8, 2014, 6:00 PM**

**City Council Public Hearing:
*Monday, September 15, 2014, 6:00 PM**

**The Public Hearings will be held in the
City Council Chambers, City Hall
401 Market Street, Tomball, Texas**

*Should the Planning & Zoning Commission vote to table the recommendation on the case, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a recommendation is forwarded to the City Council by the Planning & Zoning Commission.



Comprehensive Plan (CP) Amendment Staff Report

Planning and Zoning Commission Public Hearing Date: September 8, 2014

CP Amendment Case: P14-153

Property Owner(s): Southern Knights Inc.

Applicant(s): Southern Knights Inc.

Legal Description: Tract 2, Howe Tract

Location: Between Michel Road and Theis Lane, west of Johnson Road (Exhibit "A")

Area: 4.31 acres

Present Zoning & Use: Duplex District (Exhibit "B") / Assisted living facility (Southern Knights Assisted Living Center) (Exhibit "C")

Present CP Designation: High Density Residential (Exhibit "D")

Proposed CP Designation: Employment/Office

Adjacent CP Designation & Land Usage:

North: High Density Residential / Apartment complex

South: Employment/Office / Shopping center

West: Employment/Office and High Density Residential / Shopping centers and Harris County Flood Control drainage

East: Employment/Office / Johnson Road right-of-way (ROW), single-family residence, vacant land, and City of Tomball drainage

BACKGROUND

On July 2, 2014, City staff met with Elizabeth Howe, owner of Southern Knights Assisted Living Center, to discuss the possible expansion of the existing assisted living facility at the subject site. Ms. Howe indicated that she wished to construct assisted living "cottages" and a memory impairment section (Exhibit "E"). City staff informed Ms. Howe of the following:

- The property is currently zoned Duplex District which does not allow for the expansion of an assisted living facility and that if she wanted to expand the facility she would first need to have the property rezoned to a district that permits this use. Ms. Howe indicated her desire to rezone the property to the Commercial District which permits this use by right.
- The property currently has a CP designation of High Density Residential which is not consistent with her proposed Commercial District rezoning request. Ms. Howe was informed that she could request an amendment to the CP changing the classification to one

that is more in line with the area and her proposed project. She indicated her desire to reclassify the property as Employment/Office.

On July 23, 2014, the applicant turned in a CP amendment application (Exhibit “F”) requesting the property’s designation be changed from High Density Residential to Employment/Office. Accompanying the CP amendment application was a rezoning application requesting the property be rezoned from the Duplex District to the Commercial District. The CP amendment is being heard as Case P14-153 and the rezoning application is being heard as Case P14-154. Both cases are being submitted to allow for the expansion of the existing assisted living facility.

ANALYSIS

The proposed FLU designation for this site is Employment/Office. The CP states, “Employment/Office indicates where employment uses that are not industrially focused should occur. These uses include corporate headquarters, regional offices, professional offices, light enclosed manufacturing or assembly facilities, office/showrooms, and small business office suites. Some retail activities are permitted in this land use to support offices and employment operations.”

There are several land uses in the vicinity of the subject site. To the north is an apartment complex; to the south is a shopping center; to the west are shopping centers and a Harris County Flood Control drainage ditch; and to the east are Johnson Road right-of-way (ROW), single-family residence, vacant land, and City of Tomball drainage. The Employment/Office designation appears to be compatible with the apartment complex to the north and the shopping centers to the south and west. The prima facie incompatibility of the request with the existing single-family residence to the east appears to be minimized because of the separation created by Johnson Road.

The Duplex and Commercial Districts are the predominant zoning classifications in the vicinity of the subject site. The Duplex District is to the north with the Commercial District to the south, west, and east. The Employment/Office designation appears to be compatible with the adjacent Commercial District. The prima facie incompatibility of the request with the Duplex District to the north will be minimized by the Zoning Ordinance’s building setback, landscaping, screening, and buffering requirements.

High Density Residential and Employment/Office are the predominant CP designations in the vicinity of the subject site. High Density Residential is to the north and west with Employment/Office to the south, west, and east. According to the CP, “High Density Residential provides areas for many different types of housing products including patio homes, townhomes, lofts, duplexes, condominiums, and apartments. Ranging from 7.26 to 26 gross dwelling units per acre, this designation may also include such supporting land uses as neighborhood shops and services, parks and recreational amenities, religious institutions, and schools to serve local residents.” The request is not anticipated to be incompatible with the High Density Residential properties to the north and west because High Density Residential is intended to accommodate a number of low-intensity, non-residential uses and because it is often located near non-residential, transitional, and high-traffic areas.

City staff recommends **APPROVAL** of this requested based on the following:

1. The request appears to be consistent with many of the surrounding land uses, zoning districts, and CP designations as explained above.

2. The request appears to enhance the City economically by adding assisted living care capacity and increasing property tax revenue through additional building construction and land improvements.
3. The request appears to be consistent with the following CP goals, objectives, and actions:
 - a. Objective LUD 1.2: Promote a cohesive land use pattern by minimizing incompatible land uses.
 - i. The request appears to be consistent and compatible with the existing residential land uses to the north and east.
 - b. Action LUD 1.1.5: Ensure that new developments invest in and contribute to the community's quality of life and amenities.
 - i. Southern Knights is in the business of caring for the elderly and infirm of our community. This request will allow the business to expand which will in turn provide more end of life care for those most in need.
 - c. Goal EO 1: Grow, diversify, and evolve Tomball's economy to raise the standard of living, create new employment opportunities, and generate revenue so the City can provide quality public services and amenities.
 - i. This request will allow a local business to grow which will in turn grow Tomball's economy and the City of Tomball's ability to provide public services.
4. The request appears to be a better use of land than what is recommended by the CP.
 - a. In 2009, the CP designated this property as High Density Residential which is not what it was before or at the time of adoption. This request is an attempt to ensure the CP is in line with the past, current, and future use of the property as an assisted living facility.
5. The request is not anticipated to negatively impact adjacent residential areas.
6. The request appears to have adequate access and roadway capacity.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on August 26, 2014. No public comment forms have been received as of August 29, 2014.

RECOMMENDATION

Based on the findings outlined in the analysis section of this staff report, City staff recommends **APPROVAL** of CP amendment case P14-153.

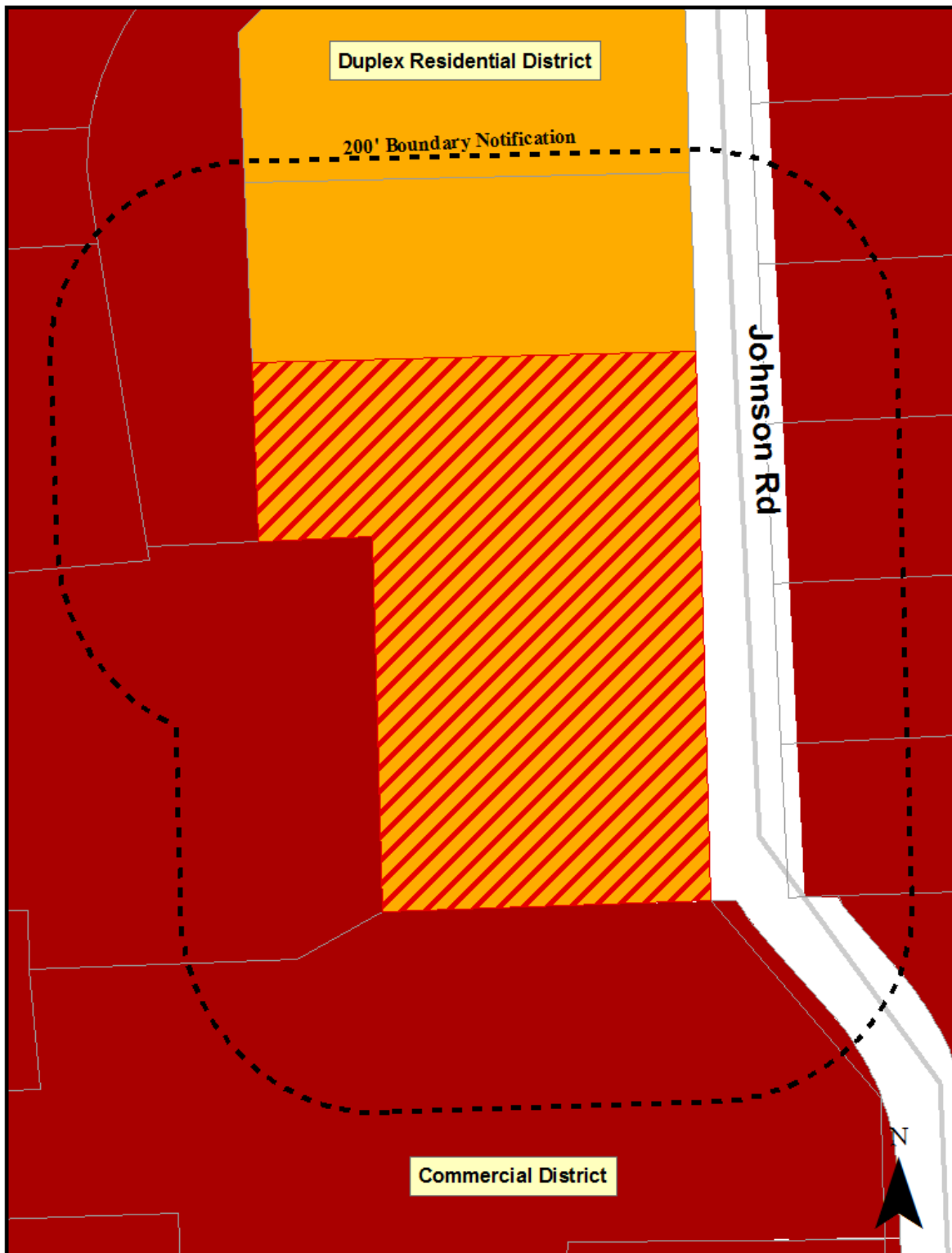
EXHIBITS

- A. Aerial Photo
- B. Zoning Map
- C. Site Photos
- D. Future Land Use Map
- E. Proposed Site Layout
- F. CP Amendment Application

Exhibit "A"
Aerial Photo



Exhibit "B"
Zoning Map



**Exhibit “C”
Site Photos**



Figure 1: Subject site.

Source: Google Earth



Figure 2: Subject site.

Source: Google Earth

Exhibit "D"
Future Land Use Map

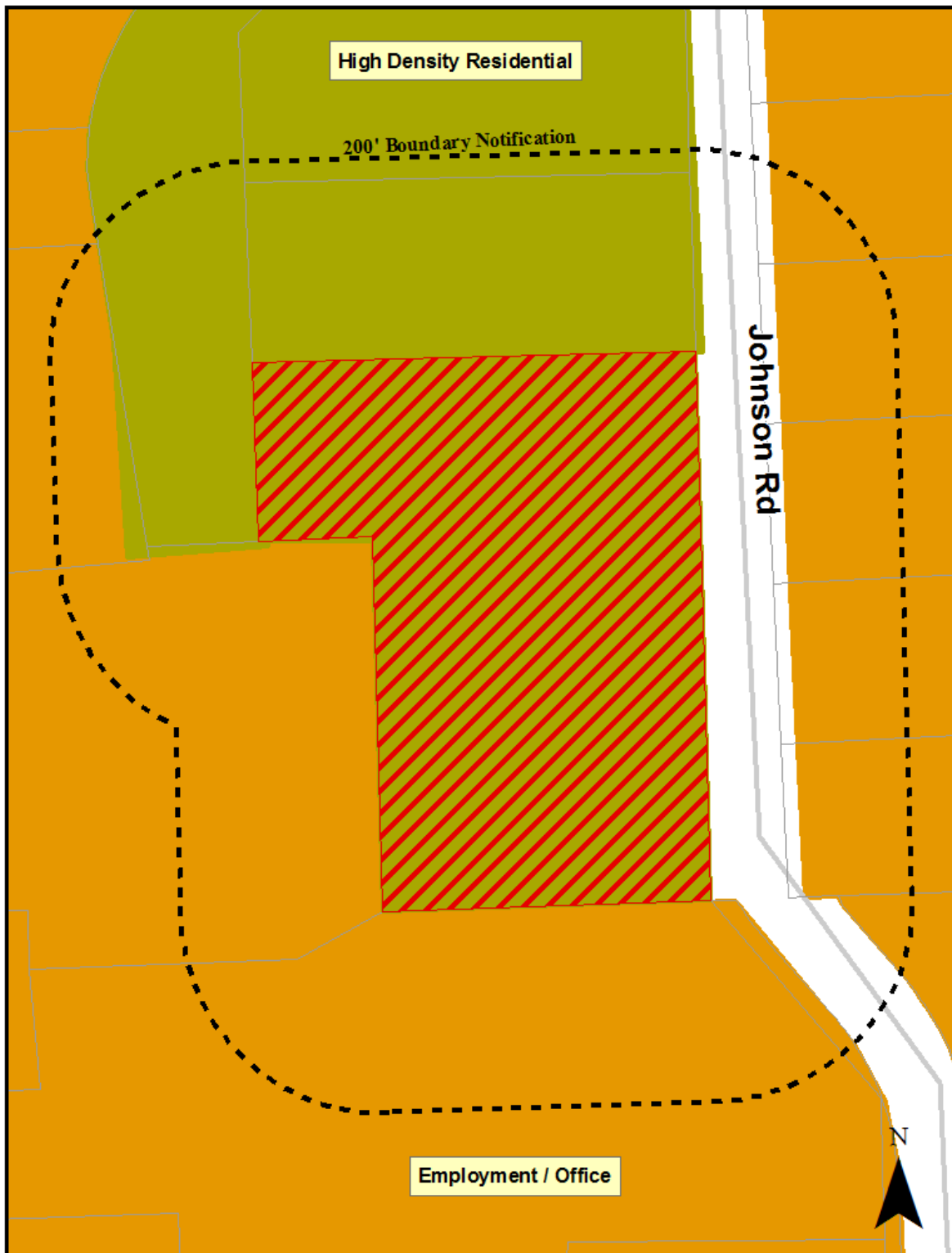
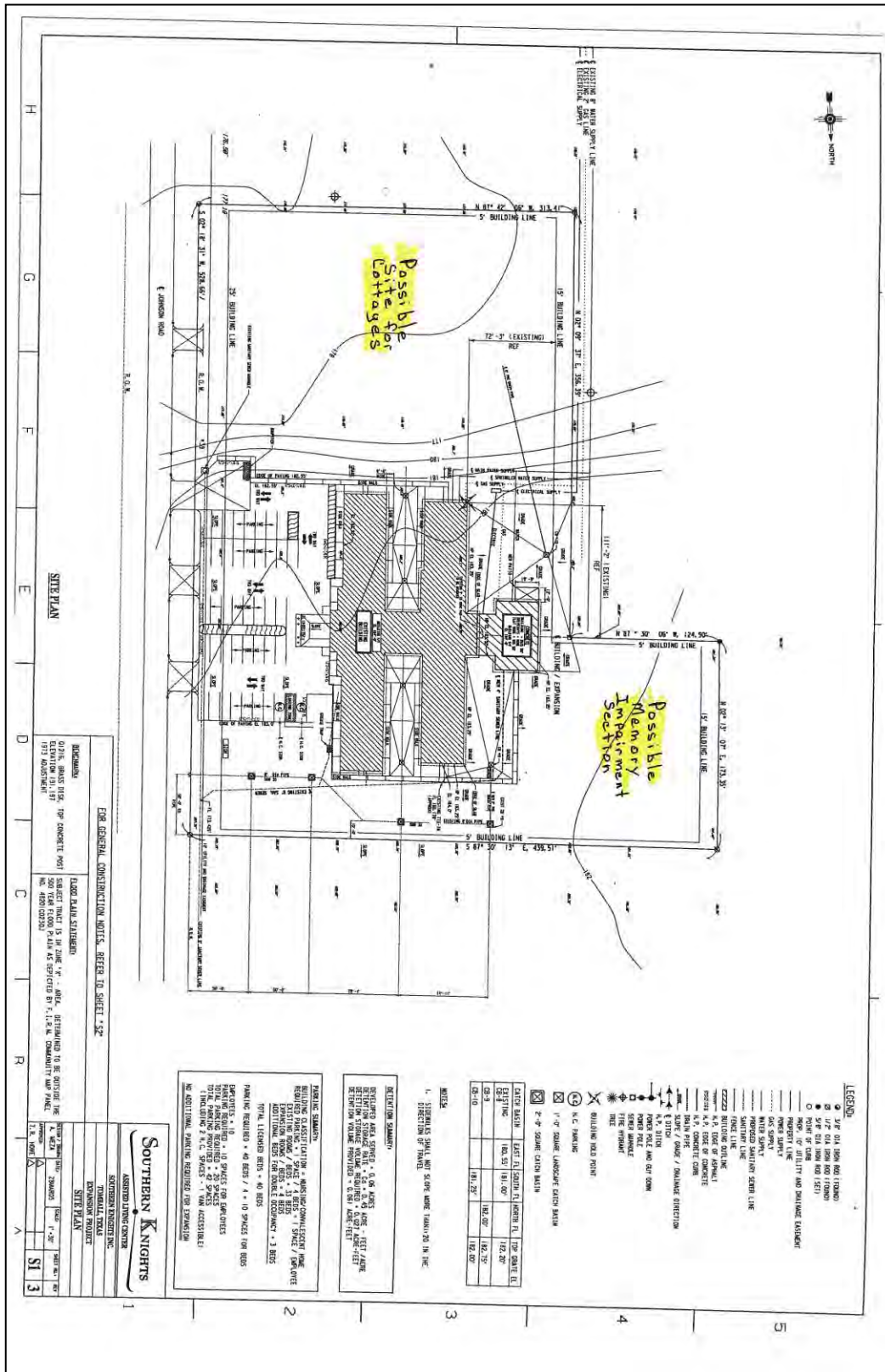
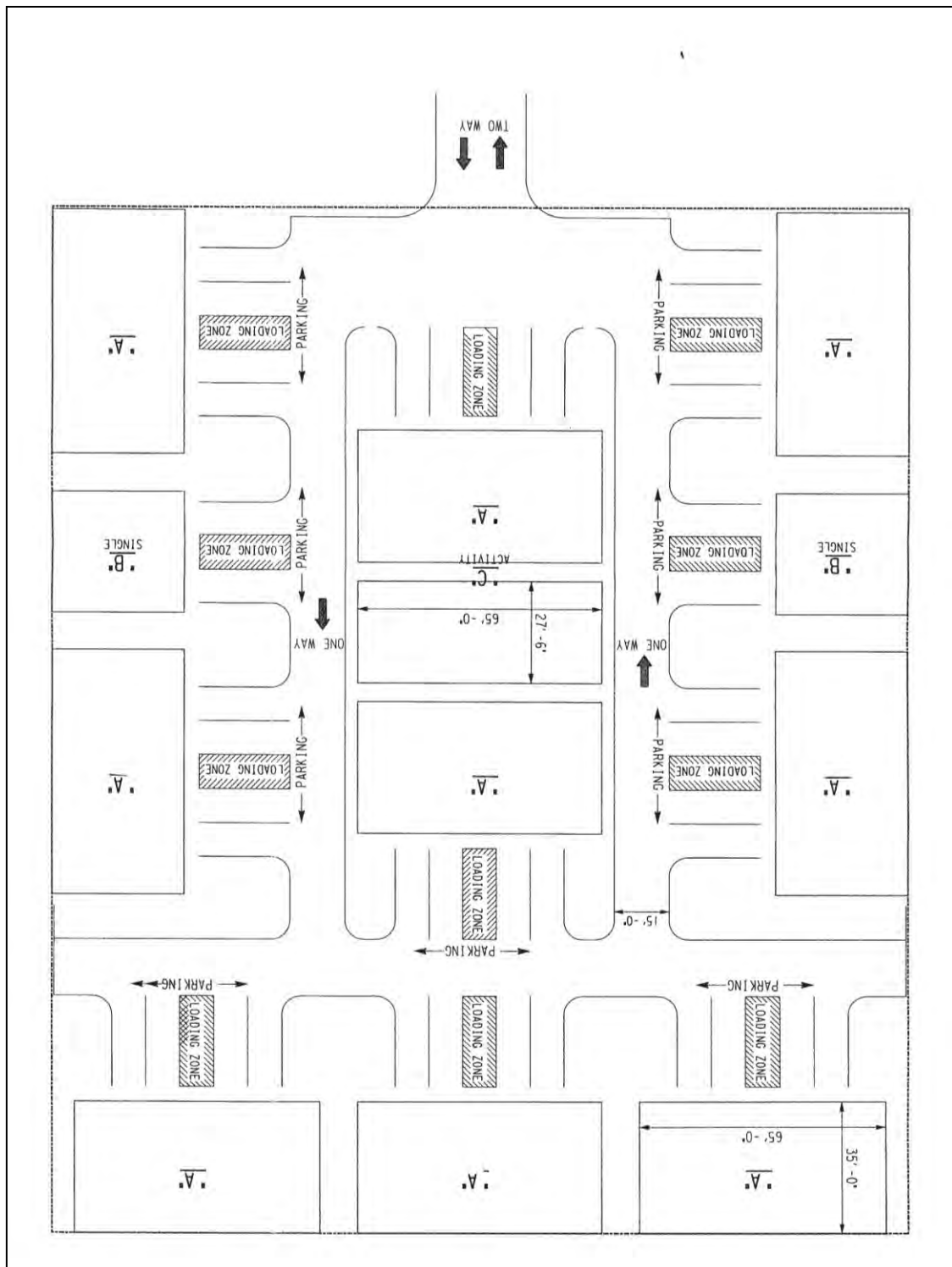


