

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



MONDAY, DECEMBER 16, 2013

6:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, December 16, 2013 at 6:00 P.M., City Hall, 401 Market Street, Tomball, Texas 77375, for the purpose of considering the following agenda items. All agenda items are subject to action. The Tomball City Council reserves the right to meet in a closed session for consultation with attorney on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

1.0 Call to Order

2.0 Invocation

- Led by Pastor Kenny Rodgers, Anointed Faith Family

3.0 Pledges to U.S. and Texas Flags

- Led by Members of the Tomball High School Student Council

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

accordance with law.]

5.0 Reports and Announcements

- December 24-25, 2013 – **Christmas Holiday** – City Offices Closed
- January 1, 2014 – **New Year's Day Holiday** – City Offices Closed
- January 6-14, 2014 – **Early Voting** for January 18, 2014 **Special Election**
- January 11, 2014 – **2nd Saturday at the Depot** – 5:00 p.m.
- January 18, 2014 – **Special Election** – 7:00 a.m.-7:00 p.m.
- **Walk Tomball!** – Every Saturday at 9:00 a.m. at the Depot
- Reports by City staff and members of Council about items of community interest on which no action will be taken:
 - Mike Baxter/Rosalie Dillon – Report regarding ***Christmas on Commerce***
 - Glenn Windsor – **Quarterly Investment Report for Period Ending September 30, 2013**. The Public Funds Investment Act requires that a report of the City's investments be presented to Council on a quarterly basis. The investment report includes a listing of all investments together with information relating to diversification, cost vs. market values, yield information, and weighted average maturities. On September 30, 2013, the City had total cash equivalents and investments totaling \$51,878,009. A copy of the report is attached for Council review.
 - Robert Hauck – Tomball Police Department earns the ***Texas Police Chiefs Association Law Enforcement Recognition Award*** – presented by Chief Mike Gentry, Harker Heights Police Department, TPCA Immediate Past President
 - Doris Speer – City Secretary's Office earns ***Exemplary Five-Star Service Award for Excellence in Vital Registration***

6.0 Approve the Minutes of the December 2, 2013 Regular City Council Meeting

7.0 Old Business:

- 7.1 Approve, on Second Reading, Resolution No. 2013-35-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving the Tomball Economic Development Corporation's Project to Expend Funds in accordance with an Economic Development Agreement by and between the Corporation and Garth Lodging Corporation, to make direct incentives to, or expenditures for, assistance with infrastructure costs for the promotion of new or expanded business enterprise related to the construction of a Holiday Inn Express & Suites Hotel to be located at 14055 Park Drive, Tomball, Texas 77375. The estimated amount of expenditures for such Project is \$56,000.00.

8.0 New Business:

- 8.1 The City Council and the Charter Review Commission will enter into a workshop session to receive the final report of the Charter Review Commission:

- Call the Charter Review Commission Meeting to Order
 - Approve the Minutes of the December 3, 2013 Special Charter Review Commission
 - Consideration of the Final Charter Review Commission Report by City Council regarding Possible Charter Amendments to be Placed on the May 10, 2014 Special Charter Amendment Election Ballot
 - Adjourn the Charter Review Commission Meeting
- 8.2 Accept Recommendations from the Charter Review Commission and Approve Proposed Amendments to be Placed on the May 10, 2014 Special Charter Amendment Election
- 8.3 Receive Tomball Water Committee Report, presented by Chair, Mark Stoll and take Action as Necessary
- 8.4 Appoint a Member to Fill an Unexpired Term on the Planning and Zoning Commission
- 8.5 Approve Tobacco Awareness Classes, to be Offered by Tomball Municipal Court and Tomball Police Department, to Tomball, Harris County, and Montgomery County Areas
- 8.6 Adopt, on First Reading, Ordinance No. 2013-24, an Ordinance of the City of Tomball, Texas, Amending Chapter 60 Signs, of the Code of Ordinances, City of Tomball, by Providing that Certain Political Signs used for Electioneering shall be Governed by the Code of Ordinances, City of Tomball, by Adding Definitions to Section 60-1 Definitions; by Amending Section 60-7, Miscellaneous Sign Provisions, of Chapter 60, Signs, to Adopt Regulations Concerning the Time, Place and Manner of Electioneering on Public Property Used as a Polling Place; Providing for Severability; Providing for a Penalty of an Amount Not to Exceed \$500 for Each Day of Violation of Any Provision Hereof, Providing an Effective Date; Making Findings of Fact; and Providing for Other Related Matters
- 8.7 Approve Pipeline Permit Application from BridgeTex Pipeline Company, LLC, for the Construction of One 20" Crude Oil Pipeline.
- 8.8 Award Contract for Project Bid No. 2013-08, "Tomball Business & Technology Park, Clearing, Grubbing, and SWPPP", E&P Project Number 2011-10016, to Low Bidder, R&T Ellis Excavating, Inc. in the amount of \$222,050.00
- 8.9 Approve the following Plats, as recommended by the Planning and Zoning Commission:
- **TOMBALL SOUTH COMMERCIAL NO. 2**; Being a subdivision of a 14.8086 acre tract of land situated in the Elizabeth Smith Survey, Abstract Number 70, of Harris County, Texas, out of and a part of a

tract described in deed recorded in Clerk's File Number 20070269548 of the Real Property Records of Harris County, Texas; said 14.8086 acre subdivision being a Replat of all of Lot 1 and Restricted Reserve C, both in Block One of Tomball South Commercial, a subdivision according to the map or plat thereof recorded in Volume 632, Page 199 of the Map Records of Harris County, Texas.

- **STONE BAER SUBDIVISION**; Being a subdivision of a 0.3214 acre, 0.3214 acre and 0.1607 acre of land situated in the Joseph House Survey, Abstract Number 34 of Harris County, Texas, and being a Replat of Lots 31, 32, 33, 34, 35, 36, 38, 39, 40 and 41 in Block 46 of Revised Map of Tomball, a subdivision according to the map or plat thereof recorded in Volume 4, Page 25 of the map Records of Harris County, Texas, and being the same land as described in deed recorded under Clerk's File Number 20130496699 of the Real Property Records of Harris County Texas.

8.10 Consideration to approve **COMPREHENSIVE PLAN CASE P13-181**: Request by Jeff Presnal, on behalf of 2978 Industrial Properties, LLC and KTC Holding, LLC, to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 25.70 acres of land, legally described as Lot 1, Lot 2, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial, within the City of Tomball, Harris County, Texas, generally located west of Hufsmith-Kohrville Road, north of Spell Road, from Rural Residential and Business/Industrial to Business/Industrial.

- Conduct a Public Hearing on **COMPREHENSIVE PLAN CASE P13-181**
- Adopt on First Reading, Ordinance 2013-25, an Ordinance an Ordinance of the City of Tomball, Texas, amending its Comprehensive Plan by changing the Future Land Use classification of approximately 25.70 acres of land, legally described as Lot 1, Lot 2, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial, within the City of Tomball, Harris County, Texas, from Rural Residential and Business/Industrial to Business/Industrial; said property being generally located west of Hufsmith-Kohrville Road, north of Spell 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

8.11 Consideration to approve **ZONING CASE P13-182**: Request by Jeff Presnal, on behalf of 2978 Industrial Properties, LLC and KTC Holding, LLC, to amend the City's Zoning Ordinance by rezoning approximately 18.77 acres of land, legally described as Lot 1, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial within the City of Tomball, Harris County, Texas, generally located west of Hufsmith-Kohrville Road, north of Spell Road, from the Agricultural District to the Light Industrial District.

- Conduct a Public Hearing on **ZONING CASE P13-182**
- Adopt on First Reading, Ordinance No. 2013-26, an ordinance of the City of Tomball, Texas, amending its Zoning Ordinance by changing the Zoning District Classification of approximately 18.77 acres of land,

legally described as Lot 1, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial, within the City of Tomball, Harris County, Texas, from the Agricultural District to the Light Industrial District; said property being generally located west of Hufsmith-Kohrville Road, north of Spell 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.

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 12th day of December 2013 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: December 16, 2013

Topic:

- Led by Pastor Kenny Rodgers, Anointed Faith Family

Background:

Origination:

Recommendation:

Funding:

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

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

Regular City Council
Agenda Item
Data Sheet

Meeting Date: December 16, 2013

Topic:

- Led by Members of the Tomball High School Student Council

Background:

Origination:

Recommendation:

Funding:

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

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

Regular City Council
Agenda Item
Data Sheet

Meeting Date: December 16, 2013

Topic:

Background:

Origination:

Recommendation:

Funding:

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

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

Regular City Council

Agenda Item

Meeting Date: December 16, 2013

Data Sheet

Topic:

- December 24-25, 2013 – **Christmas Holiday** – City Offices Closed
- January 1, 2014 – **New Year's Day Holiday** – City Offices Closed
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 - Mike Baxter/Rosalie Dillon – Report regarding *Christmas on Commerce*
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 - Robert Hauck – Tomball Police Department earns the *Texas Police Chiefs Association Law Enforcement Recognition Award* – presented by Chief Mike Gentry, Harker Heights Police Department, TPCA Immediate Past President
 - Doris Speer – City Secretary's Office earns *Exemplary Five-Star Service Award for Excellence in Vital Registration*

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	

ATTACHMENTS:

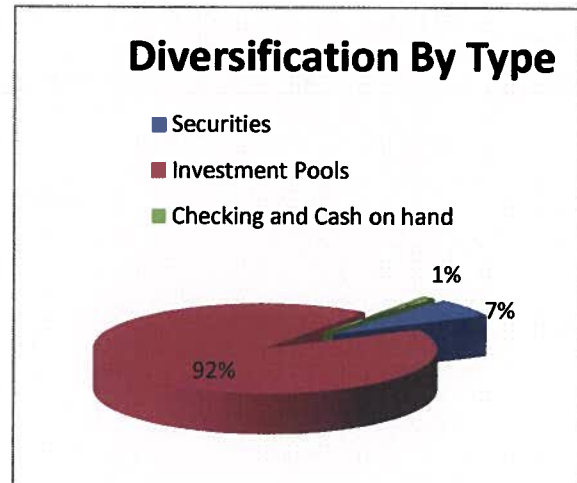
Quarterly Investment Report for Period Ending September 30, 2013

CITY OF TOMBALL PORTFOLIO DIVERSIFICATION September 30, 2013

By Type

	Current Market Value	Percent Portfolio
Securities	\$ 3,403,401	6.56%
Investment Pools	47,804,314	92.15%
Checking and Cash on hand	670,294	1.29%
Total Portfolio	\$ 51,878,009	

Safety of principal is the first priority of any Public investing portfolio. The City of Tomball invests in Securities of Federal, State and Local Governments, in Texas CLASS and in the state pool, TexPool. These investments are in securities with a rating of A-1/P-1 or higher and pools with Standard & Poor's highest rating of AAAM. Our charter requires that we maintain reserves of no less than 90 days and no more than one year of the current budgeted expenditures. The City is in compliance with this provision.

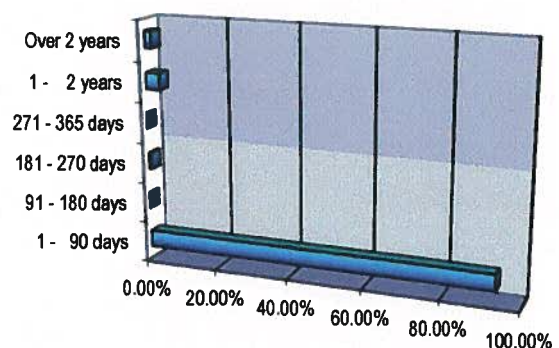


By Maturity

	Current Market Value	Percent Portfolio
1 - 90 days	\$ 48,474,608	93.44%
91 - 180 days	-	0.00%
181 - 270 days	404,512	0.78%
271 - 365 days	-	0.00%
1 - 2 years	1,999,831	3.85%
Over 2 years	999,058	1.93%
Total Portfolio	\$ 51,878,009	

Ensuring adequate liquidity is available to cover all expenditures is the second priority of any public investing program. The City staff forecasts cash flow and ladders the maturity of investments to ensure funds are adequate when needed. A portion of funds are kept in overnight investments as a buffer for any unexpected expenditures. This overnight investment (TexPool) has been performing according to market in the yield category as well as providing liquidity.

Diversification by Maturity



**CITY OF TOMBALL
INVESTMENT PORTFOLIO SUMMARY
ACTIVITY FOR QUARTER ENDING
September 30, 2013**

ALL CITY FUNDS (POOLED)

INVESTMENTS	COST	MARKET	RATIO	YTM at COST	BENCHMARK YTM**
Beginning of period	3,676,438	3,658,734	0.9952	0.538%	0.15%
Purchases	-	-			
Maturities	267,153	260,000			
Change in value	-	(4,667)			
Sales					
End of period	3,409,286	3,403,401	0.9983	0.423%	0.10%

Total Accrued Interest at end of period: \$ 6,519

**Benchmark security is the One-year U. S. Treasury Bill
Weighted average maturity of the portfolio at quarter end is 639 days.

This report is in compliance with the investment strategies as approved
and the Public Funds Investment Act.



Treasurer

Asst. Treasurer

**CITY OF TOMBALL
INVESTMENTS IN SECURITIES
PORTFOLIO AS OF SEPTEMBER 30, 2013**

SECURITY DESCRIPTION	CUSIP NUMBER	RATING	MATURITY DATE	INTEREST YIELD	MARKET VALUE	DAYS AFTER 09/30/13	INDIVIDUAL MARKET VALUE/TOTAL	WAM DAYS x PERCENT
1) Waukee, IA- 2%	942830PK0	Aa3	6/1/2014	0.450%	404,512	244	11.886%	29.00
2) Freddie Mac- .350%	3134G3W71	AA+	11/26/2014	0.301%	1,000,299	422	29.391%	124.03
3) Federal Farm Credit Bank- .35%	3133ECHE7	AA+	9/11/2015	0.350%	999,532	711	29.369%	208.81
4) Fed Farm Credit Bank- .59%	3133EAB56	AA+	5/2/2016	0.590%	999,058	945	29.355%	277.40
TOTALS				0.423%	3,403,401	581	100.000%	639.24

**CITY OF TOMBALL
CASH AND CASH EQUIVALENTS
FOR QUARTER ENDING
September 30, 2013**

FUNDS		CASH AND CASH EQUIVALENTS					INVESTMENTS		TOTAL CASH, CASH EQUIVALENTS AND INVESTMENTS
MAJOR FUNDS	TEXAS CLASS	TEXPOOL	OPERATING ACCOUNT	CASH ON HAND	TOTAL CASH AND CASH EQUIVALENTS	INVESTMENT SECURITIES	TOTAL INVESTMENTS		
General	\$ 2,269,229	\$ 7,257,632	\$ 200,039	\$ 2,160	\$ 9,729,060	\$ 1,403,570	\$ 1,403,570	\$ 11,132,630	
Debt Service	\$ 504,273	\$ 1,388,924	\$ 10,487	\$ -	\$ 1,903,684	\$ -	\$ -	\$ 1,903,684	
Enterprise	\$ 2,017,092	\$ 5,452,813	\$ 168,470	\$ 1,435	\$ 7,639,810	\$ 1,000,299	\$ 1,000,299	\$ 8,640,109	
OTHER FUNDS									
Special Revenue	\$ 75,641	\$ 52,569	\$ 5,303	\$ -	\$ 133,513	\$ -	\$ -	\$ 133,513	
Municipal Court Building Security	\$ 100,855	\$ 106,529	\$ 1,416	\$ -	\$ 208,800	\$ -	\$ -	\$ 208,800	
Municipal Court Technology	\$ 60,513	\$ 181,722	\$ 5,382	\$ -	\$ 247,617	\$ -	\$ -	\$ 247,617	
Hotel Occupancy Tax	\$ 100,855	\$ 170,461	\$ 64,711	\$ -	\$ 336,027	\$ -	\$ -	\$ 336,027	
Red Light Camera Program	\$ 252,136	\$ 89,895	\$ 109,567	\$ -	\$ 451,598	\$ -	\$ -	\$ 451,598	
PD District Attorney Grant	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Department of Justice Grant	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
SAFER Grant	\$ -	\$ -	\$ (159,504)	\$ -	\$ (159,504)	\$ -	\$ -	\$ (159,504)	
Tomball "Fun Runs"	\$ -	\$ -	\$ 7,780	\$ -	\$ 7,780	\$ -	\$ -	\$ 7,780	
General Capital Projects	\$ 50,427	\$ 15,017,298	\$ 10,487	\$ -	\$ 15,078,212	\$ 999,532	\$ 999,532	\$ 16,077,744	
Business Park	\$ -	\$ 8,516,504	\$ -	\$ -	\$ 8,516,504	\$ -	\$ -	\$ 8,516,504	
Fleet Replacement	\$ 453,846	\$ 743,345	\$ 96,069	\$ -	\$ 1,293,260	\$ -	\$ -	\$ 1,293,260	
Water Capital Recovery	\$ 100,855	\$ 955,225	\$ 9,498	\$ -	\$ 1,065,578	\$ -	\$ -	\$ 1,065,578	
Sewer Capital Recovery	\$ 151,282	\$ 1,110,124	\$ 1,654	\$ -	\$ 1,263,060	\$ -	\$ -	\$ 1,263,060	
Health Insurance Trust	\$ -	\$ 624,269	\$ 135,340	\$ -	\$ 759,609	\$ -	\$ -	\$ 759,609	
TOTALS	\$ 6,137,004	\$ 41,667,310	\$ 666,699	\$ 3,595	\$ 48,474,608	\$ 3,403,401	\$ 3,403,401	\$ 51,878,009	

Regular City Council
Agenda Item
Data Sheet

Meeting Date: December 16, 2013

Topic:

Approve the Minutes of the December 2, 2013 Regular City Council Meeting

Background:

Origination:

Recommendation:

Funding:

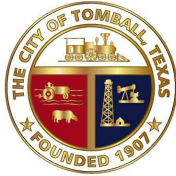
Party(ies) responsible for placing this item on agenda:

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

ATTACHMENTS:

Draft Minutes - 12/2/2013 Regular City Council Meeting

MINUTES OF REGULAR CITY COUNCIL MEETING CITY OF TOMBALL, TEXAS



**MONDAY, DECEMBER 2, 2013
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 Preston Dodson. Other members present were:

Councilman Hudgens
Councilman Stoll
Councilman Townsend

Excused Absence:

Mayor Fagan - Excused

Others present:

City Manager – George Shackelford
City Secretary – Doris Speer
City Attorney – Loren Smith
Fire Chief – Randy Parr
Community Development Director – Craig Meyers
Finance Director – Glenn Windsor
Assistant City Engineer – Lori Lakatos
City Planner – Rebeca Guerra
Community Events Coordinator – Rosalie Dillon
Accountant – Christine Brookshire
Executive Director-TEDC – KellyViolette

2.0 The invocation was led by Senior Pastor Rick Brown, ChristBridge Fellowship.

3.0 The pledges to the U. S. and Texas Flags were led by Alan Paul and Gabriel Gach, members of the Tomball High School Student Council.

4.0 The following public comments were received:

Alan Paul and Gabriel Gach - Extended holiday wishes and greetings from Mrs. Dio and the Tomball High School Student Council

Bruce Hillegeist, President, GTACC 29201Quinn, 77375 - Thanked the City for its support and participation in the success of the annual Holiday Parade.

5.0 Mayor Pro Tem Dodson presented the proclamation for – **Tomball Memorial High School – TMHS *Roarin’ Blue* Band - 2013 UIL Class 4A 17th Place High School Band Day**

Bruce Hillegeist, Greater Tomball Area Chamber of Commerce, presented **2014 Miss Tomball, Olivia Bliven.**

6.0 Reports and Announcements:

- December 13-15, 2013 – **2013 Tomball German Christmas Market** – 10:00 a.m.-8:00 p.m.
- December 14, 2013 – “**Christmas on Commerce**” – **a 2nd Saturday at the Depot Event**, from 10:00 a.m.-8:00 p.m.
- December 24-25, 2013 – **Christmas Holiday** – City Offices Closed
- January 1, 2014 – **New Year’s Day Holiday** – City Offices Closed
- **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

7.0 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve the Minutes of the November 18, 2013 Regular City Council Meeting.

Motion carried unanimously.

8.0 Old Business:

8.1 Motion was made by Councilman Townsend, second by Councilman Hudgens, to adopt, on Second Reading, Ordinance No. 2013-21, an Ordinance of the City of Tomball, Texas, amending its Zoning Ordinance, by approving a Planned Development District (“PDD”) of approximately 8.55 acres of land, legally described as Lot 1, Block 3, Hirschfield Farms (Unrecorded); Lot 2, Block 3, Hirschfield Farms (Unrecorded); Lot 3, Block 3, Hirschfield Farms (Unrecorded); 0.1246 acres being a residue of a called 2.8805 acre tract as described in Harris

County Clerk's File Number J-904080; 1.5918 acres being a residue of a called 3.5864 acre tract as described in Film Code Number 119-48-0065, Harris County Clerk's File; Lot 1, Block 1, Hirschfield Farms (Unrecorded); Lot 5, Block 1, Final Plat of Parkway Oasis; and being a portion of Lot 1, Block 1, Final Plat of Parkway Oasis Replat No. 1, according to the map or plat recorded in Film Code No. 635087 of the Harris County Map Records, as recorded under Harris County Clerk's File No. 20070358349; within the City of Tomball, Harris County, Texas; amending the official Zoning Map of the City to reflect the PDD to be known as Planned Development District #5 (PDD-5); adopting a Concept Plan and regulations applicable to PDD-5; 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 Townsend	<u>Aye</u>
Councilman Dodson	<u>Aye</u>

Motion carried unanimously.

- 8.2 Motion was made by Councilman Stoll, second by Councilman Townsend, to adopt on Second Reading, Ordinance No. 2013-22, an Ordinance of the City of Tomball, Texas, amending its Zoning Ordinance by changing the zoning district classification of approximately 0.68 acres of land, legally described as Lot 2, Block 2, Brown-Hufsmith Commercial within the City of Tomball, Harris County, Texas, from the Planned Development - 1 District to the Office District; said property being generally located southerly of Brown Road between State Highway 249 and Quinn Road; providing for the amendment of the official Zoning Map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters. Vote was as follows:

Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Dodson	<u>Aye</u>

Motion carried unanimously.

- 8.3 Motion was made by Councilman Townsend, second by Councilman Hudgens, to adopt on Second Reading, Ordinance No. 2013-23, an Ordinance of the City of Tomball, Texas, amending its Zoning Ordinance by amending Section 38.2 ("Use

Charts") by allowing a "Residential Use" with a Conditional Use Permit in the Office District; 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 Townsend	<u>Nay</u>
Councilman Dodson	<u>Aye</u>

Motion carried, 3 votes Aye, 1 vote Nay.

9.0 New Business:

- 9.1 Motion was made by Councilman Townsend, second by Councilman Hudgens, to approve Resolution No. 2013-34, a Resolution of the City Council of the City of Tomball, Texas, Supporting the Annual Baseball Parade, to be held in Tomball on Saturday, March 22, 2014.

Motion carried unanimously.

- 9.2 Motion was made by Councilman Stoll, second by Councilman Townsend, to approve Resolution No. 2013-33, a Resolution of the City Council of the City of Tomball, Texas Authorizing the Purchase of Property from the Texas General Land Office and School Land Board; and Authorizing the City Manager to Execute All Documents Related Thereto.

Motion carried unanimously.

- 9.3 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve, on First Reading, Resolution No. 2013-35-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving the Tomball Economic Development Corporation's Project to Expend Funds in accordance with an Economic Development Agreement by and between the Corporation and Garth Lodging Corporation, to make direct incentives to, or expenditures for, assistance with infrastructure costs for the promotion of new or expanded business enterprise related to the construction of a Holiday Inn Express & Suites Hotel to be located at 14055 Park Drive, Tomball, Texas 77375. The estimated amount of expenditures for such Project is \$56,000.00. Vote was as follows:

Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>

Councilman Townsend Aye
Councilman Dodson Aye

Motion carried unanimously.

- 9.4 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve First Amendment to Economic Development Agreement between the Tomball Economic Development Corporation and One Moore Holdings.

Motion carried unanimously.

- 9.5 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve a Commercial Real Estate Listing Agreement between the Tomball Economic Development Corporation (TEDC) and Colliers International for the sale of TEDC-owned property in the Tomball Business & Technology Park

Motion carried unanimously.

- 9.6 Executive Session: The Tomball City Council recessed at 6:30 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. 551.072 – Deliberations Regarding Real Property

After reconvening into regular session at 6:51 p.m., no action was taken.

- 10.0 Motion was made by Councilman Townsend, second by Councilman Stoll, to adjourn.

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this the 16th day of December 2013.

Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Mayor

Regular City Council

Agenda Item

Meeting Date: December 16, 2013

Data Sheet

Topic:

Approve, on Second Reading, Resolution No. 2013-35-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving the Tomball Economic Development Corporation's Project to Expend Funds in accordance with an Economic Development Agreement by and between the Corporation and Garth Lodging Corporation, to make direct incentives to, or expenditures for, assistance with infrastructure costs for the promotion of new or expanded business enterprise related to the construction of a Holiday Inn Express & Suites Hotel to be located at 14055 Park Drive, Tomball, Texas 77375. The estimated amount of expenditures for such Project is \$56,000.00.

Background:

All expenditures of the Tomball Economic Development Corporation (TEDC) sales tax revenue must first be approved as a "Project" of the Corporation. At its regular meeting on November 19, 2013, the TEDC Board of Directors did take formal action to approve, as a Project of the TEDC, an agreement with Garth Lodging Corporation for the promotion of new or expanded business development related to the construction of a Holiday Inn Express & Suites Hotel to be located at 14055 Park Drive, Tomball, Texas 77375. The Tomball City Council has final approval authority over all projects and agreements of the TEDC.

On December 2, 2013, Council approved Resolution No. 2013-35-TEDC on first reading.

Origination:

Snehal (Sam) Patel, Owner/VP of Operations, Garth Lodging Corporation

Recommendation:

Approval of Resolution No. 2013-35-TEDC on second reading

Funding: Yes

Account Number: Project Grants

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

City Secretary

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

ATTACHMENTS:

Resolution No. 2013-35-TEDC

Memo

Request Letter

Draft Agreement

Economic Impact Analysis

RESOLUTION NO. 2013-35-TEDC

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, AUTHORIZING AND APPROVING THE TOMBALL ECONOMIC DEVELOPMENT CORPORATION'S PROJECT TO EXPEND FUNDS IN ACCORDANCE WITH AN ECONOMIC DEVELOPMENT AGREEMENT BY AND BETWEEN THE CORPORATION AND GARTH LODGING CORPORATION TO PROMOTE AND DEVELOP A NEW OR EXPANDED BUSINESS ENTERPRISE; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, the Tomball Economic Development Corporation (the "TEDC"), created pursuant to the Development Corporation Act, now Chapter 501 of the Texas Local Government Code, as amended (the "Act"), desires to adopt projects and provide incentives for economic development within the City; and

WHEREAS, the Board of Directors of the TEDC has adopted, as a specific project, the expenditure of the estimated amount of Fifty-Six Thousand Dollars (\$56,000.00) to fund the construction of approved infrastructure related to the development of certain property for a proposed Holiday Inn Express & Suites Hotel at 14055 Park Drive, Tomball, TX 77375; and

WHEREAS, pursuant to the Act, the TEDC may not undertake such project without the approval of Tomball City Council; and

WHEREAS, City Council finds and determines that such project promotes new or expanded business development and is in the best interests of the citizenry; now, therefore,

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

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

Section 2. The City Council hereby authorizes and approves the adoption, by the Board of Directors of the Tomball Economic Development Corporation, as a specific project for the economic development of the City, an expenditure of the estimated amount of Fifty-Six Thousand Dollars (\$56,000.00) in accordance with an economic development agreement by and between the TEDC and Garth Lodging Corporation, to promote and develop a new or expanded business enterprise, namely the construction of a Holiday Inn Express & Suites Hotel to be located at 14055 Park Drive, Tomball, TX 77375;

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 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 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 AND APPROVED on first reading this 2 day of December , 2013.

PASSED, APPROVED, AND RESOLVED on second and final reading this _____ day of _____, 2013.

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary



TO: Honorable Mayor and City Council

FROM: Kelly Violette
Executive Director

MEETING DATE: December 2, 2013

SUBJECT: Garth Lodging Corporation Agreement

The Tomball Economic Development Corporation has received a request from Snehal (Sam) Patel, of Garth Lodging, Inc., for assistance with infrastructure costs related to the development of a proposed 70 unit Holiday Inn Express & Suites Hotel to be located at 14055 Park Drive, Tomball, TX 77375. The proposed 43,000 square foot facility will be constructed on approximately 2.4095 acres of land located on the east frontage road of the Tomball Expressway at the end of Park Drive. The hotel will have over 1,000 square feet of meeting space, an outdoor pool with a gazebo, free complimentary hot breakfast, high speed internet and a social every Wednesday night.

The project will bring 20 full time jobs and 5 part time positions to the community. The estimated value of the property and improvements is \$6,000,000.

Mr. Patel is requesting grant funding assistance with infrastructure costs that are necessary to develop this project. The eligible infrastructure improvements include water and sewer extensions, drainage facilities, electrical service, and related site improvements totaling approximately \$140,000.

Although this project does not create primary jobs, it does promote the development and expansion of business enterprise, which is considered a permissible project as outlined in Texas Economic Development Legislation.

An economic impact analysis is included with the agreement to show the impact of this project on Tomball's economy.



Garth Lodging, Inc.

November 8, 2013

Garth Lodging, Inc.
DBA: Holiday Inn Express & Suites
5820 Katy Freeway
Houston, Texas 77007

Tomball Economic Development Corporation
P.O. Box 820
Tomball, Texas 77377

RE: Grant Assistance Application

Dear Ms. Violette:

Per the requirements of the TEDC grant process, I am writing this letter to request the mega grant to help us construct the new hotel in Tomball. We believe that a new 70 room hotel in Tomball, equipped with 1,000 sq feet of meeting space, outdoor pool and gazebo would be a great addition to this already great town. Our company is Garth Lodging, Inc., our NAICS code is 721110 and I am the managing partner/owner in this organization, we are located at 5820 Katy Freeway in Houston, Texas and I can be reached at 281-451-7065 or via email at sam.patel3@hilton.com.

Our hotel will serve as the preferred place to stay when guests are visiting Tomball for leisure or business. We have an established relationship with Baker Hughes with our other hotels around Houston so we will be helping them keep most of their trainees in Tomball vs. going out to the Willowbrook area. The property will be located at the end of Park Drive between the new 249 bypass and the old 249 with access from both roads. The total square footage of the site is approximately 2 acres and the building will be 43,000 sq ft. The project will cost a total of \$6,000,000 of which \$1,350,000 will be furniture, fixtures, and equipment. We plan to start this project no later than December 15th, if we can get all of the necessary approvals from the City, and plan to complete in approximately 8 months on August 15th. This project will bring 20 new full time jobs and 5 new part time jobs to the Tomball community. The hourly team members will receive an average of \$10 per hour and the salary team members will receive an average of \$40,000 per year.

We are very excited to become a part of this great community and growing with it as well. I look forward to hearing from you in the near future on what steps I need to take going forward. Please contact me if you should have any questions or concerns at 281-451-7065.

Thank you,

Snehal Patel (Sam)
Owner / VP of Operations

**5820 Katy Freeway
Houston, Texas 77007**

AGREEMENT

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF HARRIS §

This Agreement (the “Agreement”) is made and entered into by and between the **Tomball Economic Development Corporation**, an industrial development corporation created pursuant to the Development Corporation Act, now Chapter 501 et seq. of the Texas Local Government Code, located in Harris County, Texas (the “TEDC”), and **Garth Lodging Corporation** (the “Company”), 5820 Katy Freeway, Houston, Texas 77007.

WITNESSETH:

WHEREAS, it is the established policy of the TEDC to adopt such reasonable measures from time-to-time as are permitted by law to endeavor to attract industry, create and retain primary jobs, expand the growth of the City of Tomball (the “City”), and thereby enhance the economic stability and growth of the City; and

WHEREAS, the Company proposes to develop a 2.4095 acre tract of land within the City, located at 14055 Park Drive, Tomball, TX 77375 (the “Property”), and more particularly described in Exhibit “A,” attached hereto and made a part hereof; and

WHEREAS, such development shall be an internationally known franchise hotel, required and suitable for use for tourist purposes and events; and

WHEREAS, the TEDC agrees to provide to the Company funding in an amount not to exceed Fifty-Six Thousand Dollars (\$56,000), as assistance in the construction of approved infrastructure and site preparation necessary to promote and develop a new business enterprise on the Property; and

WHEREAS, the approved infrastructure, which is found by the Board of Directors of TEDC to be required or suitable to develop the Property, is water, sewer, electric utilities, drainage, and site preparation (the “Improvements”), identified and described in Exhibit “B,” attached hereto and made a part hereof; and

WHEREAS, the Company has agreed, in exchange and as consideration for the funding, to satisfy and comply with certain terms and conditions;

NOW, THEREFORE, in consideration of the premises and the mutual benefits and obligations set forth herein, including the recitals set forth above, the TEDC and the Company agree as follows:

1.

The Company covenants and agrees that it will construct and maintain on the Property a three-story, seventy (70) room Holiday Inn Express Hotel (the “Hotel”). In conjunction with development of the Property, the Company further agrees to construct the Improvements contemplated by this Agreement, in accordance with the requirements of the ordinances of the City and the plans and specifications approved by the City. The Company further represents and agrees that it will certify the final estimated costs of the construction of such Improvements to the TEDC prior to construction.

2.

Development of the Property, including construction of the Improvements, must commence within 180 days from the date of this Agreement (the “Start Date”), and the Company shall notify the TEDC of such Start Date. The Development of the Property, including construction of the Improvements shall be completed, and all necessary occupancy permits from the City shall be obtained, within eighteen months of the Start Date. Extensions of these

deadlines, due to extenuating circumstances or uncontrollable delay, may be granted at the sole discretion of the Board of Directors of the TEDC.

3.

The Company further represents and agrees that the development described in Paragraph 1 hereof will be operated and maintained for a term of at least five (5) years.

4.

The Company further covenants and agrees that it does not and will not knowingly employ an undocumented worker. An “undocumented worker” shall mean an individual who, at the time of employment, is not (a) lawfully admitted for permanent residence to the United States; or (b) authorized by law to be employed in that manner in the United States.

5.

In consideration of the Company's representations, promises, and covenants, TEDC agrees to reimburse the Company for the actual cost of the Improvements in an amount not to exceed Fifty-Six Thousand Dollars (\$56,000), or an amount equal to Forty Percent (40%) of actual Improvement costs if less than the sum stated above. The TEDC agrees to reimburse the Company for such amount within thirty (30) days of receipt of a letter from the Company requesting such payment and including: (a) certification of the actual cost of constructing the Improvements; (b) a copy of the City's occupancy permit for the Hotel constructed on the Property, indicating that the new structure meets or exceeds three-stories and seventy (70) rooms; (c) a copy of a letter from the City acknowledging that all necessary plats, plans, and specifications have been received, reviewed, and approved; (d) verification that the Infrastructure Improvements have been constructed in accordance with the approved plans and specifications; (e) an affidavit stating that all contractors and subcontractors providing work and/or materials in

the construction of the Infrastructure Improvements have been paid and any and all liens and claims regarding such work have been released; and, (f) Proof of payment to all contractors and subcontractors providing work and/or materials in the construction of the Infrastructure Improvements, proof of payment must include copies of canceled checks and/or credit card receipts and copies of paid invoices from all contractors and subcontractors.

6.

It is understood and agreed by the parties that, in the event of a default by the Company on any of its obligations under this Agreement, the Company shall reimburse the TEDC the full amount paid to the Company by the TEDC, with interest at the rate equal to the 90-day Treasury Bill plus one-half percent ($\frac{1}{2}\%$) per annum, within thirty (30) days after the TEDC notifies the Company of the default. It is further understood and agreed by the parties that if the Company, or any owner or lessee of the Improvements, is convicted of a violation under 8 U.S.C. Section 1324a(f), the Company will reimburse the TEDC the full amount paid to the Company, with interest at the rate equal to the 90-day Treasury Bill plus one-half percent ($\frac{1}{2}\%$) per annum, within thirty (30) days after the TEDC notifies the Company of the violation.

The Company shall also reimburse the TEDC for any and all reasonable attorney's fees and costs incurred by the TEDC as a result of any action required to obtain reimbursement of such funds. Such reimbursement shall be due and payable thirty (30) days after the Company receives written notice of default. It is understood and agreed by the parties that, in the event of a default by the TEDC on any of its obligations under this Agreement, the Company's sole and exclusive remedy shall be limited to either a) the termination of this Agreement or b) a suit for specific performance.

7.

Personal Liability of Public Officials: To the extent permitted by law, no director, officer, employee or agent of the TEDC, and no officer, employee or agent of the City of Tomball, shall be personally responsible for any liability arising under or growing out of this Agreement.

8.

This Agreement shall inure to the benefit of and be binding upon the TEDC and the Company, and upon the Company's successors and assigns, affiliates, and subsidiaries, and shall remain in force whether the Company sells, assigns, or in any other manner disposes of, either voluntarily or by operation of law, all or any part of the Property and the agreements herein contained shall be held to be covenants running with the Property for so long as this Agreement, or any extension thereof, remains in effect.

9.

Any notice provided or permitted to be given under this Agreement must be in writing and may be served by (i) depositing the same in the United States mail, addressed to the party to be notified, postage prepaid, registered or certified mail, return receipt requested; or (ii) by delivering the same in person to such party; or (iii) by overnight or messenger delivery service that retains regular records of delivery and receipt; or (iv) by facsimile; provided a copy of such notice is sent within one (1) day thereafter by another method provided above. The initial addresses of the parties for the purpose of notice under this Agreement shall be as follows:

If to City:	Tomball Economic Development Corporation
	401 W. Market Street
	Tomball, Texas 77375
	Attn: President, Board of Directors

If to Company: Garth Lodging Corporation
5820 Katy Freeway
Houston, TX 77007
Attn: Snehal Patel, Owner / VP of Operations

10.

This Agreement shall be performable and enforceable in Harris County, Texas, and shall be construed in accordance with the laws of the State of Texas.

11.

Except as otherwise provided in this Agreement, this Agreement shall be subject to change, amendment or modification only in writing, and by the signatures and mutual consent of the parties hereto.

12.

The failure of any party to insist in any one or more instances on the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, or condition, or right with respect to further performance.

13.

This Agreement shall bind and benefit the respective Parties and their legal successors and shall not be assignable, in whole or in part, by any party without first obtaining written consent of the other party.

14.

In the event any one or more words, phrases, clauses, sentences, paragraphs, sections, or other parts of this Agreement, or the application thereof to any person, firm, corporation, or circumstance, shall be held by any court of competent jurisdiction to be invalid or

unconstitutional for any reason, then the application, invalidity or unconstitutionality of such words, phrases, clauses, sentences, paragraphs, sections, or other parts of this Agreement shall be deemed to be independent of and severable from the remainder of this Agreement, and the validity of the remaining parts of this Agreement shall not be affected thereby.

IN TESTIMONY OF WHICH, THIS AGREEMENT has been executed by the parties on this _____ day of _____ 2013 (the “Effective Date”).

GARTH LODGING CORPORATION

By: _____

Name: _____

Title: _____

ATTEST:

By: _____

Name: _____

Title: _____

**TOMBALL ECONOMIC DEVELOPMENT
CORPORATION**

By: _____

Name: _____

Title: President, Board of Directors

ATTEST:

By: _____

Name: _____

Title: Secretary, Board of Directors

ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____
2013, by _____, the _____ of
Garth Lodging Corporation and on behalf of said Company.

Notary Public in and for the State of Texas

My Commission Expires: _____

(SEAL)

ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____
2013, by _____, President of the Board of Directors of the
Tomball Economic Development Corporation, for and on behalf of said Corporation.

Notary Public in and for the State of Texas

My Commission Expires: _____

(SEAL)

EXHIBIT A

Legal Description of Property

A 2.4095 acre tract of land legally described as Lot F1 of Tomball Park One Subdivision in the City of Tomball, Harris County, Texas.

EXHIBIT B

The Improvements

Water, sewer, electric utilities – exterior work only

Drainage improvements

Site improvements

Economic Impact of Garth Lodging in Tomball, TX

Executive Summary

November 15, 2013

Prepared by:

Tomball Economic Development Corporation
29201 Quinn Road
Tomball, TX 77375

This summary was prepared by the Tomball Economic Development Corporation using Quick Impact by Impact DataSource. Please consult the full economic impact report for additional details and assumptions used in this analysis.

ECONOMIC IMPACT EXECUTIVE SUMMARY: GARTH LODGING

Project Description

Garth Lodging plans to develop a 70 unit Holiday Inn Express & Suites in Tomball Texas; fully equipped with, over 1,000 sq feet of meeting space, outdoor pool with a gazebo, free complimentary hot breakfast, high speed internet and a social every Wednesday night. The project bring 20 full time jobs and 5 part time positions to the community. We plan to be the preferred place to stay when in Tomball for business or leisure. Our company has several hotels in the Greater Houston area as well as Austin, Livingston, and Corpus Christi. Our companies philosophy is based around one core believe "Impressing Guests" which has led us to be the first choice for our guests when traveling.

Economic Impact Over the First 10 Years

The project will have the following economic impact on the City of Tomball area over the first 10 years:

Economic Impact Over the First 10 Years			
	Direct	Indirect & Induced	Total
Total number of permanent direct and indirect jobs to be created	20	7	27
Salaries to be paid to direct and indirect workers	\$5,044,107	\$2,513,983	\$7,558,090
Taxable sales and purchases expected in the city	\$89,647,383	\$219,974	\$89,867,356
The value of new residential property to be built for direct and indirect workers who move to the city by Year 10	\$0	\$0	\$0
The market value the firm's property on local tax rolls in Year 1	\$6,000,000	\$0	\$6,000,000

Fiscal Impact Over the First 10 Years

Over the first 10 years, the City of Tomball and Tomball EDC can expect the following net benefits from the facility, its employees, and workers in spin-off jobs created in the community:

Costs and Benefits for the City Over the First 10 Years			
	Benefits	Costs	Net Benefits
Sales taxes allocated to the City	\$1,348,010	\$0	\$1,348,010
Sales taxes allocated to Tomball EDC	\$449,337	\$0	\$449,337
Property taxes	\$199,670	\$0	\$199,670
Utility revenues	\$375,619	\$0	\$375,619
Utility franchise fees	\$35,886	\$0	\$35,886
Hotel occupancy taxes	\$7,175,710	\$0	\$7,175,710
Other taxes and user fees	\$14,016	\$0	\$14,016
Building permits and fees	\$12,390	\$0	\$12,390
Costs of providing utilities	\$0	\$338,057	(\$338,057)
Costs of providing municipal services for new residents	\$0	\$25,885	(\$25,885)
Total	\$9,610,637	\$363,942	\$9,246,695

ECONOMIC IMPACT EXECUTIVE SUMMARY: GARTH LODGING

Net Benefits To The City From The Direct and Indirect Sources

The city will receive benefits from direct and indirect economic impacts that result from the project. The benefits, associated costs and net benefits for the first 10 years are shown below, divided between direct and indirect impacts.

Net Benefits to the City from Direct and Indirect Sources			
<i>Benefits/Costs from:</i>			
	<i>Direct</i>	<i>Indirect & Induced</i>	<i>Total</i>
<u><i>Additional revenues:</i></u>			
Sales taxes allocated to the City	\$1,344,711	\$3,300	\$1,348,010
Sales taxes allocated to Tomball EDC	\$448,237	\$1,100	\$449,337
Property taxes	\$199,670	\$0	\$199,670
Utility revenues	\$360,826	\$14,793	\$375,619
Utility franchise fees	\$34,750	\$1,135	\$35,886
Hotel occupancy taxes	\$7,175,710		\$7,175,710
Other taxes and user fees	\$10,512	\$3,504	\$14,016
Building permits and fees	\$12,390		\$12,390
Total additional revenues	\$9,586,806	\$23,832	\$9,610,637
<u><i>Additional costs:</i></u>			
Costs of providing utilities	\$324,744	\$13,314	\$338,057
Costs of providing municipal services for new residents	\$19,414	\$6,471	\$25,885
Total additional costs	\$344,157	\$19,785	\$363,942
Net Benefits	\$9,242,648	\$4,047	\$9,246,695
<i>Percent of total net benefits for city</i>	<i>100%</i>	<i>0%</i>	

The net benefits to the city over the first 10 years are estimated to accrue as detailed below.

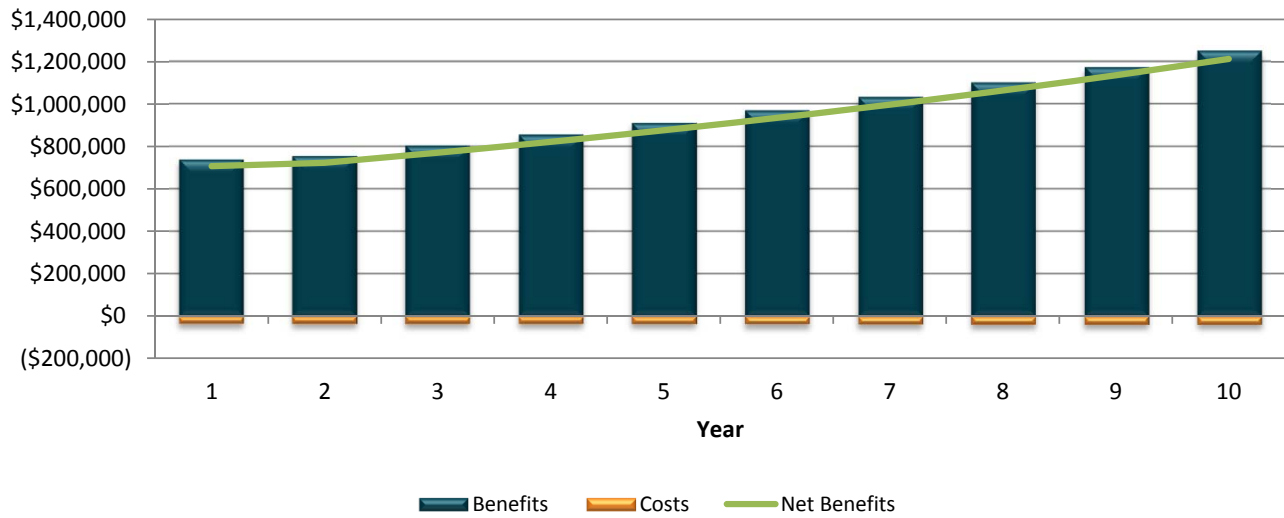
Net Benefits to the City by Year				
	Benefits	Costs	Net Benefits	Cumulative Benefits
Year 1	\$740,656	\$33,238	\$707,419	\$707,419
Year 2	\$756,766	\$33,902	\$722,864	\$1,430,283
Year 3	\$805,210	\$34,580	\$770,630	\$2,200,913
Year 4	\$857,019	\$35,272	\$821,747	\$3,022,660
Year 5	\$912,430	\$35,977	\$876,452	\$3,899,112
Year 6	\$971,694	\$36,697	\$934,997	\$4,834,109
Year 7	\$1,035,084	\$37,431	\$997,653	\$5,831,762
Year 8	\$1,102,889	\$38,180	\$1,064,709	\$6,896,471
Year 9	\$1,175,419	\$38,943	\$1,136,476	\$8,032,947
Year 10	\$1,253,470	\$39,722	\$1,213,748	\$9,246,695
Total	\$9,610,637	\$363,942	\$9,246,695	
<i>Present Value of Net Benefits*</i>			<i>\$6,962,945</i>	

**The Present Value of Net Benefits is a way of expressing in today's dollars, dollars to be paid or received in the future. A dollar today and a dollar to be received or paid at differing times in the future are not comparable because of the time value of money. The time value of money is the interest rate or discount rate. This analysis uses a discount rate of 5% to make the dollars comparable.*

Fiscal Impact Over the First 10 Years

The graph below depicts the costs, benefits and net benefits to the city over the first 10 years.

