

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



MONDAY, APRIL 2, 2012

6:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, April 2, 2012 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 Bobby Ferguson, Free Will Baptist Church

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 Presentations:

- Proclamation - **April 14, 2012 – 2nd Day of Healthy Living in Tomball Expo** – Texas Sports Medicine Center
- Tomball-Magnolia Tribune - Announce the Winner of the “*Tomball Mascot Name*” Contest

6.0 Reports and Announcements

- April 4, 2012 – **City of Tomball Youth Opportunity Fair – Beckendorf Conference Center – LoneStar College**, 2:00 p.m.-6:00 p.m.
- April 14, 2012 – **4th Annual City of Tomball Bunny Run 5K and Kids 1M**
- April 14, 2012 – **2nd Day of Healthy Living in Tomball Expo – Texas Sports Medicine Center**, 9:00 a.m.-2:00 p.m.
- April 14, 2012 – **2nd Saturday at the Depot** – 5:30 p.m.
- April 21, 2012 – **Art Walk Tomball!** – 11:00 a.m.-6:00 p.m.
- April 23-28, 2012 – **Annual Tomball Clean-up Week** – 8:00 a.m.-4:30 p.m. daily
- April 24, 2012 – **City of Tomball Volunteer Fire Fighters and Fire Corps, Reserve Police Officers & Volunteers in Policing Appreciation Banquet** – 6:00 p.m.-8:00 p.m at the Community Center
- April 28, 2012 – **Annual Tomball Clean-up Recycling Day – E-Waste and Drug Take-Back Program – Tuesday Morning/Old Kroger Center Parking Lot**
- May 5-6, 2012 – **Rails and Tails Mudbug Festival at the Depot** – 11:00 a.m.-6:00 p.m.
- **Early Voting** for May 12, 2012 General Election – April 30 through May 8, 2012 at City Hall (Monday, Wednesday, and Thursday – 7:45 a.m.-5:00 p.m.) (Tuesday – 7:45 a.m.-7:45 p.m.) and (Friday – 7:45 a.m.-4:00 p.m.)
- May 26 – **Memorial Day Weekend Chili Challenge - TBA**
- Official Harris County Primary Election Date is May 29; Runoff Date is July 31, 2012
- **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 - Report on the **Tomball Honky Tonk Music Festival**

7.0 Approve the Minutes of the March 5, 2012 Regular City Council Meeting

8.0 Old Business:

- 8.1 Adopt, on Second Reading, Ordinance No. 2012-03, an Ordinance of the City Council of the City of Tomball, Texas, amending Subsection (b)(1) of Section 30-159 of Article IV, Nuisances, of Chapter 30, Environment, of the City's Code of Ordinances relating to the Prohibition of Weeds; Providing a New Definition of “Weeds”; Providing a Penalty of Up to \$2,000.00 for Violations with Each Day Constituting a Separate Violation; Providing for the Publication of This Ordinance; and Making Other Findings and Provisions related Thereto

9.0 New Business:

- 9.1 Approve Contract with CivicPlus under State DIR Program for Website Redesign and Management, in the Amount of \$20,048.12.
- 9.2 Approve **FINAL PLAT ACQUEST TOMBALL**: Being a Subdivision of 7.0434 Acres situated in the Joseph House Survey, A-34, City of Tomball, Harris County, Texas
- 9.3 Adopt, on First Reading, Ordinance No. 2012-04, an Ordinance of the City of Tomball, Texas, amending Article V. Records Management, Division 1, Generally, Section 2-222. Records Control Schedules—to be Developed; Approval; Filing with State, by Deleting Section 2-222 in its Entirety and Adopting a New Section 2-222. Records Control Schedule, Providing for the Publication of this Ordinance; and Making Other Findings and Provisions Related Thereto
- 9.4 Executive Session: The City Council will meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):
- Sec. 551.087 – Deliberations Regarding Economic Development

10.0 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 29th day of March 2012 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: April 2, 2012

Topic:

- Proclamation - **April 14, 2012 – 2nd Day of Healthy Living in Tomball Expo** – Texas Sports Medicine Center
- Tomball-Magnolia Tribune - Announce the Winner of the “*Tomball Mascot Name*” Contest

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:

April 14, 2012 – 2nd Day of Healthy Living in Tomball Expo – Texas Sports Medicine Center

Office of the Mayor
Tomball, Texas

Proclamation



- WHEREAS,** the Annual Tomball Area Health Awareness Organization and the City of Tomball are excited to work together promoting the “**Day of Healthy Living in Tomball**” on Saturday, April 14, 2012, offering area families a unique and interactive day of fun focused on keeping them healthy and active, in an effort to increase awareness about local resources available to promote healthy family lifestyles; and
- WHEREAS,** the morning will begin with Tomball’s 4th Annual 5K Bunny Run and Kids 1 Mile Walk beginning at the Depot, then continue with the 2nd Tomball Area Health Expo at Texas Sports Medicine Center, a free community event showcasing exhibitors in the areas of Health and Wellness, Fitness, Nutrition, Senior Living, and Activities for Children and Youth; and
- WHEREAS,** the Tomball Area Health Awareness Organization has the support of the medical community and area businesses in its efforts to provide families with access to information and a sampling of some of the services that can help them maintain and/or improve their health; and
- WHEREAS,** area restaurants will participate in the “**Day of Healthy Living in Tomball**”, featuring special “Healthy Cuisine” menu items and offering 15% off these healthy choices for expo attendees; and
- WHEREAS,** the day will culminate with families gathering at the Depot for 2nd **Saturday at the Depot**, offering a unique opportunity for the Tomball Area Health Awareness Organization and the City of Tomball to work together and demonstrate to our community the value of keeping active and healthy and having fun in the great city of Tomball;

NOW, THEREFORE, by virtue of the authority vested in me as **Mayor of the City of Tomball**, on behalf of the Tomball City Council and all citizens hereof, I do hereby proclaim **April 14, 2012**, as a:

“DAY OF HEALTHY LIVING IN TOMBALL”

In witness whereof I have hereunto set my hand and caused this seal to be affixed.

ATTEST: _____

DATE: _____



Regular City Council

Agenda Item

Data Sheet

Meeting Date: April 2, 2012

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- April 14, 2012 – **4th Annual City of Tomball Bunny Run 5K and Kids 1M**
- April 14, 2012 – **2nd Day of Healthy Living in Tomball Expo – Texas Sports Medicine Center**, 9:00 a.m.-2:00 p.m.
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- **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 - Report on the *Tomball Honky Tonk Music Festival*

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:

COT Youth Opportunity Day

4th Annual City of Tomball Bunny Run 5K and Kids 1M

4th Annual City of Tomball Bunny Run 5K and Kids 1M

2nd Saturday at the Depot

Art Walk Tomball!

Tomball Clean Up Week

Tomball Clean-up Recycling Day – E-Waste and Drug Take-Back Program – Tuesday
Morning/Old Kroger Center Parking Lot

Rails and Tails Mudbug Festival at the Depot

City of Tomball's

Youth Opportunities Fair

Volunteer & Job Opportunities
Ages 15-21 Welcome



Beckendorf Conference Center
Lone Star College
30555 Tomball Parkway
Wednesday, April 04, 2012
2:00 pm - 6:00 pm

For more information, contact City Hall at 281-290-1012 or 281-290-1018.



City of Tomball Bunny Run

Saturday, April 14, 2012
8:00 A.M. – 5K Run/Walk
8:45 A.M. – 1Mile Run/Walk
Tomball Train Depot
281-290-1006

Location

The Historic Tomball Train Depot Plaza located at 201 S. Elm St.

About This Event

The Bunny Run 5K and Kid's 1 Mile are the fourth in a series of Fun Runs to bring families, friends and visitors together to see that Tomball is "Texan" for fun!!!

The Course

USATF-certified 5K course. Flat, major tree-lined streets. No wheels (except wheelchairs) & no pets, please! Baby joggers and carriages OK for 1 MILE WALK ONLY. The 5K race will be professionally managed and utilize timing shoe chips.

Awards

Prizes will be awarded to the top three finishers in each age category for the 5K Run. All kids (10 and under) participating in the 1 mile run will receive a medal.

Packet Pick-up

April 11th, 12th, 13th: 5:30 PM – 7:30 PM at the Tomball Train Depot at 201 S. Elm
Race Day Pick-up & Registration: 7:00 AM – 7:30 AM (No t-shirt guarantee)

Registration

Register online at <http://secure.eztoregister.com/> or www.ci.tomball.tx.us

Register in person at Tomball City Hall—401 Market Street, Tomball, TX

To mail or fax registrations, download forms at www.ci.tomball.tx.us and submit to:
City of Tomball, Attn: Mike Baxter, 401 Market St., Tomball, TX 77375.
Fax 281-351-6256 or Email mbaxter@ci.tomball.tx.us .

Event Fees		
Category	On or Before 3/30/2012	After 3/30/2012
5K Run	\$15	\$20
1 Mile Run/Walk 11 yrs +	\$15	\$20
1 Mile Run/Walk 10 & under	\$10	\$12



Saturday, April 14, 2012
8:00 A.M. – 5K Run/Walk
8:45 A.M. – 1 Mile Run/Walk
Tomball Train Depot

Registration Form

****One registration form per participant****

Category: ☐ 5K Run/Walk ☐ 1 Mile Run/Walk ADULT ☐ 1 Mile Run/Walk YOUTH

First Name: _____ Last Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____ Phone: (____) _____

Birth Date: ____/____/____ Gender: ☐ F ☐ M

Email Address: _____

Shirt Size: ☐ YS ☐ YM ☐ YL | ☐ S ☐ M ☐ L ☐ XL ☐ XXL

For Credit Card Payments

Name on Card: _____ Type: ☐ Visa ☐ MasterCard

Card Number: _____ Exp. Date: _____ 3 Digit Sec. Code: _____

Emergency Contact: _____ Phone: (____) _____

Emergency Contact: _____ Phone: (____) _____

Waiver and Release: In consideration of the acceptance of this registration entry, I, the undersigned, assume full & complete responsibility for any injury or accident which may occur during my participation in this race, or while I am on the premises of this event and I hereby release and hold harmless the sponsors, officials and all other persons and entities associated with this event from any and all injury, damages or illness which may directly or indirectly result from participation in this race. I further state that I am in proper physical condition to participate.

Signature of Participant

Date

Signature of Parent/Guardian if Participant is Minor

Date

OFFICE USE ONLY:

Clerk: _____ Date/Time: _____ Total: \$ _____

Method of Payment: ☐ Cash ☐ Check ☐ Visa ☐ MC Auth. # _____

Your privacy will be respected and no information will be shared with third parties.

4TH ANNUAL

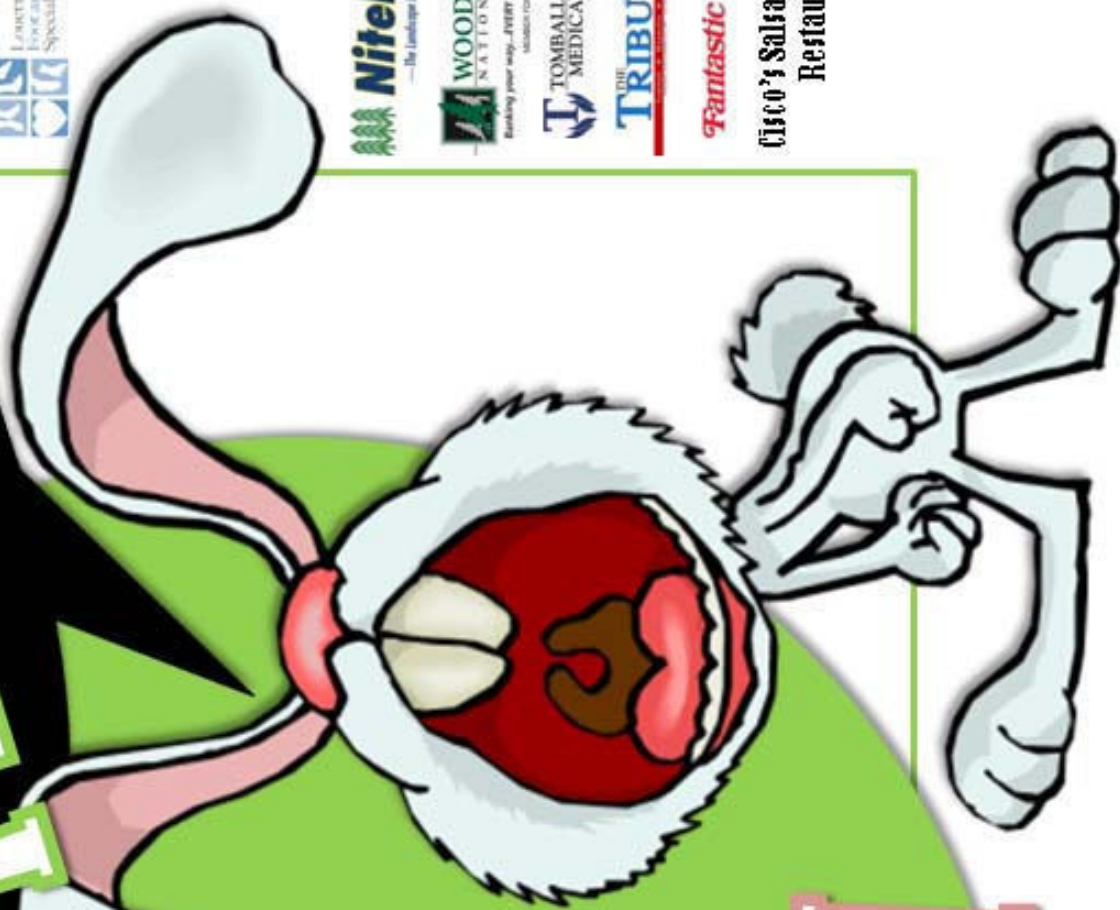
BUNNY

CITY OF TOMBALL

2012

5K RUN

PRUN!



Walgreens



Banking your way... EVERY DAY AND NIGHT!
MEMBER FDIC



Fantastic Sams

Cisco's Salsa Company
Restaurant



2nd SATURDAY At The DEPOT COMING APRIL 14TH



The fun begins at 5:30 p.m.
Admission is Always Free!

Bunny Run & Tomball Health Expo

Don't miss the 4th annual 5K Bunny Run and kid's 1M at the Depot, and Tomball Health Expo at the Texas Sports Medicine Center earlier in the day.

Visit www.ci.tomball.tx.us for details!

- From 4 to 5:30 p.m. there's a Golden Egg hunt from Tomball's downtown merchants. Get your info at the Depot.
- Music by the THS and TMHS Steel Drum Bands
- Earth Day activities, games and more from Girl Scout Troop 14352
- Live birds from "About Birds" in Pinehurst
- Meet Miss Tomball 2012, Lacey Easley
- Concessions and more



Donate a new or gently used children's book to the H-E-B book drive during 2nd Saturday and be entered to win a \$50 Kid's Gift Basket and all donations will receive a coupon good for one (1) free attraction at Mountasia at Willowbrook Mall.

***In the case of rain, the event will be held at the Tomball Community Center, 221 Market Street**

ART WALK

TOMBALL!

April 21, 2012
from 11 a.m. – 6 p.m.

- View and buy original artwork throughout the historic downtown district, meet the artists and enjoy wine, cheese and more along the route.