Exhibit "E" Proposed Site Layout





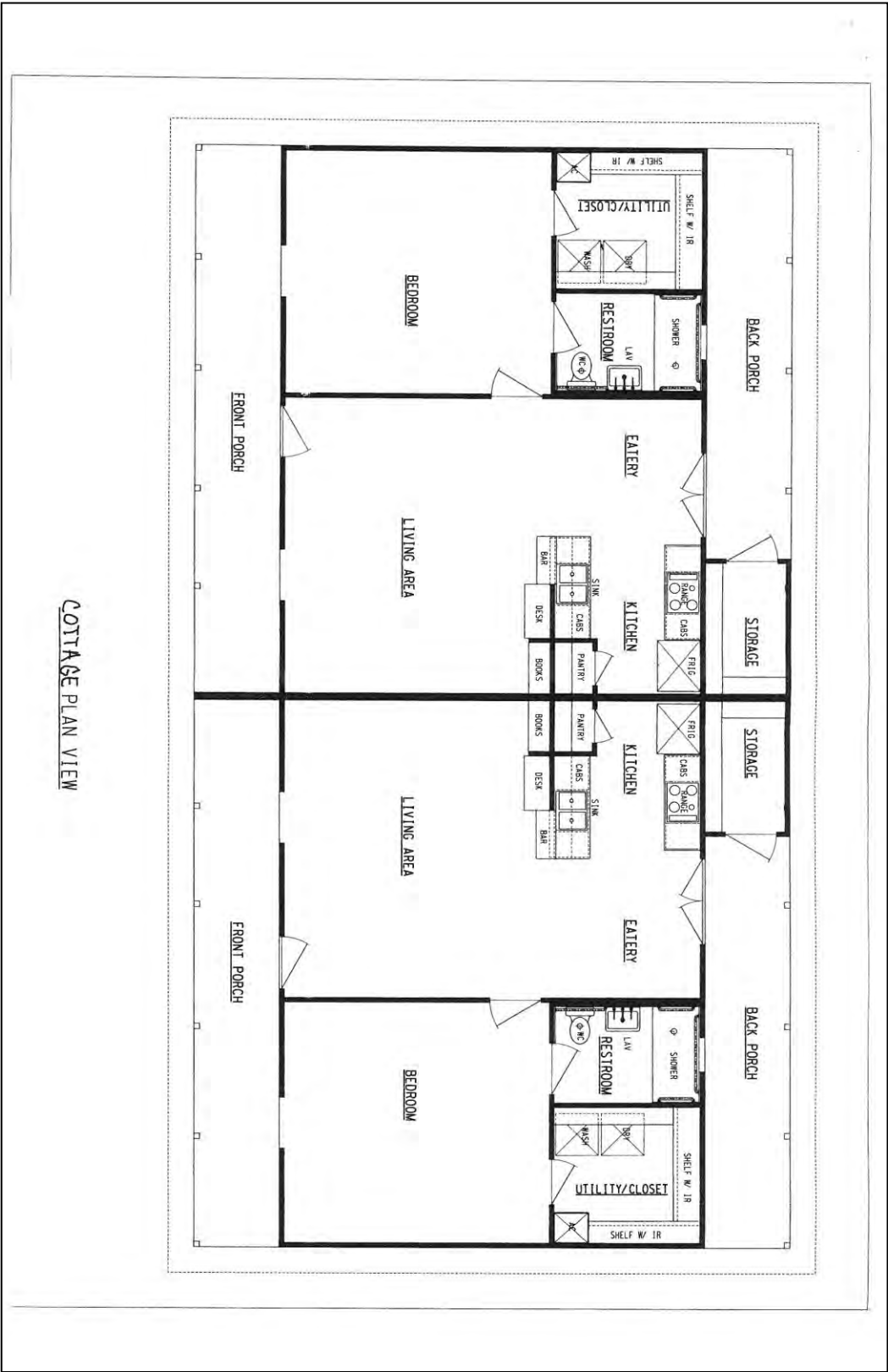


Exhibit "F"
CP Amendment Application

114-153

Revised 1/26/10



**COMPREHENSIVE PLAN
AMENDMENT APPLICATION**
Engineering & Planning Department

APPLICATION SUBMITTAL

The Comprehensive Plan serves as the City's long-range development guide. Local Government Code Section 213.003 authorizes and specifies procedures for amendments and modifications to the City's Comprehensive Plan. The process requires a public hearing and review by the City's Planning and Zoning Commission and final review and approval by the City Council.

Plan amendments for parcels of real property within Tomball may be initiated by property owners or by agents of property owners by written consent. Plan amendment(s) involving textual changes may be initiated by any interested party including the Tomball City Council, Planning & Zoning Commission, staff, or private citizens. It shall be the burden of the party requesting the amendment, not the City of Tomball, to prove that the change constitutes an improvement to the Tomball Comprehensive Plan.

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 request may be delayed until corrections or additions are received.

CONTACT INFORMATION:

Applicant

Name: Southern Knights, Inc. Title: Elizabeth L. Howe
President
Mailing Address: 27919 Johnson Road City: Tomball State: TX
Zip: 77375
Phone: (281) 351-8575 Fax: (281) 351-1129
Email: liz.howe@Comcast.net

Owner

Name: Southern Knights, Inc. Title: Elizabeth L. Howe
President
Mailing Address: 27919 Johnson Road City: Tomball State: TX
Zip: 77375
Phone: (281) 351-8575 Fax: (281) 351-1129
Email: liz.howe@Comcast.net

COMPREHENSIVE PLAN AMENDMENT REQUEST:

Amendment Type (check all that apply): Text ☐ Map ☒

Text Amendment(s)

Text to be modified:

Proposed Text Amendment (exact wording):

Questions to be answered in Comprehensive Plan Amendment Request Letter:

- Will the proposed text amendment enhance the City economically?
- Will the proposed text amendment enhance the City aesthetically?
- Is the proposed text amendment consistent with the City's Goals, Objectives, and Actions?
- Does the proposed text amendment encourage a better use of land/property, both for the owner/developer and the City, than that currently recommended by the Plan?
- Will the proposed text amendment impact adjacent residential areas in a positive or negative manner?
- How will the proposed text amendment impact vehicular and pedestrian access, roadway capacity, ingress and egress, and traffic?
- Will the proposed text amendment encourage land use compatibility?
- Does the proposed text amendment present a significant benefit to the public health, safety and welfare of the community?

Map Amendment(s)

Current Comprehensive Plan Designation: High Density Residential
Proposed Comprehensive Plan Designation: Employment - Related Land Uses
Proposed Use of Property: Licensed Assisted Living Center
Physical Location of Property: 27919 Johnson Road
[General Location – approximate distance to nearest existing street corner]
Legal Description of Property: TR HOWE TRACT
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]
Current Zoning District: Duplex District
Current Use of Property: Licensed Assisted Living Center
HCAD Identification Number: 1201070000001
Property Acreage: 4.3118

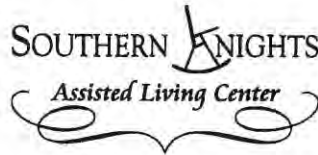
Questions to be answered in Comprehensive Plan Amendment Request Letter:

- ✓ Will the proposed map amendment enhance the City economically?
- ✓ Will the proposed map amendment enhance the City aesthetically?
- ✓ Is the proposed map amendment consistent with the City's Goals, Objectives, and Actions?
- ✓ Is the proposed map amendment a better use of land/property, both for the owner/developer and the City, than that recommended by the Plan?
- ✓ Will the proposed map amendment impact adjacent residential areas in a positive or negative manner?
- ✓ Will the proposed map amendment have adequate access; have considerations been made for roadway capacity, ingress and egress, traffic impact?
- ✓ Are uses adjacent to the proposed map amendment similar in nature in terms of appearance, hours of operation, and other general aspects of compatibility?
- ✓ Does the proposed map amendment present a significant benefit to the public health, safety and welfare of the community?

This is to certify that the information on this form is COMPLETE, TRUE, and CORRECT and the under signed is authorized to make this application. I understand that submitting this application does not constitute approval, and incomplete applications will result in delays and possible denial.

X Elizabeth L. Howe 7-21-14
Signature of Applicant Date

X Elizabeth L. Howe 7-21-14
Signature of Owner Date



July 23, 2014

City of Tomball
Attn: Engineering & Planning Department
Attn: Planning & Zoning Commission
Attn: Tomball City Council
501 James Street
Tomball, Texas 77375

Ref: APPLICATION FOR REZONING &
COMPREHENSIVE PLAN AMENDMENT APPLICATION

To whom it may concern:

Southern Knights, Inc. has enclosed an application for rezoning and an amendment to the comprehensive plan in Tomball.

Southern Knights, Inc. is evaluating the expansion of our facility. We are considering an addition of detached assisted living cottages on our southern most property and expanding our 500 wing which is our most northwest wing to include a memory impairment section.

Upon, starting this project evaluation, I discovered that our property was not zoned nor in the comprehensive plan to undertake this project.

APPLICATION FOR REZONING:

After reviewing your zoning map and the zoning districts, Southern Knights, Inc. is requesting to be rezoned to the C, Commercial, district that is intended to provide a location for service-related establishments. Please review your current zoning map, the subject property is surrounded by the commercial district with the exception of our northern border. North of our property on Johnson Road are three parcels of land. The first parcel adjacent to us on the northern border was built approximately one year after our center was completed. The next parcel was a well established duplex community before we built and the third parcel has never been built on since we have owned our property.

Additionally, it appears that aspects of our expansion project would fall under this designation, one section would be detached and the other section would be attached assisted living.

COMPREHENSIVE PLAN AMENDMENT APPLICATION:

I have put together the following information to help you evaluate the amendment to the comprehensive plan.

27919 Johnson Road • Tomball, Texas 77375 • 281-351-8575

1) Economically - Southern Knights, Inc. currently employs approximately 30 employees and I would anticipate this would increase our employment base to approximately 40 employees.

Additionally - We pay City of Tomball, Tomball Independent School District, Harris County property taxes, and Federal Income taxes that would increase and would bring in additional tax revenues to the city.

2) Aesthetically - Southern Knights, Inc. has already contributed to the aesthetics of the area and would continue to do the same. Southern Knights took two undeveloped eye sore dump sites (we removed 85 car/truck tires) and replatted them and developed them into a beautiful, caring and compassion licensed assisted living center for the elderly and disabled.

In May 2001, the City of Tomball Parks, Recreation and Beautification Advisory Board selected us for the City's Beautification Award.

When we originally built Southern Knights in 1999, we designed, constructed, handled getting utility easement from all four owners, secured all owners donating this easement to the City of Tomball for the sewer line down the west side of Johnson Road. This enabled three existing properties to tap into the sewer line we installed and eliminated unsightly septic issues.

3) City's Goals, Objectives, and Actions - After reviewing the zoning map and the comprehensive plan for Tomball, I believe that would be the appropriate designation for the land and best use for Southern Knights, Inc. and the City of Tomball. The majority of land that the property is surrounded by is Commercial District zoned and under the comprehensive plan as Employment - Related Land Uses.

4) Impact Adjacent Residential Areas in a positive or negative manner - I believe it will impact the adjacent residential areas in a positive manner. There will be more jobs in the area, and a greater tax base.

Additionally, we have been adjacent to the duplex on our northern border for 15 years and we have "NEVER" had any problem issues. We have had two duplex residents that have moved into our center and one employee that lived in the duplexes and walked to work. We have donated two easements to the duplexes in an effort to make the quality of their living arrangement better. 1) We gave them an easement across the back of our property so that they could get city water and eliminate their well water. 2) We gave them an easement on the northern property line enabling them to build closer to our property line. Both of these easements were given free of charge to the developer.

Cobble Creek Apartment is approximately one block away and we do offer a lot of job opportunities to individuals that have no transportation.

5) Adequate access, roadway capacity, ingress and egress, traffic impact - Most of our residents do not own vehicles and/or do not drive any longer and we would only be increasing our employees by approximately 10. Considering that approximately 10 years ago the city improved Johnson Road by putting it through to Theiss, I do not foresee any traffic impact on the area.

6) Adjacent properties similar in nature, appearance, hours of operation and other general aspects of compatibility - Yes.

The Heights Nursing Home and Rehabilitation Center is diagonally across the street and it is similar in all the above aspects. The medical center that was recently built on the corner of Johnson Road and Michel Street is similar in all the above aspects except for the height. Even the Dogwood Investment Duplexes to the northern border are similar to all the above aspects. Two parcels of property diagonal across the street have recently been rezoned commercial, one parcel across the street is commercial, vacant and for sale, and one parcel is commercial owned by the city and is a retention pond. It appears to me that all properties in this area are similar in nature, appearance, hours of operation and other general aspects of compatibility. We have all worked well together for the 16 years I have owned the property.

7) Does the amendment present significant benefit to the public health, safety and welfare of the community - Generally, I would say that this would have no change because it would be used in a similar application. But, anytime you increase employment, tax base, and offer an outstanding facility for your community to age in there is going to be significant benefit to the public health, safety and welfare of the community.

Southern Knights, Inc. has a long history of benefiting the Tomball Community.

- 1) Active member of the Tomball Chamber of Commerce since 1999
- 2) Nominated in 2001 as North Harris Montgomery Community College's Small Business of the Year (1st Runner Up)
- 3) City of Tomball - Parks, Recreation and Beautification Advisory Board
City's - Beautification - Award May 2001
- 4) Awarded 2002 North Harris Montgomery Community College's Small Business of the Year
- 5) Assisted Tomball Fire Department with accepting 6 Galveston Nursing Home Evacuees from Katrina in 2005
- 6) Cypress Creek Mirror & The Potpourri
Best of the Northwest 2012 (1st Runner Up)
Only Tomball Care Facility Nominated
- 7) Cypress Creek Mirror & The Potpourri
Best of the Northwest 2013 (1st Runner Up)
Only Tomball Care Facility Nominated

After reviewing all our applications and all the attached documentation, I hope you will agree that it is in the best interest of the City of Tomball and Southern Knights, Inc. to approve our application for rezoning and application for comprehensive plan amendment.

Sincerely,



Elizabeth L. Howe
President

Regular City Council

Agenda Item

Meeting Date: September 15, 2014

Data Sheet

Topic:

Consideration to approve **ZONING CASE P14-154**: Request by Southern Knights Inc. to amend the City's Zoning Ordinance by rezoning approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from the Duplex District to the Commercial District.

- Conduct a Public Hearing on **ZONING CASE P14-154**
- Adopt, on First Reading, Ordinance No. 2014-34, an Ordinance of The City of Tomball, Texas, Amending Its Zoning Ordinance by Changing the Zoning District Classification of Approximately 4.31 Acres of Land, Legally Described as Tract 2, Howe Tract, Within The City of Tomball, Harris County, Texas, from The Duplex District to The Commercial District; Said Property Being Generally Located Between Michel Road and Theis Lane, West of Johnson Road; Providing for The Amendment of The Official Zoning Map of The City; Providing for Severability; Providing for a Penalty of an Amount not to Exceed \$2,000 for Each Day of Violation of Any Provision Hereof, Making Findings of Fact; and Providing For Other Related Matters.

Background:

On July 2, 2014, City staff met with Elizabeth Howe, owner of Southern Knights Assisted Living Center, to discuss the possible expansion of the existing assisted living facility at the subject site. Ms. Howe indicated that she wished to construct assisted living "cottages" and a memory impairment section.