Net Benefits Over the First 10 Years



Regular City Council

Agenda Item

Meeting Date: December 16, 2013

Data Sheet

Topic:

The City Council and the Charter Review Commission will enter into a workshop session to receive the final report of the Charter Review Commission:

- Call the Charter Review Commission Meeting to Order
- Approve the Minutes of the December 3, 2013 Special Charter Review Commission
- Consideration of the Final Charter Review Commission Report by City Council regarding Possible Charter Amendments to be Placed on the May 10, 2014 Special Charter Amendment Election Ballot
- Adjourn the Charter Review Commission Meeting

Background:

Origination:

Charter Review Commission

Recommendation:

N/A

Funding:

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

City Secretary

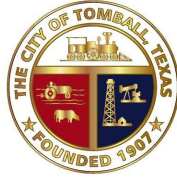
ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Draft Minutes of the December 3, 2013 Special Charter Review Commission

Final Report from the Charter Review Commission to the City Council

MINUTES OF SPECIAL CHARTER REVIEW COMMISSION MEETING CITY OF TOMBALL, TEXAS



**TUESDAY, DECEMBER 3, 2013
6:00 P.M.**

1.0 Call to Order: The meeting was called to order by Chair Steven Vaughan.

1.1 Roll call was taken.

Members present were:

Commissioner Richard Anderson
Commissioner Lori Ball
Commissioner Chad Degges
Commissioner John Lynch
Commissioner Kit Pfeiffer
Commissioner Tina Salem
Commissioner Latrell Shannon
Commissioner Wes Sumner
Commissioner Mark Walicki

Members absent:

Commissioner Will Benson
Commissioner Pat Brautigam
Commissioner Gloria Monzingo

Others present:

Don Edmonds, Consultant
George Shackelford, City Manager
Loren B. Smith, City Attorney
Doris Speer, City Secretary

2.0 Motion was made by Commissioner Pfeiffer, second by Commissioner Shannon, to approve the Minutes of the November 12, 2013 Charter Review Commission Meeting.

Motion carried unanimously.

3.0 New Business:

3.1 Consideration and Action regarding Final Report of Proposed Amendatory Language for Articles I-XII of the Charter to City Council on December 16, 2013

Motion was made by Commissioner Degges, second by Commissioner Sumner, to further amend Section 6.12 – Meetings of Council by removing the requirement to set meetings by ordinance:

AMEND: SECTION 6.12 – MEETINGS OF COUNCIL:

The Council shall schedule at least two (2) regular meetings each month and as many additional meetings as it deems necessary to transact the business of the City and its citizens. The Council shall fix, [by ordinance,] the days and time of the regular meetings. All regular meetings of the Council shall be held at the City of Tomball City Hall, unless the City Council votes to approve a location other than the City Hall in the event it is determined to be in the public interest. All meetings shall be open and accessible to the public; however, the Council may recess to an Executive Session only for the purposes provided by the Texas Open Meetings Act. Final action thereon shall not be taken by the Council until the matter is placed on the agenda and a vote taken in an open meeting.

The City Secretary, upon written request of the Mayor or any three (3) Council members, shall call special meetings of the Council, notice of such special meetings shall be given to each member of the Council, which said notice shall state the date for such meeting and the subject to be considered at such meeting, and no other subject shall be thereby considered. [Said notice to the Council shall be sufficient if delivered to the Council members in person or in the event of the inability to locate said Council member within the City of Tomball, Texas, delivery of such notice to his or her home shall be sufficient.]

Motion carried unanimously.

Motion was made by Commissioner Ball, second by Commissioner Walicki, to approve the draft of the Final Report in the whole, as presented, with minor corrections as presented.

Motion carried unanimously.

4.0 No Public Comments were received.

5.0 Motion was made by Commissioner Pfeiffer, second by Commissioner Shannon, to adjourn.

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this the 16th day of December 2013.

Doris Speer, TRMC, CMC
City Secretary

Steven L. Vaughan
Chair

FINAL REPORT

**CITY OF
TOMABALL, TEXAS**

A REPORT

from the

CHARTER REVIEW COMMISSION

to the

CITY COUNCIL

December 16, 2013

INTRODUCTION

The voters of the City of Tomball adopted a Home Rule Charter at an election on January 17, 1987. Prior to that time, the City operated under the general laws of the State of Texas. The original Charter was subsequently amended in a number of ways at an election on May 6, 1995.

In the years since its Charter was last amended, the City has grown and changed in significant ways, and various issues have developed within the document. These issues fall into three categories, as follows:

1. Some of its provisions have been materially affected by state and/or federal legislation or by court decisions.
2. Some of its provisions are, for one reason or another, not being observed as a result of decisions by the City Council and/or city administration.
3. Some of its provisions simply need to be clarified or modified to enhance future implementation and operations.

Recognizing these issues, the City Council decided in August 2013 to subject the Charter to a comprehensive review, utilizing the assistance of a citizen advisory group and the guidance of a public affairs consultant. Subsequently, a thirteen-member Charter Review Commission was appointed by the Council and the service of Consultant Don R. Edmonds was retained. In general, the Council charged the Commission with a responsibility to independently review the Charter and to make recommendations as to necessary amendment(s) of this important document.

The Commission held its organizational meeting on September 17, 2013. Its membership included the following Tomball citizens:

Steven Vaughan, Chairman
Kit Pfeiffer, Vice Chairman
Patricia Brautigam
Chad Degges
Mark Walicki
Will Benson
John Lynch

Richard Anderson
Lori Ball
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Tina Salem
Wes Sumner

The Commission has met regularly since its inception with the consultant, the City Manager, the City Secretary and the City Attorney. In the process, the Commission has studied the Charter in detail; has considered a broad range of policy questions represented by the various issues outlined above; and has developed the following recommendations for amending the City's Home Rule Charter.

**CURRENT CHARTER ORGANIZATION AND NUMBERING,
AS RELATED TO PROPOSED AMENDMENTS:**

Tomball's Charter presently includes twelve major articles, numbered by Roman numerals. Each article is then divided in sections, identified by Arabic numbers. Some sections are further divided into subsections, denoted by capital letters and numbers.

For the purpose of clarity, all sections in the Charter are referred to in numerical order and title, including those sections within which no amendments are recommended. Every section in which an amendment(s) is recommended is recited in its entirety. Current Charter language that is proposed to be amended is shown as [bracketed and underlined]. Proposed amendatory language, if any, is shown as *italicized and in bold type*.

A brief explanation of the Commission's reason for the proposed amendment(s) follows each section or subsection and is titled "Explanatory Note."

PROPOSED AMENDMENTS AND EXPLANATORY NOTES:

ARTICLE I. INTRODUCTORY PROVISIONS

SECTION 1.01 - CORPORATE NAME

No amendatory action proposed.

SECTION 1.02 - MEANING OF THE WORD "CITY"

No amendatory action proposed.

SECTION 1.03 - MEANING OF THE WORD "COUNCIL"

No amendatory action proposed.

SECTION 1.04 - EFFECT ON CHARTER OF EXISTING LAW

No amendatory action proposed.

[SECTION 1.05 - CONTINUATION OF BUDGET]

[The budget adopted for the City for fiscal year October 1, 1986, to September 30, 1987 shall be and become the budget for the current year.]

Explanatory Note: Provision is transitional in nature and no longer germane to the Charter.

[SECTION 1.06 - INTERIM MUNICIPAL GOVERNMENT]

[Upon adoption of this Charter, the persons then filling elective offices will continue to fill these offices to which they were elected. Thereafter, the City Council and Mayor shall be elected as provided in Article VI, Section 6.02. Persons, who on the date this Charter is adopted, who are filling appointive positions with the City which are retained under this Charter, may continue to fill these positions for the term for which they were appointed, unless removed by the Council or by other means provided for in this Charter. Persons who, on the effective date of this Charter, are filling elective offices, that by this Charter are made appointive offices, shall continue to serve in those offices for the terms to which they were elected.]

Explanatory Note: Provision is transitional in nature and no longer germane to the Charter.

[SECTION 1.07 - INTERIM ELECTION PROCEDURE]

[For an orderly transition to three-year (3-year) terms from two-year (2-year) terms, the following schedule will be implemented:

Persons presently in an elective term will continue in office. Immediately following the Charter Election, at the next regularly scheduled Council Meeting, the three (3) City Councilmen whose terms are expiring April 1987 will draw for Positions 1 and 5 for three-year (3-year) terms and Position 3 for a two-year (2-year) term, in a manner not inconsistent with State law. A separate drawing will be held the same date for Positions 2 and 4 by the incumbents with one (1) year remaining on their existing term. These positions will be for three-year (3-year) terms starting May 1988. If the Councilman chooses to run for re-election, he must run for the Position number that he drew.

In the first (1st) election, on the first (1st) Saturday of April 1987, after the adoption of this Charter, Councilmen shall be elected for Positions 1, 3 and 5 as outlined above.

In the second (2nd) election year, on the third (3rd) Saturday of May 1988, after adoption of this Charter, Councilmen shall be elected for Positions 2 and 4 for three-year (3-year) terms. The Mayor will be elected for a two-year (2-year) term.

In the third (3rd) election year, on the third (3rd) Saturday of May 1989, after adoption of this Charter, Position 3 will be elected for a three-year (3-year) term.

In the fourth (4th) election year, on the third (3rd) Saturday of May 1990, after adoption of this Charter, the Mayor will be elected for a two-year (2-year) term. Positions 1 and 5 will be elected for three-year (3-year) terms.

In the fifth (5th) election year, on the third (3rd) Saturday of May 1991, after adoption of this Charter, the Positions 2 and 4 will be elected for three-year (3-year) terms.

In the sixth (6th) election year, on the third (3rd) Saturday of May 1992, after adoption of this Charter, Position 3 and the Mayor will be elected for three-year (3-year) terms.

This will complete the schedule whereby two (2) of the six (6) members comprising the Office of Mayor and City Council will be up for election each year.]

Explanatory Note: Provision is transitional in nature and no longer germane to the Charter.

SECTION 1.08 - GENDER OF WORDING

No amendatory action proposed.

[SECTION 1.09 - SUBMISSION OF THE CHARTER TO THE VOTERS]

[The Charter Commission in preparing this Charter concludes it is impracticable to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function it is necessary that it should be adopted in its entirety. For these reasons, the Charter Commission directs that the Charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City at an election to be held on January 17, 1987. Not less than (30) days prior to that election, the Council shall cause the City Secretary to mail a copy of this Charter to each qualified voter of the City as appears from the latest certified list of registered voters. If a majority of the qualified voters voting in the election shall vote in favor of the adoption of this Charter, it shall become the Charter of the City and after the returns have been canvassed, the same shall be declared adopted and the City Secretary shall file an official copy of the Charter with the records of the City. The City Secretary shall furnish the Mayor a copy of said Charter which copy of the Charter so adopted, authenticated and certified by his signature and the seal of the City, shall be forwarded by the Mayor to the Secretary of the State of Texas and shall show approval of such Charter by the majority vote at that election.]

Explanatory Note: Provision is transitional in nature and no longer germane to the Charter.

SECTION 1.10 - RENUMBERING OF CHARTER

Subsequent to the Charter amendment election of May 10, 2014, the City Council shall by ordinance authorize the general editing of this Charter to renumber and rearrange as necessary all articles, sections, and subsections therein, or amendments thereto.

Explanatory Note: New provision necessary to specifically authorize complete editing of the Charter and to reflect the results of the upcoming special election.

ARTICLE II. FORM OF GOVERNMENT AND BOUNDARIES

SECTION 2.01 - FORM OF GOVERNMENT

No amendatory action proposed.

SECTION 2.02 - BOUNDARIES

No amendatory action proposed.

SECTION 2.03 - ANNEXATION

No amendatory action proposed.

SECTION 2.04 - DETACHMENT OF TERRITORY

No amendatory action proposed.

SECTION 2.05 - BOARDS, AGENCIES AND COMMISSIONS

No amendatory action proposed.

ARTICLE III. GENERAL PROVISIONS

SECTION 3.01 - OFFICIAL OATH

No amendatory action proposed.

SECTION 3.02 - AMENDING THE CHARTER

No amendatory action proposed.

SECTION 3.03 - SEVERABILITY CLAUSE

No amendatory action proposed.

SECTION 3.04 - JUDICIAL NOTICE

No amendatory action proposed.

SECTION 3.05 - PUBLIC RECORDS

No amendatory action proposed.

SECTION 3.06 - OFFICIAL NEWSPAPER

No amendatory action proposed.

SECTION 3.07 - PROVISIONS RELATING TO ASSIGNMENT, EXECUTION, AND GARNISHMENT.

The property, real and personal, belonging to the City shall not be liable to be sold or appropriated under any writ of execution or cost bill; *and no lien of any kind shall ever exist against any such property owned by the City except that the lien be created or authorized by this Charter or state law.* The funds belonging to the city in the hands of any person, firm or corporation shall not be liable for garnishment, attachment or sequestration nor shall the City be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the City nor any of its officers or agents shall be required to answer any writ or garnishment on any account whatever. The City shall not be obligated to recognize any assignment of

wages or funds by its employees, agents or contractors, *except as required by state or federal law.*

Explanatory Note: Addition in the first sentence is a standard legal disclaimer lacking in the current Charter. Garnishment of employee wages is now mandated in certain cases under state and federal laws. The proposed change in the final sentence is necessary to comply with those laws.

SECTION 3.08 - SECURITY AND BOND NON-REQUIREMENT

No amendatory action proposed.

ARTICLE IV. POWERS OF THE CITY

SECTION 4.01 - GENERAL

No amendatory action proposed.

SECTION 4.02 - GENERAL POWERS ADOPTED

No amendatory action proposed.

SECTION 4.03 - EMINENT DOMAIN

No amendatory action proposed.

SECTION 4.04 - REQUIRED NOTICE FOR CLAIMS AGAINST THE CITY

No amendatory action proposed.

ARTICLE V. ELECTIONS

SECTION 5.01 - ELECTIONS: REGULAR AND SPECIAL

[The annual regular election shall be held on the first 1st Saturday in May for the purpose of electing a Mayor and Council members. The City Municipal Building will be the

polling place for elections. The Council may, by ordinance or resolution, call special elections as authorized by State or Federal law and this Charter.]

- A. All City elections shall be conducted in accordance with the Texas Election Code.*
- B. The regular City election shall be held annually on the second Saturday in May or such other date as required by the Texas Election Code. The City Council shall be responsible for specifying the places for holding such elections.*
- C. The City Council may, by resolution or ordinance, order a special election for purposes consistent with this Charter and laws of the State of Texas. The City Council will fix the time and places for such a special election and provide all means for holding same.*
- D. Municipal elections shall be conducted by election officials appointed by the City Council, or as otherwise prescribed by law. Sample ballots identical in format to those used in the specific election shall be posted in the voting place(s) for the purpose of voter orientation.*
- E. All municipal elections shall be publicized in accordance with the Texas Election Code.*

Explanatory Note: Proposed changes will make the section more fully understandable to the public and will comply with current state law.

SECTION 5.02 - REGULATIONS AND LAWS GOVERNING CITY ELECTIONS

No amendatory action proposed.

SECTION 5.03 - FILING FOR OFFICE

Any qualified citizen as defined by Article 6.03 of this Charter may file for election to the Office of Mayor or Council Member. A signed application and [loyalty] *prescribed* oath shall be filed with the City Secretary [not later than 5 P.M. of the forty-fifth (45) day prior to the regular election and thirty-one (31) days prior to a special election] in accordance with the Texas Election Code.

Explanatory Note: Reference to a “loyalty” oath is no longer in common usage, and state law has superseded these deadlines.

SECTION 5.04 - OFFICIAL BALLOT

No amendatory action proposed.

SECTION 5.05 - ELECTION BY MAJORITY

No amendatory action proposed.

SECTION 5.06 - CONDUCTING ELECTIONS

All residents who have complied with voter registration requirements as provided by the State Election Code shall be eligible to vote in the City elections. Election officials will be appointed by the [Mayor] *City Council*, consistent with State laws, and compensation shall be set by the [Mayor and the] Council. Early voting shall be governed by the State Election Code of the State of Texas.

Explanatory Note: Proposed changes are necessary to make the Charter coincide with current practice as to such appointments.

SECTION 5.07 - CANVASSING ELECTIONS

No amendatory action proposed.

SECTION 5.08 - COUNCIL TO BE JUDGE OF ELECTION QUALIFICATIONS

No amendatory action proposed.

SECTION 5.09 - OATH OF OFFICE

No amendatory action proposed.

ARTICLE VI. THE TOMBALL CITY COUNCIL

SECTION 6.01 - POWERS OF THE CITY COUNCIL

No amendatory action proposed.

SECTION 6.02 - NUMBER, SELECTION, AND TERM

The Legislative and governing body of the City shall consist of a Mayor and five (5) Councilmen and shall be known as the "City Council of the City of Tomball, Harris County, Texas."

- A. The Mayor shall be elected from the City at large. The Councilmen shall be elected from the City at large by positions known as Positions 1, 2, 3, 4, and 5.
- B. The Mayor shall be the presiding officer of the Council and shall be recognized as the head of the City Government for all ceremonial purposes and by the Governor for purposes of military law. The Mayor shall be allowed to vote only in case of a tie vote and shall not have the authority to veto any action of the Council.
- C. The Mayor and each Councilman shall hold office for a period of three (3) years or until his successor is elected and qualified. All elections shall be held in the manner provided for by this Charter and the election laws of the State of Texas. [(See Article 1.07 for transition details.)]
- D. [Beginning with the 1993 election year, the pairing and order of Positions for elective offices of the City shall be: Positions 1 and 5, Positions 2 and 4, and Position 3 and Mayor. Prior to 1993, the Interim Election Procedure outlined in Section 1.07 shall be followed in the election of all City officers.]
- E. There shall be no limitation of elected terms for the Office of Mayor and Councilman.

Explanatory Note: Last parenthetical sentence of Subsection C and all of Subsection D is transitional in nature and no longer germane to the Charter.

SECTION 6.03 - QUALIFICATIONS

No amendatory action proposed.

SECTION 6.04 - COMPENSATION

No amendatory action proposed.

SECTION 6.05 - NEPOTISM

No amendatory action proposed.

SECTION 6.06 - HOLDING DUAL OFFICES

No amendatory action proposed.

SECTION 6.07 - CONFLICT OF INTEREST IN CITY CONTRACTS

No amendatory action proposed.

SECTION 6.08 - MAYOR AND MAYOR PRO-TEM

No amendatory action proposed.

SECTION 6.09 - VACANCIES

When a vacancy occurs in the Council, the following provisions shall apply, to wit:

Any vacancy or vacancies occurring [shall not be filled by appointment but must be filled by a majority vote of the qualified voters voting in a special election called for such purpose on the next Uniform Election Date.] for which the unexpired term is twelve (12) months or less shall be filled by appointment of the City Council. Any vacancy or vacancies for which the unexpired term is for more than twelve (12) months must be filled by a majority of voters voting in a special election called for such purpose in accordance with the Texas State Constitution.

It is further provided that in a special or regular election: The person(s) elected to fill a vacancy or vacancies shall serve only the unexpired term for that particular position.

Explanatory Note: Proposed changes will provide, in certain cases, for appointment of vacancies occurring on the City Council, in keeping with the recent approval of an amendment to the Texas Constitution and in the interest of economy.

SECTION 6.10 - APPOINTMENTS AND REMOVALS

No amendatory action proposed.

SECTION 6.11 - INTERFERENCE WITH ADMINISTRATION

No amendatory action proposed.

SECTION 6.12 - MEETINGS OF COUNCIL

The Council shall schedule at least two (2) regular meetings each month and as many additional meetings as it deems necessary to transact the business of the City and its citizens. The Council shall fix, [by ordinance,] the days and time of the regular meetings.

All regular meetings of the Council shall be held at the City of Tomball City Hall, unless the City Council votes to approve a location other than the City Hall in the event it is determined to be in the public interest. All meetings shall be open and accessible to the public; however, the Council may recess to an Executive Session only for the purposes provided by the Texas Open Meetings Act. Final action thereon shall not be taken by the Council until the matter is placed on the agenda and a vote taken in an open meeting.

The City Secretary, upon written request of the Mayor or any three (3) Council members, shall call special meetings of the Council, notice of such special meetings shall be given to each member of the Council, which said notice shall state the date for such meeting and the subject to be considered at such meeting, and no other subject shall be thereby considered. [Said notice to the Council shall be sufficient if delivered to the Council members in person or in the event of the inability to locate said Council member within the City of Tomball, Texas, delivery of such notice to his or her home shall be sufficient.]

Explanatory Note: Proposed changes to reflect current administrative practices and use of electronic methods of notification.

SECTION 6.13 - RULES OF PROCEDURE

No amendatory action proposed.

SECTION 6.14 - ORDINANCES

In addition to such acts of the Council as are required by statute or by this Charter to be by ordinance, every act of the Council establishing a fine or other penalty or providing for the expenditure of funds or for the contracting of indebtedness shall be by ordinance. The enacting clause of all ordinances shall be, "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL:"

A. Procedure for Passage of Ordinances

Every ordinance shall be introduced in written or printed form and, upon passage, shall take effect at the time indicated therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than fourteen (14) days from the date of its passage. The City Secretary shall give notice of every ordinance under consideration, by causing the caption or summary, including the penalty, fine, or forfeiture for a violation of any such ordinance to be published in the official newspaper for the City after the first reading and at least once within fourteen (14) days after the passage of said ordinance. He shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the Charter, and the date of such publication, and promulgation of such ordinance; provided, that the provisions of this section shall not apply to the correction, revision and modification of the ordinances of the City for

publication in book or pamphlet form. It shall be necessary to the validity of any ordinance that it shall be read two (2) times and considered at two (2) sessions of the Council unless addressed otherwise by this Charter. At the first (1st) reading, said ordinance shall be read in its entirety unless a motion is made and passed suspending the requirement of the reading of the ordinance, in which case such ordinance shall be read by caption only, followed by an explanation of the ordinance. The one (1) remaining presentation of said ordinance may be by caption only. [Copies of any ordinance being considered by Council shall be available, in draft form, at that Council meeting for public review during that meeting.] Copies of said ordinances [after final passage, are] *shall be made* available at the City Hall [for a fee] *upon request*. Every ordinance shall be authenticated by the signature of the Mayor and City Secretary and shall be systematically recorded in an ordinance book in a manner approved by the Council. It shall only be necessary to record the caption or title of ordinances in the minutes or journal of Council meetings. The Council shall have power to cause the ordinances of the City to be corrected, revised, codified and printed in code form as often as the Council deems advisable, and such printed code, when adopted by the Council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. However, if the ordinance is amended, it then must be published one time, by caption only, in the official City newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof.

Explanatory Note: Proposed changes to reflect current administrative practices.

SECTION 6.15 - OFFICIAL BONDS FOR CITY EMPLOYEES

No amendatory action proposed.

SECTION 6.16 - INVESTIGATIVE BODY

No amendatory action proposed.

ARTICLE VII. ADMINISTRATIVE SERVICES

SECTION 7.01 - CITY MANAGER

A. Appointment and Qualifications:

The Council shall appoint an administrative and executive officer of the City who shall be responsible to the Council for the administration of all the affairs of the City. He shall be chosen by the Council solely on the basis of his executive and administrative training, experience and ability. No member of the Council shall,

during the time for which he is elected and for one year thereafter, be appointed City Manager.

B. Term and Salary:

- (1) The City Manager shall be appointed for a term not to exceed two years by a majority vote appointment shall be secured through an explicit contractual agreement which shall protect the rights of both the Council and the City Manager.
- (2) The City Manager shall receive compensation as may be fixed by the Council.

C. Duties of the City Manager. The City Manager shall:

- (1) Be responsible to the Council for the efficient and economical administration of the City government. He shall have the authority, with the approval of the Council, to appoint and remove all department heads. He shall have the authority to appoint and remove all other employees in the administrative service of the City. He may authorize the head of a department to appoint and remove subordinates in his respective department. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager.
- (2) Prepare the budget annually and submit it to the Council and be responsible for its administration after adoption.
- (3) Prepare and submit to the Council, as of the end of the fiscal year, a complete report on the finances and administrative activities of the City for the preceding year.
- (4) Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable.
- (5) Perform such duties as may be prescribed by this Charter or may be required of him by the Council, not inconsistent with this Charter.
- (6) [Every odd-numbered year, take an inventory of all City-owned real estate. After reviewing the inventory, he will recommend to the Council disposition of said real estate the City is not using or for which it has no plans for use. However, nothing herein shall preclude the City from selling any of its real estate at any time it is deemed appropriate.]
- (7) *Prepare a written report to the City Council, first in 2019, and thereafter at intervals not exceeding five years as to the need for revision*

of the city Charter, with special attention given to conflicts, if any, between the Charter and state law and recommending such amendments to the Charter as may seem necessary for legal, administrative, or other reasons.

Explanatory Note: Subsection C.(6) is proposed to be deleted because it has never been routinely observed and is thought to be an unnecessary administrative practice. Subsection C.(7) is proposed to be added to guarantee periodic review of the overall condition and ongoing relevancy of the Charter.

SECTION 7.02 - ASSISTANT CITY MANAGER

No amendatory action proposed.

SECTION 7.03 - POLICE DEPARTMENT

A Police Department is established to preserve order, to strive to secure the safety of residents, to prevent violence and to protect life and property from injury and loss within the limits and allowable jurisdiction of the City. [The Department will be responsible for regulating the proper keeping of dogs, pets and farm animals within the City limits so as to maintain standards and safety for its citizens.]

A. Chief of Police

The Chief of Police is the senior officer of the Police Department. He is appointed by the City Manager, with the approval of the Council, for an indefinite term. With the approval of the City Manager, he appoints and removes the employees of the Police Department. He is responsible to the City Manager for the administration of the Police Department and the performance of Council-established duties and directives. [He may be removed from office by the City Manager, with the approval of the Council.]

B. Reserve Police

The Chief of Police may appoint or remove "Reserve Police Officers" in accordance with guidelines established by the Council. No other persons, except as otherwise provided by the laws of the State of Texas, shall act as "special police" within the City.

Explanatory Note: In view of its overall essential duties, the specific reference to the department's responsibility for animal control is thought to be an unnecessary detail in the Charter. Specific reference to the chief's removal from office is a redundancy, previously included among the powers of the City Manager enumerated in Article VII of the Charter.

SECTION 7.04 - CITY SECRETARY

There shall be a City Secretary for the City. The City Manager, with the approval of the Council, shall appoint a City Secretary and such assistants as the Council shall deem advisable. The City Secretary, or an Assistant City Secretary, shall give notice of Council meetings, shall keep the minutes of proceedings of such meetings, and shall authenticate by his signature and record in full in a book kept and indexed for the purpose, all ordinances and resolutions, and shall perform such other duties assigned by the City Manager and those elsewhere provided in this Charter and the laws of the State of Texas. [The duties of City Secretary, City Treasurer and City Tax Collector may be performed by the same individual.]

Explanatory Note: Provision to be deleted is generally outdated and no longer practical.

SECTION 7.05 - [CITY TREASURER] *FINANCE DIRECTOR*

There shall be a [City Treasurer] *Finance Director* for the City. The City Manager, with the approval of the Council, shall appoint a [City Treasurer] *Finance Director* and such assistants as the Council shall deem advisable. The [City Treasurer] *Finance Director* shall perform the duties delegated to him by the City Manager and those which may be imposed upon him by the laws of the State of Texas. [The duties of City Secretary, City Treasurer, and City Tax Collector may be performed by the same individual.]

Explanatory Note: Proposed to reflect titles in current use and current administrative practices.

[SECTION 7.06 - [DEPARTMENT OF TAXATION]

[There shall be established and maintained a Department of Taxation to collect taxes for the City. The City Manager shall appoint an Assessor/Collector to administer said department.]

The Assessor/Collector shall perform all duties assigned by the City Manager. He shall, at the end of every business day, pay to the City Treasurer all monies collected. At the end of every month, he shall submit a written report to the City Manager of all monies so collected and paid. The duties of City Secretary, City Treasurer and City Tax Assessor/Collector may be performed by the same individual.]

Explanatory Note: Proposed to reflect current administrative practices as to the assessment and collection of taxes.

SECTION 7.07 - CITY FIRE DEPARTMENT

[A. Fire Marshal]

[A Fire Marshal shall be appointed by the City Manager and shall be responsible for the enforcement of ordinances pertaining to the City Building Fire Codes and for the general protection from fire for the residents of the City. He shall receive for his services such compensation as may be fixed by the Council and shall hold his office at the pleasure of the City Manager.]

[B. Volunteer Fire Department]

[The Council may establish and maintain a Volunteer Fire Department and may procure fire engines and other apparatus for the extinguishment of fires, for salvage and rescue operations and provide engine houses and funds for maintenance and operation and shall authorize the forming of fire fighting companies as required. The companies so organized shall constitute the Fire Department. The Department may elect its own members and officers. The officers shall be chosen as said Department may determine. All officers so elected shall be commissioned by the Mayor, with the exception of the Fire Chief, who shall be the chief executive officer of the Fire Department, whose election must be approved by the Council. Said Department may adopt its own constitution and by-laws not inconsistent with this Charter or the City ordinances. The by-laws of the Volunteer Fire Department shall be approved by the Council, as well as amendments made thereto. The Council may pass such ordinances as they may deem proper for the welfare of said Department. The Department shall assume responsibility for the care and management of the engines, other implements and apparatuses provided and used for fighting fires and for salvage and rescue operations.]

[C. Contractual Agreement]

[Approval of the by-laws and operating budget of the Volunteer Fire Department shall constitute an agreement between the City and members of the Tomball Volunteer Fire Department to provide protection to the City from fire and other disasters. The Council shall also cooperate with contiguous neighboring communities on problems of fire protections and disasters.]

The Fire Department is established for general protection from fire for the residents of the City, for fire prevention education and enforcement, for salvage and rescue operations, and for other related activities as may be assigned by the City Council. The department shall consist of full-time, part-time, volunteer members or any combination thereof. All such members shall function under the Standard Operating Guidelines of the Fire Department.

A. Fire Chief

The Fire Chief is the senior officer of the Fire Department. He is appointed by the City Manager, with the approval of the City Council, for an indefinite term. With the approval of the City Manager, he appoints and removes employees of the Fire Department. His is responsible to the City Manager for the administration of the Fire Department and the performance of Council-established duties and directives.

B. Fire Marshal

A Fire Marshal shall be selected by the Fire Chief, with the approval of the City Manager and shall be responsible for enforcement of the City Fire Codes and other functions as may be assigned by the Fire Chief. He shall be a member of the command staff of the Fire Department, and he may be removed from office by the Fire Chief with the approval of the City Manager.

C. Mutual Aid Agreements with Other Fire Departments

Subject to approval by the City Council, the Fire Department may enter into inter-local and mutual aid agreements with other fire departments in the area by which to provide and receive assistance in emergency situation.

Explanatory Note: Entire existing section concerning the fire department was found to be generally outdated and requiring total revision, in order to accurately reflect current departmental policies and practices.

SECTION 7.08 - CITY ATTORNEY

No amendatory action proposed.

SECTION 7.09 - MUNICIPAL COURT

There shall be established and maintained a Court designated as a "Municipal Court" for the trial of misdemeanor offenses, with all such powers and duties as are now or hereafter may be prescribed by the laws of the State of Texas relative to Municipal or Recorder's Court.

- A. The Judge of said Court shall be appointed by the Council, and shall be a licensed attorney, and shall receive such salary as may be fixed by the Council. The Judge of said Court shall hold office at the pleasure of the Council.
- B. [The City Secretary, or an assistant City Secretary, shall be ex-officio Clerk of said Court.]

- C. The Clerk of said Court and his deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said Court thereto and generally do and perform any and all acts usual and necessary by the Clerk of Courts in issuing process of said courts and conducting the business thereof.
- D. The Council shall appoint other licensed attorneys to act as Temporary Judges of said Court in case of disability or absence of the Judge of the Municipal Court. The salary of Temporary Judges shall be fixed by the Council.
- E. A City Judge shall hold no other City office or City employment during the term for which he is appointed by the Council. Should a person serving as City Judge become a candidate in a City election, he shall resign his position as City Judge upon election to a City Office.
- F. The Mayor shall serve as Judge of the Municipal Court in the absence of the City Judge or his alternates.

Explanatory Note: Subsection B is no longer an administrative practice.

SECTION 7.10 - HEALTH DEPARTMENT

To assure a high quality of health and sanitation standards for the City, including the regulation of businesses in conflict with the City Health Code, the City shall utilize and adhere to all rules and regulations regarding health and sanitation standards outlined, required, and governed by the Harris County Department of Health and the State Health Department. [An official City Health Department will be established at such time that county and/or state supervision becomes inadequate.]

[A. City Health Officer]

[The City Council shall appoint a City Health Officer who is a licensed physician, qualified to practice medicine in the State of Texas. He shall receive for his services such compensation as may be fixed by the Council and shall hold his office at the pleasure of City who is a licensed physician, qualified to practice medicine in the State of Texas. He shall receive for his services such compensation as may be fixed by the Council and shall hold his office at the pleasure of City Council.]

[B. Duties of City Health Officer]

[The City Health Officer advises the City Manager and City Council on a program of public health and in cases of life and health threatening situations. He shall be the official spokesperson for the City in the event of emergency health matters.]

[The City Health Officer cooperates with nearby cities and jurisdictions, the Commissioner's Court of Harris County, and the State Health Department on problems of health and sanitation that affect the City.]

Explanatory Note: Proposed changes to reflect current administrative practices.

SECTION 7.11 - DEPARTMENT OF PUBLIC WORKS

No amendatory action proposed.

SECTION 7.12 - [CITY BUILDING OFFICIAL AND INSPECTORS] DEPARTMENT OF COMMUNITY DEVELOPMENT

[The City Manager shall appoint the Building Department staff commensurate with positions approved by the Council. The staff shall receive for their services such compensation as may be fixed by the Council and shall hold office at the pleasure of the City Manager.]

[The City Manager shall appoint the Building Department staff commensurate with positions approved by the Council.]

[The staff shall receive for their services such compensation as may be fixed by the Council and shall hold office at the pleasure of the City Manager.]

There shall be a Director of Community Development for the City. The City Manager, with the approval of the City Council, shall appoint a Director of Community Development and such assistants as the Council shall deem advisable. The Director of Community Development shall oversee the city's development processes, including planning and zoning, engineering, code enforcement, and inspections, and shall perform such other duties assigned by the City Manager and those elsewhere provided in this Charter and the laws of the State of Texas.

Explanatory Note: Building Department has been merged into an expanded Department of Community Development. Proposed changes reflect current administrative structure.

[SECTION 7.13 - DEPARTMENT OF PARKS, RECREATION AND BEAUTIFICATION]

[The Council shall appoint an Advisory Board for Park, Recreation and Beautification. The Advisory Board shall study the recreation, park facilities, and beautification programs of the City and shall confer with the City Manager and advise him with respect to the development and use of the City's parks, the recreation programs and City's beautification program. The Advisory Board shall recommend to the Council rules for

the use of parks, public grounds, and recreation facilities consistent with the ordinances of the City and the statutes of the State of Texas and appropriate programs for the beautification of the City. (See Sec. 2.05)]

Explanatory Note: Provision is not in current practice and is not contemplated for future purposes.

ARTICLE VIII. MUNICIPAL FINANCE

SECTION 8.01 - FISCAL YEAR

No amendatory action proposed.

SECTION 8.02 - BUDGET AS PUBLIC RECORD

The budget and all supporting schedules shall be filed with the person performing the duties of City Secretary and shall be submitted to the Council. Copies of the budget and the capital program, as adopted, shall be public records and shall be made available to the public at suitable places in the City to include the City Hall, [the Tomball Branch of the Harris County Library] and at [one] *two* other public locations within the corporate limits of the City.

Explanatory Note: Proposed changes to reflect current administrative practices.

SECTION 8.03 - PREPARATION AND SUBMISSION OF BUDGET

No amendatory action proposed.

SECTION 8.04 - ANTICIPATED REVENUES COMPARED WITH OTHER YEARS

No amendatory action proposed.

SECTION 8.05 - PROPOSED EXPENDITURES COMPARED WITH OTHER YEARS

No amendatory action proposed.

SECTION 8.06 - NOTICE OF PUBLIC HEARING ON BUDGET

No amendatory action proposed.

SECTION 8.07 - PUBLIC HEARING ON BUDGET

No amendatory action proposed.

SECTION 8.08 - PROCEEDINGS ON BUDGET AFTER PUBLIC HEARINGS

No amendatory action proposed.

SECTION 8.09 - VOTE REQUIRED FOR ADOPTION

No amendatory action proposed.

SECTION 8.10 - DATE OF FINAL ADOPTION

No amendatory action proposed.

SECTION 8.11 - EFFECTIVE DATE OF BUDGET; CERTIFICATION; COPIES MADE AVAILABLE

Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget as finally adopted, shall be filed with the person performing the duties of City Secretary *and* the County Clerk of Harris County [and the State Comptroller of Public Accounts in Austin.] Copies of the final budget shall be posted for the public at the office of the City Secretary [, the Tomball Branch of the Harris County Library.] and at [one] two other public locations within the corporate limits of the City. Copies of the budget may be [purchased] *obtained* by the public [for a reasonable fee] at the City Hall.

Explanatory Note: Proposed changes to reflect current administrative practices.

SECTION 8.12 - BUDGETARY AMENDMENTS

No amendatory action proposed.

**SECTION 8.13 - BUDGET ESTABLISHED AMOUNT TO BE RAISED BY
PROPERTY TAX**

No amendatory action proposed.

**SECTION 8.14 - ESTIMATED EXPENDITURES SHALL NOT EXCEED
ESTIMATED RESOURCES**

No amendatory action proposed.

SECTION 8.15 - EMERGENCY APPROPRIATION

No amendatory action proposed.

SECTION 8.16 - PURCHASE PROCEDURE

No amendatory action proposed.

SECTION 8.17 - DISBURSEMENT OF FUNDS

All checks, vouchers or warrants for the withdrawal of money from the City Depository shall be signed by the City Manager and countersigned by the City Secretary or the [City Treasurer] *Finance Director*. In the absence of the City Manager, the Mayor, or the Mayor Pro-Tem in the absence of the Mayor, may sign.

Explanatory Note: Proposed changes to reflect current administrative titles.

SECTION 8.18 - POWER TO TAX

No amendatory action proposed.

**SECTION 8.19 - PROPERTY SUBJECT TO TAX, RENDITION, APPRAISAL
AND ASSESSMENT**

No amendatory action proposed.

SECTION 8.20 - TAXES, WHEN DUE AND PAYABLE

All taxes due the City shall be payable [to the City Tax Collector] on receipt of the tax bill and shall be considered delinquent if not paid before February 1 of the year following the year in which imposed. The postponement of any delinquency date and the amount of penalty, interest and costs to be imposed on delinquent taxes shall be in accordance with applicable ordinances of the City and the Property Tax Code of the State of Texas.

Explanatory Note: Proposed change to reflect current administrative practices

SECTION 8.21 - TAX LIENS

- A. [Except for such restrictions imposed by law, the tax levied by the City is hereby declared to be a lien, charge or encumbrance upon the property upon which the tax is due, which lien, charge or encumbrance the City is entitled to enforce and foreclose in any court having jurisdiction over the same, and the lien, charge or encumbrance on the property in favor of the city, for the amount of taxes due on such property is such as to give the State courts jurisdiction to enforce and foreclose said lien on the property on which the tax is due, not only as against any resident of this State or person whose residence is unknown, but also as against nonresidents. All taxes upon real estate shall especially be a lien and a charge upon the property upon which the taxes are due, which lien may be foreclosed in any court having jurisdiction. The City's tax lien shall exist from January 1 in each year until the taxes are paid, and limitations as to seizures and suits for collection of taxes shall be as prescribed by State law.]

A special lien in favor of the City is hereby created on all real, personal and mixed property in the City for all unpaid taxes. The priority of said lien shall be determined in accordance with state law.

- B. [Except for such exemptions and restrictions imposed by law, all persons, associations, corporations, firms and partnerships owning or holding personal property or real property in the City on January 1 of each year shall be liable for City taxes levied thereon for each year. The tangible or intangible personal property of all persons, associations, corporations, firms or partnerships owing any taxes to the City is hereby made liable for all said taxes, whether the same be due upon personal or real property or upon both.]
- C. All seizure and foreclosure proceedings shall be administered in accordance with State property tax codes.

Explanatory Note: Proposed changes to simplify the Charter language as to tax liens and to reflect current administrative practices.

SECTION 8.22 - TAX REMISSION AND DISCOUNTS

No amendatory action proposed.

SECTION 8.23 - ISSUANCE OF BONDS

No amendatory action proposed.

SECTION 8.24 - INDEPENDENT AUDIT

Prior to the end of each fiscal year, the Council shall designate a certified public accountant, who is licensed by the State of Texas, to make an independent audit of accounts and other evidences of financial transactions of the City government and submit a report to the Council within one hundred ~~[twenty (120)]~~ *eighty (180)* days from the closing date of the City's fiscal year. Notice shall be given by publication in the official newspaper of the City that the annual audit is on file at the City Hall for inspection.

Such accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the City government. The accountant shall not maintain any accounts or records of the City business, but, within specifications approved by the Council, shall post audit the books and documents kept by the ~~[City Treasurer]~~ *Finance Director* and any separate or subordinate accounts kept by any other office, department or agency of the City.

Explanatory Note: Current audit completion deadline has been found to be unrealistic and is proposed to be extended. Change to reflect current administrative title.

ARTICLE IX. FRANCHISES AND PUBLIC UTILITIES

SECTION 9.01 - POWER TO GRANT FRANCHISE

Council shall have power by ordinance to grant, amend, renew and extend all franchises of all public utilities [, including cable television or community antenna television systems,] of every type operating with the City. All such ordinances granting, amending, renewing, or extending franchises for public utilities shall be governed by the procedures established in Section 6.14. No public utility franchise shall be granted for a term of more than ~~[fifty (50)]~~ *twenty (20)* years, nor be transferable except with the approval of the Council expressed by ordinance.

Explanatory Note: Regulation of cable television or community antenna television systems has become a federal process. The current trend in Home Rule Charters is to

leave the term of franchises unspecified or to reduce them from 50 years, once a common concession.

SECTION 9.02 - FRANCHISE VALUE NOT TO BE ALLOWED

No amendatory action proposed.

SECTION 9.03 - RIGHT OF REGULATION

No amendatory action proposed.

SECTION 9.04 - GRANT NOT TO BE EXCLUSIVE

No amendatory action proposed.

SECTION 9.05 - OTHER CONDITIONS

No amendatory action proposed.

SECTION 9.06 - ACCOUNTS OF MUNICIPALLY-OWNED UTILITIES

No amendatory action proposed.

SECTION 9.07 - SALES OF MUNICIPAL UTILITIES

No amendatory action proposed.

SECTION 9.08 - REGULATION OF RATES AND UTILITIES

The Council shall have full power, after notice and hearing, to regulate by ordinance, subject to Federal and State laws, the rates of every public utility[, including cable television or community antenna television systems,] operating in the City provided that no such ordinance shall be passed as an emergency measure. The City shall have power to employ, at the expense of the Grantee, expert assistance and advice in determining a reasonable rate and equitable profit to the Grantee. This Charter does not revoke any existing City Ordinance that has waived the right of rate regulation by the City to the Public Utility Commission of the State of Texas.

Explanatory Note: Regulation of cable television or community antenna television systems has become a federal process.

ARTICLE X. MUNICIPAL PLANNING

SECTION 10.01 - PLANNING AND ZONING COMMISSION

The Council shall appoint a City Planning *and Zoning* Commission, consisting of five (5) members, who shall be residents of the City[, real property owners and] *but who* shall not be employees of the City.

A. Term of Office

[Five (5) members will be appointed in 1987 within thirty (30) days after the regular City election. The first member will be appointed for a one (1) year term. The next two (2) members will be appointed for a two (2) year term. The last two (2) members will be appointed for a three (3) year term. All reappointments after the original appointments will be for three (3) year terms.]

The members of the Commission shall be appointed for three (3) year, staggered terms.

B. Rules of Procedure

The Commission shall annually elect one (1) of its number Chairman and shall establish its own rules of procedure which shall include the following: A quorum shall consist of a majority of the members of the Commission and an affirmative vote of a majority of those present shall be necessary to pass upon pending questions. All meetings shall be open to the public and a record of all proceedings shall be maintained by the person performing the duties of the City Secretary and shall be a public record.

C. Vacancies

Members of the [Planning] Commission shall actively participate in the activities of the Commission, and any member who is absent from three (3) consecutive meetings of the Commission without valid excuse as determined by the Commission, shall automatically be dismissed from membership. The Commission shall at once notify the Council that a vacancy in the Commission exists.

Vacancies occurring in the Commission, for whatever reason, shall be filled within thirty (30) days by appointment by the Council for the remainder of the unexpired term.

D. Powers and Duties

The Commission shall have the power and shall be required to:

- (1) Recommend to the Council amendments, extensions and additions to the Master Plan for the physical development of the City.
- (2) Recommend to the Council the approval or the disapproval of plats of proposed subdivisions submitted in accordance with City ordinance as adopted or hereafter amended.
- (3) Recommend to the Council plans for the clearance and rebuilding of slum districts and blighted areas which may develop within the City.
- (4) Recommend to the Council the amendment, extension and revision of the Building Code, which code shall include the minimum standards of construction for building, the minimum standards for plumbing and the minimum standards for electrical and mechanical equipment.
- (5) Submit annually to the City Manager, not less than ninety (90) days prior to the beginning of the budget year, a list of recommendations for capital improvements which, in the opinion of the Commission, are necessary or desirable to be constructed during the forthcoming five (5) years. Such list shall be arranged in order of preference, with recommendations as to which projects shall be constructed in which year.
- (6) Meet no less than once each quarter, meetings to be held at the City Hall unless prior notice of change of meeting place be given by publication in a newspaper in general circulation in the City.
- (7) Operate under the guidelines of the powers granted by the Civil Statutes of the State of Texas.