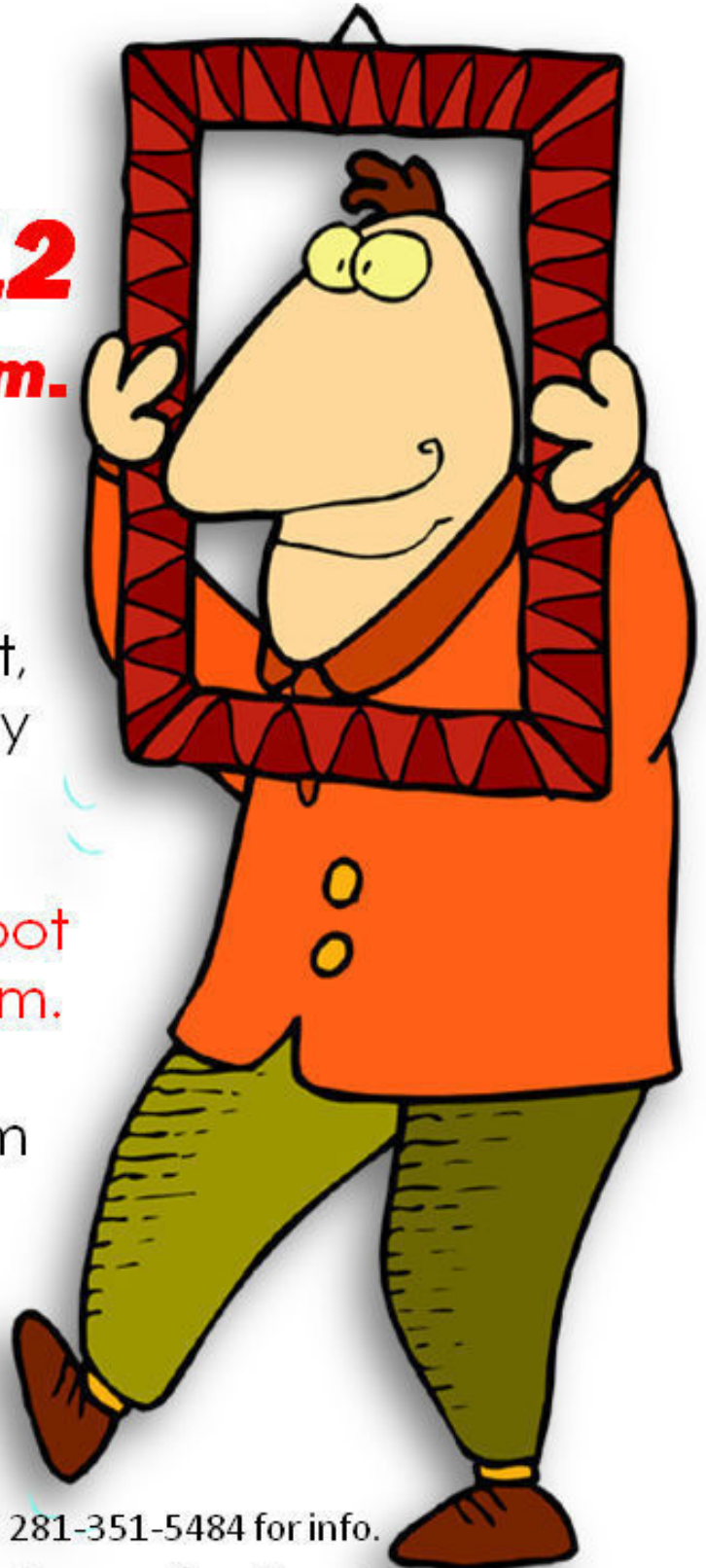
- Free Concert at the Depot Plaza from 4:30 to 7:00 p.m. following the walk.

- Beverages and eats from Cisco's Salsa Company during the concert.



Follow Tomball, Texas on [facebook](#) Call 281-351-5484 for info.

Remember . . . Tomball is Texan for Fun!



City of Tomball
Spring Clean up
Week of April 23-May 4, 2012 (No Sunday)
Monday – Saturday - 8:00 am - 4:30 pm

Objective:

Provide the citizens of Tomball the opportunity to dispose of large, hard-to-handle items that cannot be collected under the normal garbage service. **** (Remember this is for residents of Tomball only (must have City utility bill as proof); NO COMMERCIAL BUSINESS OPERATORS) ****

Roll Offs will be available at the City Landfill Site (0.4 miles north of E. Hufsmith on Rudolph) to dispose of the acceptable items. See map to landfill site below.

Acceptable Items:

- | | | |
|------------------------------|--------------------------|-----------------------------------|
| • Lumber | • Bricks (small amount) | • Gutter material |
| • Bicycle parts | • Empty buckets or pails | • Cardboard boxes |
| • Plywood (4 cubic yd. max) | • Rocks (small amount) | • Lawn mowers (oil & gas removed) |
| • Rugs/carpet | • Washing machines | • Dishwashers |
| • Siding | • Dryers | |
| • Clothing | • Water heaters | |
| • Box springs and mattresses | • Furniture | |

Not Acceptable:

- | | | |
|----------------------------------|--|--|
| • Tree trimmings | • Insecticides | • Raw meats, food products or byproducts |
| • Limbs or stumps | • Container with unmarked labels holding liquids | • Televisions |
| • Tires | • Sealed containers of any type | • Computers |
| • Engine blocks | • Large amounts of construction or demolition material | • Refrigerators |
| • Structural steel | • Smoke detectors | • AC units |
| • Equipment with oil or gasoline | • Pressurized vessels | • Appliances with Freon or fluids |
| • Fertilizers | • Flammable, combustible or corrosive products | • Paint |
| • Pool chemicals | | |
| • Batteries | | |
| • Oil filters | | |

All appliances must be drained and tagged by a licensed technician.

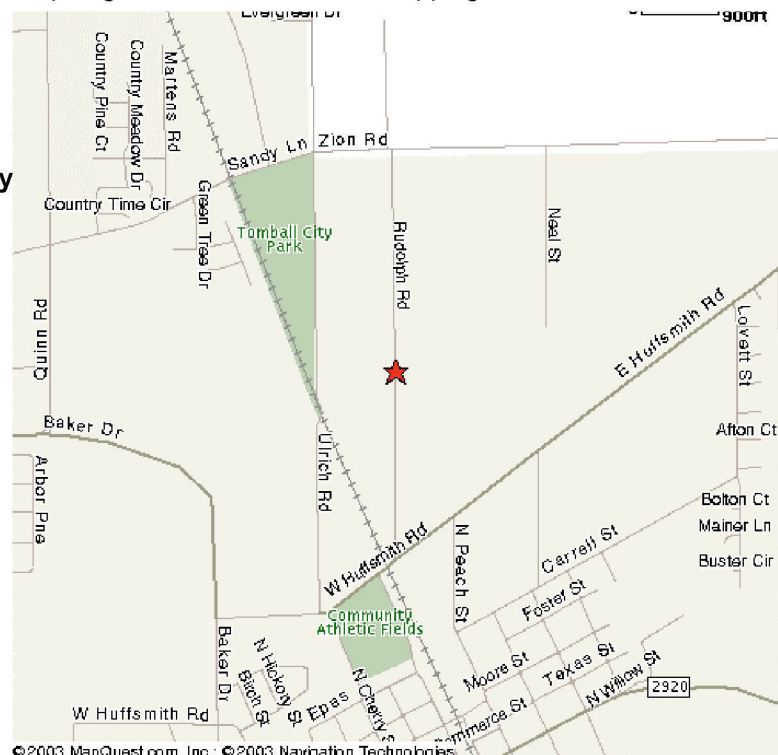
Acceptable items are anything that is inert and would not harm the environment before or after disposal into a landfill.

The City of Tomball will provide a free chipping service for brush and small limbs during the week of Tomball Cleanup. To participate, please call **(281) 290-1400** the week before the cleanup begins to be added to the chipping list.

CHIPPING SPECIFICATIONS:

- Turn all big ends toward road or in one direction
- Limit size to 6 ft.-8 ft., maximum
- Keep logs separate from limbs, nothing over 6" dia.
- Place limbs & brush near roadside and not on property
- Leaves, please bag for regular garbage pickup

Map to Tomball landfill site



Tomball Consolidated Recycling Day

28597 Tomball Parkway

Old Kroger Center Parking Lot at Four Corners

Enter by Shipley's Donuts on SH 249

April 28th from 9am-1pm

Drive Thru and Drop Off the following APPROVED items:
E-Waste (computers and all accessories, Fax machines, laptop
batteries, UPS/Lithium/Ni-Cad Batteries, Small kitchen appli-
ances), Prescription Drugs (pill & liquid), Tires (car/truck/atv), Car
Battery (Non-Leaking), Used Motor Oil,
Household paper/plastics/glass, Paper Shredding

~~Plastic Bags, Paint, Styrofoam~~

Thanks to our Community Partners and Sponsors!!!



Responsible E-cycling Solutions.

Got Drugs?



RAILS & TAILS MUDBUG FESTIVAL AT THE DEPOT



**MAY 5-6, 2012 - 11 A.M. TO 6 P.M.
TOMBALL, TEXAS**

Tons of crawfish, boudin, and more . . . Kids area, too!

Live music from The Fab 5, Bayou Roux and

Louisiana's own Joel Martin on Saturday, May 5th.

*On Sunday, May 6th it's Waylon Thibodeaux, Bayou Roux
and The Grateful Geezers*

CALL 281-351-5484 OR VISIT WWW.CI.TOMBALL.TX.US FOR INFO!

201 S. ELM STREET - TOMBALL, TEXAS - 77375

Regular City Council Agenda Item Data Sheet

Meeting Date: April 2, 2012

Topic:

Approve the Minutes of the March 5, 2012 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 - 3/19/2012 Regular City Council Meeting

NOTICE OF REGULAR CITY COUNCIL MEETING CITY OF TOMBALL, TEXAS



**MONDAY, MARCH 19, 2012
6:00 P.M.**

1.0 Call to Order

The Council meeting was called to order by Mayor Gretchen Fagan. Other members present were:

Councilman Hudgens
Councilman Stoll
Councilman Brown
Councilman Townsend
Councilman Dodson

Others present:

City Manager – George Shackelford
Assistant City Manager – Christal Weber
City Secretary – Doris Speer
City Attorney – Loren B. Smith
Police Chief – Robert Hauck
Director of Community Development – Narciso Lira
Fire Chief – Randy Parr
Finance Director – Glenn Windsor
Marketing Director – Mike Baxter
Community Events Coordinator – Rosalie Dillon
Chief-NWEMS – Brian Petrilla

draft

2.0 Invocation

- Led by Dean Unsicker, Rosehill Christian Church

3.0 Pledges to U. S. and Texas Flags

- Led by Courtlynn Noack, Secretary, Tomball High School Student Council

4.0 The following public comments were received.

- | | |
|--|---|
| Jim Shults
30218 Rickett, 77355 | - Spoke regarding water conservation and “Go Green” Day |
| Rodney Hutson
9430 Rosie Lane 77354 | - Spoke regarding his opposition to Item 9.4, Ordinance No. 2012-03; requested the removal of the wildflower section. |

5.0 Presentations:

- Mayor Fagan, Mike Baxter, and Caleb Harris, Tribune, conducted the random drawing to award participants who suggested names for the Tomball Mascot in the “***Tomball Mascot Name***” Contest.

6.0 Reports and Announcements:

- March 20, 2012 – **SH 249 Partnership Meeting** – Magnolia City Hall – 6:30 p.m.
- March 24, 2012 – ***Tomball Honky Tonk Music Festival*** – **Depot Plaza** – 11:00 a.m.-6:00 p.m.
- March 30-April 1, 2012 – **Tomball German Heritage Festival** in the Depot/Downtown Tomball Area
- March 31, 2012 – **NO Farmers Market**
- April 4, 2012 – **City of Tomball Youth Opportunity Fair** – **Beckendorf Conference Center** – **LoneStar College**, 2:00 p.m.-6:00 p.m.
- April 14, 2012 – ***4th Annual City of Tomball Bunny Run 5K and Kids 1M***
- April 14, 2012 – ***2nd Day of Healthy Living in Tomball Expo*** – **Texas Sports Medicine Center**, 9:00 a.m.-2:00 p.m.
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- ***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

Draft

- 7.0 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve the Minutes of the March 5, 2012 Regular City Council Meeting.

Motion carried unanimously.

- 8.0 Old Business:

- 8.1 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve allowing City staff to move forward with the application process in response to the request from Jacqueline Angelo for the City of Tomball to apply for Grant Assistance for 13142 Holderrieth Road.

Motion carried unanimously.

- 9.0 New Business:

- 9.1 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve and authorize the Mayor to issue a Letter of Support to the Houston-Galveston Area Council (H-GAC) for the 2013-2016 Transportation Improvement Program.

Motion carried unanimously.

- 9.2 Motion was made by Councilman Townsend, second by Councilman Dodson, to approve the request from Howard Katz, Attorney for Harris County Emergency Services District No. 8 (ESD No. 8), to Share Election Facilities with the City of Tomball, to Facilitate the Harris County Emergency Services District ESD No. 8's Called May 12, 2012 District Commissioners and Tax Rate Election for ESD No. 8.

Motion carried unanimously.

- 9.3 Motion was made by Councilman Dodson, second by Councilman Townsend, to approve the purchase by the City of Tomball of Three (3) Tax Forfeiture Lots, Lot 4, Block 6, Lot 6, Block 6, and Lot 11, Block 6, for Total Bid Price of \$13,200.00.

Motion carried unanimously.

- 9.4 Motion was made by Councilman Dodson, second by Councilman Townsend, to read Ordinance No. 2012-03 by caption only on First Reading.

Motion carried unanimously.

Motion was made by Councilman Dodson, second by Councilman Brown, to adopt, on First Reading, Ordinance No. 2012-03, an Ordinance of the City Council of the City of Tomball, Texas, amending Subsection (b)(1) of Section 30-159 of Article IV, Nuisances, of Chapter 30, Environment, of the City's Code of Ordinances relating to the Prohibition

of Weeds; Providing a New Definition of “Weeds”; Providing a Penalty of Up to \$2,000.00 for Violations with Each Day Constituting a Separate Violation; Providing for the Publication of This Ordinance; and Making Other Findings and Provisions related Thereto. Vote was as follows:

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

Motion carried unanimously.

Council requested that violations on unimproved lots be enforced as well as violations on improved lots.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this _____ day of _____ 2012.

Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Mayor

Regular City Council

Agenda Item

Data Sheet

Meeting Date: April 2, 2012

Topic:

Adopt, on Second Reading, Ordinance No. 2012-03, an Ordinance of the City Council of the City of Tomball, Texas, amending Subsection (b)(1) of Section 30-159 of Article IV, Nuisances, of Chapter 30, Environment, of the City's Code of Ordinances relating to the Prohibition of Weeds; Providing a New Definition of "Weeds"; Providing a Penalty of Up to \$2,000.00 for Violations with Each Day Constituting a Separate Violation; Providing for the Publication of This Ordinance; and Making Other Findings and Provisions related Thereto

Background:

Staff recommends an amendment to Section 30-159 of Chapter 30 to the City's Code of Ordinance. The current ordinance states that every property owner shall keep their property free from weeds and defines weeds to be any "uncultivated vegetable growth or matter, including grasses, which has grown to a height of more than 18 inches, covering over 40 percent of the area of the property or parcel".

Enforcement under current regulations restricts the City's ability to address some of the recent complaints, while trying to meet the vision established by the City's Comprehensive Plan. The proposed ordinance amends the definition of a weed by reducing the 18 inches in height to 12 inches and eliminating the reference to the minimum 40 percent coverage requirement before the City can take enforcement action.

Amending the ordinance will not alter the City's approach of notifying the property owners of the violation before taking enforcement action. Initial contact will be made to inform the property owner of the violation, allowing them the opportunity to correct the issue within 30 days. If no corrective action has been taken within the 30-day period, staff will initiate the citation process and issue an official citation to the property owner for correcting the issue.

Origination:

Narcisco Lira, Director of Community Development

Recommendation:

Adoption of Ordinance No. 2012-03, on Second Reading.

Funding:

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

Doris Speer, City Secretary

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

ATTACHMENTS:

Ordinance No. 2012-03

Current Chapter 30 Requirements

ORDINANCE NO. 2012-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, AMENDING SUBSECTION (b)(1) OF SECTION 30-159 OF ARTICLE IV, NUISANCES, OF CHAPTER 30, ENVIRONMENT, OF THE CITY'S CODE OF ORDINANCES RELATING TO THE PROHIBITION OF WEEDS; PROVIDING A NEW DEFINITION OF "WEEDS"; PROVIDING A PENALTY OF UP TO \$2,000.00 FOR VIOLATIONS WITH EACH DAY CONSTITUTING A SEPARATE VIOLATION; PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE; AND MAKING OTHER FINDINGS AND PROVISIONS RELATED THERETO.

* * * * *

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

Section 1. Subsection (b)(1) of Section 30-159 of Article IV, Nuisances, of Chapter 30, Environment, of the Code of Ordinances of the City of Tomball, Texas is hereby deleted in its entirety and a new Subsection (b)(1), is hereby added to read as follows:

"Sec. 30-159. Owners required to keep lots free of weeds, etc., procedure for abatement.

* * *

(b) *Weeds prohibited.* Every owner shall keep his property free from weeds, in accordance with the following regulations:

(1) *Weeds defined.* Uncultivated vegetable growth or matter, including grasses, which has grown to a height of more than 12 inches. Cultivated crops, plants, or grasses must be farmed or managed in accordance with customary area practices. Property or parcels which have an area coverage of 50 percent or more in wildflowers or wildflower seed heads are not included within this definition of weeds."

Section 2. 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 3. Any person who shall intentionally, knowingly, recklessly, or with criminal negligence, 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 4. This Ordinance shall become effective fourteen days after the final reading and adoption of this Ordinance when the caption hereof is caused to be published once in the official newspaper of the City, by the City Secretary, as required by law. The City Secretary is directed to publish the caption of this Ordinance in the City's official newspaper within 14 days after the passage of the ordinance.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 19TH DAY OF MARCH 2012.

COUNCILMAN HUDGENS	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN BROWN	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN DODSON	<u>AYE</u>

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 2ND DAY OF APRIL 2012.

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

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

Chapter 30

ENVIRONMENT*

* **Cross References:** Buildings and building regulations, ch. 14; emergency services, ch. 26; fire prevention and protection, ch. 34; floods, ch. 38; health and sanitation, ch. 42; solid waste, ch. 62; streets, sidewalks and other public places, ch. 66; subdivisions, ch. 70; utilities, ch. 82.

Article I. In General

Sec. 30-1. Statutory rules and regulations.
Secs. 30-2--30-25. Reserved.

Article II. Oil and Gas Wells and Pipelines

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Sec. 30-27. Definitions.
Sec. 30-28. Penalties.
Sec. 30-29. Nonconforming wells; registration.
Sec. 30-30. Necessity of contract with surface owner.
Sec. 30-31. Well location.
Sec. 30-32. Substitute wells.
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Division 2. Well Permits

Sec. 30-46. Unlawful to drill without a permit.
Sec. 30-47. Application and filing fee.
Sec. 30-48. Filing of application or supplemental application and notice.
Sec. 30-49. Granting or refusal of permit.
Sec. 30-50. Form and issuance of permit.
Sec. 30-51. Bond requirements.
Sec. 30-52. Release from bond.
Secs. 30-53.--30-65. Reserved.

Division 3. Well Operation

Sec. 30-66. Unlawful to permit escape of mud, etc.
Sec. 30-67. Remedial well work.
Sec. 30-68. Deeper drilling.
Sec. 30-69. Rules for drilling and producing operations for permit holder.
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Division 4. Pipeline Permits

Sec. 30-91. Application and filing fee.
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Sec. 30-93. Form and issuance of permit.
Sec. 30-94. Bond requirements.
Sec. 30-95. Release from bond.
Sec. 30-96. Rules for pipeline operations.
Sec. 30-97.--30-99. Reserved.

Division 5. Assignments

Sec. 30-100. Sale, transfer or conveyance of assets.
Secs. 30-101--30-155. Reserved.

Article III. Reserved.

Article IV. Nuisances

Sec. 30-156. Definitions.

Sec. 30-157. Illustrative enumeration.

Sec. 30-158. Prohibited.

Sec. 30-159. Owners required to keep lots free of weeds, etc., procedure for abatement.

Secs. 30-160--30-180. Reserved.

Article V. Noise

Sec. 30-181. Definitions.

Sec. 30-182. General prohibition.

Sec. 30-183. Playing of radios, phonographs, etc., generally.

Sec. 30-184. Use of radios, phonographs, etc., for advertising.

Sec. 30-185. Noisy vehicles generally.

Sec. 30-186. Sounding of vehicle horn or signaling device.

Sec. 30-187. Yelling, shouting, singing, etc.

Sec. 30-188. Shouting of peddlers, hawkers and vendors.

Sec. 30-189. Noise near school, church, court or hospital.

Sec. 30-190. Noise to attract attention to performance, show or sale.

Secs. 30-191--30-210. Reserved.

Article VI. Junked or Abandoned Vehicles

Sec. 30-211. Definitions.

Sec. 30-212. Exceptions.

Sec. 30-213. Administration and enforcement.

Sec. 30-214. Prohibition.

Sec. 30-215. Declaration of nuisance.

Sec. 30-216. Notice to remove--From private property.

Sec. 30-217. Same--From public property.

Sec. 30-218. Hearing.

Sec. 30-219. Duty to abate.

Sec. 30-220. Court order to abate.

Sec. 30-221. Removal of vehicle; impoundment; claim.

Sec. 30-222. Sale, disposal of vehicles--Junked.

Sec. 30-223. Same--Abandoned.

Sec. 30-224. Notice to state.

Sec. 30-225. Vehicles not to be made operable.

ARTICLE I.

IN GENERAL*

* **Editors Note:** Ord. No. 98-08 repealed Arts. II and III, §§ 30-26--30-155 in their entirety and added new sections 30-1, and 30-26--30-100. Former Arts. II and III pertained to similar material and derived from the Code of 1978, §§ 16-21--16-30, §§ 16-41--16-47, §§ 16-51--16-54, §§ 16-61--16-69, §§ 16-81--16-87, and §§ 16-91--16-94. The editor, at his own discretion, has redesignated certain article heads in Ord. No. 98-08 as division heads in Ch. 30, in order to avoid the duplication of article numbers.

Sec. 30-1. Statutory rules and regulations.

All drilling, producing, operations, and transportation of hydrocarbons and/or associated wastes are to be in strict compliance with RRC "Statewide Rules for Oil, Gas and Geothermal Operation" (latest revised edition) including RRC field rules for the Tomball Field; Title 49, Code of Federal Regulation, Parts 191, 192, 195 and 199; and Title 16, Texas Administrative Code, Section 7.70-7.73 and Section 7.80--7.87.
(Ord. No. 98-08, § 2, 4-20-98)

Secs. 30-2--30-25. Reserved.

ARTICLE II.

OIL AND GAS WELLS AND PIPELINES*

* **Note:** See editor's note, Art. I.

DIVISION 1.

GENERALLY

Sec. 30-26. Short title.

An article regulating the drilling, production, and operation of oil and gas wells and the transport of hydrocarbons or wastes associated with these operations within the regulated area of the city.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-27. Definitions.

The following words, terms, and phrases shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

All technical or oil and gas industry words or phrases used in this article and not specifically defined herein or in the Texas Railroad Commission Rules for Oil, Gas and Geothermal Operations or Pipeline Safety Rules shall have the meaning customarily attributable thereto by prudent operators in the oil and gas industry.

Permittee shall mean the person to whom a permit is issued for the drilling or operation of a well or pipeline under this article, and his administrators, executors, heirs, successors and assigns.

Pipeline or pipeline system shall mean all parts of a pipeline or physical facilities through which gas, oil, waste, or hazardous liquid moves in transportation, including, but not limited to, pipes, valves, or other appurtenances connected to the pipeline.

Regulated area, shall mean all land within the corporate boundaries of the city.

Well includes and shall mean any hole or bore, to any sand, formation, strata or depth, which is drilled, bored, sunk, dug, or put down for the purpose of either exploring for or ascertaining the existence of any oil, gas, liquid hydrocarbon, or any of them, or for the purpose of producing and recovering any oil, gas, liquid hydrocarbon, or well bores for disposal of salt water or other oil and gas waste.
(Ord. No. 98-08, § 2, 4-20-98; Ord. No. 99-01, § 1, 3-15-99)

Sec. 30-28. Penalties.

Any violation of any of the terms of this article, whether denominated as unlawful or not, shall be deemed a misdemeanor. Any person convicted of any such violation shall be subject to punishment as provided in section 1-14 of this Code, in an amount not to exceed \$2,000.00 per day, and any person, agent or employee engaged in any such violation shall, upon conviction, be so punished therefore.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-29. Nonconforming wells; registration.

All of the terms and provisions of this article shall be applicable to the operation of any well located within the regulated area of the city. Nonconforming wells shall be defined herein as wells which have been fully drilled prior to the effective date of this article. If such wells are still producing, or have not be permanently abandoned, or if a request is submitted for a supplemental permit under section 30-68 hereof, registration of such well shall be required in full conformity with this article. All such nonconforming wells shall be registered with the city within one year from the effective date of this article. The information required to register such pre-existing well shall include all of the information required under section 30-47 or section 30-68, whichever is applicable. There shall be no charge to register a nonconforming well during the one-year period. After the expiration of such time, however, a filing fee in the amount of \$100.00 shall be required for each well registration. Failure to register an existing well, or to apply for a supplemental permit, shall constitute a violation of this article. No provision of this article may be construed as altering, abating, or superseding any provision of any lease, contract, unit agreement, or any other agreement which affects any land within the regulated area of the city.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-30. Necessity of contract with surface owner.

Neither this article nor any permit issued under this article shall be interpreted to grant any right or license to the permittee to enter upon, use, or occupy in any respect for the drilling or operation of any well or pipeline on any surface land, except by the written consent of the surface owner, unless the permittee obtained such right through an oil or gas lease, or other contract; nor shall this article limit or prevent the free right of the owner to contract for the amount of damages, rights or privileges with respect to his own land and property.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-31. Well location.

It shall be unlawful for any person to cause or permit the drilling of any well within the regulated area which is nearer than 400 feet from any building, or nearer than 400 feet from the location of any proposed building for which a valid construction permit has been issued and is in effect. Provided however, the provisions of this section shall not apply to a permittee seeking to deepen an existing well not permanently abandoned, provided such well is entitled to be registered pursuant to section 30-29 hereof, and is duly registered or permitted as required by said section 30-29 or section 30-68 hereof. Provided further, no well shall be drilled within any existing or proposed roadway right-of-way. As used herein, the term "roadway right-of-way" shall mean that area within the boundaries of any easement or right-of-way for any highway, street or alley; the term "proposed roadway right-of-way" shall mean any roadway right-of-way for which the city council and/or the city planning commission has designated, by official action, as a projected highway, street, alley, or other thoroughfare in the master development plan of the city, whether or not such roadway right-of-way has actually been platted or dedicated for public use at such time.

(Ord. No. 2000-27, § 1, 11-20-00)

Editors Note: Ord. No. 2000-27, § 1, adopted November 20, 2000, repealed the former § 30-31 and enacted new provisions as set out herein. The former § 30-31 pertained to similar subject matter and derived from Ord. No. 98-08, § 2, adopted April 20, 1998.

Sec. 30-32. Substitute wells.

(a) Except as provided in subsection (b) of this section, no well shall be drilled within the regulated area of the city without first securing a permit from the city.

(b) If a permitted drilling well or active producing well is abandoned due to mechanical failure, a substitute well may at any time be drilled, completed, operated and produced. No substitute well provided for in this subsection shall be drilled to a deeper reservoir than the deepest productive reservoir of the well for which such substitute well is drilled, without the permittee first securing a supplemental permit as provided in section 30-68 hereof.

(c) The provisions of this section shall not prevent a well from being completed in more than one producing horizon; multiple completions in the same well bore are expressly authorized.
(Ord. No. 98-08, § 2, 4-20-98)

Secs. 30-33--30-45. Reserved.

DIVISION 2.

WELL PERMITS

Sec. 30-46. Unlawful to drill without a permit.

It shall be unlawful for any person acting either for himself or as an agent, employee, independent contractor, or servant of any other person to commence to drill or to deepen a well within the regulated area of the city, or to work upon or assist in any way in the prosecution or operation of any such well, without a permit for the drilling or deepening of such well having first been issued in accordance with the provisions of this article, except as provided in subsections (b) through (c) of section 30-32 hereof.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-47. Application and filing fee.

(a) Any person desiring to drill, deepen, or operate a well within the regulated area of the city shall present an application therefor, in duplicate, to the city council, which application shall be in writing, addressed to the mayor, signed by the applicant or a person duly authorized to sign for the applicant, and shall state:

- (1) The date of the application;
- (2) The name and address of the applicant and if the applicant is a corporation, the state of incorporation, and if applicant is a partnership, the names and addresses of the general partners;
- (3) The particular lot and block number or tract in the city on which the proposed well is to be

located and the exact location of such proposed well;

- (4) The proposed depth of the well;
 - (5) The proposed complete casing program of the well; and
 - (6) The exact and correct number of acres allocated by the RRC to the proposed well.
- (b) Attached to the application for a permit shall be:
- (1) A plat prepared by a duly registered surveyor showing the exact location of the proposed well with respect to the boundaries of the lot, block, or tract for which applicant has secured the rights from the owner to drill or deepen; a designation of the area owned or controlled by the applicant, and allocated to the proposed well, and the distances from the well location to all residences, commercial buildings and structures situated within the leased boundaries;
 - (2) A map showing the drill site in relation to the nearest public roadways and the proposed route of ingress and egress by applicant to such proposed drill site;
 - (3) A copy of Texas Railroad Commission Form W-1 (Application to Drill, Deepen, Plug Back or Re-enter);
 - (4) 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; and
 - (5) A copy of TNRCC-0051, "Depth of Usable Groundwater to be Protected."

(c) Each application shall be accompanied a cashier's check in the amount of \$1,000.00, made payable to the city, which shall be a filing fee. Each supplemental application shall furnish the information and conform with the requirements set forth in subsections (a) and (b) of this section, insofar as same are relevant to the authority requested therein, and such supplemental application shall be accompanied by an additional filing fee of \$500.00. Each application or supplemental application shall be maintained by the city secretary as a part of the public records of the city.

(d) The applicant or a personal representative of any applicant shall be present and appear before the city council at such time as the city council considers the application or any amendment thereto.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-48. Filing of application or supplemental application and notice.

(a) An application to drill or a supplemental application shall be filed with the city council for action in issuing or refusing to issue a permit.

(b) Notice of the filing of each application shall be given by the applicant in the manner herein set out. Such notice shall be in words and figures, as follows:

Notice is hereby given that _____, acting under and pursuant to the terms and provisions of AN ORDINANCE REGULATING THE DRILLING, COMPLETION AND OPERATION OF OIL AND GAS WELLS WITHIN THE REGULATORY LIMITS OF THE CITY OF TOMBALL, TEXAS, being Ordinance No. _____, as amended, did on the _____ day of _____, 19_____, file with the City Secretary of the City of Tomball an application to drill, complete and operate a well at Lot No. _____, Block No. _____, (or other appropriate description). City of Tomball, Texas, as per map filed of record in Volume _____, Page _____, Plat Records of Harris County, Texas (here the exact location of the proposed well shall be set out).

(c) The applicant shall cause such notice to be published, at his own expense, in every issue of the official newspaper of the city for ten days prior to the date of city council's consideration of such application. Proof of such publication shall be made by the printer or publisher of the newspaper by affidavit filed with the city council and shall be prima facie evidence of such publication.

(d) Notice of the time and place of the public hearing on an oil and gas permit shall be published in an official newspaper, or a newspaper of general circulation within the municipality, at least 15 days prior to the date of the hearing. Additionally, before the 10th day before the date of the hearing, written notice of such public hearing shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property immediately adjacent to the property for which the oil and gas permit is requested.

(e) The city council, at a regular or special called meeting, may, upon written application of applicant, waive all or any part of such ten-day publication requirement and issue such permit in accordance with section 30-49 hereof, upon the showing of compliance with all of the following:

- (1) Demonstration by applicant that such requirement would work an economic hardship upon applicant to delay the spudding-in of the well applied for in its application; or
- (2) That it would be to the best interest of the city, under its police powers, to issue a permit without awaiting publication; and
- (3) Proof of filing and approval of a bond in the amount of \$1,000,000.00;
- (4) Demonstration by applicant that the drilling of such well will not constitute a danger to the health, safety, morals, or welfare of the city and its inhabitants; and
- (5) Payment of a fee in the amount of \$5,000.00 into the general revenue fund of the city to cover the cost of expediting such application, including early docketing by the city secretary, investigation by the city attorney, the calling of a special meeting of city council for a hearing on such written application of applicant to waive publication, and an affirmative finding by city council that the requirements therein set forth have been met.

(f) Upon the affirmative finding by the city council that the requirements of this section have been met, the city secretary shall be authorized to issue the applicant a drilling permit in accordance with section 30-50 hereof.

(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-49. Granting or refusal of permit.

If, after such application or supplemental application is filed pursuant to this article, it be found by the city council to comply in all respects with terms hereof, and the drilling, deepening or operation of such well is not prohibited by the terms of this article, then the city council shall issue a permit for the drilling or deepening or operation of the well; provided, however, the city council shall have the power, and reserves the authority, to refuse any application for a permit when by reason of the location of the proposed well and the character and value of the improvements located on the lot or tract in question or adjacent thereto, and the use to which the land and surroundings are adapted for civic purpose, or for sanitary reasons, the drilling of such well would constitute a danger to either the health, safety, morals or welfare of the city and its inhabitants.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-50. Form and issuance of permit.

- (a) Each permit issued under this article shall:
 - (1) By reference, have incorporated all provisions of this article with the same force and effect as if this article were copied verbatim in such permit;
 - (2) Specify definitely the location of the well;
 - (3) Specify that drilling shall begin within 90 days from the date of the permit or such permit shall be forfeited; provided, however, such forfeiture shall not affect the right of applicant to apply for another permit; and
 - (4) Specify that such permit shall remain in full force and effect until said well is abandoned.

(b) Such permit shall not be issued until the provisions of section 30-51 hereof have been met. Such permit, in duplicate originals, shall be signed by the city secretary and prior to delivery to the permittee shall be signed by the permittee. One original of the permit, duly executed, shall be delivered to the permittee and one original of the permit, duly executed, shall be retained by the city secretary and, when so filed, shall constitute the permittee's drilling and operating license and the contractual obligations of the permittee to comply with the terms of such permit, the bond hereafter mentioned, and this article.

(c) Once a permit has been issued for a well under any ordinance of the city, such permit shall continue until said well is abandoned.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-51. Bond requirements.

(a) If the issuance of a permit is authorized, same shall not be issued until the applicant shall file with the city secretary a bond, executed by and between the permittee, as principal, and a corporate surety company licensed to do business in the State of Texas, as surety, and on the condition that the principal obligator shall drill and operate such well in accordance with the terms of this article and that the principal shall remedy any and all damages to all public utilities, roadways, drainage structures, and any other public property, including ground water supply, and/or surface and subsurface pollution, occasioned in any manner by the

drilling or operations of such well. Such bond shall run to the city for the benefit of the city and all persons concerned, shall be in a form to comply herewith, shall be in the amount of \$1,000,000.00 for each well for which a permit is requested, and shall be approved by the city attorney.

(b) Failure to keep such bond in full force and effect, in accordance with the terms hereof, shall be unlawful and shall be punishable in accordance herewith.

(c) The city council, with the approval of the city attorney, may waive the requirement for the surety bond described by this section, as to any permittee, when it is found and determined that such permittee is financially responsible and capable of meeting obligations for amounts in excess of \$1,000,000.00. Upon such determination, the city council may allow the permittee to file, in lieu of any surety bond, a letter of acceptance binding and obligating such permittee to abide by the conditions prescribed in this section for surety bonds. (Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-52. Release from bond.

When any permit shall terminate and become inoperative, as provided in this article, or if and when the permittee shall file with the city secretary written notice of his election to surrender his permit and abandon the premises covered thereby, then, if no claims under the bond or bonds are pending or have been filed within six months after such permit shall have terminated, become inoperative, or written notice of election to surrender has been filed, the city secretary shall return the bond filed by the permittee in connection with such permit. If claims are pending or are filed within such time, upon the satisfaction or defeat of such claims, such bond shall thereupon be returned to the permittee.

(Ord. No. 98-08, § 2, 4-20-98)

Secs. 30-53--30-65. Reserved.

DIVISION 3.

WELL OPERATION

Sec. 30-66. Unlawful to permit escape of mud, etc.

It shall be unlawful for any person to permit to escape any mud, water, oil, slush, saltwater or other waste matter related to the drilling or operating of any well onto any adjoining lots upon which permittee does not have leases or other contractual rights to use the surface, or upon leases not owned by permittee or into the alleys, streets, gutters, sewers, or ditches of the city. Within 60 days after the completion or abandonment of any well, the mud and other similar matter and materials used in connection with the drilling and operations thereon shall be removed from the premises, and all pits, holes, ruts, and depressions in and around such well location shall be smoothed out, leveled, and filled.

(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-67. Remedial well work.

Any person operating any well or wells within the regulated area of the city may perform any remedial well work operations, except drilling deeper, without a permit for such operations, provided the operator

complies with all safety rules set forth in this article and no additional filing fees will be required for such work. (Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-68. Deeper drilling.

(a) Once any well has either been completed as an oil or gas producer or abandoned as a dry hole, it shall be unlawful for any person to drill such well to a greater depth than that reached in prior drilling operations, without the permittee of such well filing a supplemental application with the city secretary and obtaining a supplemental permit which shall contain, in addition to all the requirements heretofore set forth, additional information specifying:

- (1) The then condition of the well and the casing therein;
- (2) The depth to which it is proposed that such well will be deepened; and
- (3) The proposed casing program to be used in connection with such proposed deepening operations.

(b) In any deeper drilling or deepening operations, the permittee shall comply with all other provisions contained in this article and applicable to the drilling, completion, and operation of a well. (Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-69. Rules for drilling and producing operations for permit holder.

All persons engaged in the drilling and operation of wells within the regulated area of the city shall comply with the following rules and regulations:

- (1) In order to enable the holder of each permit to move or transport oil, gas, water, or other waste products within the city limits, the holder of each permit issued under this article for the drilling and operation of a well within the city is hereby granted rights-of-way and easements on, over, under, along or across city streets, sidewalks and alleys for the purpose of constructing, laying, maintaining, operating, repairing, replacing and removing pipelines so long as production or operations may be continued; provided, however, each permittee shall:
 - a. Not interfere with or damage existing water, sewer or gas lines or the facilities of public utilities located on, under, or across the course of such rights-of-way;
 - b. Furnish the city secretary with a plat showing the location of such pipelines at least ten days prior to installation;
 - c. Provide construction plans and specifications to the city for approval;
 - d. Provide pipeline markers at each and every public street crossing, indicating the owner's name, identifying the product in such pipeline, and a 24-hour telephone number;
 - e. Construct such lines or cause same to be constructed out of new or reconditioned steel pipe buried to a minimum depth of 36 inches below the surface at each and every point;

- f. Ensure that if plastic pipe is used that the internal pressure of such line will not exceed 60 pounds per square inch and shall have at least 36 inches of cover. All plastic lines shall be encased under or crossing improved roadway surfaces from right-of-way line to right-of-way line. Where plastic pipe is installed longitudinally, a durable metal wire shall be concurrently installed or other means shall be provided for detection purposes;
- g. Ensure that public street crossings shall be either bored or tunneled. Pipeline installations across roadways may be encased or unencased. Bore hole or tunnel shall not exceed the diameter of the pipe by more than one inch, and shall extend from the top of the backslope to the top of the backslope or five feet beyond the face of the curb. Generally, underground line crossings should be encased in the interest of safety, protection for the pipeline and roadway, and for access to the pipeline. Casing shall consist of steel pipe with welded joints and seams and shall be designed to support the load of the roadway and superimposed loads thereon. All lines shall be enclosed in an adequately vented casing. For enclosed lines, the minimum total clear depth of cover for casing pipe shall be 30 inches;
- h. Ensure that casing shall consist of smooth wall pipe with welded joints and seams, and shall be continuous, provided, however, that welded steel pipeline crossings may be installed without encasement provided such pipelines conform with 49 CFR, Part 192, Transportation of Natural and Other Gas by Pipeline, or Part 195, Transportation of Liquids by Pipeline as Applicable.
 - 1. For unencased high-pressure gas or liquid petroleum lines, the minimum depth of cover shall be 60 inches under the pavement surface and a minimum of 48 inches under ditches. Exceptions may be authorized by the city to reduce the specified depth of cover where the pipeline is protected by a reinforced concrete slab.
 - 2. Where encasement is not employed, the welded steel carrier pipe shall provide sufficient strength to withstand the internal design pressure and the dead and live loads of the pavement structure and traffic. Additional protective measures should include heavier wall thickness and/or higher factor of safety in design, adequate coating and wrapping, cathodic protection, and other measures as required by Title 49, CFR, Part 192, or Part 195.
 - 3. The minimum length of the additional protection as set forth above shall be the same as that required by encasement.
- i. Control traffic in work zones to conform to applicable specifications of the Texas Manual on Uniform Traffic Control Devices for Streets and Highways;
- j. Ensure that operations in city rights-of-way shall be performed in such a manner that all equipment and excavated material are kept off the pavement at all times;
- k. Grade, level, and restore such property to same surface condition, as nearly as

practicable, as existed prior to the beginning of operations;

- l. After completion of pipeline, provide to the city for its files a copy of the "Record Drawings"; and
 - m. Ensure that any future adjustment or relocation of pipeline installations which become necessary because of utility or roadway construction shall be accomplished without cost to the city.
- (2) Any violation of the laws, rules, regulations, or requirements of any state or federal regulatory body having jurisdiction in reference to drilling, completing, equipping, operating, producing, transporting product or abandoning a well or related appurtenances, shall be a violation of this article and shall be punishable in accordance with the provisions hereof.
- (3) No person engaged in drilling or operating any well shall permit gas to escape or be vented into the air unless said gas is flared and burned. All gas flared or burned within the city must be done in such a manner so as not to constitute a fire hazard to any property.
- (4) It shall be unlawful for any person to use, operate or maintain any drilling or reworking machinery on any location for a period longer than 60 days after completion or abandonment of any well or any reworking project. All engines shall be equipped with effective mufflers.
- (5) Two dual-controlled, fluid-operated blowout preventers with working pressures equal to or greater than the maximum anticipated wellhead pressures shall be used for all drilling or completion operations involving the use of drill pipe or tubing after the surface casing has been set. The mechanical operation of the preventers shall be checked every 24 hours and shall be tested with pump pressures with enough frequency to ensure good working order at all times.
- (6) Only portable steel slush, reserve and shale tanks for mud, water or shale shall be permitted in connection with the drilling and reworking operations of any well.
- (7) Any person drilling or operating a well shall dispose of all saltwater or other waste produced by such well in a manner that will not contaminate or pollute surface and subsurface resources. No earthen-walled evaporation-type saltwater disposal pit shall be allowed within the city.
- (8) No well shall be drilled or reworked within the city without the bore hole being filled at all times with a drilling fluid of a weight and viscosity that a reasonable, prudent operator would use to keep the well under control at all times.
- (9) It shall be unlawful for any person in connection with the drilling or reworking operations of any well within the city to conduct any swabbing operations or to take or complete any drill stem test or tests, except during daylight hours. Drill stem tests may be conducted only if the well effluent during the test is produced through an adequate gas separator to storage tanks, and effluent remaining in the drill pipe at the time the tool is closed and flushed to the surface by circulating drilling fluid down the annulus and up the drill pipe.

- (10) Whenever any well within the city limits is abandoned, it shall be the obligation of the permittee to plug such well in accordance with the rules and regulations of the Texas Railroad Commission and to take any and all additional provisions or precautionary measures prescribed by the State of Texas or the Texas Railroad Commission in connection with abandonment and plugging of the well. The city shall be notified of any action in this regard.

It shall be the further obligation of the permittee or the operator of the well to cut the surface casing off at least six feet below the surface of the ground and to place at least a 25-foot cement plug in the top of the casing and to weld the top of the casing completely shut. The resulting hole in the ground must be completely filled to the surface of the ground and duly tamped. A copy of RRC Form W-3 (Plugging Record) and Form W-15 (Cementing Report) shall be filed with the city secretary.

- (11) It shall be unlawful for any person to use, construct, or operate, in connection with each producing well within the city, any storage tanks, except to the extent of two steel tanks for the storage of liquid hydrocarbon not exceeding 500-barrel capacity each, and so constructed and maintained as to be vapor tight and each surrounded with an earthen fire wall at such distance from the tanks as will, under any circumstances, hold and retain at least the maximum capacity of such tank or tanks. A permittee may use, construct and operate a steel conventional separator, and such other steel tanks and appurtenances as are necessary for treating oil with each of such facilities to be so constructed and maintained as to be vapor tight. Each gas separator shall be equipped with both a regulation pressure relief safety valve and a bursting head.
- (12) Any person may install equipment for the purpose of secondary recovery, pressure maintenance operations, or automatic lease operations, provided such person complies with all the safety requirements of this article and the Texas Railroad Commission.
- (13) It shall be unlawful for any person within the regulated area of the city to install any fired vessel or open flame within 150 feet of any well or storage tank.
- (14) All wellheads, tank batteries, pumping units and equipment appurtenant thereto within the city, which are located within a densely populated area so designated by the city council or within 100 feet of a public street, shall be adequately protected with an intruder-proof fence; provided, however, any wellhead, tank battery, pumping unit, or equipment appurtenant thereto, which is located on any lease tract or farm and is fenced in its entirety will require no additional protection other than that commonly used by prudent operators. Fences to prevent entry shall be approved by a representative designated by the city council.
- (15) The premises shall be kept in a clean and sanitary condition, free from rubbish of every character, at all times during drilling operations and as long thereafter as the well is being produced therefrom. All permittees' premises shall be kept clear of high grass, weeds, and combustible trash or any other rubbish or debris that might constitute a fire hazard within a radius of 150 feet around any oil tank or tanks, producing wells, or to the limits of the premises, whichever is the lesser.
- (16) No prime movers shall be permitted within the corporate limits of the city for the purpose of

pumping wells, except electric motors.

- (17) Printed signs reading "DANGER NO SMOKING ALLOWED" or similar words shall be posted in conspicuous places on each well, storage tank or battery of tanks within the regulated area of the city.
- (18) Material, equipment, tools or pipe used for either drilling or producing operations at the well shall not be delivered to or removed from the well site, except between the hours of 7:00 a.m. and 7:00 p.m. on any day, except in case of an emergency.
- (19) It shall be unlawful to block, encumber, or close any street or alley in any pipeline, drilling or production operation, except by an ordinance duly passed by the city council permitting the temporary blocking or closing of a street or alley.

(Ord. No. 98-08, § 2, 4-20-98)

Secs. 30-70--30-90. Reserved.

DIVISION 4.

PIPELINE PERMITS

Sec. 30-91. Application and filing fee.

All persons engaged in the movement or transport of oil, gas, water, or other waste products within the city limits, and who are not holders of a valid permit, may be granted a permit by the city council for pipeline crossings or parallel installation within public right-of-way or easements for the purpose of constructing, laying, maintaining, operating, repairing, replacing and removing pipelines; provided, however, each applicant shall:

- (1) File with the city secretary for city approval a permit application with a location plan and construction details and specifications;
- (2) Provide copies of RRC Form H-15 "Test on an Inactive Well More Than 25 Years Old" from all wells within the regulated area operated by the applicant;
- (3) File and obtain approval of a bond in the amount of \$100,000.00;
- (4) Provide with each application a cashier's check in the amount of \$500.00 made payable to the city, which shall be a filing fee. Each application shall be maintained by the city secretary as a part of the public records of the city;
- (5) Ensure that the applicant or a representative of applicant shall be present and appear before the city council at such time as the city council considers the application or any amendment thereto.

(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-92. Granting or refusal of permit.

If, after such application is filed pursuant to this article, it be found by the city council to comply in all respects with terms of this article, the city council finds that such applicant has complied in all respects with the terms of this article, then the city council shall issue a permit for the construction and operation of the pipeline applied for; provided, however, the city council shall have the power, and reserves the authority, to refuse any application for a permit when by reason of the location of the proposed pipeline and the character and value of the improvements located on the property in question or adjacent thereto, and the use to which the land and surroundings are adapted for civic purpose, or for other reasons, the pipeline would constitute a danger to either the health, safety, morals or welfare of the city and its inhabitants.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-93. Form and issuance of permit.

- (a) Each permit issued under this article shall:
 - (1) By reference, have incorporated all provisions of this article with the same force and effect as if this article were copied verbatim in such permit;
 - (2) Specify definitely the location of the pipeline;
 - (3) Specify that construction shall begin within 90 days from the date of the permit or such permit shall be forfeited; provided, however, such forfeiture shall not affect the right of applicant to apply for another permit; and
 - (4) Specify that such permit shall remain in full force and effect until said pipeline is abandoned.

(b) Such permit shall not be issued until the provisions of section 30-94 hereof are complied with. Such permit, in duplicate originals, shall be signed by the city secretary and, prior to delivery to the permittee, shall be signed by the permittee. One original of the permit, duly executed, shall be delivered to the permittee and one duly executed original of the permit shall be retained by the city secretary and shall constitute the permittee's license and the contractual obligations of the permittee to comply with the terms of such permit, the bond hereafter mentioned, and this article.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-94. Bond requirements.

(a) If the issuance of a permit is authorized, same shall not be issued until the applicant shall file with the city secretary a bond, executed by and between the permittee, as principal, and a corporate surety company licensed to do business in the State of Texas, as surety, conditioned that the principal obligator shall construct and operate such pipeline in accordance with the terms of this article; that the principal shall remedy any and all damages to all public utilities, roadways, drainage structures, and any other public property, including ground water supply, and/or surface and subsurface pollution, occasioned in any manner by applicant's operation of such pipeline. Such bond shall run to the city, for the benefit of the city and all persons concerned, shall be in a form to comply herewith, and shall be in the amount of \$100,000.00 for each pipeline upon which a permit is applied for, and shall be approved by the city attorney.

- (b) Failure to keep such bond in full force and effect, in accordance with the terms hereof, shall be

unlawful and shall be punishable in accordance herewith.

(c) The city council, with the approval of the city attorney, may waive the requirement for the surety bond described in this section, as to any permittee, if it is found and determined that such permittee is financially responsible and capable of meeting obligations for amounts in excess of \$100,000.00, and may allow the permittee to file, in lieu of any surety bond, a letter of acceptance which binds and obligates such permittee to abide by the conditions prescribed in this section for surety bonds.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-95. Release from bond.

When any permit shall terminate and become inoperative, as provided in this article, or if and when the permittee shall file with the city secretary written notice of his election to surrender his permit and abandon the premises covered thereby, then if no claims under the bond or bonds are pending or have been filed within six months after such permit shall have terminated, have become inoperative, or a written notice of election to surrender has been filed, the city secretary shall return the bond furnished by the permittee in connection with such permit. If claims are pending or are filed within such time, upon the satisfaction or defeat of such claims, such bond shall thereupon be returned to the permittee.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-96. Rules for pipeline operations.

All persons engaged in pipeline maintenance and operations within the corporate limits of the city shall comply with all rules and regulations as provided under section 30-69 of this Code and any violation of any of the terms of this Code whether denominated as unlawful or not, shall be deemed a misdemeanor and subject to penalties and punishment as provided in section 1-14 of the general provisions of this Code.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-97--30-99. Reserved.

DIVISION 5.

ASSIGNMENTS

Sec. 30-100. Sale, transfer or conveyance of assets.

A sale, transfer or conveyance of properties owned by an operator is not complete unless the acquiring person has on file with the city an approved form of financial security covering the requirements of this Code. The existing bond or alternate form of financial security remains in effect and the prior operator of the property remains responsible for compliance with all ordinances, rules, and regulations of the city covering the transferred assets until the city determines that the assets are covered by proper financial security and the acquiring person has assumed full responsibility for the properties, in accordance with all ordinances, rules and regulations of the city.
(Ord. No. 98-08, § 2, 4-20-98)

Secs. 30-101--30-155. Reserved.

ARTICLE III.

RESERVED*

* **Note:** See editor's note, Art. I.

ARTICLE IV.

NUISANCES*

* **State Law References:** Authority to define, prohibit, V.T.C.A., Local Government Code § 217.042.

Sec. 30-156. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Nuisance means any unlawful act, or omitting to perform a duty, or the suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- (1) Injures or endangers the comfort, repose, health or safety of others;
- (2) Offends decency;
- (3) Is offensive to the senses;
- (4) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage;
- (5) In any way renders other persons insecure in life or the use of property; or
- (6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

(Code 1978, § 15-1)

Cross References: Definitions generally, § 1-2.

Sec. 30-157. Illustrative enumeration.

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- (1) Noxious weeds and other rank vegetation.

- (2) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things.
- (3) Any condition which provides harborage for rats, mice, snakes and other vermin.
- (4) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.
- (5) All unnecessary or unauthorized noises and annoying vibrations, including animal noises.
- (6) All disagreeable or obnoxious odors and stench, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stench.
- (7) The carcasses of animals or fowl not disposed of within a reasonable time after death.
- (8) The pollution of any public well or cistern, stream, lake, canal, or body of water by sewage, dead animals, creamery, industrial wastes or other substances.
- (9) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.
- (10) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
- (11) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.

(Code 1978, § 15-2)

Sec. 30-158. Prohibited.

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance.

(Code 1978, § 15-3)

Sec. 30-159. Owners required to keep lots free of weeds, etc., procedure for abatement.

(a) *Rubbish, brush, stagnant water, sinks, filth, carrion, or any other unwholesome, unsightly, unsanitary, or objectionable matter.* Every owner, part owner, joint owner, or owner of any interest whatever, hereinafter referred to as the owner, in real estate which is located within a subdivision, either recorded or unrecorded, within the city; or which real estate is open acreage located within 200 feet of any residence, if same be occupied, or commercial establishment; or within 200 feet of any dedicated street right-of-way, shall keep such property free of rubbish, brush, stagnant water, sinks, filth, carrion or any other unwholesome, unsightly, unsanitary or objectionable matter.

(b) *Weeds prohibited.* Every owner shall keep his property free from weeds, in accordance with the

following regulations:

(1) *Weeds defined.* Uncultivated vegetable growth or matter, including grasses, which has grown to a height of more than ~~18-12 inches, covering throughout over 40 percent of the area of~~ the property or parcel. Cultivated crops, plants, or grasses must be farmed or managed in accordance with customary area practices. Property or parcels which have an area coverage of 50 percent or more in wildflowers or wildflower seed heads are not included within this definition of weeds.

(2) *Parcels larger than four acres.* Parcels larger than four acres which have prohibited weeds present must be cut, i.e., the weeds must be controlled, for a distance of 25 feet back from the curb, or the edge of the road surface if there is no curb.

(3) *Defenses to prosecution.* It shall be a defense to prosecution for violation of this weed prohibition if the owner can prove that:

a. Weather conditions have totally prevented cutting or controlling the weeds; or

b. The property or parcel has been mowed or the weeds controlled within the previous 30 days.

(c) *Work or improvements by city; notice.* If the owner of property in the city does not comply with this section within ten days of notice of a violation, the city may do the work or make the improvements required and pay for the work done or improvements made and charge the expenses to the owner of the property. The notice of violation must be given:

(1) Personally to the owner in writing;

(2) By letter addressed to the owner at the owner's post office address; or

(3) By publication at least twice within ten consecutive days if personal service cannot be obtained or the owner's post office address is unknown.

(d) *Assessment of expenses; lien.* The city council may assess expenses incurred against the real estate on which the work is done or improvements made. To obtain a lien against the property, the city manager, municipal health authority, or other city official designated by the city manager, must file a statement of expenses with the county clerk. The lien obtained by the city is security for the expenditures made with interest accruing at the rate of ten percent on the amount due from the date of payment by the city. The lien is inferior only to:

(1) Tax liens; and

(2) Liens for street improvements.

(e) *Foreclosure.* The city council may bring a suit for foreclosure in the name of the city to recover the expenditures and interest due.

(f) *Statement of expenses.* The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the city in doing the work or making the improvements.

(g) *Remedy, cumulative.* The remedy provided by this section is in addition to other remedies available to the city.

(h) *Penalty.* Any person who violates any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to punishment as provided in section 1-14 of this Code.

(Code 1978, § 15-9; Ord. No. 92-12, § 2.0, 7-20-92)

Secs. 30-160--30-180. Reserved.

ARTICLE V.

NOISE

Sec. 30-181. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Sound amplifying equipment means any machine or device for the amplification of the human voice, music or other sound. "Sound amplifying equipment" as used in this article shall not be construed as including standard automobile radios when used and heard only by occupants of the vehicle in which installed or warning devices on authorized emergency vehicles or horns or other warning devices on other vehicles used only for traffic or human safety purposes.

Sound truck means any vehicle, whether motor-driven, horse-driven or otherwise powered, having mounted thereon, or attached thereto, any sound amplifying equipment.

(Ord. No. 91-01, § 14.5-1, 3-18-91)

Cross References: Definitions generally, § 1-2.

Sec. 30-182. General prohibition.

(a) A person commits an offense if he makes, continues, or causes to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the city.

(b) The acts enumerated in the following sections of this article, among others, are declared to be loud, disturbing and unnecessary noises in violation of this article, but such enumeration shall not be deemed to be exclusive.

(Ord. No. 91-01, § 14.5-2, 3-18-91)

Sec. 30-183. Playing of radios, phonographs, etc., generally.

The using, operating, or permitting to be played, used or operated any radio receiving set, television set,

musical instrument, phonograph, stereo or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for persons who are in the room, vehicle, chamber or area in which such machine or device is operated and who are voluntary listeners thereto, is hereby prohibited and declared to be unlawful. The operation of any set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure, vehicle or area in which it is located shall be prima facie evidence of a violation of this section.

(Ord. No. 91-01, § 14.5-3, 3-18-91)

Sec. 30-184. Use of radios, phonographs, etc., for advertising.

The using, operating or permitting to be played, used, or operated of any radio, receiving set, musical instrument, phonograph, loudspeaker, sound amplifying equipment, sound truck or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure is hereby prohibited and declared to be unlawful.

(Ord. No. 91-01, § 14.5-4, 3-18-91)

Sec. 30-185. Noisy vehicles generally.

The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise is hereby prohibited and declared to be unlawful.

(Ord. No. 91-01, § 14.5-5, 3-18-91)

Sec. 30-186. Sounding of vehicle horn or signaling device.

The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time are hereby declared to be unlawful. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up, are also unlawful.

(Ord. No. 91-01, § 14.5-6, 3-18-91)

Sec. 30-187. Yelling, shouting, singing, etc.

Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity is hereby prohibited and declared to be unlawful.

(Ord. No. 91-01, § 14.5-7, 3-18-91)

Sec. 30-188. Shouting of peddlers, hawkers and vendors.

The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood is hereby prohibited and declared to be unlawful.
(Ord. No. 91-01, § 14.5-8, 3-18-91)

Sec. 30-189. Noise near school, church, court or hospital.

The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, is hereby prohibited and declared to be unlawful, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.
(Ord. No. 91-01, § 14.5-9, 3-18-91)

Sec. 30-190. Noise to attract attention to performance, show or sale.

The use of any drum or other instrument or device for the purpose of attracting attention, by creation of noise, to any performance, show or sale, is prohibited and declared to be unlawful.
(Ord. No. 91-01, § 14.5-10, 3-18-91)

Secs. 30-191--30-210. Reserved.

ARTICLE VI.

JUNKED OR ABANDONED VEHICLES*

* **State Law References:** Abandoned motor vehicles, Vernon's Ann. Civ. St. art. 4477-9a, § 5.01 et seq.

Sec. 30-211. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned vehicle means a motor vehicle that is inoperable and over five years old and is left unattended on public property for more than 48 hours, or a motor vehicle that has remained illegally parked on public property for a period of more than 48 hours, or a motor vehicle that has remained on private property without the consent of the owner or person in control of the property for more than 48 hours, or a motor vehicle left unattended on the rights-of-way of any designated county, state or federal highway within the city in excess of 48 hours or in excess of 12 hours on any turnpike project constructed and maintained by the Texas Turnpike Authority.

Demolisher means any person whose business is to convert a motor vehicle into processed scrap or scrap metal, or otherwise to wreck or dismantle a motor vehicle.

Garagekeeper means any owner or operator of a parking place or establishment, motor vehicle storage facility, or any establishment for the servicing, repair or maintenance of motor vehicles.

Junked vehicle means a motor vehicle as defined in Vernon's Ann. Civ. St. art. 6701d-11, § 1:

- (1) That is inoperative; and
- (2) That does not have lawfully affixed to it either an unexpired license plate or a valid motor vehicle safety inspection certificate, that is wrecked, dismantled, partially dismantled, or discarded, or that remains inoperable for a continuous period of more than 45 days.

Motor vehicle means any motor vehicle subject to registration pursuant to the state's certificate of title law, Vernon's Ann. Civ. St. art. 6687-1.

Storage facility means a garage, parking lot or any type of facility or establishment for the servicing, repairing, storing or parking of motor vehicles.

(Code 1978, § 12-1)

Cross References: Definitions generally, § 1-2.

State Law References: Certificate of Title Act, Vernon's Ann. Civ. St. art. 6687-1.

Sec. 30-212. Exceptions.

The provisions of this chapter shall not apply to:

- (1) A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;
- (2) A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard; or
- (3) Unlicensed, operable or inoperable antique and special interest vehicles stored by a collector on his property, provided that the vehicles and the outdoor storage areas are maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means.

(Code 1978, § 12-2)

State Law References: Similar provisions, Vernon's Ann. Civ. St. art. 4477-9a, § 5.09(g).

Sec. 30-213. Administration and enforcement.

The police department, by and through its regular full-time officers, may administer the provisions of this article and enter upon private property for the purposes specified in this chapter to examine vehicles or parts thereof, to obtain information as to the identity of vehicles and to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this article, except that the removal of vehicles or parts thereof from property may be by any other duly authorized person. The municipal court shall have authority to issue all orders necessary to enforce this article.

(Code 1978, § 12-3)

Sec. 30-214. Prohibition.

It shall be unlawful for any person to leave or permit to remain upon public or private property, except as otherwise provided in this article, within the city any abandoned or junked vehicle or parts or portion thereof for any period of time in excess of ten days.

(Code 1978, § 12-4)

Sec. 30-215. Declaration of nuisance.

Junked or abandoned vehicles which are located in any place where they are visible from a public place or public right-of-way are detrimental to the safety and welfare of the general public, tending to reduce the value of private property, to invite vandalism, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, and are detrimental to the economic welfare of the city, by producing urban blight which is adverse to the maintenance and continuing development of the city, and such vehicles are therefore declared to be a public nuisance.

(Code 1978, § 12-5)

State Law References: Declaration of nuisance, Vernon's Ann. Civ. St. art. 4477-9a, § 5.08(a).

Sec. 30-216. Notice to remove--From private property.

Whenever it is brought to the attention of the chief of police that a nuisance under the provisions of this article exists in the city, he shall give or cause to be given to the person maintaining or suspected of maintaining such nuisance, in writing, a ten-day notice, stating the nature of the public nuisance on private property and that it must be removed and abated within ten days, and further that a request for a hearing must be made by such person before the expiration of such ten-day period. The notice required by this section shall be mailed, by certified mail, with a five-day return requested, to the last known registered owner of the junked motor vehicle, and lien holder of record, and the owner or occupant of the private premises whereupon such public nuisance exists. If the notice is returned undelivered by the United States Postal Service, official action to abate the nuisance shall be continued to a date not less than ten days from the date of such return.

(Code 1978, § 12-6)

State Law References: Similar provisions, Vernon's Ann. Civ. St. art. 4477-9a, § 5.09(g).

Sec. 30-217. Same--From public property.

Whenever it is brought to the attention of the chief of police that a nuisance under the provisions of this article exists in the city, he shall give or cause to be given to the person maintaining or suspected of maintaining such nuisance, in writing, a ten-day notice, stating the nature of such nuisance on public property or on a public right-of-way and that it must be removed or abated within ten days, and further that a request for a hearing must be made by the owner or occupant of such public property or the owner or occupant of the premises adjacent to the public right-of-way whereon such nuisance exists before the expiration of such ten-day period. The notice required by this section shall be mailed, by certified mail, with a five-day return requested, to the last known registered owner of the junked motor vehicle, any lien holder of record, and to the owner or occupant of the public premises or to the owner or occupant of the premises adjacent to the public right-of-way on which the public nuisance exists. If the notice is returned undelivered by the United States Postal Service, official action to abate such nuisance shall be continued to a date not less than ten days from the date of such return.

(Code 1978, § 12-7)

State Law References: Similar provisions, Vernon's Ann. Civ. St. art. 4477-9a, § 5.09(c).

Sec. 30-218. Hearing.

A public hearing prior to the removal of the vehicle or part thereof as a public nuisance, may be held before the municipal court when such a hearing is requested by the owner or occupant of the public or private premises adjacent to the public right-of-way on which such vehicle is located, within ten days after service of notice to abate the nuisance. Any resolution or order requiring the removal of a vehicle or part thereof shall include a description of the vehicle, and the correct identification number and license number of the vehicle, if available at the site.

(Code 1978, § 12-8)

Sec. 30-219. Duty to abate.

If the owner or occupant of the premises upon which a nuisance under the provisions of this article exists does not request a hearing as provided by this article, it shall be his duty to comply with the provisions of the notice given him and to abate such nuisance within ten days after the date of the receipt of such notice.

(Code 1978, § 12-9)

Sec. 30-220. Court order to abate.

(a) After the hearing provided for in this article, the municipal court shall determine whether or not a nuisance exists under the provisions of this article. If a nuisance is found to exist, the council shall order the owner or occupant of the premises upon which such nuisance is located to abate the same within ten days from the date of such order.

(b) It shall be unlawful for any person to whom such order is given to fail or refuse to comply therewith and to remove the abandoned or junked vehicle within such period of time.

(Code 1978, § 12-10)

Sec. 30-221. Removal of vehicle; impoundment; claim.

Within ten days after notice has been delivered to the owner or occupant of the premises on which an abandoned or junked vehicle is located if a hearing is not requested, or if a hearing is requested, within ten days after an order requiring the removal of such vehicle has been served upon or delivered to the owner or occupant of the premises on which such vehicle is located, the chief of police or members of the police department acting under the direction of the chief of police, may if the nuisance has not been abated, remove or cause to be removed such vehicle to a suitable city storage area designated by the chief of police. Such vehicle shall be stored in such storage area for a period of not less than ten days, during which period any party owning or claiming any right, title or interest therein shall be entitled to claim possession of same by the payment to the city of the actual cost of the city in abating such nuisance. The chief of police may in such cases, if he deems it necessary, require such person to post bond of not more than \$50.00 nor less than \$25.00, conditioned that such person shall not use the vehicle to create another nuisance in the city.

(Code 1978, § 12-11)

Sec. 30-222. Sale, disposal of vehicles--Junked.

(a) When any junked vehicle has remained in the storage area provided in section 30-221 for not less than 20 days, it shall be the duty of the chief of police to dispose of the same by removal to a scrap yard or by

sale to a demolisher for the highest bid or offer received therefor or to remove the same to any suitable site operated by the city for processing as scrap or salvage.

(b) Out of the proceeds of the sale of a junked vehicle under the provisions of this section, the chief of police shall pay for the cost of removal and storage thereof and the balance, if any, shall be paid to the person entitled thereto.

(c) If there is not a bid or offer for the vehicle, the chief of police may dispose of the same by causing it to be demolished or removed to a place provided by the city council, or by permitting it to be removed by a demolisher who is willing to do so for the benefit of the junk or parts he can salvage.
(Code 1978, § 12-12)

Sec. 30-223. Same--Abandoned.

If an abandoned motor vehicle has not been reclaimed as provided by Vernon's Ann. Civ. St. art. 4477-9a, § 5.03, the police department may sell the vehicle at a public auction. Proper notice of the public auction shall be given, and in the case of a garagekeeper's lien, the garagekeeper shall be notified of the time and place of the auction. The purchaser of the motor vehicle takes title to the motor vehicle free and clear of all liens and claims of ownership, shall receive a sales receipt from the police department, and is entitled to register the purchased vehicle and receive a certificate of title. From the proceeds of the sale of an abandoned motor vehicle, the police department shall reimburse itself for the expenses of the auction, the costs of towing, preserving, and storing the vehicle that resulted from placing the abandoned motor vehicle in custody, and all notice and publication costs incurred under Vernon's Ann. Civ. St. art. 4477-9a, § 5.03. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lien holder for 90 days and then shall be deposited in a special fund that shall remain available for the payment of auction, towing, preserving, storage, and all notice and publication costs that result from placing another abandoned vehicle in custody, if the proceeds from a sale of another abandoned motor vehicle are insufficient to meet these expenses and costs. The city may transfer the amount in the special fund that exceeds \$1,000.00 from the special fund to the city's general revenue account to be used by the police department.
(Code 1978, § 12-12)

State Law References: Auction of abandoned vehicles, Vernon's Ann. Civ. St. art. 4477-9a, § 5.04.

Sec. 30-224. Notice to state.

Notice shall be given to the state department of highways and public transportation within five days after the date of removal of a vehicle under the provisions of this article, identifying the vehicle or part thereof.
(Code 1978, § 12-13)

Sec. 30-225. Vehicles not to be made operable.

After a vehicle has been removed in accordance with or under the provisions of this article, it shall not be reconstructed or made operable.
(Code 1978, § 12-14)

Regular City Council

Agenda Item

Data Sheet

Meeting Date: April 2, 2012

Topic:

Approve Contract with CivicPlus under State DIR Program for Website Redesign and Management, in the Amount of \$20,048.12.

Background:

As requested by City Council, we have looked into and selected a provider to redesign the City's website. Civic Plus was chosen to bring forward since they specialize in the design of city websites and include built-in modules that cater specifically to City Government. These modules include Agenda, Alerts & News Center, Bid Postings, Business/Resource Directory, Calendar, and Permits/Licensing, to name some.

This project will be written under the TEXAS DIR contract, which will ensure we are receiving the lowest negotiated rate. We also entered a Civics Plus Extreme Website Makeover contest and received a second prize, a \$5,000 discount on the redesign project. The total price of this project will be \$20,048.12 which is just over the \$20,000 budget. Included in this project cost is the 1st year of maintenance which will save us \$1,000-\$2000 from our existing web hosting costs once we are migrated over to the new website.

Origination:

Doug Tippey, IT Manager

Recommendation:

Approve Contract

Funding: Yes

Account Number: 100-117-6304

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

Doug Tippey and Christal Weber

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

ATTACHMENTS:

Civic Plus DIR contract



Organization	City of Tomball	URL	www.ci.tomball.tx.us	
Street Address	401 Market Street			
Address 2				
City	Tomball	State	TX	Postal Code 77375
CivicPlus provides telephone support for all trained clients from 7am –7pm Central Time, Monday-Friday (excluding holidays). Emergency Support is provided on a 24/7/365 basis for representatives named by the Client. Client is responsible for ensuring CivicPlus has current updates.				
Emergency Contact & Mobile Phone	XX			
Emergency Contact & Mobile Phone	XX			
Emergency Contact & Mobile Phone	XX			
Billing Contact	XX	E-Mail	XX	
Phone	XX	Ext.	XX	Fax XX
Billing Address	XX			
Address 2	XX			
City	Tomball	ST	TX	Postal Code 77375
Tax ID #	XX	Sales Tax Exempt #	XX	
Billing Terms	Annual	Account Rep	Carrie Broeckelmann	
Info Required on Invoice (PO or Job #)	Purchase Order #			
Contract Contact	XX		Email	XX
Phone	XX	Ext.	XX	Fax XX
Project Contact	XX		Email	XX
Phone	XX	Ext.	XX	Fax XX

Terms & Conditions

This Agreement is entered into by and between Icon Enterprises, Inc., d/b/a CivicPlus ("CivicPlus") and the City of Tomball, Texas, ("Client"). This Agreement constitutes the complete statement of Agreement between the Client and CivicPlus and shall commence on _____, 2012 ("Effective Date") and renew annually per Terms 14-17.

Client Deliverable

1. Icon Enterprises, Inc., d/b/a CivicPlus will create a unique website for the City of Tomball(Client) that includes all functionality as defined in Exhibit A – CivicPlus Project Deliverables, attached hereto.
2. CivicPlus will discount \$5,000 from total fees for website design, setup, programming and training, hosting, software maintenance, software upgrades and support as defined in Exhibits A.
3. After 48 consecutive months under these terms and associated pricing, Client becomes fully eligible for a CP Advanced Redesign at no additional cost. See Exhibit B for complete details.



Additional Services

4. Client may contract with CivicPlus for additional Consulting, Website Design, Setup, Programming, site modification, Training services (Project Development Services), Additional Page and/or Graphic Design that exceed those defined in Exhibit A. CivicPlus will invoice Client for the additional services immediately prior to project Go-Live. Services that involve billable time beyond the contracted amount will be documented and invoiced. Written approval by the Client is necessary before billable time is incurred.
5. Client may contract with CivicPlus for additional Annual Support, Maintenance & Hosting services that exceed those defined in Exhibit A. CivicPlus will invoice Client for annual services immediately prior to project Go-Live. Modules that incur additional usage fees may be purchased and activated at any time.

Billing & Payment Terms

6. One-third of the total Project Development fee will be billed upon completion of design; one-third of the total Project Development fee will be billed upon completion of content. The remainder of the Project Development fee and any additional Project Development services will be invoiced after training has been completed.
7. The client shall sign a project completion and acceptance form prior to project launch. The date may be extended if material system or operational failures are encountered. Immediately after completing training, the final bill for additional project development services as defined in Exhibit A will be billable and payable. All Parties agree that the website will not launch until the project is accepted in writing by the client.
8. Project Development invoices are due by the first of the following month, but no later than 30 days from invoice date. Project Development will be discontinued if payment is not made within 30 days after the invoice due date.
9. Invoicing for Annual Support, Maintenance & Hosting begins one (1) year from contract signing. Fees are due by the first of the following month, but no sooner than 30 days from invoice date. Base rate for year 2 begins at **\$4,444**.
10. Annual Support, Maintenance & Hosting invoices may be prorated in order to correlate with the Client's budget year, and are invoiced prior to the year of service.
11. After project go-live, if the Client's account exceeds 60 days past due, Support will be discontinued until the Client's account is made current. If the Client's account exceeds 90 days past due, Annual Support, Maintenance & Hosting will be discontinued until the Client's account is made current. Client will be given 30 days notice prior to discontinuation of services for non-payment.
12. A finance charge of 2.9 percent (%) per month or \$5.00, whichever is greater, will be added to past due accounts. Payments received will be applied first to finance charges, then to the oldest outstanding invoice(s)
13. Provided the Client's account is current, at any time the Client may request an electronic copy of the website Customer Content (graphic designs, web content, page designs and banners), and Content Management System (CMS) Software. Client agrees to pay \$250 per completed request. Provided the Client's account is current, upon termination of services client may request a complimentary electronic copy of website Customer Content and CMS Software.

Agreement Renewal

14. This contract shall remain in effect for a period of one year (12 months) from signing. In the event that neither party gives 60 days' notice prior to the end of the initial or any subsequent term, this Agreement will automatically renew for an additional contract term. After 48 consecutive months under the terms of this contract and associated pricing, Client will be fully eligible for a CP Advanced Redesign at no additional cost.
15. Either party may terminate the agreement at the end of the contract term by providing the other party with 60 days written notice prior to the contract renewal date.
16. In the event of contract termination, Client forfeits eligibility for the CP Advanced Redesign and all funds applied to such eligibility. In the event of early termination of this Agreement by the client, full payment for services provided is due within 15 days of termination.
17. Each year this Agreement is in effect, a technology investment and benefit fee of no more than 5 percent (%) of the total Annual Support, Maintenance & Hosting costs will be applied.



Support

18. CivicPlus will provide unlimited telephone support Monday-Friday, 7:00 am – 7:00 pm (Central Time) excluding holidays, for all trained Client staff. Emergency Support is provided on a 24/7/365 basis for emergency contacts named by the Client. Client is responsible for providing CivicPlus with contact updates.
19. Support includes providing technical support of the CivicPlus Content Management Software, application support (pages and modules), and technical maintenance of Client's website. Following initial setup, additional page design, graphic design, user training, site modification, and custom programming may be contracted separately for an additional fee.
20. During the period of this agreement and subsequent annual renewals, CivicPlus warrants that it will, without additional charge to the client, take action to correct any problems or defects discovered in the Software and reported to CivicPlus by the client, such warranty to include ongoing maintenance upgrades and technical error correction.
21. CivicPlus provides online website statistics software at no extra charge. If Client desires to use other website statistic software, CivicPlus will provide the necessary log file access.

Marketing

22. Client agrees to work with the CivicPlus Marketing Department to gather information and meet deadlines associated with website award contest entries throughout the term of this Agreement.
23. Client agrees to be recognized as a featured client on the CivicPlus website and in any CivicPlus marketing materials at least twice during the term of this Agreement; one to be shortly after the project launch date, the second to be mutually determined by the parties.
24. Client will cooperate with the CivicPlus Marketing Department to create a news item to be released in conjunction with their project launch date. Client will provide CivicPlus with contact information for local and regional media outlets. CivicPlus may use the press release in any marketing materials as desired throughout the term of this Agreement.
25. Client will cooperate with the CivicPlus Marketing Department to create a case study related to their website, to be completed within four months of their project launch date.
26. Client will provide the CivicPlus Marketing Department a letter of recommendation within three months of their launch date. Marketing may provide "talking points" for the letter.
27. If the opportunity exists, Client will attend one conference to participate in a joint presentation with CivicPlus regarding their website project.
28. Client agrees to allow CivicPlus to display a "Powered by CivicPlus" insignia and web link at the bottom of their web pages. Client understands that the pricing and any related discount structure provided under this Agreement assumes such perpetual permission. Client further permits CivicPlus to include an example of the Client's home page and a link to the Client's website on the CivicPlus corporate website.

Intellectual Property, Ownership & Content Responsibility

29. Upon full and complete payment of submitted invoices for the Project Development and launch of the website, client will own the graphic designs, web content, page designs and banners ("Customer Content"), as well as the CMS Software.
30. Upon completion of the development of the site, client will assume full responsibility for website content maintenance and content administration. Client, not CivicPlus, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Content.
31. Client shall not (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Software in any way; (ii) modify or make derivative works based upon the software; (iii) create Internet "links" to the Software or "frame" or "mirror" any functionality on any other server or wireless or Internet-based device; or (iv) reverse engineer or access the Software in order to (a) build a competitive product or service, (b) build a product using similar ideas, features, functions or graphics of the Software, or (c) copy any ideas, features, functions or graphics of the Software.
32. The CivicPlus name, the CivicPlus logo, and the product and module names associated with the CMS System are trademarks of CivicPlus, and no right or license is granted to use them.



Indemnification

33. Client shall defend, indemnify and hold harmless CivicPlus, its partners, employees, and agents from and against any and all lawsuits, claims, demands, penalties, losses, fines, liabilities, damages, and expenses including attorney's fees of any kind, without limitation, in connection with the operations of and installation of software contemplated by this Agreement, or otherwise arising out of or in any way connected with the CivicPlus provision of service and performance under this Agreement. This section shall not apply to the extent that any loss or damage is caused by the negligence or willful misconduct on the part of CivicPlus. If Client and CivicPlus are both negligent, damages shall be apportioned in accordance with the percentage of negligence of each party. This paragraph is not intended to benefit entities not a party to this contract.
34. CivicPlus will not be liable for any act, omission of act, negligence or defect in the quality of service of any underlying carrier or other service provider whose facilities or services are used in furnishing any portion of the service received by the customer. CivicPlus will not be liable for any failure of performance that is caused by or the result of any act or omission by customer or any entity other than CivicPlus that furnishes services, facilities or equipment used in connection with CivicPlus services or facilities.
35. Except as expressly provided in this Agreement, CivicPlus makes no expressed or implied representations or warranties, including any warranties regarding merchantability or fitness for a particular cause.

Force Majeure

36. No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by force majeure, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civic disturbance, riot, war, national emergency, act of Government, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

Acceptance

We, the undersigned, agreeing to the conditions specified in this document, understand and authorize the provision of services outlined in this Agreement.

City of Tomball

Date

CivicPlus

Date

Sign and Fax this Copy	And – Mail Two (2) Signed Originals
Attn: Contract Manager Fax: 785-587-8951	CivicPlus Contract Manager 317 Houston St., Suite E Manhattan, KS 66502

We will fax a counter-signed copy of the faxed contract back to you so we can begin your project. Upon receipt of two signed originals, we will counter-sign and return one copy for your files.

--Remainder of this page left intentionally blank--



Exhibit A - CivicPlus Project Deliverables

All Quotes are in US Dollars and Valid for 30 Days from March 12, 2012.

Labor Category	DIR Hourly Rate	Hours	Total Cost
Website Consultant	\$149.01	0.00	\$0.00
Project Manager	\$135.86	16.50	\$2,241.69
Network Consultant	\$135.86	0.00	\$0.00
Wireless Network Technician	\$135.86	0.00	\$0.00
Programmer	\$131.48	36.50	\$4,799.02
Graphic Designer	\$109.57	38.25	\$4,191.05
Writer	\$109.57	0.00	\$0.00
Server and Network Technician	\$109.57	12.25	\$1,342.23
Trainer	\$109.57	73.00	\$7,998.61
PC Technician	\$89.41	0.00	\$0.00
Content Developer	\$80.64	55.50	\$4,475.52
Total Project Development Fee			\$25,048.12
Extreme Website Makeover Discount			-\$5,000
Total Fees Year 1			\$20,048.12

Project Development Includes the Following:

Modules	Functionality
- Agenda Creator - Alerts Center & Emergency Alert Notification - Archive Center - Bid Postings - Business/Resource Directory - Calendar - Carbon Calculator - Document Center - ePay - Facilities & Reservations - FAQs - Featured Info Module - Forms Development Tool - Healthy City Initiative - Intranet - Job Postings - Media Center - My Dashboard - NewsFlash - NotifyMe Email Subscription - Online Job Application w/1 Generic Application - Opinion Poll - Permits & Licensing - Photo Gallery - Postcard Module - Quick Links - Real Estate Locator - Request Tracker (5 users) - Staff Directory	- Action Items Queue - Audit Trail / History Log - Automated PDF Converter - Automatic Content Archiving - Content Library - Dynamic Breadcrumbs - Dynamic Sitemap - Expiring Items Library - Graphic Link Administration - Links Redirect and Broken Links Finder - Menu Management - Mouse-over Menu Structure - Online Editor for Editing and Page Creation (WYSIWYG) - Online Web Statistics (Only with CivicPlus Hosting) - Page Wizard w/Multiple Layouts - Printer Friendly/Email Page - Rotating Content - RSS - Search Engine Registration - Site Layout Options - Site Search & Entry Log - Slideshow - User & Group Administration Rights - Web Page Upload Utility - Website Administrative Log



Project Development

Phase 1: Analysis and Timeline Development <u>Deliverable:</u> Project Timeline and worksheets		\$1,791
Phase 2: Website Design <u>Deliverable:</u> Website Design Composition		\$4,661
Phase 3: Navigation Architecture Development <u>Deliverable:</u> Navigation structure optimized for your website		\$1,091
Phase 4: Modules and Site Setup <u>Deliverable:</u> Set up fully functional site, software that runs the site, and site's statistical analysis.		\$1,788
Phase 5: Content Development of 75 standard pages and up to 375 supporting elements <u>Deliverable:</u> Website content development and module content.		\$4,177
Phase 6: Test and Review, Establish Future Expectations <u>Deliverable:</u> List of items that need to be addressed		\$1,902
Phase 7: 4 Days of On-Site Training for up to 10 employees <i>Quote includes travel expenses</i> <u>Deliverable:</u> Train System Administrator(s) on GCMS Administration, permissions, setting up groups and users, module administration. Basic User training on pages, module entries, applying modules to pages. Applied use and usability consulting to result in effective communication through your website.		\$8,000
Phase 8: Go-Live and Project Review <u>Deliverable:</u> Final project review report		\$1,140
Phase 9: Marketing <u>Deliverable:</u> Registration of site with all major search engines		\$498.12
Phase 10: Ongoing Consultation <u>Deliverable:</u> Site review with recommendations for enhancements to improve visitor interaction; layout, design and content recommendations.		Included
Additional Functionality		
Google Translation Tool		Included
Gov 2.0 Upgrades		
Blog	Share	Included
Facebook Integration	Twitter Integration	Included
Options Included in One-Time Fee		
None		Included
Total Project Development Fee		\$25,048.12
First Year Annual Support, Maintenance and Hosting Fee Server storage not to exceed 15 GB; Media Center storage not to exceed 10 GB		
		Included
Extreme Website Makeover Discount		-\$5,000
Total Fees Year 1		\$20,048.12



Annual Support, Maintenance & Hosting Server Storage not to exceed 15 GB Media Center Storage not to exceed 10 GB		
Base rate for Year Two begins at \$4,444.		
Support	Maintenance of CivicPlus Application & Modules	Hosting
7-7 (CST) Mon-Fri (excluding holidays) 24/7 Emergency Support Dedicated Support Personnel 2-hour Response during Normal Hours Usability Improvements Integration New & Upgraded Services Proactive Support for Updates & Fixes Online Training Manuals Monthly Newsletters Phone Consulting CivicPlus Connection CivicPlus University	Install Service Patches for OS Upgrades Fixes Improvements Integration Testing Development Usage License	Shared Web/SQL Server DNS Consulting & Maintenance Monitor Bandwidth-Router Traffic Redundant ISP Redundant Cooling Natural Gas Powered Generator Daily Tape Backup Intrusion Detection & Prevention Antivirus Protection Upgrade Hardware

Company Details

Icon Enterprises, Inc., d/b/a CivicPlus

Federal Tax ID 48-1202104
DIR Contract DIR-SDD-1636
Toll Free 888-228-2233

Mailing Address for Purchase Orders and
Payments

Icon Enterprises, Inc., d/b/a CivicPlus
Attn: Accounting
317 Houston St., Suite E
Manhattan, KS 66502



Exhibit B – Basic Redesign of Website

Basic Redesign of Website

Package Includes:

- **New design**
- Redevelop banner
- Up to 3 graphic buttons to promote special services
- Redevelop navigation method (may choose top drop-down or other options)
- Select color scheme to match new graphics
- Design setup - wireframe
- Print this page option
- Email this page option
- Breadcrumbs
- Sitemap
- Redevelop graphic elements of website (Newsflash, FAQs, Calendar, etc.)
- Project Management
- Testing
- Review
- Content Migration includes retouching of all existing pages on the redesigned website to ensure proper formatting, menu structure, and application of new site styles. Note: Content will not be rewritten or pages broken up (shortened or resectioned)
- Site styles and page layouts will be touched so all pages match the new design and migrate cleanly

Regular City Council

Agenda Item

Meeting Date: April 2, 2012

Data Sheet

Topic:

Approve **FINAL PLAT ACQUEST TOMBALL**: Being a Subdivision of 7.0434 Acres situated in the Joseph House Survey, A-34, City of Tomball, Harris County, Texas

Background:

The Planning and Zoning Commission approved the Preliminary Plat of Tomball Community Based Outpatient Clinic with contingencies on February 13, 2012. (The plat was requested to be shortened) Comments were addressed and the Final Plat of Tomball Acquest was approved by the Planning and Zoning Commission on March 12, 2012 with contingencies.

Comments have been addressed and the Final Plat of Tomball Acquest is now being presented for City Council approval.

Origination:

Tomball Acquest

Recommendation:

Approve Final Plat

Funding:

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

Engineering and Planning

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

ATTACHMENTS:

Final Plat Tomball Acquest

STATE OF TEXAS
COUNTY OF HARRIS

We, Tomball VA, LLC, acting by and through, Michael Huntress, President, and Omar Abu-Sitta, Secretary, being officers of Tomball VA, LLC, owners hereinafter referred to as Owners (whether one or more) of the 7.0434 acres tract described in the above and foregoing map of ACQUEST TOMBALL, do hereby make 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, 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 do dedicate to the use of the public for public utility purpose forever unobstructed aerial easement five feet 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 covenant and agree that all of the property within the boundaries of this plat is hereby restricted to provide that drainage structures under private driveways shall have a net drainage opening area of sufficient size to permit the free flow of water without backwater and in no instance have a drainage opening of less than one and three quarters square feet (18-inch diameter) with culverts or bridges to be provided for all private driveways or walkways crossing such drainage facilities.

FURTHER, Owners do hereby dedicate to the public a strip of land fifteen (15) feet 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 operations and maintenance of the drainage facility and that such obutting property shall not be permitted to drain directly into this easement except by means of an approved drainage structure.

IN TESTIMONY WHEREOF, the Tomball VA, LLC has caused these presents to be signed by Michael Huntress, President, thereunto authorized, attested by its Secretary (or authorized trust officer), Omar Abu-Sitta, and its common seal hereto affixed this 21st day of March, 2012.

Tomball VA LLC

By: Michael Huntress
Michael Huntress, President

Attest: Omar Abu-Sitta
Omar Abu-Sitta, Secretary

STATE OF NEW YORK
COUNTY OF ERIE

BEFORE ME, the undersigned authority, on this day personally appeared Michael Huntress and Omar Abu-Sitta known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and considerations therein expressed and in the capacity therein and herein stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 21st day of March, 2012.

CINDY DAUMEN
Notary Public - State of New York
No. 01DA616974
Qualified in Erie County
My Commission Expires July 2, 2015

Cindy Daumen
Cindy Daumen
Notary Public in and for the State of New York
County of Erie

My commission expires: 7-2-2015

We, Trustmark National Bank, owner and holder of a lien against the property described in the plat known as ACQUEST TOMBALL, said lien being evidenced by instrument of record in the Clerk's File No. 20120043744 of the Real Property Records of Harris County, Texas, do hereby in all things subordinate to said plat, said lien, and we confirm that we are the present owner of said lien and have not assigned the same nor any part thereof.

By: James M. Outlaw, Jr.
James M. Outlaw, Jr., President & C.O.O.

STATE OF TEXAS
COUNTY OF

BEFORE ME, the undersigned authority, on this day personally appeared James M. Outlaw, Jr., President and C.O.O., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and considerations therein expressed, and in the capacity therein and herein set out, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 22 day of MARCH, 2012.



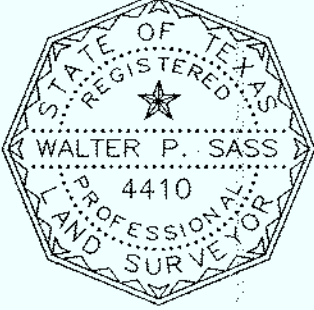
Nancy L. Vardilos
Nancy L. Vardilos
Notary Public in and for the State of Texas
County of

My commission expires: 09-13-2015

I, Laurie Young, do hereby certify that all existing encumbrances, such as various types of easements both public and private, fee strips, and all significant topographical features which would affect the physical development of the property illustrated on this plat are accurately identified and located and further certify that this plat represents all of the contiguous land which the (owner of subdivider) owns or has a legal interest in.

Laurie Young
Laurie Young

I, Walter P. Sass, am registered 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 have been marked with iron pipes or rods having an outside diameter of not less than three quarter (3/4) inch and a length of not less than three (3) feet; and that the plat boundary corners have been tied to the nearest survey corner.



Walter P. Sass
Registered Professional Land Surveyor
Texas Registration No. 4410

I, Stan Stanort, County Clerk of Harris County, do hereby certify that the within instrument with its certificate of authentication was filed for registration in my office on 2012 at o'clock M., and duly recorded on 2012 at o'clock M., and at Film Code No. 2012 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 Stanort
County Clerk
of Harris County, Texas

By: _____
Deputy

We, The City Manager and City Engineer for the City of Tomball, do hereby certify that this plat complies with the City of Tomball ordinance.

By: George Shackelford
George Shackelford, City Manager

By: Lori Lokan
Lori Lokan, P.E., CFM, Acting City Engineer

This is to certify that the Planning and Zoning Commission of the City of Tomball, Texas has approved this plat and subdivision of ACQUEST TOMBALL 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 _____ day of _____, 2012.

By: Lori Wallace
Lori Wallace, Chair

By: Evelyn Chervenak
Evelyn Chervenak, Vice Chairman

This is to certify that the City accepts the Planning and Zoning Commission authorized approval and acceptance of all dedicated public easements in conformance with the laws of the State of Texas and the ordinance of the City of Tomball as shown hereon and authorized the recording of this plat this _____ day of _____, 2012.

By: Gretchen Fagan
Gretchen Fagan, Mayor

By: Dorris Speer
Dorris Speer, City Secretary

PLAT OF
TOMBALL ELEMENTARY SCHOOL SUBDIVISION
F.C. NO. 341017
H.C.M.R.

KEEFER STREET

RALPH M. SHEPHERD
SANDRA W. SHEPHERD
H.C.C.F. NO. 20090392197
F.C. NO. 103-31-0696
O.P.R.R.P.H.C.
0.121 ACRE

RALPH M. SHEPHERD
SANDRA W. SHEPHERD
H.C.C.F. NO. 20090392197
F.C. NO. 103-31-0696
O.P.R.R.P.H.C.
0.166 ACRE

MICHAEL F. TURK
H.C.C.F. NO. 2008010525
FLM CODE NO. 006-29-0250
O.P.R.R.P.H.C.
0.479 ACRE

F.M. ROAD 2920
(TOMBALL-WALLER ROAD)
(H.C.C.F. NO. 2008010525)
(F.C. NO. 103-31-0696)

ILENE FOWLER THOMAS
H.C.C.F. NO. 20080292571
F.C. NO. 057-21-2054
O.P.R.R.P.H.C.
0.6509 ACRE

ACODA INC.
H.C.C.F. NO. 20070093145
F.C. NO. 039-52-0297
O.P.R.R.P.H.C.
0.5409 ACRE

K-P OIL, INC.
H.C.C.F. NO. T117614
F.C. NO. 519-57-1455
O.P.R.R.P.H.C.
0.4400E

SHEPHERD'S PROPERTY
F.C. NO. 634211
H.C.M.R.

CITY OF TOMBALL
CENTRAL FIRE STATION NO. 1 SUBDIVISION
F.C. NO. 631289
H.C.M.R.

RUDEL DRIVE
(80' R.O.W.)
(H.C.C.F. NO. 0394990)
F.C. NO. 058-15-0196, O.P.R.R.P.H.C.)

LOT 70, BLOCK 1
1.7833 ACRES
(77,682.36 SQ. FT.)

LOT 71, BLOCK 1
5.2601 ACRES
(229,129.36 SQ. FT.)

LOT 1, BLOCK 1
PALOMA PARK DEVELOPMENT
F.C. NO. 386008
H.C.M.R.

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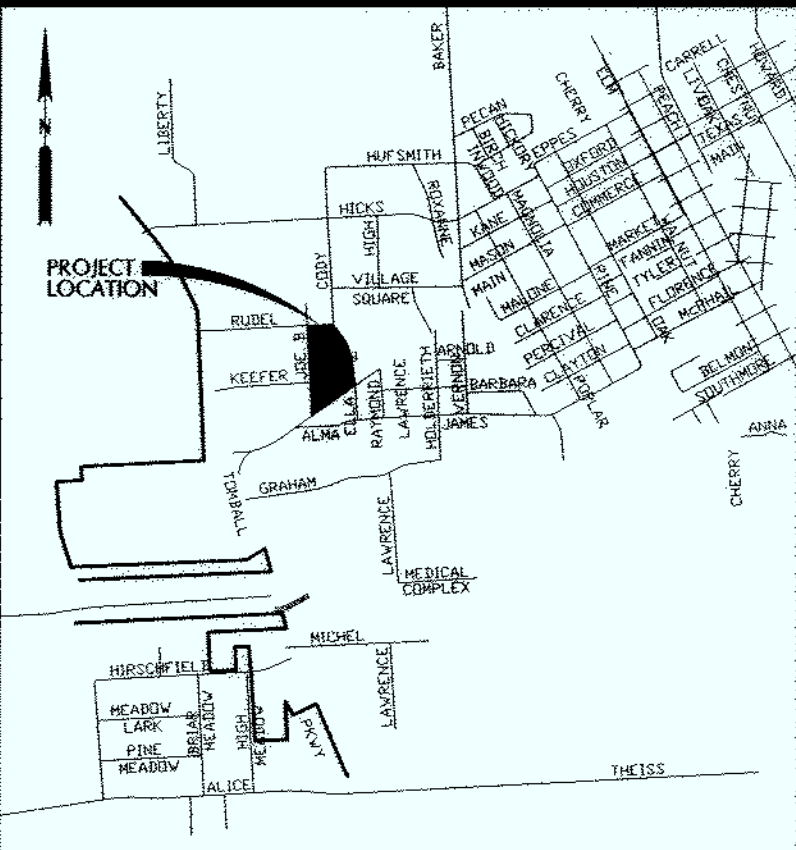
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SCALE IN FEET
0 60' 120'
SCALE: 1" = 60'



VICINITY MAP
N.T.S.
KEY MAP NO. 288-F.G.K. & L

- NOTES:
- THE COORDINATES SHOWN HEREON ARE TEXAS SOUTH CENTRAL ZONE NO. 4204 STATE PLANE GRID COORDINATES (NAD83) AND MAY BE BROUGHT TO SURFACE BY APPLYING THE FOLLOWING COMBINED SCALE: 1.000066237.
 - BASIS OF BEARINGS BEING THE TEXAS STATE PLANE COORDINATE SYSTEM (SOUTH CENTRAL ZONE NO. 4204).
 - H.C.M.R. INDICATES HARRIS COUNTY MAP RECORDS.
 - O.P.R.R.P.H.C. INDICATES OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF HARRIS COUNTY, TEXAS.
 - THE BUILDING LINES SHOWN IN 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.
 - BY GRAPHIC PLOTTING ONLY, THIS PROPERTY LIES WITHIN ZONE "X" OF THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 48201C0210L, WHICH BEARS AN EFFECTIVE DATE OF JUNE 18, 2007, AND DOES NOT LIE WITHIN A SPECIAL FLOOD HAZARD AREA. NO FIELD SURVEYING WAS PERFORMED TO DETERMINE THIS ZONE AND AN ELEVATION CERTIFICATE MAY BE NEEDED TO VERIFY THIS DETERMINATION OR APPLY FOR A VARIANCE FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
 - ALL OIL/GAS PIPELINES OR PIPELINE EASEMENTS WITH OWNERSHIP THROUGH THE SUBDIVISION HAVE BEEN SHOWN.
 - ALL OIL/GAS WELLS WITH OWNERSHIP (PLUGGED, ABANDONED, AND/OR ACTIVE) THROUGH THE SUBDIVISION HAVE BEEN SHOWN.
 - 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 SETBACK AT A MINIMUM SHOULD BE 15 FEET OFF CENTERLINE OF LOW PRESSURE GAS LINES, AND 30 FEET OFF CENTERLINE OF HIGH PRESSURE GAS LINE.
 - THIS PLAT DOES NOT ATTEMPT TO AMEND OR REMOVE ANY VALID COVENANTS OR RESTRICTIONS.
 - 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 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.

Line Table		
Line #	Length	Direction
L1	5.00'	S02° 32' 01"W
L2	66.79'	S28° 37' 28"E
L3	65.00'	N01° 58' 01"W
L4	5.00'	N02° 31' 59"W

OWNER:

Tomball VA LLC
80 Curtwright Drive, Suite 5
Williamsville, NY 14221
716-204-3570

SURVEYOR:

WEISSER Engineering Co.
19500 Park Row, Suite 100
Houston, Texas 77064
(281) 579 -

Regular City Council

Agenda Item

Meeting Date: April 2, 2012

Data Sheet

Topic:

Adopt, on First Reading, Ordinance No. 2012-04, an Ordinance of the City of Tomball, Texas, amending Article V. Records Management, Division 1, Generally, Section 2-222. Records Control Schedules—to be Developed; Approval; Filing with State, by Deleting Section 2-222 in its Entirety and Adopting a New Section 2-222. Records Control Schedule, Providing for the Publication of this Ordinance; and Making Other Findings and Provisions Related Thereto

Background:

In 1990, the City of Tomball adopted its official records management program; in 1992, Council approved the set of Records Control Schedules submitted by the City Secretary's office. The approved Records Control Schedules were submitted to and approved by the Texas State Library and we have been operating under these schedules since 1992.

The Texas State Library regularly reviews and revises its Records Control Schedules to incorporate new types of records into the system and to ensure that retention dates meet changing standards.

I believe it would be advantageous for the City to adopt the Texas State Library's Records Control Schedules and to provide for the automatic use of the latest State of Texas Records Retention Schedules. The Local Government Records Act allows cities to adopt the Texas State Library's schedules instead of creating and maintaining their own schedules; the advantage to adopting the Texas State Library's schedules is that the City would not need to submit amended records retention schedules for approval by the State Library should the City's schedules no longer meet state requirements.

The proposed Ordinance will adopt the appropriate Records Control Schedules issued by the Texas State Library and Archives Commission for use in the City of Tomball, as provided by law. Any destruction of City records will continue to be processed in accordance with these schedules and the Local Government Records Act. As new records retention schedules are created by the State Library, they will automatically be included in Tomball's records management program.

The City Secretary, as the records management officer, will monitor the appropriate schedules issued by the Texas State Library and Archives Commission to ensure that the City is in compliance with the records retention schedules issued by the state and the records management program of the City.

Origination:

Doris Speer, City Secretary

Recommendation:

Adopt Ordinance No. 2012-04 on First Reading.

Funding:

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

Doris Speer, City Secretary

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

ATTACHMENTS:

Ordinance No. 2012-04

ORDINANCE NO. 2012-04

**AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS,
AMENDING ARTICLE V. RECORDS MANAGEMENT,
DIVISION 1, GENERALLY, SECTION 2-222. RECORDS
CONTROL SCHEDULES—TO BE DEVELOPED;
APPROVAL; FILING WITH STATE, BY DELETING
SECTION 2-222 IN ITS ENTIRETY AND ADOPTING A
NEW SECTION 2-222. RECORDS CONTROL SCHEDULE,
PROVIDING FOR THE PUBLICATION OF THIS
ORDINANCE; AND MAKING OTHER FINDINGS AND
PROVISIONS RELATED THERETO.**

* * * * *

WHEREAS, Title 6, Subtitle C. Local Government Code provides that a City must establish by Ordinance an active and continuing Records Management Program to be administered by a Records Management Officer; and

WHEREAS, the Tomball city Council adopted Ordinance 90-10 on December 17, 1990 for that purpose and to prescribe policies and procedures consistent with the Local Government Records Act and in the interest of cost-effective record keeping; and

WHEREAS, the Tomball City Council now finds it advantageous to adopt the State of Texas Records Retention Schedules and to provide for the automatic use of the latest State of Texas Records Retention Schedules;

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

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

Section 2. Section 2-222. “Records control schedules—To be developed; approval; filing with state.” of Chapter 2. Administration of the Code of Ordinances of the City of Tomball, Texas is hereby deleted in its entirety and a new Section 2-222. “Records control schedules—Approval; filing with state.” is hereby added, with the new Section 2-222 to read as follows:

“Section 2-222. Records control schedules—Approval; filing with state.

(a) The City of Tomball hereby adopts the appropriate records control schedules issued by the Texas State Library and Archives Commission for use in the City of Tomball, as provided by law. Any destruction of records of the City of Tomball will be in accordance with these schedules and the Local Government Records Act.

Sec. 2-222. Records control schedules--To be developed; approval; filing with state.

(b) The records management officer, in cooperation with department heads and records liaison officers, shall maintain an inventory, on a department-by-department basis, listing all records archived by the department and the retention period for each record. Records control schedules shall also contain such other information regarding the disposition of local municipal government records as the records management plan may require.

(c) The records management officer will monitor the appropriate records control schedules issued by the Texas State Library and Archives Commission to ensure that the City is in compliance with the records retention schedules issued by the state and the records management program of the City.

(d) Before implementation of the records control schedules issued by the Texas State Library and Archives Commission, Ordinance No. 2012-04, adopting the Texas State Library and Archives Commission records control schedules shall be submitted to and accepted for filing by the Director and Librarian of the Texas State Library and Archives Commission as provided by state law. If Ordinance No. 2012-04 is not accepted for filing, the Ordinance shall be amended to make it acceptable for filing with the state and presented to Council, after which the records management officer shall submit the amended Ordinance to the Director and Librarian.

Section 3. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 4. This Ordinance shall become effective fourteen days after the final reading and adoption of this Ordinance when the caption hereof is caused to be published once in the official newspaper of the City, by the City Secretary, as required by law. The City Secretary is directed to publish the caption of this Ordinance in the City's official newspaper within 14 days after the passage of the ordinance.

Section 5. 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 MARCH 2012.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
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 2ND DAY OF APRIL 2012.

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

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

Regular City Council

Agenda Item

Data Sheet

Meeting Date: April 2, 2012

Topic:

Executive Session: The City Council will meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

- Sec. 551.087 – Deliberations Regarding Economic Development

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	