On July 23, 2014, Ms. Howe turned in a rezoning application (Exhibit "F") requesting the property be rezoned from the Duplex District to the Commercial District. Accompanying this application was a CP amendment application requesting the property's designation be changed from High Density Residential to Employment/Office. The CP amendment is being heard as Case P14-153 and the rezoning application is being heard as Case P14-154. Both cases are being submitted to allow for the expansion of the existing assisted living facility.

On September 8, 2014, the Planning and Zoning Commission, after conducting a public hearing, unanimously recommended approval of Zoning Case P14-154.

Origination:

Southern Knights, Inc.

Recommendation:

Adopt Ordinance No. 2014-34 on First Reading

Funding:

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

Community Development Department

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Ordinance No. 2014-34

Notice of Public Hearing

Property Owner Notification Letter

P14-154 Staff Report

ORDINANCE NO. 2014-34

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS ZONING ORDINANCE BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 4.31 ACRES OF LAND, LEGALLY DESCRIBED AS TRACT 2, HOWE TRACT, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS, FROM THE DUPLEX DISTRICT TO THE COMMERCIAL DISTRICT; SAID PROPERTY BEING GENERALLY LOCATED BETWEEN MICHEL ROAD AND THEIS LANE, WEST OF JOHNSON ROAD; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

* * * * *

Whereas, the owner of approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, generally located between Michel Road and Theis Lane, west of Johnson Road, in the City of Tomball, Harris County, Texas, (the "Property"), have requested that the Property be rezoned; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days written notice of that hearing to the owners of land within two hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the proposal to change the zoning for the Property from the Duplex District to the Commercial District; and

Whereas, the public hearing was held at least forty (40) calendar days after the City's receipt of the request for rezoning; and

Whereas, the Planning & Zoning Commission recommended in its final report that City Council approve such proposed change in the zoning district classification of the Property; and

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing on the proposal to change the zoning district classification for the Property from the Duplex District to the Commercial District, the City Council held the public hearing on the proposal to change the zoning for the Property and the City Council considered the final report of the Planning & Zoning Commission regarding the change of zoning district classification; and

Whereas, the City Council deems it appropriate to grant such proposed change in the zoning district classification of the Property.

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

Section 1. The City Council finds that the facts and matters set forth in the preamble of this Ordinance are true and correct.

Section 2. The zoning classification of the Property is hereby changed from the Duplex District to the Commercial District subject to the regulations, restrictions, and conditions hereafter set forth.

Section 3. The Official Zoning Map of the City of Tomball, Texas shall be revised and amended to show the designation of the Property as Commercial District, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification for the Property to the Commercial District as described 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 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.

Section 7. City Council finds and determines that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Tex.Gov't. Code ch. 551.

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 15TH DAY OF SEPTEMBER 2014.

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 6TH DAY OF OCTOBER 2014.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN QUINN	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
SEPTEMBER 8, 2014
&
CITY COUNCIL
SEPTEMBER 15, 2014**



Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, September 8, 2014, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, September 15, 2014, at 6:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P14-145: Request by TNRG Development LLC, on behalf of Frank P. Fontana, to amend the City's Zoning Ordinance by rezoning approximately 20.64 acres of land, legally described as Tracts 4H-1 and 4L-2, Abstract 632, C.N. Pillot, within the City of Tomball, Harris County, Texas, generally located west of South Cherry Street, north of Holderrieth Road, from the General Retail District to the Light Industrial District.

COMPREHENSIVE PLAN CASE P14-153: Request by Southern Knights Inc. to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from High Density Residential to Employment/Office.

ZONING CASE P14-154: Request by Southern Knights Inc. to amend the City's Zoning Ordinance by rezoning approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from the Duplex District to the Commercial District.

ZONING CASE P14-159: Request by the City of Tomball to amend Section 38.2 ("Use Charts") of the City's Zoning Ordinance to allow "Dance/Drama/Music Schools (Performing Arts, Martial Arts)" with a Conditional Use Permit in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning & Zoning Commission serves as a recommendation to the City Council and is not a final action on the requests. Should the Planning & Zoning Commission vote to table a decision/recommendation on these cases, the date and time of a future meeting will be specified and the City Council will not review the subject cases until such a decision/recommendation is forwarded to the City Council by the Planning & Zoning Commission. The applications are available for public inspection Monday through Friday, holidays excepted, at the Public Works Building, located at 501 James Street, Tomball, TX 77375. Further information may be obtained by contacting the Assistant City Planner, Rodney Schmidt, at (281) 290-1410, rschmidt@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 3rd day of September 2014 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Craig Meyers

Craig Meyers

Director of Community Development

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.



Notice of Public Hearing

YOU ARE INVITED TO ATTEND Public Hearings before the **PLANNING & ZONING COMMISSION** and **CITY COUNCIL** of the City of Tomball regarding the following item:

CASE NUMBER: P14-154

APPLICANT: Southern Knights Inc.

LOCATION: Between Michel Road and Theis Lane, west of Johnson Road

PROPOSAL: Request to amend the City's Zoning Ordinance by rezoning approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, from the Duplex District to the Commercial District.

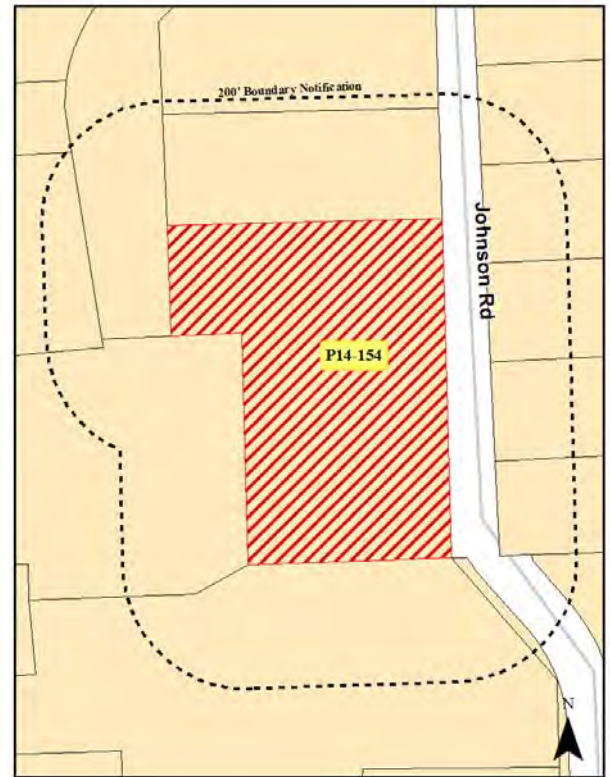
CONTACT: Rodney Schmidt

PHONE: (281) 290-1410

E-MAIL: rschmidt@tomballtx.gov

Interested parties may contact the City of Tomball between 8:00 a.m. and 5:00 p.m. Monday through Friday for further information. The application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Community Development Department office, located at 501 James Street, Tomball, TX 77375. The staff report will be available no later than 4:00 p.m. on the Friday preceding the meeting.

This notice is being mailed to all owners of real property within 200 feet of the request as such ownership appears on the last approved Harris County Appraisal District tax roll. Interested parties may appear and speak on the project or the staff recommendation at the meeting. Written comments may also be submitted for consideration.

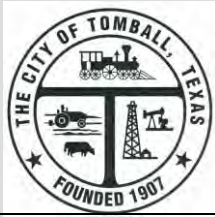


**Planning & Zoning Commission
Public Hearing:
Monday, September 8, 2014, 6:00 PM**

**City Council Public Hearing:
*Monday, September 15, 2014, 6:00 PM**

**The Public Hearings will be held in the
City Council Chambers, City Hall
401 Market Street, Tomball, Texas**

*Should the Planning & Zoning Commission vote to table the recommendation on the case, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a recommendation is forwarded to the City Council by the Planning & Zoning Commission.



Rezoning Staff Report

Planning & Zoning Commission Public Hearing Date: September 8, 2014

Rezoning Case: P14-154

Property Owner(s): Southern Knights Inc.

Applicant(s): Southern Knights Inc.

Legal Description: Tract 2, Howe Tract

Location: Between Michel Road and Theis Lane, west of Johnson Road (Exhibit "A")

Area: 4.31 acres

Present Zoning & Use: Duplex District (Exhibit "B") / Assisted living facility (Southern Knights Assisted Living Center) (Exhibit "C")

Comp Plan Designation: High Density Residential (Exhibit "D")¹

Proposed Zoning and Use: Commercial District² / Assisted living facility

Adjacent Zoning & Use:

- North:** Duplex District / Apartment complex
- South:** Commercial District/ Shopping center
- West:** Commercial District / Shopping centers and Harris County Flood Control drainage
- East:** Commercial District / Johnson Road right-of-way (ROW), single-family residence, vacant land, and City of Tomball drainage

BACKGROUND

On July 2, 2014, City staff met with Elizabeth Howe, owner of Southern Knights Assisted Living Center, to discuss the possible expansion of the existing assisted living facility at the subject site. Ms. Howe indicated that she wished to construct assisted living "cottages" and a memory impairment section (Exhibit "E"). City staff informed Ms. Howe of the following:

¹ The applicant is requesting the Comprehensive Plan designation be changed to Employment/Office in Comprehensive Plan Amendment Case P14-153.

² Any use permitted in the proposed district would be allowed at this location if the zoning is changed. Furthermore, the Planning & Zoning Commission and City Council may consider zoning classifications other than that sought by the applicant for this property.

- The property is currently zoned Duplex District which does not allow for the expansion of an assisted living facility and that if she wanted to expand the facility she would first need to have the property rezoned to a district that permits this use. Ms. Howe indicated her desire to rezone the property to the Commercial District which permits this use by right.
- The property currently has a Comprehensive Plan (CP) designation of High Density Residential which is not consistent with her proposed Commercial District rezoning request. Ms. Howe was informed that she could request an amendment to the CP changing the classification to one that is more in line with the area and her proposed project. She indicated her desire to reclassify the property as Employment/Office.

On July 23, 2014, Ms. Howe turned in a rezoning application (Exhibit “F”) requesting the property be rezoned from the Duplex District to the Commercial District. Accompanying this application was a CP amendment application requesting the property’s designation be changed from High Density Residential to Employment/Office. The CP amendment is being heard as Case P14-153 and the rezoning application is being heard as Case P14-154. Both cases are being submitted to allow for the expansion of the existing assisted living facility.

ANALYSIS

The applicant is requesting that the property be rezoned from the Duplex District to the Commercial District. According to Section 30.1 of the Zoning Ordinance, the Commercial District “is intended to provide a location for commercial and service-related establishments, such as wholesale product sales, welding/contractors shops, automotive repair services, upholstery shops, and other similar commercial uses.”

There are several land uses in the vicinity of the subject site. To the north is an apartment complex; to the south is a shopping center; to the west are shopping centers and a Harris County Flood Control drainage ditch; and to the east are Johnson Road right-of-way (ROW), single-family residence, vacant land, and City of Tomball drainage. The proposed Commercial District appears to be compatible with the shopping centers to the south and west. The prima facie incompatibility of the request with the existing apartment complex to the north and the single-family residence to the east appears to be minimized because of the separation created by Johnson Road and will be further minimized by the Zoning Ordinance’s building setback, landscaping, screening, and buffering requirements for the Commercial District. Additionally, many of the properties near the apartment complex and single-family residences have been used for non-residential purposes for many years without any known complaints regarding incompatibility, noise, or nuisance being filed with the City of Tomball.

The Duplex and Commercial Districts are the predominant zoning classifications in the vicinity of the subject site. The Duplex District is to the north with the Commercial District to the south, west, and east. According to Section 20.1 of the Zoning Ordinance, the Duplex District “is intended to promote stable, quality multiple-occupancy residential development at slightly increased densities.” The prima facie incompatibility of the request with the Duplex District to the north will be minimized by the Zoning Ordinance’s building setback, landscaping, screening, and buffering requirements. Additionally, the assisted living facility, which is a use permitted by right in the Commercial District, has been established

adjacent to the Duplex District to the north for several years without any known complaints regarding incompatibility, noise, or nuisance being filed with the City of Tomball.

The CP designates the subject site as High Density Residential. According to the CP, “High Density Residential provides areas for many different types of housing products including patio homes, townhomes, lofts, duplexes, condominiums, and apartments. Ranging from 7.26 to 26 gross dwelling units per acre, this designation may also include such supporting land uses as neighborhood shops and services, parks and recreational amenities, religious institutions, and schools to serve local residents.” The proposed Commercial District appears to be inconsistent with the High Density Residential classification. However, if P14-153 is approved and the CP is amended to reclassify this property as Employment/Office, this rezoning request will no longer be inconsistent with the CP designation.

ZONING CONSIDERATIONS

In making its recommendation regarding a proposed zoning change, the Planning & Zoning Commission shall consider the following factors:

A. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned, and their relationship to the general area and to the City as a whole.

The proposed Commercial District appears to be compatible with the shopping centers to the south and west. The prima facie incompatibility of the request with the existing apartment complex to the north and the single-family residence to the east appears to be minimized because of the separation created by Johnson Road and will be further minimized by the Zoning Ordinance’s building setback, landscaping, screening, and buffering requirements for the Commercial District. Additionally, many of the properties near the apartment complex and single-family residences have been used for non-residential purposes for many years without any known complaints regarding incompatibility, noise, or nuisance being filed with the City of Tomball.

B. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area.

The proposed rezoning is not anticipated to negatively impact any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area.

C. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such vacant land unavailable for development.

There are numerous vacant properties in the vicinity and elsewhere in the City zoned Commercial District.

D. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change.

There has been steady development City-wide in the Commercial District.

E. How other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved.

If the proposed rezoning is approved, few, if any affects on other areas designated for similar developments are anticipated.

F. Any other factors that will substantially affect the public health, safety, morals, or general welfare.

The proposed rezoning does not appear to negatively affect the public health, safety, morals, or general welfare.

G. Whether the request is consistent with the Comprehensive Plan.

The proposed Commercial District appears to be inconsistent with the High Density Residential classification. However, if P14-153 is approved and the CP is amended to classify this property as Employment/Office, this rezoning request will no longer be inconsistent with the CP designation.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on August 26, 2014. No public comment forms have been received as of August 29, 2014.

RECOMMENDATION

Based on the findings outlined in the analysis and zoning considerations sections of this staff report, City staff recommends **APPROVAL** of Rezoning Case P14-154 if CP Amendment Case P14-153 is first approved.

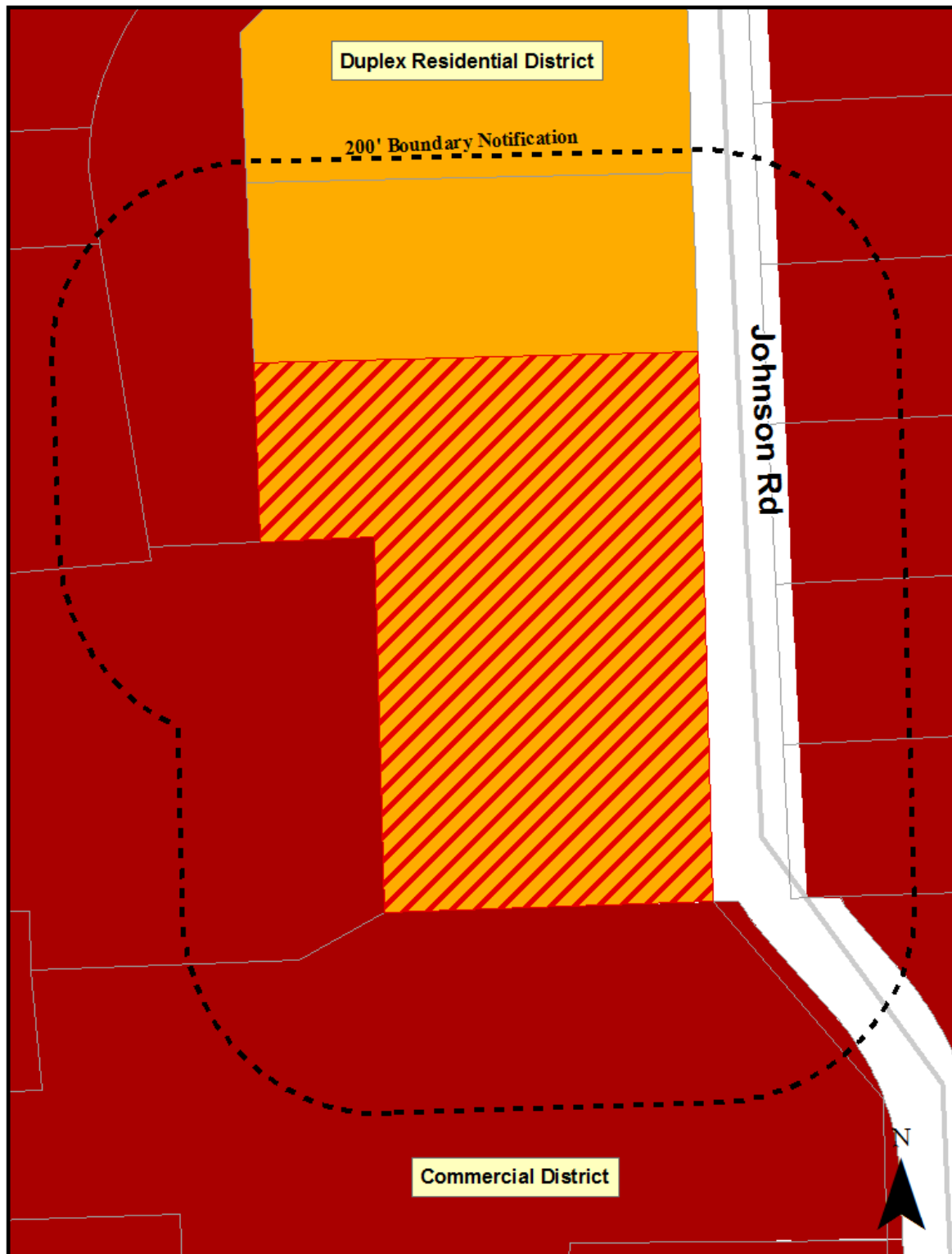
EXHIBITS

- A. Aerial Photo
- B. Zoning Map
- C. Site Photos
- D. Future Land Use Map
- E. Proposed Site Layout
- F. Rezoning Application