E. Liaison with City Council

The City Manager or his representative shall attend the meetings of the [Planning] Commission and shall serve as liaison between the Commission and the Council.

Explanatory Note: By practice, this body has come to be known and for all purposes referred to as the Planning and Zoning Commission. Courts have held that membership on such a commission cannot be restricted to real property owners. Sub-section A is largely transitional in nature and is proposed to be simplified.

SECTION 10.02 - PLATTING OF PROPERTY

No amendatory action proposed.

SECTION 10.03 - DEVELOPMENT OF PROPERTY

No amendatory action proposed.

ARTICLE XI. RECALL OF OFFICERS

ARTICLE 11.01 - GENERAL POWER

No amendatory action proposed.

ARTICLE 11.02 - SCOPE OF RECALL

No amendatory action proposed.

ARTICLE 11.03 - PETITION FOR RECALL

No amendatory action proposed.

ARTICLE 11.04 - FORM OF RECALL PETITION

No amendatory action proposed.

ARTICLE 11.05 - VARIOUS PAPERS CONSTITUTING PETITION

No amendatory action proposed.

ARTICLE 11.06 - PRESENTATION OF PETITION TO CITY COUNCIL

No amendatory action proposed.

ARTICLE 11.07 - PUBLIC HEARING TO BE HELD

No amendatory action proposed.

ARTICLE 11.08 - ELECTION TO BE CALLED

If the officer whose removal is sought does not resign, then it shall become the duty of the Council to order an election and fix a date for holding such recall election, [the date of which shall be not less than forty-five (45), nor more than sixty (60), days from the date such petition was presented to the Council, or from the date of the public hearing, if one was held] *in accordance with State law.*

Explanatory Note: Current specified deadlines are not consistent with state law, which severely limits the number of City elections that can be held in a given year.

ARTICLE 11.09 - FAILURE OF THE CITY COUNCIL TO CALL AN ELECTION

No amendatory action proposed.

ARTICLE 11.10 - BALLOTS IN RECALL ELECTION

No amendatory action proposed.

ARTICLE 11.11 - RESULT OF RECALL ELECTION

No amendatory action proposed.

ARTICLE 11.12 - RECALL, RESTRICTIONS THEREOF

No amendatory action proposed.

ARTICLE XII. LEGISLATION BY THE PEOPLE, INITIATIVE AND REFERENDUM

SECTION 12.01 - GENERAL POWER

No amendatory action proposed.

SECTION 12.02 - INITIATIVE

No amendatory action proposed.

SECTION 12.03 - REFERENDUM

No amendatory action proposed.

**SECTION 12.04 - VOLUNTARY SUBMISSION OF LEGISLATION BY
THE COUNCIL**

No amendatory action proposed.

SECTION 12.05 - FORM OF BALLOTS

No amendatory action proposed.

**SECTION 12.06 - PUBLICATION OF PROPOSED AND REFERRED
ORDINANCES**

No amendatory action proposed.

SECTION 12.07 - ADOPTION OF ORDINANCES

No amendatory action proposed.

SECTION 12.08 - INCONSISTENT ORDINANCES

No amendatory action proposed.

**SECTION 12.09 - ORDINANCES PASSED BY POPULAR VOTE, REPEAL
OR AMENDMENT**

No amendatory action proposed.

SECTION 12.10 - FURTHER REGULATIONS BY THE COUNCIL

No amendatory action proposed.

SECTION 12.11 - FRANCHISE ORDINANCES

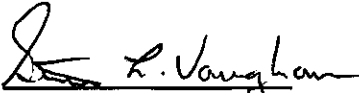
No amendatory action proposed.

CONCLUSIONS AND RECOMMENDATIONS

By unanimous decision of the undersigned members of the Commission, it is felt that these proposed amendments will benefit the City of Tomball in its many policy-making and administrative processes. It is, therefore, recommended that the City Council, following its review of this report, place these proposed amendments on the ballot for voter consideration at a special election to be called on May 10, 2014.

It is further recommended that preceding this election, a public information effort be undertaken to fully acquaint the electorate with the reasons for and the benefits of the various amendments proposed. The Commission stands ready to assist with this effort upon the City Council's request and as appropriate.

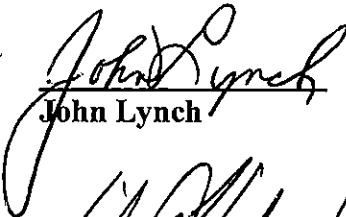
It has been an interesting challenge and a distinct honor to serve our community in this way. We look forward to favorable action on this report and its recommendations by the City Council and, in turn, by Tomball citizens.


Steven L. Vaughan,
Chairman

Will Benson

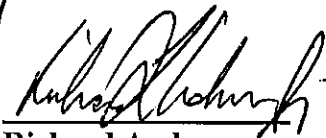

Latrell Shannon


Kit Pfeiffer,
Vice Chairman


John Lynch

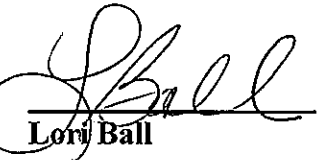
Gloria Monzingo

Patricia Brautigam

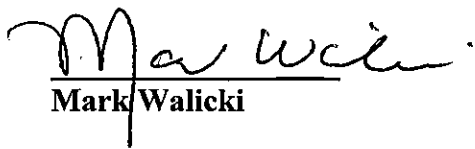

Richard Anderson


Tina Salem


Chad Degges


Lori Ball


Wes Sumner


Mark Walicki

Regular City Council

Agenda Item

Data Sheet

Meeting Date: December 16, 2013

Topic:

Accept Recommendations from the Charter Review Commission and Approve Proposed Amendments to be Placed on the May 10, 2014 Special Charter Amendment Election

Background:

Following the workshop session with the Charter Review Commission, Council may choose to approve any or all of the proposed amendments, either as a whole or by each individual amendment.

Attached is the Final Report from the Charter Review Commission and a preliminary draft of the amendments as they should appear on the ballot (the final ballot language may change slightly).

Following Council's decision regarding amendments to be included on the ballot, the ordinance will be prepared and translations made for the January 6, 2014 and January 20, 2014 Council meetings, as the Charter Amendment Election must be called by ordinance.

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:

Final Report from the Charter Review Commission

Proposed Amendments to the City Charter

FINAL REPORT

**CITY OF
TOMABALL, TEXAS**

A REPORT

from the

CHARTER REVIEW COMMISSION

to the

CITY COUNCIL

December 16, 2013

INTRODUCTION

The voters of the City of Tomball adopted a Home Rule Charter at an election on January 17, 1987. Prior to that time, the City operated under the general laws of the State of Texas. The original Charter was subsequently amended in a number of ways at an election on May 6, 1995.

In the years since its Charter was last amended, the City has grown and changed in significant ways, and various issues have developed within the document. These issues fall into three categories, as follows:

1. Some of its provisions have been materially affected by state and/or federal legislation or by court decisions.
2. Some of its provisions are, for one reason or another, not being observed as a result of decisions by the City Council and/or city administration.
3. Some of its provisions simply need to be clarified or modified to enhance future implementation and operations.

Recognizing these issues, the City Council decided in August 2013 to subject the Charter to a comprehensive review, utilizing the assistance of a citizen advisory group and the guidance of a public affairs consultant. Subsequently, a thirteen-member Charter Review Commission was appointed by the Council and the service of Consultant Don R. Edmonds was retained. In general, the Council charged the Commission with a responsibility to independently review the Charter and to make recommendations as to necessary amendment(s) of this important document.

The Commission held its organizational meeting on September 17, 2013. Its membership included the following Tomball citizens:

Steven Vaughan, Chairman
Kit Pfeiffer, Vice Chairman
Patricia Brautigam
Chad Degges
Mark Walicki
Will Benson
John Lynch

Richard Anderson
Lori Ball
Latrell Shannon
Gloria Monzingo
Tina Salem
Wes Sumner

The Commission has met regularly since its inception with the consultant, the City Manager, the City Secretary and the City Attorney. In the process, the Commission has studied the Charter in detail; has considered a broad range of policy questions represented by the various issues outlined above; and has developed the following recommendations for amending the City's Home Rule Charter.

**CURRENT CHARTER ORGANIZATION AND NUMBERING,
AS RELATED TO PROPOSED AMENDMENTS:**

Tomball's Charter presently includes twelve major articles, numbered by Roman numerals. Each article is then divided in sections, identified by Arabic numbers. Some sections are further divided into subsections, denoted by capital letters and numbers.

For the purpose of clarity, all sections in the Charter are referred to in numerical order and title, including those sections within which no amendments are recommended. Every section in which an amendment(s) is recommended is recited in its entirety. Current Charter language that is proposed to be amended is shown as [bracketed and underlined]. Proposed amendatory language, if any, is shown as *italicized and in bold type*.

A brief explanation of the Commission's reason for the proposed amendment(s) follows each section or subsection and is titled "Explanatory Note."

PROPOSED AMENDMENTS AND EXPLANATORY NOTES:

ARTICLE I. INTRODUCTORY PROVISIONS

SECTION 1.01 - CORPORATE NAME

No amendatory action proposed.

SECTION 1.02 - MEANING OF THE WORD "CITY"

No amendatory action proposed.

SECTION 1.03 - MEANING OF THE WORD "COUNCIL"

No amendatory action proposed.

SECTION 1.04 - EFFECT ON CHARTER OF EXISTING LAW

No amendatory action proposed.

[SECTION 1.05 - CONTINUATION OF BUDGET]

[The budget adopted for the City for fiscal year October 1, 1986, to September 30, 1987 shall be and become the budget for the current year.]

Explanatory Note: Provision is transitional in nature and no longer germane to the Charter.

[SECTION 1.06 - INTERIM MUNICIPAL GOVERNMENT]

[Upon adoption of this Charter, the persons then filling elective offices will continue to fill these offices to which they were elected. Thereafter, the City Council and Mayor shall be elected as provided in Article VI, Section 6.02. Persons, who on the date this Charter is adopted, who are filling appointive positions with the City which are retained under this Charter, may continue to fill these positions for the term for which they were appointed, unless removed by the Council or by other means provided for in this Charter. Persons who, on the effective date of this Charter, are filling elective offices, that by this Charter are made appointive offices, shall continue to serve in those offices for the terms to which they were elected.]

Explanatory Note: Provision is transitional in nature and no longer germane to the Charter.

[SECTION 1.07 - INTERIM ELECTION PROCEDURE]

[For an orderly transition to three-year (3-year) terms from two-year (2-year) terms, the following schedule will be implemented:

Persons presently in an elective term will continue in office. Immediately following the Charter Election, at the next regularly scheduled Council Meeting, the three (3) City Councilmen whose terms are expiring April 1987 will draw for Positions 1 and 5 for three-year (3-year) terms and Position 3 for a two-year (2-year) term, in a manner not inconsistent with State law. A separate drawing will be held the same date for Positions 2 and 4 by the incumbents with one (1) year remaining on their existing term. These positions will be for three-year (3-year) terms starting May 1988. If the Councilman chooses to run for re-election, he must run for the Position number that he drew.

In the first (1st) election, on the first (1st) Saturday of April 1987, after the adoption of this Charter, Councilmen shall be elected for Positions 1, 3 and 5 as outlined above.

In the second (2nd) election year, on the third (3rd) Saturday of May 1988, after adoption of this Charter, Councilmen shall be elected for Positions 2 and 4 for three-year (3-year) terms. The Mayor will be elected for a two-year (2-year) term.

In the third (3rd) election year, on the third (3rd) Saturday of May 1989, after adoption of this Charter, Position 3 will be elected for a three-year (3-year) term.

In the fourth (4th) election year, on the third (3rd) Saturday of May 1990, after adoption of this Charter, the Mayor will be elected for a two-year (2-year) term. Positions 1 and 5 will be elected for three-year (3-year) terms.

In the fifth (5th) election year, on the third (3rd) Saturday of May 1991, after adoption of this Charter, the Positions 2 and 4 will be elected for three-year (3-year) terms.

In the sixth (6th) election year, on the third (3rd) Saturday of May 1992, after adoption of this Charter, Position 3 and the Mayor will be elected for three-year (3-year) terms.

This will complete the schedule whereby two (2) of the six (6) members comprising the Office of Mayor and City Council will be up for election each year.]

Explanatory Note: Provision is transitional in nature and no longer germane to the Charter.

SECTION 1.08 - GENDER OF WORDING

No amendatory action proposed.

[SECTION 1.09 - SUBMISSION OF THE CHARTER TO THE VOTERS]

[The Charter Commission in preparing this Charter concludes it is impracticable to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function it is necessary that it should be adopted in its entirety. For these reasons, the Charter Commission directs that the Charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City at an election to be held on January 17, 1987. Not less than (30) days prior to that election, the Council shall cause the City Secretary to mail a copy of this Charter to each qualified voter of the City as appears from the latest certified list of registered voters. If a majority of the qualified voters voting in the election shall vote in favor of the adoption of this Charter, it shall become the Charter of the City and after the returns have been canvassed, the same shall be declared adopted and the City Secretary shall file an official copy of the Charter with the records of the City. The City Secretary shall furnish the Mayor a copy of said Charter which copy of the Charter so adopted, authenticated and certified by his signature and the seal of the City, shall be forwarded by the Mayor to the Secretary of the State of Texas and shall show approval of such Charter by the majority vote at that election.]

Explanatory Note: Provision is transitional in nature and no longer germane to the Charter.

SECTION 1.10 - RENUMBERING OF CHARTER

Subsequent to the Charter amendment election of May 10, 2014, the City Council shall by ordinance authorize the general editing of this Charter to renumber and rearrange as necessary all articles, sections, and subsections therein, or amendments thereto.

Explanatory Note: New provision necessary to specifically authorize complete editing of the Charter and to reflect the results of the upcoming special election.

ARTICLE II. FORM OF GOVERNMENT AND BOUNDARIES

SECTION 2.01 - FORM OF GOVERNMENT

No amendatory action proposed.

SECTION 2.02 - BOUNDARIES

No amendatory action proposed.

SECTION 2.03 - ANNEXATION

No amendatory action proposed.

SECTION 2.04 - DETACHMENT OF TERRITORY

No amendatory action proposed.

SECTION 2.05 - BOARDS, AGENCIES AND COMMISSIONS

No amendatory action proposed.

ARTICLE III. GENERAL PROVISIONS

SECTION 3.01 - OFFICIAL OATH

No amendatory action proposed.

SECTION 3.02 - AMENDING THE CHARTER

No amendatory action proposed.

SECTION 3.03 - SEVERABILITY CLAUSE

No amendatory action proposed.

SECTION 3.04 - JUDICIAL NOTICE

No amendatory action proposed.

SECTION 3.05 - PUBLIC RECORDS

No amendatory action proposed.

SECTION 3.06 - OFFICIAL NEWSPAPER

No amendatory action proposed.

SECTION 3.07 - PROVISIONS RELATING TO ASSIGNMENT, EXECUTION, AND GARNISHMENT.

The property, real and personal, belonging to the City shall not be liable to be sold or appropriated under any writ of execution or cost bill; *and no lien of any kind shall ever exist against any such property owned by the City except that the lien be created or authorized by this Charter or state law.* The funds belonging to the city in the hands of any person, firm or corporation shall not be liable for garnishment, attachment or sequestration nor shall the City be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the City nor any of its officers or agents shall be required to answer any writ or garnishment on any account whatever. The City shall not be obligated to recognize any assignment of

wages or funds by its employees, agents or contractors, *except as required by state or federal law.*

Explanatory Note: Addition in the first sentence is a standard legal disclaimer lacking in the current Charter. Garnishment of employee wages is now mandated in certain cases under state and federal laws. The proposed change in the final sentence is necessary to comply with those laws.

SECTION 3.08 - SECURITY AND BOND NON-REQUIREMENT

No amendatory action proposed.

ARTICLE IV. POWERS OF THE CITY

SECTION 4.01 - GENERAL

No amendatory action proposed.

SECTION 4.02 - GENERAL POWERS ADOPTED

No amendatory action proposed.

SECTION 4.03 - EMINENT DOMAIN

No amendatory action proposed.

SECTION 4.04 - REQUIRED NOTICE FOR CLAIMS AGAINST THE CITY

No amendatory action proposed.

ARTICLE V. ELECTIONS

SECTION 5.01 - ELECTIONS: REGULAR AND SPECIAL

[The annual regular election shall be held on the first 1st Saturday in May for the purpose of electing a Mayor and Council members. The City Municipal Building will be the

polling place for elections. The Council may, by ordinance or resolution, call special elections as authorized by State or Federal law and this Charter.]

- A. All City elections shall be conducted in accordance with the Texas Election Code.*
- B. The regular City election shall be held annually on the second Saturday in May or such other date as required by the Texas Election Code. The City Council shall be responsible for specifying the places for holding such elections.*
- C. The City Council may, by resolution or ordinance, order a special election for purposes consistent with this Charter and laws of the State of Texas. The City Council will fix the time and places for such a special election and provide all means for holding same.*
- D. Municipal elections shall be conducted by election officials appointed by the City Council, or as otherwise prescribed by law. Sample ballots identical in format to those used in the specific election shall be posted in the voting place(s) for the purpose of voter orientation.*
- E. All municipal elections shall be publicized in accordance with the Texas Election Code.*

Explanatory Note: Proposed changes will make the section more fully understandable to the public and will comply with current state law.

SECTION 5.02 - REGULATIONS AND LAWS GOVERNING CITY ELECTIONS

No amendatory action proposed.

SECTION 5.03 - FILING FOR OFFICE

Any qualified citizen as defined by Article 6.03 of this Charter may file for election to the Office of Mayor or Council Member. A signed application and [loyalty] *prescribed* oath shall be filed with the City Secretary [not later than 5 P.M. of the forty-fifth (45) day prior to the regular election and thirty-one (31) days prior to a special election] in accordance with the Texas Election Code.

Explanatory Note: Reference to a “loyalty” oath is no longer in common usage, and state law has superseded these deadlines.

SECTION 5.04 - OFFICIAL BALLOT

No amendatory action proposed.

SECTION 5.05 - ELECTION BY MAJORITY

No amendatory action proposed.

SECTION 5.06 - CONDUCTING ELECTIONS

All residents who have complied with voter registration requirements as provided by the State Election Code shall be eligible to vote in the City elections. Election officials will be appointed by the [Mayor] *City Council*, consistent with State laws, and compensation shall be set by the [Mayor and the] Council. Early voting shall be governed by the State Election Code of the State of Texas.

Explanatory Note: Proposed changes are necessary to make the Charter coincide with current practice as to such appointments.

SECTION 5.07 - CANVASSING ELECTIONS

No amendatory action proposed.

SECTION 5.08 - COUNCIL TO BE JUDGE OF ELECTION QUALIFICATIONS

No amendatory action proposed.

SECTION 5.09 - OATH OF OFFICE

No amendatory action proposed.

ARTICLE VI. THE TOMBALL CITY COUNCIL

SECTION 6.01 - POWERS OF THE CITY COUNCIL

No amendatory action proposed.

SECTION 6.02 - NUMBER, SELECTION, AND TERM

The Legislative and governing body of the City shall consist of a Mayor and five (5) Councilmen and shall be known as the "City Council of the City of Tomball, Harris County, Texas."

- A. The Mayor shall be elected from the City at large. The Councilmen shall be elected from the City at large by positions known as Positions 1, 2, 3, 4, and 5.
- B. The Mayor shall be the presiding officer of the Council and shall be recognized as the head of the City Government for all ceremonial purposes and by the Governor for purposes of military law. The Mayor shall be allowed to vote only in case of a tie vote and shall not have the authority to veto any action of the Council.
- C. The Mayor and each Councilman shall hold office for a period of three (3) years or until his successor is elected and qualified. All elections shall be held in the manner provided for by this Charter and the election laws of the State of Texas. [(See Article 1.07 for transition details.)]
- D. [Beginning with the 1993 election year, the pairing and order of Positions for elective offices of the City shall be: Positions 1 and 5, Positions 2 and 4, and Position 3 and Mayor. Prior to 1993, the Interim Election Procedure outlined in Section 1.07 shall be followed in the election of all City officers.]
- E. There shall be no limitation of elected terms for the Office of Mayor and Councilman.

Explanatory Note: Last parenthetical sentence of Subsection C and all of Subsection D is transitional in nature and no longer germane to the Charter.

SECTION 6.03 - QUALIFICATIONS

No amendatory action proposed.

SECTION 6.04 - COMPENSATION

No amendatory action proposed.

SECTION 6.05 - NEPOTISM

No amendatory action proposed.

SECTION 6.06 - HOLDING DUAL OFFICES

No amendatory action proposed.

SECTION 6.07 - CONFLICT OF INTEREST IN CITY CONTRACTS

No amendatory action proposed.

SECTION 6.08 - MAYOR AND MAYOR PRO-TEM

No amendatory action proposed.

SECTION 6.09 - VACANCIES

When a vacancy occurs in the Council, the following provisions shall apply, to wit:

Any vacancy or vacancies occurring [shall not be filled by appointment but must be filled by a majority vote of the qualified voters voting in a special election called for such purpose on the next Uniform Election Date.] for which the unexpired term is twelve (12) months or less shall be filled by appointment of the City Council. Any vacancy or vacancies for which the unexpired term is for more than twelve (12) months must be filled by a majority of voters voting in a special election called for such purpose in accordance with the Texas State Constitution.

It is further provided that in a special or regular election: The person(s) elected to fill a vacancy or vacancies shall serve only the unexpired term for that particular position.

Explanatory Note: Proposed changes will provide, in certain cases, for appointment of vacancies occurring on the City Council, in keeping with the recent approval of an amendment to the Texas Constitution and in the interest of economy.

SECTION 6.10 - APPOINTMENTS AND REMOVALS

No amendatory action proposed.

SECTION 6.11 - INTERFERENCE WITH ADMINISTRATION

No amendatory action proposed.

SECTION 6.12 - MEETINGS OF COUNCIL

The Council shall schedule at least two (2) regular meetings each month and as many additional meetings as it deems necessary to transact the business of the City and its citizens. The Council shall fix, [by ordinance,] the days and time of the regular meetings.

All regular meetings of the Council shall be held at the City of Tomball City Hall, unless the City Council votes to approve a location other than the City Hall in the event it is determined to be in the public interest. All meetings shall be open and accessible to the public; however, the Council may recess to an Executive Session only for the purposes provided by the Texas Open Meetings Act. Final action thereon shall not be taken by the Council until the matter is placed on the agenda and a vote taken in an open meeting.

The City Secretary, upon written request of the Mayor or any three (3) Council members, shall call special meetings of the Council, notice of such special meetings shall be given to each member of the Council, which said notice shall state the date for such meeting and the subject to be considered at such meeting, and no other subject shall be thereby considered. [Said notice to the Council shall be sufficient if delivered to the Council members in person or in the event of the inability to locate said Council member within the City of Tomball, Texas, delivery of such notice to his or her home shall be sufficient.]

Explanatory Note: Proposed changes to reflect current administrative practices and use of electronic methods of notification.

SECTION 6.13 - RULES OF PROCEDURE

No amendatory action proposed.

SECTION 6.14 - ORDINANCES

In addition to such acts of the Council as are required by statute or by this Charter to be by ordinance, every act of the Council establishing a fine or other penalty or providing for the expenditure of funds or for the contracting of indebtedness shall be by ordinance. The enacting clause of all ordinances shall be, "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL:"

A. Procedure for Passage of Ordinances

Every ordinance shall be introduced in written or printed form and, upon passage, shall take effect at the time indicated therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than fourteen (14) days from the date of its passage. The City Secretary shall give notice of every ordinance under consideration, by causing the caption or summary, including the penalty, fine, or forfeiture for a violation of any such ordinance to be published in the official newspaper for the City after the first reading and at least once within fourteen (14) days after the passage of said ordinance. He shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the Charter, and the date of such publication, and promulgation of such ordinance; provided, that the provisions of this section shall not apply to the correction, revision and modification of the ordinances of the City for

publication in book or pamphlet form. It shall be necessary to the validity of any ordinance that it shall be read two (2) times and considered at two (2) sessions of the Council unless addressed otherwise by this Charter. At the first (1st) reading, said ordinance shall be read in its entirety unless a motion is made and passed suspending the requirement of the reading of the ordinance, in which case such ordinance shall be read by caption only, followed by an explanation of the ordinance. The one (1) remaining presentation of said ordinance may be by caption only. [Copies of any ordinance being considered by Council shall be available, in draft form, at that Council meeting for public review during that meeting.] Copies of said ordinances [after final passage, are] *shall be made* available at the City Hall [for a fee] *upon request*. Every ordinance shall be authenticated by the signature of the Mayor and City Secretary and shall be systematically recorded in an ordinance book in a manner approved by the Council. It shall only be necessary to record the caption or title of ordinances in the minutes or journal of Council meetings. The Council shall have power to cause the ordinances of the City to be corrected, revised, codified and printed in code form as often as the Council deems advisable, and such printed code, when adopted by the Council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. However, if the ordinance is amended, it then must be published one time, by caption only, in the official City newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof.

Explanatory Note: Proposed changes to reflect current administrative practices.

SECTION 6.15 - OFFICIAL BONDS FOR CITY EMPLOYEES

No amendatory action proposed.

SECTION 6.16 - INVESTIGATIVE BODY

No amendatory action proposed.

ARTICLE VII. ADMINISTRATIVE SERVICES

SECTION 7.01 - CITY MANAGER

A. Appointment and Qualifications:

The Council shall appoint an administrative and executive officer of the City who shall be responsible to the Council for the administration of all the affairs of the City. He shall be chosen by the Council solely on the basis of his executive and administrative training, experience and ability. No member of the Council shall,

during the time for which he is elected and for one year thereafter, be appointed City Manager.

B. Term and Salary:

- (1) The City Manager shall be appointed for a term not to exceed two years by a majority vote appointment shall be secured through an explicit contractual agreement which shall protect the rights of both the Council and the City Manager.
- (2) The City Manager shall receive compensation as may be fixed by the Council.

C. Duties of the City Manager. The City Manager shall:

- (1) Be responsible to the Council for the efficient and economical administration of the City government. He shall have the authority, with the approval of the Council, to appoint and remove all department heads. He shall have the authority to appoint and remove all other employees in the administrative service of the City. He may authorize the head of a department to appoint and remove subordinates in his respective department. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager.
- (2) Prepare the budget annually and submit it to the Council and be responsible for its administration after adoption.
- (3) Prepare and submit to the Council, as of the end of the fiscal year, a complete report on the finances and administrative activities of the City for the preceding year.
- (4) Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable.
- (5) Perform such duties as may be prescribed by this Charter or may be required of him by the Council, not inconsistent with this Charter.
- (6) [Every odd-numbered year, take an inventory of all City-owned real estate. After reviewing the inventory, he will recommend to the Council disposition of said real estate the City is not using or for which it has no plans for use. However, nothing herein shall preclude the City from selling any of its real estate at any time it is deemed appropriate.]
- (7) *Prepare a written report to the City Council, first in 2019, and thereafter at intervals not exceeding five years as to the need for revision*

of the city Charter, with special attention given to conflicts, if any, between the Charter and state law and recommending such amendments to the Charter as may seem necessary for legal, administrative, or other reasons.

Explanatory Note: Subsection C.(6) is proposed to be deleted because it has never been routinely observed and is thought to be an unnecessary administrative practice. Subsection C.(7) is proposed to be added to guarantee periodic review of the overall condition and ongoing relevancy of the Charter.

SECTION 7.02 - ASSISTANT CITY MANAGER

No amendatory action proposed.

SECTION 7.03 - POLICE DEPARTMENT

A Police Department is established to preserve order, to strive to secure the safety of residents, to prevent violence and to protect life and property from injury and loss within the limits and allowable jurisdiction of the City. [The Department will be responsible for regulating the proper keeping of dogs, pets and farm animals within the City limits so as to maintain standards and safety for its citizens.]

A. Chief of Police

The Chief of Police is the senior officer of the Police Department. He is appointed by the City Manager, with the approval of the Council, for an indefinite term. With the approval of the City Manager, he appoints and removes the employees of the Police Department. He is responsible to the City Manager for the administration of the Police Department and the performance of Council-established duties and directives. [He may be removed from office by the City Manager, with the approval of the Council.]

B. Reserve Police

The Chief of Police may appoint or remove "Reserve Police Officers" in accordance with guidelines established by the Council. No other persons, except as otherwise provided by the laws of the State of Texas, shall act as "special police" within the City.

Explanatory Note: In view of its overall essential duties, the specific reference to the department's responsibility for animal control is thought to be an unnecessary detail in the Charter. Specific reference to the chief's removal from office is a redundancy, previously included among the powers of the City Manager enumerated in Article VII of the Charter.

SECTION 7.04 - CITY SECRETARY

There shall be a City Secretary for the City. The City Manager, with the approval of the Council, shall appoint a City Secretary and such assistants as the Council shall deem advisable. The City Secretary, or an Assistant City Secretary, shall give notice of Council meetings, shall keep the minutes of proceedings of such meetings, and shall authenticate by his signature and record in full in a book kept and indexed for the purpose, all ordinances and resolutions, and shall perform such other duties assigned by the City Manager and those elsewhere provided in this Charter and the laws of the State of Texas. [The duties of City Secretary, City Treasurer and City Tax Collector may be performed by the same individual.]

Explanatory Note: Provision to be deleted is generally outdated and no longer practical.

SECTION 7.05 - [CITY TREASURER] *FINANCE DIRECTOR*

There shall be a [City Treasurer] *Finance Director* for the City. The City Manager, with the approval of the Council, shall appoint a [City Treasurer] *Finance Director* and such assistants as the Council shall deem advisable. The [City Treasurer] *Finance Director* shall perform the duties delegated to him by the City Manager and those which may be imposed upon him by the laws of the State of Texas. [The duties of City Secretary, City Treasurer, and City Tax Collector may be performed by the same individual.]

Explanatory Note: Proposed to reflect titles in current use and current administrative practices.

[SECTION 7.06 - [DEPARTMENT OF TAXATION]

[There shall be established and maintained a Department of Taxation to collect taxes for the City. The City Manager shall appoint an Assessor/Collector to administer said department.]

The Assessor/Collector shall perform all duties assigned by the City Manager. He shall, at the end of every business day, pay to the City Treasurer all monies collected. At the end of every month, he shall submit a written report to the City Manager of all monies so collected and paid. The duties of City Secretary, City Treasurer and City Tax Assessor/Collector may be performed by the same individual.]

Explanatory Note: Proposed to reflect current administrative practices as to the assessment and collection of taxes.

SECTION 7.07 - CITY FIRE DEPARTMENT

[A. Fire Marshal]

[A Fire Marshal shall be appointed by the City Manager and shall be responsible for the enforcement of ordinances pertaining to the City Building Fire Codes and for the general protection from fire for the residents of the City. He shall receive for his services such compensation as may be fixed by the Council and shall hold his office at the pleasure of the City Manager.]

[B. Volunteer Fire Department]

[The Council may establish and maintain a Volunteer Fire Department and may procure fire engines and other apparatus for the extinguishment of fires, for salvage and rescue operations and provide engine houses and funds for maintenance and operation and shall authorize the forming of fire fighting companies as required. The companies so organized shall constitute the Fire Department. The Department may elect its own members and officers. The officers shall be chosen as said Department may determine. All officers so elected shall be commissioned by the Mayor, with the exception of the Fire Chief, who shall be the chief executive officer of the Fire Department, whose election must be approved by the Council. Said Department may adopt its own constitution and by-laws not inconsistent with this Charter or the City ordinances. The by-laws of the Volunteer Fire Department shall be approved by the Council, as well as amendments made thereto. The Council may pass such ordinances as they may deem proper for the welfare of said Department. The Department shall assume responsibility for the care and management of the engines, other implements and apparatuses provided and used for fighting fires and for salvage and rescue operations.]

[C. Contractual Agreement]

[Approval of the by-laws and operating budget of the Volunteer Fire Department shall constitute an agreement between the City and members of the Tomball Volunteer Fire Department to provide protection to the City from fire and other disasters. The Council shall also cooperate with contiguous neighboring communities on problems of fire protections and disasters.]

The Fire Department is established for general protection from fire for the residents of the City, for fire prevention education and enforcement, for salvage and rescue operations, and for other related activities as may be assigned by the City Council. The department shall consist of full-time, part-time, volunteer members or any combination thereof. All such members shall function under the Standard Operating Guidelines of the Fire Department.

A. Fire Chief

The Fire Chief is the senior officer of the Fire Department. He is appointed by the City Manager, with the approval of the City Council, for an indefinite term. With the approval of the City Manager, he appoints and removes employees of the Fire Department. His is responsible to the City Manager for the administration of the Fire Department and the performance of Council-established duties and directives.

B. Fire Marshal

A Fire Marshal shall be selected by the Fire Chief, with the approval of the City Manager and shall be responsible for enforcement of the City Fire Codes and other functions as may be assigned by the Fire Chief. He shall be a member of the command staff of the Fire Department, and he may be removed from office by the Fire Chief with the approval of the City Manager.

C. Mutual Aid Agreements with Other Fire Departments

Subject to approval by the City Council, the Fire Department may enter into inter-local and mutual aid agreements with other fire departments in the area by which to provide and receive assistance in emergency situation.

Explanatory Note: Entire existing section concerning the fire department was found to be generally outdated and requiring total revision, in order to accurately reflect current departmental policies and practices.

SECTION 7.08 - CITY ATTORNEY

No amendatory action proposed.

SECTION 7.09 - MUNICIPAL COURT

There shall be established and maintained a Court designated as a "Municipal Court" for the trial of misdemeanor offenses, with all such powers and duties as are now or hereafter may be prescribed by the laws of the State of Texas relative to Municipal or Recorder's Court.

- A. The Judge of said Court shall be appointed by the Council, and shall be a licensed attorney, and shall receive such salary as may be fixed by the Council. The Judge of said Court shall hold office at the pleasure of the Council.
- B. [The City Secretary, or an assistant City Secretary, shall be ex-officio Clerk of said Court.]

- C. The Clerk of said Court and his deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said Court thereto and generally do and perform any and all acts usual and necessary by the Clerk of Courts in issuing process of said courts and conducting the business thereof.
- D. The Council shall appoint other licensed attorneys to act as Temporary Judges of said Court in case of disability or absence of the Judge of the Municipal Court. The salary of Temporary Judges shall be fixed by the Council.
- E. A City Judge shall hold no other City office or City employment during the term for which he is appointed by the Council. Should a person serving as City Judge become a candidate in a City election, he shall resign his position as City Judge upon election to a City Office.
- F. The Mayor shall serve as Judge of the Municipal Court in the absence of the City Judge or his alternates.

Explanatory Note: Subsection B is no longer an administrative practice.

SECTION 7.10 - HEALTH DEPARTMENT

To assure a high quality of health and sanitation standards for the City, including the regulation of businesses in conflict with the City Health Code, the City shall utilize and adhere to all rules and regulations regarding health and sanitation standards outlined, required, and governed by the Harris County Department of Health and the State Health Department. [An official City Health Department will be established at such time that county and/or state supervision becomes inadequate.]

[A. City Health Officer]

[The City Council shall appoint a City Health Officer who is a licensed physician, qualified to practice medicine in the State of Texas. He shall receive for his services such compensation as may be fixed by the Council and shall hold his office at the pleasure of City who is a licensed physician, qualified to practice medicine in the State of Texas. He shall receive for his services such compensation as may be fixed by the Council and shall hold his office at the pleasure of City Council.]

[B. Duties of City Health Officer]

[The City Health Officer advises the City Manager and City Council on a program of public health and in cases of life and health threatening situations. He shall be the official spokesperson for the City in the event of emergency health matters.]

[The City Health Officer cooperates with nearby cities and jurisdictions, the Commissioner's Court of Harris County, and the State Health Department on problems of health and sanitation that affect the City.]

Explanatory Note: Proposed changes to reflect current administrative practices.

SECTION 7.11 - DEPARTMENT OF PUBLIC WORKS

No amendatory action proposed.

SECTION 7.12 - [CITY BUILDING OFFICIAL AND INSPECTORS] DEPARTMENT OF COMMUNITY DEVELOPMENT

[The City Manager shall appoint the Building Department staff commensurate with positions approved by the Council. The staff shall receive for their services such compensation as may be fixed by the Council and shall hold office at the pleasure of the City Manager.]

[The City Manager shall appoint the Building Department staff commensurate with positions approved by the Council.]

[The staff shall receive for their services such compensation as may be fixed by the Council and shall hold office at the pleasure of the City Manager.]

There shall be a Director of Community Development for the City. The City Manager, with the approval of the City Council, shall appoint a Director of Community Development and such assistants as the Council shall deem advisable. The Director of Community Development shall oversee the city's development processes, including planning and zoning, engineering, code enforcement, and inspections, and shall perform such other duties assigned by the City Manager and those elsewhere provided in this Charter and the laws of the State of Texas.

Explanatory Note: Building Department has been merged into an expanded Department of Community Development. Proposed changes reflect current administrative structure.

[SECTION 7.13 - DEPARTMENT OF PARKS, RECREATION AND BEAUTIFICATION]

[The Council shall appoint an Advisory Board for Park, Recreation and Beautification. The Advisory Board shall study the recreation, park facilities, and beautification programs of the City and shall confer with the City Manager and advise him with respect to the development and use of the City's parks, the recreation programs and City's beautification program. The Advisory Board shall recommend to the Council rules for

the use of parks, public grounds, and recreation facilities consistent with the ordinances of the City and the statutes of the State of Texas and appropriate programs for the beautification of the City. (See Sec. 2.05)]

Explanatory Note: Provision is not in current practice and is not contemplated for future purposes.

ARTICLE VIII. MUNICIPAL FINANCE

SECTION 8.01 - FISCAL YEAR

No amendatory action proposed.

SECTION 8.02 - BUDGET AS PUBLIC RECORD

The budget and all supporting schedules shall be filed with the person performing the duties of City Secretary and shall be submitted to the Council. Copies of the budget and the capital program, as adopted, shall be public records and shall be made available to the public at suitable places in the City to include the City Hall, [the Tomball Branch of the Harris County Library] and at [one] *two* other public locations within the corporate limits of the City.

Explanatory Note: Proposed changes to reflect current administrative practices.

SECTION 8.03 - PREPARATION AND SUBMISSION OF BUDGET

No amendatory action proposed.

SECTION 8.04 - ANTICIPATED REVENUES COMPARED WITH OTHER YEARS

No amendatory action proposed.

SECTION 8.05 - PROPOSED EXPENDITURES COMPARED WITH OTHER YEARS

No amendatory action proposed.

SECTION 8.06 - NOTICE OF PUBLIC HEARING ON BUDGET

No amendatory action proposed.

SECTION 8.07 - PUBLIC HEARING ON BUDGET

No amendatory action proposed.

SECTION 8.08 - PROCEEDINGS ON BUDGET AFTER PUBLIC HEARINGS

No amendatory action proposed.

SECTION 8.09 - VOTE REQUIRED FOR ADOPTION

No amendatory action proposed.

SECTION 8.10 - DATE OF FINAL ADOPTION

No amendatory action proposed.

SECTION 8.11 - EFFECTIVE DATE OF BUDGET; CERTIFICATION; COPIES MADE AVAILABLE

Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget as finally adopted, shall be filed with the person performing the duties of City Secretary *and* the County Clerk of Harris County [and the State Comptroller of Public Accounts in Austin.] Copies of the final budget shall be posted for the public at the office of the City Secretary [, the Tomball Branch of the Harris County Library.] and at [one] two other public locations within the corporate limits of the City. Copies of the budget may be [purchased] *obtained* by the public [for a reasonable fee] at the City Hall.

Explanatory Note: Proposed changes to reflect current administrative practices.

SECTION 8.12 - BUDGETARY AMENDMENTS

No amendatory action proposed.

**SECTION 8.13 - BUDGET ESTABLISHED AMOUNT TO BE RAISED BY
PROPERTY TAX**

No amendatory action proposed.

**SECTION 8.14 - ESTIMATED EXPENDITURES SHALL NOT EXCEED
ESTIMATED RESOURCES**

No amendatory action proposed.

SECTION 8.15 - EMERGENCY APPROPRIATION

No amendatory action proposed.

SECTION 8.16 - PURCHASE PROCEDURE

No amendatory action proposed.

SECTION 8.17 - DISBURSEMENT OF FUNDS

All checks, vouchers or warrants for the withdrawal of money from the City Depository shall be signed by the City Manager and countersigned by the City Secretary or the [City Treasurer] *Finance Director*. In the absence of the City Manager, the Mayor, or the Mayor Pro-Tem in the absence of the Mayor, may sign.

Explanatory Note: Proposed changes to reflect current administrative titles.

SECTION 8.18 - POWER TO TAX

No amendatory action proposed.

**SECTION 8.19 - PROPERTY SUBJECT TO TAX, RENDITION, APPRAISAL
AND ASSESSMENT**

No amendatory action proposed.

SECTION 8.20 - TAXES, WHEN DUE AND PAYABLE

All taxes due the City shall be payable [to the City Tax Collector] on receipt of the tax bill and shall be considered delinquent if not paid before February 1 of the year following the year in which imposed. The postponement of any delinquency date and the amount of penalty, interest and costs to be imposed on delinquent taxes shall be in accordance with applicable ordinances of the City and the Property Tax Code of the State of Texas.

Explanatory Note: Proposed change to reflect current administrative practices

SECTION 8.21 - TAX LIENS

- A. [Except for such restrictions imposed by law, the tax levied by the City is hereby declared to be a lien, charge or encumbrance upon the property upon which the tax is due, which lien, charge or encumbrance the City is entitled to enforce and foreclose in any court having jurisdiction over the same, and the lien, charge or encumbrance on the property in favor of the city, for the amount of taxes due on such property is such as to give the State courts jurisdiction to enforce and foreclose said lien on the property on which the tax is due, not only as against any resident of this State or person whose residence is unknown, but also as against nonresidents. All taxes upon real estate shall especially be a lien and a charge upon the property upon which the taxes are due, which lien may be foreclosed in any court having jurisdiction. The City's tax lien shall exist from January 1 in each year until the taxes are paid, and limitations as to seizures and suits for collection of taxes shall be as prescribed by State law.]

A special lien in favor of the City is hereby created on all real, personal and mixed property in the City for all unpaid taxes. The priority of said lien shall be determined in accordance with state law.

- B. [Except for such exemptions and restrictions imposed by law, all persons, associations, corporations, firms and partnerships owning or holding personal property or real property in the City on January 1 of each year shall be liable for City taxes levied thereon for each year. The tangible or intangible personal property of all persons, associations, corporations, firms or partnerships owing any taxes to the City is hereby made liable for all said taxes, whether the same be due upon personal or real property or upon both.]
- C. All seizure and foreclosure proceedings shall be administered in accordance with State property tax codes.

Explanatory Note: Proposed changes to simplify the Charter language as to tax liens and to reflect current administrative practices.

SECTION 8.22 - TAX REMISSION AND DISCOUNTS

No amendatory action proposed.

SECTION 8.23 - ISSUANCE OF BONDS

No amendatory action proposed.

SECTION 8.24 - INDEPENDENT AUDIT

Prior to the end of each fiscal year, the Council shall designate a certified public accountant, who is licensed by the State of Texas, to make an independent audit of accounts and other evidences of financial transactions of the City government and submit a report to the Council within one hundred ~~[twenty (120)]~~ *eighty (180)* days from the closing date of the City's fiscal year. Notice shall be given by publication in the official newspaper of the City that the annual audit is on file at the City Hall for inspection.

Such accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the City government. The accountant shall not maintain any accounts or records of the City business, but, within specifications approved by the Council, shall post audit the books and documents kept by the ~~[City Treasurer]~~ *Finance Director* and any separate or subordinate accounts kept by any other office, department or agency of the City.

Explanatory Note: Current audit completion deadline has been found to be unrealistic and is proposed to be extended. Change to reflect current administrative title.

ARTICLE IX. FRANCHISES AND PUBLIC UTILITIES

SECTION 9.01 - POWER TO GRANT FRANCHISE

Council shall have power by ordinance to grant, amend, renew and extend all franchises of all public utilities [, including cable television or community antenna television systems,] of every type operating with the City. All such ordinances granting, amending, renewing, or extending franchises for public utilities shall be governed by the procedures established in Section 6.14. No public utility franchise shall be granted for a term of more than ~~[fifty (50)]~~ *twenty (20)* years, nor be transferable except with the approval of the Council expressed by ordinance.

Explanatory Note: Regulation of cable television or community antenna television systems has become a federal process. The current trend in Home Rule Charters is to

leave the term of franchises unspecified or to reduce them from 50 years, once a common concession.

SECTION 9.02 - FRANCHISE VALUE NOT TO BE ALLOWED

No amendatory action proposed.

SECTION 9.03 - RIGHT OF REGULATION

No amendatory action proposed.

SECTION 9.04 - GRANT NOT TO BE EXCLUSIVE

No amendatory action proposed.

SECTION 9.05 - OTHER CONDITIONS

No amendatory action proposed.

SECTION 9.06 - ACCOUNTS OF MUNICIPALLY-OWNED UTILITIES

No amendatory action proposed.

SECTION 9.07 - SALES OF MUNICIPAL UTILITIES

No amendatory action proposed.

SECTION 9.08 - REGULATION OF RATES AND UTILITIES

The Council shall have full power, after notice and hearing, to regulate by ordinance, subject to Federal and State laws, the rates of every public utility[, including cable television or community antenna television systems,] operating in the City provided that no such ordinance shall be passed as an emergency measure. The City shall have power to employ, at the expense of the Grantee, expert assistance and advice in determining a reasonable rate and equitable profit to the Grantee. This Charter does not revoke any existing City Ordinance that has waived the right of rate regulation by the City to the Public Utility Commission of the State of Texas.

Explanatory Note: Regulation of cable television or community antenna television systems has become a federal process.

ARTICLE X. MUNICIPAL PLANNING

SECTION 10.01 - PLANNING AND ZONING COMMISSION

The Council shall appoint a City Planning *and Zoning* Commission, consisting of five (5) members, who shall be residents of the City[, real property owners and] *but who* shall not be employees of the City.

A. Term of Office

[Five (5) members will be appointed in 1987 within thirty (30) days after the regular City election. The first member will be appointed for a one (1) year term. The next two (2) members will be appointed for a two (2) year term. The last two (2) members will be appointed for a three (3) year term. All reappointments after the original appointments will be for three (3) year terms.]

The members of the Commission shall be appointed for three (3) year, staggered terms.

B. Rules of Procedure

The Commission shall annually elect one (1) of its number Chairman and shall establish its own rules of procedure which shall include the following: A quorum shall consist of a majority of the members of the Commission and an affirmative vote of a majority of those present shall be necessary to pass upon pending questions. All meetings shall be open to the public and a record of all proceedings shall be maintained by the person performing the duties of the City Secretary and shall be a public record.

C. Vacancies

Members of the [Planning] Commission shall actively participate in the activities of the Commission, and any member who is absent from three (3) consecutive meetings of the Commission without valid excuse as determined by the Commission, shall automatically be dismissed from membership. The Commission shall at once notify the Council that a vacancy in the Commission exists.

Vacancies occurring in the Commission, for whatever reason, shall be filled within thirty (30) days by appointment by the Council for the remainder of the unexpired term.

D. Powers and Duties

The Commission shall have the power and shall be required to:

- (1) Recommend to the Council amendments, extensions and additions to the Master Plan for the physical development of the City.
- (2) Recommend to the Council the approval or the disapproval of plats of proposed subdivisions submitted in accordance with City ordinance as adopted or hereafter amended.
- (3) Recommend to the Council plans for the clearance and rebuilding of slum districts and blighted areas which may develop within the City.
- (4) Recommend to the Council the amendment, extension and revision of the Building Code, which code shall include the minimum standards of construction for building, the minimum standards for plumbing and the minimum standards for electrical and mechanical equipment.
- (5) Submit annually to the City Manager, not less than ninety (90) days prior to the beginning of the budget year, a list of recommendations for capital improvements which, in the opinion of the Commission, are necessary or desirable to be constructed during the forthcoming five (5) years. Such list shall be arranged in order of preference, with recommendations as to which projects shall be constructed in which year.
- (6) Meet no less than once each quarter, meetings to be held at the City Hall unless prior notice of change of meeting place be given by publication in a newspaper in general circulation in the City.
- (7) Operate under the guidelines of the powers granted by the Civil Statutes of the State of Texas.

E. Liaison with City Council

The City Manager or his representative shall attend the meetings of the [Planning] Commission and shall serve as liaison between the Commission and the Council.

Explanatory Note: By practice, this body has come to be known and for all purposes referred to as the Planning and Zoning Commission. Courts have held that membership on such a commission cannot be restricted to real property owners. Sub-section A is largely transitional in nature and is proposed to be simplified.

SECTION 10.02 - PLATTING OF PROPERTY

No amendatory action proposed.

SECTION 10.03 - DEVELOPMENT OF PROPERTY

No amendatory action proposed.

ARTICLE XI. RECALL OF OFFICERS

ARTICLE 11.01 - GENERAL POWER

No amendatory action proposed.

ARTICLE 11.02 - SCOPE OF RECALL

No amendatory action proposed.

ARTICLE 11.03 - PETITION FOR RECALL

No amendatory action proposed.

ARTICLE 11.04 - FORM OF RECALL PETITION

No amendatory action proposed.

ARTICLE 11.05 - VARIOUS PAPERS CONSTITUTING PETITION

No amendatory action proposed.

ARTICLE 11.06 - PRESENTATION OF PETITION TO CITY COUNCIL

No amendatory action proposed.

ARTICLE 11.07 - PUBLIC HEARING TO BE HELD

No amendatory action proposed.

ARTICLE 11.08 - ELECTION TO BE CALLED

If the officer whose removal is sought does not resign, then it shall become the duty of the Council to order an election and fix a date for holding such recall election, [the date of which shall be not less than forty-five (45), nor more than sixty (60), days from the date such petition was presented to the Council, or from the date of the public hearing, if one was held] *in accordance with State law.*

Explanatory Note: Current specified deadlines are not consistent with state law, which severely limits the number of City elections that can be held in a given year.

ARTICLE 11.09 - FAILURE OF THE CITY COUNCIL TO CALL AN ELECTION

No amendatory action proposed.

ARTICLE 11.10 - BALLOTS IN RECALL ELECTION

No amendatory action proposed.

ARTICLE 11.11 - RESULT OF RECALL ELECTION

No amendatory action proposed.

ARTICLE 11.12 - RECALL, RESTRICTIONS THEREOF

No amendatory action proposed.

ARTICLE XII. LEGISLATION BY THE PEOPLE, INITIATIVE AND REFERENDUM

SECTION 12.01 - GENERAL POWER

No amendatory action proposed.

SECTION 12.02 - INITIATIVE

No amendatory action proposed.

SECTION 12.03 - REFERENDUM

No amendatory action proposed.

**SECTION 12.04 - VOLUNTARY SUBMISSION OF LEGISLATION BY
THE COUNCIL**

No amendatory action proposed.

SECTION 12.05 - FORM OF BALLOTS

No amendatory action proposed.

**SECTION 12.06 - PUBLICATION OF PROPOSED AND REFERRED
ORDINANCES**

No amendatory action proposed.

SECTION 12.07 - ADOPTION OF ORDINANCES

No amendatory action proposed.

SECTION 12.08 - INCONSISTENT ORDINANCES

No amendatory action proposed.

**SECTION 12.09 - ORDINANCES PASSED BY POPULAR VOTE, REPEAL
OR AMENDMENT**

No amendatory action proposed.

SECTION 12.10 - FURTHER REGULATIONS BY THE COUNCIL

No amendatory action proposed.

SECTION 12.11 - FRANCHISE ORDINANCES

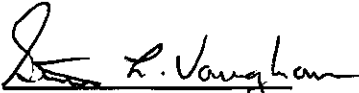
No amendatory action proposed.

CONCLUSIONS AND RECOMMENDATIONS

By unanimous decision of the undersigned members of the Commission, it is felt that these proposed amendments will benefit the City of Tomball in its many policy-making and administrative processes. It is, therefore, recommended that the City Council, following its review of this report, place these proposed amendments on the ballot for voter consideration at a special election to be called on May 10, 2014.

It is further recommended that preceding this election, a public information effort be undertaken to fully acquaint the electorate with the reasons for and the benefits of the various amendments proposed. The Commission stands ready to assist with this effort upon the City Council's request and as appropriate.

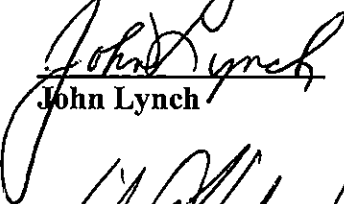
It has been an interesting challenge and a distinct honor to serve our community in this way. We look forward to favorable action on this report and its recommendations by the City Council and, in turn, by Tomball citizens.


Steven L. Vaughan,
Chairman

Will Benson

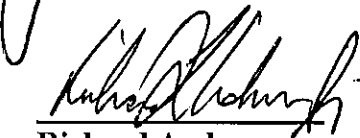

Latrell Shannon


Kit Pfeiffer,
Vice Chairman


John Lynch

Gloria Monzingo

Patricia Brautigam

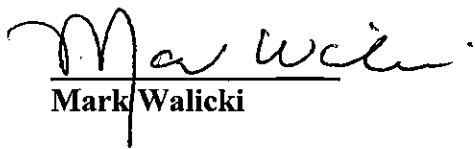

Richard Anderson


Tina Salem


Chad Degges


Lori Ball


Wes Sumner


Mark Walicki

THERE SHALL BE PLACED ON THE OFFICIAL BALLOT THE FOLLOWING PROPOSED AMENDMENTS TO THE CITY CHARTER FOR THE CITY OF TOMBALL, TEXAS, AND THE BALLOT SHALL PROVIDE THAT THE VOTER SHALL APPROVE OR DISAPPROVE THE AMENDMENTS WHICH ARE STATED INDIVIDUALLY AS FOLLOWS:

PROPOSED AMENDMENTS:

AMENDMENT NO. 1

A CHARTER AMENDMENT ELIMINATING AN OBSOLETE REQUIREMENT:

DELETE ENTIRE “SECTION 1.05 - CONTINUATION OF BUDGET

The budget adopted for the City for fiscal year October 1, 1986, to September 30, 1987 shall be and become the budget for the current year.”

☐ APPROVE

☐ DISAPPROVE

AMENDMENT NO. 2

A CHARTER AMENDMENT ELIMINATING AN OBSOLETE REQUIREMENT:

DELETE ENTIRE “SECTION 1.06 - INTERIM MUNICIPAL GOVERNMENT

Upon adoption of this Charter, the persons then filling elective offices will continue to fill these offices to which they were elected. Thereafter, the City Council and Mayor shall be elected as provided in Article VI, Section 6.02. Persons, who on the date this Charter is adopted, who are filling appointive positions with the City which are retained under this Charter, may continue to fill these positions for the term for which they were appointed, unless removed by the Council or by other means provided for in this Charter. Persons who, on the effective date of this Charter, are filling elective offices, that by this Charter are made appointive offices, shall continue to serve in those offices for the terms to which they were elected.”

☐ APPROVE

☐ DISAPPROVE

AMENDMENT NO. 3

A CHARTER AMENDMENT ELIMINATING AN OBSOLETE REQUIREMENT:

DELETE ENTIRE "SECTION 1.07 - INTERIM ELECTION PROCEDURE

For an orderly transition to three-year (3-year) terms from two-year (2-year) terms, the following schedule will be implemented:

Persons presently in an elective term will continue in office. Immediately following the Charter Election, at the next regularly scheduled Council Meeting, the three (3) City Councilmen whose terms are expiring April 1987 will draw for Positions 1 and 5 for three-year (3-year) terms and Position 3 for a two-year (2-year) term, in a manner not inconsistent with State law. A separate drawing will be held the same date for Positions 2 and 4 by the incumbents with one (1) year remaining on their existing term. These positions will be for three-year (3-year) terms starting May 1988. If the Councilman chooses to run for re-election, he must run for the Position number that he drew.

In the first (1st) election, on the first (1st) Saturday of April 1987, after the adoption of this Charter, Councilmen shall be elected for Positions 1, 3 and 5 as outlined above.

In the second (2nd) election year, on the third (3rd) Saturday of May 1988, after adoption of this Charter, Councilmen shall be elected for Positions 2 and 4 for three-year (3-year) terms. The Mayor will be elected for a two-year (2-year) term.

In the third (3rd) election year, on the third (3rd) Saturday of May 1989, after adoption of this Charter, Position 3 will be elected for a three-year (3-year) term.

In the fourth (4th) election year, on the third (3rd) Saturday of May 1990, after adoption of this Charter, the Mayor will be elected for a two-year (2-year) term. Positions 1 and 5 will be elected for three-year (3-year) terms.

In the fifth (5th) election year, on the third (3rd) Saturday of May 1991, after adoption of this Charter, the Positions 2 and 4 will be elected for three-year (3-year) terms.

In the sixth (6th) election year, on the third (3rd) Saturday of May 1992, after adoption of this Charter, Position 3 and the Mayor will be elected for three-year (3-year) terms.

This will complete the schedule whereby two (2) of the six (6) members comprising the Office of Mayor and City Council will be up for election each year."

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 4

A CHARTER AMENDMENT ELIMINATING AN OBSOLETE REQUIREMENT:

DELETE ENTIRE “SECTION 1.09 - SUBMISSION OF THE CHARTER TO THE VOTERS

The Charter Commission in preparing this Charter concludes it is impracticable to segregate each subject so as to permit a vote of “yes” or “no” on the same, for the reason that the Charter is so constructed that in order to enable it to work and function it is necessary that it should be adopted in its entirety. For these reasons, the Charter Commission directs that the Charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City at an election to be held on January 17, 1987. Not less than (30) days prior to that election, the Council shall cause the City Secretary to mail a copy of this Charter to each qualified voter of the City as appears from the latest certified list of registered voters. If a majority of the qualified voters voting in the election shall vote in favor of the adoption of this Charter, it shall become the Charter of the City and after the returns have been canvassed, the same shall be declared adopted and the City Secretary shall file an official copy of the Charter with the records of the City. The City Secretary shall furnish the Mayor a copy of said Charter which copy of the Charter so adopted, authenticated and certified by his signature and the seal of the City, shall be forwarded by the Mayor to the Secretary of the State of Texas and shall show approval of such Charter by the majority vote at that election.”

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 5

A CHARTER AMENDMENT AUTHORIZING THE COMPLETE EDITING OF THE CHARTER TO REFLECT THE RESULTS OF THE MAY 10, 2014 SPECIAL ELECTION:

“SECTION 1.10 - RENUMBERING OF CHARTER

Subsequent to the Charter amendment election of May 10, 2014, the City Council shall by ordinance authorize the general editing of this Charter to renumber and rearrange as necessary all articles, sections, and subsections therein, or amendments thereto.”

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 6

A CHARTER AMENDMENT AMENDING CURRENT REQUIREMENTS TO COMPLY WITH FEDERAL AND STATE LAWS:

"SECTION 3.07 – PROVISIONS RELATING TO ASSIGNMENT, EXECUTION, AND GARNISHMENT

The property, real and personal, belonging to the City shall not be liable to be sold or appropriated under any writ of execution or cost bill; and no lien of any kind shall ever exist against any such property owned by the City except that the lien be created or authorized by this Charter or state law. The funds belonging to the city in the hands of any person, firm or corporation shall not be liable for garnishment, attachment or sequestration nor shall the City be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the City nor any of its officers or agents shall be required to answer any writ or garnishment on any account whatever. The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors, except as required by state or federal law.”

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 7

A CHARTER AMENDMENT AMENDING CURRENT REQUIREMENTS TO COMPLY WITH FEDERAL AND STATE LAWS:

“SECTION 5.01 – ELECTIONS: REGULAR AND SPECIAL

- A. All City elections shall be conducted in accordance with the Texas Election Code.
- B. The regular City election shall be held annually on the second Saturday in May or such other date as required by the Texas Election Code. The City Council shall be responsible for specifying the places for holding such elections.
- C. The City Council may, by resolution or ordinance, order a special election for purposes consistent with this Charter and laws of the State of Texas. The City Council will fix the time and places for such a special election and provide all means for holding same.
- D. Municipal elections shall be conducted by election officials appointed by the City Council, or as otherwise prescribed by law. Sample ballots identical in format to those used in the specific election shall be posted in the voting place(s) for the purpose of voter orientation.

E. All municipal elections shall be publicized in accordance with the Texas Election Code..”

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 8

A CHARTER AMENDMENT AMENDING CURRENT REQUIREMENTS TO COMPLY WITH FEDERAL AND STATE LAWS:

“SECTION 5.03 – FILING FOR OFFICE

Any qualified citizen as defined by Article 6.03 of this Charter may file for election to the Office of Mayor or Council Member. A signed application and prescribed oath shall be filed with the City Secretary in accordance with the Texas Election Code.”

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 9

A CHARTER AMENDMENT ELIMINATING OBSOLETE REQUIREMENTS:

"SECTION 5.06 - CONDUCTING ELECTIONS

All residents who have complied with voter registration requirements as provided by the State Election Code shall be eligible to vote in the City elections. Election officials will be appointed by the City Council, consistent with State laws, and compensation shall be set by the Council. Early voting shall be governed by the State Election Code of the State of Texas.”

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 10

A CHARTER AMENDMENT ELIMINATING OBSOLETE REQUIREMENTS:

“SECTION 6.02 - NUMBER, SELECTION, AND TERM

The Legislative and governing body of the City shall consist of a Mayor and five (5) Councilmen and shall be known as the "City Council of the City of Tomball, Harris County, Texas."

- A. The Mayor shall be elected from the City at large. The Councilmen shall be elected from the City at large by positions known as Positions 1, 2, 3, 4, and 5.
- B. The Mayor shall be the presiding officer of the Council and shall be recognized as the head of the City Government for all ceremonial purposes and by the Governor for purposes of military law. The Mayor shall be allowed to vote only in case of a tie vote and shall not have the authority to veto any action of the Council.
- C. The Mayor and each Councilman shall hold office for a period of three (3) years or until his successor is elected and qualified. All elections shall be held in the manner provided for by this Charter and the election laws of the State of Texas.
- D. There shall be no limitation of elected terms for the Office of Mayor and Councilman.”

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 11

A CHARTER AMENDMENT AMENDING CURRENT REQUIREMENTS TO COMPLY WITH STATE LAW:

“SECTION 6.09 - VACANCIES

When a vacancy occurs in the Council, the following provisions shall apply, to wit:

Any vacancy or vacancies occurring for which the unexpired term is twelve (12) months or less shall be filled by appointment of the City Council. Any vacancy or vacancies for which the unexpired term is for more than twelve (12) months must be filled by a majority of voters voting in a special election called for such purpose in accordance with the Texas State Constitution.

It is further provided that in a special or regular election: The person(s) elected to fill a vacancy or vacancies shall serve only the unexpired term for that particular position.

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 12

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS:

“SECTION 6.12 – MEETINGS OF COUNCIL

The Council shall schedule at least two (2) regular meetings each month and as many additional meetings as it deems necessary to transact the business of the City and its citizens. The Council shall fix the days and time of the regular meetings. All regular meetings of the Council shall be held at the City of Tomball City Hall, unless the City Council votes to approve a location other than the City Hall in the event it is determined to be in the public interest. All meetings shall be open and accessible to the public; however, the Council may recess to an Executive Session only for the purposes provided by the Texas Open Meetings Act. Final action thereon shall not be taken by the Council until the matter is placed on the agenda and a vote taken in an open meeting.

The City Secretary, upon written request of the Mayor or any three (3) Council members, shall call special meetings of the Council, notice of such special meetings shall be given to each member of the Council, which said notice shall state the date for such meeting and the subject to be considered at such meeting, and no other subject shall be thereby considered.

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 13

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS:

“SECTION 6.14 – ORDINANCES

In addition to such acts of the Council as are required by statute or by this Charter to be by ordinance, every act of the Council establishing a fine or other penalty or providing for the expenditure of funds or for the contracting of indebtedness shall be by ordinance. The enacting clause of all ordinances shall be, “BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL.”

A. Procedure for Passage of Ordinances

Every ordinance shall be introduced in written or printed form and, upon passage, shall take effect at the time indicated therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than fourteen (14) days from the date of its passage. The City Secretary shall give notice of every ordinance under consideration, by causing the caption or summary, including the penalty, fine, or forfeiture for a violation of any such ordinance to be published in the official newspaper for the City after the first reading and at least once within fourteen (14) days after the passage of said ordinance. He shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the Charter, and the date of such publication, and promulgation of such ordinance; provided, that the provisions of this section shall not apply to the correction, revision and modification of the ordinances of the City for publication in book or pamphlet form. It shall be necessary to the validity of any ordinance that it shall be read two (2) times and considered at two (2) sessions of the Council unless addressed otherwise by this Charter. At the first (1st) reading, said ordinance shall be read in its entirety unless a motion is made and passed suspending the requirement of the reading of the ordinance, in which case such ordinance shall be read by caption only, followed by an explanation of the ordinance. The one (1) remaining presentation of said ordinance may be by caption only. Copies of said ordinances shall be made available at the City Hall upon request. Every ordinance shall be authenticated by the signature of the Mayor and City Secretary and shall be systematically recorded in an ordinance book in a manner approved by the Council. It shall only be necessary to record the caption or title of ordinances in the minutes or journal of Council meetings. The Council shall have power to cause the ordinances of the City to be corrected, revised, codified and printed in code form as often as the Council deems advisable, and such printed code, when adopted by the Council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. However, if the ordinance is amended, it then must be published one time, by caption only, in the official City newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof.”

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 14

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS AND PROVIDE FOR PERIODIC REVIEW OF THE CHARTER:

“SECTION 7.01 - CITY MANAGER

A. Appointment and Qualifications:

The Council shall appoint an administrative and executive officer of the City who shall be responsible to the Council for the administration of all the affairs of the City. He shall be chosen by the Council solely on the basis of his executive and administrative training, experience and ability. No member of the Council shall, during the time for which he is elected and for one year thereafter, be appointed City Manager.

B. Term and Salary:

(1) The City Manager shall be appointed for a term not to exceed two years by a majority vote appointment shall be secured through an explicit Contractual agreement which shall protect the rights of both the Council and the City Manager.

(2) The City Manager shall receive compensation as may be fixed by the Council.

C. Duties of the City Manager. The City Manager shall:

- (1) Be responsible to the Council for the efficient and economical administration of the City government. He shall have the authority, with the approval of the Council, to appoint and remove all department heads. He shall have the authority to appoint and remove all other employees in the administrative service of the City. He may authorize the head of a department to appoint and remove subordinates in his respective department. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager.
- (2) Prepare the budget annually and submit it to the Council and be responsible for its administration after adoption.
- (3) Prepare and submit to the Council, as of the end of the fiscal year, a complete report on the finances and administrative activities of the City for the preceding year.

- (4) Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable.
- (5) Perform such duties as may be prescribed by this Charter or may be required of him by the Council, not inconsistent with this Charter.
- (6) Prepare a written report to the City Council, first in 2019, and thereafter at intervals not exceeding five years as to the need for revision of the city Charter, with special attention given to conflicts, if any, between the Charter and state law and recommending such amendments to the Charter as may seem necessary for legal, administrative, or other reasons.”

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 15

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS:

“SECTION 7.03 – POLICE DEPARTMENT

A Police Department is established to preserve order, to strive to secure the safety of residents, to prevent violence and to protect life and property from injury and loss within the limits and allowable jurisdiction of the City.

A. Chief of Police

The Chief of Police is the senior officer of the Police Department. He is appointed by the City Manager, with the approval of the Council, for an indefinite term. With the approval of the City Manager, he appoints and removes the employees of the Police Department. He is responsible to the City Manager for the administration of the Police Department and the performance of Council-established duties and directives.

B. Reserve Police

The Chief of Police may appoint or remove "Reserve Police Officers" in accordance with guidelines established by the Council. No other persons, except as otherwise provided by the laws of the State of Texas, shall act as "special police" within the City.”

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 16

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE LANGUAGE AND REQUIREMENTS:

“SECTION 7.04 – CITY SECRETARY

There shall be a City Secretary for the City. The City Manager, with the approval of the Council, shall appoint a City Secretary and such assistants as the Council shall deem advisable. The City Secretary, or an Assistant City Secretary, shall give notice of Council meetings, shall keep the minutes of proceedings of such meetings, and shall authenticate by his signature and record in full in a book kept and indexed for the purpose, all ordinances and resolutions, and shall perform such other duties assigned by the City Manager and those elsewhere provided in this Charter and the laws of the State of Texas.”

☐ APPROVE

☐ DISAPPROVE

AMENDMENT NO. 17

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE LANGUAGE AND REQUIREMENTS:

“SECTION 7.05 – FINANCE DIRECTOR

There shall be a Finance Director for the City. The City Manager, with the approval of the Council, shall appoint a Finance Director and such assistants as the Council shall deem advisable. The Finance Director shall perform the duties delegated to him by the City Manager and those which may be imposed upon him by the laws of the State of Texas.

☐ APPROVE

☐ DISAPPROVE

AMENDMENT NO. 18

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENT:

DELETE ENTIRE “SECTION 7.06 – DEPARTMENT OF TAXATION

There shall be established and maintained a Department of Taxation to collect taxes for the City. The City Manager shall appoint an Assessor/Collector to administer said department.

The Assessor/Collector shall perform all duties assigned by the City Manager. He shall, at the end of every business day, pay to the City Treasurer all monies collected. At the end of every month, he shall submit a written report to the City Manager of all monies so collected and paid. The duties of City Secretary, City Treasurer and City Tax Assessor/Collector may be performed by the same individual.”

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 19

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS:

“SECTION 7.07 – CITY FIRE DEPARTMENT

The Fire Department is established for general protection from fire for the residents of the City, for fire prevention education and enforcement, for salvage and rescue operations, and for other related activities as may be assigned by the City Council. The department shall consist of full-time, part-time, volunteer members or any combination thereof. All such members shall function under the Standard Operating Guidelines of the Fire Department.

A. Fire Chief

The Fire Chief is the senior officer of the Fire Department. He is appointed by the City Manager, with the approval of the City Council, for an indefinite term. With the approval of the City Manager, he appoints and removes employees of the Fire Department. His is responsible to the City Manager for the administration of the Fire Department and the performance of Council-established duties and directives.

B. Fire Marshal

A Fire Marshal shall be selected by the Fire Chief, with the approval of the City Manager and shall be responsible for enforcement of the City Fire Codes and other functions as

may be assigned by the Fire Chief. He shall be a member of the command staff of the Fire Department, and he may be removed from office by the Fire Chief with the approval of the City Manager.

C. Mutual Aid Agreements with Other Fire Departments

Subject to approval by the City Council, the Fire Department may enter into inter-local and mutual aid agreements with other fire departments in the area by which to provide and receive assistance in emergency situation.”

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 20

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS:

“SECTION 7.09 – MUNICIPAL COURT

There shall be established and maintained a Court designated as a "Municipal Court" for the trial of misdemeanor offenses, with all such powers and duties as are now or hereafter may be prescribed by the laws of the State of Texas relative to Municipal or Recorder's Court.

- A. The Judge of said Court shall be appointed by the Council, and shall be a licensed attorney, and shall receive such salary as may be fixed by the Council. The Judge of said Court shall hold office at the pleasure of the Council.
- B. The Clerk of said Court and his deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said Court thereto and generally do and perform any and all acts usual and necessary by the Clerk of Courts in issuing process of said courts and conducting the business thereof.
- C. The Council shall appoint other licensed attorneys to act as Temporary Judges of said Court in case of disability or absence of the Judge of the Municipal Court. The salary of Temporary Judges shall be fixed by the Council.
- D. A City Judge shall hold no other City office or City employment during the term for which he is appointed by the Council. Should a person serving as City Judge become a candidate in a City election, he shall resign his position as City Judge upon election to a City Office.
- E. The Mayor shall serve as Judge of the Municipal Court in the absence of the City Judge or his alternates.”

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 21

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS:

“SECTION 7.10 – HEALTH DEPARTMENT

To assure a high quality of health and sanitation standards for the City, including the regulation of businesses in conflict with the City Health Code, the City shall utilize and adhere to all rules and regulations regarding health and sanitation standards outlined, required, and governed by the Harris County Department of Health and the State Health Department.”

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 22

A CHARTER AMENDMENT TO CREATE A DEPARTMENT OF COMMUNITY DEVELOPMENT:

“SECTION 7.12 – DEPARTMENT OF COMMUNITY DEVELOPMENT

There shall be a Director of Community Development for the City. The City Manager, with the approval of the City Council, shall appoint a Director of Community Development and such assistants as the Council shall deem advisable. The Director of Community Development shall oversee the city’s development processes, including planning and zoning, engineering, code enforcement, and inspections, and shall perform such other duties assigned by the City Manager and those elsewhere provided in this Charter and the laws of the State of Texas.”

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 23

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS:

**DELETE ENTIRE “SECTION 7.13 – DEPARTMENT OF PARKS,
RECREATION AND BEAUTIFICATION**

The Council shall appoint an Advisory Board for Park, Recreation and Beautification. The Advisory Board shall study the recreation, park facilities, and beautification programs of the City and shall confer with the City Manager and advise him with respect to the development and use of the City's parks, the recreation programs and City's beautification program. The Advisory Board shall recommend to the Council rules for the use of parks, public grounds, and recreation facilities consistent with the ordinances of the City and the statutes of the State of Texas and appropriate programs for the beautification of the City.”

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 24

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS:

“SECTION 8.02 – BUDGET AS PUBLIC RECORD

The budget and all supporting schedules shall be filed with the person performing the duties of City Secretary and shall be submitted to the Council. Copies of the budget and the capital program, as adopted, shall be public records and shall be made available to the public at suitable places in the City to include the City Hall, and at two other public locations within the corporate limits of the City.

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 25

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS:

**“SECTION 8.11 – EFFECTIVE DATE OF BUDGET; CERTIFICATION;
COPIES MADE AVAILABLE**

Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget as finally adopted, shall be filed with the person performing the duties of City Secretary and the County Clerk of Harris County. Copies of the final budget shall be posted for the public at the office of the City Secretary and at two other public locations within the corporate limits of the City. Copies of the budget may be obtained by the public at the City Hall.”

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 26

**A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS
AND LANGUAGE:**

“SECTION 8.17 – DISBURSEMENT OF FUNDS

All checks, vouchers or warrants for the withdrawal of money from the City Depository shall be signed by the City Manager and countersigned by the City Secretary or the Finance Director. In the absence of the City Manager, the Mayor, or the Mayor Pro-Tem in the absence of the Mayor, may sign.”

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 27

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS:

“SECTION 8.20 – TAXES, WHEN DUE AND PAYABLE

All taxes due the City shall be payable on receipt of the tax bill and shall be considered delinquent if not paid before February 1 of the year following the year in which imposed. The postponement of any delinquency date and the amount of penalty, interest and costs

to be imposed on delinquent taxes shall be in accordance with applicable ordinances of the City and the Property Tax Code of the State of Texas.”

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 28

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS:

“SECTION 8.21 – TAX LIENS

- A. A special lien in favor of the City is hereby created on all real, personal and mixed property in the City for all unpaid taxes. The priority of said lien shall be determined in accordance with state law.
- B. All seizure and foreclosure proceedings shall be administered in accordance with State property tax codes.”

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 29

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE LANGUAGE AND REFLECT CURRENT PRACTICE:

“SECTION 8.24 – INDEPENDENT AUDIT

Prior to the end of each fiscal year, the Council shall designate a certified public accountant, who is licensed by the State of Texas, to make an independent audit of accounts and other evidences of financial transactions of the City government and submit a report to the Council within one hundred eighty (180) days from the closing date of the City's fiscal year. Notice shall be given by publication in the official newspaper of the City that the annual audit is on file at the City Hall for inspection.

Such accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the City government. The accountant shall not maintain any accounts or records of the City business, but, within specifications approved by the Council, shall post audit the books and documents kept by the Finance Director and any separate or subordinate accounts kept by any other office, department or agency of the City.”

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 30

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE LANGUAGE, COMPLY WITH STATE AND FEDERAL LAW, AND REFLECT CURRENT PRACTICE:

“SECTION 9.01 – POWER TO GRANT FRANCHISE

Council shall have power by ordinance to grant, amend, renew and extend all franchises of all public utilities of every type operating with the City. All such ordinances granting, amending, renewing, or extending franchises for public utilities shall be governed by the procedures established in Section 6.14. No public utility franchise shall be granted for a term of more than twenty (20) years, nor be transferable except with the approval of the Council expressed by ordinance.”

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 31

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE LANGUAGE, COMPLY WITH STATE AND FEDERAL LAW, AND REFLECT CURRENT PRACTICE:

“SECTION 9.08 – REGULATION OF RATES AND UTILITIES

The Council shall have full power, after notice and hearing, to regulate by ordinance, subject to Federal and State laws, the rates of every public utility operating in the City provided that no such ordinance shall be passed as an emergency measure. The City shall have power to employ, at the expense of the Grantee, expert assistance and advice in determining a reasonable rate and equitable profit to the Grantee. This Charter does not revoke any existing City Ordinance that has waived the right of rate regulation by the City to the Public Utility Commission of the State of Texas.”

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 32

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS:

“SECTION 10.01 – PLANNING AND ZONING COMMISSION

The Council shall appoint a City Planning and Zoning Commission, consisting of five (5) members, who shall be residents of the City[, real property owners and] but who shall not be employees of the City.

A. Term of Office

The members of the Commission shall be appointed for three (3) year, staggered terms.

B. Rules of Procedure

The Commission shall annually elect one (1) of its number Chairman and shall establish its own rules of procedure which shall include the following: A quorum shall consist of a majority of the members of the Commission and an affirmative vote of a majority of those present shall be necessary to pass upon pending questions. All meetings shall be open to the public and a record of all proceedings shall be maintained by the person performing the duties of the City Secretary and shall be a public record.

C. Vacancies

Members of the Commission shall actively participate in the activities of the Commission, and any member who is absent from three (3) consecutive meetings of the Commission without valid excuse as determined by the Commission, shall automatically be dismissed from membership. The Commission shall at once notify the Council that a vacancy in the Commission exists.

Vacancies occurring in the Commission, for whatever reason, shall be filled within thirty (30) days by appointment by the Council for the remainder of the unexpired term.

D. Powers and Duties

The Commission shall have the power and shall be required to:

- (1) Recommend to the Council amendments, extensions and additions to the Master Plan for the physical development of the City.
- (2) Recommend to the Council the approval or the disapproval of plats of proposed subdivisions submitted in accordance with City ordinance as adopted or hereafter amended.

- (3) Recommend to the Council plans for the clearance and rebuilding of slum districts and blighted areas which may develop within the City.
- (4) Recommend to the Council the amendment, extension and revision of the Building Code, which code shall include the minimum standards of construction for building, the minimum standards for plumbing and the minimum standards for electrical and mechanical equipment.
- (5) Submit annually to the City Manager, not less than ninety (90) days prior to the beginning of the budget year, a list of recommendations for capital improvements which, in the opinion of the Commission, are necessary or desirable to be constructed during the forthcoming five (5) years. Such list shall be arranged in order of preference, with recommendations as to which projects shall be constructed in which year.
- (6) Meet no less than once each quarter, meetings to be held at the City Hall unless prior notice of change of meeting place be given by publication in a newspaper in general circulation in the City.
- (7) Operate under the guidelines of the powers granted by the Civil Statutes of the State of Texas.

E. Liaison with City Council

The City Manager or his representative shall attend the meetings of the Commission and shall serve as liaison between the Commission and the Council.”

___ APPROVE

___ DISAPPROVE

AMENDMENT NO. 33

A CHARTER AMENDMENT TO COMPLY WITH STATE AND FEDERAL LAW:

“SECTION 11.08 – ELECTION TO BE CALLED

If the officer whose removal is sought does not resign, then it shall become the duty of the Council to order an election and fix a date for holding such recall election, in accordance with State law.

___ APPROVE

___ DISAPPROVE

Regular City Council

Agenda Item

Data Sheet

Meeting Date: December 16, 2013

Topic:

Receive Tomball Water Committee Report, presented by Chair, Mark Stoll and take Action as Necessary

Background:

On August 20, 2012, the City of Tomball City Council agreed that a committee, comprised of Councilmen Stoll and Hudgens, Roy Lackey, and P&Z member Barbara Tague, would explore the issues around the funding mechanisms and water issues of the North Harris County Regional Water Authority (NHCRWA).

NHCRWA's primary assignment is to develop and implement a strategy for complying with the Harris-Galveston Coastal Subsidence District's (HGCSO) Regulatory Plan that requires a reduction in groundwater usage to no more than 20 percent of total water demand by the year 2030. Since the NHCRWA is not a taxing entity, funding for our future water supply and the infrastructure, through which to deliver it, is being accomplished through the sale of revenue bonds, and paid for by groundwater pumpage fees.

The Harris-Galveston Subsidence District (HGSD), a special purpose district created by the Texas Legislature in 1975 under Chapter 8801 of the Special Districts Code, provides for the regulation of groundwater withdrawal throughout Harris and Galveston counties to prevent land subsidence, which leads to increased flooding.

As a result of the increasing threat subsidence, the HGSD adopted a series of regulatory plans to reduce groundwater pumpage, and ultimately mandated, in their 1999 plan, a reduction to only 20% reliance on groundwater by 2030. With the help of the North Harris County Regional Water Authority (NHCRWA) and the West Harris County Regional Water Authority (WHCRWA), both created by the Texas Legislature to transition the areas to surface water in the allotted timeframe, a fair and equitable contract with the City of Houston to supply surface water from Lake Houston was successfully negotiated and construction is already underway in both Authority areas.

The HGCSO's current rate structure is \$7.00 per 1,000 gallons consumed (used) of groundwater pumped. Were the City of Tomball not a member of the NHCRWA, we would be a member of the HGCSO and would pay the higher rate per 1,000 gallons pumped plus a base rate of \$20.00 per million gallons of groundwater pumped. Under the current NHCRWA rate structure, the City of Tomball charges \$1.75 per 1,000 gallons consumed (used) as a pass-through to the Tomball water customers. The difference between the pumpage and consumed water is paid for by the City of Tomball. To date, the City has collected in excess of \$5.3 million dollars from Tomball rate payers and has paid in excess of \$1.0 million dollars in pumpage fees.

Based on the number of unknown options and items beyond our control, the committee recommends that the City of Tomball submit a letter to the NHCRWA, asking them to explore the possibility of the City of Tomball being included in the surface water program-planning document and then do a formal evaluation based on that report.

Origination:

City Manager

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:

Tomball Water Committee Report - Final

Regional Groundwater Update Project - Final Report

Community Impact News Article

Tomball Water Committee Report
December 3, 2013

On August 20, 2012, the City of Tomball City Council agreed that a committee comprised of Councilmen Stoll and Hudgens, Roy Lackey, and P&Z member Barbara Tague explore the issues around the funding mechanisms and water issues of the North Harris County Regional Water Authority (NHCRWA).

The Committee met September 5 & 26, 2012, January 31, 2013, and March 28, 2013.

Subsequent meeting was held with representatives from Freese & Nichols on March 15, 2013 between the City Manager, George Shackelford and Councilmen Stoll. George Shackelford, City Manager met with the NHCRWA General Manager Jimmie Schindewolf on April 10, 2013.

On June 18, 1999, the bill that created the NHCRWA (HB 2965) in the 76th Texas Legislature was signed into law, and called a special election for January 15, 2000 so voters could confirm the creation of the new NHCRWA and elect Directors. The bill required a County administered election, held in January 2000, to confirm the district and elect the board. It passed with 90% support. State legislation required the city to participate in the Texas Water Conservation Plan either as a member of the Harris-Galveston Coastal Subsidence District's (HGCSO) or a member of the NHCRWA. The City of Tomball became a member of NHCRWA in 2002.

Following the election, the NHCRWA became the single entity empowered to negotiate for a secure, long-term, reliable, quality supply of wholesale drinking water for all the independent neighborhoods, municipal utility districts, small municipalities, and permitted well owners within its boundaries.

These boundaries are essentially US 290 on the west, the Harris County line on the north (Spring Creek), FM 1960 and Bammel-North Houston on the south and the western shores of Lake Houston on the east. The City of Tomball lies within these boundaries. NHCRWA is comprised of 350 square miles previously projected to have over 396,000 residents in 2000. However, after the 2010 Census, that number rose to over 600,000 residents.

NHCRWA's primary assignment is to develop and implement a strategy for complying with the Harris-Galveston Coastal Subsidence District's (HGCSO) Regulatory Plan that requires a reduction in groundwater usage to no more than 20 percent of total water demand by the year 2030. Since the NHCRWA is not a taxing entity, funding for our future water supply and the infrastructure, through which to deliver it, is being accomplished through the sale of revenue bonds, and paid for by groundwater pumpage fees.

The Harris-Galveston Subsidence District (HGSD) is a special purpose district created by the Texas Legislature in 1975. The District was created to provide for the regulation of groundwater withdrawal throughout Harris and Galveston counties for preventing land subsidence, which leads to increased flooding. The District's enabling legislation is found in Chapter 8801 of the Special Districts Code.

As a result of the increasing threat subsidence posed to these areas, the HGSD adopted a series of regulatory plans to reduce groundwater pumpage, and ultimately mandated, in their 1999 plan, a reduction to only 20% reliance on groundwater by 2030. With the help of the North Harris County Regional Water Authority (NHCRWA) and the West Harris County Regional

Water Authority (WHCRWA), both created by the Texas Legislature to transition the areas to surface water in the allotted timeframe, a fair and equitable contract with the City of Houston to supply surface water from Lake Houston was successfully negotiated and construction is already underway in both Authority areas.

The HGCSD's current rate structure is \$7.00 per 1,000 gallons consumed (used) of groundwater pumped. If the City of Tomball had not become a member of the NHCRWA, we would be a member of the HGCSD and be paying the higher rate per 1,000 gallons pumped plus a base rate of \$20.00 per million gallons of groundwater pumped

Under the current NHCRWA rate structure, the City of Tomball charges \$1.75 per 1,000 gallons consumed (used) and is a pass-through to the Tomball water customers. The difference between the pumpage and consumed water is paid for by the City of Tomball. To date, the City has collected in excess of \$5.3 million dollars from Tomball rate payers and the city has paid in excess of \$1.0 million dollars in pumpage fees.

The NHCRWA actual water lines are currently constructed just south of the city limits of Tomball and additional plans are to add additional transmission lines and pump stations in the immediate area.

The 83rd Session of the Texas Legislature again has addressed water issues across the State. Adopted was CSSJR 1 that would propose a constitutional amendment to create the State Water Implementation Fund for Texas (SWIFT) and the State Water Implementation Revenue Fund for Texas (SWIRFT) as special funds in the state treasury outside the general revenue fund.

Money in the funds would be administered, without further appropriation, by the Texas Water Development Board (TWDB) for the purpose of implementing the state water plan, with oversight by the Legislative Budget Board.

The Legislature, by general law, could allow the TWDB to enter into bond enhancement agreements to provide additional security for general obligation bonds or revenue bonds, the proceeds of which would be used to finance state water plan projects. The TWDB could also provide direct loans for water projects in the state water plan. The Legislature, by general law, could allow the TWDB to issue bonds and enter into related credit agreements payable from all revenues available to the SWIRFT.

Proposition 6 which was on the November 5, 2013 ballot passed very strongly across the State. Proposition 6 has a direct impact on the NHCRWA as the funding mechanism created by this bill will be utilized for the construction of Luce Bayou, which in turn provides additional water source for the City of Houston. The Luce Bayou Project would bring water from the Trinity River to Lake Houston, our area's source of drinking water.

The following are summaries of the individual meetings:

September 5, 2012 meeting (City Hall):

Attendees: Councilmen Hudgens, Councilmen Stoll, Barbara Tague, Roy Lackey, George Shackelford, and Lori Lakatos

This meeting was the first meeting to start discussions about NHCRWA and why it was created and to organize the committee.

Discussed Items

1. Lawsuit information for subsidence including on-going lawsuits.
2. NHCRWA is not a taxing authority.
3. Pumpage and capacity for the City of Tomball.
4. Setting the next meeting for September 26, 2013 at the Public Works Building.

September 26, 2012 meeting (Public Works Building):

Attendees: Councilmen Hudgens, Councilmen Stoll, Barbara Tague, Roy Lackey, Kyle Bertrand, George Shackelford, and Lori Lakatos

This meeting was a general meeting in which to get organized and discuss the purpose and goals of the ad hoc group.

Discussed Items

1. The need to better educate our citizens on the fee being paid to NHCRWA.
2. The City is currently not on any NHCRWA future plans to expand surface water to additional areas.
3. NHCRWA fees currently being charged for ground water are \$1.75 @ 1,000 gallons pumped and surface water is charged at \$2.25 @ 1,000 gallons pumped.
4. Have a representative from NHCRWA and HGCSO come to the committee meeting to better explain their operations and long range plans.
5. Discussed legal options that city might have as a participant of NHCRWA.

January 31, 2013 meeting (Public Works Building):

Attendees: Councilmen Stoll, Barbara Tague, Roy Lackey, Kyle Bertrand, George Shackelford, Lori Lakatos, Jimmie Schindewolf (General Manager of NHCRWA), Ron Neighbors (General Manager of HGCSO), Michael Baugher (Principal of AECOM), and Thomas Rolen (Associate Vice President of AECOM)

Discussed Items

1. Attending the meeting were Jimmie Schindewolf, General Manager of NHCRWA, Ron Neighbors, General Manager of the HGCSO, Michael Baugher, Principal and Thomas Rolen, Associate Vice President, both from AECOM, one of the consulting engineers under contract to the NHCRWA.
2. Goals of the NHCRWA under the 2000 Plan were to reduce the use of groundwater by 30% by 2010, 60% by 2025, and 80% by 2035.
3. The City of Tomball was added to the NHCRWA area/plan in 2002.
4. The Groundwater Reduction Plan (GRP) was approved by the HGCSO in 2003. The GRP was developed to meet the groundwater conversion requirements of HGCSO. The GRP includes the groundwater reduction, 30%, 70%, and 80% to alternate water source. Currently 60 utility districts have been converted to meet the 30% with over 75 miles of lines constructed.
5. Reviewed subsidence information in the immediate area.

6. NHCRWA plans for additional surface water include the development of Luce Bayou. This project should be completed by July 2019 and will provide an estimated 128 million gallons a day. They currently have 80 million gallons a day capacity under contract.
7. There is a need for an additional water plant with boosters in the northern portion of the district and water quality could be an issue.
8. There is a need to encourage additional conservation and reuse of water.
9. If NHCRWA provided surface water to the City:
 - a. The City could retain its current wells. The wells would have to be maintained and operated routinely.
 - b. Blended water (mixture of ground and surface water) would be distributed throughout the Tomball system.
 - c. The City could be subject to rationing if the need arose.
 - d. Water treatment facilities would need to be modified for chloramines treatment for surface water. Blended water would require a different treatment method than Tomball currently uses.
 - e. The NHCRWA would provide a credit for the cost of the Chloramine System constructed by each Converted Entity (the "Chloramination Credit").
10. With the mandated conversion to surface water well underway, and having met the initial required reduction in groundwater pumpage, the North Harris County Regional Water Authority (NHCRWA) and other regional water users now have an extra five years to plan and execute the next phase in the conversion process. After completing a two-year, comprehensive study and analysis of the effectiveness of their Regulatory Plan, the Harris-Galveston Subsidence District (HGSD) voted to delay the next conversion date from 2020 to 2025, and to reduce the percentage of conversion from 70 to 60 percent. The 2030 date was extended to 2035 with the same (80 percent) goal for conversion by that date. Attached is the June 2013 Regional Groundwater Report Update June 2013 by Harris Galveston Subsidence District.

March 28, 2013 meeting:

Attendees: Councilmen Stoll, Barbara Tague, George Shackelford, Craig Meyers, and Lori Lakatos

Discussed Items

1. Discussed preparing a report for the City Council and invite Mr. Schindewolf to the meeting when presented.
2. Do additional education on the benefits of water meters for irrigation.
3. Research "green" programs for water consumption and recycling water. Incentives for Low Impact Development (LID) and Green Infrastructure (GI).

April 10, 2013 meeting with Mr. Schindewolf:

Attendees: George Shackelford, Jimmie Schindewolf

1. Original plans for groundwater reduction for 2020 were a 70% conversion and 2030 a 80% conversion. The HGSD is currently undergoing a modification of their original plans because they are not going to meet those goals. Their report will be available in July 2014 which will update their reduction plan.

2. Region H is currently updating their water plans. Website: <http://www.regionhwater.org>. Executive Summary of 2010 Plan: http://www.regionhwater.org/downloads/documents/00b_Executive_Summary_000.pdf
3. Next major expansion the NHCRWA will do is additional transmissions lines from the current plant in North Houston to I-45. Following that, additional lines will be constructed from I-45 to SH249, and in conjunction with the City of Houston the construction of a new purification plant in NW Houston area.
4. The NHCRWA plans to include the City in their upcoming planning documents and has requested a letter from the City just advising them that we wish to be included in the conversion plan or if the City wishes to stay on groundwater.