Exhibit "A"
Aerial Photo



Exhibit "B"
Zoning Map



**Exhibit “C”
Site Photos**



Figure 1: Subject site.
Source: Google Earth



Figure 2: Subject site.
Source: Google Earth

Exhibit "D"
Future Land Use Map

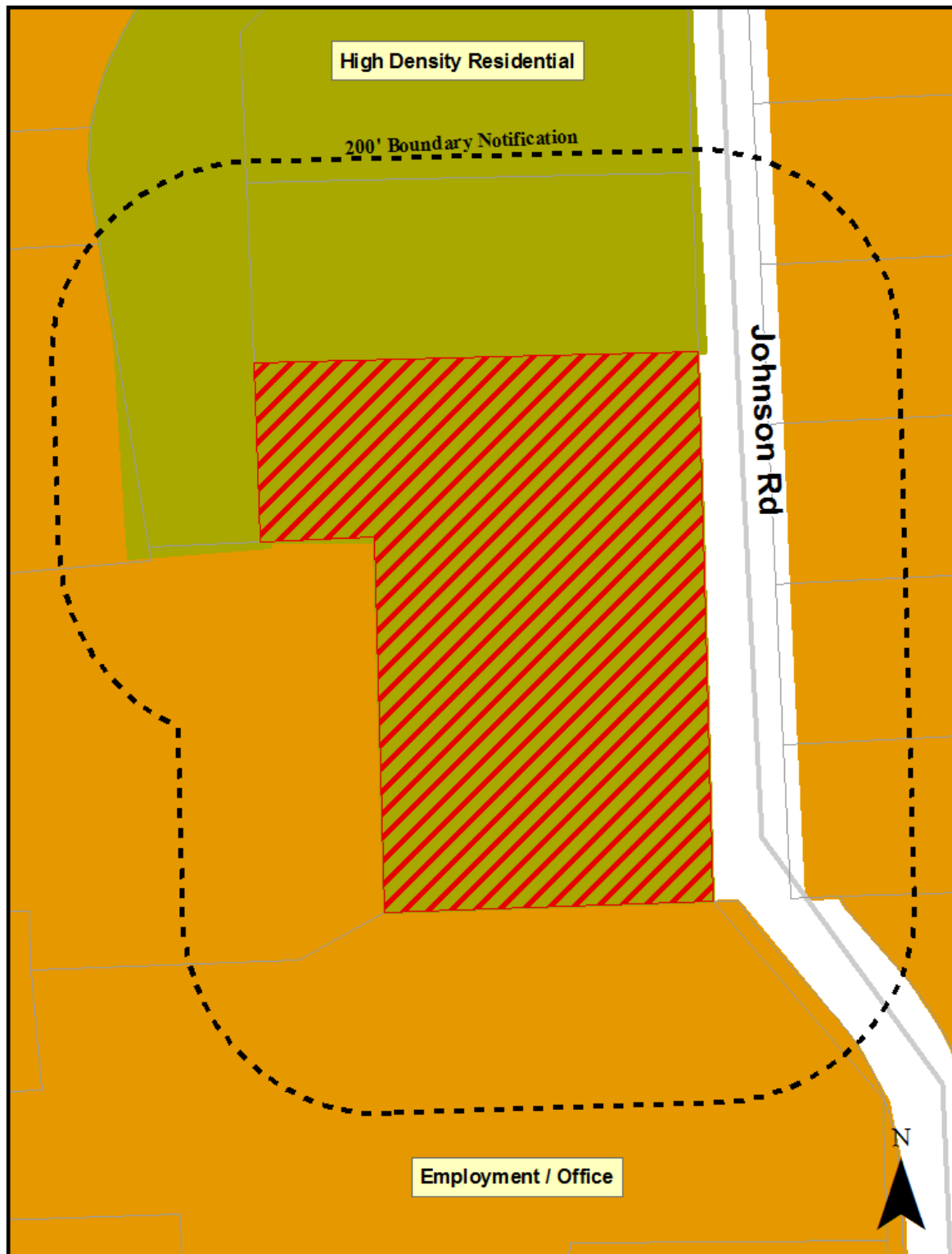
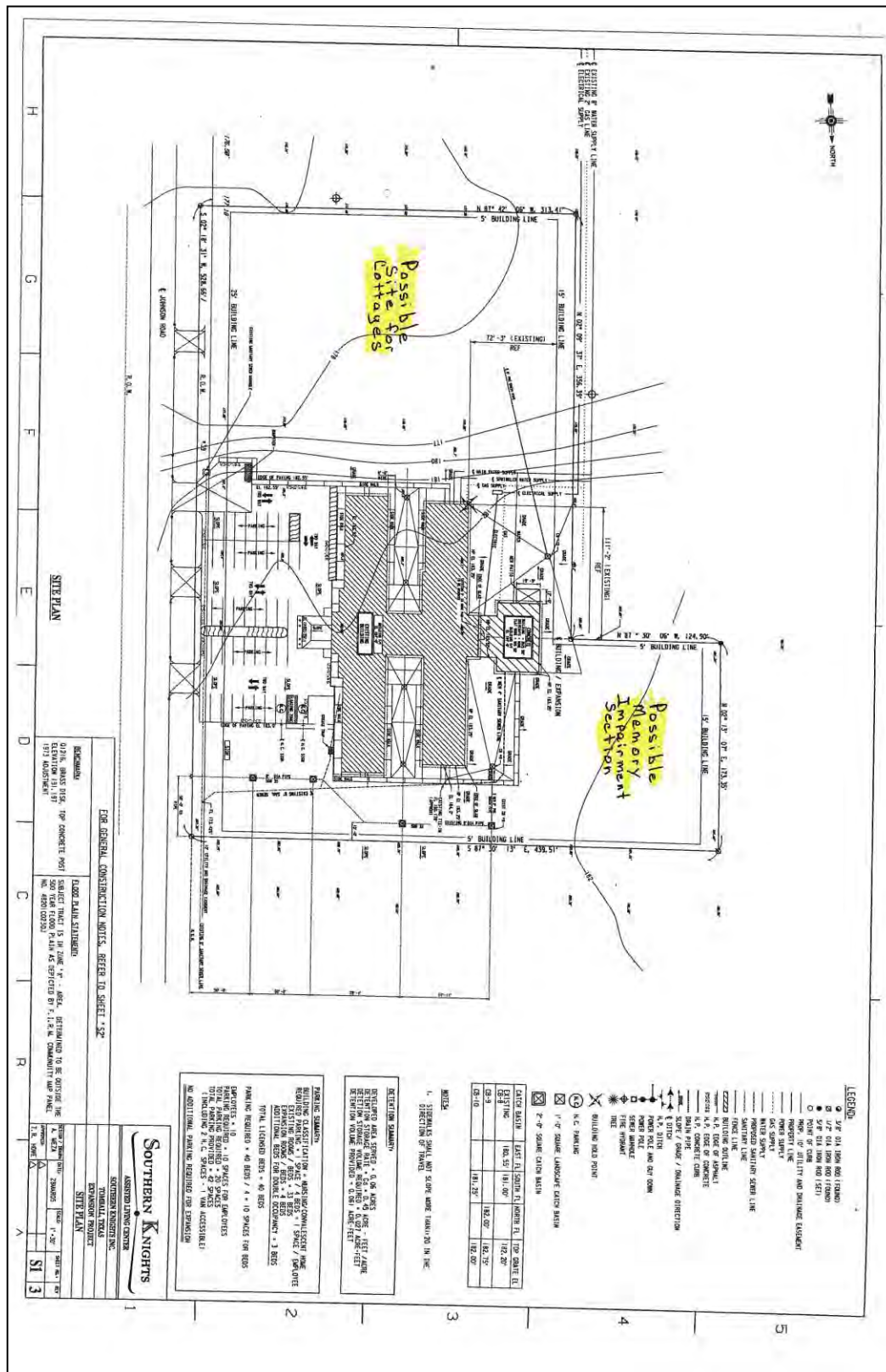
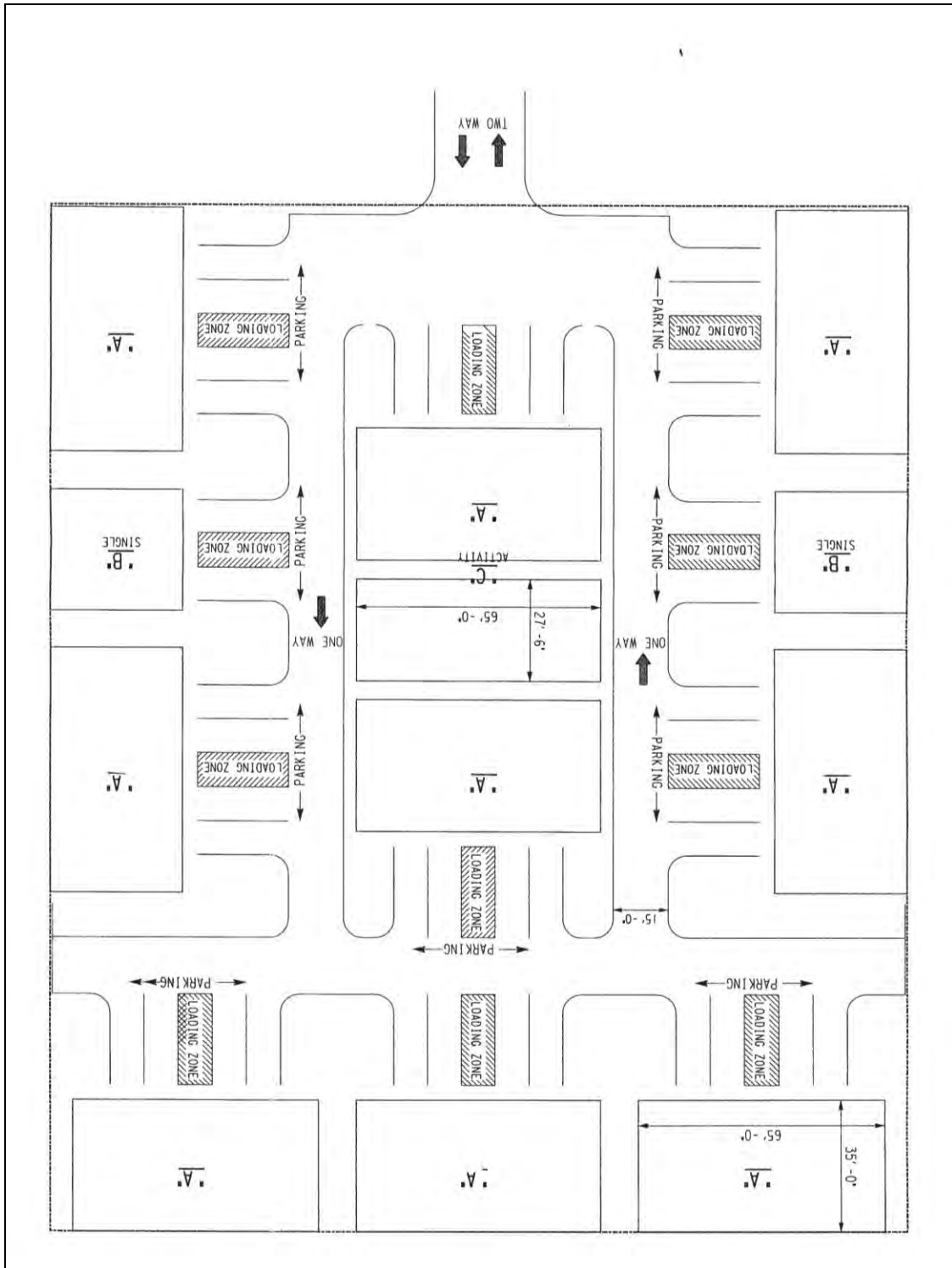


Exhibit “E”

Proposed Site Layout





COTTAGE PLAN VIEW

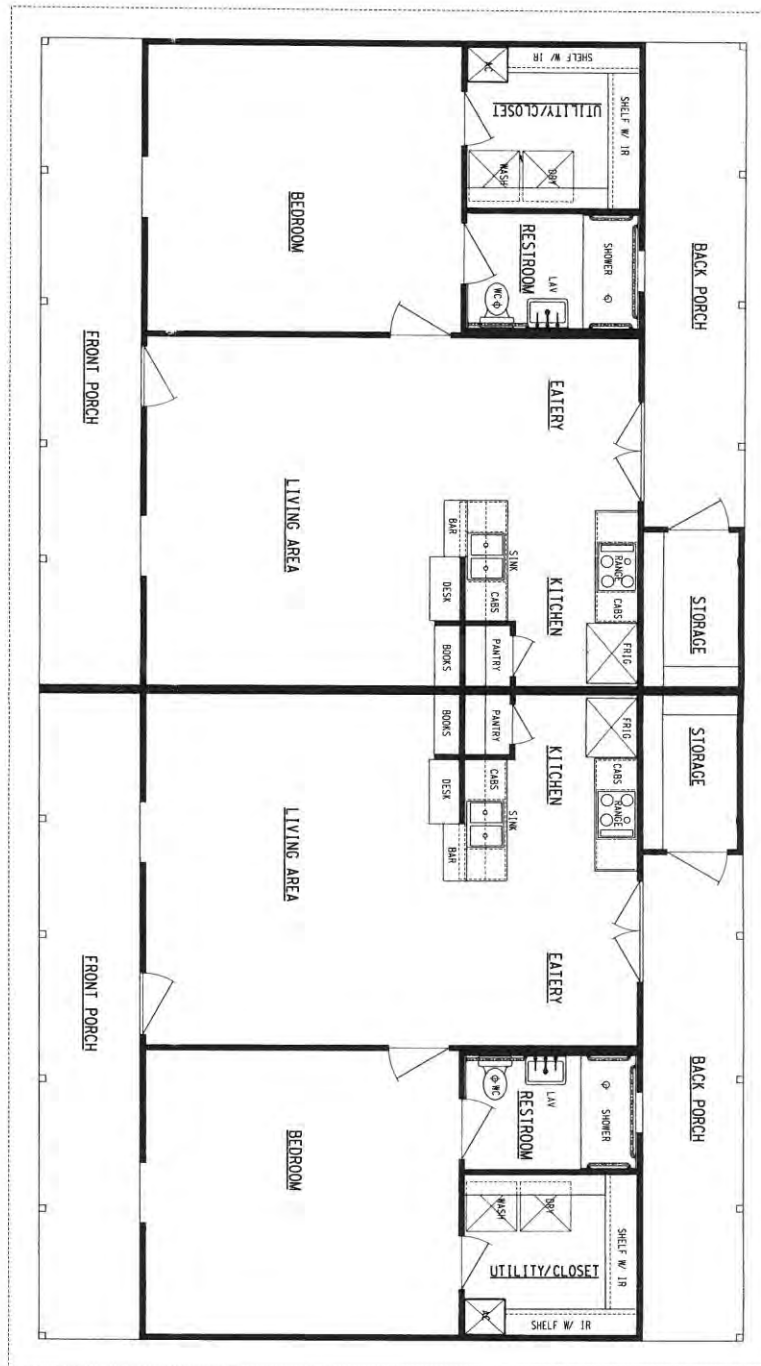


Exhibit "F"
Rezoning Application

PH-154

Revised 1/20/09



APPLICATION FOR REZONING
Engineering & Planning Department

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: Southern Knights, Inc. Title: Elizabeth L. Howe
President
Mailing Address: 27919 Johnson Road City: Tomball State: Tx
Zip: 77375
Phone: (281) 351-8575 Fax: (281) 351-1129 Email: liz.howe@comcast.net

Owner

Name: Southern Knights, Inc. Title: Elizabeth L. Howe
President
Mailing Address: 27919 Johnson Road City: Tomball State: Tx
Zip: 77375
Phone: (281) 351-8575 Fax: (281) 351-1129 Email: liz.howe@comcast.net

Engineer/Surveyor (if applicable)

Name: _____ Title: _____
Mailing Address: _____ City: _____ State: _____
Zip: _____
Phone: () _____ Fax: () _____ Email: _____

Description of Proposed Project: Future Expansion

Physical Location of Property: 27919 Johnson Road
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: TR 2 HOWE TRACT
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: Duplex Residential District

Current Use of Property: Licensed Assisted Living Center

Proposed Zoning District: Commercial District

Proposed Use of Property: Licensed Assisted Living Center

City of Tomball, Texas 501 James Street, Tomball, Texas 77375 Phone: 281-290-1405

www.ci.tomball.tx.us

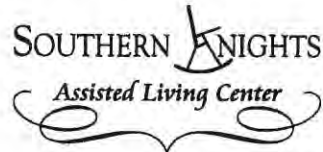
HCAD Identification Number: 1201070000001 Acreage: 4.3118

Please note: A courtesy notification sign will be placed on the subject property during the public hearing process and will be removed when the case has been processed.

This is to certify that the information on this form is **COMPLETE, TRUE, and CORRECT** and the under signed is authorized to make this application. I understand that submitting this application does not constitute approval, and incomplete applications will result in delays and possible denial.

X Elizabeth L. Howe, President 7-21-14
Signature of Applicant Date

X Elizabeth L. Howe, President 7-21-14
Signature of Owner Date



July 23, 2014

City of Tomball
Attn: Engineering & Planning Department
Attn: Planning & Zoning Commission
Attn: Tomball City Council
501 James Street
Tomball, Texas 77375

Ref: APPLICATION FOR REZONING &
COMPREHENSIVE PLAN AMENDMENT APPLICATION

To whom it may concern:

Southern Knights, Inc. has enclosed an application for rezoning and an amendment to the comprehensive plan in Tomball.

Southern Knights, Inc. is evaluating the expansion of our facility. We are considering an addition of detached assisted living cottages on our southern most property and expanding our 500 wing which is our most northwest wing to include a memory impairment section.

Upon, starting this project evaluation, I discovered that our property was not zoned nor in the comprehensive plan to undertake this project.

APPLICATION FOR REZONING:

After reviewing your zoning map and the zoning districts, Southern Knights, Inc. is requesting to be rezoned to the C, Commercial, district that is intended to provide a location for service-related establishments. Please review your current zoning map, the subject property is surrounded by the commercial district with the exception of our northern border. North of our property on Johnson Road are three parcels of land. The first parcel adjacent to us on the northern border was built approximately one year after our center was completed. The next parcel was a well established duplex community before we built and the third parcel has never been built on since we have owned our property.

Additionally, it appears that aspects of our expansion project would fall under this designation, one section would be detached and the other section would be attached assisted living.

COMPREHENSIVE PLAN AMENDMENT APPLICATION:

I have put together the following information to help you evaluate the amendment to the comprehensive plan.

27919 Johnson Road • Tomball, Texas 77375 • 281-351-8575

1) Economically - Southern Knights, Inc. currently employs approximately 30 employees and I would anticipate this would increase our employment base to approximately 40 employees.

Additionally - We pay City of Tomball, Tomball Independent School District, Harris County property taxes, and Federal Income taxes that would increase and would bring in additional tax revenues to the city.

2) Aesthetically - Southern Knights, Inc. has already contributed to the aesthetics of the area and would continue to do the same. Southern Knights took two undeveloped eye sore dump sites (we removed 85 car/truck tires) and replatted them and developed them into a beautiful, caring and compassion licensed assisted living center for the elderly and disabled.