September 19, 2013 meeting with Mr. Schindewolf and Councilman Stoll:

1. Reconfirmed with Mr. Schindewolf that should the City of Tomball go on surface water through the NHCRWA, the City could retain our existing wells. The NHCRWA would not likely have enough water needed for the City of Tomball so there would be a mixture of ground and surface water.
2. An update on the Groundwater Reduction Plan is still on going because of the large growth pattern in the Woodlands and North Harris County growth. Plan to be completed June 30, 2014.
3. We discussed current rationing rules. We understood that if the NHCRWA were to implement water rationing, the City of Tomball would be subject to the same rationing requirements because we are located in and are a part of their jurisdiction.

The City of Tomball is within the NHCRWA jurisdictional area based on the 2000 vote. Since the City elected to be a part of the NHCRWA, the City is legislatively required to pay the pumpage fee to the NHCRWA regardless of receiving surface water or not. The NHCRWA is mandated to reduce the pumpage of groundwater in the Houston region.

Several questions arise during the series of meetings.

1. Does the City of Tomball want be a part of that planning process?
2. It is certainly anticipated that the City's current wells and any subsequent new wells will provide the City adequate drinking water for many years in the future, but how long is that?
3. It is unknown if the State will in the future require mandated rationing of water well pumpage.
4. Will the ongoing development in the Tomball area and southern Montgomery County have a major effect on the Tomball water demands in the future and will we be able to sustain the current pumpage with that increase?
5. Should the City consider the ramifications 10 to 30 years out of staying on groundwater and problems that may arise with the wells?
6. Would it be more cost effective to drill a new water in lieu of rehabilitation of the Baker Street Well with the potential conversion cost to surface water?
7. If a surface water opportunity is overlooked or not taken, would it be too late to hook on in 30 years or longer?
8. Would it be advantageous to the city, to be proactive by positioning and preparing for conversion while the NHCRWA is moving forward with their planning process? Particularly if Proposition 6 passes, allowing for a lower cost of financing any conversion costs to the city.

9. The city's groundwater is currently pumped primarily from the Evangeline Aquifer, which is the second layer of the Gulf Coast Aquifer; this is important to consider when making any decision about our water supply.

Based on the number of unknown options and items beyond our control, the committee recommends that the City of Tomball submit a letter to the NHCRWA, asking them to explore the possibility of the City of Tomball being included in the surface water program-planning document and then do a formal evaluation based on that report.



Regional Groundwater Update Project

Final Report

June 2013

Prepared for:

Harris-Galveston Subsidence District

Fort Bend Subsidence District

Lone Star Groundwater Conservation District

Prepared by:





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APPENDICES

Appendix A: Interim Studies and Reports



1.0 INTRODUCTION

The purpose of this report is to summarize the results of the Regional Groundwater Update Project (RGUP). The RGUP originally started in 2010 as the Harris-Galveston Subsidence District (HGSD) 1999 Regulatory Plan Update, but due to its benefits to two other regional entities that also regulate the production of groundwater, the Fort Bend Subsidence District (FBSD) and the Lone Star Groundwater Conservation District (LSGCD), the three districts partnered to create the RGUP.

The primary benefit of collaboration between these three entities is that each of them could use the RGUP to vet their existing regulatory plans using updated population/water demand data and groundwater modeling capability, and in the case of HGSD and FBSD, investigate the physical effects of changing their existing regulatory plans to accommodate the practical realities facing their stakeholders. An additional benefit to LSGCD is that they can use the data and modeling tools as they monitor aquifer conditions and consider their future regulations.

The project was conducted over a nearly three year period, from April, 2010 to January, 2013, and included input and review from the three partners as well as the major stakeholders. Each project partner was at a different point in their groundwater regulations process, and each had different considerations in terms of their stakeholders' ability to secure and fund alternative water supplies to meet their regulations, leading to different outcomes in terms of future groundwater regulations.

The HGSD used the RGUP to verify that their existing regulatory plan was working, and weighed the effects of modifying their plan against the feasibility of stakeholders obtaining alternative water supplies necessary to meet the proposed groundwater reductions. The FBSD and LSGCD also confirmed that their existing regulatory plans were effective, and both opted not to seek any further changes to their plans at this time.

This report is intended as more of a summary of the project, rather than a comprehensive single document. All of the interim technical memos and reports completed over the course of the study are included as an attachment, and provide a very detailed reporting of the



assumptions and methodologies used during the course of the RGUP, as well as all the results. Section 2 describes the purpose of the project, and its benefit to the project partners and the region as a whole. Section 3 provides the final results of the RGUP, i.e. the projected water level and land-surface subsidence changes expected to occur as a result of the groundwater regulatory plans recommended by the RGUP project partners as a result of this study.



2.0 PROJECT INITIATION AND PURPOSE

2.1 HGSD REGULATORY PLAN UPDATE

In February 2010 the HGSD initiated a project for the purpose of updating its District Regulatory Plan (DRP). At that time, the latest major HGSD DRP update was completed in 1999. The HGSD began the update project to:

1. Update population and water demand projections, incorporating the 2010 U.S. Census;
2. Update and recalibrate the parameters in the groundwater models and subsidence models, and;
3. Evaluate the regulations in the 1999 DRP and make any necessary changes to the regulations for the upcoming decades.

Because of the impact of population and water demand from counties neighboring Harris and Galveston counties, the project study area also included Fort Bend, Montgomery, and Brazoria counties. These five counties represent 23 percent of the State's 2010 population.

2.2 REGIONAL BENEFIT AND COOPERATION

2.2.1 Creation of the RGUP

The project as conceived by the HGSD was always recognized to have benefits to the entire Houston region. The primary benefits are detailed population and water demand projections, and estimates of groundwater level changes and land surface subsidence for a five county area that is vital to the regional economy. To help defray the cost of developing this regional data, and to promote joint planning and data sharing, the FBSD and LSGCD accepted the invitation to become partners in the project, thereby creating the RGUP. By creating this partnership, all three Districts have the opportunity to provide input, review results, evaluate the effects of their future regulations in terms of groundwater resource protection, and to use the data in future studies.

Figure 1 shows the project team. The project roles are shown in Table 1.

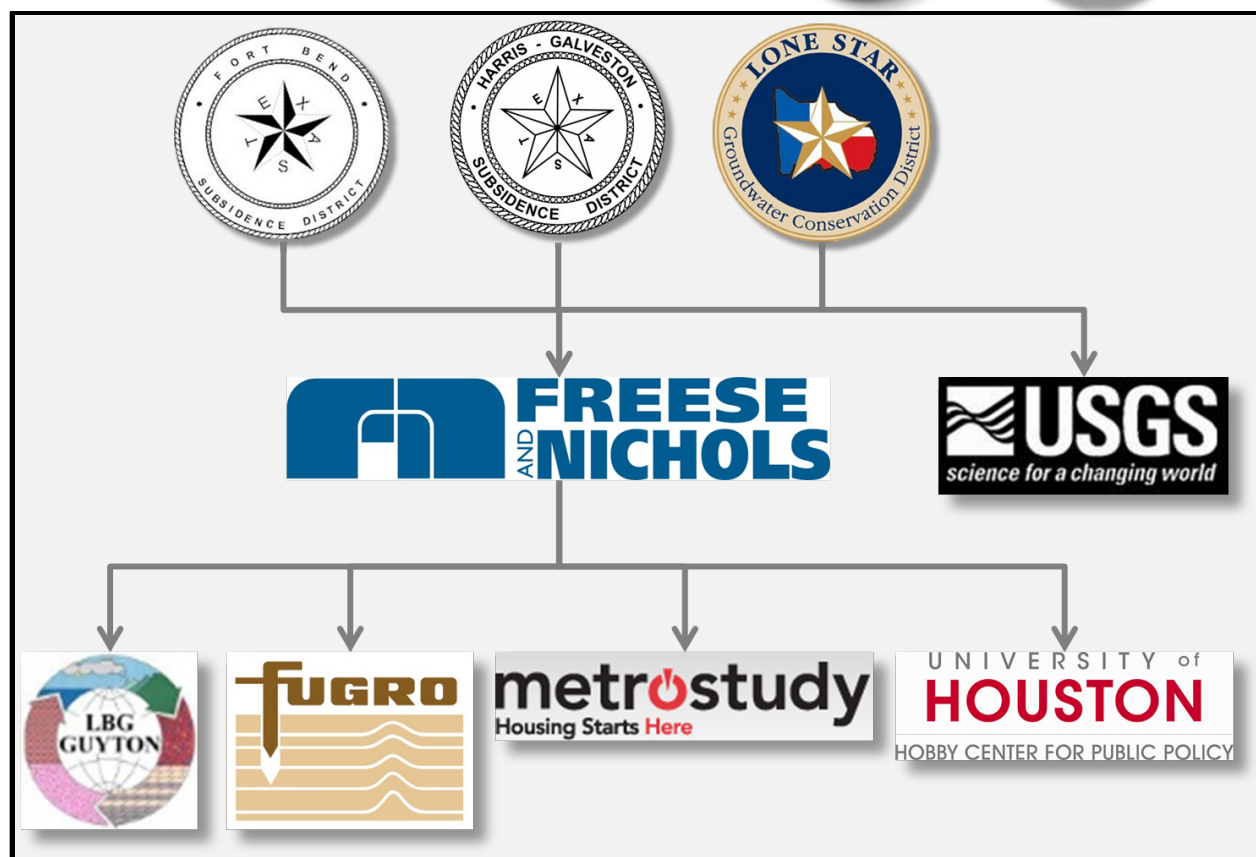


Figure 1. RGUP Team

Table 1. RGUP Team Members Roles

Team Member	Role
HGSD/FBSD/LSGCD	Project Partners
Freese and Nichols, Inc.	Project Management, population distribution, water demand projections, regulatory scenario development, Geographic Information Systems
USGS	Groundwater model and subsidence model update and calibration
LBG Guyton Associates	Groundwater model update, regulatory scenario groundwater analysis
Fugro, Inc.	Subsidence prediction using PRESS
Metrostudy, Inc.	Short-term population projections (2010-2020)
UH Center for Public Policy	Long-term population projections (2020-2070)



2.2.2 TWDB Coordination

One of the goals of the RGUP from the beginning was to have the county and Water User Group (WUG) level population projections for the study area be adopted by the Texas Water Development Board (TWDB) for use in the Region H water plan. To help ensure this outcome, the project team coordinated with the TWDB, as well as the State Demographer, throughout the duration of the project, keeping them updated on projection methodology and results. At the date of this report, the Region H Regional Water Planning Group, with concurrence by the TWDB, has adopted the population projections for use in the State Water Planning for this region.

2.2.3 Benefit to Project Partners and the Region

The benefits to the project partners are as follows:

1. Confirmation that adopted regulations provide an adequate level of positive impact in terms of future water level drawdown and land-surface subsidence.
2. Population and demand projections utilizing the 2010 U.S. Census and at a high level of spatial detail.
 - a. Detailed spatial projections provide accuracy and flexibility in developing pumping datasets for use in regulatory scenario analysis.
 - b. Project partners can use projections going forward to analyze permitting requests and GRPs.
3. Updated groundwater model. A new groundwater model, the Houston Area Groundwater Model (HAGM) was created and calibrated up to 2009 measured groundwater levels. The HAGM modeling effort addressed long-standing deficiencies in water level predictions for the Jasper Aquifer in Montgomery County and northern Harris County. The Jasper is an important water source in Montgomery County and is becoming more widely used in Harris County; more accurate predictions provide a solid foundation for future study of that aquifer system.



4. Creation of a comprehensive regional subsidence prediction tool. This tool will provide subsidence predictions throughout the study area instead of just at each of the 26 PRESS sites located in Harris, Galveston, and Fort Bend counties. In creation of the HAGM, the USGS used the Subsidence and Aquifer-System Compaction (SUB) package designed for the MODFLOW-2000 model to simulate clay compaction and storage, and thus land-surface subsidence, in the Chicot, Evangeline, and Jasper aquifers and the Burkeville confining unit (USGS Scientific Investigations Report 2012-5154, 2012). Since it is part of the HAGM model, the SUB package generates subsidence predictions at each model grid cell, meaning that subsidence predictions would be available everywhere in the RGUP study area, rather than just at each of the 26 PRESS sites. The SUB package calibration statistics were acceptable on a regional basis; however the SUB package was not used in RGUP due to problems with localized subsidence predictions in the area around NASA in northern Galveston and southern Harris counties, and the inability to address those problems within the project schedule and budget. While the SUB package results were not used in the RGUP, the package was developed to the extent that it can be used in the near future for comprehensive regional subsidence prediction.

Having the RGUP projections adopted in Region H facilitates use of a consistent set of projections for the region. This is particularly important in Region H because the HGSD, FBSD, and LSGCD regulatory plans play a crucial role in shaping water management strategies for the vast majority of the region. Additionally, the RGUP projections are the most detailed projections used in regional planning to date; their use will be required in TWDB-funded projects unless more accurate projections are available, which only strengthens the planning process.

3.0 STUDY RESULTS

The RGUP culminated in water level and land-surface subsidence predictions, through 2070, for groundwater withdrawals that take into account population and water demand projections and the HGSD, FBSD, and LSGCD regulatory plans that were in effect January, 2013. To get to that point, there were numerous interim studies conducted during the RGUP to build the required



data and models. This section lists the interim studies and reports that were developed: the actual documents are provided as attachments. Following this, the final results are described and documented.



3.1 INTERIM STUDIES AND REPORTS

Interim studies and reports are available as an attachment to this report. Table 2 provides a list of titles and their page numbers in the attachment.

Table 2. Interim Studies and Reports [Linked To PDF Documents](#)

1. Technical Memorandum: Groundwater Model Update and Improvements. LBG-Guyton, May 2011. (pp. 1-15)
2. Technical Memorandum: Evaluation of Exempt Groundwater Use from Registered Wells Within the Harris-Galveston Subsidence District, Fort Bend Subsidence District and Lone Star Groundwater Conservation District. LBG-Guyton, May 2011. (pp. 16-32)
3. Geotechnical Services: Work Order 2 – Data Preparation, Harris-Galveston Subsidence District, Harris, Galveston and Fort Bend Counties, Texas. Fugro Consultants, Inc., May 2011. (pp. 33-202)
4. HGSD Regional Groundwater Update Project Work Order 2 Population Projection Methodology Summary. Freese and Nichols, Inc., March 22, 2011. (pp. 203-205)
5. Geotechnical Services: Work Order 3 – PRESS Model Analyses, Harris-Galveston Subsidence District, Harris, Galveston and Fort Bend Counties, Texas. Fugro Consultants, Inc., November 2011. (pp. 206-354)
6. Methodology for Developing Baseline Per Capita Daily Water Demand. Freese and Nichols, Inc., December 22, 2011. (pp. 355-381)
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12. Distribution of Population from Census Tracts to Blocks. Freese and Nichols, Inc., August 29, 2012. (pp. 488-535)
13. RGUP Census Tract Level Population Projections. Freese and Nichols, Inc. August 29, 2012. (pp. 536-589)
14. Hydrogeology and Simulation of Groundwater Flow and Land-Surface Subsidence in the Northern Part of the Gulf Coast Aquifer System, Texas, 1891-2009 (Scientific Investigations Report 2012-5154). U.S. Geological Survey, Revised November 2012. (pp. 590-658)
15. Regulatory Scenario Development, Analysis, and Results. Freese & Nichols, Inc., October 1, 2012. (pp. 659-854)
16. Geotechnical Services: PRESS Model Scenario Runs – Work Order 7. Fugro Consultants, Inc., June, 2013. (pp. 855-932)



3.2 FINAL RESULTS

One of the primary outputs of the RGUP are predictions of future groundwater levels and land-surface subsidence. Item 15 in Table 2, *Regulatory Scenario Development, Analysis, and Results*, provides the assumptions and results for the various regulatory scenarios that were evaluated in the RGUP. These scenarios were developed for the RGUP partners' consideration in evaluating their current regulatory plans.

This section compares Scenario 1, which assumes no future groundwater reduction beyond what was already in place in 2010, and the Final Scenario, which represents the HGSD regulatory plan adopted in January, 2013, the current FBSD regulatory plan, and the current LSGCD regulatory plan.

3.2.1 Scenario 1 (No Future Regulations)

A description of Scenario 1 is as follows:

- Harris and Galveston Counties (HGSD)
 - No increase in surface water supply beyond 2010 conversions.
 - No assumed reductions in surface water supply and all future increases in water demand are met with groundwater (Areas 1, 2, and 3).
 - Does not include Area 3 2020 70% groundwater reductions or 2030 80% groundwater reductions.
 - Future growth beyond 2010 supplied by groundwater in Areas 1 and 2.
- Fort Bend County (FBSD)
 - Assumes no conversions in 2014, 2016, or 2025. All future growth supplied with groundwater.
- Montgomery County (LSGCD)
 - No groundwater reductions in Montgomery County.
- Brazoria County (BCGCD)
 - No groundwater reductions in Brazoria County.

Full results can be found in the Item 15 report listed in Table 2. Partial results are repeated here to help demonstrate the effects of current regulations adopted by the RGUP partners in contrast to what would be predicted to happen without those regulations.

Figure 2 through Figure 4 show the incremental 2010-2050 drawdown for the Chicot, Evangeline, and Jasper aquifers respectively. Figure 5 shows the incremental 2010-2050



subsidence: the subsidence contours are interpreted from PRESS and MODLOW SUB package results.

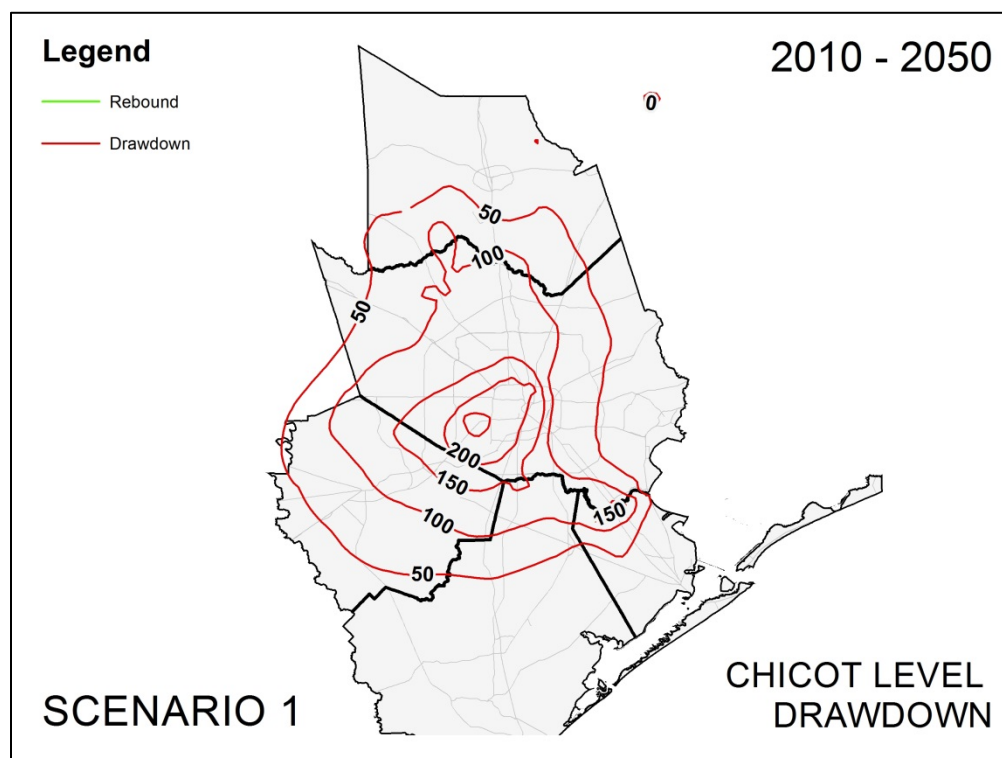


Figure 2. Scenario 1 Chicot Drawdown: 2010-2050

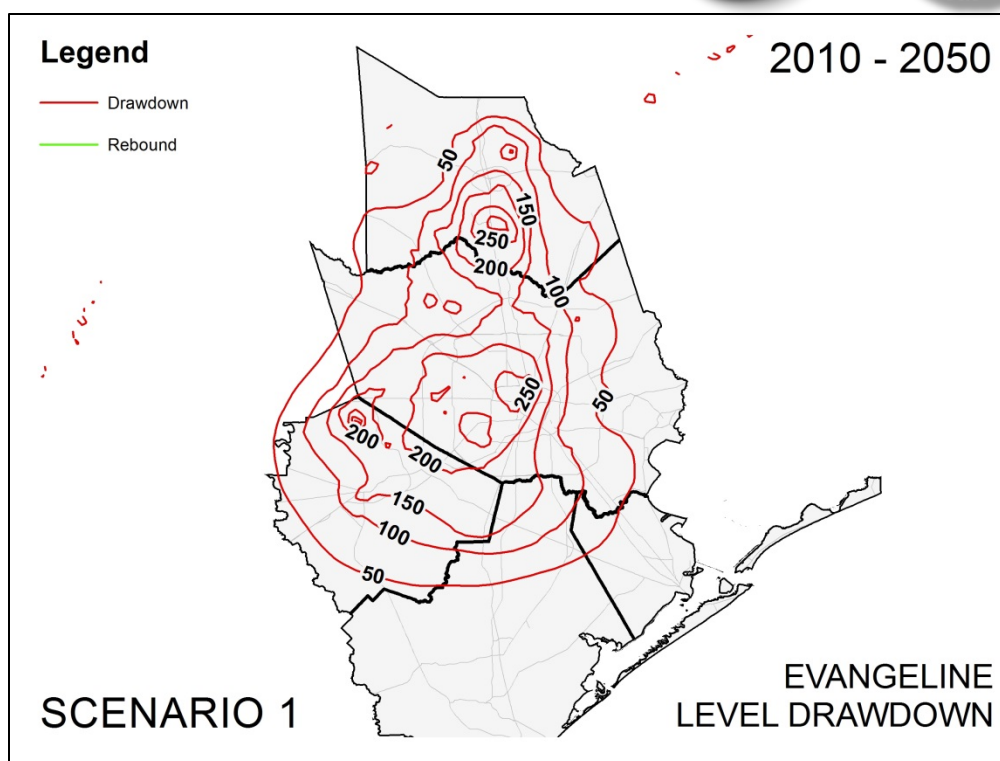


Figure 3. Scenario 1 Evangeline Drawdown: 2010-2050

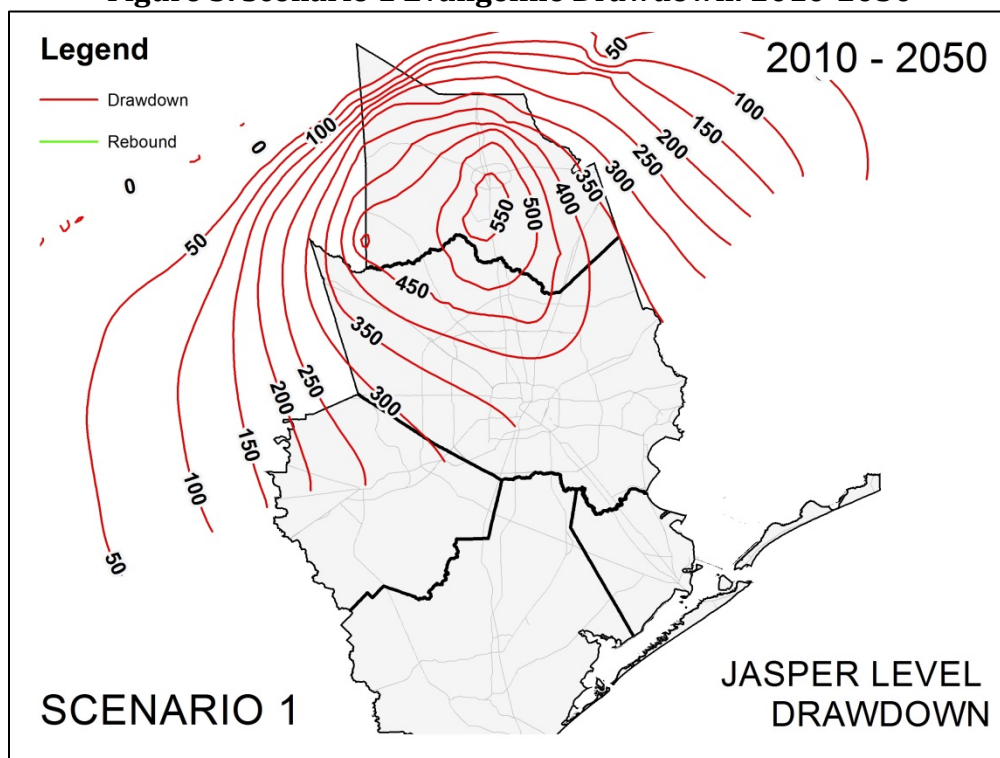


Figure 4. Scenario 1 Jasper Drawdown: 2010-2050

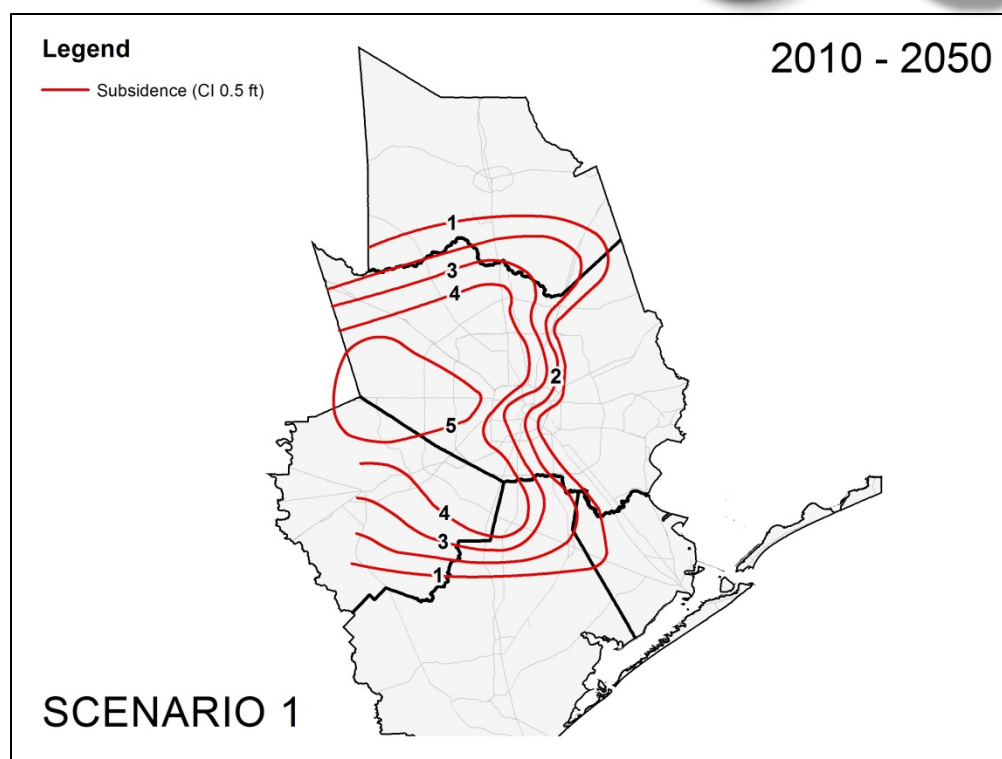


Figure 5. Scenario 1 Subsidence: 2010-2050

3.2.2 Final Scenario (Current Regulations)

The Final Scenario represents the RGUP partners' adopted regulatory plans as of January, 2013. HGSD was the only partner who modified their regulatory plan as a result of the RGUP. The regulations modeled in the Final Scenario are as follows:

- Harris and Galveston Counties (HGSD 2013 Regulatory Plan)
 - Area 1 = 90% conversion (same as 1999 DRP)
 - Area 2 = 80% conversion (same as 1999 DRP)
 - **Area 3 = 30% conversion current to 2024**
 - **Area 3 = 60% conversion 2025 to 2034**
 - **Area 3 = 80% conversion 2035 and beyond**
- Fort Bend County (FBSD 2003 Regulatory Plan)
 - Area A = 30% conversion 2014 to 2024
 - R/R Sub-Area = 30% conversion 2016 to 2024
 - Area A and R/R Sub-Area = 60% conversion 2025 and beyond
 - Area B remains on 100% groundwater.
- Montgomery County (LSGCD 2009 Regulatory Plan)



- 30% conversion in 2016 based on 2009 demands for Large Volume Groundwater Users (users with 2009 Groundwater production greater than or equal to 10 million gallons per year). Groundwater capped at 64,000 acre-feet per year for 2016 and beyond.
- Brazoria County (BCGCD)
 - **Assume City of Pearland (including ETJ) converts to 50% surface water by 2016 and beyond.**

Figure 6 through Figure 8 show the incremental 2010-2050 drawdown for the Chicot, Evangeline, and Jasper aquifers respectively. Figure 9 shows the 2010-2050 subsidence predicted by the individual PRESS models. Figure 10 shows the incremental 2010-2050 subsidence contours: the subsidence contours are interpreted from the PRESS models and MODLOW SUB package results.

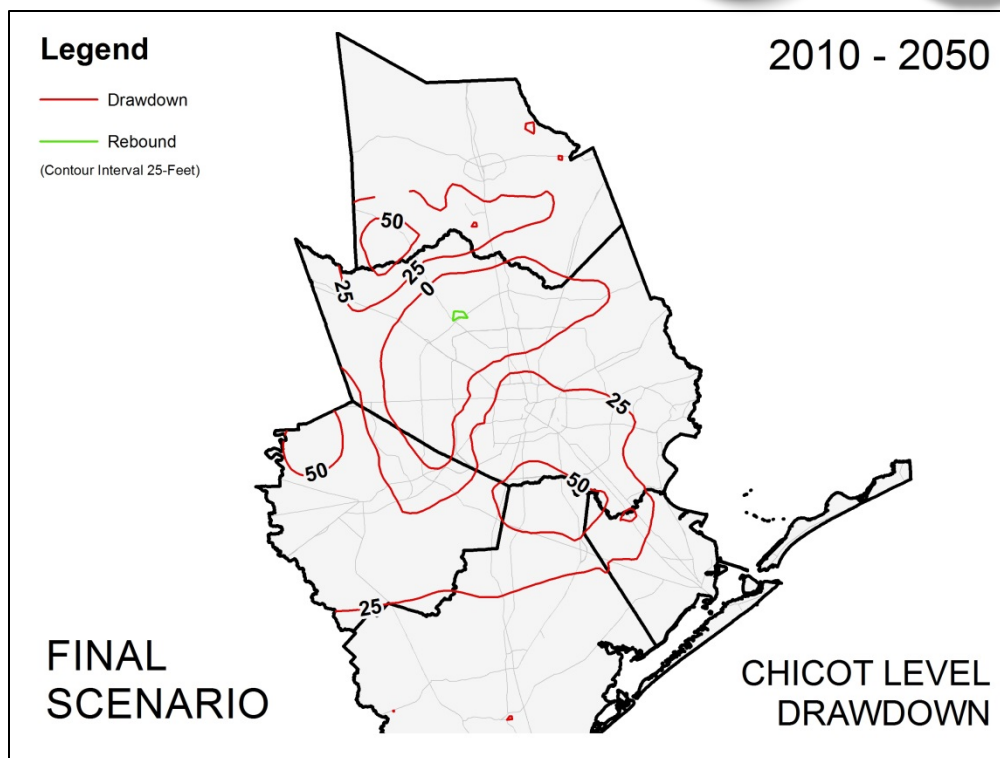


Figure 6. Final Scenario Chicot Drawdown: 2010-2050

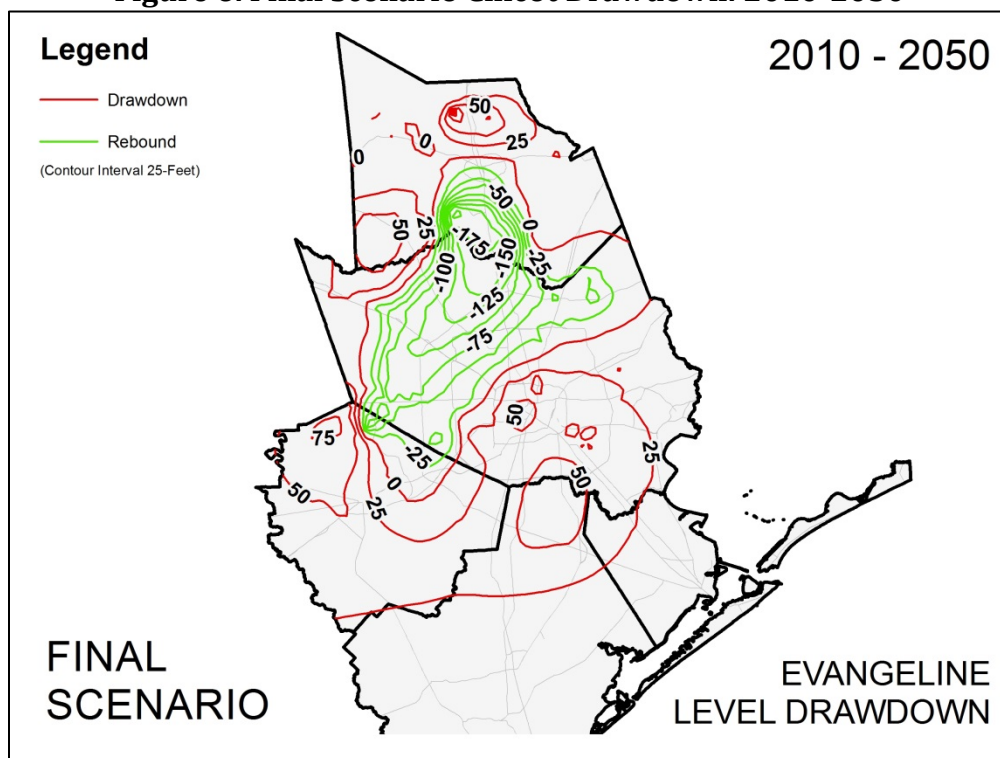


Figure 7. Final Scenario Evangeline Drawdown: 2010-2050

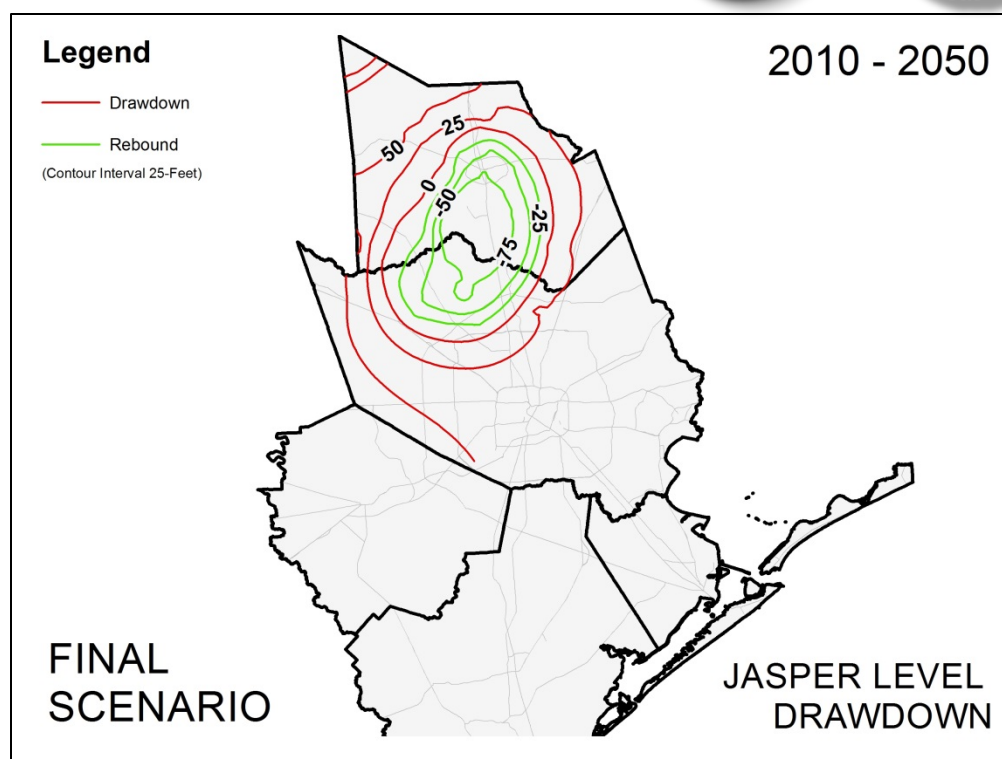


Figure 8. Final Scenario Jasper Drawdown: 2010-2050

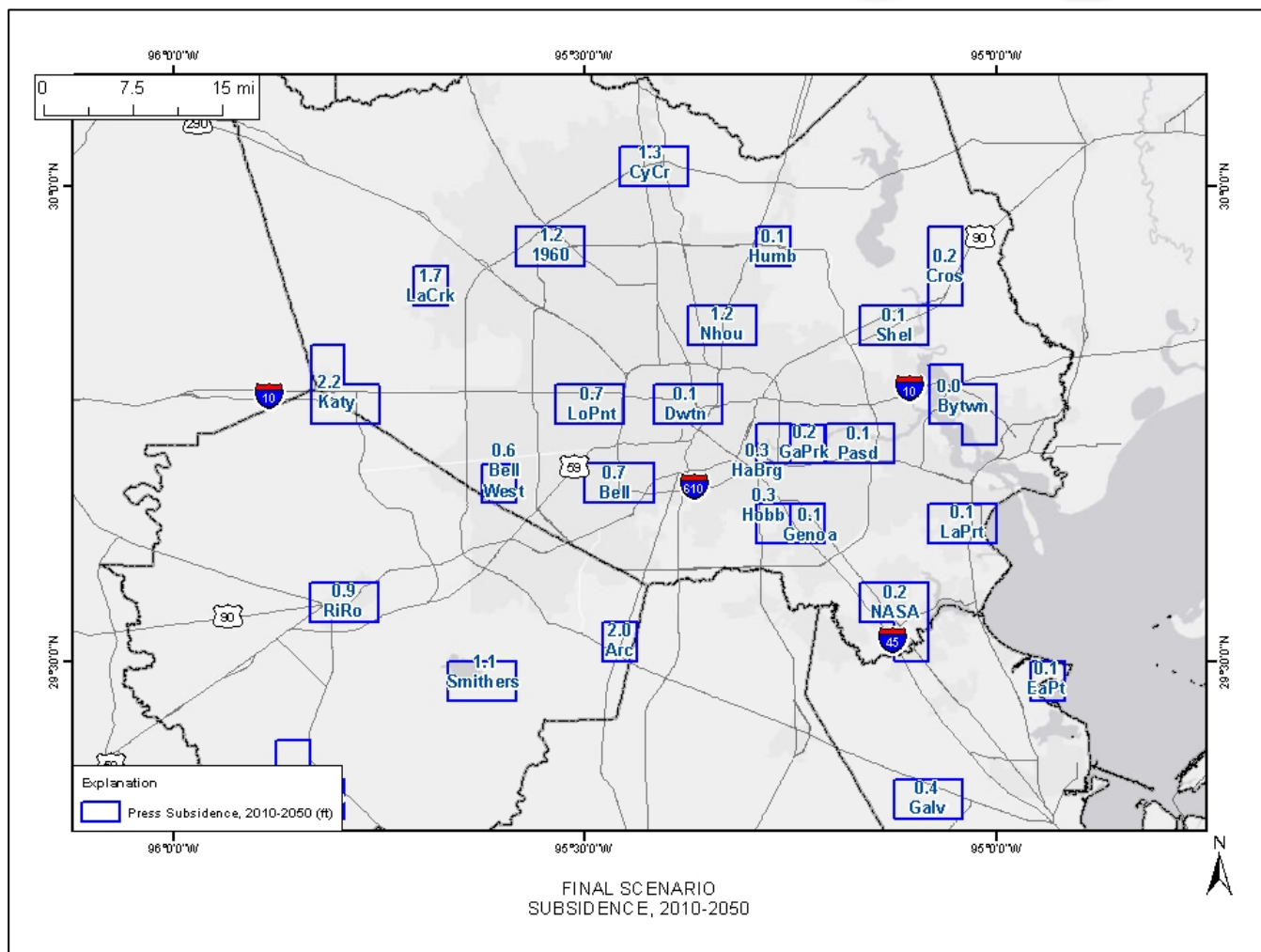


Figure 9. Final Scenario PRESS Subsidence: 2010-2050

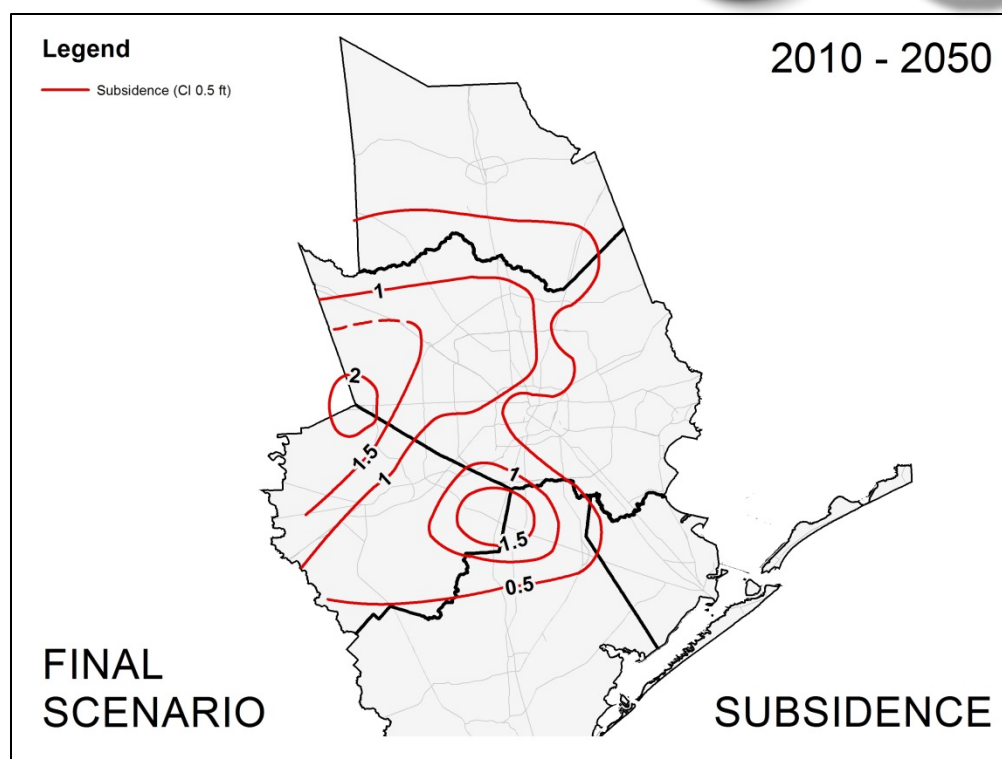


Figure 10. Final Scenario Subsidence: 2010-2050

3.2.3 Impact of Current Regulations

Tables 3-5 provide descriptions, by county, of the impact of regulations on the Chicot, Evangeline, and Jasper aquifers respectively, by comparing water level drawdown predicted with the Final Scenario model with drawdown predicted from the Scenario 1 model. In each of the RGUP partner counties, predicted drawdown is significantly reduced, and in the case of the Evangeline and Jasper aquifers, there is significant rebound in Harris and Montgomery counties.

Table 3. Chicot Water Level Drawdown Comparison: 2010-2050

	Scenario 1	Final Scenario
Fort Bend	Max 200 ft. drawdown near the Harris County border	Generally 0-25 ft. drawdown. Max 50 ft. in northwest
Galveston	Max 150 ft. drawdown near the Harris County border	Max 50 ft. drawdown near Friendswood
Harris	Generally 50-100 ft. drawdown. Up to 250 ft. in the southwest.	Generally 0-25 ft. drawdown. Max 50 ft. near Pearland and also near Montgomery County
Montgomery	50-100 ft. drawdown in southern county	Max 50 ft. drawdown in southwest

**Table 4. Evangeline Water Level Drawdown Comparison: 2010-2050**

	Scenario 1	Final Scenario
Fort Bend	Generally 50-200 ft. drawdown. Isolated area of 350 ft. in north.	75 ft. rebound near Cinco Ranch. Drawdown limited to 75 ft. in localized area in north.
Galveston	Max 100 ft. drawdown in far northwest near Pearland	Max 50 ft. drawdown at border with Brazoria County
Harris	Max 250 ft. drawdown in central and southwest	150 ft. rebound in north. Max 50 ft. drawdown
Montgomery	Max 300 ft. drawdown in The Woodlands area	200 ft. rebound in The Woodlands. Max 50 ft. drawdown elsewhere.

Table 5. Jasper Water Level Drawdown Comparison: 2010-2050

	Scenario 1	Final Scenario
Fort Bend	200-300 ft. drawdown in north, contours radiating from southern Montgomery Co	Max 50 ft. drawdown
Galveston	None	None
Harris	300-500 ft. drawdown in west and north, contours radiating from southern Montgomery Co.	75 ft. rebound in north
Montgomery	Max 550 ft. drawdown in The Woodlands	75 ft. rebound in The Woodlands. Max drawdown 50 ft.

Table 6 provides a description, by county, of the impact of regulations on subsidence. Predicted subsidence under Scenario 1 conditions is generally very low in eastern Harris County and Galveston County; i.e. in HGSD Regulatory Areas 1 and 2, where significant subsidence occurred in the past and where conversion to nearly 100% surface water has already occurred. Future growth on groundwater in these areas is not expected to produce significant additional subsidence since water level drawdowns would have to exceed levels experienced prior to groundwater reduction regulations (i.e. drop below the preconsolidation head). Additional subsidence under Scenario 1 conditions is greatest in HGSD Regulatory Area 3, which converted 30% in 2010, and Fort Bend County, where there has been no conversion to date.

Generally, current regulations are predicted to significantly reduce 2010-2050 subsidence to one foot or less throughout most of the four-county area; the exceptions are the Katy area and the northern Brazoria County/Pearland area. The Katy area is growing rapidly but is not currently scheduled to receive surface water in any of the existing Groundwater Reduction



Plans (GRPs), although its conversion is taken care of in the West Harris County Regional Water Authority GRP.

Brazoria County does not have any groundwater reduction regulations in place. The City of Pearland, while not required to reduce groundwater withdrawals, is voluntarily developing surface water supplies, and is committed to limiting groundwater use to no more than 50 percent of total demand starting in 2016. The City of Pearland planned surface water use is accounted for in the Final Scenario model, but the model is still showing up to 1.5 ft. of subsidence in northern Brazoria County.