In May 2001, the City of Tomball Parks, Recreation and Beautification Advisory Board selected us for the City's Beautification Award.

When we originally built Southern Knights in 1999, we designed, constructed, handled getting utility easement from all four owners, secured all owners donating this easement to the City of Tomball for the sewer line down the west side of Johnson Road. This enabled three existing properties to tap into the sewer line we installed and eliminated unsightly septic issues.

3) City's Goals, Objectives, and Actions - After reviewing the zoning map and the comprehensive plan for Tomball, I believe that would be the appropriate designation for the land and best use for Southern Knights, Inc. and the City of Tomball. The majority of land that the property is surrounded by is Commercial District zoned and under the comprehensive plan as Employment - Related Land Uses.

4) Impact Adjacent Residential Areas in a positive or negative manner - I believe it will impact the adjacent residential areas in a positive manner. There will be more jobs in the area, and a greater tax base.

Additionally, we have been adjacent to the duplex on our northern border for 15 years and we have "NEVER" had any problem issues. We have had two duplex residents that have moved into our center and one employee that lived in the duplexes and walked to work. We have donated two easements to the duplexes in an effort to make the quality of their living arrangement better. 1) We gave them an easement across the back of our property so that they could get city water and eliminate there well water. 2) We gave them an easement on the northern property line enabling them to build closer to our property line. Both of these easement were given free of charge to the developer.

Cobble Creek Apartment is approximately one block away and we do offer a lot of job opportunities to individuals that have no transportation.

5) Adequate access, roadway capacity, ingress and egress, traffic impact - Most of our resident do not own vehicles and/or do not drive any longer and we would only be increasing our employees by approximately 10. Considering that approximately 10 years ago the city improve Johnson Road by putting it though to Theiss, I do not foresee any traffic impact on the area.

6) Adjacent properties similar in nature, appearance, hours of operation and other general aspects of compatibility - Yes.

The Heights Nursing Home and Rehabilitation Center is diagonally across the street and it is similar in all the above aspects. The medical center that was recently built on the corner of Johnson Road and Michel Street is similar in all the above aspects except for the height. Even the Dogwood Investment Duplexes to the northern border are similar to all the above aspects. Two parcels of property diagonal across the street have recently been rezoned commercial, one parcel across the street is commercial, vacant and for sale, and one parcel is commercial owned by the city and is a retention pond. It appears to me that all properties in this area are similar in nature, appearance, hours of operation and other general aspects of compatibility. We have all worked well together for the 16 years I have owned the property.

7) Does the amendment present significant benefit to the public health, safety and welfare of the community - Generally, I would say that this would have no change because it would be used in a similar application. But, anytime you increase employment, tax base, and offer an outstanding facility for your community to age in there is going to be significant benefit to the public health, safety and welfare of the community.

Southern Knights, Inc. has a long history of benefiting the Tomball Community.

- 1) Active member of the Tomball Chamber of Commerce since 1999
- 2) Nominated in 2001 as North Harris Montgomery Community College's Small Business of the Year (1st Runner Up)
- 3) City of Tomball - Parks, Recreation and Beautification Advisory Board
City's - Beautification - Award May 2001
- 4) Awarded 2002 North Harris Montgomery Community College's
Small Business of the Year
- 5) Assisted Tomball Fire Department with accepting 6 Galveston Nursing Home
Evacuees from Katrina in 2005
- 6) Cypress Creek Mirror & The Potpourri
Best of the Northwest 2012 (1st Runner Up)
Only Tomball Care Facility Nominated
- 7) Cypress Creek Mirror & The Potpourri
Best of the Northwest 2013 (1st Runner Up)
Only Tomball Care Facility Nominated

After reviewing all our applications and all the attached documentation, I hope you will agree that it is in the best interest of the City of Tomball and Southern Knights, Inc. to approve our application for rezoning and application for comprehensive plan amendment.

Sincerely,



Elizabeth L. Howe
President

Regular City Council

Agenda Item

Meeting Date: September 15, 2014

Data Sheet

Topic:

Consideration to approve **ZONING CASE P14-159**: Request by the City of Tomball to amend Section 38.2 (“Use Charts”) of the City’s Zoning Ordinance to allow “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” with a Conditional Use Permit in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts.

- Conduct a Public Hearing on **ZONING CASE P14-159**
- Adopt, on First Reading, Ordinance No. 2014-35, an Ordinance of The City of Tomball, Texas, Amending Its Zoning Ordinance by Amending Section 38.2 (“Use Charts”) by Allowing a “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” With a Conditional Use Permit in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts; 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 July 21, 2014, City Council directed City staff to bring forward an amendment to the Zoning Ordinance allowing “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” with a conditional use permit (CUP) in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts.

On September 8, 2014, the Planning and Zoning Commission, after a public hearing, recommended approval of Zoning Case P14-159 with a 4-1 vote.

Origination:

Community Development Department

Recommendation:

Adopt Ordinance No. 2014-35 on First Reading

Funding:

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

Community Development Department

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Ordinance No. 2014-35

Notice of Public Hearing

P14-159 Staff Report

ORDINANCE NO. 2014-35

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS ZONING ORDINANCE BY AMENDING SECTION 38.2 (“USE CHARTS”) BY ALLOWING A “DANCE/DRAMA/MUSIC SCHOOLS (PERFORMING ARTS, MARTIAL ARTS)” WITH A CONDITIONAL USE PERMIT IN THE AGRICULTURAL, SINGLE-FAMILY ESTATE RESIDENTIAL-20, SINGLE-FAMILY RESIDENTIAL-9, SINGLE-FAMILY RESIDENTIAL-6, DUPLEX, MULTI-FAMILY, AND MANUFACTURED HOME PARK DISTRICTS; 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 38.2 (“Use Charts”) of the Zoning Ordinance be amended by allowing a “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” with a Conditional Use Permit in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts;

WHEREAS, the Planning & Zoning Commission and the City Council of the City of Tomball, Texas, have published notice and conducted hearings regarding the request to amend the City’s Zoning Ordinance;

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 the City Council approve the proposed amendment to the Zoning Ordinance;

WHEREAS, having considered the recommendation of the Planning & Zoning Commission, the City Council has determined to adopt their recommendation and to amend the City’s Zoning Ordinance as provided herein;

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

Section 1. The City Council finds that the facts and matters set forth in the preamble of this Ordinance are true and correct.

Section 2. Section 38.2 (“Use Charts”) of the Comprehensive Zoning Ordinance is hereby amended by adding the following text:

Types of Land Uses	Residential Zoning Districts							Non-Residential Zoning Districts				OT&MU	Parking Ratio (Also see Section 39)
	AG	SF-20-E	SF-9	SF-6	D	MF	MHP	O	GR	C	LI		
Personal & Business													
Dance/Drama/Music Schools (Performing Arts, Martial Arts)	C	C	C	C	C	C	C	C	P	P	P	P	1 space: 100 sf

Section 3. 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 4. 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.

Section 5. This Ordinance shall become effective fourteen days after the final reading and adoption of this Ordinance when the caption hereof is caused to be published once in the official newspaper of the City, by the City Secretary, as required by law. The City Secretary is directed to publish the caption of this Ordinance in the City's official newspaper within 14 days after the passage of the ordinance.

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 15TH DAY OF SEPTEMBER 2014.

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 6TH DAY OF OCTOBER 2014.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN QUINN	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
SEPTEMBER 8, 2014
&
CITY COUNCIL
SEPTEMBER 15, 2014**



Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, September 8, 2014, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, September 15, 2014, at 6:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P14-145: Request by TNRG Development LLC, on behalf of Frank P. Fontana, to amend the City's Zoning Ordinance by rezoning approximately 20.64 acres of land, legally described as Tracts 4H-1 and 4L-2, Abstract 632, C.N. Pillot, within the City of Tomball, Harris County, Texas, generally located west of South Cherry Street, north of Holderrieth Road, from the General Retail District to the Light Industrial District.

COMPREHENSIVE PLAN CASE P14-153: Request by Southern Knights Inc. to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from High Density Residential to Employment/Office.

ZONING CASE P14-154: Request by Southern Knights Inc. to amend the City's Zoning Ordinance by rezoning approximately 4.31 acres of land, legally described as Tract 2, Howe Tract, within the City of Tomball, Harris County, Texas, generally located between Michel Road and Theis Lane, west of Johnson Road, from the Duplex District to the Commercial District.

ZONING CASE P14-159: Request by the City of Tomball to amend Section 38.2 ("Use Charts") of the City's Zoning Ordinance to allow "Dance/Drama/Music Schools (Performing Arts, Martial Arts)" with a Conditional Use Permit in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning & Zoning Commission serves as a recommendation to the City Council and is not a final action on the requests. Should the Planning & Zoning Commission vote to table a decision/recommendation on these cases, the date and time of a future meeting will be specified and the City Council will not review the subject cases until such a decision/recommendation is forwarded to the City Council by the Planning & Zoning Commission. The applications are available for public inspection Monday through Friday, holidays excepted, at the Public Works Building, located at 501 James Street, Tomball, TX 77375. Further information may be obtained by contacting the Assistant City Planner, Rodney Schmidt, at (281) 290-1410, rschmidt@tomballtx.gov.

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

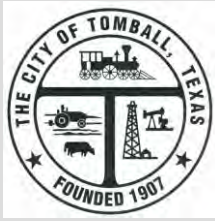
I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the 3rd day of September 2014 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Craig Meyers

Craig Meyers

Director of Community Development

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.



Text Amendment Staff Report

Planning & Zoning Commission Hearing Date: September 8, 2014

ZONING CASE P14-159: Request by the City of Tomball to amend Section 38.2 (“Use Charts”) of the City’s Zoning Ordinance to allow “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” with a Conditional Use Permit in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts.

PROPOSED AMENDMENTS

Section 38.2 “Use Charts”

Types of Land Uses	Residential Zoning Districts							Non-Residential Zoning Districts				OT&MU	Parking Ratio (Also see Section 39)
	AG	SF-20-E	SF-9	SF-6	D	MF	MHP	O	GR	C	LI		
Personal & Business													
Dance/Drama/Music Schools (Performing Arts, Martial Arts)	C	C	C	C	C	C	C	C	P	P	P	P	1 space: 100 sf

BACKGROUND

On July 21, 2014, City Council directed City staff to bring forward an amendment to the Zoning Ordinance allowing “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” with a conditional use permit (CUP) in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts.

ANALYSIS

Section 38.2 of the Zoning Ordinance currently allows a “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” by right in the Old Town & Mixed Use, Light Industrial, Commercial, and General Retail Districts and by CUP in the Office District. This use is prohibited in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts.

Section 38.2 of the Zoning Ordinance currently allows numerous other uses of equal or greater intensity than a “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” by right and with a CUP in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts. These uses

include, but are not limited to, “Golf Course (Private),” “Civic Center (Municipal),” “Community or Social Buildings,” “Governmental Building or Use (County, State, or Federal),” and “School – College or University.” A “Dance/Drama/Music Schools (Performing Arts, Martial Arts)” is not anticipated to have any more negative impact on adjacent residential districts than the uses listed above. Additionally, by limiting this use by CUP in the Agricultural, Single-Family Estate Residential-20, Single-Family Residential-9, Single-Family Residential-6, Duplex, Multi-Family, and Manufactured Home Park Districts, Planning & Zoning Commission and City Council will be able to determine the impact and feasibility of the project on a case-by-case basis.

PUBLIC COMMENT

A public hearing notice was published in the Tomball Tribune on August 25, 2014. No public comment forms have been received as of August 29, 2014.

RECOMMENDATION

Based on the findings outlined in the analysis section of this staff report, City staff recommends **APPROVAL** of Zoning Case P14-159.

Regular City Council

Agenda Item

Meeting Date: September 15, 2014

Data Sheet

Topic:

Approve an Interlocal Agreement between Harris County and the City of Tomball to Provide a Contingency Plan for Assistance with Removing Debris in the City of Tomball Resulting from a Natural or Manmade Incident.

Background:

The City of Tomball was fortunate, in the aftermath of Hurricane Ike, that a land developer had a TCEQ-licensed trench burn operation in place. This facilitated the disposal of approximately 22,500 cubic yards of debris picked up by the City of Tomball Public Works employees.

Harris County has negotiated contracts with one or more debris removal companies in an effort to be proactive in the event of another natural or manmade disaster requiring those services. With the purchasing power of Harris County obtaining favorable pricing for these services, contracting with Harris County to have the service available would provide a backup plan in the event that our own employees do not have the capability to remove and dispose of the debris .

Origination:

Fire Department

Recommendation:

Staff recommends approval

Funding:

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

Randy Parr

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Interlocal Agreement

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

**INTERLOCAL AGREEMENT BETWEEN HARRIS COUNTY AND THE CITY OF
TOMBALL**

This Interlocal Agreement (“Agreement”), entered into pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, is made and entered into by and between **Harris County** (the “County”), a body corporate and politic under the laws of the State of Texas, acting by and through its Commissioners Court and the **City of Tomball** (the “City”), a home-rule municipality under the laws of the State of Texas, acting by and through its City Council. The County and City are referred to herein collectively as the “Parties” and individually as a “Party.”

Recitals

The City desires to increase its available options at acquiring access to debris removal services from within its corporate limits (the “Services”).

The County is willing to endeavor to provide the City the ability to access debris removal services by directly providing the Services for certain limited periods the County later authorizes.

Pursuant to the authority granted by the Texas Interlocal Cooperation Act (Texas Government Code, 791, *et seq.*) providing for the cooperation between local governments, the Parties hereto, mutually agree to the following:

Terms

I.

The County will endeavor to provide the City the ability to access debris removal services (the “Services”) by directly providing the Services for certain limited periods authorized by the County, as provided herein. The City understands and agrees that the County currently has in place agreements with multiple contractors to provide debris removal services to the County (“Debris Contracts”), which the County may use to perform the Services.

II.

In the event the City desires to acquire the Services from the County, the City shall send a request to the County in writing identifying the event(s) creating the necessity for the Services, the anticipated location within the City the Services are needed and the anticipated duration the Services will be required.

III.

The City understands and agrees, said understanding and agreement being of the absolute essence of this Interlocal Agreement, that the County is not obligated to provide the Services and that the County may, at the sole discretion of the County, deny a request from the City for the Services.

IV.

The City understands and agrees that the County, upon approving a request from the City, shall select the Debris Contract(s) under which the Services will be provided. The City understands and agrees that the County may enter into multiple Debris Contracts with one or more contractors and that the County does not guarantee the Services will be provided under any particular Debris Contract(s) or that any particular contractor(s) or subcontractor(s) will be assigned to perform the Services. The selection of the Debris Contract and assignment of contractor to perform Services is at the sole discretion of the County.

V.

In the event the County provides the Services to the City, the City agrees to pay the County for the cost of the Services, including but not limited to the price charged by any contractor then under contract with the County. Under some circumstances the County may be entitled to and may receive reimbursement for a portion or the entire cost of the Services provided from certain third parties, including but not limited to State or Federal entities. To the extent the County receives any reimbursement allocated to the Services provided to the City, such amount shall be included in any relevant invoice to the City and shall be deducted from the total amount the City owes the County.

VI.

No later than the 90th day after Services are performed under this Agreement, the County shall submit an invoice to the City. Each invoice shall include a description of the Services provided, the total cost and any reimbursement the County has received or anticipates receiving in the future for the actual Services provided to the City. Supporting documentation as mutually agreed upon will be supplied. The County shall maintain auditable records verifying each service or item and the dates provided. The County shall warrant that all billing data submitted is complete and truthful. The City will review each invoice and statement and modify it as necessary and appropriate and, thereafter, forward the same to the appropriate official, for payment. Should the either Party determine that any incorrect payment has been made for any reason whatsoever, either Party may request from the other Party a correction to reconcile the incorrect payment to an appropriate amount. Within 90 days of a receipt of a request for reconciling an incorrect payment amount, the Parties shall come to an agreement defining the correct payment amount and the method the Parties have agreed to implement to reconcile this amount.

VII.

This Agreement shall be in effect from and after the date of execution by both Parties. Either party may terminate this agreement upon 30 days notice, provided that such termination shall not affect the City's obligations in regard to debris removal conducted by the County prior to termination.

VIII.

Payments under this Agreement shall be made from current funds.

IX.

The terms of this Agreement supersede any previous agreement between the parties to the extent that such agreement would apply to the Services contemplated herein.

IN WITNESS WHEREOF, the instrument has been executed on behalf of Harris County, Texas, by a duly authorized representative of Harris County, Texas, and on behalf of the City by a duly authorized representative.

CITY OF TOMBALL

HARRIS COUNTY

By _____
Name: _____
Title: _____
Date: _____

By: _____
ED EMMETT
COUNTY JUDGE

APPROVED AS TO FORM:
VINCE RYAN
COUNTY ATTORNEY

By: _____
Philip Wayne Evans
Assistant County Attorney
C.A. File 14GEN1114

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on the ____ day of _____, 2014 with the following members present, to-wit:

Ed Emmett	County Judge
El Franco Lee	Commissioner, Precinct No. 1
Jack Morman	Commissioner, Precinct No. 2
Steve Radack	Commissioner, Precinct No. 3
R. Jack Cagle	Commissioner, Precinct No. 4

and the following members absent, to-wit: _____,
constituting a quorum, when among other business, the following was transacted:

**ORDER AUTHORIZING EXECUTION OF THE INTERLOCAL AGREEMENT
BETWEEN HARRIS COUNTY AND THE CITY OF TOMBALL**

Commissioner _____ introduced an order and made a motion that the same be adopted. Commissioner _____ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

Vote of the Court	<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Judge Emmett	☐	☐	☐
Comm. Lee	☐	☐	☐
Comm. Morman	☐	☐	☐
Comm. Radack	☐	☐	☐
Comm. Cagle	☐	☐	☐

Recitals

1. The City desires to increase its available options at acquiring access to debris removal services from within its corporate limits (the "Services").
2. The County is willing to endeavor to provide the City the ability to access debris removal services by directly providing the Services for certain limited periods the County later authorizes.

3. Pursuant to the authority granted by the Texas Interlocal Cooperation Act (Texas Government Code, 791, *et seq.*) providing for the cooperation between local governments, the Parties hereto, mutually agree to the following:

Now, therefore, be it Ordered by the Commissioners Court of Harris County:

1. That the recitals are true and correct.
2. That Harris County Judge Ed Emmett be, and is hereby, authorized to execute for and on behalf of Harris County an Interlocal Agreement with the City of Tomball, to endeavor to provide the City the ability to access debris removal services by directly providing the Services for certain limited periods the County later authorizes; as authorized by the Interlocal Cooperation Act, Tex. Gov't Code Ann. § 791; for a term beginning upon Commissioners Court approval and with Harris County being reimbursed for the costs the County incurs during any limited period debris removal services are provided, as described in the Interlocal Agreement. The Interlocal Agreement is incorporated herein by reference for all purposes as though fully set forth word for word.
3. All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purpose of this Order.

Regular City Council

Agenda Item

Meeting Date: September 15, 2014

Data Sheet

Topic:

Approve Resolution No. 2014-17, a Resolution of the City of Tomball, Texas, adopting the City of Tomball's Investment Policy, as set forth in the City's Administrative Policy No. 13, entitled "Investment Policy"

Background:

Administrative Policy #13 – Investment Policy, identifies those types of investments into which the City may place its funds. The City's policy is constrained by the Texas Public Funds Investment Act. On May 18, 2009, Administrative Policy #13 was amended to allow the City to invest funds in the TexPool Prime and the TexasClass local government investment pools. The only revision this year is to the wording in Section III. Par. F regarding Certificates of Deposit. This change is to allow for the purchase of CD's from banks with branches in the State of Texas where the former policy was worded "domiciled in the State of Texas." This wording will bring the City of Tomball's policy "in-line" with the State Public Funds Investment Act as it was amended by the 74th legislature and became effective September 1, 1995. This legislation was passed to give cities another investment option due to the proliferation of branch banking. A copy of the complete Public Funds Investment Act is also attached for your reference (Chapter 2256 of the Local Government Code Public Funds Investment).

At our last meeting, several questions were raised regarding the City's investment in CD's. Regarding whether we can invest city funds "offshore" or outside of the United States, the policy lists allowable investments. Any investment other than what is in the policy would be an illegal investment.

Regarding CD's and collateral, if CDs are purchased, they would be purchased in amounts of \$ 250,000 each which would not require collateral. Additionally, by purchasing brokered CD's, they are cusip driven so there would not be a safekeeping issue.

In conclusion, this change in wording to the City's policy is being requested primarily to update our policy to where it is in agreement with the current State investment policy (Chapter 2256).

Additionally, and to conclude, the Public Funds Investment Act requires that the City's Investment Policy be reviewed on an annual basis by the City Council.

Origination:

Finance

Recommendation:

Staff recommends affirmation of Administrative Policy #13 – City of Tomball Investment Policy as revised in the attachment.

Funding:

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

Glenn Windsor, CPA, CFE, CGFO Finance Director

ACTION TAKEN

APPROVAL ☐ YES ☐ NO	READINGS PASSED ☐ 1 ST ☐ 2 ND	OTHER
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ATTACHMENTS:

Resolution 2014-17 - Reaffirm Administrative Policy No. 13 - Investment Policy
 Chapter 2256 Public Funds Investment Act

RESOLUTION NO. 2014-17

**A RESOLUTION OF THE CITY OF TOMBALL, TEXAS, ADOPTING
THE CITY OF TOMBALL'S INVESTMENT POLICY, AS SET OUT IN
CITY OF TOMBALL ADMINISTRATIVE POLICY NO. 13, ENTITLED
"INVESTMENT POLICY".**

* * * * *

WHEREAS, Texas Government Code, Section 2256.005(a), states that "the governing body of an investing entity shall adopt by rule, order, ordinance, or resolution, as appropriate, a written investment policy regarding the investment of its funds and funds under its control"; and

WHEREAS, the governing body of an investing entity shall review its investment policy and investment strategies not less than annually, adopting a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the investment policy and investment strategies and that the written instrument so adopted shall record any changes made to either the investment policy or investment strategies;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS:

Section 1. The City Council has reviewed the investment policy and now desires to reaffirm and re-adopt said investment policy, as set forth in City of Tomball Administrative Policy No. 13, entitled "Investment Policy", a copy of which is attached hereto and made a part hereof as Exhibit "A".

Section 2. All resolutions or parts of resolutions inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 3. In the event any clause phrase, provision, sentence, or part of this Resolution or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect,

impair, or invalidate this Resolution as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND RESOLVED this the 15th day of September, 2014.

GRETCHEN FAGAN, Mayor
City of Tomball

ATTEST:

DORIS SPEER, City Secretary
City of Tomball

**CITY OF TOMBALL
ADMINISTRATIVE POLICIES, RULES AND PROCEDURES**

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CITY OF TOMBALL

INVESTMENT POLICY

I. SCOPE OF POLICY

PURPOSE:

This policy is developed to be in accordance with the Public Funds Investment Act, Chapter 2256 and with the Public Funds Collateral Act, Chapter 2257 of the Texas Government Code, as amended. This investment policy applies to the investment activities of the City of Tomball. This policy serves to satisfy the statutory requirement to define and adopt a formal investment policy. The investment portfolio shall be designed and managed in a manner to be responsive to public trust and to be in compliance with legal requirements and limitations.

INVESTMENT FUNDS:

All financial assets of all funds of the City of Tomball, Texas, at the present time and any funds to be created in the future shall be administered in accordance with the provisions of this policy. For investment purposes, all funds of the City shall be combined in a common pool, except as provided by applicable federal or state statutes, City ordinance, or other law. Investment income will be allocated to the various funds based on their respective participation and in accordance with generally accepted accounting principles.

II. PRIMARY OBJECTIVES

SAFETY OF PRINCIPAL:

The safety of the principal invested always remains the primary and foremost objective. All investments shall be designed and managed in a manner responsive to the public trust and consistent with state and local law. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to mitigate credit risk, the risk of loss due to the failure of the security issuer or backer, and interest rate risk, the risk that the market value of securities in the portfolio will fall due to changes in general interest rates.

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LIQUIDITY:

The City's investment portfolio will remain sufficiently liquid to enable the City to meet operating requirements that might be reasonably anticipated. Liquidity shall be achieved by structuring the portfolio so that investments mature concurrent with forecasted cash flow requirements. Because all possible cash demands cannot be anticipated, the portfolio should consist largely of securities with active secondary or resale markets. A portion of the portfolio will also be placed in interest bearing accounts which offer same day liquidity for short-term funds.

DIVERSIFICATION:

Invested funds shall be diversified to minimize risk resulting from over-concentration of assets in a specific maturity, specific market sector, or specific instruments.

YIELD:

The City's cash management portfolio shall be designed with the objective of attaining reasonable market rates of return on investments, while remaining within the objective of safety and liquidity, throughout budgetary and economic cycles. The investment program shall seek to augment these returns consistent with risk limitations identified herein and prudent investment principles, also taking into account the risk constraints associated with the protection of capital.

MATURITY:

The investment maturity schedule shall correspond with the City's projected cash flow needs. Market risk shall be minimized by diversification of maturity dates. The City has a "buy and hold" portfolio strategy. Maturity dates are matched with cash flow requirements and investments are purchased with the intent to be held until maturity. However, securities may be sold before they mature should it be in the City's best interest. No City investments shall exceed a maturity of more than four years.

INVESTMENT MANAGEMENT:

All participants in the investment process shall seek to act responsibly as custodians of the public trust. They shall avoid any transactions that might impair public confidence in the City's ability to govern effectively. The system of internal controls will be reviewed annually with the independent auditor of the City. The controls shall be designed to prevent loss of public funds due to fraud, employee error, misrepresentation by third parties, unanticipated market changes, or imprudent actions by employees of the City.

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III. AUTHORIZED INVESTMENTS

Assets of funds of the government of the City of Tomball may be invested in:

- A. Obligations of the United States or its agencies and instrumentalities;
- B. Direct obligations of the State of Texas or its agencies and instrumentalities;
- C. Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;
- D. Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, the State of Texas or the United States or their respective agencies and instrumentalities;
- E. Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent;
- F. Certificates of Deposit issued by state or national banks with its main office or a branch in the State of Texas, a savings bank with its main office or a branch in the State of Texas, or a state or federal credit union with its main office or a branch in the State of Texas and are guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor and are secured by the obligations named within this policy under items A through E above.
- G. Repurchase agreements which are fully collateralized, have a defined termination date, are secured by obligations of the United States or its agencies and instrumentalities; are purchased and pledged to the City of Tomball; are held in the City of Tomball's name; are deposited with third-party safekeeping of collateral at the time the investment is made; and are purchased through a primary government securities dealer or state or national bank doing business in the State of Texas evidenced by a fully executed Master Repurchase Agreement on file with the City. The repurchase agreement is a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obligations of the United States or its agencies and instrumentalities, at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed.

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H. Commercial paper is an authorized investment if the commercial paper:

- a. Has a stated maturity of 270 days or fewer from the date of its issuance; and
- b. Is rated not less than A-1 or P-1 or an equivalent rating by at least:
 - i. Two nationally recognized credit rating agencies; or
 - ii. One nationally recognized credit rating agency and is fully secured by an irrevocable letter of credit issued by organized and existing under the laws of the United States or any state.

I. An eligible investment pool authorized by the governing body, which must furnish to the City an offering circular or other similar disclosure instrument that contains, at a minimum, the types of investments in which money is allowed to be invested; the maximum average dollar-weighted maturity allowed, based on the stated maturity date, of the pool; the maximum stated maturity date of any investment within the portfolio; the objectives of the pool; the size of the pool; the names of the members of the advisory board of the pool and the dates their terms expire; the custodian bank that will safe-keep the pool's assets; whether the intent of the pool is to maintain a net asset value of one dollar and the risk of market price fluctuation; whether the only source of payment is the assets of the pool at market value or whether there is a secondary source of payment, such as insurance or guarantees, and a description of the secondary source of payment; the name and address of the independent auditor of the pool; the requirements to be satisfied for an entity to deposit funds in and withdraw funds from the pool and any deadlines or other operating policies required for the entity to invest funds in and withdraw funds from the pool; and the performance history of the pool, including yield, average dollar-weighted maturities, and expense ratios.

To maintain eligibility to receive funds from and invest funds on behalf of the City of Tomball, an investment pool must furnish to the City investment transaction confirmations; and a monthly report that contains, at a minimum, the types and percentage breakdown of securities in which the pool is invested, the current average dollar-weighted maturity based on the stated maturity date of the pool, the current percentage of the pool's portfolio in investments that have stated maturities of more than one year, the book value versus the market value of the pool's portfolio, using amortized cost valuation, the size of the pool, the number of participants in the pool, the custodian bank that is safekeeping the assets of the pool, a listing of daily transaction activity of the entity participating in the pool, the yield and expense ratio of the pool, the portfolio managers of the pool and any changes or addenda to the offering circular.

Investment pool yield shall be calculated in accordance with regulations governing the registration of open-end management investment companies under the Investment Company Act of 1940, as promulgated from time to time by the Federal Securities and Exchange Commission.

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To be eligible to receive funds from and invest funds on behalf of the City of Tomball, a public funds investment pool created to function as a money market mutual fund must mark its portfolio to market daily, and, to the extent reasonably possible, stabilize at a \$1 net asset value.

If the ratio of the market value of the portfolio divided by the book value of the portfolio is less than 0.995 or greater than 1.005, portfolio holdings shall be sold as necessary to maintain the ration between 0.995 and 1.005.

A public funds investment pool must have an advisory board composed: equally of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for a public funds investment pool created and managed by a state agency; or of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for other investment pools.

To maintain eligibility to receive funds from and invest funds on behalf of the City of Tomball, an investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service or no lower than investment grade by at least one nationally recognized rating service with a weighted average maturity no greater than 90 days.

Although allowed under State Law, Prime Domestic Bankers' Acceptances, and Money-market mutual funds are not considered suitable investments of the City of Tomball, and the City of Tomball will refrain from making such investments or allowing such instruments to be pledged to the City's deposits or serve as underlying collateral.

IV. RESPONSIBILITY AND CONTROL

DELEGATION OF AUTHORITY:

Management responsibility for the investment program is hereby delegated to the City Treasurer, or in the absence of such, Assistant City Treasurer, or such other person specifically designated by the Treasurer. The City Treasurer, or designated person by such, shall be responsible for all transactions, compliance with internal controls, and insuring that all safekeeping, custodial, and collateral duties are in compliance with this investment policy and other applicable laws and regulations.

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TRAINING REQUIREMENT:

The City Treasurer, the Assistant City Treasurer and any person designated by the Treasurer to be responsible for the investment of City funds shall attend an independent and approved source of investment training session no less often than once every two fiscal years and shall receive not less than 10 hours of instruction relating to investment responsibilities under the state statutes. Any person newly designated to duties relating to the investment program shall be required to attend an independent and approved source of investment training session within 12 months of such designation. Training must include education in investment controls, security risks, strategy risks, market risks, diversification of the investment portfolio, and compliance with the Public Funds Investment Act under the Texas Government Code Chapter 2256.

QUARTERLY REPORTS:

The City Treasurer, and the person or persons designated by such, shall submit quarterly an investment report that summarizes the investment portfolio for all funds to the City Council. The report shall describe in detail the investment position of the City on the date of the report; be prepared and signed by all investment officers of the City; contain a summary statement, prepared in compliance with generally accepted accounting principles; provide the beginning market value for the reporting period, the additions and changes to the market value during the period, the ending market value for the period, and fully accrued interest for the reporting period; state the book value and market value of each separately invested asset at the beginning and end of the reporting period by the type of asset and fund type invested; state the maturity date of each separately invested asset that has a maturity date; state the account, fund or pooled group fund in City for which each individual investment was acquired; and state the compliance of the investment portfolio of the City's policy as it relates to the strategy. The reports shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the governing body by that auditor.

CONFLICTS OF INTEREST:

The City Treasurer, or any person designated by such to be responsible for investments, shall not be designated as an investment officer for any investing entity other than the City of Tomball. Any person responsible for investments for the City who has a personal business relationship with a business organization offering to engage in an investment transaction with the entity shall file a statement disclosing that personal business interest. Any person responsible for investments for the City who is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the City shall file a statement disclosing that relationship. This statement must be filed

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with the Texas Ethics Commission and the City of Tomball. A personal business relationship is defined as owning 10 percent or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization; funds received from the business organization exceed 10 percent of the person's gross income for the previous year; or the acquisition of investments from the business organization during the previous year have a book value of \$2,500 or more for the person's personal account. Any person involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Employees and investment officials shall disclose to the City Secretary any material financial interest in financial institutions that conduct business within this jurisdiction, and they shall further disclose any large personal financial and/or investment positions that could be related to the performance of the City's portfolio. Any person responsible for investments shall subordinate their personal investment transactions to those of this jurisdiction, particularly with regard to the timing of purchases and sales.

V. COLLATERAL AND SAFEKEEPING

COLLATERAL REQUIRED:

Funds of the City of Tomball shall be secured by collateral, whereby the market value of such collateral shall not be less than the total amount of the sum of the City's deposits, investments and accrued interest less the amount of insurance provided by the United States or an instrumentality of the United States, such as FDIC and FSLIC insurance. All items held for collateral for the City of Tomball shall be qualified investments as stated in items III.A. through III.E. of the City's investment policy.

SECURITY OF COLLATERAL:

All securities owned by thy City or pledged to the City shall be held in safekeeping by the City; in a City approved account in a third party financial institution with a main office in the State of Texas and capital stock and permanent surplus of \$5 million or more; the Texas Treasury Safekeeping Trust Company; a federal home loan bank; or with a Federal Reserve Bank. A third party custodian shall be required to issue original safekeeping receipts directly to the City and monthly provide a listing of each specific security, rate description, maturity, CUSIP number, and other information as may be deemed necessary and appropriate by the City. Each safekeeping receipt will be clearly marked that the security is pledged to the City of Tomball. It shall be the sole responsibility of the financial institution to immediately, without notice from the City or cost to the City, replace any nonconforming pledged security.

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DELIVERY VS. PAYMENT:

Treasury Bills, Notes and Bonds and Government Agencies' securities shall be purchased using the delivery vs. payment method. That is, funds shall not be wired or paid until verification has been made that the correct security was received by the City of Tomball or its designated Trustee. The security shall be held in the name of the City. The Trustee's records shall reflect that the City owns such securities. In the event that the security is held by Trustee, the original copy of all safekeeping receipts shall be delivered to the City Treasurer, or person designated by such.

VI. AUTHORIZED BROKERS

The City of Tomball shall annually review, revise, and adopt a list of qualified brokers that are authorized to engage in investment transactions with the City. Following are authorized brokers for the City of Tomball:

Robert W. Baird & Co. Incorporated
Coastal Securities
Wells Fargo Securities, LLC

GOVERNMENT CODE

TITLE 10. GENERAL GOVERNMENT

SUBTITLE F. STATE AND LOCAL CONTRACTS AND FUND MANAGEMENT

CHAPTER 2256. PUBLIC FUNDS INVESTMENT

SUBCHAPTER A. AUTHORIZED INVESTMENTS FOR GOVERNMENTAL ENTITIES

Sec. 2256.001. SHORT TITLE. This chapter may be cited as the Public Funds Investment Act.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.002. DEFINITIONS. In this chapter:

(1) "Bond proceeds" means the proceeds from the sale of bonds, notes, and other obligations issued by an entity, and reserves and funds maintained by an entity for debt service purposes.

(2) "Book value" means the original acquisition cost of an investment plus or minus the accrued amortization or accretion.

(3) "Funds" means public funds in the custody of a state agency or local government that:

(A) are not required by law to be deposited in the state treasury; and

(B) the investing entity has authority to invest.

(4) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(5) "Investing entity" and "entity" mean an entity subject to this chapter and described by Section 2256.003.

(6) "Investment pool" means an entity created under this code to invest public funds jointly on behalf of the

entities that participate in the pool and whose investment objectives in order of priority are:

- (A) preservation and safety of principal;
- (B) liquidity; and
- (C) yield.

(7) "Local government" means a municipality, a county, a school district, a district or authority created under Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution, a fresh water supply district, a hospital district, and any political subdivision, authority, public corporation, body politic, or instrumentality of the State of Texas, and any nonprofit corporation acting on behalf of any of those entities.

(8) "Market value" means the current face or par value of an investment multiplied by the net selling price of the security as quoted by a recognized market pricing source quoted on the valuation date.

(9) "Pooled fund group" means an internally created fund of an investing entity in which one or more institutional accounts of the investing entity are invested.

(10) "Qualified representative" means a person who holds a position with a business organization, who is authorized to act on behalf of the business organization, and who is one of the following:

- (A) for a business organization doing business that is regulated by or registered with a securities commission, a person who is registered under the rules of the National Association of Securities Dealers;

- (B) for a state or federal bank, a savings bank, or a state or federal credit union, a member of the loan committee for the bank or branch of the bank or a person authorized by corporate resolution to act on behalf of and bind the banking institution;

- (C) for an investment pool, the person authorized by the elected official or board with authority to

administer the activities of the investment pool to sign the written instrument on behalf of the investment pool; or

(D) for an investment management firm registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) or, if not subject to registration under that Act, registered with the State Securities Board, a person who is an officer or principal of the investment management firm.

(11) "School district" means a public school district.

(12) "Separately invested asset" means an account or fund of a state agency or local government that is not invested in a pooled fund group.

(13) "State agency" means an office, department, commission, board, or other agency that is part of any branch of state government, an institution of higher education, and any nonprofit corporation acting on behalf of any of those entities.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 1, eff. Sept. 1, 1999.

Sec. 2256.003. AUTHORITY TO INVEST FUNDS; ENTITIES SUBJECT TO THIS CHAPTER. (a) Each governing body of the following entities may purchase, sell, and invest its funds and funds under its control in investments authorized under this subchapter in compliance with investment policies approved by the governing body and according to the standard of care prescribed by Section [2256.006](#):

- (1) a local government;
- (2) a state agency;
- (3) a nonprofit corporation acting on behalf of a local government or a state agency; or
- (4) an investment pool acting on behalf of two or more local governments, state agencies, or a combination of those entities.

(b) In the exercise of its powers under Subsection (a), the governing body of an investing entity may contract with an investment management firm registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) or with the State Securities Board to provide for the investment and management of its public funds or other funds under its control. A contract made under authority of this subsection may not be for a term longer than two years. A renewal or extension of the contract must be made by the governing body of the investing entity by order, ordinance, or resolution.

(c) This chapter does not prohibit an investing entity or investment officer from using the entity's employees or the services of a contractor of the entity to aid the investment officer in the execution of the officer's duties under this chapter.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1454, Sec. 2, eff. Sept. 1, 1999.

Sec. 2256.004. APPLICABILITY. (a) This subchapter does not apply to:

- (1) a public retirement system as defined by Section [802.001](#);
- (2) state funds invested as authorized by Section [404.024](#);
- (3) an institution of higher education having total endowments of at least \$95 million in book value on May 1, 1995;
- (4) funds invested by the Veterans' Land Board as authorized by Chapter 161, 162, or 164, Natural Resources Code;
- (5) registry funds deposited with the county or district clerk under Chapter 117, Local Government Code; or
- (6) a deferred compensation plan that qualifies under either Section 401(k) or 457 of the Internal Revenue Code of 1986 (26 U.S.C. Section 1 et seq.), as amended.

(b) This subchapter does not apply to an investment donated to an investing entity for a particular purpose or under terms of use specified by the donor.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 505, Sec. 24, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1421, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 8.21, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1454, Sec. 3, eff. Sept. 1, 1999.

Sec. 2256.005. INVESTMENT POLICIES; INVESTMENT STRATEGIES; INVESTMENT OFFICER. (a) The governing body of an investing entity shall adopt by rule, order, ordinance, or resolution, as appropriate, a written investment policy regarding the investment of its funds and funds under its control.

(b) The investment policies must:

- (1) be written;
- (2) primarily emphasize safety of principal and liquidity;
- (3) address investment diversification, yield, and maturity and the quality and capability of investment management; and
- (4) include:
 - (A) a list of the types of authorized investments in which the investing entity's funds may be invested;
 - (B) the maximum allowable stated maturity of any individual investment owned by the entity;
 - (C) for pooled fund groups, the maximum dollar-weighted average maturity allowed based on the stated maturity date for the portfolio;
 - (D) methods to monitor the market price of investments acquired with public funds;

(E) a requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis; and

(F) procedures to monitor rating changes in investments acquired with public funds and the liquidation of such investments consistent with the provisions of Section [2256.021](#).

(c) The investment policies may provide that bids for certificates of deposit be solicited:

- (1) orally;
- (2) in writing;
- (3) electronically; or
- (4) in any combination of those methods.

(d) As an integral part of an investment policy, the governing body shall adopt a separate written investment strategy for each of the funds or group of funds under its control. Each investment strategy must describe the investment objectives for the particular fund using the following priorities in order of importance:

- (1) understanding of the suitability of the investment to the financial requirements of the entity;
- (2) preservation and safety of principal;
- (3) liquidity;
- (4) marketability of the investment if the need arises to liquidate the investment before maturity;
- (5) diversification of the investment portfolio; and
- (6) yield.

(e) The governing body of an investing entity shall review its investment policy and investment strategies not less than annually. The governing body shall adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the investment policy and investment strategies and that the written instrument so adopted shall record any changes made to either the investment policy or investment strategies.

(f) Each investing entity shall designate, by rule, order, ordinance, or resolution, as appropriate, one or more officers

or employees of the state agency, local government, or investment pool as investment officer to be responsible for the investment of its funds consistent with the investment policy adopted by the entity. If the governing body of an investing entity has contracted with another investing entity to invest its funds, the investment officer of the other investing entity is considered to be the investment officer of the first investing entity for purposes of this chapter. Authority granted to a person to invest an entity's funds is effective until rescinded by the investing entity, until the expiration of the officer's term or the termination of the person's employment by the investing entity, or if an investment management firm, until the expiration of the contract with the investing entity. In the administration of the duties of an investment officer, the person designated as investment officer shall exercise the judgment and care, under prevailing circumstances, that a prudent person would exercise in the management of the person's own affairs, but the governing body of the investing entity retains ultimate responsibility as fiduciaries of the assets of the entity. Unless authorized by law, a person may not deposit, withdraw, transfer, or manage in any other manner the funds of the investing entity.

(g) Subsection (f) does not apply to a state agency, local government, or investment pool for which an officer of the entity is assigned by law the function of investing its funds.

Text of subsec. (h) as amended by Acts 1997, 75th Leg., ch. 685,
Sec. 1

(h) An officer or employee of a commission created under Chapter 391, Local Government Code, is ineligible to be an investment officer for the commission under Subsection (f) if the officer or employee is an investment officer designated under Subsection (f) for another local government.

Text of subsec. (h) as amended by Acts 1997, 75th Leg., ch.
1421, Sec. 3

(h) An officer or employee of a commission created under Chapter 391, Local Government Code, is ineligible to be designated as an investment officer under Subsection (f) for any investing entity other than for that commission.

(i) An investment officer of an entity who has a personal business relationship with a business organization offering to engage in an investment transaction with the entity shall file a statement disclosing that personal business interest. An investment officer who is related within the second degree by affinity or consanguinity, as determined under Chapter 573, to an individual seeking to sell an investment to the investment officer's entity shall file a statement disclosing that relationship. A statement required under this subsection must be filed with the Texas Ethics Commission and the governing body of the entity. For purposes of this subsection, an investment officer has a personal business relationship with a business organization if:

(1) the investment officer owns 10 percent or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization;

(2) funds received by the investment officer from the business organization exceed 10 percent of the investment officer's gross income for the previous year; or

(3) the investment officer has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for the personal account of the investment officer.

(j) The governing body of an investing entity may specify in its investment policy that any investment authorized by this chapter is not suitable.

(k) A written copy of the investment policy shall be presented to any person offering to engage in an investment transaction with an investing entity or to an investment management firm under contract with an investing entity to invest or manage the entity's investment portfolio. For purposes of this subsection, a business organization includes investment pools and an investment management firm under contract with an investing entity to invest or manage the entity's investment portfolio. Nothing in this subsection relieves the investing entity of the responsibility for monitoring the investments made by the investing entity to determine that they are in compliance with the investment policy. The qualified representative of the business organization offering to engage in an investment transaction with an investing entity shall execute a written instrument in a form acceptable to the investing entity and the business organization substantially to the effect that the business organization has:

(1) received and reviewed the investment policy of the entity; and

(2) acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the entity and the organization that are not authorized by the entity's investment policy, except to the extent that this authorization is dependent on an analysis of the makeup of the entity's entire portfolio or requires an interpretation of subjective investment standards.

(l) The investment officer of an entity may not acquire or otherwise obtain any authorized investment described in the investment policy of the investing entity from a person who has not delivered to the entity the instrument required by Subsection (k).

(m) An investing entity other than a state agency, in conjunction with its annual financial audit, shall perform a

compliance audit of management controls on investments and adherence to the entity's established investment policies.

(n) Except as provided by Subsection (o), at least once every two years a state agency shall arrange for a compliance audit of management controls on investments and adherence to the agency's established investment policies. The compliance audit shall be performed by the agency's internal auditor or by a private auditor employed in the manner provided by Section [321.020](#). Not later than January 1 of each even-numbered year a state agency shall report the results of the most recent audit performed under this subsection to the state auditor. Subject to a risk assessment and to the legislative audit committee's approval of including a review by the state auditor in the audit plan under Section [321.013](#), the state auditor may review information provided under this section. If review by the state auditor is approved by the legislative audit committee, the state auditor may, based on its review, require a state agency to also report to the state auditor other information the state auditor determines necessary to assess compliance with laws and policies applicable to state agency investments. A report under this subsection shall be prepared in a manner the state auditor prescribes.

(o) The audit requirements of Subsection (n) do not apply to assets of a state agency that are invested by the comptroller under Section [404.024](#).

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 685, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1421, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 4, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 785, Sec. 41, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. [2226](#)), Sec. 1, eff. June 17, 2011.

Sec. 2256.006. STANDARD OF CARE. (a) Investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived. Investment of funds shall be governed by the following investment objectives, in order of priority:

- (1) preservation and safety of principal;
- (2) liquidity; and
- (3) yield.

(b) In determining whether an investment officer has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration:

- (1) the investment of all funds, or funds under the entity's control, over which the officer had responsibility rather than a consideration as to the prudence of a single investment; and
- (2) whether the investment decision was consistent with the written investment policy of the entity.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.007. INVESTMENT TRAINING; STATE AGENCY BOARD MEMBERS AND OFFICERS. (a) Each member of the governing board of a state agency and its investment officer shall attend at least one training session relating to the person's responsibilities under this chapter within six months after taking office or assuming duties.

(b) The Texas Higher Education Coordinating Board shall provide the training under this section.

(c) Training under this section must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this chapter.

(d) An investment officer shall attend a training session not less than once each state fiscal biennium and may receive training from any independent source approved by the governing body of the state agency. The investment officer shall prepare a report on this subchapter and deliver the report to the governing body of the state agency not later than the 180th day after the last day of each regular session of the legislature.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 73, Sec. 1, eff. May 9, 1997; Acts 1997, 75th Leg., ch. 1421, Sec. 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 5, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. [2226](#)), Sec. 2, eff. June 17, 2011.

Sec. 2256.008. INVESTMENT TRAINING; LOCAL GOVERNMENTS.

(a) Except as provided by Subsections (b) and (e), the treasurer, the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a local government shall:

(1) attend at least one training session from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government and containing at least 10 hours of instruction relating to the treasurer's or officer's responsibilities under this subchapter within 12 months after taking office or assuming duties; and

(2) except as provided by Subsections (b) and (e), attend an investment training session not less than once in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than 10 hours of instruction relating to investment responsibilities under this subchapter from an independent source approved by the

governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government.

(b) An investing entity created under authority of Section 52(b), Article III, or Section 59, Article XVI, Texas Constitution, that has contracted with an investment management firm under Section 2256.003(b) and has fewer than five full-time employees or an investing entity that has contracted with another investing entity to invest the entity's funds may satisfy the training requirement provided by Subsection (a)(2) by having an officer of the governing body attend four hours of appropriate instruction in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date. The treasurer or chief financial officer of an investing entity created under authority of Section 52(b), Article III, or Section 59, Article XVI, Texas Constitution, and that has fewer than five full-time employees is not required to attend training required by this section unless the person is also the investment officer of the entity.

(c) Training under this section must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this chapter.

(d) Not later than December 31 each year, each individual, association, business, organization, governmental entity, or other person that provides training under this section shall report to the comptroller a list of the governmental entities for which the person provided required training under this section during that calendar year. An individual's reporting requirements under this subsection are satisfied by a report of the individual's employer or the sponsoring or organizing entity of a training program or seminar.

(e) This section does not apply to a district governed by Chapter 36 or 49, Water Code.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 5, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 6, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 69, Sec. 4, eff. May 14, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. [2226](#)), Sec. 3, eff. June 17, 2011.

Sec. 2256.009. AUTHORIZED INVESTMENTS: OBLIGATIONS OF, OR GUARANTEED BY GOVERNMENTAL ENTITIES. (a) Except as provided by Subsection (b), the following are authorized investments under this subchapter:

(1) obligations, including letters of credit, of the United States or its agencies and instrumentalities;

(2) direct obligations of this state or its agencies and instrumentalities;

(3) collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;

(4) other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the United States or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation or by the explicit full faith and credit of the United States;

(5) obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent; and

(6) bonds issued, assumed, or guaranteed by the State of Israel.

(b) The following are not authorized investments under this section:

(1) obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;

(2) obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;

(3) collateralized mortgage obligations that have a stated final maturity date of greater than 10 years; and

(4) collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1454, Sec. 7, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 558, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 4, eff. June 17, 2011.

Sec. 2256.010. AUTHORIZED INVESTMENTS: CERTIFICATES OF DEPOSIT AND SHARE CERTIFICATES. (a) A certificate of deposit or share certificate is an authorized investment under this subchapter if the certificate is issued by a depository institution that has its main office or a branch office in this state and is:

(1) guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor;

(2) secured by obligations that are described by Section 2256.009(a), including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, but excluding those mortgage backed securities of the nature described by Section 2256.009(b); or

(3) secured in any other manner and amount provided by law for deposits of the investing entity.

(b) In addition to the authority to invest funds in certificates of deposit under Subsection (a), an investment in certificates of deposit made in accordance with the following conditions is an authorized investment under this subchapter:

(1) the funds are invested by an investing entity through:

(A) a broker that has its main office or a branch office in this state and is selected from a list adopted by the investing entity as required by Section 2256.025; or

(B) a depository institution that has its main office or a branch office in this state and that is selected by the investing entity;

(2) the broker or the depository institution selected by the investing entity under Subdivision (1) arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the investing entity;

(3) the full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States; and

(4) the investing entity appoints the depository institution selected by the investing entity under Subdivision (1), an entity described by Section 2257.041(d), or a clearing broker-dealer registered with the Securities and Exchange Commission and operating pursuant to Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3) as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity.

Amended by Acts 1995, 74th Leg., ch. 32, Sec. 1, eff. April 28, 1995; Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1,

1995; Acts 1997, 75th Leg., ch. 1421, Sec. 6, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 128 (H.B. 256), Sec. 1, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 5, eff. June 17, 2011.

Sec. 2256.011. AUTHORIZED INVESTMENTS: REPURCHASE AGREEMENTS. (a) A fully collateralized repurchase agreement is an authorized investment under this subchapter if the repurchase agreement:

- (1) has a defined termination date;
- (2) is secured by a combination of cash and obligations described by Section 2256.009(a)(1); and
- (3) requires the securities being purchased by the entity or cash held by the entity to be pledged to the entity, held in the entity's name, and deposited at the time the investment is made with the entity or with a third party selected and approved by the entity; and
- (4) is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in this state.

(b) In this section, "repurchase agreement" means a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obligations described by Section 2256.009(a)(1), at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse security repurchase agreement.

(c) Notwithstanding any other law, the term of any reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered.

(d) Money received by an entity under the terms of a reverse security repurchase agreement shall be used to acquire

additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. [2226](#)), Sec. 6, eff. June 17, 2011.

Sec. 2256.0115. AUTHORIZED INVESTMENTS: SECURITIES LENDING PROGRAM. (a) A securities lending program is an authorized investment under this subchapter if it meets the conditions provided by this section.

(b) To qualify as an authorized investment under this subchapter:

(1) the value of securities loaned under the program must be not less than 100 percent collateralized, including accrued income;

(2) a loan made under the program must allow for termination at any time;

(3) a loan made under the program must be secured by:

(A) pledged securities described by Section [2256.009](#);

(B) pledged irrevocable letters of credit issued by a bank that is:

(i) organized and existing under the laws of the United States or any other state; and

(ii) continuously rated by at least one nationally recognized investment rating firm at not less than A or its equivalent; or

(C) cash invested in accordance with Section:

(i) [2256.009](#);

(ii) [2256.013](#);

(iii) [2256.014](#); or

(iv) 2256.016;

(4) the terms of a loan made under the program must require that the securities being held as collateral be:

(A) pledged to the investing entity;

(B) held in the investing entity's name; and

(C) deposited at the time the investment is made with the entity or with a third party selected by or approved by the investing entity;

(5) a loan made under the program must be placed through:

(A) a primary government securities dealer, as defined by 5 C.F.R. Section 6801.102(f), as that regulation existed on September 1, 2003; or

(B) a financial institution doing business in this state; and

(6) an agreement to lend securities that is executed under this section must have a term of one year or less.

Added by Acts 2003, 78th Leg., ch. 1227, Sec. 1, eff. Sept. 1, 2003.

Sec. 2256.012. AUTHORIZED INVESTMENTS: BANKER'S ACCEPTANCES. A bankers' acceptance is an authorized investment under this subchapter if the bankers' acceptance:

(1) has a stated maturity of 270 days or fewer from the date of its issuance;

(2) will be, in accordance with its terms, liquidated in full at maturity;

(3) is eligible for collateral for borrowing from a Federal Reserve Bank; and

(4) is accepted by a bank organized and existing under the laws of the United States or any state, if the short-term obligations of the bank, or of a bank holding company of which the bank is the largest subsidiary, are rated not less than A-1 or P-1 or an equivalent rating by at least one nationally recognized credit rating agency.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.013. AUTHORIZED INVESTMENTS: COMMERCIAL PAPER. Commercial paper is an authorized investment under this subchapter if the commercial paper:

(1) has a stated maturity of 270 days or fewer from the date of its issuance; and

(2) is rated not less than A-1 or P-1 or an equivalent rating by at least:

(A) two nationally recognized credit rating agencies; or

(B) one nationally recognized credit rating agency and is fully secured by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.014. AUTHORIZED INVESTMENTS: MUTUAL FUNDS. (a) A no-load money market mutual fund is an authorized investment under this subchapter if the mutual fund:

(1) is registered with and regulated by the Securities and Exchange Commission;

(2) provides the investing entity with a prospectus and other information required by the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.) or the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.);

(3) has a dollar-weighted average stated maturity of 90 days or fewer; and

(4) includes in its investment objectives the maintenance of a stable net asset value of \$1 for each share.

(b) In addition to a no-load money market mutual fund permitted as an authorized investment in Subsection (a), a no-

load mutual fund is an authorized investment under this subchapter if the mutual fund:

- (1) is registered with the Securities and Exchange Commission;
- (2) has an average weighted maturity of less than two years;
- (3) is invested exclusively in obligations approved by this subchapter;
- (4) is continuously rated as to investment quality by at least one nationally recognized investment rating firm of not less than AAA or its equivalent; and
- (5) conforms to the requirements set forth in Sections [2256.016](#)(b) and (c) relating to the eligibility of investment pools to receive and invest funds of investing entities.

(c) An entity is not authorized by this section to:

- (1) invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds and reserves and other funds held for debt service, in mutual funds described in Subsection (b);
- (2) invest any portion of bond proceeds, reserves and funds held for debt service, in mutual funds described in Subsection (b); or
- (3) invest its funds or funds under its control, including bond proceeds and reserves and other funds held for debt service, in any one mutual fund described in Subsection (a) or (b) in an amount that exceeds 10 percent of the total assets of the mutual fund.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 7, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 8, eff. Sept. 1, 1999.

Sec. 2256.015. AUTHORIZED INVESTMENTS: GUARANTEED INVESTMENT CONTRACTS. (a) A guaranteed investment contract is

an authorized investment for bond proceeds under this subchapter if the guaranteed investment contract:

- (1) has a defined termination date;
- (2) is secured by obligations described by Section 2256.009(a)(1), excluding those obligations described by Section 2256.009(b), in an amount at least equal to the amount of bond proceeds invested under the contract; and
- (3) is pledged to the entity and deposited with the entity or with a third party selected and approved by the entity.

(b) Bond proceeds, other than bond proceeds representing reserves and funds maintained for debt service purposes, may not be invested under this subchapter in a guaranteed investment contract with a term of longer than five years from the date of issuance of the bonds.

(c) To be eligible as an authorized investment:

- (1) the governing body of the entity must specifically authorize guaranteed investment contracts as an eligible investment in the order, ordinance, or resolution authorizing the issuance of bonds;
- (2) the entity must receive bids from at least three separate providers with no material financial interest in the bonds from which proceeds were received;
- (3) the entity must purchase the highest yielding guaranteed investment contract for which a qualifying bid is received;
- (4) the price of the guaranteed investment contract must take into account the reasonably expected drawdown schedule for the bond proceeds to be invested; and
- (5) the provider must certify the administrative costs reasonably expected to be paid to third parties in connection with the guaranteed investment contract.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 8, eff. Sept. 1,

1997; Acts 1999, 76th Leg., ch. 1454, Sec. 9, 10, eff. Sept. 1, 1999.

Sec. 2256.016. AUTHORIZED INVESTMENTS: INVESTMENT POOLS.

(a) An entity may invest its funds and funds under its control through an eligible investment pool if the governing body of the entity by rule, order, ordinance, or resolution, as appropriate, authorizes investment in the particular pool. An investment pool shall invest the funds it receives from entities in authorized investments permitted by this subchapter. An investment pool may invest its funds in money market mutual funds to the extent permitted by and consistent with this subchapter and the investment policies and objectives adopted by the investment pool.

(b) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity an offering circular or other similar disclosure instrument that contains, at a minimum, the following information:

- (1) the types of investments in which money is allowed to be invested;
- (2) the maximum average dollar-weighted maturity allowed, based on the stated maturity date, of the pool;
- (3) the maximum stated maturity date any investment security within the portfolio has;
- (4) the objectives of the pool;
- (5) the size of the pool;
- (6) the names of the members of the advisory board of the pool and the dates their terms expire;
- (7) the custodian bank that will safekeep the pool's assets;
- (8) whether the intent of the pool is to maintain a net asset value of one dollar and the risk of market price fluctuation;

(9) whether the only source of payment is the assets of the pool at market value or whether there is a secondary source of payment, such as insurance or guarantees, and a description of the secondary source of payment;

(10) the name and address of the independent auditor of the pool;

(11) the requirements to be satisfied for an entity to deposit funds in and withdraw funds from the pool and any deadlines or other operating policies required for the entity to invest funds in and withdraw funds from the pool; and

(12) the performance history of the pool, including yield, average dollar-weighted maturities, and expense ratios.

(c) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity:

(1) investment transaction confirmations; and

(2) a monthly report that contains, at a minimum, the following information:

(A) the types and percentage breakdown of securities in which the pool is invested;

(B) the current average dollar-weighted maturity, based on the stated maturity date, of the pool;

(C) the current percentage of the pool's portfolio in investments that have stated maturities of more than one year;

(D) the book value versus the market value of the pool's portfolio, using amortized cost valuation;

(E) the size of the pool;

(F) the number of participants in the pool;

(G) the custodian bank that is safekeeping the assets of the pool;

(H) a listing of daily transaction activity of the entity participating in the pool;

(I) the yield and expense ratio of the pool, including a statement regarding how yield is calculated;

(J) the portfolio managers of the pool; and
(K) any changes or addenda to the offering circular.

(d) An entity by contract may delegate to an investment pool the authority to hold legal title as custodian of investments purchased with its local funds.

(e) In this section, "yield" shall be calculated in accordance with regulations governing the registration of open-end management investment companies under the Investment Company Act of 1940, as promulgated from time to time by the federal Securities and Exchange Commission.

(f) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, a public funds investment pool created to function as a money market mutual fund must mark its portfolio to market daily, and, to the extent reasonably possible, stabilize at a \$1 net asset value. If the ratio of the market value of the portfolio divided by the book value of the portfolio is less than 0.995 or greater than 1.005, portfolio holdings shall be sold as necessary to maintain the ratio between 0.995 and 1.005. In addition to the requirements of its investment policy and any other forms of reporting, a public funds investment pool created to function as a money market mutual fund shall report yield to its investors in accordance with regulations of the federal Securities and Exchange Commission applicable to reporting by money market funds.

(g) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, a public funds investment pool must have an advisory board composed:

(1) equally of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for a public funds investment pool created under Chapter 791 and managed by a state agency; or

(2) of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for other investment pools.

(h) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service.

(i) If the investment pool operates an Internet website, the information in a disclosure instrument or report described in Subsections (b), (c)(2), and (f) must be posted on the website.

(j) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must make available to the entity an annual audited financial statement of the investment pool in which the entity has funds invested.

(k) If an investment pool offers fee breakpoints based on fund balances invested, the investment pool in advertising investment rates must include either all levels of return based on the breakpoints provided or state the lowest possible level of return based on the smallest level of funds invested.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 9, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. [2226](#)), Sec. 7, eff. June 17, 2011.

Sec. 2256.017. EXISTING INVESTMENTS. An entity is not required to liquidate investments that were authorized investments at the time of purchase.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.46(a), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1,

1995. Amended by Acts 1997, 75th Leg., ch. 1421, Sec. 10, eff. Sept. 1, 1997.

Sec. 2256.019. RATING OF CERTAIN INVESTMENT POOLS. A public funds investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1421, Sec. 11, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. [2226](#)), Sec. 8, eff. June 17, 2011.

Sec. 2256.020. AUTHORIZED INVESTMENTS: INSTITUTIONS OF HIGHER EDUCATION. In addition to the authorized investments permitted by this subchapter, an institution of higher education may purchase, sell, and invest its funds and funds under its control in the following:

(1) cash management and fixed income funds sponsored by organizations exempt from federal income taxation under Section 501(f), Internal Revenue Code of 1986 (26 U.S.C. Section 501(f));

(2) negotiable certificates of deposit issued by a bank that has a certificate of deposit rating of at least 1 or the equivalent by a nationally recognized credit rating agency or that is associated with a holding company having a commercial paper rating of at least A-1, P-1, or the equivalent by a nationally recognized credit rating agency; and

(3) corporate bonds, debentures, or similar debt obligations rated by a nationally recognized investment rating firm in one of the two highest long-term rating categories, without regard to gradations within those categories.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.0201. AUTHORIZED INVESTMENTS; MUNICIPAL UTILITY. (a) A municipality that owns a municipal electric utility that is engaged in the distribution and sale of electric energy or natural gas to the public may enter into a hedging contract and related security and insurance agreements in relation to fuel oil, natural gas, coal, nuclear fuel, and electric energy to protect against loss due to price fluctuations. A hedging transaction must comply with the regulations of the Commodity Futures Trading Commission and the Securities and Exchange Commission. If there is a conflict between the municipal charter of the municipality and this chapter, this chapter prevails.

(b) A payment by a municipally owned electric or gas utility under a hedging contract or related agreement in relation to fuel supplies or fuel reserves is a fuel expense, and the utility may credit any amounts it receives under the contract or agreement against fuel expenses.

(c) The governing body of a municipally owned electric or gas utility or the body vested with power to manage and operate the municipally owned electric or gas utility may set policy regarding hedging transactions.

(d) In this section, "hedging" means the buying and selling of fuel oil, natural gas, coal, nuclear fuel, and electric energy futures or options or similar contracts on those commodities and related transportation costs as a protection against loss due to price fluctuation.

Added by Acts 1999, 76th Leg., ch. 405, Sec. 48, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 7 (S.B. [495](#)), Sec. 1, eff. April 13, 2007.

Sec. 2256.0202. AUTHORIZED INVESTMENTS: MUNICIPAL FUNDS FROM MANAGEMENT AND DEVELOPMENT OF MINERAL RIGHTS. (a) In addition to other investments authorized under this subchapter, a municipality may invest funds received by the municipality from a lease or contract for the management and development of land owned by the municipality and leased for oil, gas, or other mineral development in any investment authorized to be made by a trustee under Subtitle B, Title 9, Property Code (Texas Trust Code).

(b) Funds invested by a municipality under this section shall be segregated and accounted for separately from other funds of the municipality.

Added by Acts 2009, 81st Leg., R.S., Ch. 1371 (S.B. 894), Sec. 1, eff. September 1, 2009.

Sec. 2256.0203. AUTHORIZED INVESTMENTS: PORTS AND NAVIGATION DISTRICTS. (a) In this section, "district" means a navigation district organized under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(b) In addition to the authorized investments permitted by this subchapter, a port or district may purchase, sell, and invest its funds and funds under its control in negotiable certificates of deposit issued by a bank that has a certificate of deposit rating of at least 1 or the equivalent by a nationally recognized credit rating agency or that is associated with a holding company having a commercial paper rating of at least A-1, P-1, or the equivalent by a nationally recognized credit rating agency.

Added by Acts 2011, 82nd Leg., R.S., Ch. 804 (H.B. 2346), Sec. 1, eff. September 1, 2011.

Sec. 2256.0204. AUTHORIZED INVESTMENTS: INDEPENDENT SCHOOL DISTRICTS. (a) In this section, "corporate bond" means

a senior secured debt obligation issued by a domestic business entity and rated not lower than "AA-" or the equivalent by a nationally recognized investment rating firm. The term does not include a debt obligation that:

(1) on conversion, would result in the holder becoming a stockholder or shareholder in the entity, or any affiliate or subsidiary of the entity, that issued the debt obligation; or

(2) is an unsecured debt obligation.

(b) This section applies only to an independent school district that qualifies as an issuer as defined by Section [1371.001](#).

(c) In addition to authorized investments permitted by this subchapter, an independent school district subject to this section may purchase, sell, and invest its funds and funds under its control in corporate bonds that, at the time of purchase, are rated by a nationally recognized investment rating firm "AA-" or the equivalent and have a stated final maturity that is not later than the third anniversary of the date the corporate bonds were purchased.

(d) An independent school district subject to this section is not authorized by this section to:

(1) invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds, reserves, and other funds held for the payment of debt service, in corporate bonds; or

(2) invest more than 25 percent of the funds invested in corporate bonds in any one domestic business entity, including subsidiaries and affiliates of the entity.

(e) An independent school district subject to this section may purchase, sell, and invest its funds and funds under its control in corporate bonds if the governing body of the district:

(1) amends its investment policy to authorize corporate bonds as an eligible investment;

(2) adopts procedures to provide for:

(A) monitoring rating changes in corporate bonds acquired with public funds; and

(B) liquidating the investment in corporate bonds; and

(3) identifies the funds eligible to be invested in corporate bonds.

(f) The investment officer of an independent school district, acting on behalf of the district, shall sell corporate bonds in which the district has invested its funds not later than the seventh day after the date a nationally recognized investment rating firm:

(1) issues a release that places the corporate bonds or the domestic business entity that issued the corporate bonds on negative credit watch or the equivalent, if the corporate bonds are rated "AA-" or the equivalent at the time the release is issued; or

(2) changes the rating on the corporate bonds to a rating lower than "AA-" or the equivalent.

(g) Corporate bonds are not an eligible investment for a public funds investment pool.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1347 (S.B. [1543](#)), Sec. 1, eff. June 17, 2011.

Sec. 2256.0205. AUTHORIZED INVESTMENTS; DECOMMISSIONING TRUST. (a) In this section:

(1) "Decommissioning trust" means a trust created to provide the Nuclear Regulatory Commission assurance that funds will be available for decommissioning purposes as required under 10 C.F.R. Part 50 or other similar regulation.

(2) "Funds" includes any money held in a decommissioning trust regardless of whether the money is considered to be public funds under this subchapter.

(b) In addition to other investments authorized under this subchapter, a municipality that owns a municipal electric utility that is engaged in the distribution and sale of electric

energy or natural gas to the public may invest funds held in a decommissioning trust in any investment authorized by Subtitle B, Title 9, Property Code.

Added by Acts 2005, 79th Leg., Ch. 121 (S.B. [1464](#)), Sec. 1, eff. September 1, 2005.

Sec. 2256.021. EFFECT OF LOSS OF REQUIRED RATING. An investment that requires a minimum rating under this subchapter does not qualify as an authorized investment during the period the investment does not have the minimum rating. An entity shall take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.022. EXPANSION OF INVESTMENT AUTHORITY. Expansion of investment authority granted by this chapter shall require a risk assessment by the state auditor or performed at the direction of the state auditor, subject to the legislative audit committee's approval of including the review in the audit plan under Section [321.013](#).

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 785, Sec. 42, eff. Sept. 1, 2003.

Sec. 2256.023. INTERNAL MANAGEMENT REPORTS. (a) Not less than quarterly, the investment officer shall prepare and submit to the governing body of the entity a written report of investment transactions for all funds covered by this chapter for the preceding reporting period.

(b) The report must:

(1) describe in detail the investment position of the entity on the date of the report;

(2) be prepared jointly by all investment officers of the entity;

(3) be signed by each investment officer of the entity;

(4) contain a summary statement of each pooled fund group that states the:

(A) beginning market value for the reporting period;

(B) ending market value for the period; and

(C) fully accrued interest for the reporting period;

(5) state the book value and market value of each separately invested asset at the end of the reporting period by the type of asset and fund type invested;

(6) state the maturity date of each separately invested asset that has a maturity date;

(7) state the account or fund or pooled group fund in the state agency or local government for which each individual investment was acquired; and

(8) state the compliance of the investment portfolio of the state agency or local government as it relates to:

(A) the investment strategy expressed in the agency's or local government's investment policy; and

(B) relevant provisions of this chapter.

(c) The report shall be presented not less than quarterly to the governing body and the chief executive officer of the entity within a reasonable time after the end of the period.

(d) If an entity invests in other than money market mutual funds, investment pools or accounts offered by its depository bank in the form of certificates of deposit, or money market accounts or similar accounts, the reports prepared by the investment officers under this section shall be formally reviewed at least annually by an independent auditor, and the

result of the review shall be reported to the governing body by that auditor.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1421, Sec. 12, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. [2226](#)), Sec. 9, eff. June 17, 2011.

Sec. 2256.024. SUBCHAPTER CUMULATIVE. (a) The authority granted by this subchapter is in addition to that granted by other law. Except as provided by Subsection (b), this subchapter does not:

- (1) prohibit an investment specifically authorized by other law; or
- (2) authorize an investment specifically prohibited by other law.

(b) Except with respect to those investing entities described in Subsection (c), a security described in Section [2256.009](#)(b) is not an authorized investment for a state agency, a local government, or another investing entity, notwithstanding any other provision of this chapter or other law to the contrary.

(c) Mortgage pass-through certificates and individual mortgage loans that may constitute an investment described in Section [2256.009](#)(b) are authorized investments with respect to the housing bond programs operated by:

- (1) the Texas Department of Housing and Community Affairs or a nonprofit corporation created to act on its behalf;
- (2) an entity created under Chapter 392, Local Government Code; or
- (3) an entity created under Chapter 394, Local Government Code.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.025. SELECTION OF AUTHORIZED BROKERS. The governing body of an entity subject to this subchapter or the designated investment committee of the entity shall, at least annually, review, revise, and adopt a list of qualified brokers that are authorized to engage in investment transactions with the entity.

Added by Acts 1997, 75th Leg., ch. 1421, Sec. 13, eff. Sept. 1, 1997.

Sec. 2256.026. STATUTORY COMPLIANCE. All investments made by entities must comply with this subchapter and all federal, state, and local statutes, rules, or regulations.

Added by Acts 1997, 75th Leg., ch. 1421, Sec. 13, eff. Sept. 1, 1997.

SUBCHAPTER B. MISCELLANEOUS PROVISIONS

Sec. 2256.051. ELECTRONIC FUNDS TRANSFER. Any local government may use electronic means to transfer or invest all funds collected or controlled by the local government.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.052. PRIVATE AUDITOR. Notwithstanding any other law, a state agency shall employ a private auditor if authorized by the legislative audit committee either on the committee's initiative or on request of the governing body of the agency.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.053. PAYMENT FOR SECURITIES PURCHASED BY STATE. The comptroller or the disbursing officer of an agency that has the power to invest assets directly may pay for authorized securities purchased from or through a member in good standing of the National Association of Securities Dealers or from or through a national or state bank on receiving an invoice from the seller of the securities showing that the securities have been purchased by the board or agency and that the amount to be paid for the securities is just, due, and unpaid. A purchase of securities may not be made at a price that exceeds the existing market value of the securities.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.67, eff. Sept. 1, 1997.

Sec. 2256.054. DELIVERY OF SECURITIES PURCHASED BY STATE. A security purchased under this chapter may be delivered to the comptroller, a bank, or the board or agency investing its funds. The delivery shall be made under normal and recognized practices in the securities and banking industries, including the book entry procedure of the Federal Reserve Bank.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.68, eff. Sept. 1, 1997.

Sec. 2256.055. DEPOSIT OF SECURITIES PURCHASED BY STATE. At the direction of the comptroller or the agency, a security purchased under this chapter may be deposited in trust with a bank or federal reserve bank or branch designated by the comptroller, whether in or outside the state. The deposit shall be held in the entity's name as evidenced by a trust receipt of the bank with which the securities are deposited.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.69, eff. Sept. 1, 1997.