Table 6. Land-Surface Subsidence Comparison: 2010-2050

	Scenario 1	Final Scenario
Fort Bend	Regional peak of subsidence is 5 ft. in western Harris and northern Fort Bend (Katy area and east). Fort Bend subsidence decreases as you go south.	Regional peak is again in the Katy area, but much smaller: 2 ft. is predicted fairly local to Katy. Generally 1 ft. or less everywhere else, except eastern part of county near Pearland, where 1.5 ft. is predicted.
Galveston	1-2 ft in the northwest.	0.5 ft. or less predicted
Harris	Regional peak in the west near Katy of 5 ft. Up to 1 ft in the eastern county.	0-2 ft., with peak near Katy
Montgomery	1-3 ft. in the southern part of county	Less than 1 ft. predicted.



Appendix A

Interim Studies and Reports

Technical Memorandum: Groundwater Model Update and Improvements. LBG-Guyton, May 2011. (pp. 1-15)

Technical Memorandum: Evaluation of Exempt Groundwater Use from Registered Wells Within the Harris-Galveston Subsidence District, Fort Bend Subsidence District and Lone Star Groundwater Conservation District. LBG-Guyton, May 2011. (pp. 16-32)

Geotechnical Services: Work Order 2 – Data Preparation, Harris-Galveston Subsidence District, Harris, Galveston and Fort Bend Counties, Texas. Fugro Consultants, Inc., May 2011. (pp. 33-202)

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Geotechnical Services: PRESS Model Scenario Runs – Work Order 7. Fugro Consultants, Inc., June, 2013. (pp. 855-932)

Printed out of the Community Impact News December 5, 2013
Reported by Tamra Santana

Water bills in the city of Magnolia have increased this fall because of an annual fee increase on a water reduction program the city joined as part of a statewide mandate.

The San Jacinto River Authority's Groundwater Reduction Plan is a response to a statewide requirement for communities to lessen their reliance on groundwater 30 percent by 2016.

Tomball and Magnolia residents and businesses currently use groundwater, and residents will be indirectly affected by other nearby regions converting to surface water.

Surface water comes from lakes, streams, reservoirs and other water resources above the earth's surface. Groundwater is pumped from a well through aquifers.

The reduction of nearby communities on the ground supply will leave more water available to groundwater users. If Texas does not lessen its dependence on groundwater, Magnolia and Tomball area residents and the more than 10,000 farmers, ranchers and energy businesses in the region will have a water shortage by 2060, according to area leaders.

There are no plans for Magnolia or Tomball areas to convert to surface water because groundwater supplies for both cities are strong, according to city officials. Last year, Tomball added two wells to its system, bringing its total to five wells.

The city of Magnolia and the SJRA entered into an agreement in 2010 for residents to pay a fee per 1,000 gallons of water used to help cities convert to surface water from Lake Conroe.

"What SRJA is doing is spreading the costs to take those folks in the densely populated areas off the aquifer that everyone depends on so we can continue to use the wells out here," said Texas State Rep. Cecil Bell Jr., a freshman legislator representing parts of Montgomery and Waller counties in District 3. "Yes, we are paying, but your alternative is to either not have that much water available and force yourself into a reduction mode or to come up with some system where the city mandates water conservation."

The fee for Magnolia residents started in 2011 at 75 cents per 1,000 gallons. The fee increased to \$1.75 per 1,000 gallons of water in September—first appearing on the bills in October. It will increase to \$2.25 next year and level off at that amount through fiscal year 2017.

"In September, it increased to \$1.75, so residents saw the difference in their bill in October," said Ronda Trow, public relations manager for SJRA. "In the beginning it was 75 cents. Most residents probably never noticed it. A lot of the time the utility companies don't even list that out as a separate fee. Each utility is different. Obviously now it's increased to the amount people are noticing."

Bell said the SJRA fee on his bill is about 15 percent of his water bill for his Magnolia residence and 19 percent for his business.

SJRA provides a letter to utility companies to notify users of the increase, Trow said. However, it is up to the utility companies whether they choose to send the letter.

“Right before there’s a rate increase, we contact all our participants,” Trow said. “We offer an insert notice to put in the utility bill, or we will mail them for the utilities. We’re trying to educate as much as we can.”

Only option

In the 2009 legislative session, the state Legislature mandated that counties reduce their reliance on groundwater by 30 percent by Jan. 1, 2016 or pay a fee.

“We didn’t have a choice,” said Magnolia Mayor Todd Kana. “Converting to surface water just isn’t possible.”

Kana said he is frustrated with the fees.

“We can’t get out of it,” he said. “I don’t know the solution other than the Legislature has to come up with some sort of system of rebating these fees to municipalities, such as Magnolia, that had no other choice.”

The reduction of nearby communities on the groundwater supply will leave more water available to groundwater users, Bell said.

“I am appreciative that the SJRA took the initiative to provide a countywide solution,” Bell said. “As the state representative for the citizens who are carrying the burden of the cost, I balance that appreciation against my concerns for assuring the consistency of the pool level of Lake Conroe even in times of drought.”

Even though neither Tomball nor Magnolia is expecting water shortages in the near future, population growth does raise questions about the long term.

“We have to address the need for water in order to ensure a strong future for Texas,” Bell said.

Additional reporting by Shawn Arrajj and Brian Walzel

Regular City Council

Agenda Item

Data Sheet

Meeting Date: December 16, 2013

Topic:

Appoint a Member to Fill an Unexpired Term on the Planning and Zoning Commission

Background:

Mark Walicki, recently reappointed to the Planning and Zoning Commission, submitted his resignation effective December 8, 2013, due to his employment with the Tomball Police Department. Mr. Walicki's term will expire June 1, 2016.

The following individuals (shown in alphabetical order) have expressed an interest in serving on the Planning and Zoning Commission:

Richard Anderson (currently Charter Review Commission)
Will Benson
Harry Byrd
William Harris
Roy P. Lackey
Rocky Pilgrim (currently Alternate 2 on the BOA)
Jarmon Wolfe (currently Alternate 4 on the BOA).

Copies of applications from those interested in serving on the P&Z Commission are attached for your consideration.

Origination:

City Secretary

Recommendation:

Mayor's recommendation:

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:

Richard Anderson Application
Will Benson Application
Harry Byrd Application
William Harris Application
Roy P. Lackey Application
Rocky Pilgrim 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 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 2013 will expire in 2015.

Please Type of Print Clearly:

Date: 12-08-2013

Name: Richard Anderson

Phone: 281-413-1756

(Home)

Address:

Phone: 281-351-0831

(Work)

City/State/Zip Tomball, TX 77375

Cell:

Email:

I have lived in Tomball 5 years.

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

NOTE: DTAC Board does not require Tomball residency

Occupation: Lieutenant with the Houston Police Department

Professional and/or Community Activities: Member of the 2013 Charter Review Committee

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

☐ 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

- ☐ 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

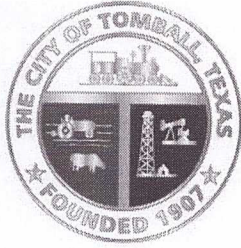
I AM INTERESTED IN SERVING ON THE ABOVE-INDICATED BOARDS, COMMISSIONS, AND COMMITTEES.



Signature of Applicant

Please return this application to:

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



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 2013 will expire in 2015.

Please Type or Print Clearly:

Date: 12-09-2013

Name: William ATKINSON BENSON, JR.

Phone: 832-472-4105
(Home)

Address: _____

Phone: _____
(Work)

City/State/Zip TOMBALL, TX 77375

Cell: _____

Email: Will@K6meals.com

I have lived in Tomball 5 years, months

I am ☒ am not ☐ a U.S. Citizen

NOTE: DTAC Board does not require Tomball residency

Occupation: DIRECTOR FACILITIES & NEW CONSTRUCTION - for a global energy services company, active globally, and headquartered in Houston, TX. Primary functions include site selection, zoning cases, construction, leasing, portfolio management, and incentive negotiations.

Professional and/or Community Activities: Served on the 2013 Tomball CHARTER REVIEW COMMITTEE. Active member at Salem Lutheran CHURCH since 2007. Worked for the CITY of SUGAR LAND as the Development Coordinator, presented all Plats and zoning cases to the POZ, at all bi-monthly meetings. Worked for the City of Pearland in the Economic Development Corporation from 1999-2001 and 2002-2006.

Additional Pertinent Information/References: BRUCE Hillgeist

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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 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

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

Meeting Information

As called

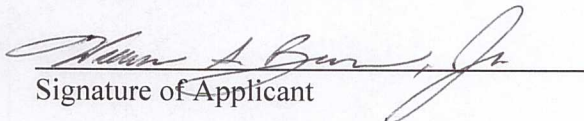
Non-profit Corporation Boards

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

Meeting Information

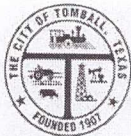
As called

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.

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(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 *(No)*

☒ personal email address

☒ cell or pager numbers not paid for by the City

☐ emergency contact information *(No)*

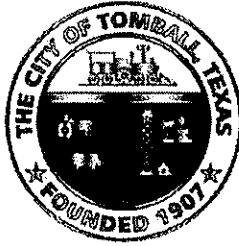
☐ information that reveals whether I have family members. *(No)*

☐ 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.

William A. Benson, Jr.
Board Member's Signature

12-09-2013
Date

WILLIAM A. BENSON, JR.
Board Member's Printed Name



CITY OF TOMBALL

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Please Type of Print Clearly:

Date: 12/9/2013

Name: Harry Byrd

Phone: 281-799-2645

(Home)

Address:

Phone: same

(Work)

City/State/Zip Tomball, Texas 77375

Cell: same

Email: Harry@pfeifferandson.com

I have lived in Tomball 27 years.

I am X am not a U.S. Citizen

NOTE: DTAC Board does not require Tomball residency

Occupation: Market Dev Mgr/Sales for Pfeiffer & Son, LTD employed there 15 Years

I am an RCDD (Registered Communication Distribution Designer) and sell and design data, voice video distribution, video head-end, sound systems, CCTV and security systems.

Professional and/or Community Activities: RCDD, BICSI (Industry organization)

served on Tomball ISD school board for 7 years job relocation caused resignation. left Tomball for one year

Additional Pertinent Information/References: Bruce Hillegeist, Ellen Stutts

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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

☐ Tomball Regional Health Foundation

Meeting Information

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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

Non-profit Corporation Boards

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

Meeting Information

As called

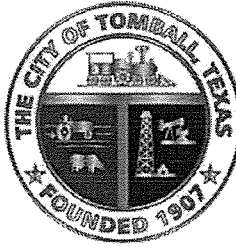
I AM INTERESTED IN SERVING ON THE ABOVE-INDICATED BOARDS, COMMISSIONS, AND COMMITTEES.

Harry Byrd

Signature of Applicant

Please return this application to:

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



CITY OF TOMBALL

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Please Type of Print Clearly:

Date: 02 MAY 2011

Name: William A. Harris

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: Private Security

Professional and/or Community Activities: AWANA Leader at Graceview Baptist Church
Architectural Control Committee member for Country Meadows HOA
Cubmaster (leader) Cubscout Pack - Boy Scouts of America

Additional Pertinent Information/References: _____

References available upon request.

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Decision-Making Boards and Commissions

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

Meeting Information

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To Be Announced; Evenings

Separate Legal Entities

- (2) Tomball Economic Development Corporation

- (4) Tomball Hospital Board

Meeting Information

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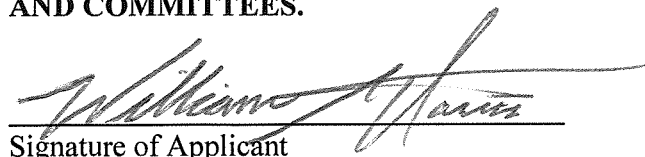
Ad Hoc/Advisory Committees

- (5) 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

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City of Tomball
401 Market Street
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CITY OF TOMBALL

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Please Type of Print Clearly:

Date: 12-05-13

Name: Roy P. Lackey

Phone:

(Home)

Address:

Phone: 281-642-2563

(Work)

City/State/Zip Tomball, TX 77375

Cell:

Email: Roy@AESTexas.net

I have lived in 16 Tomball years.

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

NOTE: DTAC Board does not require Tomball residency

Occupation:

Electrical Consultant for power quality, lightning & surge, and standby power. Owner of
Advanced Electrical Solutions.

Professional and/or Community Activities: Current President of Harris County MUD 368 for 22 years.
Former President of Charterwood MUD for 12 years. Former Planning Commissioner for City of
Tomball.

Additional Pertinent Information/References: _____

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Decision-Making Boards and Commissions

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

Meeting Information

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To Be Announced; Evenings

Separate Legal Entities

- () Tomball Economic Development Corporation

- () Tomball Regional Health Foundation

Meeting Information

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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

Non-profit Corporation Boards

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

Meeting Information

As called

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

___ home address

___ home telephone number

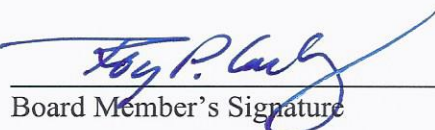
___ personal email address

___ cell or pager numbers not paid for by the City

___ emergency contact information

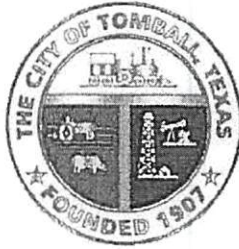
___ information that reveals whether I have family members.

☒ 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

12-05-13
Date

Roy P. Lackey
Board Member's Printed Name



CITY OF TOMBALL

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Please Type or Print Clearly:

Date: 06 May 12 5 Dec 13

Name: Rocky LeAnn Pilgrim

Phone: n/a

Address: 211 Commerce St.

(Home)

Phone:

(Work)

City/State/Zip Tomball, TX 77375

Cell:

Email: _____

I have lived in Tomball 7 years.

I am ☒ ~~am not~~ a U.S. Citizen

NOTE: DTAC Board does not require Tomball residency

Occupation: Attorney

Professional and/or Community Activities: Active volunteer with Houston Volunteer Lawyers Program; volunteer at SIRE in Hockley (therapeutic riding program for disabled children and adults); adjunct professor for UHD criminal justice program;

volunteer for HLSP Speakers Committee and Special Attractions;
CASA volunteer

Additional Pertinent Information/References: Vitae attached.

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Decision-Making Boards and Commissions

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

Meeting Information

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

Separate Legal Entities

- (3) Tomball Economic Development Corporation

- () Tomball Hospital Board

Meeting Information

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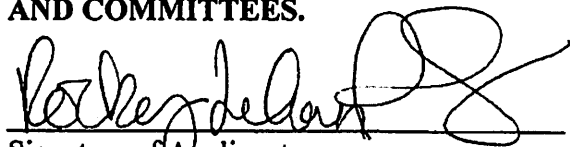
Ad Hoc/Advisory Committees

- (2) 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

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

ROCKY LEANN PILGRIM PILGRIM LAW OFFICE, P.C.

PRINCIPAL OFFICE:

211 COMMERCE ST.
TOMBALL, TEXAS 77377
281-516-7054 (TEL)
815-642-8745 (FAX)

SATELLITE OFFICE:

202 TRAVIS, STE 205
HOUSTON, TEXAS 77002
rocky@pilgrimlaw.com

CURRICULUM VITAE

ADMISSIONS AND CERTIFICATIONS:

State Bar of Texas

November 2003

EDUCATIONAL BACKGROUND:

Boston College Law School
Juris Doctor

Newton, MA
Aug. 2000 - May 2003

University of Texas – Pan American
Bachelor of Arts, cum laude (Philosophy, English, Pol. Science)

Edinburg, TX
Sept. 1995 - Aug. 1999

Mediation Training (A.A. White Dispute Resolution Center)

April 2007

PROFESSIONAL EXPERIENCE:

Pilgrim Law Office, P.C.
Solo Practitioner

Tomball, TX
Nov. 2003 - present

University of Houston – Downtown
Adjunct Professor (legal courses in criminal justice dept.)

Houston, TX
Jan. 2004 – May 2013

PROFESSIONAL ASSOCIATIONS/ACTIVITIES:

State Bar of Texas (Family Section)

Houston Bar Association (Family Section)

Association of Family and Conciliation Courts (Texas Chapter)

State Bar of Texas Pro Bono College

Phi Kappa Phi (honor society)

Gamma Beta Phi (honor/service society)

VOLUNTEER/COMMUNITY OUTREACH

Houston Volunteer Lawyers Association (Equal Access Champion as volunteer lawyer)
Child Advocates, Inc. (volunteer as guardian ad litem and special events)
Houston Bar Association – Speaker’s Bureau Committee
SIRE-Houston’s Therapeutic Equestrian Center (Board of Directors, volunteer)
Houston Livestock Show and Rodeo (Speaker’s Committee, Special Attractions)
City of Tomball, Board of Adjustments (alternate)

PUBLICATIONS:

Jon Sorensen & Rocky Pilgrim, *DEATH BY LETHAL INJECTION: CAPITAL PUNISHMENT IN TEXAS DURING THE MODERN ERA* (University of Texas Press) (2006).

Jon Sorensen, Don Wallace & Rocky Pilgrim, *Empirical Studies on Race and Death-Sentencing: A Decade After the GAO Report*, 37 CRIM. LAW BULLETIN 395 (2001).

Jon Sorensen & Rocky Pilgrim, *An Actuarial Risk Assessment of Violence Posed by Capital Murder Defendants*, 90 J. CRIM. LAW & CRIM. 1251 (2000).

PRESENTATIONS:

Measuring Capriciousness in Capital Punishment Systems, with J. Sorensen. Paper presented at SWACJ 2004, Houston.

What We Know about Capital Punishment: How Recent Empirical Evidence from Texas Challenges Criminological Wisdom, with J. Sorensen. Paper presented at ASC 2003, Denver.

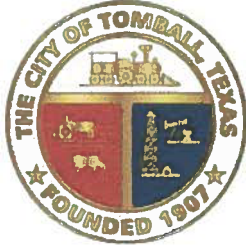
Identifying Death Penalty Cases that Represent the “Worst of the Worst”, with J. Sorensen. Paper presented at ACJS 2003, Boston.

How Jurors Think About “Dangerousness”, with J. Sorensen. Paper presented at the conference, “The Law and Politics and the Death Penalty: Abolition, Moratorium or Reform?,” sponsored by the Wayne Morse Center for Law and Politics, University of Oregon, Eugene, March 2002.

Predicting Prison Violence: A Comparison of Logistic Regression-Based and Proportional Hazard Models, with J. Sorensen. Paper presented at ACJS 2000, New Orleans.

Jury Deliberations Relating to Future Dangerousness, with J. Sorensen. Paper presented at ASC 1999, Toronto.

Assessing the Risk of Future Dangerousness Posed by Capital Defendants, with J. Sorensen. Paper presented at ACJS 1999, Orlando.



CITY OF TOMBALL

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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

City/State/Zip Tomball, TX. 77375

(Work)

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: _____

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To Be Announced; Evenings

Separate Legal Entities

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- (3) Downtown Tomball Advisory Committee
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Meeting Information

As called

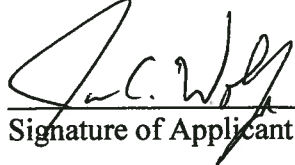
Non-profit Corporation Boards

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

Meeting Information

As called

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Signature of Applicant

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Tomball, TX 77375



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

___ home address

☒ home telephone number

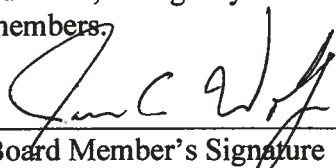
☒ personal email address

___ 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

Meeting Date: December 16, 2013

Data Sheet

Topic:

Approve Tobacco Awareness Classes, to be Offered by Tomball Municipal Court and Tomball Police Department, to Tomball, Harris County, and Montgomery County Areas

Background:

City staff strives to meet the needs of our community; as part of the City's Strategic Plan, under organizational effectiveness, one of staff's goals is to create a service-oriented culture. An opportunity to serve our community is being brought to Council by the Tomball Municipal Court Judge, Andrea Walker, and the Tomball Police Department.

Every minor/juvenile defendant convicted of a tobacco-related offense is required by law to take a tobacco awareness class; the class must be conducted by an instructor certified by the state. Judge Walker has experienced numerous defendants returning to court, having failed to take the mandatory tobacco awareness class and citing their inability to locate and schedule the class. To remedy this situation, Judge Walker requested the assistance of Ron McGullion, one of the City's warrant officers, and Chief Hauck, to determine the requirements and to find an officer willing to become certified as an instructor. Thanks to their efforts, Officer Antoinette Thomas responded to the request, completed the extensive training process, and is now certified to teach Tobacco Awareness Classes.

The Tomball Municipal Court and the Tomball Police Department are now ready to schedule the 8-hour classes, which must be conducted in 2-hour segments on 4 non-contiguous days. We are allowed to charge a fee for the classes and Officer Thomas has advised us that a \$50 fee is considered standard and appropriate to cover the costs of the class. It is the Court's intention of make the classes available to the surrounding municipal courts and justices of the peace and to begin providing the classes in February 2014.

Council's approval is requested to offer the classes to the surrounding courts and justices of the peace and to charge a fee of \$50.00 for the course; the fee will ensure financial sustainability for the program under the Strategic Plan and will be included in the City's Schedule of Fees.

Origination:

Judge Andrea Walker, Tomball Municipal Court

Recommendation:

Approval to offer Tobacco Awareness Classes.

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:

Memo from Judge Walker

Doris Speer

From: Andrea Walker <ajrwalk@gmail.com>
Sent: Monday, December 09, 2013 8:57 AM
To: Doris Speer
Cc: Maria Morris; Robert Hauck
Subject: Tobacco Awareness Classes

Doris,

First of all, I want to thank you for your assistance in getting this matter before the city council and I would like to apologize for not providing you with this explanatory memo sooner.

As you may know, every minor/juvenile defendant convicted of a tobacco-related offense is required by law to take a tobacco awareness class. The class must be conducted by an instructor certified by the state. Quite often, I have had defendants return to court without having taken the class because, as they have informed me, they have trouble locating and scheduling the class. I finally reached the point where I felt something should be done to perhaps remedy this situation (and remove this excuse for failing to comply with court orders).

I asked one of our warrant officers, Ron McGullion, to look into what was required to become certified and to inquire with Chief Hauck about the possibility of someone in the Police Department being willing and available to take on this project. Ron, Chief Hauck and his department took the ball and ran with it. As a result, we now have someone, Officer Antoinette Thomas, who has gone through the extensive training process and is now certified to teach the Tobacco Awareness Class. I cannot thank them enough for answering this call nor can I adequately express how impressed I am with the speed and efficiency with which they have done so.

Now we are at the stage where we are ready to schedule classes. It is my understanding, based on discussion with Officer Thomas, that the classes are 8 hours long and must be conducted in 2 hour segments on 4 non-contiguous days. We are allowed to charge a fee for the classes and this is where we need the council's input and approval. Officer Thomas tells me that a fee of \$50 is standard and would be appropriate. It is our intention to advertise to the surrounding municipal courts and justices of the peace and in that way perhaps gather in more participants than just our own defendants. There are still a few more logistical decisions to be made but we are confident that we will be able to begin providing the classes this coming February.

Again, thank you for your help and, of course, if you have any questions or concerns please do not hesitate to contact me.

Andrea Walker
Presiding Judge

(936)522-6116
ajrwalk@gmail.com

Regular City Council

Agenda Item

Meeting Date: December 16, 2013

Data Sheet

Topic:

Adopt, on First Reading, Ordinance No. 2013-24, an Ordinance of the City of Tomball, Texas, Amending Chapter 60 Signs, of the Code of Ordinances, City of Tomball, by Providing that Certain Political Signs used for Electioneering shall be Governed by the Code of Ordinances, City of Tomball, by Adding Definitions to Section 60-1 Definitions; by Amending Section 60-7, Miscellaneous Sign Provisions, of Chapter 60, Signs, to Adopt Regulations Concerning the Time, Place and Manner of Electioneering on Public Property Used as a Polling Place; Providing for Severability; Providing for a Penalty of an Amount Not to Exceed \$500 for Each Day of Violation of Any Provision Hereof, Providing an Effective Date; Making Findings of Fact; and Providing for Other Related Matters

Background:

The Texas Legislature recently enacted House Bill 259 which provides that a public entity that owns or controls a public building being used as a polling place may not, at any time during the voting period, prohibit electioneering on the building's premises, outside of the 100 foot prohibited electioneering area prescribed by sections 61.003 and 85.036 of the Texas Election Code.

Currently, no political signs may be placed in the ground on City property, outside the 100-ft. prohibited electioneering zone, during early voting and only one sign is allowed on each tent in Heritage Plaza on Election Day. Campaign supporters are allowed to carry as many signs as they wish, but signs cannot be put into the ground.

House Bill 259 does permit the City to enact reasonable regulations regarding the time, place and manner of electioneering on the City's public property, outside the mandated 100-foot electioneering-free area.

Staff proposes amending Chapter 60. Signs to create electioneering definitions, exempting political signs from the permitting requirement, designating electioneering areas for City property, authorizing two (2) signs to be placed in the designated electioneering area during early voting and on Election Day, and authorizing a single tent, canopy or similar item per candidate on Election Day only. The proposed amendments will allow continued, reasonable, regulation of signs and electioneering on City property.

Origination:

City Secretary

Recommendation:

Adopt Ordinance No. 2013-24 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. 2013-24

House Bill 259

ORDINANCE NO. 2013-24

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 60 *SIGNS*, OF THE CODE OF ORDINANCES, CITY OF TOMBALL, BY PROVIDING THAT CERTAIN POLITICAL SIGNS USED FOR ELECTIONEERING SHALL BE GOVERNED BY THE CODE OF ORDINANCES, CITY OF TOMBALL, BY ADDING DEFINITIONS TO SECTION 60-1 DEFINITIONS; BY AMENDING SECTION 60-7, MISCELLANEOUS SIGN PROVISIONS, OF CHAPTER 60, SIGNS, TO ADOPT REGULATIONS CONCERNING THE TIME, PLACE AND MANNER OF ELECTIONEERING ON PUBLIC PROPERTY USED AS A POLLING PLACE; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$500 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, PROVIDING AN EFFECTIVE DATE; MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

* * * * *

WHEREAS, the City of Tomball, Texas, deems it in the best interest of the health, safety, and welfare of the citizens of the City to regulate signs, including signs that may be placed on public property; and

WHEREAS, the Texas Legislature recently enacted House Bill 259 which provides that a public entity that owns or controls a public building being used as a polling place may not, at any time during the voting period, prohibit electioneering on the building's premises, outside of the 100 foot prohibited electioneering area prescribed by sections 61.003 and 85.036 of the Texas Election Code; and

WHEREAS, the new law does permit the City to enact reasonable regulations concerning the time, place, and manner of electioneering on the public building's premises, outside of the 100 foot prohibited electioneering area prescribed by sections 61.003 and 85.036 of the Texas Election Code; and

WHEREAS, the City has reviewed the new law and its existing sign regulations and has determined that it is in the best interest of the health, safety, and welfare of the citizens of the City to adopt reasonable regulations to continue to regulate electioneering or political signs that may be placed on certain areas of particular public property; and

WHEREAS, the City finds that the amendments to the Code of Ordinances herein are necessary to regulate signs and electioneering on public property, including the regulation of signs that may be placed on public property, and the following regulations are reasonable as to time, manner, and place; **NOW THEREFORE**,

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

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

Section 2. Section 60-1, Definitions, of Article I, In General, of Chapter 60, Signs, of the Code of Ordinances of the City of Tomball, Texas, is amended to add the following words, terms, and phrases:

Sec. 60-1 – Definitions.

“Electioneering shall have the same meaning as in Section 85.036 of the Texas Election Code.

Public property shall mean property owned or controlled by a public entity.

Early voting period shall have the same meaning as in Section 85.001 of the Texas Election Code.

Prohibited area shall mean the area within which Texas Election Code Section 85.036(a) prohibits electioneering during the time an early voting or voting place is open for the conduct of early voting or voting.”

Section 3. Section 60-5, Sign permits and fees, of Article I, In General, of Chapter 60, Signs is hereby amended to add the following language to subsection (b):

Sec. 60-5 – Sign permits and fees

(b) Exceptions.

“(4) Signs permitted under Section 60-7(c)(4) are not prohibited by this Section.”

Section 4. Section 60-7, Miscellaneous sign provisions, of Article I, In General, of Chapter 60 Signs, is hereby amended to add the following language to subsection (c):

Sec. 60-7 – Miscellaneous sign provisions

(c) **Signs on public rights-of-way.**

“(4) During the early voting period through the end of the following Election Day, a maximum of two (2) temporary political signs for each candidate, measure, or political party may be placed within the designated electioneering area of the early voting or voting polling place building’s premises, which is also outside the prohibited area. The designated electioneering area is the portion of the grassy strip north of the Public

Works Building, 501-B James Street, located outside the 100-ft. prohibited area, and the area in Heritage Plaza, 400 Market Street, outside the designated 100-ft. prohibited area. Such two (2) signs shall each have a maximum area of four square feet but may contain the same message on both sides. Such signs must be placed in the designated electioneering area in a manner so as not to block or obscure other political signs. Such signs shall only be allowed from 7:00 A.M. on the beginning of the early voting period until 7:00 P.M. on Election Day, at which time the signs shall be removed by the person or organization placing them.

- a. Any unauthorized persons removing political signs otherwise permitted by this section shall be guilty of a misdemeanor and subject to a fine as provided in Section 1-14 of this code.
- b. Failure to remove permitted signs in accordance with the section is a violation of this ordinance subject to a fine as provided in Section 1-14 of this code.
- c. On Election Day only, each candidate may erect a single tent, canopy, or similar item encumbering or encroaching on public property in Heritage Plaza, 400 Market Street, in the designated location, located outside the 100-ft. prohibited area, as decided during the drawing for location in Heritage Plaza conducted prior to the beginning of early voting.
- d. Any signs on public property not permitted may be removed by the City. Any political signs installed prior to the authorized time, placed in a location other than the designated location delineated, or not removed within the time prescribed herein, may be removed by city personnel and discarded or destroyed.
- e. The provisions of this subsection shall not apply to notices posted by order of the court or notices to the public as required by law to be posted in a public place.”

Section 5. Penalty. Any person who shall willfully, intentionally, or with criminal negligence violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$500.00. Each day of violation shall constitute a separate offense.

Section 6. Effective Date: This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

Section 7. 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 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 8. 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, Texas Government Code, Chapter 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 16TH DAY OF DECEMBER 2013.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

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 JANUARY 2014.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

AN ACT

relating to electioneering conducted near a polling place.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Section 61.003, Election Code, is amended to read as follows:

Sec. 61.003. ELECTIONEERING AND LOITERING NEAR POLLING PLACE [~~PROHIBITED~~].

SECTION 2. Section 61.003, Election Code, is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

(a-1) The entity that owns or controls a public building being used as a polling place may not, at any time during the voting period, prohibit electioneering on the building's premises outside of the area described in Subsection (a), but may enact reasonable regulations concerning the time, place, and manner of electioneering.

(b) In this section:

(1) "Electioneering" includes the posting, use, or distribution of political signs or literature.

(2) "Voting [~~,"~~ "voting]" period means the period beginning when the polls open for voting and ending when the polls close or the last voter has voted, whichever is later.

SECTION 3. The heading to Section 85.036, Election Code, is amended to read as follows:

1 Sec. 85.036. ELECTIONEERING [~~PROHIBITED~~].

2 SECTION 4. Section 85.036, Election Code, is amended by
3 adding Subsections (b) and (f) to read as follows:

4 (b) The entity that owns or controls a public building being
5 used as an early voting polling place may not, at any time during
6 the early voting period, prohibit electioneering on the building's
7 premises outside of the area described in Subsection (a), but may
8 enact reasonable regulations concerning the time, place, and manner
9 of electioneering.

10 (f) In this section:

11 (1) "Early voting period" means the period prescribed
12 by Section 85.001.

13 (2) "Electioneering" includes the posting, use, or
14 distribution of political signs or literature.

15 SECTION 5. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2013.

President of the Senate

Speaker of the House

I certify that H.B. No. 259 was passed by the House on May 1, 2013, by the following vote: Yeas 136, Nays 6, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 259 was passed by the Senate on May 20, 2013, by the following vote: Yeas 26, Nays 5.

Secretary of the Senate

APPROVED: _____

Date

Governor

Regular City Council

Agenda Item

Data Sheet

Meeting Date: December 16, 2013

Topic:

Approve Pipeline Permit Application from BridgeTex Pipeline Company, LLC, for the Construction of One 20" Crude Oil Pipeline.

Background:

BridgeTex Pipeline Company, LLC is applying to the City of Tomball for a permit to construct a 20" crude oil pipeline through the City of Tomball as part of an approximately 450 mile 20" to 24" Pipeline from Colorado City, Texas to Houston, Texas.

The BridgeTex Pipeline is a new interstate pipeline project that will transport crude oil from the Permian Basin to the Houston area. The route has been selected to make best use of existing ROW corridors.

Engineering has reviewed the permit application and plans for the proposed pipeline.

Origination:

Gullett & Associates, Inc. on BridgeTex Pipeline Company, LLC behalf

Recommendation:

Engineering recommends approval.

Funding:

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

Lori Lakatos, Engineering Division

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

ATTACHMENTS:

Cover Letter

BridgeTex Pipeline Application

BridgeTex Pipeline Presentation

BridgeTex Overall Tomball Layout

BridgeTex Pipeline Design Plans

GULLETT & ASSOCIATES, INC.

7705 South Loop East – 77012

P.O. Box 230187 – 77223

Houston, Texas

713-644-3219

Fax: 713-644-1547

November 25, 2013

HAND DELIVERED

Ms. Lori Lakatos
City Engineer City of Tomball
401 Market
Tomball, Texas 77375
281-290-1466

Re: BridgeTex Pipeline Company, LLC
Grimes County to East Station
WO: 4272

Dear Ms. Lakatos:

Transmitted herewith for your further handling are two (02) original City applications submitted on behalf of BridgeTex Pipeline Company, LLC (BridgeTex). Each application consists of the following.

1. One (01) original document titled APPLICATION FOR PERMIT TO CONDUCT PIPELINE ACTIVITIES with attached Exhibit; and,
2. One (01) set each of 24" x 36" and 11" x 17" alignment maps AL-3054 3055, 3056 and 3057; and
3. One Vicinity Map. No. 7045-PD-1196

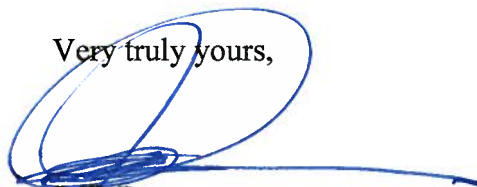
BridgeTex check no. 8003607 in the amount of one thousand dollars (\$1,000.00) is remitted herewith as payment of the required application fee together with TRAVELERS Bond No. 105964378 in the penal sum of \$500,000.00.

Please accept these documents as our request the City of Tomball grant BridgeTex Pipeline Company, LLC the required city ordinance facilitating the installation of one 20" crude oil pipeline.

The installation of the pipeline will be done by using conventional methods together with Hydraulic Directional Drills. BridgeTex will coordinate all construction activities with David Kelly at DPK Engineering to ensure the line is installed at a depth so as not to interfere with the planned installation of utilities at the proposed street crossings.

If you need any additional information please advise. Your assistance with this matter will be greatly appreciated by all concerned.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'J. T. Reese', with a large, looping flourish extending to the right.

J. T. Reese
Gullett & Associates
Right of Way Specialist
713-644-3219 / 281-851-7258
joer@gulonline.com



APPLICATION FOR PERMIT TO CONDUCT PIPELINE ACTIVITIES

Pursuant to Ord. 2008-23

(To be filed with City Secretary, in Duplicate, for consideration by City Council)



To the Honorable Mayor of the City of Tomball,

The following application for permit to conduct pipeline activities is hereby presented for consideration by the City Council.

General Information:

1. Application Date: November 25, 2013

2. Applicant: Bill Klein Manager Real Estate Services
Representative/Title
BridgeTex Pipeline Company, LLC
Company
PO Box 21628, MD 27-4 Real Estate, Tulsa, Oklahoma 74121-2186
Address
918-574-7368 Bill.Klein@magellanlp.com
Telephone Facsimile E-Mail

Is the applicant a corporation? ☒ Yes ☐ No

If yes, what is the State of incorporation? Delaware

If yes, please furnish the address of the corporate

See address No.2 above

Is the applicant a partnership? ☐ Yes ☒ No

If yes, please furnish the names and addresses of the general partners:

Information Regarding Proposed Location(s) for Pipeline Activities:

3. Location of Pipeline Activities (attach map):

Please indicate the location at which the pipeline crossing or parallel installation within a public right-of-way or easements for the purpose of constructing, laying, maintaining, operating, repairing, replacing, and removing pipelines are to be located and the exact location of such proposed pipeline activities:

See Vicinity Map 7045-PD-1196

[Street location with cross street references with distances to the cross streets]

4. Pipeline Site Address (address closest to pipeline crossing location): NA

Pipeline Site Latitude and Longitude: See attached Exhibit

5. Proposed Pipeline Casing: Pipeline will be uncased.

Required Attachments to the Application for Permit to Conduct Pipeline Activities:

6. A site plan showing the proposed pipeline activities with construction details and specifications.
7. Copies of RRC Form H-15, A Test on an Inactive Well More Than 25 Years Old, from all wells within the regulated area which are operated by applicant (if applicable).
8. A bond in the amount of \$500,000.00.
9. Payment of Filing Fee (Cashier's Check, Payable to the City of Tomball) in the amount of \$1,000.00 per pipeline activities permit.
10. Name and Contact Information of Applicant or Representative who will be present before the City Council during consideration of the application or any amendment to the application:

J. T. Reese and/or Troy Loper Gullett & Associates 713-644-3219

If additional space is needed, please attach an addendum to this Application for such purposes.

By signing below, applicant agrees to follow all City Regulations for Pipeline Activities/Operations, to contact the Engineering or Inspections Department at least 24 hrs in advance of any site work, and to conduct all pipeline activities in compliance with Ordinance No. 2008-23.

The term of this permit shall remain in full force and effect until said pipeline activities are completed or one year, whichever is earlier, from the date of application approval by the City Council.

Construction shall begin within 90 days from the date of the permit or the permit shall be forfeited; provided, however, such forfeiture shall not affect the right of the applicant to apply for another permit.

The approved permit may be renewed for a one-year period, upon filing an application of renewal of permit showing compliance with the terms of the original permit and the payment of a renew fee of \$500.00.

Applicant Signature: _____

Signature/Printed Name

J. T. REESE

Carroll Hester

Title

Application Received: _____

City Secretary

[Signature]

12/9/13

Date

Engineering Dept Review By: _____
Signature/Printed Name Date Review Completed

Insurance Requirement Satisfied (copy of insurance attached): _____ Yes _____ No

Application Approved/Denied by City Council: _____
Date

City of Tomball Application Attachment Exhibit

4. Pipeline City Limits Entry and Exit Points Latitude and Longitude:

Entry Point: Lat: 30° 08' 06.48"
Long: -95° 37' 25.02"

Exit Point: Lat: 30° 06' 21.37"
Long: -95° 35' 33.73"

6. See Alignment Maps 7045-AL-3054, 3055, 3056 and 3057

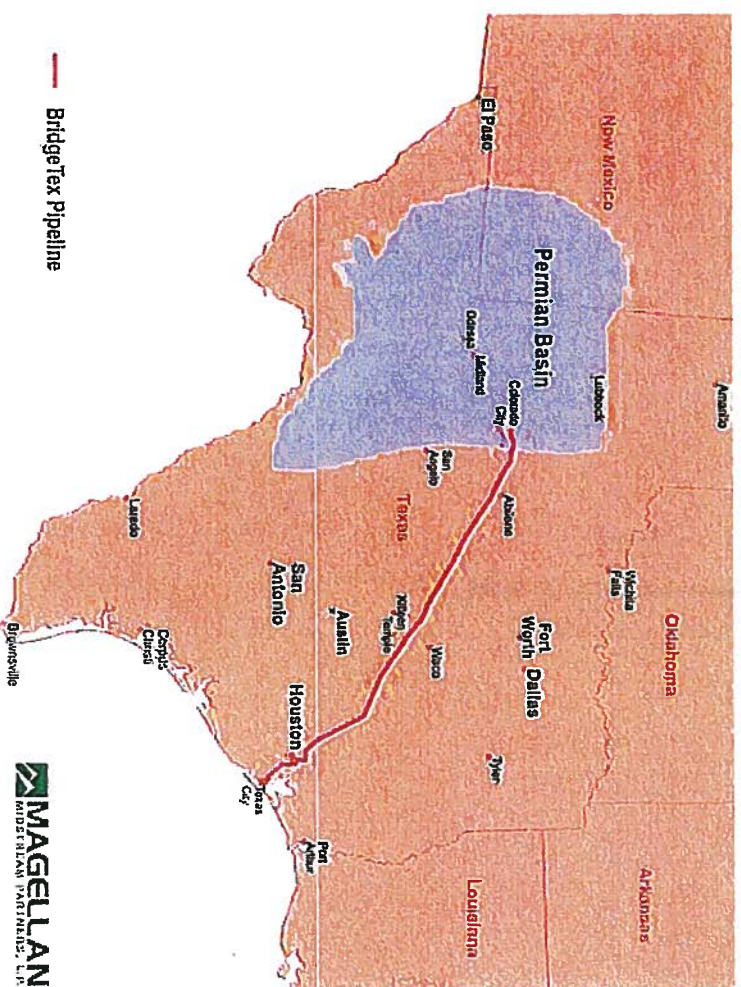
BridgeTex Pipeline

Presentation to Tomball

November 25, 2013

Overview of the BridgeTex Project

- The BridgeTex Pipeline is a new interstate pipeline project that will transport crude oil from the Permian Basin to the Houston area.
- The project consists of approximately 450 miles of 20 – 24 inch pipeline to be built from a point near Colorado City, Texas to Houston, Texas.
- The route has been carefully selected to make best use of existing right-of-way corridors.



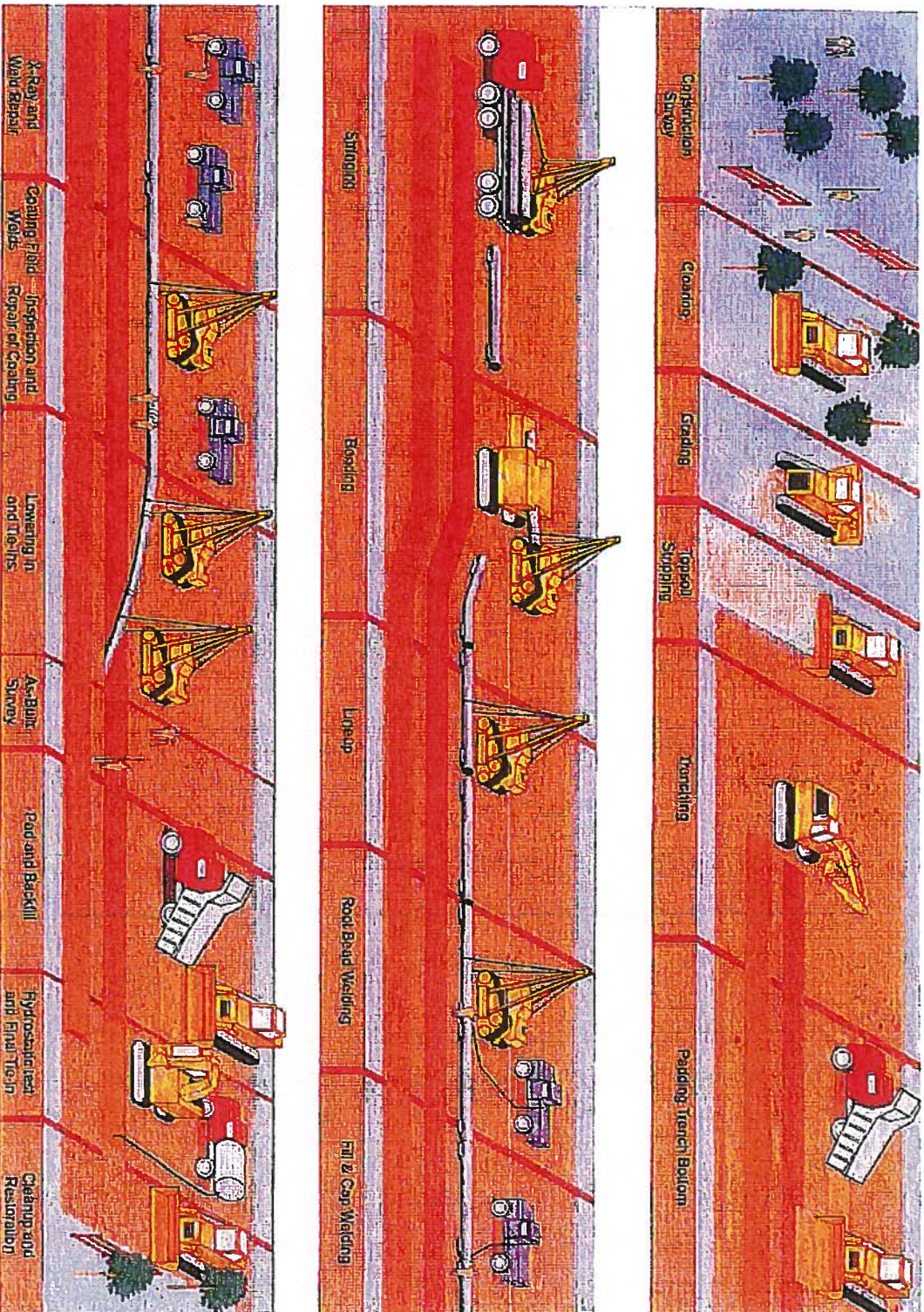
Advantages of the BridgeTex Project

- The pipeline is expected to create direct and indirect jobs along the route, primarily during the construction phase.
- 100% of the pipe utilized for the pipeline will be produced by a domestic pipe mill
- The operation of the pipeline will generate ad valorem taxes in the counties along the approximately 450 mile route.

Who is Building the BridgeTex Pipeline?

- The BridgeTex Pipeline is a joint venture between Magellan Midstream Partners, L.P. (“Magellan”) and Oxy Midstream Strategy Development
- Magellan is building the pipeline and will also be the operator once the pipeline is placed in-service in mid-2014.

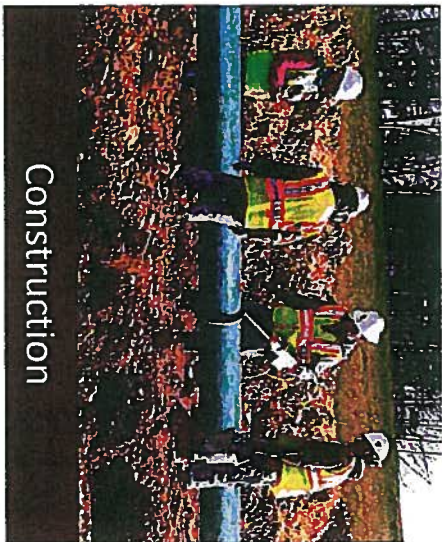
Pipeline Construction Sequence



Stages of Pipeline Construction



Survey



Construction



Operation

Overview of Pipeline Safety

- Magellan is committed to:
 - Complying with all laws and regulations affecting our business activities
 - Ensuring the health of the public and our employees.
 - Providing a safe and secure environment for the public and our employees.
- Magellan is committed to safe operations. The pipeline system will be designed to meet strict safety standards.
- Magellan uses a comprehensive System Integrity Plan (SIP) which includes procedures, practices and processes to monitor our lines.
- Magellan's pipeline control room operators continuously monitor operations around the clock from state-of-the-art control rooms.
- Magellan's *Code of Business Conduct* underscores the importance of operating all of our assets in a safe, efficient and environmentally responsible manner.

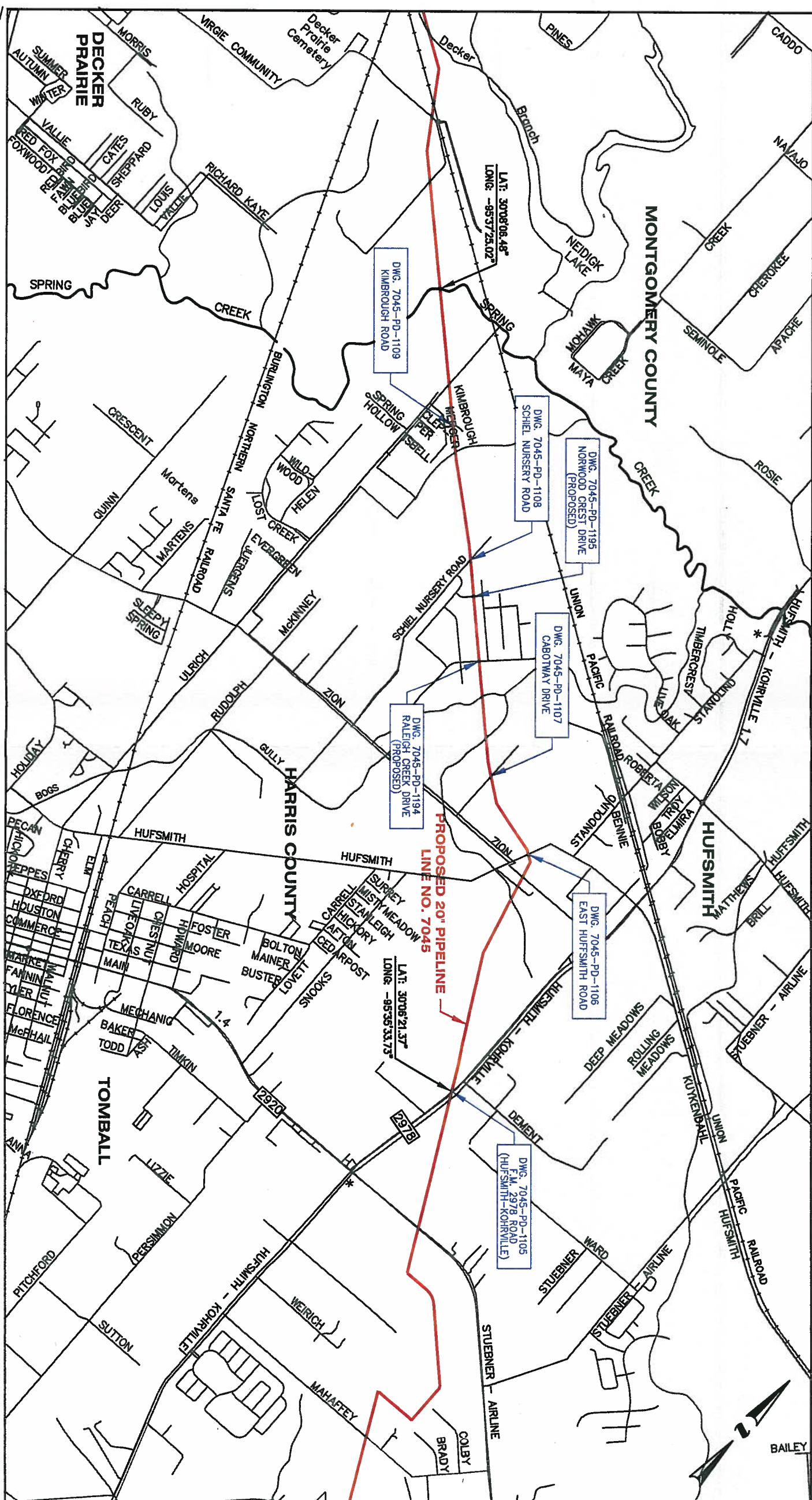
Project Timeline

Open Season Conclusion	July 2012
Finalize Oxy/Magellan Documents	November 2012
Anticipated Receipt of FERC's Declaratory Order	Early 2013
Right-of-way & Permitting Complete	Nov 2013
Construction Complete & Start Up	July 2014

BRIDGETEX PIPELINE COMPANY, LLC

PROPOSED 20" PIPELINE

ACROSS CITY OF TOMBALL ROADS



 GUILLETT & ASSOCIATES, INC. 7706 SOUTH LOOP EAST HOUSTON, TEXAS (713) 844-3219	DRAWN BY: G&A/TRB	BRIDGETEX PIPELINE COMPANY, LLC
	APPROVED: G&A	
	DATE: 11/22/13	PROPOSED 20" PIPELINE ACROSS CITY OF TOMBALL ROADS
	SCALE: NOTED	GRIMES COUNTY, TEXAS
		7045-PD-1196

[illegible]

[illegible]

Regular City Council

Agenda Item

Meeting Date: December 16, 2013

Data Sheet

Topic:

Award Contract for Project Bid No. 2013-08, "Tomball Business & Technology Park, Clearing, Grubbing, and SWPPP", E&P Project Number 2011-10016, to Low Bidder, R&T Ellis Excavating, Inc. in the amount of \$222,050.00

Background:

The Clearing, Grubbing, and SWPPP will establish the site conditions preferred to construct ultimate utilities and roadways, as well as preparing the Business & Technology Park lots for potential sale.

City Council approved and budgeted funds for the Tomball Business & Technology Park in the 2012-2013 budget with certificates of obligation.

The TEDC approved a professional services agreement with CLR, Inc. on December 17, 2012 to design the utilities and streets throughout the Tomball Business & Technology Park.

The bid package included a 45 day schedule for substantial completion. The bid schedule is summarized as follows:

- November 11, 2013, First Notice Printed
- November 18, 2013, Second Notice Printed
- November 19, 2013, Pre-Bid Meeting (2:00 p.m.)
- December 3, 2013, Bid Opening (2:00 p.m.)

The Consultant's recommendation is attached. They are of the opinion that R&T Ellis Excavating, Inc. is the lowest responsible bidder, under the base bid price. The contract is being recommended for consideration for the total base bid price.

Origination:

Recommendation:

Funding:

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

Engineering Division

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

ATTACHMENTS:

Contract Award Recommendation Letter
Agreement



December 6, 2013

City of Tomball
Public Works Building
501 James Street
Tomball, TX 77375

Attn: Lori Lakatos, P.E., City Engineer

Re: Recommendation of Award for
Tomball Business & Technology Park Clearing, Grubbing and SWPPP
Project Bid No. 2013-08, E&P Project No. 2011-10016

Dear Ms. Lakatos:

We have reviewed the bid tabulation for bids received on the above referenced project. Our analysis shows that R&T Ellis Excavating, Inc. is the responsive low bidder. The bid submitted by R&T Ellis Excavating, Inc. shows no signs of imbalance or significant cause for concern and their Bid Bond, Statement of Residency, and Affidavit of Ownership or Control appear to be in conformance with the bidding requirement. Therefore, **we pose no objection to the recommendation of awarding the construction contract for Tomball Business & Technology Park Clearing, Grubbing and SWPPP to R&T Ellis Excavating, Inc. as the low bidder.**

Below is a summary of our full review of the bids received for the project.

On December 3, 2013, a total of 9 bids were received and opened for the proposed project in accordance with the Notice to Bidders. Total Base Bid was utilized to establish the order of the bids and identification of apparent low bidder.

The four apparent low bidders based on Total Base Bids were:

<u>Contractor</u>	<u>Base Bid Submitted</u>	<u>Base Bid (Corrected)</u>
1) R&T Ellis Excavating, Inc.	\$222,050.00	N/A
2) Affordable Land Services, LLC	\$240,130.00	N/A
3) US Pipe Layers, LLC	\$281,960.00	\$289,960.00
4) TFR Enterprises, Inc.	\$297,850.00	N/A
5) Jerrico General Contractor, Inc.	\$314,600.00	\$314,563.88
6) Menade, Inc.	\$325,450.00	N/A
7) Double Oak Construction, Inc.	\$405,395.00	N/A
8) Triple B Services, LLP	\$578,114.00	N/A
9) Burts Construction, Inc.	\$596,500.00	\$604,500.00

All bids were tabulated and discrepancies in multiplication of units of work and unit prices were resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof were resolved in favor of the correct sum.

If you have any questions please do not hesitate to call.

Sincerely,
CLR, Inc.

Kyle A. Bertrand, PE
Senior Vice President

Enclosure: Project Bid Tabulation

CLR, Inc.

P.O. Box 450 Waller, Texas 77484 ■ 713 462 0993
TBPE Firm Reg. No. 275 ■ TBPLS Firm No. 10038900

Document 00520

AGREEMENT

Project: Tomball Business & Technology Park Clearing, Grubbing, and SWPPP

Project Location: Hufsmith-Kohrville and Holderrieth, City of Tomball, Harris County Texas

E&P Project No: 2011-10016

Project Bid No: 2013-08

The City: The City of Tomball, County of Harris, Texas (the "City")
and

Contractor: R & T Ellis Excavating & Hauling, Inc.

(Address for Written Notice) 445 CR 2301, Cleveland, Texas 77327

Fax Number: _____

City Engineer is: Lori Lakatos, P.E., C.F.M.

(Address for Written Notice) 501 James St., Tomball, TX 77375

Fax Number: (281) 351-4735

THE CITY AND CONTRACTOR AGREE AS FOLLOWS:

ARTICLE 1

THE WORK OF THE CONTRACT

1.1 Contractor shall perform the Work in accordance with the Contract.

ARTICLE 2

CONTRACT TIME

2.1 Contractor shall achieve Date of Substantial Completion within 45 calendar days after Date of Commencement of the Work, subject to adjustments of Contract Time as provided in the Contract.

2.2 The Parties recognize that time is of the essence for this Agreement and that the City will suffer financial loss if the Work is not completed within the Contract Time. Parties also recognize delays, expense, and difficulties involved in proving in a legal or arbitration proceeding actual loss suffered by the City if the Work is not completed on time. Accordingly, instead of requiring any such proof, the Parties agree that as liquidated

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05-23-2013

damages for delay (but not as a penalty), Contractor shall pay the City the amount stipulated in Document 00800 – Supplementary Conditions, for each day beyond Contract Time.

ARTICLE 3

CONTRACT PRICE

3.1 Subject to terms of the Contract, the City will pay Contractor in current funds for Contractor's performance of the Contract, Contract Price of \$222,050.00, which includes Alternates, if any, accepted below.

3.2 The City accepts Alternates as follows:

Alternate No. 1 N/A

ARTICLE 4

PAYMENTS

4.1 The City will make progress payments to Contractor as provided below and in the General Conditions.

4.2 The Period covered by each progress payment is one calendar month ending on the [] 10th, [] 20th, or [X] last day of the month.

4.3 The Schedule of Values established as provided in paragraph 2.07.A of the General Conditions will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed. The City will make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment as provided below in paragraphs 4.3.1 and 4.3.2.

4.3.1 Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or City may withhold, in accordance with paragraph 14.02 of the General Conditions:

- a. For contracts under \$400,000.00, 90% of Work completed (with the balance being retainage). For contracts over \$400,000.00, 95% of Work completed (with the balance being retainage.)
- b. For contracts under \$400,000.00, 90% (with the balance being retainage) and for contracts over \$400,000.00, 95% (with the balance being retainage) of materials and equipment not incorporated in the Work (but delivered, suitably stored and accompanied by documentation satisfactory to the City as provided in paragraph 14.02 of the General Conditions).

4.3.2 Upon Substantial Completion, the City shall pay an amount sufficient to increase total payments to Contractor to 95% of the Work completed, less such amounts as Engineer shall determine in accordance with paragraph 14.02.B.5 of the General Conditions and less 100% of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the Certificate of Substantial Completion.

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05-23-2013

4.4 Final payment, constituting entire unpaid balance of Contract Price, will be made by the City to Contractors provided in the General Conditions.

ARTICLE 5
CONTRACTOR REPRESENTATIONS

5.1 Contractor represents:

5.1.1 Contractor has examined and carefully studied Contract documents and other related data identified in Bid Documents.

5.1.2 Contractor has visited the site and become familiar with and is satisfied as to general, local, and site conditions that may affect cost, progress, and performance of the Work.

5.1.3 Contractor is familiar with and is satisfied as to all federal, state, and local laws and regulations that may affect cost, progress, and performance of the Work.

5.1.4 Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except Underground Facilities) which have been identified in Contract documents and (2) reports and drawings of a hazardous environmental condition, if any, at the site which has been identified in Contract documents.

5.1.5 Contractor has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including applying specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract to be employed by Contractor, and safety precautions and programs incident thereto.

5.1.6 Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for performance of the Work at Contract Price, within Contract Time, and in accordance with the Contract.

5.1.7 Contractor is aware of general nature of work to be performed by the City and others at the site that relates to the Work as indicated in Contract documents.

5.1.8 Contractor has correlated information known to Contractor, information and observations obtained from visits to the site, reports and drawings identified in the Contract, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract.

5.1.9 Contractor has given City Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract, and written resolution thereof by City Engineer is acceptable to Contractor.

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05-23-2013

5.1.10 Contract documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 6

MISCELLANEOUS PROVISIONS

- 6.1 The Contract may be terminated by either Party as provided in Conditions of the Contract.
- 6.2 The Work may be suspended by the City as provided in Conditions of the Contract.

ARTICLE 7

ENUMERATION OF CONTRACT DOCUMENTS

- 7.1 The following documents are incorporated into this Agreement:
- 7.1.1 Document 00700 - General Conditions
- 7.1.2 Document 00800 - Supplementary Conditions
- 7.1.3 General Requirements.
- 7.1.4 Divisions 02 through 16 of Specifications attached hereto or incorporated by reference in Document 00010 - Table of Contents.
- 7.1.5 Drawings listed in Document 00015 - List of Drawings and bound separately.
- 7.1.6 Addenda which apply to the Contract, are as follows:
- Addendum No. 1, dated [November 25, 2013]
- Addendum No. 2, dated [N/A]
- 7.1.7 Other documents:

<u>Document No.</u>	<u>Title</u>
[X] 00410B	Bid Form – Part B
[X] 00500	Form of Business
[X] 00501	Resolution of Corporation (if a corporation)
[X] 00610	Performance Bond
[X] 00611	Statutory Payment Bond
[] 00612	One-year Maintenance Bond
[X] 00620	Affidavit of Insurance (with the Certificate of Insurance attached)
[X] 00800	Exhibit A, Wage Rates
[] 00821	Wage Rate for Building Construction
[] 00830	Trench Safety Geotechnical Information (reference 00320)

ARTICLE 8

SIGNATURES

- 8.1 This Agreement is executed in two originals and is effective on _____.

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05-23-2013

City of Tomball
Tomball Business & Technology Park

AGREEMENT

CONTRACTOR:

(If Joint Venture)

By: _____

By: _____

Name: Randy Ellis

Name: _____

Title: President

Title: _____

Date: _____

Date: _____

Tax Identification Number: _____

Tax Identification Number: _____

ATTEST/SEAL:

[SEAL]

Attest: _____

Date: _____

CITY OF TOMBALL, TEXAS:

By: _____
City Manager

Date: _____

ATTEST/SEAL:

[SEAL]

Attest: _____
City Secretary

Date: _____

END OF DOCUMENT

00520-5
05-23-2013

Regular City Council

Agenda Item

Meeting Date: December 16, 2013

Data Sheet

Topic:

Approve the following Plats, as recommended by the Planning and Zoning Commission:

- **TOMBALL SOUTH COMMERCIAL NO. 2;** Being a subdivision of a 14.8086 acre tract of land situated in the Elizabeth Smith Survey, Abstract Number 70, of Harris County, Texas, out of and a part of a tract described in deed recorded in Clerk's File Number 20070269548 of the Real Property Records of Harris County, Texas; said 14.8086 acre subdivision being a Replat of all of Lot 1 and Restricted Reserve C, both in Block One of Tomball South Commercial, a subdivision according to the map or plat thereof recorded in Volume 632, Page 199 of the Map Records of Harris County, Texas.
- **STONE BAER SUBDIVISION;** Being a subdivision of a 0.3214 acre, 0.3214 acre and 0.1607 acre of land situated in the Joseph House Survey, Abstract Number 34 of Harris County, Texas, and being a Replat of Lots 31, 32, 33, 34, 35, 36, 38, 39, 40 and 41 in Block 46 of Revised Map of Tomball, a subdivision according to the map or plat thereof recorded in Volume 4, Page 25 of the map Records of Harris County, Texas, and being the same land as described in deed recorded under Clerk's File Number 20130496699 of the Real Property Records of Harris County Texas.

Background:

The Planning and Zoning Commission approved the Tomball South Commercial No. 2 plat with contingencies on November 11, 2013. Comments have been addressed and the plat is now being presented to City Council for approval consideration.

The Planning and Zoning Commission approved the Stone Baer Subdivision plat on December 9, 2013. The plat is now being presented to City Council for approval consideration.

Origination:

Recommendation:

Funding:

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

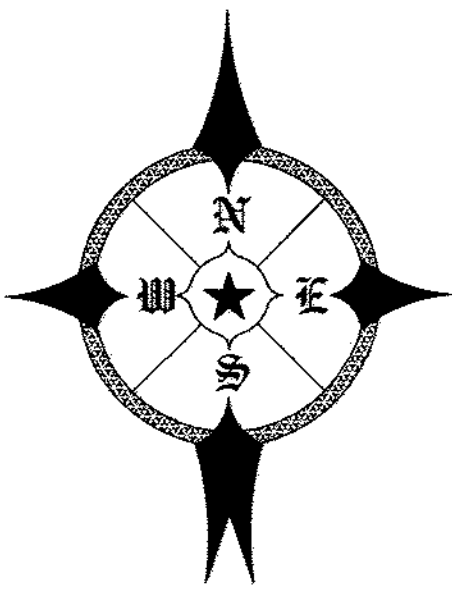
Brandy Pate, Engineering and Planning

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

ATTACHMENTS:

Tomball South Commercial No. 2

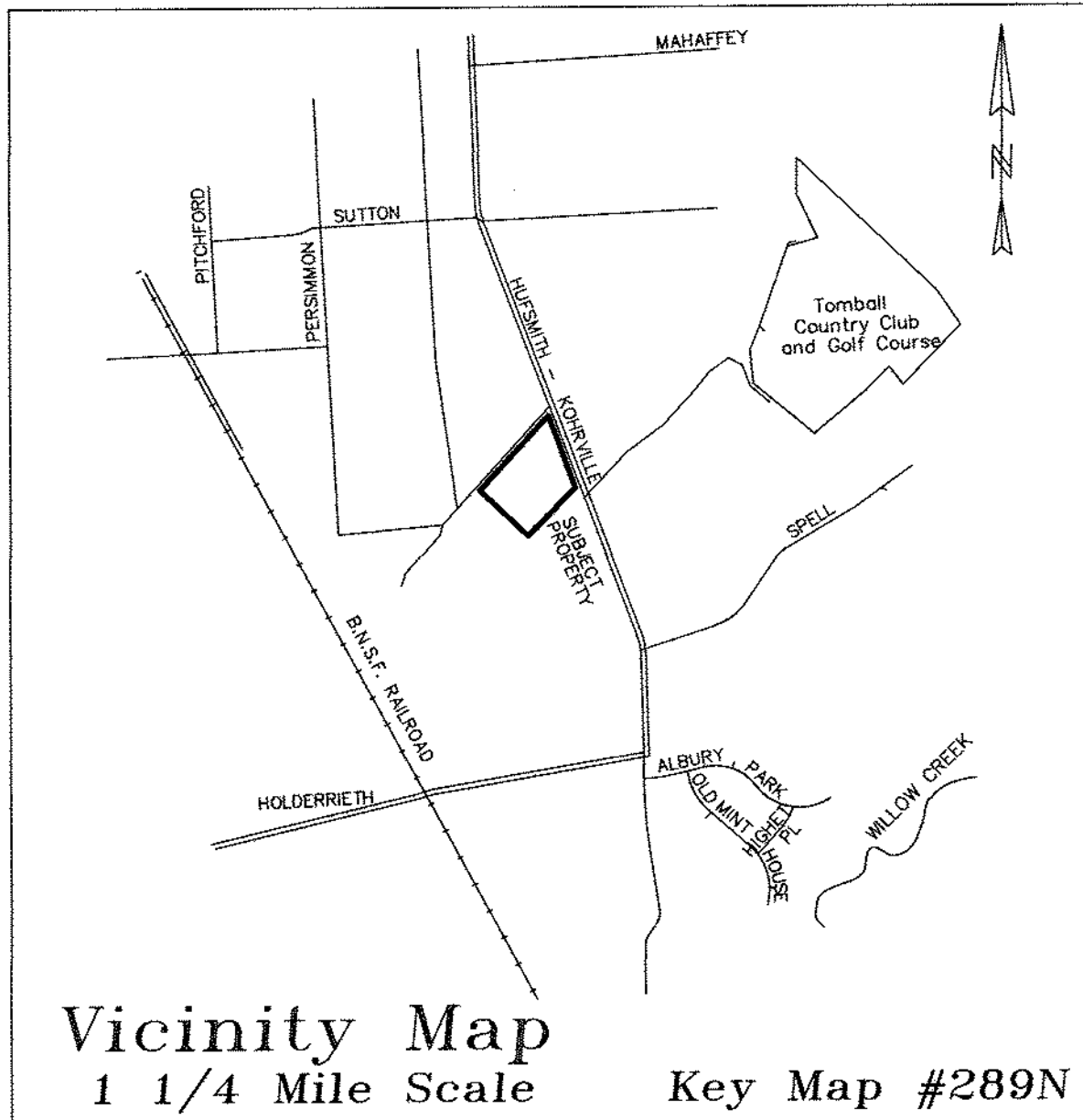
Stone Baer Subdivision



Scale: 1" = 100'

I, Steven L. Crews, am authorized under the laws of the State of Texas to practice the profession of surveying and hereby certify that the above subdivision is true and correct; was prepared from an actual survey of the property made under my supervision on the ground; that all boundary corners, angle points, points of curvature, and other points of reference not found have been marked with iron rods having an outside diameter of not less than three-quarter inch (3/4") and a length of not less than three feet (3'); and that the plat boundary corners have been tied to the nearest survey corner.

Steven L. Crews
Texas Registration Number 4141



Vicinity Map
1 1/4 Mile Scale

Key Map #289N

TOMBALL SOUTH COMMERCIAL NO. 2

Being a subdivision of a 14.8086 acre tract of land situated in the Elizabeth Smith Survey, Abstract Number 70, of Harris County, Texas, out of and a part of a tract described in deed recorded in Clerk's File Number 20070269548 of the Real Property Records of Harris County, Texas; said 14.8086 acre subdivision being a REPLAT of all of Lot 1 and Restricted Reserve C, both in Block One of TOMBALL SOUTH COMMERCIAL, a subdivision according to the map or plat thereof recorded in Volume 632, Page 199 of the Map Records of Harris County, Texas.

1 LOT, 1 BLOCK

Notes:
Public Easements:
Public easements denoted on this plat are hereby dedicated to the public forever. Any public utility, including the City of Tomball, shall have the right at all times, of ingress and egress to and from and upon said easements for the purpose of construction, reconstruction, inspection, patrolling, maintaining and adding to or removing all or part of its respective systems without the necessity of any time of procuring the permission of the property owner. Any public utility, including the City of Tomball, shall have the right to move and keep moved all or part of any building, fences, trees, shrubs, other growths or improvements that in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems on any of the easements shown on this plat. Neither the City of Tomball or any public utility shall be responsible for the replacing or reimbursing the property owner due to removal or relocation of any obstruction on the public easements.
Flood Information:
According to FEMA Firm Panel No. 48201C0230-L (Effective Date June 18, 2007), this property is in Zone "X" and is not in the 0.2% Annual Chance Flood Plain.
Note #1:
All oil/gas pipelines or pipeline easements with ownership through the subdivision have been shown.
Note #2:
All oil/gas wells with ownership (plugged, abandoned, and/or active) through the subdivision have been shown.
Note #3:
No building or structure shall be constructed across any pipelines, building lines, and/or easements. Building setback lines will be required adjacent to oil/gas pipelines. The setbacks at a minimum should be 15 feet off centerline of low pressure gas lines, and 30 feet off centerline of high pressure gas lines.
Note #4:
This plat does not attempt to amend or remove any valid restrictions or covenants.
Note #5:
The building lines shown on this plat shall be in addition to, and shall not limit or replace, any building line required by the City of Tomball Code of Ordinances at the time of the development of the property.
Note #6:
The Basis of Bearings for this plat is the Recorded Plat of Tomball South Commercial in Film Code Number 632199 of M.R.H.C.T.
Note #7:
The reason for this partial replat is to combine Lot 1 and Restricted Reserve "C" as part of a new subdivision.

B.L. = BUILDING LINE
C.O.T.U.E. = UTILITY EASEMENT DEDICATED TO THE CITY OF TOMBALL
BL. = BUILDING LINE
VOL. = VOLUME
PG. = PAGE
H.C.C.F. = Harris County Clerk's File
H.C.D.R. = Harris County Deed Records
R.P.R.H.C.T. = Real Property Records of Harris County, Texas
H.C.M.R. = Harris County Map Records

THE STATE OF TEXAS
COUNTY OF HARRIS

We, 2978 Industrial Properties, LLC, acting by and through JEFF PRESNAL, its Manager, being officers of 2978 Industrial Properties, LLC, owners hereinafter referred to as owners of the 14.8086 acre tract described in the above and foregoing plat of TOMBALL SOUTH COMMERCIAL NO. 2, do hereby make and establish said subdivision of said property according to all liens, dedications, restrictions and notations on said plat and hereby dedicate to the use of the public forever, all streets (except those streets designated as private streets, or permanent access easements), alleys, parks, water courses, drains, easements and public places shown thereon for the purposes and considerations therein expressed; and do hereby bind ourselves, our heirs, successors and assigns to warrant and forever defend the title to the land so dedicated.

FURTHER, owners have dedicated and by these presents do dedicate to the use of the public for public utility purposes forever an unobstructed aerial easement five feet (5') in width from a plane twenty feet (20') above the ground level upward, located adjacent to all public utility easements shown hereon.

FURTHER, owners do hereby dedicate to the public a strip of land fifteen feet (15') wide on each side of the center line of any and all bayous, creeks, gullies, ravines, draws, sloughs, or other natural drainage courses located and depicted upon in said plat, as easements for drainage purposes, giving the City of Tomball, Harris County, or any other governmental agency, the right to enter upon said easement at any and all times for the purpose of construction and maintenance of drainage facilities and structures.

FURTHER, owners do hereby covenant and agree that all of the property within the boundaries of this plat and adjacent to any drainage easement, ditch, gully, creek or natural drainage way shall hereby be restricted to keep such drainage ways and easements clear of fences, buildings, planting, and other obstructions to the operation and maintenance of the drainage facility and that such abutting property shall not be permitted to drain directly into this easement, except by means of an approved drainage structure.

IN TESTIMONY WHEREOF, the 2978 Industrial Properties, LLC, has caused these presents to be signed by Jeff Presnal, its Manager, thereunto authorized,

this 9th day of December, 2013.

2978 Industrial Properties, LLC

by: Jeff Presnal, its Manager

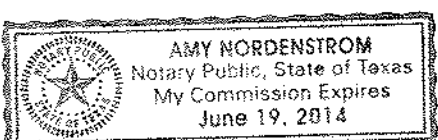
THE STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared Jeff Presnal, Manager of 2978 Industrial Properties, LLC, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE,
this 9th day of December, 2013.

Notary Public in and for the State of Texas

My Commission Expires: June 19, 2014



Harris County Clerk Certificate of Filing:

I, Stan Stanart, County Clerk of Harris County, Texas, do hereby certify that the within instrument with its certificate of authentication was filed for registration in my office on _____, 2013, at _____ o'clock _____ M., and duly recorded on _____, 2013, at _____ o'clock _____ M., and at Film Code No. _____ of the Map Records of Harris County for said County.

Witness my hand and seal of office, at Houston, the day and date last above written.

Stan Stanart
County Clerk
of Harris County, Texas

By: _____
Deputy

This is to certify that the Planning and Zoning Commission of the City of Tomball, Texas, has approved this plat and subdivision of TOMBALL SOUTH COMMERCIAL NO. 2 in conformance with the laws of the State of Texas and the ordinances of the City of Tomball as shown hereon and authorized the recording of this plat

this 9th day of December, 2013.

By: Barbara Tague
Chairman

By: Darrell Roquemore
Vice Chairman

We, the City Manager and the City Engineer for the City of Tomball, do hereby certify that this plat complies with the City of Tomball ordinance.

George Shackelford, City Manager

Lori Lakatos, P.E.,
City Engineer

This is to certify that the City accepts the Planning & Zoning Commission's authorized approval and acceptance of all dedicated public easements in conformance with the laws of the State of Texas the ordinance of the City of Tomball as shown hereon and authorized the recording of this plat this _____ day of _____, 2013.

By: Gretchen Fagan, Mayor

Doris Speer, City Secretary

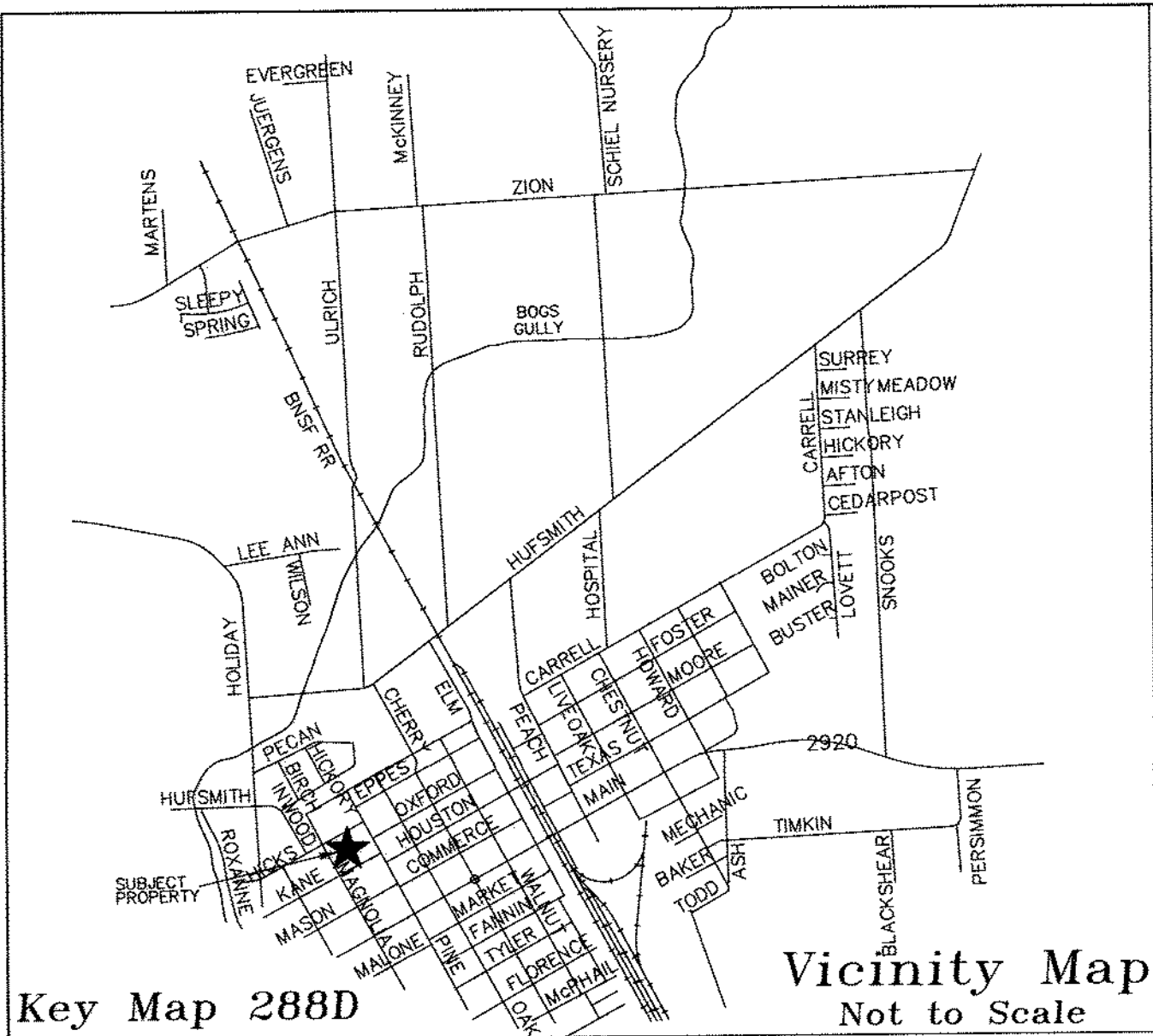
Surveyor:
C & C SURVEYING INC.

7424 FM 1488, Suite A Magnolia, Texas 77354
Office: 281-356-5172 Fax: 281-356-1935

Owner:
2978 Industrial Properties LLC

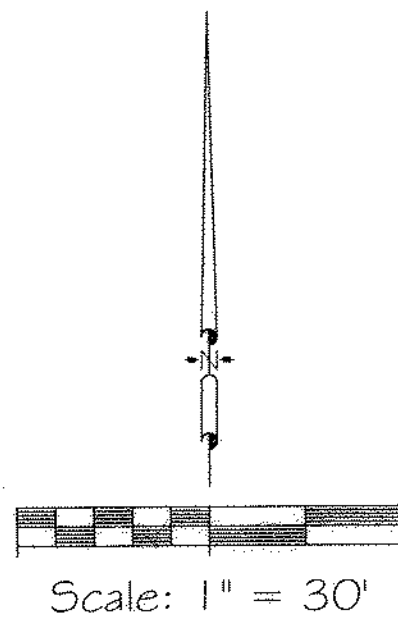
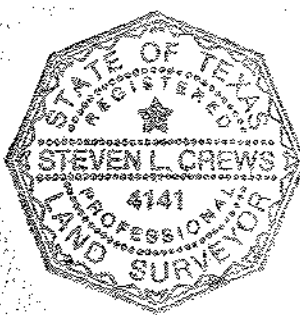
14405 Brown Road
Tomball, Texas 77377
281-290-8331

November 2013
Sheet 1 of 1



I, Steven L. Crews, am authorized under the laws of the State of Texas to practice the profession of surveying and hereby certify that the above subdivision is true and correct; was prepared from an actual survey of the property made under my supervision on the ground; that all boundary corners, angle points, points of curvature, and other points of reference not found have been marked with iron rods having an outside diameter of not less than three-quarter inch (3/4") and a length of not less than three feet (3'); and that the plat boundary corners have been tied to the nearest survey corner.

Steven L. Crews
Texas Registration Number 4141



Notes:
Public Easements:
Public Easements denoted on this plat are hereby dedicated to the public forever. Any public utility, including the City of Tomball, shall have the right at all times, of ingress and egress to and from and upon said easement for the purpose of construction, reconstruction, inspection, patrolling, maintaining and adding to or removing all or part of its respective systems without the necessity of any time of procuring the permission of the property owner. Any public utility, including the City of Tomball, shall have the right to move and keep moved all or part of any building, fences, trees, shrubs, other growths or improvements that in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems on any of the easements shown on this plat. Neither the City of Tomball nor any other public utility shall be responsible for any damages to property within an easement arising out of the removal or relocation of any obstruction in the public easement.

Flood Information:
According to FEMA Firm Panel No. 48201C0230-L (Effective Date June 18, 2007), this property is in Zone "X" and is not in the 0.2% Annual Chance Flood Plain.

Note #1:
All oil/gas pipelines or pipeline easements with ownership through the subdivision have been shown.
Note #2:
All oil/gas wells with ownership (plugged, abandoned, and/or active) through the subdivision have been shown.
Note #3:
No building or structure shall be constructed across any pipelines, building lines, and/or easements. Building setback lines will be required adjacent to oil/gas pipelines. The setbacks at a minimum should be 15 feet off centerline of low pressure gas lines, and 30 feet off centerline of high pressure gas lines.
Note #4:
This plat does not attempt to amend or remove any valid covenants or restrictions.
Note #5:
The building lines shown on this plat shall be in addition to, and shall not limit or replace, any building lines required by the City of Tomball Code of Ordinances at the time of the development of the property.
Note #6:
The Basis of Bearings for this plat is Southwest line of the "Abbreviated Plat" for 7A and 8A, recorded under Film Code Number 598155, M.R.H.C.T.
Note #7:
M.R.H.C.T. = MAP RECORDS OF HARRIS COUNTY TEXAS
R.P.R.H.C.T. = REAL PROPERTY RECORDS OF HARRIS COUNTY TEXAS
FC NO. = FILM CODE NUMBER
CF NO. = CLERK'S FILE NUMBER
C.O.T.U.E. = UTILITY EASEMENT DEDICATED TO THE CITY OF TOMBALL
R.O.W. = RIGHT OF WAY

THE STATE OF TEXAS
COUNTY OF HARRIS

JOSEPH HOUSE
A-34
JOHN M. HOOPER
A-375
WILLIAM HURD
A-378

We, Stone Baer/Market Village, LLC, acting by and through MONTY R. STONE, its manager, being officer of Stone Baer/Market Village, LLC, owners hereinafter referred to as owners of the 0.3214 acre, the 0.3214 acre and the 0.1607 acre tracts described in the above and foregoing plat of STONE BAER SUBDIVISION, do hereby make and establish said subdivision of said property according to all laws, dedications, restrictions and notations on said plat and hereby dedicate to the use of the public forever, all streets, alleys, parks, watercourses, drains, easements and public places shown thereon for the purposes and considerations therein expressed; and do hereby bind ourselves, our heirs, successors and assigns to warrant and forever defend the title to the land so dedicated.

FURTHER, owners have dedicated and by these presents does dedicate to the use of the public for public utility purposes forever an unobstructed aerial easement five feet (5') in width from a plane twenty feet (20') above the ground level upward, located adjacent to all public utility easements shown hereon.

FURTHER, owners do hereby dedicate to the public a strip of land fifteen feet (15') wide on each side of the center line of any and all bayous, creeks, gullies, ravines, draws, sloughs, or other natural drainage courses located and depicted upon in said plat, as easements for drainage purposes, giving the City of Tomball, Harris County, or any other governmental agency, the right to enter upon said easement at any and all times for the purpose of construction and maintenance of drainage facilities and structures.

FURTHER, owners do hereby covenant and agree that all of the property within the boundaries of this plat and adjacent to any drainage easement, ditch, gully, creek or natural drainage way shall hereby be restricted to keep such drainage ways and easements clear of fences, buildings, planting, and other obstructions to the operation and maintenance of the drainage facility and that such abutting property shall not be permitted to drain directly into this easement, except by means of an approved drainage structure.

IN TESTIMONY WHEREOF, Stone Baer/Market Village, LLC, has caused these presents to be signed by Monty R. Stone, its manager, thereunto authorized, this 10th day of December, 2013.

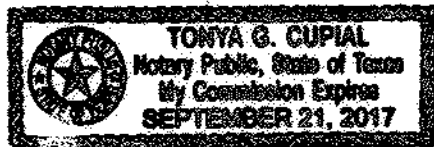
Stone Baer/Market Village, LLC
By: Monty R. Stone
Monty R. Stone, its Manager

THE STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared Monty R. Stone, Manager of Stone Baer/Market Village, LLC, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 10th day of December, 2013.

Tonya G. Cuijal
Notary Public in and for the State of Texas
My Commission Expires: 9/21/17



By:
Barbara Tague
Chairman

By:
Dorrell Roquemore
Vice Chairman

We, the City Manager and the City Engineer for the City of Tomball, do hereby certify that this plat complies with the City of Tomball ordinance.

George Shackelford, City Manager

Lori Lakatos
Lori Lakatos, P.E.,
City Engineer

This is to certify that the City accepts the Planning & Zoning Commission's authorized approval and acceptance of all dedicated public easements in conformance with the laws of the State of Texas the ordinance of the City of Tomball as shown hereon and authorized the recording of this plat this 10th day of December, 2013.

By: Gretchen Fagan
Gretchen Fagan, Mayor

Doris Speer
Doris Speer, City Secretary

Harris County Clerk Certificate of Filing:

I, Stan Stanart, County Clerk of Harris County, Texas, do hereby certify that the within instrument with its certificate of authentication was filed for registration in my office on 12/10/2013, at 1:00 o'clock P.M., and duly recorded on 12/10/2013, at 1:00 o'clock P.M., and at Film Code No. 20130496699 of the Map Records of Harris County for said County.

Witness my hand and seal of office, at Houston, the day and date last above written.

Stan Stanart
Stan Stanart
County Clerk
of Harris County, Texas

By:
Deputy

FINAL PLAT

STONE BAER SUBDIVISION

Being a subdivision of 0.3214 acre, 0.3214 acre and 0.1607 acre of land situated in the Joseph House Survey, Abstract Number 34, of Harris County, Texas, and being a replat of Lots 31, 32, 33, 34, 35, 36, 38, 39, 40 and 41 in Block 46 of REVISED MAP OF TOMBALL, a subdivision according to the map or plat thereof recorded in Volume 4, Page 25 of the Map Records of Harris County, Texas, and being the same land as described in deed recorded under Clerk's File Number 20130496699 of the Real Property Records of Harris County Texas.

4 LOTS, 1 BLOCK

DECEMBER 2013
Sheet 1 of 1

Owner:
STONE BAER/MARKET VILLAGE, LLC
301 S. Cherry Street
Tomball, Texas 77375
Phone: 281-357-4200

Surveyor:
C & C SURVEYING, INC.
7424 FM 1488, Suite A
Magnolia, Texas 77354
Office: 281-356-5172
FAX: 281-356-1935

Regular City Council

Agenda Item

Meeting Date: December 16, 2013

Data Sheet

Topic:

Consideration to approve **COMPREHENSIVE PLAN CASE P13-181**: Request by Jeff Presnal, on behalf of 2978 Industrial Properties, LLC and KTC Holding, LLC, to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 25.70 acres of land, legally described as Lot 1, Lot 2, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial, within the City of Tomball, Harris County, Texas, generally located west of Hufsmith-Kohrville Road, north of Spell Road, from Rural Residential and Business/Industrial to Business/Industrial.

- Conduct a Public Hearing on **COMPREHENSIVE PLAN CASE P13-181**
- Adopt on First Reading, Ordinance 2013-25, an Ordinance an Ordinance of the City of Tomball, Texas, amending its Comprehensive Plan by changing the Future Land Use classification of approximately 25.70 acres of land, legally described as Lot 1, Lot 2, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial, within the City of Tomball, Harris County, Texas, from Rural Residential and Business/Industrial to Business/Industrial; said property being generally located west of Hufsmith-Kohrville Road, north of Spell 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:

City Staff met with the applicant, Jeff Presnal, regarding the possible rezoning of Lot 1, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial from the Agricultural District to the Light Industrial District. City Staff informed Mr. Presnal that the properties have Future Land Use designations of Rural Residential and Business/Industrial. Additionally, Mr. Presnal was informed that these properties would need to have a Comprehensive Plan Amendment to only Business/Industrial in order to have consistent Future Land Use designations across the entire site. On October 30, 2013, the City received Comprehensive Plan Amendment and Rezoning applications from Mr. Presnal. This case is the request to change the Future Land Use of Lot 1, Lot 2, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial from Rural Residential and Business/Industrial to entirely Business/Industrial.

The Planning and Zoning Commission voted to recommend approval of Comprehensive Plan Case P13-181 on December 9, 2013, with a 5-0 unanimous vote.

Origination:

Jeff Presnal, on behalf of 2978 Industrial Properties, LLC and KTC Holding, LLC

Recommendation:

APPROVAL

Funding:

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

Brandy Pate, Engineering and Planning

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

ATTACHMENTS:

- Notice of Public Hearing
- Property Owner Notification Letter
- P13-181 Staff Report
- Ordinance 2013-25

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
DECEMBER 9, 2013
&
CITY COUNCIL
DECEMBER 16, 2013**



Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, December 9, 2013, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, December 16, 2013, 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:

COMPREHENSIVE PLAN CASE P13-181: Request by Jeff Presnal, on behalf of 2978 Industrial Properties, LLC and KTC Holding, LLC, to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 25.70 acres of land, legally described as Lot 1, Lot 2, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial, within the City of Tomball, Harris County, Texas, generally located west of Hufsmith-Kohrville Road, north of Spell Road, from Rural Residential and Business/Industrial to Business/Industrial.

ZONING CASE P13-182: Request by Jeff Presnal, on behalf of 2978 Industrial Properties, LLC and KTC Holding, LLC, to amend the City's Zoning Ordinance by rezoning approximately 18.77 acres of land, legally described as Lot 1, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial within the City of Tomball, Harris County, Texas, generally located west of Hufsmith-Kohrville Road, north of Spell Road, from the Agricultural District to the Light Industrial District.

Persons interested in this case 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 request. Should the Planning & Zoning Commission vote to table a decision/recommendation on this 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 decision/recommendation is forwarded to the City Council by the Planning & Zoning Commission. The application is 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.

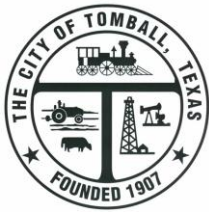
CERTIFICATION

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 5th day of December 2013 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Brandy Pate

Brandy Pate
Senior Administrative Assistant
P&Z Commission Secretary

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: P13-181

APPLICANT: Jeff Presnal, on behalf of 2978 Industrial Properties, LLC and KTC Holding, LLC

LOCATION: West of Hufsmith-Kohrville Road, north of Spell Road

PROPOSAL: Request to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 25.70 acres of land, legally described as Lot 1, Lot 2, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial, within the City of Tomball, Harris County, Texas, from Rural Residential and Business/Industrial to Business/Industrial.

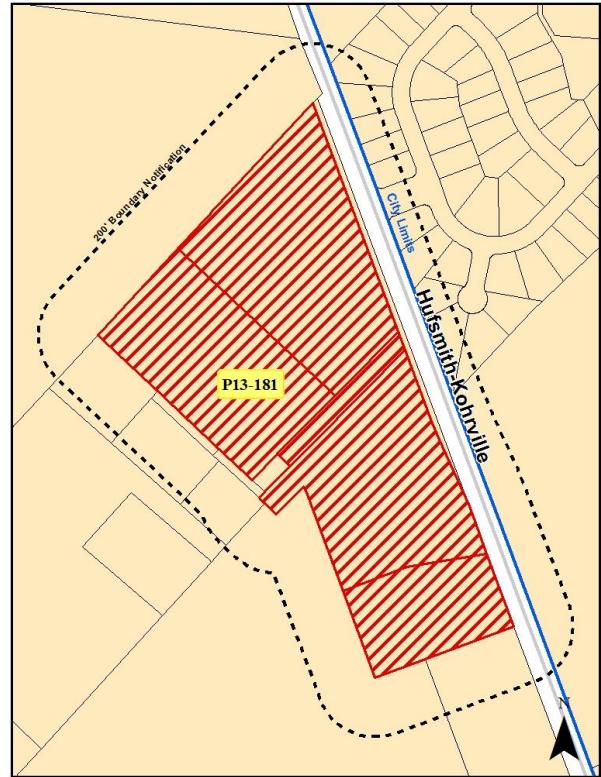
CONTACT: Rodney Schmidt

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.

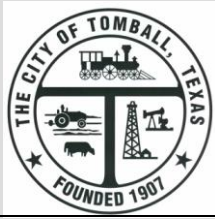


**Planning & Zoning Commission
Public Hearing:
Monday, December 9, 2013, 6:00 PM**

**City Council Public Hearing:
*Monday, December 16, 2013, 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 Amendment Staff Report

Planning & Zoning Commission Public Hearing Date: December 9, 2013

CP Amendment Case: P13-181

Property Owner: 2978 Industrial Properties, LLC and KTC Holding, LLC

Applicant: Jeff Presnal

Legal Description: Lot 1, Lot 2, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial

Location: West of Hufsmith-Kohrville Road, north of Spell Road (Exhibit "A")

Area: 25.7 acres

Present Zoning & Usage: Agricultural and Light Industrial Districts (Exhibit "C") / Undeveloped and commercial (CREACOM, Inc.)

Future Land Use (FLU): Rural Residential and Business/Industrial (Exhibit "B")

Proposed FLU: Business/Industrial

Adjacent FLU & Usage:

- North:** Rural Residential / Single-family residences
- South:** Business/Industrial / Undeveloped and future Tomball Economic Development Corporation (TEDC) Business and Technology Park
- West:** Rural Residential and Business/Industrial / Single-family residences and future TEDC Business and Technology Park
- East:** Undesignated Extraterritorial Jurisdiction (ETJ) / Hufsmith-Kohrville Road, single-family residences, and a former horse training facility (Exhibit "D")

BACKGROUND

On October 18, 2013, City staff met with the applicant, Jeff Presnal, regarding the possible rezoning of Lot 1, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial from the Agricultural District to the Light Industrial District. City staff informed Mr. Presnal that the properties have Future Land Use (FLU) designations of Rural Residential and Business/Industrial. Additionally, Mr. Presnal was informed that these properties would need to have a Comprehensive Plan (CP) Amendment to only Business/Industrial in order to have consistent Future Land Use designations across the entire site.

On October 30, 2013, the City received CP amendment (Exhibit "E") and rezoning applications from Mr. Presnal. Case P13-181 is the request to change the FLU of Lot 1, Lot 2, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial from Rural Residential and Business/Industrial to entirely Business/Industrial. Case P13-182 is the request to change the zoning classification of Lot 1, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial from Agricultural District to the Light Industrial District.

ANALYSIS

According to the CP, the Business/Industrial FLU is “where industrial and intensive employment activities should occur. Activities that will require unenclosed assembly, repair and/or storage and require heavy truck or rail transportation support are acceptable. Also included would be warehousing and distribution facilities, as well as offices and showrooms.”

There are two FLUs in the vicinity of the subject site: Rural Residential and Business/Industrial. To the north is Rural Residential; to the south is Business/Industrial; to the west is Rural Residential and Business/Industrial; and to the east is undesignated ETJ. The proposed Business/Industrial FLU appears to be compatible the Business/Industrial FLU to the south and west. On the surface, this request appears to be incompatible with the Rural Residential FLU and nearby residences. However, the CP allows for amendments to the FLU map if relevant information is presented. According to the CP, “Over time, conditions and expectations may change necessitating that the Comprehensive Plan be amended.”

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

- The Business/Industrial FLU appears to better reflect the subject site’s original intent. The subject sites are part of the Tomball South Commercial plat which was never intended for rural residential development. According to their vested rights letter, filed July 15, 2009, these commercial properties were issued their first permit on January 14, 2008, almost two years before the CP designated the subject site as Rural Residential.
- Reclassifying the subject sites as Business/Industrial appears to be compatible with the TEDC’s Business and Technology Park to the south and will create an unbroken, contiguous Business/Industrial FLU block from Holderrieth Road to Country Club Greens subdivision.
- The subject site is adjacent to Hufsmith-Kohrville which is classified on the Major Thoroughfare Plan as a major arterial with a future right-of-way width of between 100 and 120 feet. The frontage of this major north-south road does not appear to be conducive to residential development, especially when viewed in the context of the future commercial developments in the Tomball South Commercial plat and TEDC Business and Technology Park.
- The request appears to be consistent with Comprehensive Plan Goal LUD 7 which requires “Maintain[ing] a sustainable jobs-to-population ratio and a mix of locally available jobs.” Reclassifying these properties as Business/Industrial appears to facilitate this goal.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on November 27, 2013; no public comments have been received as of December 4, 2013.

ACTION REQUESTED

That the Planning & Zoning Commission recommend **APPROVAL** of Comprehensive Plan Amendment Case P13-181.

EXHIBITS

- A. Aerial Photo
- B. Zoning Map
- C. Comprehensive Plan's Future Land Use Map
- D. Site Photos
- E. Comprehensive Plan Amendment Application

Exhibit "A"
Aerial Photo

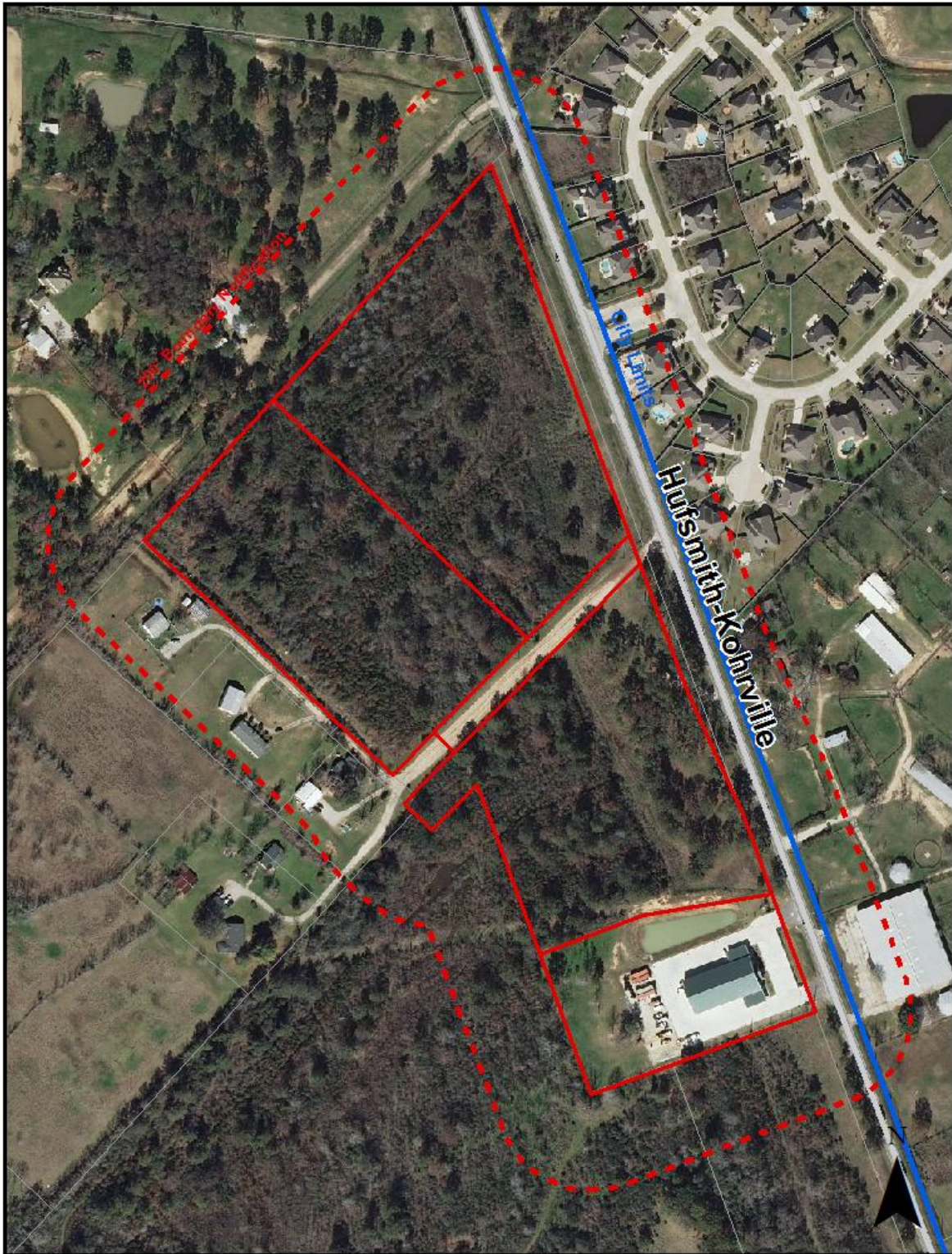


Exhibit "B"
Comprehensive Plan's Future Land Use Map

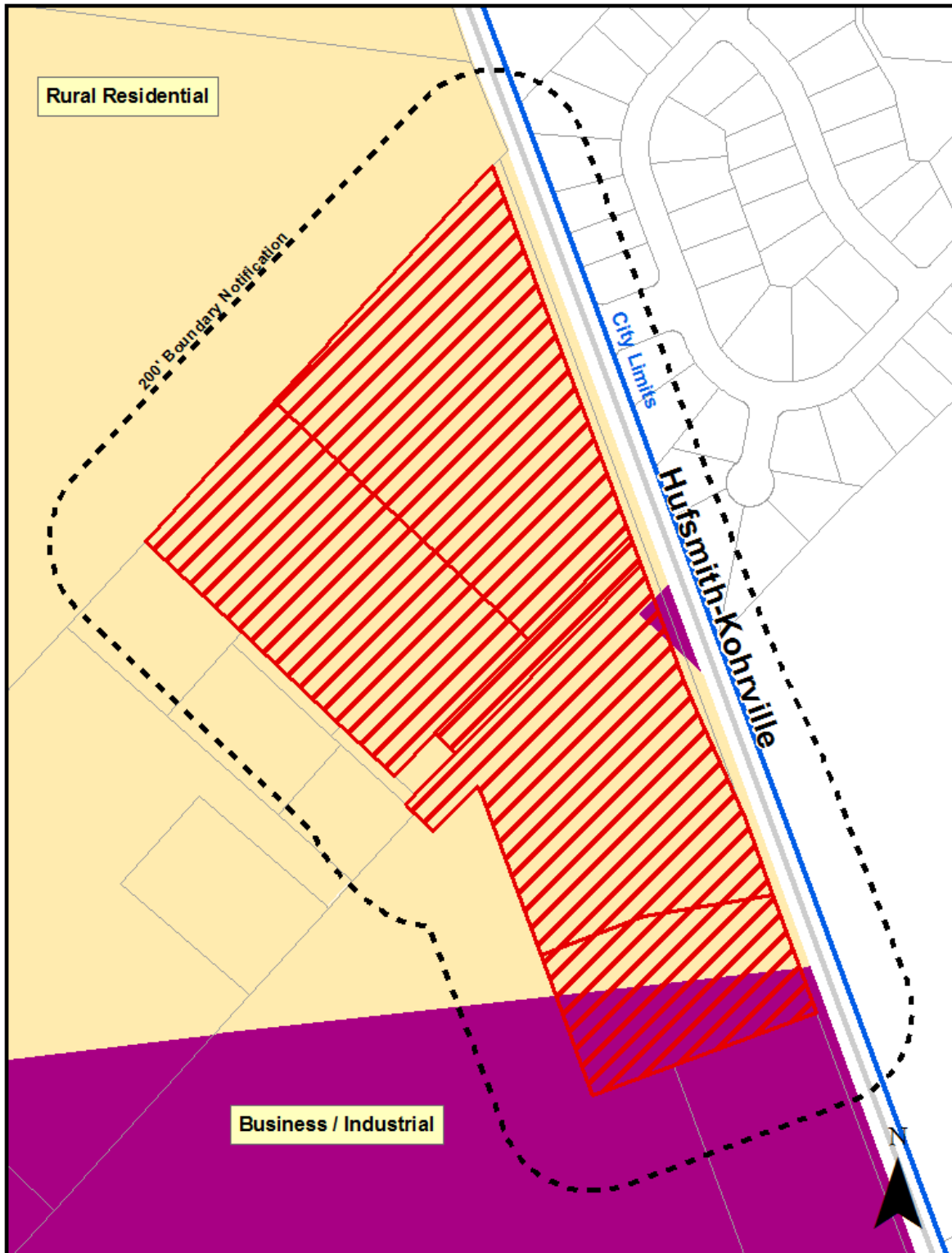


Exhibit "C"
Zoning Map

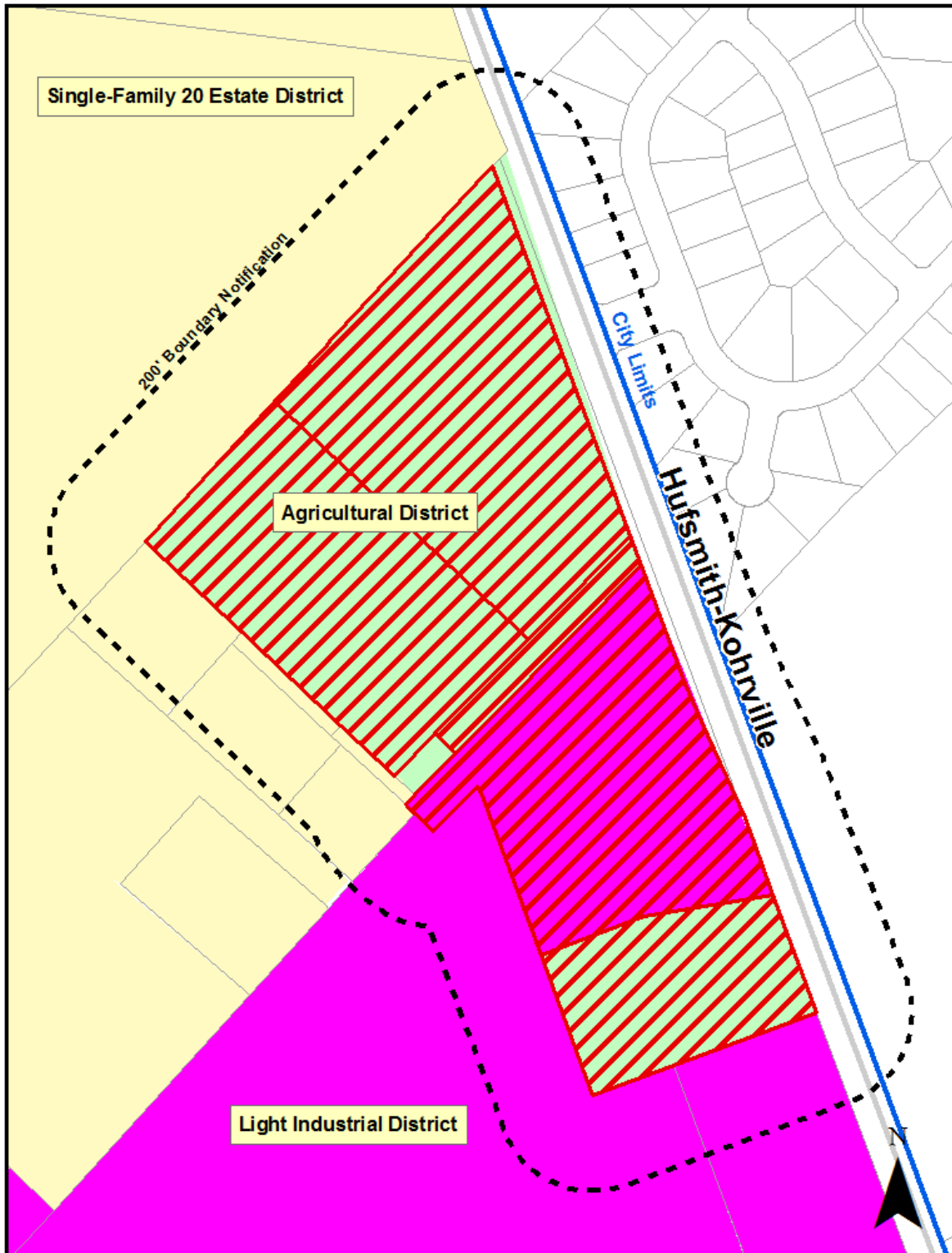


Exhibit "D"
Site Photos



Figure 1: Subject site.



Figure 2: Subject site.



Figure 3: Single-family residences to the north and west.



Figure 4: Undeveloped land and future TEDC Business and Technology Park to the west and south.



Figure 5: Hufsmith-Kohrville Road, single-family residences, and a former horse training facility.

Exhibit “E”

Comp Plan Amendment Application



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: Jeff Presnal Title: Asset Manager
Mailing Address: 25614 Bridle Creek Dr. N City: Magnolia State: TX
Zip: 77355
Phone: (713) 817-9547 Fax: () None
Email: jeff.presnal@gmail.com

Owner
Name: 2978 Industrial Properties, LLC & KTC Holdings LLC Title: _____
Mailing Address: 25614 Bridle Creek Dr. N. City: Magnolia State: TX
Zip: 77355
Phone: (713) 817-9547 Fax: () None
Email: jeff.presnal@gmail.com

Map Amendment(s)

Current Comprehensive Plan Designation: Rural Residential & Business / Industrial *

Proposed Comprehensive Plan Designation: Business / Industrial

Proposed Use of Property: Light Industrial / Manufacturing as permitted by zoning

Physical Location of Property: 1/2 mile North of Holderith on West side of Hutsmith-Kohville

Legal Description of Property: Lot 3, Restricted Reserve A and Restricted Reserve C of the Tomball South Commercial Plat

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

Current Zoning District: AG - Agriculture

Current Use of Property: Vacant Land

HCAD Identification Number: See chart with letter

132-003-001-0001 132-003-001-0005

132-003-001-0003 132-003-001-0007

Property Acreage: 25.70 Acres Combined

132-003-001-0002

Questions to be answered in Comprehensive Plan Amendment Request Letter: (See attached 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?

* clouded changes per applicant's permission granted on 11-13-13.

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 *Jeff Piller* 10/29/13
Signature of Applicant Date

X *Jeff Piller* 10/29/13
Signature of Owner #1 Date
2978 Industrial Properties, LLC

X *Thomas Crea Pantner* 10/29/13
Signature of Owner #2 Date
KTC Holdings LLC

2978 INDUSTRIAL PROPERTIES, LLC
25614 Bridle Creek Dr. N.
Magnolia, Texas 77354

October 30, 2013

Engineering and Planning Department
City of Tomball
501 James Street
Tomball, Texas 77375

RE: Application to Change Comprehensive Plan, Lot 1-Block 1, Lot 3-Block 1, Lot 2-Block 1, Restricted Reserve A and Restricted Reserve C of the Tomball South Commercial plat

Please allow this letter to serve as our request to change the future land use of the property referenced above as designated in the City of Tomball's Comprehensive Plan.

We request that the change be supported by staff and ultimately approved by the Planning and Zoning Commission and City Council as requested for several reasons.

First, the change will enhance the City economically by providing industrial uses that command higher appraised values and corresponding property tax revenue.

Second, the adjacent properties have recently been rezoned LI so this change would be consistent with what the future adjacent uses are expected to be based on current zoning. Consequently the City will be enhanced aesthetically by homogenizing the land use in the immediate surrounding area.

Third, this change would establish an area that is both consistent in zoning but also in future land use resulting in overall consistency in the City of Tomball's land use plans thereby also making it consistent with the City's Goals, Objectives and Actions.

The proposed change also encourages better use of the property as it is adjacent to the future Tomball Business and Technology Park and is, consequently, emerging as the industrial area of Tomball instead of the existing residential use.

The change will not adversely impact adjacent residential uses due to the existing roads and therefore separations being currently provided.

The change will not adversely affect vehicular or pedestrian access, roadway capacity, ingress and egress or traffic.

The proposed change utilizes existing barriers to separate varying land uses thereby improving the land use compatibility.

2978 INDUSTRIAL PROPERTIES, LLC
25614 Bridle Creek Dr. N.
Magnolia, Texas 77354

Additionally, the proposed change presents a significant benefit to the public health, safety, and welfare of the community by consolidating the industrial use to a specified area while controlling its activities through consistent zoning ordinances.

For these reasons the property's use should be changed on the City's Comprehensive Plan to reflect industrial types of uses.

Sincerely,



Jeff Presnal

Manager

2978 Industrial Properties, LLC

Owners of Lot1, Restricted Reserve A and Restricted Reserve C



Tom Crea

Manager

TK Holdings, LLC

Owner of Lot 3

Encl: Tomball South Commercial Plat
Parcel Delineation

ORDINANCE NO. 2013-25

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE PLAN BY CHANGING THE FUTURE LAND USE CLASSIFICATION OF APPROXIMATELY 25.70 ACRES OF LAND, LEGALLY DESCRIBED AS LOT 1, LOT 2, LOT 3, RESERVE A, AND RESERVE C, BLOCK 1, TOMBALL SOUTH COMMERCIAL, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS, FROM RURAL RESIDENTIAL AND BUSINESS/INDUSTRIAL TO BUSINESS/INDUSTRIAL; SAID PROPERTY BEING GENERALLY LOCATED WEST OF HUFSMITH-KOHRVILLE ROAD, NORTH OF SPELL 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 owners of approximately 25.70 acres of land, legally described as Lot 1, Lot 2, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial, generally located west of Hufsmith-Kohrville Road, north of Spell 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 Rural Residential and Business/Industrial to Business/Industrial;

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 grant 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 Rural Residential and Business/Industrial to Business/Industrial, 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 Rural Residential and Business/Industrial to Business/Industrial 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 Business/Industrial.

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 Business/Industrial.

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 16TH DAY OF DECEMBER 2013.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMEMBER _____	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

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 JANUARY 2014.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMEMBER _____	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

Regular City Council

Agenda Item

Meeting Date: December 16, 2013

Data Sheet

Topic:

Consideration to approve **ZONING CASE P13-182**: Request by Jeff Presnal, on behalf of 2978 Industrial Properties, LLC and KTC Holding, LLC, to amend the City's Zoning Ordinance by rezoning approximately 18.77 acres of land, legally described as Lot 1, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial within the City of Tomball, Harris County, Texas, generally located west of Hufsmith-Kohrville Road, north of Spell Road, from the Agricultural District to the Light Industrial District.

- Conduct a Public Hearing on **ZONING CASE P13-182**
- Adopt on First Reading, Ordinance No. 2013-26, an ordinance of the City of Tomball, Texas, amending its Zoning Ordinance by changing the Zoning District Classification of approximately 18.77 acres of land, legally described as Lot 1, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial, within the City of Tomball, Harris County, Texas, from the Agricultural District to the Light Industrial District; said property being generally located west of Hufsmith-Kohrville Road, north of Spell 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:

City Staff met with the applicant, Jeff Presnal, regarding the possible Rezoning of Lot 1, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial from the Agricultural District to the Light Industrial District. City Staff informed Mr. Presnal that the properties have Future Land Use designations of Rural Residential and Business/Industrial. Additionally, Mr. Presnal was informed that in order to have consistent uses and design standards throughout the development, these properties would need to have their Future Land Use designations changed from Rural Residential and Business/Industrial to entirely Business/Industrial, as well as Rezone the properties to Light Industrial. On October 30, 2013, the City received Comprehensive Plan Amendment and Rezoning applications from Mr. Presnal. This case is the request to change the zoning classification of Lot 1, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial from Agricultural District to the Light Industrial District.

The Planning and Zoning Commission voted to recommend approval of Zoning Case P13-182 on December 9, 2013, with a 5-0 unanimous vote.

Origination:

Jeff Presnal, on behalf of 2978 Industrial Properties, LLC and KTC Holding, LLC

Recommendation:

Adopt Ordinance No. 2013-26 on First Reading

Funding:

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

Brandy Pate, Engineering and Planning

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

ATTACHMENTS:

- Notice of Public Hearing
- Property Owner Notification Letter
- P13-182 Staff Report
- Ordinance 2013-26

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
DECEMBER 9, 2013
&
CITY COUNCIL
DECEMBER 16, 2013**



Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, December 9, 2013, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, December 16, 2013, 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:

COMPREHENSIVE PLAN CASE P13-181: Request by Jeff Presnal, on behalf of 2978 Industrial Properties, LLC and KTC Holding, LLC, to amend the City's Comprehensive Plan by altering the Future Land Use of approximately 25.70 acres of land, legally described as Lot 1, Lot 2, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial, within the City of Tomball, Harris County, Texas, generally located west of Hufsmith-Kohrville Road, north of Spell Road, from Rural Residential and Business/Industrial to Business/Industrial.

ZONING CASE P13-182: Request by Jeff Presnal, on behalf of 2978 Industrial Properties, LLC and KTC Holding, LLC, to amend the City's Zoning Ordinance by rezoning approximately 18.77 acres of land, legally described as Lot 1, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial within the City of Tomball, Harris County, Texas, generally located west of Hufsmith-Kohrville Road, north of Spell Road, from the Agricultural District to the Light Industrial District.

Persons interested in this case 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 request. Should the Planning & Zoning Commission vote to table a decision/recommendation on this 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 decision/recommendation is forwarded to the City Council by the Planning & Zoning Commission. The application is 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.

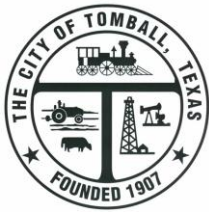
CERTIFICATION

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 5th day of December 2013 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Brandy Pate

Brandy Pate
Senior Administrative Assistant
P&Z Commission Secretary

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: P13-182

APPLICANT: Jeff Presnal, on behalf of 2978 Industrial Properties, LLC and KTC Holding, LLC

LOCATION: West of Hufsmith-Kohrville Road, north of Spell Road

PROPOSAL: Request to amend the City's Zoning Ordinance by rezoning approximately 18.77 acres of land, legally described as Lot 1, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial within the City of Tomball, Harris County, Texas, from the Agricultural District to the Light Industrial District.

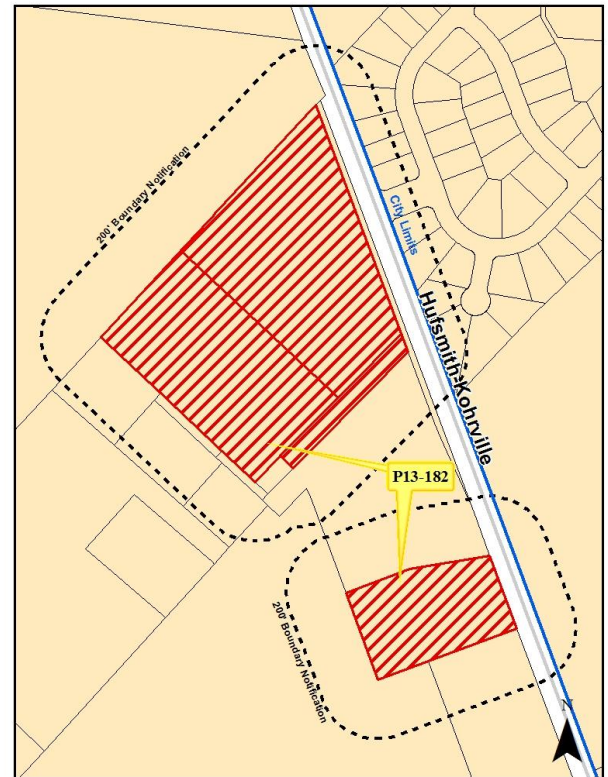
CONTACT: Rodney Schmidt

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.

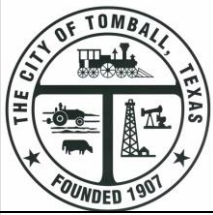


**Planning & Zoning Commission
Public Hearing:
Monday, December 9, 2013, 6:00 PM**

**City Council Public Hearing:
*Monday, December 16, 2013, 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: December 9, 2013

Rezoning Case:	P13-182
Property Owner:	2978 Industrial Properties, LLC and KTC Holding, LLC
Applicant:	Jeff Presnal
Legal Description:	Lot 1, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial
Location:	West of Hufsmith-Kohrville Road, north of Spell Road (Exhibit "A")
Area:	18.77 acres
Present Zoning & Use:	Agricultural District (Exhibit "C") / Undeveloped and commercial (CREACOM, Inc.)
Future Land Use (FLU):	Rural Residential and Business/Industrial (Exhibit "B")
Proposed Zoning and Use:	Light Industrial ¹ / Any use permitted in the Light Industrial (LI) District
Adjacent Zoning & Use:	
North:	Single-Family Estate Residential-20 (SF-20-E) District / Single-family residences
South:	LI District / Undeveloped and future Tomball Economic Development Corporation (TEDC) Business and Technology Park
West:	SF-20-E and LI Districts / Single-family residences and future TEDC Business and Technology Park
East:	Unzoned Extraterritorial Jurisdiction (ETJ) / Hufsmith-Kohrville Road, single-family residences, and a former horse training facility

BACKGROUND

On October 18, 2013, City staff met with the applicant, Jeff Presnal, regarding the possible rezoning of Lot 1, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial from the Agricultural District to the Light Industrial District. City staff informed Mr. Presnal that the properties have Future Land Use (FLU) designations of Rural Residential and Business/Industrial. Additionally, Mr. Presnal was informed that in order to have consistent uses and design standards throughout the development, these properties would need to have their FLU designations changed from Rural Residential and

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.

Business/Industrial to entirely Business/Industrial, as well as rezone the properties to Light Industrial.

On October 30, 2013, the City received Comprehensive Plan (CP) amendment and rezoning (Exhibit “D”) applications from Mr. Presnal. Case P13-181 is the request to change the FLU of Lot 1, Lot 2, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial from Rural Residential and Business/Industrial to entirely Business/Industrial. Case P13-182 is the request to change the zoning classification of Lot 1, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial from Agricultural District to the Light Industrial District.

ANALYSIS

There are two dominant land uses in the vicinity of the subject site: single-family residential and undeveloped land (Exhibit “E”). To the north are single-family residences; to the south is undeveloped land and the TEDC’s future Business and Technology Park; to the west are single-family residences and the TEDC’s Business and Technology Park; and to the east is Hufsmith-Kohrville Road, single-family residences, and a former horse training facility. The uses permitted in the LI District appear to be compatible with the TEDC’s Business and Technology Park to the west and the former horse training facility to the east. With the appropriate design standards (i.e. building setbacks, fencing, landscaping, etc.), the uses permitted in the LI District may be compatible with the single-family residences to the north, west, and east.

There are two zoning classifications in the vicinity of the subject site: SF-20-E and LI Districts. To the north is the SF-20-E District; to the south is the LI District; to the west are the SF-20-E and LI Districts; and to the east is unzoned ETJ. The proposed LI 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.” The LI District appears to be compatible with the existing LI Districts to the south and west. With the appropriate design standards (i.e. building setbacks, fencing, landscaping, etc.), the LI District may be compatible with the SF-20-E District to the north and west. Additionally, this request will create an unbroken, contiguous LI District from Holderrieth Road to Country Club Greens subdivision that is consistent with the possible construction of both the TEDC’s Business and Technology Park and Tomball South Commercial.

The FLU map identifies the subject site as Rural Residential and Business/Industrial. Rural Residential is intended for “residential developments on minimum 1 acre lots that allows up to one house per acre lot. The intent is to provide for a rural lifestyle as well as to encourage appropriate development due to environmental constraints such as waterways, floodplains, and other features.” Business/Industrial is “where industrial and intensive employment activities should occur. Activities that will require unenclosed assembly, repair and/or storage and require heavy truck or rail transportation support are acceptable. Also included would be warehousing and distribution facilities, as well as offices and showrooms.” The proposed LI District appears to be consistent with Business/Industrial but not Rural Residential. However, if case P13-181 is approved and the FLU for the subject site is changed from Rural Residential and Business/Industrial to entirely Business/Industrial as requested, the rezoning request would appear to be consistent with the CP.

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 uses permitted in the LI District appear to be compatible with the TEDC's future Business and Technology Park to the south and west and the former horse training facility to the east. With the appropriate design standards (i.e. building setbacks, fencing, landscaping, etc.), the uses permitted in the LI District may be compatible with the single-family residences to the north, west, and east.

- 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 public schools, streets, water supply, sanitary sewers, or other utilities.

- 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 over 100 acres of vacant land in the vicinity zoned LI District. However, the majority of this is in the process of being developed for the TEDC's future Business and Technology Park. There are numerous other vacant properties elsewhere in the City-zoned LI 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 LI 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 is not anticipated to affect the public health, safety, morals, or general welfare.

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

The proposed LI District appears to be consistent with the FLU designation of Business/Industrial but not Rural Residential. However, if case P13-181 is approved and the FLU for the subject site is changed from Rural Residential and Business/Industrial to entirely Business/Industrial as requested, the rezoning request would appear to be consistent with the CP.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on November 27, 2013; no public comments have been received as of December 4, 2013.

RECOMMENDATION

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

- If P13-181 is approved, the proposed rezoning would appear to be compatible with the Comprehensive Plan;
- The proposed rezoning is not anticipated to negatively impact public schools, streets, water supply, sanitary sewers, or other utilities.
- The proposed rezoning is not anticipated to affect the public health, safety, morals, or general welfare.

ACTION REQUESTED

That the Planning & Zoning Commission recommend **APPROVAL** of Rezoning Case P13-182.

EXHIBITS

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

Exhibit "A"
Aerial Photo



Exhibit "B"
Comprehensive Plan's Future Land Use Map

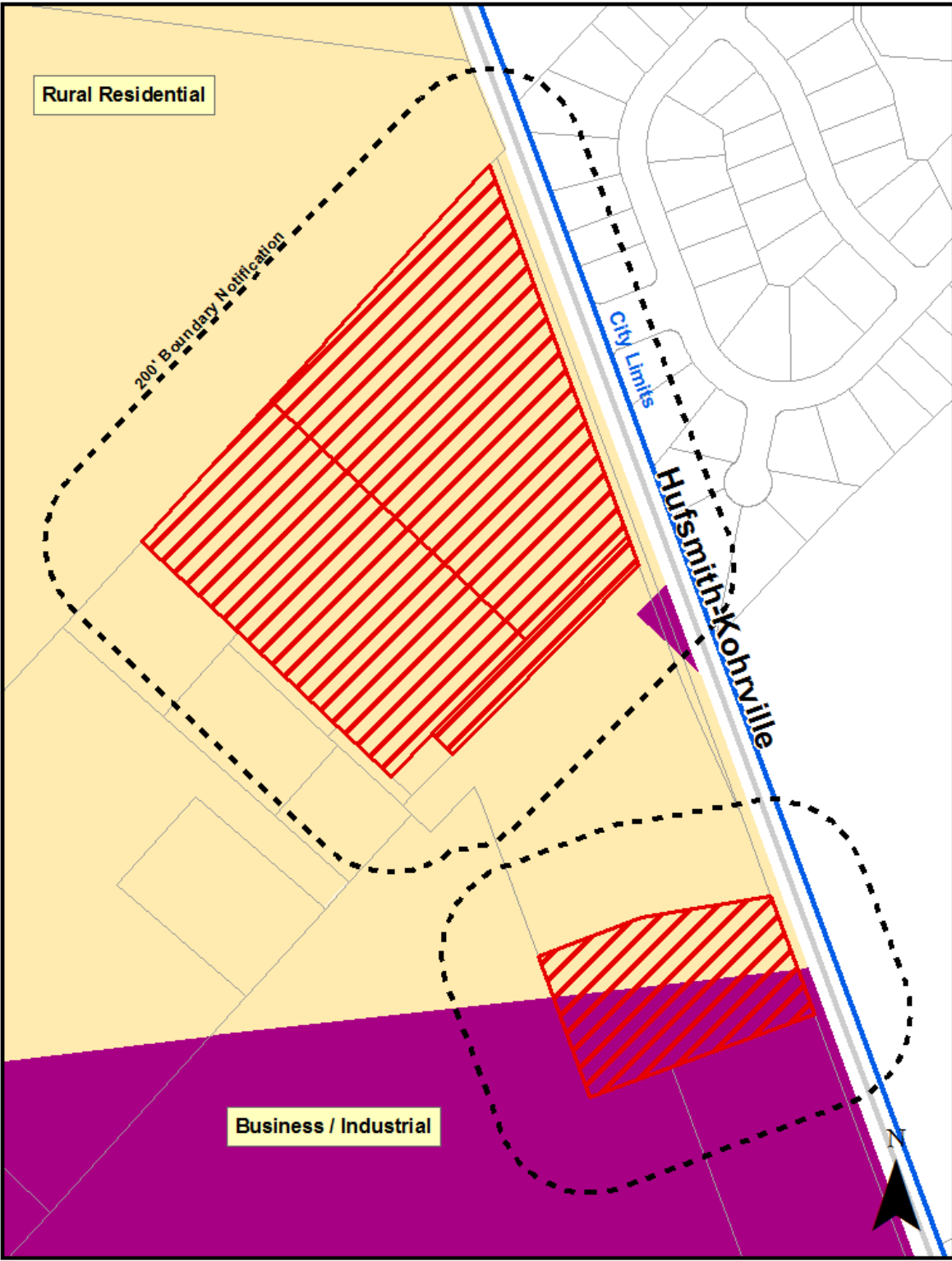


Exhibit "C"
Zoning Map

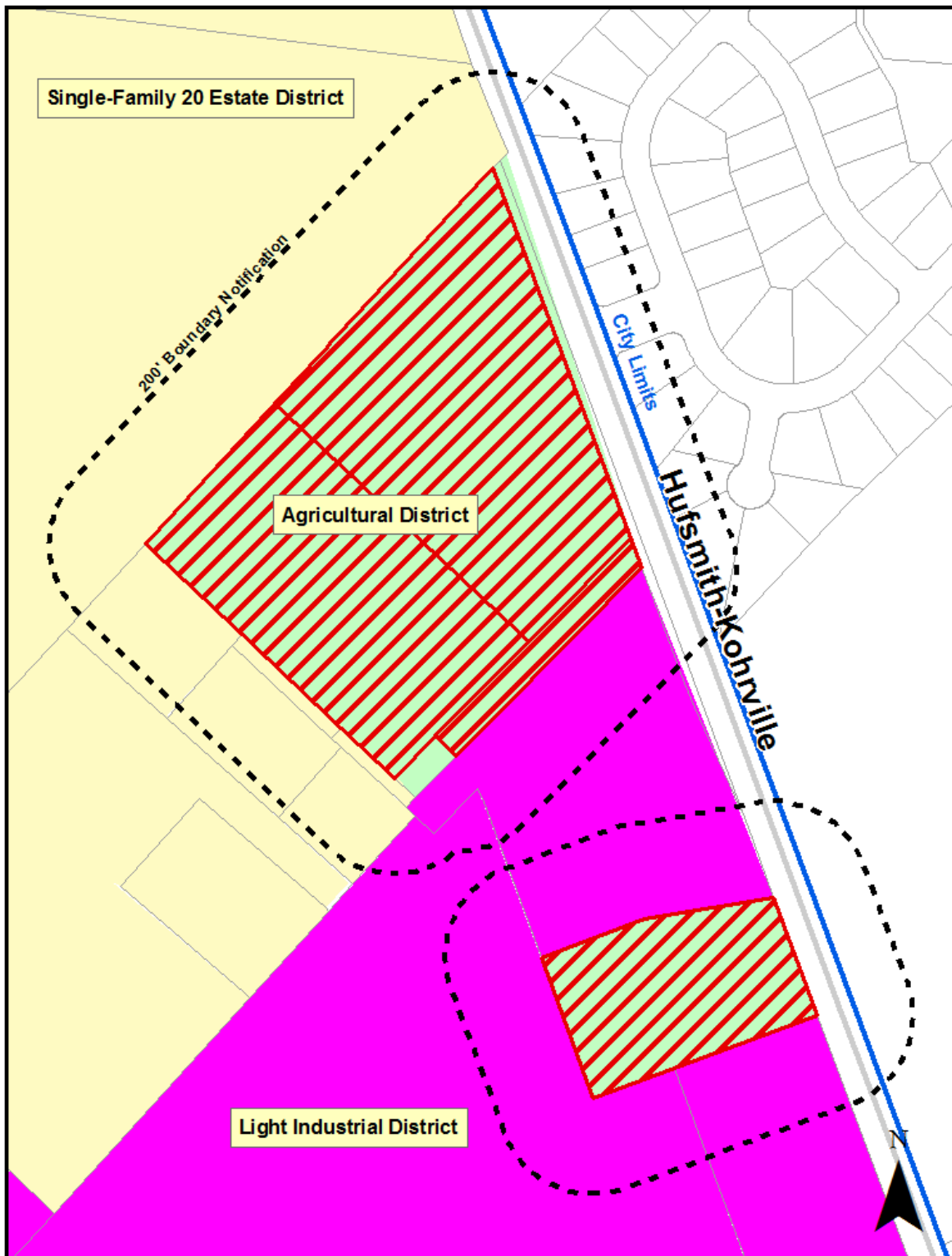


Exhibit "D"
Rezoning Application

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: Jeff Presnal Title: Asset Manager
Mailing Address: 25614 Bridle Creek Dr. N City: Magnolia State: TX
Zip: 77355
Phone: (713) 817-9547 Fax: () None Email: jeff.presnal@gmail.com

Owner

Name: 2978 Industrial Properties, LLC ^{§ KTC Holdings LLC} Title: _____
Mailing Address: 25614 Bridle Creek Dr. N. City: Magnolia State: TX
Zip: 77355
Phone: (713) 817-9547 Fax: () None Email: jeff.presnal@gmail.com

Engineer/Surveyor (if applicable)

Name: None Title: _____
Mailing Address: _____ City: _____ State: _____
Zip: _____
Phone: () Fax: () Email: _____

Description of Proposed Project: Rezone Lot 1, Lot 3, Restricted Reserve A and Restricted Reserve C to Commercial plat
from AG to LI.

Physical Location of Property: Approx 1/2 mile North of Holderith on west side of Hufsmith - Kohrville
[General Location - approximate distance to nearest existing street corner]

Legal Description of Property: Lot 1, Lot 3, Rest. Res. A and Rest. Res C - Tomball South Commercial plat
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: AG (Agriculture)

Current Use of Property: vacant land

Proposed Zoning District: LI (Light Industrial)

Proposed Use of Property: Not determined yet but assumed to be anything permitted by right or CUP within the LI zoning district.

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

www.ci.tomball.tx.us

HCAD Identification Number: See below Acreage: _____

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.

Lot 1	132-003-001-0001	8.1928 Acres
Lot 3	132-003-001-0003	3.4434 Acres
Rest. Res A	132-003-001-0005	0.5140 Acres
Rest. Res C	132-003-001-0007	6.6158 Acres

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 Jeff Purrell 10/29/13
Signature of Applicant Date

X Jeff Purrell, Manager 10/29/13
Signature of Owner #1 Date
2978 Industrial Properties, LLC

Thomas Crea Partner 10/29/13
*Signature of Owner #2 Date
KTC Holdings LLC

2978 INDUSTRIAL PROPERTIES, LLC
25614 Bridle Creek Dr. N.
Magnolia, Texas 77354

October 23, 2013

Engineering and Planning Department
City of Tomball
501 James Street
Tomball, Texas 77375

**RE: Application to Rezone Lot 1-Block 1, Lot 3-Block 1, Restricted Reserve A and
Restricted Reserve C of the Tomball South Commercial plat**

Please allow this letter to serve as our request to rezone the property referenced above
from AG (Agricultural District) to LI (Light Industrial District).

We request that the zoning be supported by staff and ultimately approved by the Planning
and Zoning Commission and City Council as requested for several reasons.

First, the adjacent properties have recently been rezoned LI so this rezoning would be
consistent with adjacent uses.

Second, this rezoning would establish an area that is both consistent in zoning but also in
future land use resulting in overall consistency in the City of Tomball's land use plans.

For these reasons the property should be rezoned from AG- Agricultural District to LI-
Light Industrial District.

Sincerely,



Jeff Presnal
Manager
2978 Industrial Properties, LLC
Owners of Lot1, Restricted Reserve A and Restricted Reserve C



Tom Crea
Manager
TK Holdings, LLC
Owner of Lot 3

Encl: Tomball South Commercial Plat
Replat Parcel Delineation

Exhibit “E”
Site Photos



Figure 1: Subject site.



Figure 2: Subject site.



Figure 3: Single-family residences to the north and west.



Figure 4: Undeveloped land and future TEDC Business and Technology Park to the west and south.



Figure 5: Hufsmith-Kohrville Road, single-family residences, and a former horse training facility.

ORDINANCE NO. 2013-26

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS ZONING ORDINANCE BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 18.77 ACRES OF LAND, LEGALLY DESCRIBED AS LOT 1, LOT 3, RESERVE A, AND RESERVE C, BLOCK 1, TOMBALL SOUTH COMMERCIAL, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS, FROM THE AGRICULTURAL DISTRICT TO THE LIGHT INDUSTRIAL DISTRICT; SAID PROPERTY BEING GENERALLY LOCATED WEST OF HUFSMITH-KOHRVILLE ROAD, NORTH OF SPELL 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(s) of approximately 18.77 acres of land, legally described as Lot 1, Lot 3, Reserve A, and Reserve C, Block 1, Tomball South Commercial, generally located west of Hufsmith-Kohrville Road, north of Spell 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 Agricultural 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 grant 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 Agricultural 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 Agricultural 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 16TH DAY OF
DECEMBER 2013.

COUNCILMAN HUDGENS _____
COUNCILMAN STOLL _____
COUNCILMEMBER _____
COUNCILMAN TOWNSEND _____
COUNCILMAN DODSON _____

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
JANUARY 2014.

COUNCILMAN HUDGENS _____
COUNCILMAN STOLL _____
COUNCILMEMBER _____
COUNCILMAN TOWNSEND _____
COUNCILMAN DODSON _____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary