

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



MONDAY, APRIL 18, 2011

7:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, April 18, 2011 at 7:00 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 Ted Ritts, Commander, Tomball American Legion Post 127

3.0 Pledges to U.S. and Texas Flags

- Led by Ted Ritts, Commander, Tomball American Legion Post 127

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:

- **American Legion Public Safety Award** - Ted Ritts, Commander, Tomball American Legion Post 127, honoring Public Safety Awardees for 2010 in the Tomball Police and Fire Departments and Northwest EMS
- Proclamation – **Childhood Cancer Awareness Week** – Mayor Fagan

6.0 Reports and Announcements

- Report from the Tomball Sister City Organization regarding German Heritage Festival
- **Farmers Market** – 9 a.m.-1:00 p.m. (Every Saturday, April through July)
- April 18-23, 2011 – **City of Tomball Spring Clean Up Week** – 8:00 a.m. to 4:30 p.m.
- April 26, 2011 – **Boards and Commissions Appreciation Banquet** – 6:00 p.m. to 8:00 p.m., at the Community Center, Room A
- April 28, 2011 – City of Tomball to Receive Award from ASLA for Downtown Livable Centers
- May 2, 2011 – Appointments to Planning and Zoning Commission for terms expiring June 1, 2011
- May 5, 2011 – **Mayor's Coffee** – Nona's Italian Grill - 5:30 p.m.-7:00 p.m.
- **May 14, 2011 – Election Day – General City Election at City Hall, 7:00 a.m.-7:00 p.m.**
- May 14, 2011 – **2nd Saturday at the Depot**
- **Walk Tomball!** (every Saturday at 8:00 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
 - Shawn Cox – Report on April 9, 2011 Bunny Run

7.0 Approve the Minutes of the April 4, 2011 Regular City Council Meeting and the April 11, 2011 Special Tomball City Council, Planning and Zoning Commission, and Downtown Tomball Advisory Committee Meeting

8.0 New Business:

8.1 Appoint Members to the Tomball Economic Development Corporation

8.2 Approve the Following Plats, as Recommended by the Planning and Zoning Commission:

- **TOMBALL R 135 FINALPLAT**; Being a subdivision of 2.5721 acre tract, 112,042.65 Square Feet, Situated in the C.N. Pillot, Survey A-632 and Sam Lewis, Survey A-1704, Harris County, Texas, as recommended by Planning and Zoning Commission
- **STRIPES - FM 2920 REPLAT**: A subdivision of 1.2707 acres or 55,352 square feet of land, Being a partial Replat of Unrestricted Reserve "B" of Tomball East Gate Center, recorded under F.C. No. 542107, H.C.M.R. and Outlots 313 and 314 of Tomball Townsite, Vol. 2, Pg. 65, H.C.M.R. situated in the Jesse Pruitt Survey, Abstract No. 629, City of Tomball, Harris County, Texas.

- 8.3 Public Hearing on Application of Phillip O’Sullivan for Abandonment of a Portion of Ash and Timkin Street Rights-of-Way
- 8.4 Approve Application of Philip O'Sullivan for Abandonment of a Portion of Ash and Timkin Road Right-of-Ways and Adopt, on First Reading, Ordinance No. 2011-04, an Ordinance of the City of Tomball, Texas, finding and determining that public convenience and necessity no longer require the continued existence of road right-of-way containing all that certain tract or parcel containing 7,827.73 square feet situated in the William Hurd Survey, A-371 in Harris County, Texas, same also being a part of Ash Street, (variable width, unimproved), as shown on the revised map of Tomball, a subdivision in Harris County, Texas according to the map or plat thereof filed for record in volume 4, page 25 of the Harris County Map Records and a part of Timkin Road, (variable width) as recorded in instruments filed for record in volume 338, page 552 and under Harris County Clerk's File No. M-572329 of the Harris County Deed Records; vacating, abandoning, and closing said roadway right-of-way; authorizing the Mayor to execute and the City Secretary to attest, respectively, deed without warranty of title; providing for severability; and containing other provisions relating to the subject.
- 8.5 Consideration and possible action regarding **ZONING CASE P10-289**: Request by Jeff Williams III of Professional Welding Supply for a Conditional Use Permit to allow the installation/operation of a 1,000-gallon aboveground propane tank for the purpose of propane sales/filling. The property is an approximately .5019 acre site, legally described as Lot 1, Block 1 of the Williams Number One Replat, generally located southerly of Main Street between Howard Street and Willow Street at 503 East Main Street, Tomball, Texas. The site is located in the GR-General Retail District.
- Conduct a Public Hearing on **ZONING CASE P10-289**
 - Adopt on First Reading, Ordinance No. 2011-05; An Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by granting a Conditional Use Permit to Jeff Williams III of Professional Welding Supply, to allow the installation/operation of a 1,000 gallon above-ground propane tank for the purpose of propane sales/filling; Said tract being located within the City in Zoning District GR-General Retail District and being legally described as Lot 1, Block 1 of the Williams Number One Replat, generally located southerly of Main Street between Howard Street and Willow Street at 503 East Main Street, Tomball, Texas; Providing requirements and conditions for this Conditional Use Permit; Containing findings and other provisions relating to the subject; Providing a penalty in an amount not to exceed two thousand dollars for violations hereof; and providing for severability.
- 8.6 Consideration and possible action regarding **ZONING CASE P11-313**; Public hearing to consider a City-initiated text amendment to the Tomball Comprehensive Zoning Ordinance (Ordinance No. 2008-01) to amend Section 34.6.E.1 (“Additional Off-Street Parking Space Requirements”) to delete the off-street parking requirements in the OT & MU - Old Town & Mixed Use District for that portion of the Old Town Area bounded by Fannin Street, Houston Street, the railroad tracks, and Pine Street, and including the lots that front on Fannin Street and Houston Street adjacent to such portion.
- Conduct a Public Hearing on **ZONING CASE P11-313**

- Adopt on First Reading, Ordinance No. 2011-06, An Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by amending Section 34.6.E.1 (“Additional off-street parking space requirements”) to delete the off-street parking requirements in the OT & MU - Old Town & Mixed Use District for that portion of the Old Town area bounded by Fannin Street, Houston Street, the railroad tracks, and Pine Street, and including the Lots that Front on Fannin Street and Houston Street adjacent to such portion; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof; making findings of fact; and providing for other related matters.
- 8.7 Approve Service Agreement with Main Street Crossing for Advertising Services
- 8.8 Approve Amendments to Administrative Policy Number 22, *"Hotel Occupancy Tax Grant Process and Application,"* as recommended by the Tourism Advisory Committee
- 8.9 Adopt on First Reading, Ordinance No. 2011-07, an Ordinance of the City of Tomball, Texas, amending Chapter 2. Administration, of Its Code of Ordinances to Change Its Regular Meeting Time to 6:00 P.M.; amending Subsections 2-32(C) Meetings and 2-32(D)(6) Organization and Order Of Agenda Related to the Same; Making Other Provisions Related Thereto; Repealing Ordinances or Parts of Ordinances Inconsistent Herewith; and Providing for Severability
- 8.10 Adopt, on First Reading, Ordinance No. 2011-08, an Ordinance of the City Council of the City of Tomball, Texas, Providing for Minor Plats; and Making other Findings and Provisions related Thereto
- 8.11 Discussion and Possible Direction to City Staff regarding Lone Star College-Tomball's Decision to Purchase Natural Gas Supplies from the Texas General Land Office (GLO)
- 8.12 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:
- Sec. 551.072 – Deliberations Regarding Real Property

9.0 Adjournment

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall,

City of Tomball, Texas, a place readily accessible to the general public at all times, on the 15th day of April 2011 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

*Doris Speer*_____

Doris Speer

City Secretary, TRMC

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

AGENDAS MAY ALSO BE VIEWED ONLINE AT www.ci.tomball.tx.us.

Regular City Council
Agenda Item
Data Sheet

Meeting Date: April 18, 2011

Topic:

- **American Legion Public Safety Award** - Ted Ritts, Commander, Tomball American Legion Post 127, honoring Public Safety Awardees for 2010 in the Tomball Police and Fire Departments and Northwest EMS
- Proclamation – **Childhood Cancer Awareness Week** – Mayor Fagan

Background:

Origination:

Recommendation:

Funding:

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

City Secretary

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

ATTACHMENTS:

Childhood Cancer Awareness Week

Office of the Mayor
Tomball, Texas

Proclamation



- WHEREAS,** the *American Cancer Fund for Children* and *Kids Cancer Connection* report that cancer is the leading cause of death by disease among children in the United States and that this tragic disease is detected in nearly 15,000 of our nation's young people each and every year; and
- WHEREAS,** founded nearly twenty years ago by Steven Firestein, a member of the philanthropic Max Factor family, the *American Cancer Fund for Children, Inc.* and its sister organization, *Kids Cancer Connection, Inc.* are dedicated to helping these children and their families; and
- WHEREAS,** the *American Cancer Fund for Children* and *Kids Cancer Connection* provide a variety of vital patient psychosocial services to children undergoing cancer treatment at *Texas Children's Cancer Center and Hematology Service in Houston* and *Dell Children's Medical Center of Central Texas: Division of Hematology/Oncology in Austin*, as well as participating hospitals throughout the country, thereby enhancing the quality of life for these children and their families; and
- WHEREAS,** through its uniquely sensitive and comforting *Magical Caps for Kids* program, the *American Cancer Fund for Children* and *Kids Cancer Connection* distributes thousands of beautifully handmade caps and decorated baseball caps to children to protect their heads following the trauma of chemotherapy, surgery and/or radiation treatments; and
- WHEREAS,** the *American Cancer Fund for Children* and *Kids Cancer Connection* also sponsors nationwide *Courageous Kid* recognition awards ceremonies and hospital celebrations in honor of a child's determination and bravery to fight the battle against childhood cancer;

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 the week of May 1 through May 6, 2011, as:

"CHILDHOOD CANCER AWARENESS WEEK"



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

ATTEST:

DATE:

Alvin Spurr

March 30, 2011

Regular City Council

Agenda Item

Meeting Date: April 18, 2011

Data Sheet

Topic:

- Report from the Tomball Sister City Organization regarding German Heritage Festival
- **Farmers Market** – 9 a.m.-1:00 p.m. (Every Saturday, April through July)
- April 18-23, 2011 – **City of Tomball Spring Clean Up Week** – 8:00 a.m. to 4:30 p.m.
- April 26, 2011 – **Boards and Commissions Appreciation Banquet** – 6:00 p.m. to 8:00 p.m., at the Community Center, Room A
- April 28, 2011 – City of Tomball to Receive Award from ASLA for Downtown Livable Centers
- May 2, 2011 – Appointments to Planning and Zoning Commission for terms expiring June 1, 2011
- May 5, 2011 – **Mayor's Coffee** – Nona's Italian Grill - 5:30 p.m.-7:00 p.m.
- **May 14, 2011 – Election Day – General City Election at City Hall, 7:00 a.m.-7:00 p.m.**
- May 14, 2011 – **2nd Saturday at the Depot**
- **Walk Tomball!** (every Saturday at 8:00 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
 - Shawn Cox – Report on April 9, 2011 Bunny Run

Background:

Origination:

Various

Recommendation:

Funding:

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

City Secretary

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

ATTACHMENTS:

City of Tomball Spring Clean Up Week

Mayor's Coffee

2nd Saturday at the Depot

City of Tomball

Spring Clean up

Week of April 18, 2011 to April 23, 2011
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 | |
| • Pool chemicals | | |
| • Batteries | | |
| • Oil filters | | |

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

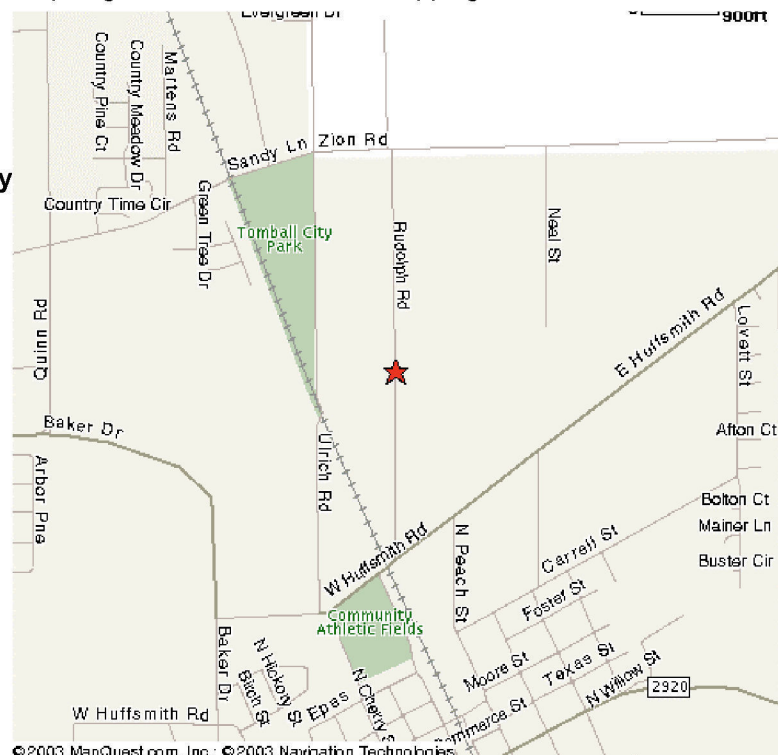
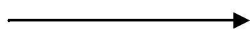
Acceptable items are anything that is inert and would not harm the environment before or after disposal into a landfill.

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



May 5, 2011
5:30 P.M.
Nonna's Italian Grill
1025 Alma

Mayor's Coffee

Stop by to get in
touch with Tomball!



Gretchen Fagan
Mayor

For more information call 281-290-1002 or visit ci.tomball.tx.us

2ND SATURDAY AT THE DEPOT

May 14 Tomball, TX

Fun Kid's Crafts!

Music by:

Tudy

The Flute Player

Face Painting!

Special Visit from:
Little Orphan Annie!
Daddy Warbucks
&

His assistant
Miss Grace Farrell

Help
Abandoned
Animal Rescue,
bring, your
favorite pet food
to donate!



HISTORIC TOMBALL DEPOT PLAZA

201 South Elm ~ One block south of Main Street

Opens at 6:00 PM ~ Movie begins at dark

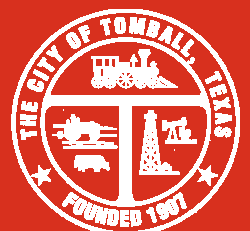
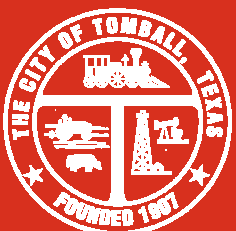
Free family entertainment for all ages

Bring your lawn chairs

No Glass Containers!

For more information, please call

Rosalie Dillon at 281-610-2595



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

Regular City Council

Agenda Item

Data Sheet

Meeting Date: April 18, 2011

Topic:

Approve the Minutes of the April 4, 2011 Regular City Council Meeting and the April 11, 2011 Special Tomball City Council, Planning and Zoning Commission, and Downtown Tomball Advisory Committee Meeting

Background:**Origination:**

City Secretary

Recommendation:

N/A

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

City Secretary

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

ATTACHMENTS:

Draft - Council Minutes - April 4, 2011

Draft - Council/P and Z/DTAC - April 11, 2011

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



MONDAY, APRIL 4, 2011

7:00 P.M.

1.0 Call to Order

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

Councilman Quinn
Councilman Stoll
Councilman Brown
Councilman Townsend
Councilman Dodson

Others present:

City Manager – George Shackelford
Assistant City Manager – Christal Kliwer
City Secretary – Doris Speer
City Attorney – Loren Smith
Chief of Police – Robert Hauck
Director of Public Works – David Kauffman
Fire Chief – Randy Parr
Finance Director – Glenn Windsor
HR Director – Lisa Coe
Assistant to City Manager – Shawn Cox
Assistant Fire Chief – Jon Fontenot
Assistant City Planner – Rodney Schmidt
Assistant City Engineer – Lori Lakatos
Building Official – David Allen

Draft

2.0 The invocation was led by Pastor Richard Jennings, River of Praise

3.0 Pledges to the U. S. and Texas flags were led by Michelle Barrera and Ana Feria, Tomball High School Student Council.

4.0 The following public comments were received:

- | | |
|--|---|
| Mary Lu Wiley
14120 Carneswood, 77375 | - Urged Council to consider more closely the viewpoints/backgrounds of individuals Council appoints to boards and commission. |
| Bill Webb
915 Baker, 77375 | - Expressed his concerns regarding Items 8.3, new fire truck, and 9.3, fire station foundation. |

5.0 Presentations:

- Mayor Fagan presented a proclamation declaring Saturday, April 9, 2011 as a **“Day of Healthy Living in Tomball”** to the members of the Tomball Area Health Awareness Organization.

6.0 Reports and Announcements:

- April 2, 2011 – **Farmers Market** Opens – 9 a.m.-1:00 p.m. (Every Saturday)
- April 9, 2011 – **3rd Annual City of Tomball Bunny Run 5K and Kids 1 Mile – 8:00 a.m. and 8:45 a.m.**
- April 9, 2011 – **“Day of Healthy Living in Tomball”** – Health Expo sponsored by Tomball Area Health Awareness Organization and the City of Tomball – 9:00 a.m.
- April 9, 2011 – **Downtown Specific Plan Public Design Workshop**, Tomball Community Center, 221 Market Street, beginning at 3:00 p.m.
- April 9, 2011 – **Downtown Specific Plan Question & Answer Session** at the Second Saturday Event, at The Depot, beginning at 5:00 p.m.
- April 9, 2011 and May 14, 2011 – **2nd Saturday at the Depot**
- April 11, 2011 – 7:00 p.m.-9:00 p.m. – **Joint CC / P&Z / DTAC Workshop #2**
- April 18, 2011 – Appointments to Tomball Economic Development Corporation for terms expiring May 2, 2011
- April 18-23, 2011 – **City of Tomball Spring Clean Up Week** – 8:00 a.m. to 4:30 p.m.
- April 26, 2011 – **Boards and Commissions Appreciation Banquet** – 6:00 p.m. to 8:00 p.m., at the Community Center, Room A
- May 14, 2011 – **Election Day – General City Election at City Hall, 7:00 a.m.-7:00 p.m.**
- May 16, 2011 – Appointments to Planning and Zoning Commission for terms expiring June 1, 2011
- **Walk Tomball!** (every Saturday at 8:00 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
 - Glenn Windsor – Report regarding Request for Proposals to Auditors for the Independent Audit of the Financial Statements for the Fiscal Year

ending September 30, 2011; RFPs will be sent out in fiscal year 2011-2012 for auditor services. George advised that he and Glenn Windsor will update Council following a meeting with the current auditors to discuss the audit process for fiscal year ending September 30, 2011.

- Shawn Cox - Update regarding Oilfield Helping Hands Auto Show and Motorcycle Rally
- Lisa Coe - Report on the Youth Opportunities Fair

- 7.0 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve the minutes of the March 21, 2011 Regular City Council Meeting

Motion carried unanimously.

- 8.0 Old Business:

Councilman Dodson advised Mayor and Council that he would recuse himself from discussion and vote regarding Items 8.1 and 8.2 and that he had filed an affidavit of Conflict of Interest with the City Secretary.

- 8.1 Motion was made by Councilman Townsend, second by Councilman Brown, to adopt on Second Reading, Ordinance No. 2011-02, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of Approximately 2.57 Acres of Land, Legally Described as Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704, within the City of Tomball, Harris County, Texas, From the AG-Agricultural District to the C-Commercial District; Said Property Being Generally Located on the westerly side of State Highway 249, southerly of Alice Road; Providing for the Amendment of the Official Zoning Map of the City; Providing for Severability; Providing for a Penalty of an amount not to exceed \$2,000 for each day of violation of any Provision Hereof, Making Findings of Fact; and Providing for other Related Matters. Vote was as follows:

Councilman Dodson	<u>Abstain</u>
Councilman Quinn	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Aye</u>

Motion carried unanimously.

- 8.2 Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt, on Second Reading, Ordinance No. 2011-03, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by Granting a Conditional Use Permit to CMH Homes, Inc., to operate a "Manufactured Home Display or Sales (New or Used)"

Facility; Said Property Being Located within the City in Zoning District C-Commercial and Being Legally Described as Tracts 2V and 2W out of the C.N. Pillot Survey, Abstract 632 and Tract 8A out of the Sam Lewis Survey, Abstract 1704, Generally Located on the westerly side of State Highway 249, Southerly of Alice Road in Tomball, Texas; Providing Requirements and Conditions for this Conditional Use Permit; Containing Findings and Other Provisions Relating to the Subject; Providing a Penalty in an amount not to exceed Two Thousand Dollars for Violations Hereof; and Providing for Severability. Vote was as follows:

Councilman Quinn	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Dodson	<u>Abstain</u>

Motion carried unanimously.

- 8.3 Randy Parr presented information regarding the proposed acquisition of a new fire truck and the associated additional equipment. Motion was made by Councilman Townsend, second by Councilman Brown, to approve the acquisition of a New Fire Truck to replace Engine 4, the Frontline Pumper at Station 1, due to Significant Mechanical and Safety Issues, and to authorize the City Manager to Execute the Necessary Documentation.

Motion carried unanimously.

- 8.4 Glenn Windsor presented information regarding the proposed financing of a new fire truck and associated additional equipment. Motion was made by Councilman Townsend, second by Councilman Brown, to approve Tax-Exempt Financing through Oshkosh Capital, not to exceed \$725,000, to purchase a Pierce Custom Velocity PUC Fire Truck to Replace TFD Engine 4, the Frontline Pumper at Station 1, due to Significant Mechanical and Safety Issues.

Motion carried unanimously.

9.0 New Business:

- 9.1 Rob Hauck and Shawn Cox presented the proposed request for city support. Motion was made by Councilman Townsend, second by Councilman Dodson, to approve request from Shattered Lives Program City Support in the Use of Police and Fire Personnel and Equipment.

Motion carried unanimously.

- 9.2 Lori Lakatos presented an overview of the proposed plats. Motion was made by Councilman Dodson, second by Councilman Brown, to approve the following plats, as recommended by the Planning and Zoning Commission:

- **CORRIENTE COMMERCIAL FINAL PLAT**: Being a subdivision of 4.8595 acres of land situated in the Joseph House Survey, Abstract Number 34, of Harris County, Texas, as described in deed recorded in Clerk's File Number U311750 of the Real Property Records of Harris County, Texas.
- **REPLAT 1 OF TOMBALL MEDICAL PLAZA**: Being a Replat of Tomball Medical Plaza being 2.8278 acres out of Lot 12, Recorded under F.C. No 635259 of the Harris County Map Records, Situated in the William Hurd Survey, Abstract 378, Harris County, Texas.
- **RESERVE AT TOMBALL FINAL PLAT**: A 56.530 acre tract of land being a partial Replat of Tomball Townsite Recorded in Volume 2, Page 65, H.C.M.R., and Tomball East Gate Center recorded under Film Code No. 542107, H.C.M.R., Being all of a called 55.6484 acre tract recorded under Harris County Clerk's File No. 20100211861, and the residue of unrestricted Reserve "B", Tomball East Gate Center, in the Jesse Pruitt Survey, Abstract No. 629, City of Tomball, Harris County, Texas.

Motion carried unanimously.

- 9.3 George Shackelford, Dale Conger, Cobb, Fendley & Associates, and Jay Khayrattee, Matrix Structural Engineers, presented information regarding Cobb, Fendley's proposed revision to the pier and pier cap design for the Tomball Central Fire Station. George Shackelford advised Council that the delay in the project was created due to the incorrect placement of the piers by the contract and that he had advised Momentum Construction that no additional expenses would be accepted by the City as a result of their actions. Motion was made by Councilman Townsend, second by Councilman Stoll, to accept Cobb, Fendley's recommendations regarding revisions to the Pier and Pier Cap Design for the Tomball Central Fire Station Expansion and to direct Momentum Construction to proceed with the corrective installation of two additional dowels at each pier and spaced between those already provided, as recommended by Cobb, Fendley. Vote was as follows:

Councilman Quinn	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Nay</u>
Councilman Dodson	<u>Aye</u>

Motion carried, 4 votes Aye, 1 vote Nay.

- 9.4. George Shackelford presented an overview of proposed HB 2255. Motion was made by Councilman Dodson, second by Councilman Quinn, to endorse HB 2255, Relating to the Authority of the Texas Department of Transportation to Enter into Comprehensive Development Agreements for Certain Projects, including the Grand Parkway and State Highway 249 Projects in Harris and Montgomery Counties from Spring Cypress Road to Farm-to-Market Road 1774 and to authorize the City Manager or his Designee to write letters and provide additional communications to members of the State Legislature.

Motion carried unanimously.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this 18th day of April 2011.

Doris Speer, TRMC
City Secretary

Gretchen Fagan
Mayor

**MINUTES OF SPECIAL TOMBALL CITY COUNCIL,
PLANNING AND ZONING COMMISSION, AND
DOWNTOWN TOMBALL ADVISORY COMMITTEE MEETING
CITY OF TOMBALL, TEXAS**



MONDAY, APRIL 11, 2011

7:00 P.M.

1.0 Call to Order

The Council and Downtown Tomball Advisory Committee meetings were called to order by Mayor Gretchen Fagan. Other members present were:

Councilman Stoll
Councilman Brown
Councilman Townsend
Councilman Dodson

Council absent:

Councilman Quinn

DTAC members present:

Rick Davis
Rodney Hutson
Curtis Morris
Mike Ott
Billy Barton
Mary Harvey
Cindy Jaeger
Vince Falbo
Jarmon Wolfe
Sandy Glowski
Charles Hall
Christina Nash
John Ford

draft

DTAC members absent:

Karen Foxworthy
Aleata Oeser
Mitchell Holderrieth.

The Planning and Zoning Commission meeting was called to order by Vice Chair Tom Crofoot.
Other members present were:

Commissioner – Field Hudgens
Commissioner – Barbara Tague
Commissioner – John Mottershaw

Members absent:

Chair – Lori Wallace - Excused

Others present:

City Manager – George Shackelford
Assistant City Manager – Christal Kliever
City Secretary – Doris Speer
City Attorney – Scott Bounds
Assistant to the City Manager – Shawn Cox
City Planner – Kelly Violette
Assistant City Engineer – Lori Lakatos
Assistant City Planner - Rodney Schmidt
Building Official – David Allen
Fire Marshal – Doug Sanguedolce
Fire Inspector – Tommy Nicholson
Administrative Assistant-E&P – Brandy Pate
Partners for Strategic Action – Peggy Fiandaca
Partners for Strategic Action – Audra Koester Thomas
Kimley-Horn and Associates – Anita Hollmann

- 1.1 Nominations were made for Rodney Hutson or Barbara Tague for Chair. Rodney Hutson was elected Chair.

Nominations were made for Cindy Jaeger or Chris Nash for Vice Chair. Cindy Jaeger was elected Vice Chair.

- 2.0 No Public Comments were received.

- 3.0 Motion was made by Rodney Hutson, second by Cindy Jaeger, to approve the Minutes of the Downtown Tomball Advisory Committee Meeting (#1) of March 3, 2011.

Motion carried unanimously.

- 4.0 New Business: Peggy Fiandaca, PSA, presented the results of the April 9, 2011 Downtown Specific Plan Public Design Workshop and Question & Answer Session and the April 11, 2011 Downtown Specific Plan Design Studio Event:

4.1 Project Update

4.2 Design Charrette Results:

- a. Public Workshop #1
- b. 2nd Saturday at the Depot
- c. Design Studio
- d. Focus Group

4.3 Downtown Specific Plan Discussion
The Downtown Specific Plan includes six areas:

- a. Historic Main Street
- b. Old Town Plaza Area
- c. Commercial
- d. Mixed Use Transition
- e. Old Town Residential
- f. Museum Center

4.4 Consider Next Steps

- a. Land Use Classification Chart
- b. Hierarchy of Streets
- c. Exhibits/Maps on Display

The next scheduled meetings will be a Joint Council and Planning and Zoning Commission meeting on July 18, a Downtown Tomball Advisory Committee meeting on July 19, and a Public Workshop on July 19.

- 5.0 Motion was made by Commissioner Crofoot, second by Commissioner Hudgens, to adjourn the Planning and Zoning Commission meeting.

Motion carried unanimously.

Motion was made by Councilman Stoll, second by Councilman Dodson, to adjourn the City Council and Downtown Tomball Advisory Committee meeting.

Motion carried unanimously.

Meetings adjourned.

PASSED AND APPROVED this 18th day of April 2011.

Doris Speer, TRMC
City Secretary

Gretchen Fagan
Mayor

Regular City Council

Agenda Item

Data Sheet

Meeting Date: April 18, 2011

Topic:

Appoint Members to the Tomball Economic Development Corporation

Background:

The terms for the following TEDC board members expire May 2, 2011:

Steven Vaughan
James Geer, DDS
Gretchen Fagan.

Mr. Vaughan has expressed his desire to be appointed to a third term on the TEDC; Dr. Geer does not wish to be reappointed. The City may appoint up to four council members to the TEDC board; currently, one council member and the mayor serve. In addition to the above board members, the following individuals (shown in alphabetical order) have expressed an interest in serving on the TEDC board:

Michele Beauvais
John Dillon (currently serving on ESD#8)
April Gray (currently an alternate on the BOA)
Brad Hallmark
Mary Harvey (currently serving on the TAC)
James Kendler
Roy P. Lackey
Barbara Tague (currently serving on the P&Z)
Evelyn Torres-Chervenak (currently an alternate on the BOA).

The TEDC recently hired Kelly Violette, Tomball's City Planner, as the new Executive Director. In the interest of consistency during Kelly's transition, I would like to recommend that Steven Vaughan and I, as the only member of Council currently serving on the TEDC, be reappointed, and that Brad Hallmark be appointed to the position being vacated by Dr. Geer. Mr. Hallmark previously served on the Parks Board (2005-2006) and one term on the Planning and Zoning Commission (2006-2009).

Copies of applications from those interested in serving on the TEDC board are attached for your consideration.

Origination:

City Secretary

Recommendation:

N/A

Funding:

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

City Secretary

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

ATTACHMENTS:

Michele Beauvais Application

John Dillon Application

April Gray Application

Brad Hallmark Application

Mary Harvey Application

James Kendler Application

Roy P. Lackey Application

Barbara Tague Application

Evelyn Torres-Chervenak Application



CITY OF TOMBALL

APPLICATION FOR CITY BOARDS/COMMISSIONS/COMMITTEES

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Please Type or Print Clearly:

Date: 3/20/2011

Name: Michele Beauvais

Phone: 832-559-7532

Address: 29502 Imperial Creek Dr.

Phone: 281-831-3332 (Home)

City/State/Zip Tomball, TX. 77377

Cell: 281-831-3332 (Work)

Email: mbeauvais@comcast.net

I have lived in Tomball 4.5 years.

I am ☒ am not ☐ a U.S. Citizen

Occupation: Co owner of American Communications Construction,
Interior Designer

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

Additional Pertinent Information/References

Dana & Trevor Pugh, ANN Marie &
Kwan McWilliams, Laurel & Mark Norris,

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Decision-Making Boards and Commissions

(✓) Planning & Zoning Commission

(✓) Board of Adjustments

Meeting Information

Second Monday each month, 6 p.m.

To Be Announced; Evenings

Separate Legal Entities

(✓) Tomball Economic Development Corporation

(✓) Tomball Hospital Board

Meeting Information

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

Fourth Wednesday each month, 4 p.m.

Ad Hoc/Advisory Committees

(✓) Downtown Tomball Advisory Committee

Meeting Information

As called

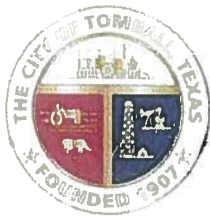
I AM INTERESTED IN SERVING ON THE ABOVE-INDICATED BOARDS, COMMISSIONS, AND COMMITTEES.



Signature of Applicant

Please return this application to:

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



CITY OF TOMBALL

APPLICATION FOR CITY BOARDS/COMMISSIONS/COMMITTEES

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Please Type or Print Clearly:

Date: 01/26/ 2010

Name: JOHN P. DILLON

Phone: 281-351-2921

Address: 14166 TURNER VIVE

Phone: 713-755-7405 (Home)

City/State/Zip: TOMBALL TX 77375

CELL (Work)
281-610-1133

Email: JOHN P DILLON 76 (a) GAHOO.COM

I have lived in Tomball 18 years.

I am ☒ am not ☐ a U.S. Citizen

Occupation: DEPUTY SHERIFF

Professional and/or Community Activities: COMMISSIONER ESD 8

Additional Pertinent Information/References: TRUSTEE AT CHURCH

FINANCE COMMITTEE AT CHURCH

LAY REPRESENTATIVE AT STATE CONFERENCE AT CHURCH

ROSE HILL UNITED METHODIST

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Decision-Making Boards and Commissions

Meeting Information

1 (X) Planning & Zoning Commission

Second Monday each month, 6 p.m.

3 (X) Board of Adjustments

To Be Announced; Evenings

Separate Legal Entities

Meeting Information

2 (X) Tomball Economic Development Corporation

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

() Tomball Hospital Board

Fourth Wednesday each month, 4 p.m.

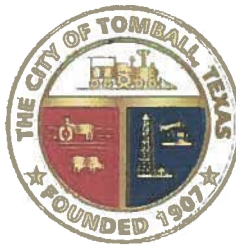
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CITY OF TOMBALL

2009

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Please Type or Print Clearly:

Date: 4-5-09

Name: APRIL GRAY

Phone: 281-255-8515

Address: 704 PERCIVAL STREET

Phone: 281-899-4602 (Home)

Email: APRILGRAY@COMCAST.NET

(Work)

I have lived in Tomball 25 years.

I am ☒ am not ☐ a U.S. Citizen

Occupation: REGULATORY SPECIALIST FOR A COMPANY THAT DESIGNS, CONSTRUCTS & INSTALLS OFFSHORE PLATFORMS.

Professional and/or Community Activities: PUBLIC ACCESS BOARD (INACTIVE BOARD)
CHARTER REVIEW COMMISSION - BOTH FOR CITY OF TOMBALL

Additional Pertinent Information/References: I ATTACHED MY RESUME WHICH DETAILS MY PROFESSIONAL EXPERIENCE

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Decision-Making Boards and Commissions

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

Separate Legal Entities

- (7) Tomball Economic Development Corporation

- (8) Tomball Hospital Board

Meeting Information

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To Be Announced; Evenings

Meeting Information

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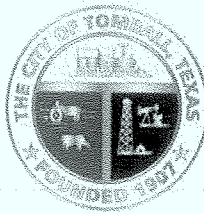
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Please Type or Print Clearly:

Date: 15 April 2011

Name: BRAD HALLMARK

Phone: 832 723-2458

Address: 28231 CAMILLE DR NE

(Home)
Phone: 713-206-6769

City/State/Zip: TOMBALL, TX 77375

(Work)

Email: brad.hallmark@sbcglobal.net

I have lived in Tomball 9.7 years.

I am ☒ am not ☐ a U.S. Citizen

Occupation: MANAGER, HAZMAT OPERATIONS

Professional and/or Community Activities: PRESIDENT, TOMBALL HILLS HOA

Additional Pertinent Information/References: _____

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Decision-Making Boards and Commissions

Meeting Information

() Planning & Zoning Commission

Second Monday each month, 6 p.m.

() Board of Adjustments

To Be Announced; Evenings

Separate Legal Entities

Meeting Information

(✓) Tomball Economic Development Corporation

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

() Tomball Hospital Board

Fourth Wednesday each month, 4 p.m.

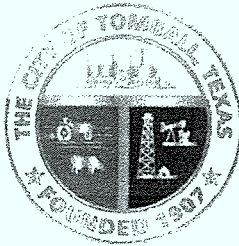
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Please Type or Print Clearly:

Date: 5-7-2010

Name: MARY HARVEY

Phone: 713-582-5139

Address: 405 S. WALNUT

Phone: 281-351-8903 (Home)

City/State/Zip: Tomball, TX 77375

Email: GRANNYS KORNER TOMBALL

(Work)

Email: @HOTMAIL.COM

I have lived in Tomball 15 years.

I am ☒ am not ☐ a U.S. Citizen

Occupation: OWN ANTIQUE BUSINESS

Professional and/or Community Activities: ROTARY BOARD Chamber Board,
CITY COUNCIL, ESDS, EMS, PLANNING Comm,
TBA President, CITIZEN OF YEAR

Additional Pertinent Information/References: Worked in Electrical Construction
FOR 25 YEARS IN ADMINISTRATION

I feel I could be an asset to P+Z since I have
extensive experience in this field.

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Decision-Making Boards and Commissions

Meeting Information

1 (4) Planning & Zoning Commission

Second Monday each month, 6 p.m.

4 (4) Board of Adjustments

To Be Announced; Evenings

Separate Legal Entities

Meeting Information

3 (4) Tomball Economic Development Corporation

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2 (4) Tomball Hospital Board

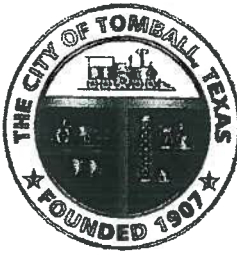
Fourth Wednesday each month, 4 p.m.

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Please Type of Print Clearly:

Date: 3/17/2011

Name: JAMES KENDLER

Phone: 281-516-3324
(Home)

Address: 14215 SPRING PINES DR.

Phone: _____
(Work)

City/State/Zip Tomball TX 77375

Cell: 281-253-3858

Email: jken34@aol.com

I have lived in Tomball 7 years.

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

Occupation: RETIRED

Professional and/or Community Activities:

Secretary } Spring Pines
VP President } Home Owners
Architectural Comm. Mee } Association

Additional Pertinent Information/References: Abnerman & Martha Heubner: Neighbor & Friend
Randy PARR: Neighbor & Friend

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To Be Announced; Evenings

Separate Legal Entities

- ☒ Tomball Economic Development Corporation

() Tomball Hospital Board

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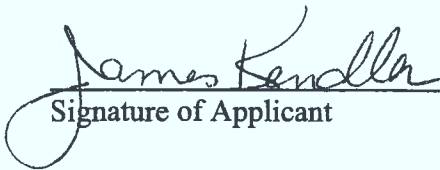
Ad Hoc/Advisory Committees

- () Downtown Tomball Advisory Committee

Meeting Information

As called

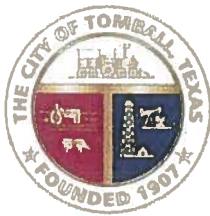
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Please Type of Print Clearly:

Date: February 1, 2009

Name: Roy P. Lackey

Phone: 281-642-2563
(Home)

Address: 31530 Capella Circle

Phone: 281-642-2563
(Work)

City/State/Zip: Tomball, Texas 77375

Email: Roy@AESTexas.net

I have lived in Tomball 15 years.

I am X am not a U.S. Citizen

Occupation: SELF EMPLOYED ELECTRICAL POWER CONSULTANT AND
SPECIALIZING IN POWER QUALITY, STANDBY ELECTRICAL GENERATION,
LIGHTNING & SURGE PROTECTION

Professional and/or Community Activities: MEMBER CHAMBER OF COMMERCE
LEGISLATIVE & TRANSPORTATION COMMITTEE

Additional Pertinent Information/References: 30YR DIRECTOR OF 2 MUNICIPAL
UTILITY DISTRICTS IN HARRIS COUNTY, ENGINEERING & OPERATION EXPERIENCE
FOR A WATER & SEWAGE TREATMENT SYSTEM THAT IS LARGER THAN TOMBALL
BY CAPACITY.

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Decision-Making Boards and Commissions

Meeting Information

(1) Planning & Zoning Commission

Second Monday each month, 6 p.m.

() Board of Adjustments

To Be Announced; Evenings

Separate Legal Entities

Meeting Information

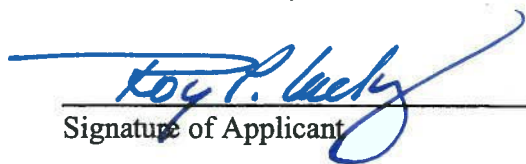
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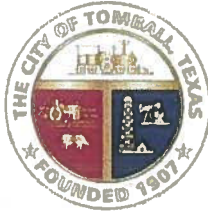
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Please Type or Print Clearly:

Date: 2-1-2010

Name: BARBARA TAGUE

Phone: 281-351-0904

Address: 503 INWOOD DR.

(Home)
Phone: 713-851-0737

City/State/Zip: Tomball, TX 77375

(Work) Cell

Email: btague@sbccglolocal.net

I have lived in Tomball 36 years.

I am ☒ am not ☐ a U.S. Citizen

Occupation: Retired

Professional and/or Community Activities:

Downtown Tomball Assn, Great Northwood Houston CVB, Tomball CERT Coordinator, Tomball Local Emergency Planning Comm. Sec/Trea. Board of Adjustment - 2nd Alternate

Additional Pertinent Information/References:

Harris County CERT Rodeo 2010 Chairperson

See attached Resume

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Decision-Making Boards and Commissions

Meeting Information

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Second Monday each month, 6 p.m.

(2) Board of Adjustments

To Be Announced; Evenings

Separate Legal Entities

Meeting Information

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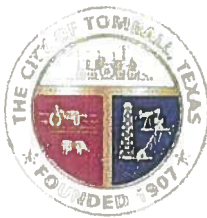
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CITY OF TOMBALL

APPLICATION FOR CITY BOARDS/COMMISSIONS/COMMITTEES

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

Please Type or Print Clearly:

Name: Evelyn Torres-Chervena

Address: 111 Mc Phail

City/State/Zip: Tomball Tx 77375

Email: _____

Date: January 26, 2010

Phone: 832-704-8090

Phone: 832-704-8090
(Home)
(Work)

I have lived in Tomball 1 1/2 years.

I am ☒ am not ☐ a U.S. Citizen

Occupation: Accountant

Professional and/or Community Activities:

Haplan University - Student Accounting Association (SAA) member

SAA Judicial Committee Member

SAA Special Review and Task Force Committee ~~At~~ Secretary

Additional Pertinent Information/References:

Self Employed - Etc. Services

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

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

Decision-Making Boards and Commissions

() Planning & Zoning Commission

(1) Board of Adjustments

Meeting Information

Second Monday each month, 6 p.m.

To Be Announced; Evenings

Separate Legal Entities

(2) Tomball Economic Development Corporation

(3) Tomball Hospital Board

Meeting Information

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

Fourth Wednesday each month, 4 p.m.

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


Signature of Applicant

Please return this application to:

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

Regular City Council

Agenda Item

Meeting Date: April 18, 2011

Data Sheet

Topic:

Approve the Following Plats, as Recommended by the Planning and Zoning Commission:

- **TOMBALL R 135 FINALPLAT**; Being a subdivision of 2.5721 acre tract, 112,042.65 Square Feet, Situated in the C.N. Pillot, Survey A-632 and Sam Lewis, Survey A-1704, Harris County, Texas, as recommended by Planning and Zoning Commission
- **STRIPES - FM 2920 REPLAT**: A subdivision of 1.2707 acres or 55,352 square feet of land, Being a partial Replat of Unrestricted Reserve "B" of Tomball East Gate Center, recorded under F.C. No. 542107, H.C.M.R. and Outlots 313 and 314 of Tomball Townsite, Vol. 2, Pg. 65, H.C.M.R. situated in the Jesse Pruitt Survey, Abstract No. 629, City of Tomball, Harris County, Texas.

Background:

The Planning and Zoning Commission approved the Tomball R 135 Preliminary Plat on Monday, March 14, 2011 with contingencies. The Final plat was corrected and resubmitted to the Planning and Zoning Commission on Monday, April 11, 2011. Comments have been addressed and the plat is now being forward to City Council for approval consideration.

The Planning and Zoning Commission approved the Stripes FM 2920 replat on Monday, February 14, 2011 with contingencies. Comments have been addressed and the replat is now being forwarded to City Council for approval consideration.

Origination:

Recommendation:

Engineering and Planning recommends the approval of these plats.

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:

Tomball R 135 Final Plat

Stripes - FM 2920 Replat

THE STATE OF TEXAS
COUNTY OF HARRIS

We, CMH Homes Inc., Acting By and Through David M. Booth, President and Hugh T. Statum, III, VP/Secretary, Being Officers of CMH Homes, Inc., hereinafter referred to as Owner of the 2.5721 Acre Tract described in the above and foregoing plat of Tomball R 135, do hereby make and establish of said subdivision property according to all lines, 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 myself, my heirs, successors and assigns to warrant and forever defend the title to the land so dedicated.

FURTHER, owners have dedicated and by these presents do dedicate to the use of the public for public utility purposes forever and 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 shall be restricted to provide that drainage structures under private driveways shall have a net drainage opening area of sufficient size to permit the free of water without backwater and in no instance have a drainage opening of less than one and three quarters square feet (1 3/4-square feet) with culvert or bridges to be provided for all private or walkways such drainage facilities.

FURTHER, owners do hereby covenants and agree that all of the property within the boundaries of this plat and adjacent to any drainage easement, ditch, gully, creek, or natural drainage way shall hereby be restricted to keep such drainage ways and easements clear of fences, buildings, planting, and other obstructions to the operation and maintenance of the drainage facility and that such abutting property shall not be permitted to drain directly into this easement, except by means of an approved drainage structure.

IN TESTIMONY WHEREOF, the centro Tomball R 135 has caused these presents to be signed by David M. Booth, President, thereunto authorized, attested by Hugh T. Statum, III VP/Secretary, This 1st Day of APRIL, 2011.

TOMBALL R 135

By: David M. Booth By: Hugh T. Statum, III
David M. Booth, President Hugh T. Statum, III
VP / Secretary

THE STATE OF TENNESSEE
COUNTY OF BLOUNT

Before me the undersigned authority, on this day personally appeared David M. Booth, and Hugh T. Statum known to me the persons whose names are subscribed to the foregoing instrument and acknowledge to me that they executed the same for the purposes and considerations therein expressed and in the capacity therein and herein, and as the act and Deed of said Corporation.

Given under my hand and seal of office this 1 day of April, 2011.

Ron McCulloch
Notary Public in and for the State of Tennessee
My Commission expires: 10-27-14

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.

George Shackelford, City Manager Lori Lakatos, PE, CFM, Acting City Engineer

This is to certify that the City accepts the Planning and Zoning Commission's authorized approval and acceptance of all dedicated public easements in conformance with the laws of the State of Texas the ordinance of the City of Tomball as shown hereon and authorized the recording of this plat this day of April, 2011.

By: Gretchen Fagan, Mayor Dorris Speer, City Secretary

This is to certify that the Planning and Zoning Commission of the City of City of Tomball, Texas has approved this plat and subdivision of Tomball R 135 in conformance with the laws of the State of Texas and the ordinance of the City of Tomball as shown authorized the recording of this plat this day of April, 2011.

Lori Wallace, Chair
Tom Crofoot, Vice Chairman

I, Craig A. Laney, 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 (or suitable permanent metal) pipes or rods having an outside diameter of not less than three-quarter inch (3/4") and a length of not less than three feet (3'), and that the plat boundary corners have been tied to the nearest survey corner.

Craig A. Laney
Craig A. Laney, R.P.L.S.
Texas Registration No.4507

I, Stan Stanart, 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 April 1, 2011 at 10:00 o'clock, and duly recorded on April 1, 2011, at 10:00 o'clock, and under film code number 100 of the map records of Harris County for said County.

Witness my hand and seal of office, at Houston, the day and date last above written.

Stan Stanart
County Clerk
of Harris County, Texas
By: DEPUTY

IANCAN INVESTORS, LLC.
CALL 5.2445 AC. TRACT
AS DESCRIBED
UNDER CF #20070114155

88' EXCON PIPE LINE EASEMENT
VOL. 1045, PG. 102 H.C.D.R.

ROSS LEWIS FRAPART
CALL 30.741 AC. REMAINDER
OF A CALL 124.879 AC. TRACT
AS DESCRIBED
UNDER CF #J-577630

LOT 1, BLOCK 1
2.5721 AC. TRACT
(112,042.65 SQ. FT.)

EXXON PRIVATE ROAD (VARIABLE WIDTH)
AS REFERENCED IN CF #Z-273961

PARTIAL REPLAT WAL - MART/ TOMBALL
CALL 36.919 ACRE TRACT
AS DESCRIBED
UNDER FC # 437086 H.C.M.R.

STATE HIGHWAY 249
(A.K.A. TOMBALL PARKWAY)
F.C. #565291 & 437086 H.C.M.R.

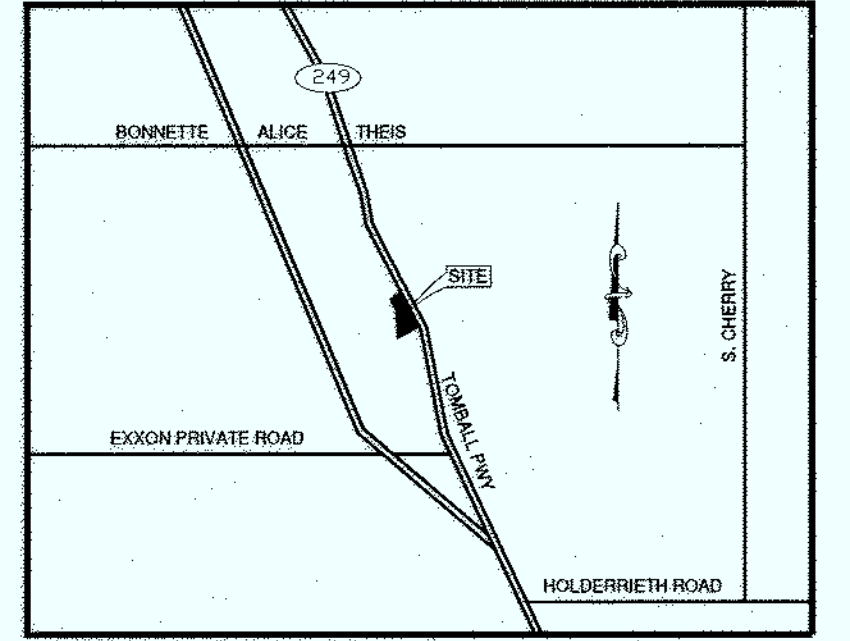
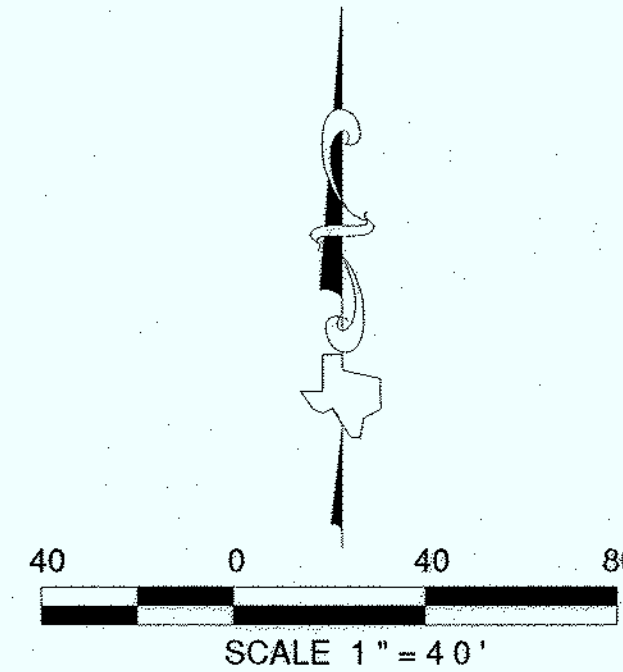
TRACTOR SUPPLY TOMBALL
CALL 3.5108 ACRE (132,982.00 SQ. FT.)
AS DESCRIBED
UNDER FC #565291 H.C.M.R.

HUTSON TRACT
CALL 5.0062 ACRE (218, 069.53 SQ. FT.)
AS DESCRIBED
UNDER FC # 517142 H.C.M.R.

GREGORY & BEVERLY KITCHENS
CALL 1.2618 AC. TRACT
AS DESCRIBED
UNDER CF #T-027655

CALL 1.0127 AC. TRACT
AS DESCRIBED
UNDER CF #G-716425

CALL 2.8181 AC. TRACT
AS DESCRIBED
UNDER CF #S-283264



VICINITY MAP
NOT TO SCALE
KEY MAP 288-Q

TOMBALL R 135

BEING A SUBDIVISION OF 2.5721 ACRE TRACT,
112,042.65 SQUARE FEET,
SITUATED IN THE C. N. PILLOT, SURVEY A-632
& SAM LEWIS, SURVEY A-1704
HARRIS COUNTY, TEXAS

CONTAINING
1 LOT 1 BLOCK
MARCH 2011

OWNERS
CMH HOMES, INC. 5000 CLAYTON ROAD
MARYVILLE, TN. 37804
(865) 380 - 3000

SURVEYOR
E.I.C.SURVEYING COMPANY 12345 JONES ROAD # 270
HOUSTON, TEXAS 77070
(281) 955 - 2772

LEGEND	
B.L.	Indicates " Building Line "
U.E.	Indicates " Utility Easement "
R.O.W.	Indicates " Right-of Way "
AC.	Indicates " Acre "
VOL.	Indicates " Volume "
PG.	Indicates " Page "
I.R.	Indicates " Iron Rod "
H.C.M.R.	Indicates " Harris County Map Records "
H.C.D.R.	Indicates " Harris County Deed Records "
SQ.FT.	Indicates " Square Feet "
C.F.#	Indicates " Clerk's File Number "
FND.	Indicates " Found "

GENERAL NOTES

- 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 it's 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.
- According to the FEMA Firm Panel No. 48201C0210L (Effective Date June 18, 2007), this property is in Zone "X" and is not in the 0.2% Annual Chance Flood Plain.
- 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.
- 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.
- Unlocated pipeline, telegraph, telephone, and power line easement in favor of Humble Oil and Refining Company recorded in Vol. 932, Pg. 579 & Vol. 1055, Pg. 560 H.C.D.R. is not visible crossing subject tract.
- Unlocated pipeline, telegraph, telephone, and power line easement in favor of Magnolia Pipeline Company recorded in Vol. 926, Pg. 488 H.C.D.R. and assigned to Humble Pipe Line Company in Vol. 7504, Pg. 561 H.C.D.R. not visible crossing subject tract.
- Unlocated pipeline right-of-way easement in favor of Shell Oil Company recorded in Vol. 3431, Pg. 479 & Vol. 3431, Pg. 480 H.C.D.R. not visible crossing subject tract.

STATE OF TEXAS
COUNTY OF HARRIS

We, Stripes LLC, a Texas Limited Liability Company acting by and through E. V. Bonner, Jr., Executive Vice President of Stripes LLC hereinafter referred to as owners of the 1.2707 acre tract described in the above and foregoing plat of STRIPES-FM 2920, do hereby make and establish said subdivision of said property according to all liens, dedications, restrictions and notations on said plat and hereby dedicate to the use of the public forever, all streets, 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 purposes forever an unobstructed serial 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 shall be 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 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 be restricted to keep such drainage ways and easements clear of fences, buildings, planting, and other obstructions to the operation and maintenance of the drainage facility and that such abutting property shall not be permitted to drain directly into this easement, except by means of an approved drainage structure.

IN TESTIMONY WHEREOF, Stripes LLC has caused these presents to be signed by E.V. Bonner, Jr., Executive Vice President, thereunto authorized, and its common seal hereunto affixed this, 11 day of April, 2011.

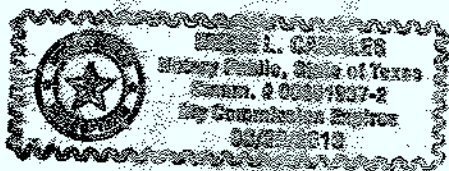
By: Stripes LLC

E.V. Bonner, Jr.
E. V. Bonner, Jr.
Executive Vice President

STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared E.V. Bonner, Jr., Executive Vice President of Stripes LLC, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledgment to me that he executed the same for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 11 day of April, 2011.



Doreen S. Canale
Notary Public in and for the
State of Texas

8/29/2013
My Commission Expires:

I, Mike Kurkowski, am registered under the laws of the State of Texas to practice the profession of surveying and hereby certify that the 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 (or other suitable permanent metal) pipes or rods have an outside diameter of not less than three quarter (3/4) inch and a length of not less than three (3) feet, unless otherwise noted, and that the plat boundary corners have been tied to the Texas State Plane Coordinate System.



Mike Kurkowski
Mike Kurkowski
Registered Professional Land Surveyor
Texas Registration No. 5101

This is to certify that the Planning Commission of the City of Tomball, Texas has approved this plat and subdivision of STRIPES - FM 2920 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 11 day of April, 2011.

Lori Wallace
Lori Wallace
Chairman

Tom Crofoot
Tom Crofoot
Vice-Chairman

We, the City of Tomball and the City Engineer for the City of Tomball, do hereby certify that this plat of STRIPES - FM 2920 is in compliance with the ordinances of the City of Tomball.

George Shackelford
City Manager

Lori Lakatos, P.E.
Lori Lakatos, P.E.
Acting City Engineer

I, Stan Stanart, 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 11 day of April, 2011, at 10 o'clock a.m., and duly recorded on 11 day of April, 2011, at 10 o'clock a.m., and at Film Code Number 15556 of the Map Records of Harris County for said county.

Witness my hand and seal of office, at Houston, the day and date last above written.

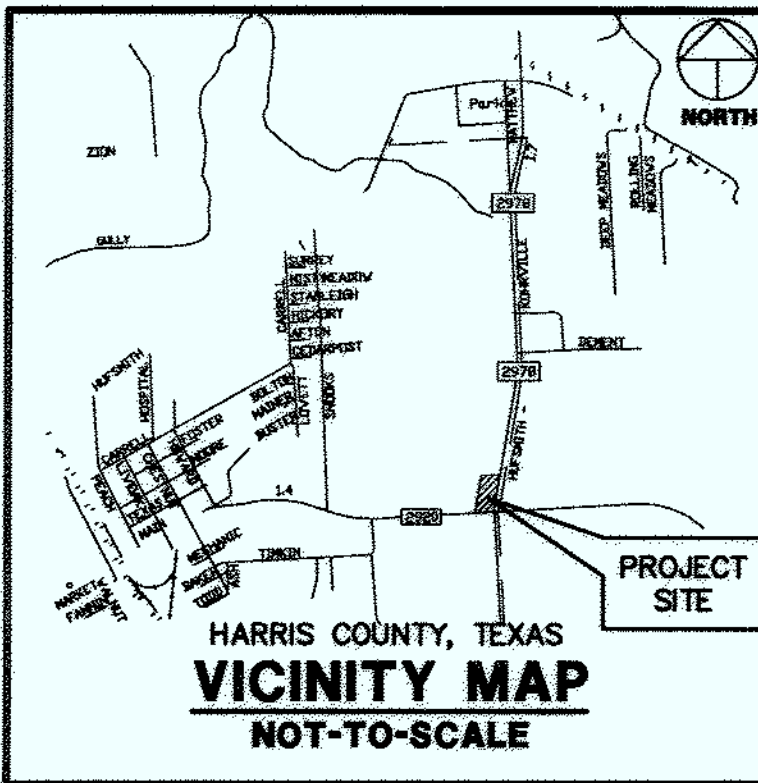
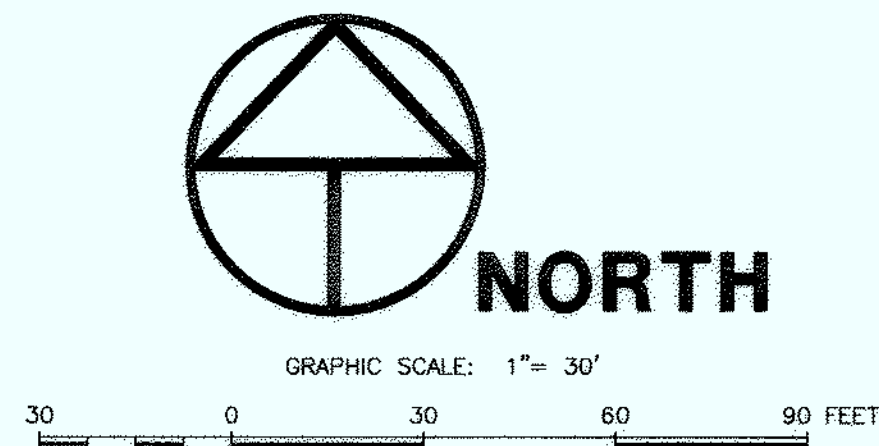
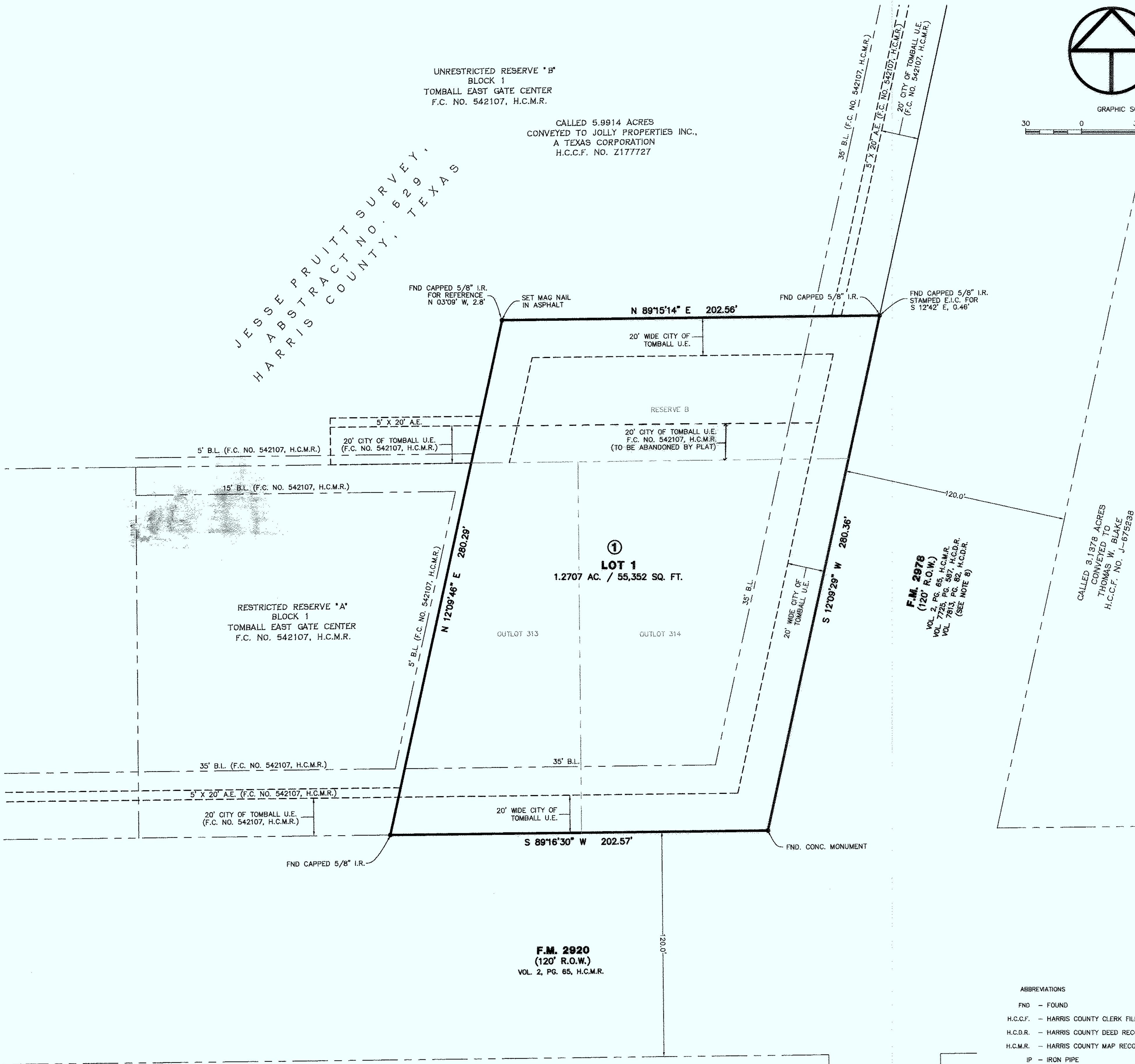
Stan Stanart
Stan Stanart
County Clerk
of Harris County, Texas

By: Deputy

UNRESTRICTED RESERVE "B"
BLOCK 1
TOMBALL EAST GATE CENTER
F.C. NO. 542107, H.C.M.R.

CALLED 5.9914 ACRES
CONVEYED TO JOLLY PROPERTIES INC.,
A TEXAS CORPORATION
H.C.C.F. NO. Z177727

JESSE PRUITT SURVEY,
HABSTRACT NO. 629,
HARRIS COUNTY, TEXAS



GENERAL NOTES

- Bearings were based on the recorded plat of Tomball East Gate Center, recorded under Film Code No. 542107, H.C.M.R.
- All elevations shown hereon are based on FEMA Floodplain Reference Mark Number 120195, being a brass disk stamped 120195 at intersection of F.M. 2920 and Hufsmith-Kohrville located 150 ft. south of intersection, on south curb of second driveway (south) to shell gas station in key map 2896 in the willow watershed near stream M116-00-00. Elevation = 175.27 feet NAVD 1988 (2001 adjusted).
T.B.M. No. 1 = A set mag nail in asphalt, located approximately 46 feet Southeastly from the Southwest corner of the subject tract. Elev. = 177.67
T.B.M. No. 2 = An 80d nail set approximately 74.4 feet Southwesterly from the Northwest corner of the subject tract and approximately 5.8 feet from the edge of a concrete driveway. Elev. = 179.23.
- 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 procuring the permission of the property owner. Any public utility, including the City of Tomball, shall have the right to move and to keep moved all or part of an building, fence, trees, shrubs, or 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 the plat. Neither the City of Tomball nor any public utility shall be responsible for any damages to the property within an easement arising out of the removal or relocation of any obstruction in the public easement.
- According to the Federal Emergency Management Agency (FEMA), Flood Insurance Rate Map (FIRM) for Harris County, Texas, Map No. 48201C 0230L, revised/dated June 18, 2007, the subject tract appears to lie within undated Zone "X". This determination was done by graphic plotting and is approximate only, and has not been field verified. This flood statement does not imply that the property or structures thereon will be free from flooding or flood damage, on rare occasions floods can and will occur and flood heights may be increased by man-made or natural causes, this flood statement shall not create liability on the part of Windrose Land Services, Inc.
- All oil/gas pipelines or pipeline easements with ownership through the subdivision have been shown, to the best of my knowledge.
- All oil/gas wells with ownership (plugged, abandoned, and/or active) through the subdivision have been shown, to the best of my knowledge.
- No building or structure shall be constructed across any pipelines, building lines, and/or easements. Building setback lines will be required adjacent to oil/gas pipelines. The setbacks at a minimum should be 15 feet of centerline of low pressure gas lines, 30 feet of centerline of high pressure gas lines.
- This plat does not attempt to amend or remove any valid covenants or restrictions.
- The building lines shown on this plat shall be in addition to, and shall not replace, any building lines required by the City of Tomball Code of Ordinances at the time of development of the property.

STRIPES - FM 2920

A SUBDIVISION OF
1.2707 ACRES OR 55,352 SQUARE FEET OF LAND
BEING A PARTIAL REPLAT OF
UNRESTRICTED RESERVE "B" OF TOMBALL EAST GATE CENTER
RECORDED UNDER F.C. NO. 542107, H.C.M.R. AND OUTLOTS 313
AND 314 OF TOMBALL TOWNSITE, VOL. 2, PG. 65, H.C.M.R.
SITUATED IN THE
JESSE PRUITT SURVEY, ABSTRACT NO. 629
CITY OF TOMBALL, HARRIS COUNTY, TEXAS

1 BLOCK 1 LOT

April 11, 2011

Owner
Stripes LLC

4525 Ayers St.
Corpus Christi, TX 78409
Ph: (361) 884-2463

Surveyor

Windrose Land Services, Inc.



3628 Westchase
Houston, Texas 77042
Phone (713) 458-2282 Fax (713) 461-1151

Professional Development Consultants
Land Surveying, Platting, Project Management, GIS Services

ABBREVIATIONS
FND - FOUND
H.C.C.F. - HARRIS COUNTY CLERK FILE
H.C.D.R. - HARRIS COUNTY DEED RECORDS
H.C.M.R. - HARRIS COUNTY MAP RECORDS
IP - IRON PIPE
IR - IRON ROD
NO. - NUMBER
PG. - PAGE
R.O.W. - RIGHT-OF-WAY
SQ. FT. - SQUARE FEET
VOL. - VOLUME
B.L. - BUILDING LINE
W.L.E. - WATER LINE EASEMENT
S.S.E. - SANITARY SEWER EASEMENT
U.E. - UTILITY EASEMENT

CALLED 10.2297 ACRES
CONVEYED TO
BJ SERVICES COMPANY, U.S.A.
F.C. NO. 516-52-3643

Regular City Council

Agenda Item

Meeting Date: April 18, 2011

Data Sheet

Topic:

Public Hearing on Application of Phillip O'Sullivan for Abandonment of a Portion of Ash and Timkin Street Rights-of-Way

Background:

Consideration and possible action regarding Right-of-Way Abandonment of Ash Street: Requested by Philip O'Sullivan. City Council approved Administrative Policy No. 65 - Right-of-Way Abandonment Policy on March 7, 2011. This is the City's first application requesting right-of-way abandonment.

Origination:

Philip O'Sullivan

Recommendation:

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:

Application for Abandonment of Portion of Ash Street ROW

Notice of Public Hearing

Ash Street ROW Abandonment Staff Report



CITY OF TOMBALL

RIGHT-OF-WAY ABANDONMENT REQUEST APPLICATION

Please provide the following information & return your submittal to the City Manager's Office,
401 Market St., Tomball, Texas 77375.

Minimum Submittal Requirements

- ☒ \$300 application fee;
- ☒ Detailed description of entire limits or extent of the ROW and the limits to be abandoned, if different;
- ☒ Five (5) copies of the Boundary Survey and metes & bounds description of the ROW to be abandoned;
- ☒ Electronic File (PDF) of Boundary Survey and metes & bounds description of the ROW to be abandoned;
- ☒ Copy of letters to utility providers, drainage districts, and/or other interested agencies stating they have been notified of the requested ROW abandonment;
- ☒ Letter of "No Objection" from each of the concerned entities; and
- ☒ Completed and signed application form.

Applicant Information

Name Philip O'Sullivan

Mailing Address 16014 BIRCHVIEW DRIVE

City TOMBALL State TX Zip Code 77377

Phone Number 832 603-2725 Fax Number _____

E-mail Address TRLV@EARTHLINK.NET

Agent or Engineer Information

Name _____

Mailing Address _____

City _____ State _____ Zip Code _____

Phone Number _____ Fax Number _____

E-mail Address _____

We, the undersigned property owners of

TOMBALL,
NEW LOT 25, BLOCK 82, (AKA KANAIND. PARK)

(name of subdivision, lot, and block number)

do hereby request that the City of Tomball release and vacate the said Right-of-Way as further described in the attached Boundary Survey.

Adjacent Property Owners Signatures

(please include your name, mailing address, HCAD number of your property, and signature)

1. PHILIP O'SULLIVAN (16014 BIRCHVIEW DR) HCAD # 1208600000001
(TOMBALL TX 77377)

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

Certification

I, Philip Sullivan, being one of the above named persons, do hereby certify that the above named persons include all abutting property owners of the property being vacated and released.

Please list the reasons for the request and how this request will benefit the public:

TO ENHANCE THE DEVELOPMENT WITH ADDITIONAL
LAND SQUARE FOOTAGE AND TO PLACE UNUSED
CITY PROPERTY ONTO THE TAX ROLLS

Philip Sullivan
(Signature)

Philip O'Sullivan
(Printed Name)

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL, TEXAS**

MONDAY, APRIL 18, 2011



7:00 P.M.

Notice is hereby given that the Governing body of the City of Tomball, Texas, will hold a Public Hearing during the Regular City Council Meeting to be held on Monday, April 18, 2011, at City Hall, 401 Market Street, Tomball, Texas 77375 at 7:00 p.m. to consider the following:

ADOPT, ON FIRST READING, ORDINANCE NO. 2011-04 AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, FINDING AND DETERMINING THAT PUBLIC CONVENIENCE AND NECESSITY NO LONGER REQUIRE THE CONTINUED EXISTENCE OF ROAD RIGHT-OF-WAY CONTAINING ALL THAT CERTAIN TRACT OR PARCEL CONTAINING 7,827.73 SQUARE FEET SITUATED IN THE WILLIAM HURD SURVEY, A-371 IN HARRIS COUNTY, TEXAS, SAME ALSO BEING A PART OF ASH STREET, (VARIABLE WIDTH, UNIMPROVED), AS SHOWN ON THE REVISED MAP OF TOMBALL, A SUBDIVISION IN HARRIS COUNTY, TEXAS ACCORDING TO THE MAP OR PLAT THEREOF FILED FOR RECORD IN VOLUME 4, PAGE 25 OF THE HARRIS COUNTY MAP RECORDS AND A PART OF TIMKIN ROAD, (VARIABLE WIDTH) AS RECORDED IN INSTRUMENTS FILED FOR RECORD IN VOLUME 338, PAGE 552 AND UNDER HARRIS COUNTY CLERK'S FILE NO. M-572329 OF THE HARRIS COUNTY DEED RECORDS; VACATING, ABANDONING, AND CLOSING SAID ROADWAY RIGHT-OF-WAY; AUTHORIZING THE MAYOR TO EXECUTE AND THE CITY SECRETARY TO ATTEST, RESPECTIVELY, DEED WITHOUT WARRANTY OF TITLE; PROVIDING FOR SEVERABILITY; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.

Any member of the public has the right to appear at this Public Hearing and will be given an opportunity to be heard.

Written comments should be received no later than 5:00 p.m., April 18, 2011. Please submit comments to the City Secretary, 401 Market Street, Tomball, Texas 77375.

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

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 31st day of March 2011 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meetings.

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.



Right-of-Way Abandonment Staff Report

City Council Hearing Date: April 18, 2011

ROW ABANDONMENT REQUEST: A request by Phil O’Sullivan of Roseland Ventures to abandon the City of Tomball’s right-of-way containing 7,827.73 square feet situated in the William Hurd Survey, A-371 in Harris County, Texas, same also being a part of Ash Street, (variable width, unimproved), as shown on the Revised Map of Tomball, a subdivision in Harris County, Texas according to the map or plat thereof filed for record in Volume 4, Page 25 of the Harris County Map Records and a part of Timkin Road, (variable width) as recorded in instruments filed for record in Volume 338, Page 552 and under Harris County Clerk's File No. M-572329 of the Harris County Deed Records (Exhibit “A”).

BACKGROUND

On March 15, 2011, the Engineering & Planning Department received a request from Phil O’Sullivan of Roseland Ventures to abandon a 7,827.73 square feet portion of the City of Tomball’s right-of-way north of Timkin Road, east of South Chestnut, west of the Harris County Flood Control District’s tributary to J-131, and southerly of Mechanic Street (Exhibit “B”). The request includes the portion of the 15’ alley adjacent to Lot 25, Kana Industrial Park replat as well as a portion of the Ash Street and Timkin Road rights-of-way (Exhibits “C”). Mr. O’Sullivan has requested the abandonment so as to more fully develop his property, Lot 25, Kana Industrial Park replat, with residential developments.

ANALYSIS

City staff has reviewed the right-of-way (ROW) abandonment application. It is determined that no substantial public purpose will be served by the City retaining ownership of the ROW, nor is it contrary to the public interest. Excess right-of-way burdens the public with possible continued maintenance, liability concerns, and is an inefficient use of urban land. Abandoning the ROW will allow for development and place the land on the tax roll.

The alleyway and the portions of Ash Street and Timkin Road requested to be abandoned have not been improved. Abandoning the subject right-of-way, therefore, will not substantially interfere with the smooth circulation of vehicular and pedestrian traffic nor is necessary to maintain or advance the City’s Major Thoroughfare Plan and/or utility system.

It is important to keep in mind that if the requested ROW is abandoned, it would cut off north/south access of Ash Street from Main Street to Timkin Road. However, there would still be sufficient available ROW on Mechanic, Ash, and Green Streets to provide circulation to the adjacent properties (Exhibits “D”). As such, the ROW abandonment request does not deprive any individual(s) that own property nearby of reasonable means of ingress and egress to their property.

Should the requested ROW be abandoned the City of Tomball will require a 20' City of Tomball utility easement be dedicated on the west side of the Harris County Flood Control District's tributary along the entire length of the abandonment request for future utility relocation or extension (Exhibit "E").

PUBLIC COMMENT

A public hearing notice was published in the Tomball Tribune on Monday, April 4, 2011 and a public hearing notice was mailed to property owners within 200' on Wednesday, April 6, 2011, and, as of the writing of this staff report, no public comments were received regarding this request.

CONSIDERATION

Consideration for the right-of-way abandonment request is based on the following:

1. It is determined that no substantial public purpose will be served by the City retaining ownership of the ROW;
2. The proposed right-of-way abandonment is not contrary to the public interest;
3. The proposed right-of-way abandonment does not deprive any individual(s) that own property nearby of reasonable means of ingress and egress to their property; and
4. The right-of-way proposed to be abandoned is not necessary to maintain or advance the City's Major Thoroughfare Plan and/or utility system.
5. Should the City abandon the ROW, a 20' City of Tomball Utility Easement will be required to be reserved or dedicated as stated above.

EXHIBITS

- A. Area Map
- B. Right-of-Way Abandonment Application
- C. Property Survey and Field Notes
- D. Circulation Alternatives
- E. Utility Map

Exhibit "A"
Area Map

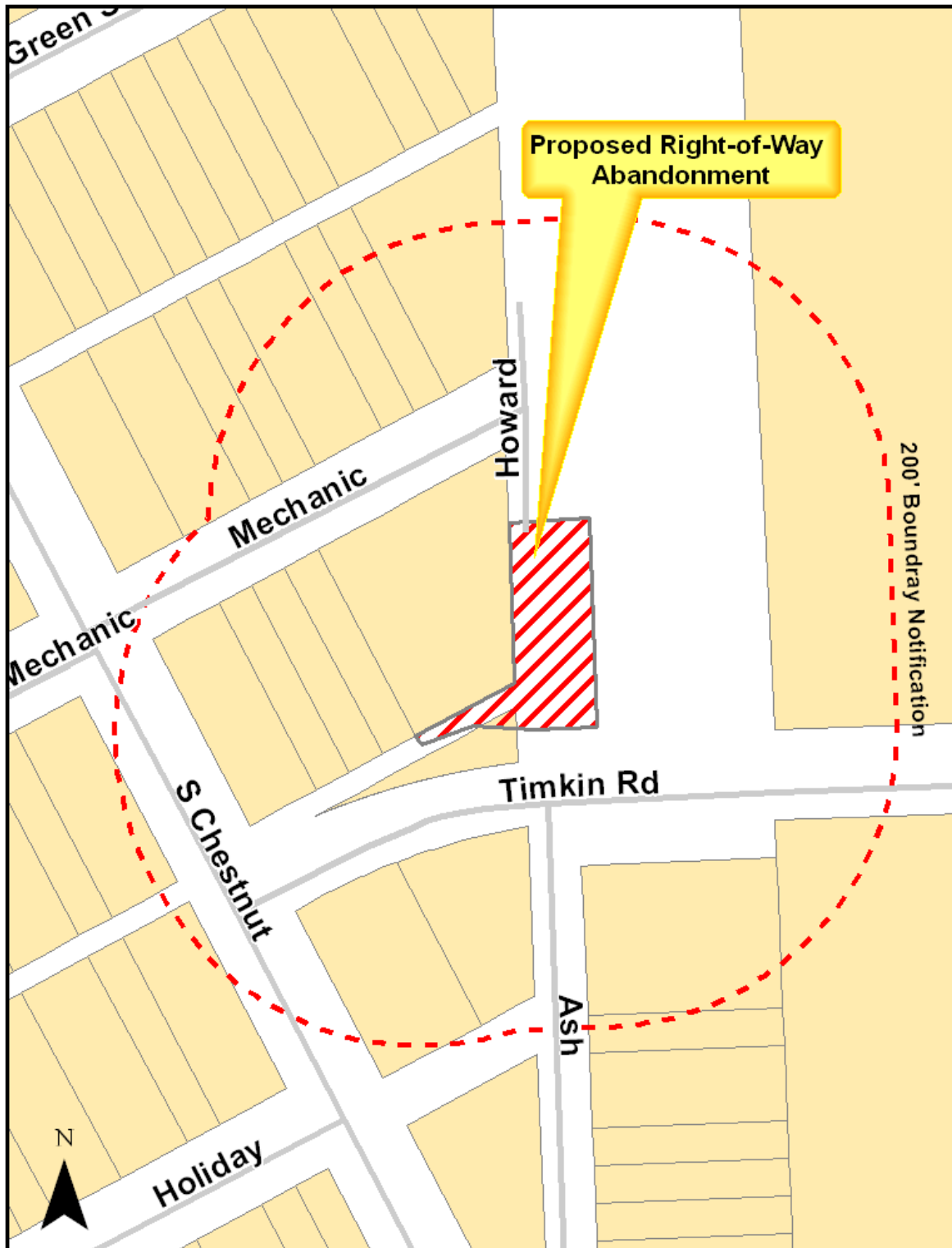


Exhibit "B"
Right-of-Way Abandonment Application



CITY OF TOMBALL
RIGHT-OF-WAY ABANDONMENT
REQUEST APPLICATION

Please provide the following information & return your submittal to the City Manager's Office,
401 Market St., Tomball, Texas 77375.

Minimum Submittal Requirements

- ☒ \$300 application fee;
- ☒ Detailed description of entire limits or extent of the ROW and the limits to be abandoned, if different;
- ☒ Five (5) copies of the Boundary Survey and metes & bounds description of the ROW to be abandoned;
- ☒ Electronic File (PDF) of Boundary Survey and metes & bounds description of the ROW to be abandoned;
- ☒ Copy of letters to utility providers, drainage districts, and/or other interested agencies stating they have been notified of the requested ROW abandonment;
- ☒ Letter of "No Objection" from each of the concerned entities; and
- ☒ Completed and signed application form.

Applicant Information

Name PHILIP O'SULLIVAN
Mailing Address 16014 BIRCHVIEW DRIVE
City TOMBALL State TX Zip Code 77377
Phone Number 832 603-2725 Fax Number _____
E-mail Address TRV@EARTHLINK.NET

Agent or Engineer Information

Name _____
Mailing Address _____
City _____ State _____ Zip Code _____
Phone Number _____ Fax Number _____
E-mail Address _____

We, the undersigned property owners of

TOFFALL,
NEW LOT 25, BLOCK 82, (AKA KANAIND. PARK)

(name of subdivision, lot, and block number)

do hereby request that the City of Tomball release and vacate the said Right-of-Way as further described in the attached Boundary Survey.

Adjacent Property Owners Signatures

(please include your name, mailing address, HCAD number of your property, and signature)

1. PHILIP O'SULLIVAN (16014 BIRCHVIEW DR) HCAD # 1208600000001
(TOMBALL TX 77377)

2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

Certification

I, Philip O'Sullivan, being one of the above named persons, do hereby certify that the above named persons include all abutting property owners of the property being vacated and released.

Please list the reasons for the request and how this request will benefit the public:

TO ENHANCE THE DEVELOPMENT WITH ADDITIONAL
LAND SQUARE FOOTAGE AND TO PLACE UNUSED
CITY PROPERTY ONTO THE TAX ROLLS

Philip O'Sullivan
(Signature)

Philip O'Sullivan
(Printed Name)



Mr. Philip O'Sullivan
President – Rose Land Ventures
16014 Birchview Drive
Tomball TX 77377

Ms. Lori Lakatos
City of Tomball
Engineering & Planning Department
501 James Street
Tomball, Texas 77375

March 14, 2011

Dear Lori,

You should find within this packet all documents, electronic data and a check for the “Right-Of-Way Abandonment Request Application”. Please make this a City Council Agenda item as soon as possible.

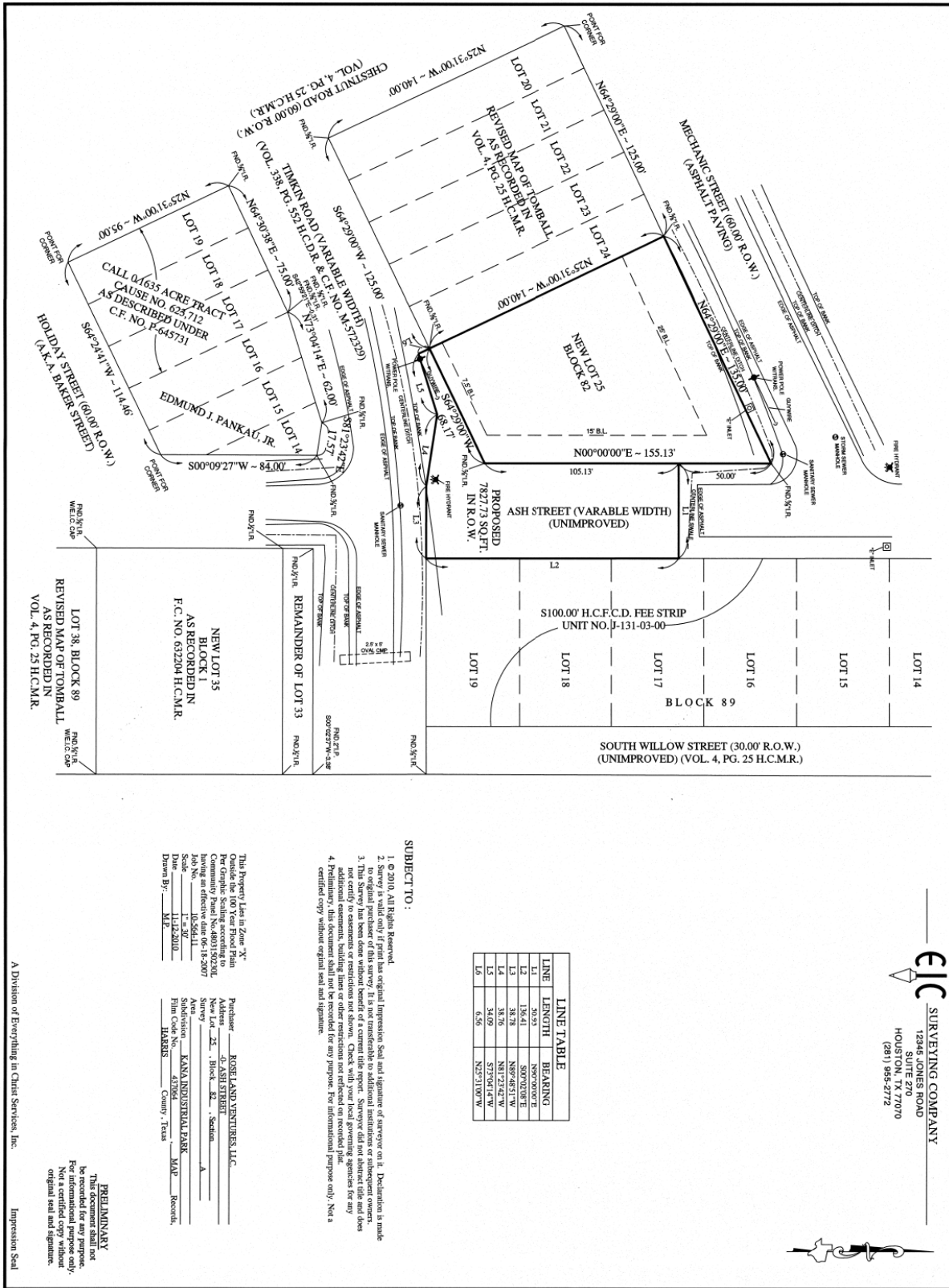
Sincerely,

A handwritten signature in blue ink, appearing to read 'Philip O'Sullivan', is written over a faint, larger version of the same signature.

Philip O'Sullivan

Exhibit "C"

Property Survey and Field Notes



SURVEYING COMPANY

12345 Jones Road, Suite 270
Houston, TX 77070
281-955-2772 • Fax 281-955-6678
www.eicsurveying.com • eic@eicsurveying.com

All that certain tract or parcel containing 7,827.73 square feet situated in the William Hurd Survey, A-371 in Harris County, Texas, same also being a part of Ash Street, (variable width, unimproved), as shown on the Revised Map of Tomball, a subdivision in Harris County, Texas according to the map or plat thereof filed for record in Volume 4, Page 25 of the Harris County Map Records and a part of Timkin Road, (variable width) as recorded in instruments filed for record in Volume 338, Page 552 and under Harris County Clerk's File No. M-572329 of the Harris County Deed Records, said 7,827.73 square foot tract of land being more particularly described by metes and bounds as follows:

COMMENCING at a 5/8" iron rod (found) marking the intersection of the Northeasterly right-of-way line of Chestnut Road, (60.00 feet in width), with the Northwesterly right-of-way line of said Timkin Road, same point marking the Southerly corner of Lot 20 in Block 82 of said Revised Map of Tomball;

THENCE S 64°29'00" W, a distance of 125.00 feet along the Northwesterly right-of-way line of said Timkin Road to a 5/8" iron rod (found) marking the Easterly corner of Lot 24 in Block 82 of said Revised Map of Tomball, the Southerly corner of New Lot 25 in Block 82 of Kana Industrial Park, a subdivision in Harris County, Texas according to the map or plat thereof filed for record under Film Code No. 437064 of the Harris County Map Records, and the Westerly- Northwest corner of the herein described 7,827.73 square foot tract of land;

THENCE N 64°29'00" W, a distance of 68.17 feet along the Northwesterly right-of-way line of said Timkin Road and the Southeasterly line of said New Lot 25 to a 5/8" iron rod (found) marking the intersection of the Northwesterly right-of-way line of said Timkin Road with the West right-of-way line of said Ash Street, same point marking the Easterly corner of said New Lot 25 and an interior corner of the herein described 7,827.73 square foot tract of land;

THENCE NORTH, a distance of 105.13 feet along the West right-of-way line of Ash Street and the Northeasterly line of said New Lot 25 to a point for corner marking the Northerly-Northwest corner of the herein described 7,827.73 square foot tract of land;

THENCE EAST, a distance of 50.93 feet to a point in the West line of Lot 17 in Block 89 of said Revised Map of Tomball and in the East right-of-way line of said Ash Street marking the Northeast corner of the herein described 7,827.73 square foot tract of land;

THENCE S 00°02'08" E, a distance of 136.41 feet along the East right-of-way line of said Ash Street to a point marking the intersection of the East right-of-way line of said Ash Street with the North right-of-way line of said Timkin Road, same point marking the Southeast corner of the herein described 7,827.73 square foot tract of land;

THENCE Westerly, the following courses and distances;

N 89°48'51" W, a distance of 38.78 feet to an angle point;

N 81°23'42" W, a distance of 38.76 feet to an angle point;

S 73°04'14" W, a distance of 34.09 feet to a point for corner marking the Southwest corner of the herein described 7,827.73 square foot tract of land;

THENCE N 25°31'00" W, a distance of 6.56 feet to the POINT OF BEGINNING and containing 7,827.73 feet.

Job No. 10-564-11.

The basis of bearing is NORTH along the West right-of-way line of Ash Street per recorded plat of Kana Industrial Park.

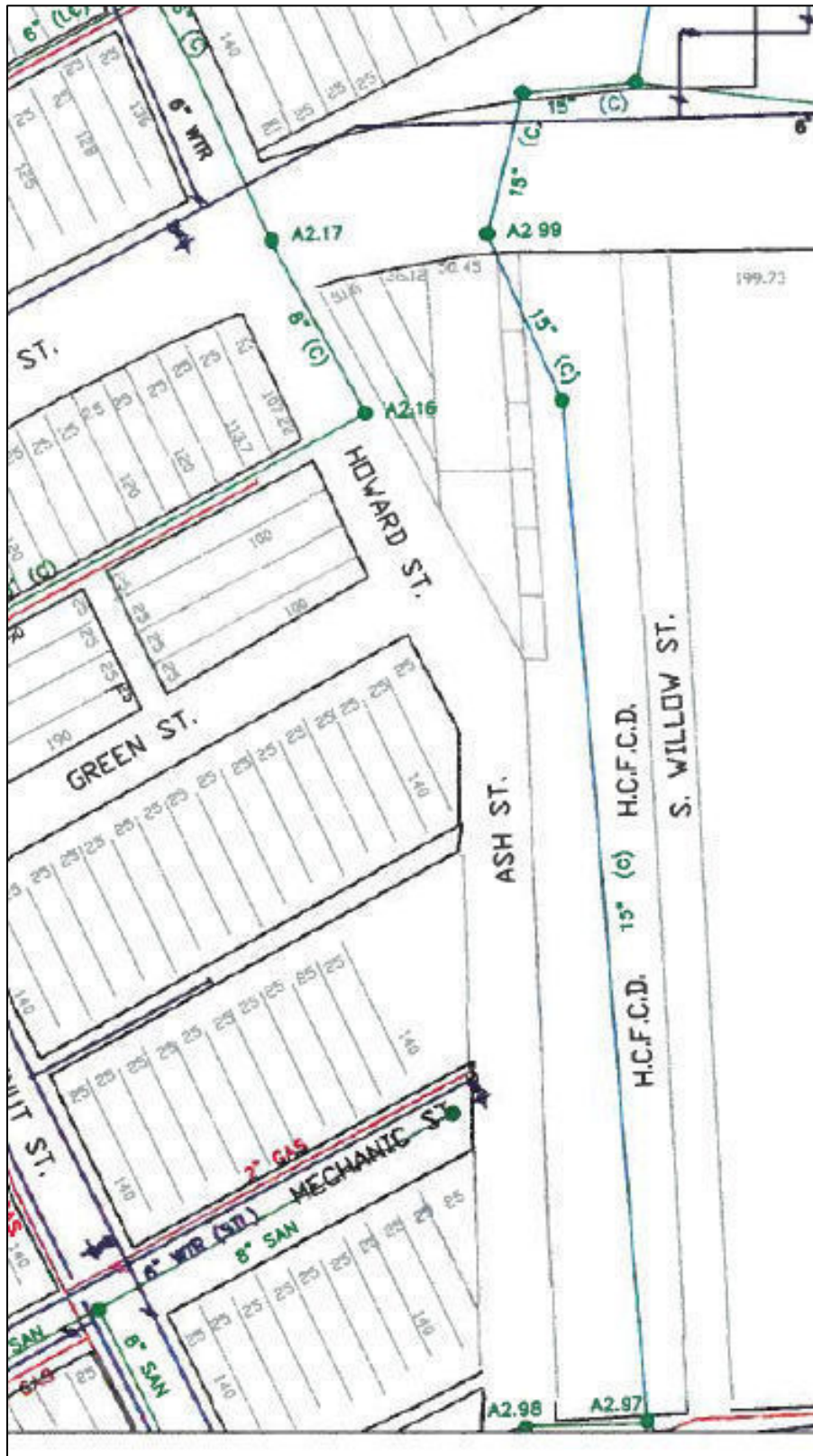
Land Boundary • Topographic Surveying
A Division of Everything in Christ Services, Inc.



Exhibit “D”
Circulation Alternatives



Exhibit "E"
Utility Map



Regular City Council

Agenda Item

Meeting Date: April 18, 2011

Data Sheet

Topic:

Approve Application of Philip O'Sullivan for Abandonment of a Portion of Ash and Timkin Road Right-of-Ways and Adopt, on First Reading, Ordinance No. 2011-04, an Ordinance of the City of Tomball, Texas, finding and determining that public convenience and necessity no longer require the continued existence of road right-of-way containing all that certain tract or parcel containing 7,827.73 square feet situated in the William Hurd Survey, A-371 in Harris County, Texas, same also being a part of Ash Street, (variable width, unimproved), as shown on the revised map of Tomball, a subdivision in Harris County, Texas according to the map or plat thereof filed for record in volume 4, page 25 of the Harris County Map Records and a part of Timkin Road, (variable width) as recorded in instruments filed for record in volume 338, page 552 and under Harris County Clerk's File No. M-572329 of the Harris County Deed Records; vacating, abandoning, and closing said roadway right-of-way; authorizing the Mayor to execute and the City Secretary to attest, respectively, deed without warranty of title; providing for severability; and containing other provisions relating to the subject.

Background:

In the Administrative Policy 65 - Right-of-Way Abandonment if the request is granted, then the City will prepare an ordinance and quit claim deed for consideration by city Council.

Origination:

Philip O'Sullivan

Recommendation:

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:

Ordinance 2011-04

ORDINANCE NO. 2011-04

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, FINDING AND DETERMINING THAT PUBLIC CONVENIENCE AND NECESSITY NO LONGER REQUIRE THE CONTINUED EXISTENCE OF ROAD RIGHT-OF-WAY CONTAINING ALL THAT CERTAIN TRACT OR PARCEL CONTAINING 7,827.73 SQUARE FEET SITUATED IN THE WILLIAM HURD SURVEY, A-371 IN HARRIS COUNTY, TEXAS, SAME ALSO BEING A PART OF ASH STREET, (VARIABLE WIDTH, UNIMPROVED), AS SHOWN ON THE REVISED MAP OF TOMBALL, A SUBDIVISION IN HARRIS COUNTY, TEXAS ACCORDING TO THE MAP OR PLAT THEREOF FILED FOR RECORD IN VOLUME 4, PAGE 25 OF THE HARRIS COUNTY MAP RECORDS AND A PART OF TIMKIN ROAD, (VARIABLE WIDTH) AS RECORDED IN INSTRUMENTS FILED FOR RECORD IN VOLUME 338, PAGE 552 AND UNDER HARRIS COUNTY CLERK'S FILE NO. M-572329 OF THE HARRIS COUNTY DEED RECORDS; VACATING, ABANDONING, AND CLOSING SAID ROADWAY RIGHT-OF-WAY; AUTHORIZING THE MAYOR TO EXECUTE AND THE CITY SECRETARY TO ATTEST, RESPECTIVELY, DEED WITHOUT WARRANTY OF TITLE; PROVIDING FOR SEVERABILITY; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.

* * * * *

WHEREAS, Philip O'Sullivan, the property owner of the subject property, have petitioned the City of Tomball, Texas, to vacate, abandon, and close the hereinafter described roadway right-of-way; and

WHEREAS, the City Council has conducted a public hearing regarding whether to vacate, abandon, and close the roadway right-of-way; and

WHEREAS, the franchisees of the City of Tomball have indicated that they have no objection to the right-of-way being vacated, abandoned and closed; and

WHEREAS, the City Council has determined that such roadway right-of-way should be vacated, abandoned, and closed for the reason that the same is no longer needed by the City; and

WHEREAS, the City desires to convey the property being abandoned to the abutting property owners in proportion to their abutting ownership and in a division that is equitable; now, therefore;

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

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

Section 2. The City Council of the City of Tomball, Texas, hereby finds and determines that public convenience and necessity no longer require the continued existence of that portion of the roadway right-of-way described in Section 3 hereof.

Section 3. All that certain tract or parcel containing 7,827.73 square feet situated in the William Hurd Survey, A-371 in Harris County, Texas, same also being a part of Ash Street, (variable width, unimproved), as shown on the Revised Map of Tomball, a subdivision in Harris County, Texas according to the map or plat thereof filed for record in Volume 4, Page 25 of the Harris County Map Records and a part of Timkin Road, (variable width) as recorded in instruments filed for record in Volume 338, Page 552 and under Harris County Clerk's File No. M-572329 of the Harris County Deed Records. The said property occupies an area of land commencing at Timkin Road on the south and terminating at the southerly portion of the existing hammerhead, south of Mechanic Street, within Ash St right-of-way on the north, located within the City of Tomball, Harris County, Texas, is hereby vacated, abandoned, and closed.

Section 4. The Mayor and City Secretary are hereby authorized to execute and attest, respectively, a Deed without Warranty of Title conveying said right-of-way in consideration for the payment sum to the City of TEN AND NO/100 DOLLARS (\$10.00) by each adjacent land owner.

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

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON APRIL 18, 2011.

COUNCILMAN QUINN	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

SECOND READING:

READ, PASSED AND ADOPTED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON MAY 2, 2011.

COUNCILMAN QUINN	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

DEED WITHOUT WARRANTY

STATE OF TEXAS §
COUNTY OF HARRIS §

Whereas by Ordinance No. 2011-04, the City authorized the closing and conveyance the herein described property;

THE CITY OF TOMBALL (“Grantor”), a home-rule Texas Municipality, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other valuable consideration to the undersigned paid by Philip O’Sullivan (“Grantee”), the receipt of which is hereby acknowledged, has GRANTED, BARGAINED, SOLD and CONVEYED, and by these presents does GRANT, BARGAIN, SELL AND CONVEY unto Grantee all of that certain lot, tract or parcel of land located in the CITY OF TOMBALL, County of Harris, State of Texas and being more fully described by metes and bounds in Exhibits “A” attached hereto, and described by survey plat in Exhibit “B” attached hereto and incorporated herein by reference.

TOGETHER WITH all improvements thereon, all personal property located at, on, upon, under or associated therewith, riparian and other water rights, privileges and easements appurtenant to that certain lot, tract or parcel of land described by metes and bounds in Exhibits “A” attached hereto, and described by survey plat in Exhibit “B” attached hereto.

This conveyance is made subject to any and all liens, encumbrances, easements, restrictions, reservations, exceptions and other matters or record to the extent valid and existing as of the date hereof, but only to the extent they affect or relate to the Property.

TO HAVE AND TO HOLD the Property, unto Grantee and Grantee’s successors and assigns forever, without express or implied warranty. All warranties that may arise by common law as well as the warranties in Section 5.023 of the Texas Property Code (or its successor) are excluded.

EXECUTED this ____ day of _____, 2011.

CITY OF TOMBALL/ (“GRANTOR”)

By _____
Mayor

NOTARY BLOCK

STATE OF TEXAS §
COUNTY OF HARRIS §

 This instrument was acknowledged before me on this ____ day of _____, 2011, by
_____, as Mayor of the CITY OF TOMBALL, a Texas municipality.

SEAL

Notary Public
State of Texas

ATTEST:

City Secretary.

EXHIBIT "A"

METES & BOUNDS

EIC SURVEYING COMPANY

12345 Jones Road, Suite 270
Houston, TX 77070
281-955-2772 • Fax 281-955-6678
www.eicsurveying.com • eic@eicsurveying.com

All that certain tract or parcel containing 7,827.73 square feet situated in the William Hurd Survey, A-371 in Harris County, Texas, same also being a part of Ash Street, (variable width, unimproved), as shown on the Revised Map of Tomball, a subdivision in Harris County, Texas according to the map or plat thereof filed for record in Volume 4, Page 25 of the Harris County Map Records and a part of Timkin Road, (variable width) as recorded in instruments filed for record in Volume 338, Page 552 and under Harris County Clerk's File No. M-572329 of the Harris County Deed Records, said 7,827.73 square foot tract of land being more particularly described by metes and bounds as follows:

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THENCE S 64°29'00" W, a distance of 125.00 feet along the Northwesterly right-of-way line of said Timkin Road to a 5/8" iron rod (found) marking the Easterly corner of Lot 24 in Block 82 of said Revised Map of Tomball, the Southerly corner of New Lot 25 in Block 82 of Kana Industrial Park, a subdivision in Harris County, Texas according to the map or plat thereof filed for record under Film Code No. 437064 of the Harris County Map Records, and the Westerly- Northwest corner of the herein described 7,827.73 square foot tract of land;

THENCE N 64°29'00" W, a distance of 68.17 feet along the Northwesterly right-of-way line of said Timkin Road and the Southeasterly line of said New Lot 25 to a 5/8" iron rod (found) marking the intersection of the Northwesterly right-of-way line of said Timkin Road with the West right-of-way line of said Ash Street, same point marking the Easterly corner of said New Lot 25 and an interior corner of the herein described 7,827.73 square foot tract of land;

THENCE NORTH, a distance of 105.13 feet along the West right-of-way line of Ash Street and the Northeasterly line of said New Lot 25 to a point for corner marking the Northerly-Northwest corner of the herein described 7,827.73 square foot tract of land;

THENCE EAST, a distance of 50.93 feet to a point in the West line of Lot 17 in Block 89 of said Revised Map of Tomball and in the East right-of-way line of said Ash Street marking the Northeast corner of the herein described 7,827.73 square foot tract of land;

THENCE S 00°02'08" E, a distance of 136.41 feet along the East right-of-way line of said Ash Street to a point marking the intersection of the East right-of-way line of said Ash Street with the North right-of-way line of said Timkin Road, same point marking the Southeast corner of the herein described 7,827.73 square foot tract of land;

THENCE Westerly, the following courses and distances;

N 89°48'51" W, a distance of 38.78 feet to an angle point;

N 81°23'42" W, a distance of 38.76 feet to an angle point;

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THENCE N 25°31'00" W, a distance of 6.56 feet to the POINT OF BEGINNING and containing 7,827.73 feet.

Job No. 10-564-11.

The basis of bearing is NORTH along the West right-of-way line of Ash Street per recorded plat of Kana Industrial Park.

Land Boundary • Topographic Surveying
A Division of Everything in Christ Services, Inc.



EXHIBIT "B"

[illegible]

Regular City Council

Agenda Item

Meeting Date: April 18, 2011

Data Sheet

Topic:

Consideration and possible action regarding **ZONING CASE P10-289**: Request by Jeff Williams III of Professional Welding Supply for a Conditional Use Permit to allow the installation/operation of a 1,000-gallon aboveground propane tank for the purpose of propane sales/filling. The property is an approximately .5019 acre site, legally described as Lot 1, Block 1 of the Williams Number One Replat, generally located southerly of Main Street between Howard Street and Willow Street at 503 East Main Street, Tomball, Texas. The site is located in the GR-General Retail District.

- Conduct a Public Hearing on **ZONING CASE P10-289**
- Adopt on First Reading, Ordinance No. 2011-05; An Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by granting a Conditional Use Permit to Jeff Williams III of Professional Welding Supply, to allow the installation/operation of a 1,000 gallon above-ground propane tank for the purpose of propane sales/filling; Said tract being located within the City in Zoning District GR-General Retail District and being legally described as Lot 1, Block 1 of the Williams Number One Replat, generally located southerly of Main Street between Howard Street and Willow Street at 503 East Main Street, Tomball, Texas; Providing requirements and conditions for this Conditional Use Permit; Containing findings and other provisions relating to the subject; Providing a penalty in an amount not to exceed two thousand dollars for violations hereof; and providing for severability.

Background:

On November 11, 2010, Jeff Williams III submitted a Conditional Use Permit application to install an above ground bulk propane tank, pump, scale, and meters to fill propane cylinders at the subject site. The propane storage tank area will be located approximately 11 feet behind the main building, 41 feet from the Harris Flood Control District's ditch, and at least 26 feet from the unimproved Howard Street right-of-way. The propane sales operation will include filling propane cylinders on site as well as taking pre-filled cylinders to be delivered to customer locations. The applicant is not proposing any additional driveway access to the propane tank. Instead, the bulk tank will be filled by a bobtail truck with a 100 foot hose from the existing parking lot.

After reviewing the request, staff prepared and presented a report to the Planning and Zoning Commission recommending approval with conditions. On April 11, 2011, the Planning and Zoning Commission, after conducting a public hearing on this request, voted 3-1 to approve Zoning Case P10-289 with conditions. This case is now being forwarded to City Council for consideration and possible action.

Origination:

Jeff Williams III of Professional Welding Supply

Recommendation:

In its formal recommendation to City Council, the Planning and Zoning Commission voted 3-1 to approve Zoning Case P10-289 with conditions, as recommended by staff, based on the following findings: The proposal is consistent with the general purpose and intent of the applicable zoning district regulations and Comprehensive Plan and the proposal is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity. Section 37.1.A of the Zoning Ordinance allows the City to impose certain conditions on a CUP request in order to mitigate "external effects of the use in relation to the existing and planned uses of adjoining property and the

neighborhood.” As such, City staff recommends the following conditions of approval: The “Propane Sales Filling (Retail)” use shall not be enlarged, extended, or relocated from what is shown on the approved Concept Plan without the approval of a revised concept plan or new CUP; All proposed structures shall adhere to the setback requirements of the Zoning Ordinance; The “Propane Sales Filling (Retail)” use shall comply with all requirements of the adopted International Fire Code; The proposed propane tank shall be screened from public view with landscaping; The proposed propane tank shall be installed and inspected per Texas Railroad Commission specifications; The existing cylinder dock and its supporting structures (fences, stair treads, risers, ledges, handrails, covers, etc.) shall be brought into conformance with the development standards of the City of Tomball and be properly permitted.

Funding: No

Funds will be transferred from Account: to Account:

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:

- Notice of Public Hearing
- Property Owner Notification
- P10-289 Staff Report
- Ordinance 2011-05

**NOTICE OF PUBLIC HEARINGS
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
APRIL 11, 2011
&
CITY COUNCIL
APRIL 18, 2011**



Notice is Hereby Given that Public Hearings will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, April 11, 2011, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, April 18, 2011, at 7:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P10-289: Request by Jeff Williams III of Professional Welding Supply for a Conditional Use Permit to allow the installation/operation of a 1,000 gallon above-ground propane tank for the purpose of propane sales/filling. The property is an approximately .5019 acre site, legally described as Lot 1, Block 1 of the Williams Number One Replat, generally located southerly of Main Street between Howard Street and Willow Street at 503 East Main Street, Tomball, Texas. The site is located in the GR-General Retail District.

ZONING CASE P11-313: Public hearing to consider a City-initiated text amendment to the Tomball Comprehensive Zoning Ordinance (Ordinance No. 2008-01) to amend Section 34.6.E.1 ("Additional Off-Street Parking Space Requirements") to delete the off-street parking requirements in the OT & MU - Old Town & Mixed Use District for that portion of the Old Town Area bounded by Fannin Street, Houston Street, the railroad tracks, and Pine Street, and including the lots that front on Fannin Street and Houston Street adjacent to such portion.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning and Zoning Commission serves as a recommendation to the City Council and is not a final action on the request. Should the Planning & Zoning Commission vote to table a decision/recommendation on one or more of the above cases, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a decision/recommendation is forwarded to the City Council by the Planning and Zoning Commission. The application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Engineering & Planning Department office, located at 501 James Street, Tomball, TX

77375. **Contact Assistant City Planner** Rodney Schmidt, (281) 290-1410, rschmidt@ci.tomball.tx.us

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 **7th** day of **April** 2011 by **5:00** p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Brandy Pate

Brandy Pate

Senior Administrative Assistant

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



Notice of Public Hearing

YOU ARE INVITED TO ATTEND a Public Hearing before the **PLANNING & ZONING COMMISSION** of the City of Tomball regarding the following item:

CASE NUMBER: P10-289

APPLICANT: Jeff Williams III of Professional Welding Supply

LOCATION: 503 East Main Street

PROPOSAL: Request by Jeff Williams III of Professional Welding Supply for a Conditional Use Permit to allow the installation/operation of a 2,000 gallon above-ground propane tank for the purpose of propane sales/filling. The property is an approximately .5019 acre site, legally described as Lot 1, Block 1 of the Williams Number One Replat, generally located southerly of Main Street between Howard Street and Willow Street at 503 East Main Street, Tomball, Texas. The site is located in the GR-General Retail District.

* * *

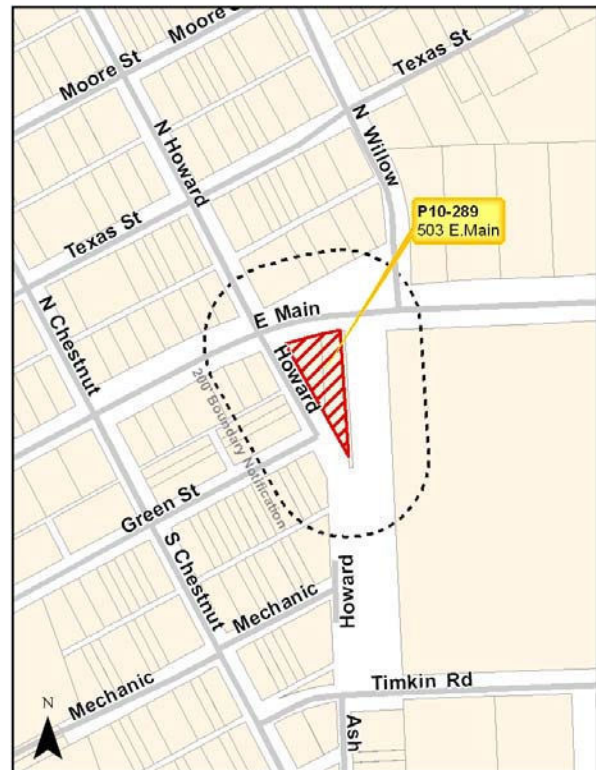
CONTACT CITY PLANNER: Kelly Violette

PHONE: (281) 290-1491

E-MAIL: kviolette@ci.tomball.tx.us

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

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

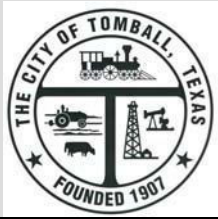


**Planning and Zoning Commission
Public Hearing:
Monday, January 10, 2011, 6:00 PM**

**City Council Public Hearing:
*Monday, January 17, 2011, 7:00 PM**

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

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



CUP Staff Report

Planning and Zoning Commission Hearing Date: April 11, 2011

Rezoning Case: P10-289

Property Owner(s): Williams Properties

Applicant(s): Jeff Williams

Legal Description: Lot 1, Block 1 of the Williams Number One Replat, within the City of Tomball, Harris County, Texas

Location: 503 East Main Street (Generally located southerly of Main Street between Howard Street and Willow Street)

Area: 0.5019 acres

Present Zoning and Use: GR-General Retail District / Welding equipment and supply sales (Professional Welding Supply)

Comp Plan Designation: Employment / Office

Proposed Use: Welding supply sales and propane sales/filling

Request: Conditional Use Permit to allow the installation/operation of a 1,000 gallon above-ground propane tank for the purpose of propane sales/filling.

Adjacent Zoning & Land Uses:

North: GR-General Retail and OT&MU-Old Town & Mixed Use Districts / F.M. 2920 ROW, convenience store, and office building

South: GR-General Retail and OT&MU-Old Town & Mixed Use Districts / Unimproved Howard Street ROW and vacant

East: GR-General Retail District / Harris County Flood Control District ditch and Concordia Lutheran High School

West: Old Town & Mixed Use District / Unimproved Howard Street ROW and plumbing company

BACKGROUND / PROJECT DESCRIPTION

The subject site is an approximately 21,862.20 square foot (0.5019 acres) triangular lot with approximately 140 feet of frontage along F.M. 2920 (Exhibit "G"). The property is located in the GR-General Retail District and is currently developed with an approximately 2,219 square foot building occupied by Professional Welding Supply, a welding equipment and supply company.

The site is bound by the unimproved Howard Street ROW on the west and a Harris County Flood Control District drainage ditch on the east. Concordia Lutheran High School is located to the east of the site in the GR-General Retail District, to the west is a plumbing company in the Old Town & Mixed Use District, and to the north is the F.M. 2920 ROW, a convenience store, and an office building located in the GR-General Retail and OT&MU-Old Town & Mixed Use Districts (Exhibits “A” and “B”).

In 2008, Professional Welding Supply began the process of converting the former Tomball Fire Department station at 503 East Main Street into a retail shop for welding supplies. The site was replatted in February 2009 (Exhibit “G”) and the site plans were approved by the City’s Engineering & Planning Department on April 23, 2009 as a general retail use with no outside storage permitted under the proposed plan. At that time, the plans included the construction of a seven space parking lot, as well as interior and exterior building improvements.

Between April 23 and December 8, 2009, the applicant constructed an approximately four foot tall cylinder dock/storage area enclosed with a chain link fence with privacy slats and three rows of barbed wire on the western portion of the building facing the Howard Street ROW without obtaining planning approval or City permits. The property owner was issued a “Stop Work Order” by the City’s Code Enforcement Officer on November 11, 2009 and was instructed to contact the Engineering & Planning Department in order to begin the permitting process. The property owner subsequently submitted a revised site plan in December 2009.

After reviewing the dock and outside storage area as shown on the revised site plan, City staff informed the property owner that the improvements could not be permitted as proposed because the dock was constructed over the 15 foot side building line and exceeded the maximum outside storage area permitted within the GR District, which is 5% of the total land area. It was also noted that the dock did not comply with the 2006 International Fire Code requirements for an overhead cover and the fenced in storage area blocked the egress door on the west side of the building. Additionally, the stairs and guardrail on the dock did not meet the City’s adopted building code.

After discussions with the property owner, a variance application was submitted for a reduction in the side setback for the dock and outside storage area. The owner indicated that he would reduce the size of the outside storage area to comply with the maximum 5% permitted in the GR District and that he would comply with the requirements of the Fire and Building Codes. On March 18, 2010, the Board of Adjustments approved the setback variance with a condition that the variance would automatically terminate at such time that the part of the Howard Street right-of-way adjacent to the subject site is improved and utilized for public street purposes.

A revised site plan was submitted in May 2010; however, a number of issues were not addressed including:

- The stair treads, risers, ledges, and handrails were not shown to be in conformance with the minimum standards outlined in the 2006 International Fire Code.
- An overhead cover was not shown for the dock as required per Section 3003.14 of the 2006 International Fire Code.
- The proposed site plan showed the fence being located to the north side of the egress door which will likely interfere with the stairway if alterations are not proposed for the stairway.

- Access to the cylinder dock/storage area was unclear. If vehicular access is occurring on the unpaved surface around the northwest and south sides of the outside storage area/cylinder dock, a paved access way is required and must adhere to all City codes. If no vehicular access is proposed, a 6" concrete curb is required to be constructed along the perimeter of the pavement to the north of the outside storage area (connecting to the existing curb).

As a result of the applicant's failure to address these comments, the City of Tomball has not issued site plan approval or building permits and the structures are still considered illegal.

On November 11, 2010, Jeff Williams III submitted a Conditional Use Permit application to install an above ground bulk propane tank, pump, scale, and meters to fill propane cylinders (Exhibit "D") at the subject site. The propane storage tank area will be located approximately 11 feet behind the main building, 41 feet from the Harris Flood Control District's ditch, and at least 26 feet from the unimproved Howard Street right-of-way (Exhibit "F"). The propane sales operation will include filling propane cylinders on site as well as taking pre-filled cylinders to be delivered to customer locations. The applicant is not proposing any additional driveway access to the propane tank. Instead, the bulk tank will be filled by a bobtail truck with a 100 foot hose from the existing parking lot.

According to the applicant's request letter (Exhibit "E"), "We [Professional Welding] have a Category E License Retail/Wholesale Dealer with the Railroad Commission (RRC) of Texas. Our employees are certified by the RRC in the filling & distribution of propane." Additionally, the applicant has informed City staff that, "In the 29 years that we [Professional Welding] have been in business I am not aware of any fill site like we are proposing that has exploded. The only ones that I am familiar with have occurred at residential locations when they let their bulk tank go completely empty before being refilled. Those explosions relate to the pilot light when propane is put back into the system. However, we have a Category E license with the RRC for bulk, wholesale & retail operations in the state of Texas & will be in full compliance w/all rules & regulations pertaining to a filling operation."

ANALYSIS

According to the Zoning Ordinance, "When considering applications for a conditional use permit, the City shall, on the basis of the Concept Plan and other information submitted, evaluate the impact of the conditional use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location." Factors for consideration include:

- 1. The proposed use at the specified location is consistent with the goals, objectives and policies contained in the adopted Comprehensive Plan;**

The Employment/Office Land Use designation in the Comprehensive Plan is intended for employment uses that are not industrially focused. These uses include corporate headquarters, regional offices, professional offices, light enclosed manufacturing or assembly facilities, office/showrooms, and small business office suites. Some retail activities are permitted in this land use to support offices and employment operations. The use of the site as a "Propane Sales Filling (Retail)" facility is generally consistent with the Employment/Office designation outlined in the Comprehensive Plan in that it will support the employment operation already established on site.

2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;

The general purpose and intent of the GR-General Retail District is to provide areas for local neighborhood shopping and service facilities for the retail sales of goods and services. The use of the site for “Propane Sales Filling (Retail)” is consistent with the GR-General Retail District description. The proposed site improvements and recommended conditions of approval will assure compatibility of the use with other uses permitted in the surrounding area.

3. The proposed use meets all supplemental standards specifically applicable to the use as set forth in this Ordinance;

The submitted concept plan generally meets the development standards applicable to the project. Should the CUP application be approved, the applicant will be required to submit a site plan to the Engineering & Planning Department for review and approval. The plans must exhibit compliance with all applicable ordinance regulations.

4. The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances, includes improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts, including but not limited to:

- a. Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire;
- b. Off-street parking and loading areas;
- c. Refuse and service areas;
- d. Utilities with reference to location, availability, and compatibility;
- e. Screening and buffering, features to minimize visual impacts, and/or setbacks from adjacent uses;
- f. Control of signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
- g. Required yards and open space;
- h. Height and bulk of structures;
- i. Hours of operation;
- j. Exterior construction material and building design; and
- k. Roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets.

The submitted concept plan generally meets the development standards applicable to the project. The proposed site improvements and recommended conditions of approval will assure compatibility of the use with other uses permitted in the surrounding area.

5. **The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.**

The partial use of the site as a “Propane Sales Filling (Retail)” facility is not anticipated to be detrimental to the public health, safety, convenience and welfare. The proposed site improvements and recommended conditions of approval will bring the site into conformance with the provisions of the Zoning Ordinance.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on April 1, 2011 and, as of the writing of this report, no public comment forms were received (Exhibit “J”).

RECOMMENDATION

That the Planning and Zoning Commission recommend approval of Zoning Case P10-289, with conditions, based on the following:

- The proposal is consistent with the general purpose and intent of the applicable zoning district regulations and Comprehensive Plan ;
- The proposal is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.

RECOMMENDED CONDITIONS OF APPROVAL

Section 37.1.A of the Zoning Ordinance allows the City to impose certain conditions on a CUP request in order to mitigate “external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood.” As such, City staff recommends the following conditions of approval:

1. The “Propane Sales Filling (Retail)” use shall not be enlarged, extended, or relocated from what is shown on the approved Concept Plan without the approval of a revised concept plan or new CUP.
2. All proposed structures shall adhere to the setback requirements of the Zoning Ordinance.
3. The “Propane Sales Filling (Retail)” use shall comply with all requirements of the adopted International Fire Code.
4. The proposed propane tank shall be screened from public view with a CMU wall and landscaping.
5. The proposed propane tank shall be installed and inspected per Texas Railroad Commission specifications.

6. The existing cylinder dock and its supporting structures (fences, stair treads, risers, ledges, handrails, covers, etc.) shall be brought into conformance with the development standards of the City of Tomball and be properly permitted.

EXHIBITS

- A. Location/Zoning Map
- B. Aerial Photo
- C. Aerial Photo w/Buffer Rings
- D. CUP Application
- E. CUP Request Letter
- F. Conceptual Site Plan
- G. Williams Number One Replat
- H. 6-3-10 Site Plan Rejection Letter
- I. Site Photos

Exhibit "A"
Location/Zoning Map

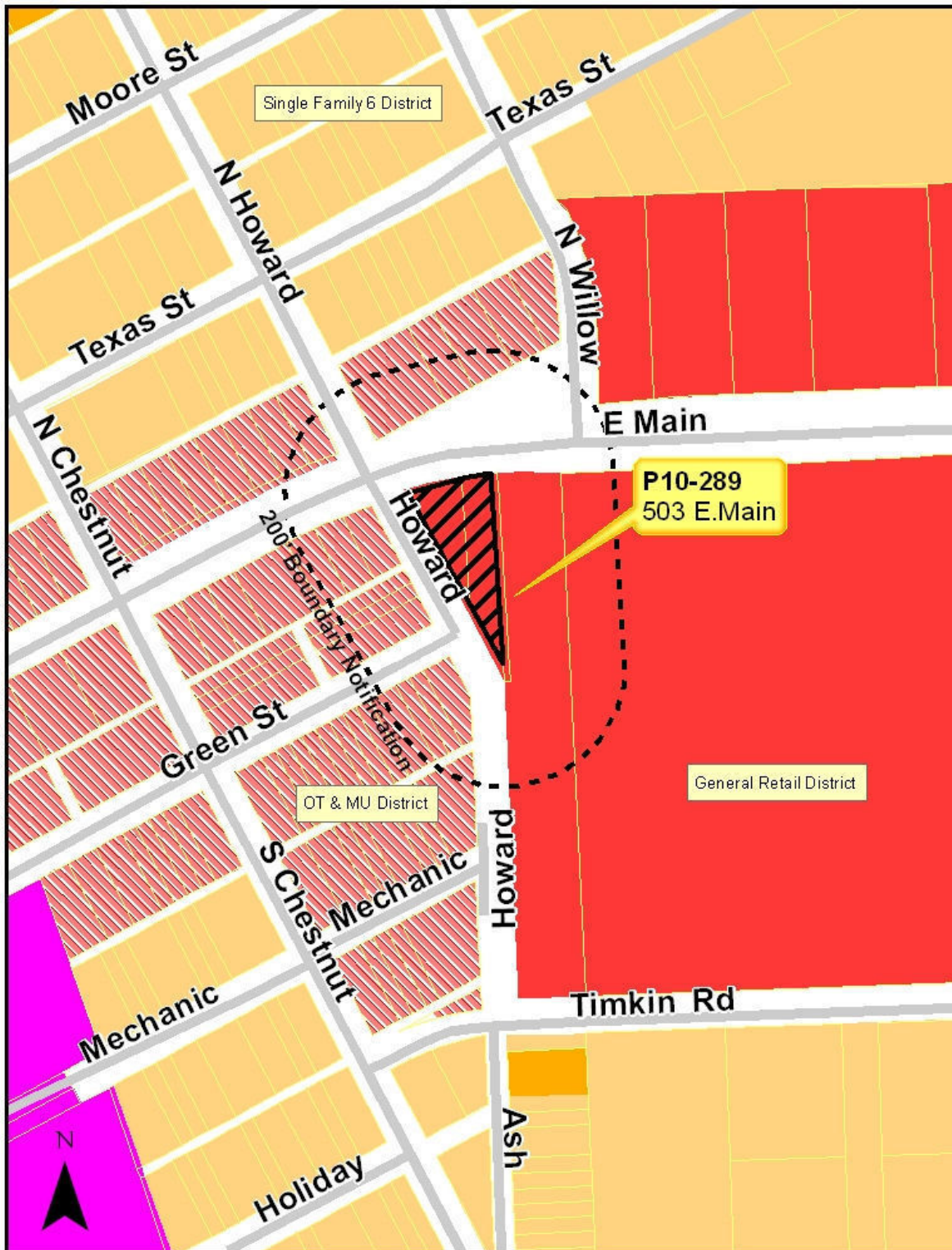


Exhibit "B"
Aerial Photo



Exhibit "C"
Aerial Photo w/Buffer Rings



Exhibit "D"
CUP Application

Revised 1/20/09



APPLICATION FOR
CONDITIONAL USE PERMIT
Engineering & Planning Department



A conditional use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given zoning district only upon a determination that the external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood can be mitigated through imposition of certain standards and conditions. This Section sets forth the standards used to evaluate proposed conditional uses and the procedures for approving conditional use permit (CUP) applications.

No conditional use shall be established and no building permit shall be issued for any use designated as a conditional use within any zoning district until a conditional use permit (CUP) is approved and issued in accordance with the provisions of this Section and Section 10 of The Zoning Ordinance.

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

Applicant

Name: Jeff Williams / Professional Title: President
Mailing Address: P.O. Box 19811 City: Houston State: TX
Zip: 77224
Phone: (713) 690-6888 Fax: (713) 690-2363 Email: jeffwiii@profwldgsply.com

Owner

Name: Williams Properties / Jeff Williams Title: Partner
Mailing Address: P.O. Box 19811 City: Houston State: TX
Zip: 77224
Phone: (832) 435-3337 Fax: (713) 690-2363 Email: jeffwiii@profwldgsply.com

Engineer/Surveyor (if applicable)

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

Description of Proposed Project: Attached

Physical Location of Property: 503 E. Main Street, Tomball, TX 77375
[General Location – approximate distance to nearest existing street corner]

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

HCAD Identification Number: 1315260010001 Acreage: .5019

Current Use of Property: Attached

Proposed Use of Property: Attached

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

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

X Jeff Williams, III 11/5/10
Signature of Applicant Date

X Jeff Williams, III 11/5/10
Signature of Owner Date

Exhibit "E"
CUP Request Letter

Professional Welding Supply
503 East Main Street
Tomball, Texas 77375

November 4, 2010

City Planning & Zoning Commission
City of Tomball
401 Market Street
Tomball, Texas 77375



Dear City Planning & Zoning Commission:

This letter is submitted as part of an "Application for Conditional Use Permit." I respectfully request the City of Tomball to allow Professional Welding Supply to install a bulk propane tank, pump, scale and meters to fill propane cylinders at our facility at the address listed above.

Current Use:

Our Tomball location is currently being used as a retail outlet for walk-in customers as well as a stocking & distribution point for all customers that we service with our delivery trucks north of Beltway 8. Approximately ½ of our sales are gases and the other half are supplies. Some of the products that are stocked & sold at this location are: oxygen, nitrogen, argon, carbon dioxide, helium, acetylene, propane, abrasives, welding & cutting equipment, filler metals, safety equipment and related apparatus.

Proposed Use:

The only thing that we want to do different is to put in a bulk propane tank to fill propane cylinders on-site. This will require a stationary tank of approximately 2,000 gallons of storage capacity, pump, meter & scale. We have a Category E License Retail/Wholesale Dealer with the Railroad Commission (RRC) of Texas. Our employees are certified by the RRC in the filling & distribution of propane.

If you have any questions or comments please call me at my office (713) 690-6888 or my cell (832) 435-3337.

Best regards,

Jeff Williams, III
Owner

Explosion Proof materials for power to pump.
Lot Cause: 17% Improvis Cause: 39%.



Exhibit "G"

Williams Number One Replat

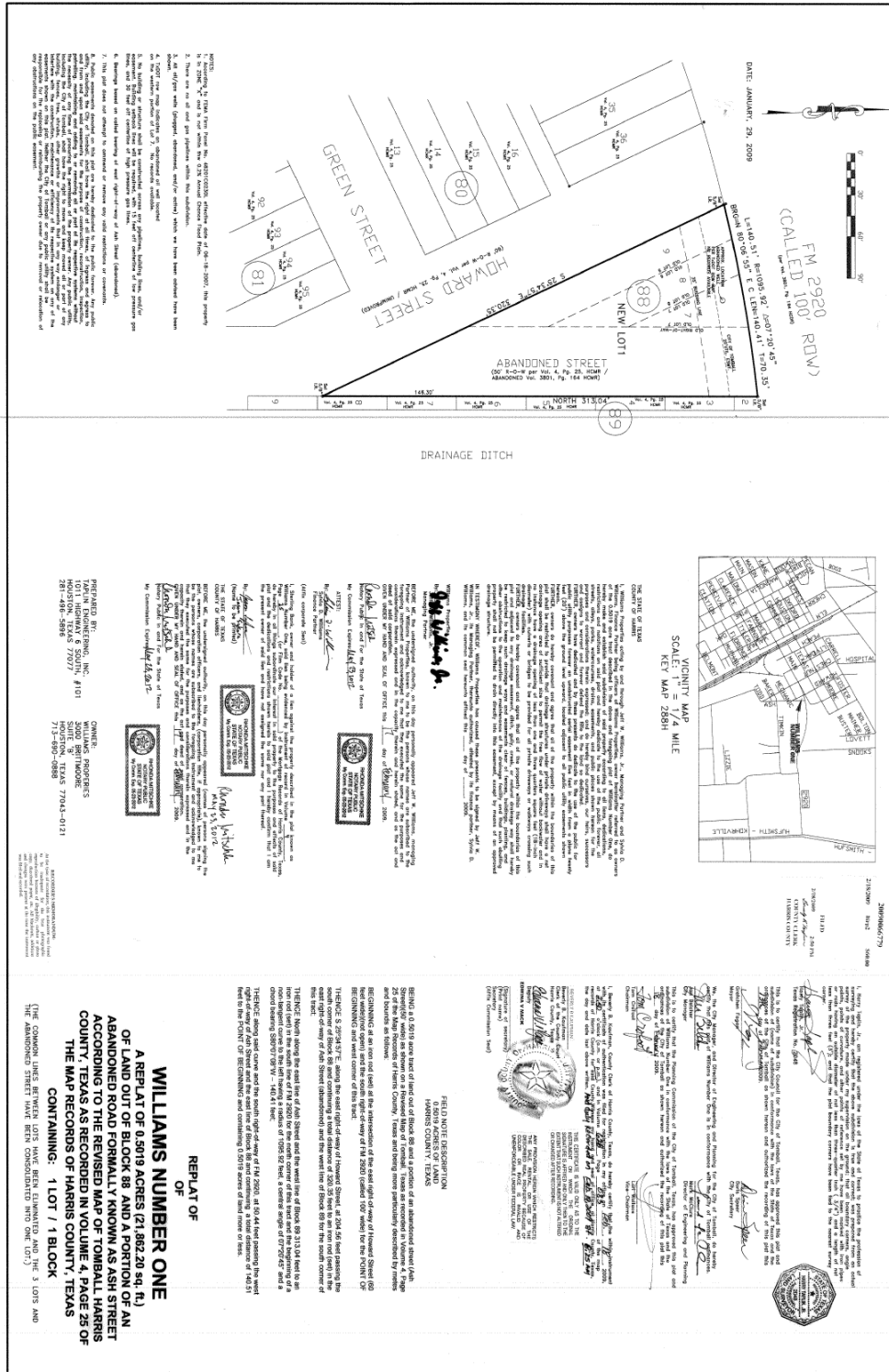


Exhibit "H"
6-3-10 Site Plan Rejection Letter



City of Tomball

GRETCHEN FAGAN
MAYOR

June 3, 2010

Jeff Williams, Jr.
P.O. Box 19811
Houston, TX 77224

RE: Professional Welding Supply (503 East Main Street, Tomball, TX) Site Plan Revision Letter

Dear Mr. Williams:

The Engineering & Planning Department and Fire Marshal's Office have reviewed the site plan you submitted on May 7, 2010 related to the construction of an outside storage area and cylinder dock located at the above referenced address. At this time, we are rejecting the request for site plan approval. The following comments need to be addressed before approval can be granted by the Engineering & Planning Department and before permits can be issued by the City of Tomball:

- "No smoking" signs must be posted in each structure or location in which smoking is prohibited per Section 310.3 ("No Smoking" signs) of the 2006 International Fire Code, "The fire code official is authorized to order the posting of 'No Smoking' signs in a conspicuous location in each structure or location in which smoking is prohibited. The content, lettering, size, color and location of required 'No Smoking' signs shall be approved."
- The stair treads and risers on the cylinder dock must be constructed in conformance with Section 1009.3 ("Stair treads and risers") of the 2006 International Fire Code, "Stair riser heights shall be 7 inches (178 mm) maximum and 4 inches (102 mm) minimum. Stair tread depths shall be 11 inches (279 mm) minimum. The riser height shall be measured vertically between the leading edges of adjacent treads. The tread depth shall be measured horizontally between the vertical plans of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. Winder treads shall have a minimum tread depth of 11 inches (279 mm) measured at a right angle to the tread's leading edge at a point 12 inches (305 mm) from the side where the treads are narrower and a minimum tread depth of 10 inches (254 mm)."
- The handrails on the cylinder dock must be constructed in conformance with Section 1012.3 ("Handrail graspability") of the 2006 International Fire Code,

401 MARKET ST. • TOMBALL, TEXAS 77375 • 281/351-5484

“Handrails with a circular cross-section shall have an outside diameter of at least 1.25 inches (32 mm) and not greater than 2 inches (51 mm) or shall provide equivalent graspability. If the handrail is not circular, it shall have a perimeter dimension of at least 4 inches (102 mm) and not greater than 6.25 inches (160 mm) with a maximum cross-section dimension of 2.25 inches (57 mm). Edges shall have a minimum radius of 0.01 inch (0.25 mm).”

- Hazard identification signs must be installed per Section 2703.5 (“Hazard identification signs”) of the 2006 International Fire Code, “Unless otherwise exempted by the fire code official, visible hazard identification signs as specified in NFPA 704 for the specific material contained shall be placed on stationary containers and above-ground tanks and at entrances to locations where hazardous materials are stored, dispensed, used or handled in quantities requiring a permit and at specific entrances and locations designated by the fire code official.”
- All ledges and platforms of the cylinder dock must be constructed in conformance with Section 3003.7.3 (“Ledges, platforms and elevators”) of the 2006 International Fire Code, “Compressed gas containers, cylinders and tanks shall not be placed near elevators, unprotected platform ledges or other areas where falling would result in compressed gas containers, cylinders or tanks being allowed to drop distances exceeding one-half the height of the container, cylinder or tank.”
- An overhead cover must be installed over the location where compressed gas containers, cylinders, and tanks are stored per Section 3003.14 (Overhead cover) of the 2006 International Fire Code, “Compress gas containers, cylinders and tanks are allowed to be stored or used in the sun except in locations where extreme temperatures prevail. When extreme temperatures prevail, overhead covers shall be provided.”
- Provide exterior elevation of overhead cover calling out the overall height.
- The proposed site plan shows the fence being located to the north side of the door which will likely interfere with the stairway if alterations are not proposed for the stairway. Show on site plan how the stairs will be configured.
- Show the location of all gates on the revised site plan. The submitted site photos show a gate on the rear of the outside storage area but the site plan does not show a gate on the rear.
- If vehicular access is occurring on the unpaved surface around the northwest and south sides of the outside storage area/cylinder dock, a paved accessway is required and must adhere to all City codes. If no vehicular access is proposed, a 6” concrete curb is required to be constructed along the perimeter of the pavement to the north of the outside storage area (connecting to the existing curb).

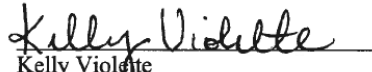
- After site plan approval is granted, you will be required to obtain all appropriate City of Tomball building permits.

The above noted comments need to be addressed before approval will be granted by the Engineering & Planning Department. While every effort has been made to make a complete and comprehensive review of the submitted plans and documents, any omission and/or deletions in this plan review does not relieve the applicant, contractors, architects, engineers, or other individuals involved in this project from their responsibility to fully comply with the applicable codes, regulations, ordinances, and federal and state laws.

If you fail to address these issues or fail to inform City staff of your substantial progress in addressing these issues by 5:00 p.m. on Tuesday, July 6, 2010, this issue will be turned over to Code Enforcement for further action.

If you have any questions, feel free to contact me at 281-290-1491.

Thank you,


Kelly Violette
City Planner

**Exhibit “I”
Site Photos**



Figure 1: Southerly view of subject site.



Figure 2: Southerly view of subject site and undeveloped Howard Street ROW.



Figure 3: Plumbing company to the west of subject site.



Figure 4: Gas station and dental office to the north of subject site.



Figure 5: Southwesterly view of undeveloped land to the south of subject site and Harris County Flood Control District ditch.



Figure 6: Harris County Flood Control District ditch and Concordia Lutheran School to the east of subject site.

ORDINANCE NO. 2011-05

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY GRANTING A CONDITIONAL USE PERMIT TO JEFF WILLIAMS III OF PROFESSIONAL WELDING SUPPLY, TO ALLOW THE INSTALLATION/OPERATION OF A 1,000 GALLON ABOVE-GROUND PROPANE TANK FOR THE PURPOSE OF PROPANE SALES/FILLING; SAID TRACT BEING LOCATED WITHIN THE CITY IN ZONING DISTRICT GR-GENERAL RETAIL DISTRICT AND BEING LEGALLY DESCRIBED AS LOT 1, BLOCK 1 OF THE WILLIAMS NUMBER ONE REPLAT, GENERALLY LOCATED SOUTHERLY OF MAIN STREET BETWEEN HOWARD STREET AND WILLOW STREET AT 503 EAST MAIN STREET, TOMBALL, TEXAS; PROVIDING REQUIREMENTS AND CONDITIONS FOR THIS CONDITIONAL USE PERMIT; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE SUBJECT; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED TWO THOUSAND DOLLARS FOR VIOLATIONS HEREOF; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, Jeff Williams III of Professional Welding Supply has made application for a Conditional Use Permit to allow the installation/operation of a 1,000 gallon above-ground propane tank for the purpose of propane sales/filling in the GR-General Retail District. The property is an approximately 0.5019 acre site located at 503 East Main Street, legally described as Lot 1, Block 1 of the Williams Number One Replat, and generally located southerly of Main Street between Howard Street and Willow Street right-of-ways, within the City of Tomball, Harris County, Texas; and

WHEREAS, the Property presently has a zoning classification of GR-General Retail District, pursuant to the Comprehensive Zoning Ordinance of the City; and

WHEREAS, the Owner of the Property, through its duly authorized representative, has presented an application to the City for the granting of a Conditional Use Permit to allow the

installation / operation of a 1,000 gallon above-ground propane tank for the purpose of propane sales/filling in a General Retail District (the “Conditional Use”); and

WHEREAS, the Planning & Zoning Commission of the City, after notice and hearing as required by law, has recommended that the City Council grant the conditional use permit subject to the terms and conditions contained in the final report of said Commission; and,

WHEREAS, the City Council, following notice and hearing as required by law, concurs with the recommendation of the Planning & Zoning Commission that such specific use permit should be granted subject to the terms and conditions contained herein; now, therefore,

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

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

Section 2. A Conditional Use Permit to allow the installation / operation of a 1,000 gallon above-ground propane tank for the purpose of propane sales/filling in a General Retail District, to Jeff Williams III of Professional Welding Supply, at 503 East Main Street, Tomball, Texas, in accordance with the application and plans submitted to the Planning and Zoning Commission on April 11, 2011 and subject to the terms and conditions set forth below, is hereby granted to the Owner, including any successor in interest.

Section 3. The Official Zoning District Map of the City shall be revised and amended to show the Conditional Use authorized hereby for the Property as provided in Section 2 hereof, with the appropriate references thereon to the number and effective date of this Ordinance and a brief description of the nature of the Conditional Use authorized.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City, save and except the granting of the Conditional Use Permit as herein provided.

Section 5. The Conditional Use Permit granted hereby shall be null and void after the expiration of two (2) years from the date of adoption hereof unless the Property is being used in accordance with the Conditional Use herein authorized within said two-year period, or unless an extension of time is approved by City Council.

Section 6. The Conditional Use authorized and permitted hereby shall be, and is, subject to the following additional limitations, restrictions, and conditions:

- A. The “Propane Sales Filling (Retail)” use shall not be enlarged, extended, or relocated from what is shown on the approved Concept Plan without the approval of a revised concept plan or new CUP. (Exhibit “A”).
- B. All proposed structures shall adhere to the setback requirements of the Zoning Ordinance.
- C. The “Propane Sales Filling (Retail)” use shall comply with all requirements of the adopted International Fire Code.
- D. The proposed propane tank shall be screened from public view with a CMU wall and landscaping.
- E. The proposed propane tank shall be installed and inspected per Texas Railroad Commission specifications.
- F. The existing cylinder dock and its supporting structures (fences, stair treads, risers, ledges, handrails, covers, etc.) shall be brought into conformance with the development standards of the City of Tomball and be properly permitted.

Section 7. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

Section 8. In the event any 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 the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

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 18TH DAY OF APRIL 2011.

COUNCILMAN QUINN	_____
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 MAY 2011.

COUNCILMAN QUINN	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

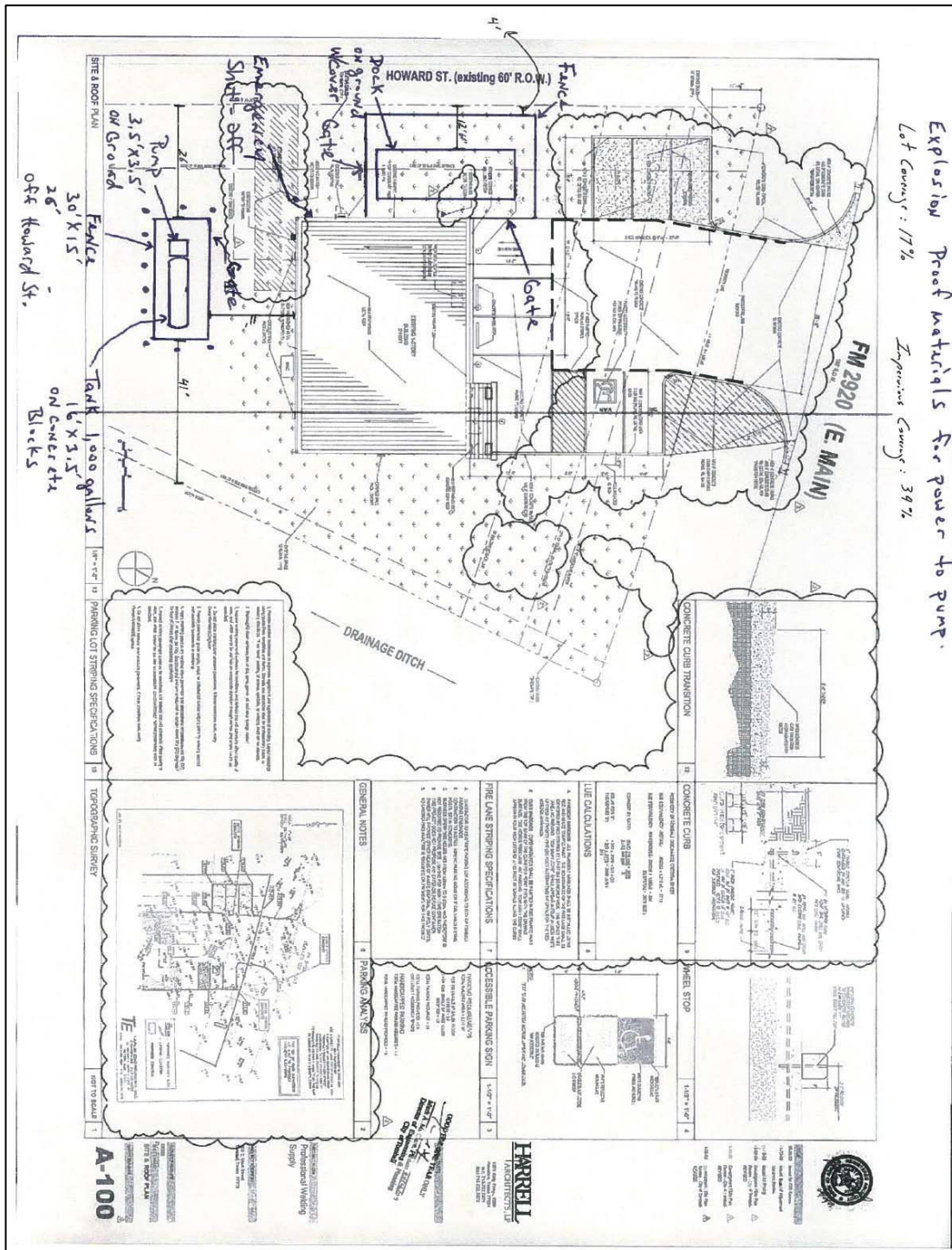
Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

Exhibit "A"

Concept Plan



Regular City Council

Agenda Item

Meeting Date: April 18, 2011

Data Sheet

Topic:

Consideration and possible action regarding **ZONING CASE P11-313**; Public hearing to consider a City-initiated text amendment to the Tomball Comprehensive Zoning Ordinance (Ordinance No. 2008-01) to amend Section 34.6.E.1 ("Additional Off-Street Parking Space Requirements") to delete the off-street parking requirements in the OT & MU - Old Town & Mixed Use District for that portion of the Old Town Area bounded by Fannin Street, Houston Street, the railroad tracks, and Pine Street, and including the lots that front on Fannin Street and Houston Street adjacent to such portion.

- Conduct a Public Hearing on **ZONING CASE P11-313**
- Adopt on First Reading, Ordinance No. 2011-06, An Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by amending Section 34.6.E.1 ("Additional off-street parking space requirements") to delete the off-street parking requirements in the OT & MU - Old Town & Mixed Use District for that portion of the Old Town area bounded by Fannin Street, Houston Street, the railroad tracks, and Pine Street, and including the Lots that Front on Fannin Street and Houston Street adjacent to such portion; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof; making findings of fact; and providing for other related matters.

Background:

On March 10, 2011, the Engineering & Planning Department was directed by the City Manager to pursue a zoning ordinance text amendment to remove the minimum parking requirements for Downtown Tomball. The request from the City Manager was in response to the February 21, 2011 Special Joint City Council and Planning & Zoning Commission Meeting.

At the February 21, 2011 Special Joint City Council and Planning & Zoning Commission Meeting, City staff discussed a proposal to eliminate the parking requirements within the four-block area bounded by Fannin Street, Houston Street, the railroad tracks, and Pine Street. General consensus of the Council was to move forward with eliminating the parking requirements within that four block area.

On April 11, 2011, the Planning and Zoning Commission, after conducting a public hearing on this request, voted to approve Zoning Case P11-313. This case is now being forwarded to City Council for consideration and possible action.

Origination:

City of Tomball

Recommendation:

In its formal recommendation to City Council, the Planning and Zoning Commission voted to approve Zoning Case P11-313, as recommended by staff.

Funding: No

Funds will be transferred from Account: to Account:

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

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

ATTACHMENTS:

Notice of Public Hearing

P11-313 Staff Report

Ordinance 2011-06

**NOTICE OF PUBLIC HEARINGS
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
APRIL 11, 2011
&
CITY COUNCIL
APRIL 18, 2011**



Notice is Hereby Given that Public Hearings will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, April 11, 2011, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, April 18, 2011, at 7:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P10-289: Request by Jeff Williams III of Professional Welding Supply for a Conditional Use Permit to allow the installation/operation of a 1,000 gallon above-ground propane tank for the purpose of propane sales/filling. The property is an approximately .5019 acre site, legally described as Lot 1, Block 1 of the Williams Number One Replat, generally located southerly of Main Street between Howard Street and Willow Street at 503 East Main Street, Tomball, Texas. The site is located in the GR-General Retail District.

ZONING CASE P11-313: Public hearing to consider a City-initiated text amendment to the Tomball Comprehensive Zoning Ordinance (Ordinance No. 2008-01) to amend Section 34.6.E.1 (“Additional Off-Street Parking Space Requirements”) to delete the off-street parking requirements in the OT & MU - Old Town & Mixed Use District for that portion of the Old Town Area bounded by Fannin Street, Houston Street, the railroad tracks, and Pine Street, and including the lots that front on Fannin Street and Houston Street adjacent to such portion.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning and Zoning Commission serves as a recommendation to the City Council and is not a final action on the request. Should the Planning & Zoning Commission vote to table a decision/recommendation on one or more of the above cases, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a decision/recommendation is forwarded to the City Council by the Planning and Zoning Commission. The application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Engineering & Planning Department office, located at 501 James Street, Tomball, TX

77375. **Contact Assistant City Planner** Rodney Schmidt, (281) 290-1410, rschmidt@ci.tomball.tx.us

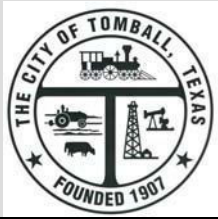
CERTIFICATION

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 **7th** day of **April** 2011 by **5:00** p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Brandy Pate

Brandy Pate
Senior Administrative Assistant

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



Text Amendment Staff Report

Planning and Zoning Commission Hearing Date: April 11, 2011

ZONING CASE P11-313: Public hearing to consider a City-initiated text amendment to the Tomball Comprehensive Zoning Ordinance (Ordinance No. 2008-01) to amend Section 34.6.E.1 (“Additional Off-Street Parking Space Requirements”) to delete the off-street parking requirements in the OT & MU - Old Town & Mixed Use District for that portion of the Old Town Area bounded by Fannin Street, Houston Street, the railroad tracks, and Pine Street, and including the lots that front on Fannin Street and Houston Street adjacent to such portion.

BACKGROUND

On March 10, 2011, the Engineering & Planning Department was directed by the City Manager to pursue a zoning ordinance text amendment to remove the minimum parking requirements for Downtown Tomball. The request from the City Manager was in response to the February 21, 2011 Special Joint City Council and Planning & Zoning Commission Meeting.

At the February 21, 2011 Special Joint City Council and Planning & Zoning Commission Meeting, Kelly Violette, former City Planner, discussed a proposal to eliminate the parking requirements within the four-block area bounded by Fannin Street, Houston Street, the railroad tracks, and Pine Street (Exhibit “A”). General consensus of the Council was to move forward with eliminating the parking requirements within that four block area.

ANALYSIS

Section 34.6.E.1 of the Tomball Zoning Ordinance requires that businesses within the Old Town & Mixed District and within the area bound by Fannin Street, Houston Street, the railroad tracks, and Pine Street, and including the lots that front on Fannin Street and Houston Street adjacent to such portion, provide off-street parking at a ratio of one space per 800 square feet of building area.

According to the Livable Centers Study, the area bound by Fannin Street, Houston Street, Pine Street, and the BNSF railway currently has approximately 818 public and private parking spaces (Exhibit “B”). If the Texas Department of Transportation removes the 76 parallel spaces on Main Street, the number of public and private parking spaces will be reduced to 742. The Livable Centers Study goes on to provide a number of recommendations for public and private parking arrangements that would bring the total parking to 919 spaces, in excess of the 413 required by City Code.

The City of Tomball is implementing the Livable Centers Study and is designing new parking lots at North Elm Street between West Main and Houston (Lot AN); at the northeast corner of North Magnolia Street and West Main Street (Lot DN); west of the proposed Barnes at Depot

(Lot CS); and at the southwest corner South Oak Street and Fannin Street (Lot ES) that will add approximately 95 spaces to downtown Tomball (Exhibit “D”).

According to the Livable Centers Study, Downtown Tomball as a whole already well exceeds the one space per 800 square feet of building area parking requirement and because the City of Tomball is in the process of adding approximately 95 spaces through the implementation of the Livable Centers Study, City staff recommends removing the off-street parking requirement from Section 34.6.E.1 of the Zoning Ordinance for that area bound by Fannin Street, Houston Street, the railroad tracks, and Pine Street, and including the lots that front on Fannin Street and Houston Street adjacent to such portion.

PROPOSED AMENDMENTS

Section 34.6.E.1 “Off-street parking”

For that portion of the Old Town Area bounded by Fannin Street, Houston Street, the railroad tracks, and Pine Street, and including the lots that front on Fannin Street and Houston Street adjacent to such portion, there shall not be a minimum parking requirement. ~~the parking requirements for all businesses shall be one space for each 800 square feet of building area. This parking requirement shall apply to all new construction and additions to existing buildings. Construction of large structures in excess of 10,000 square feet shall be required to provide parking in accordance with Section 39.~~

PUBLIC COMMENT

A public hearing notice was published in the Tomball Tribune on Monday, March 29, 2011 and, as of the writing of this staff report, no public comments were received regarding this request.

RECOMMENDATION

That the Planning and Zoning Commission:

1. Open the public hearing and receive comments, and
2. Recommend approval of the proposed amendments as recommended by staff.

EXHIBITS

- A. Downtown Tomball Affected Area Map
- B. Livable Centers Study Parking Existing Conditions
- C. Livable Centers Study Recommended Parking Layout
- D. Proposed Parking Lots

Exhibit "A"
Downtown Tomball Affected Area Map

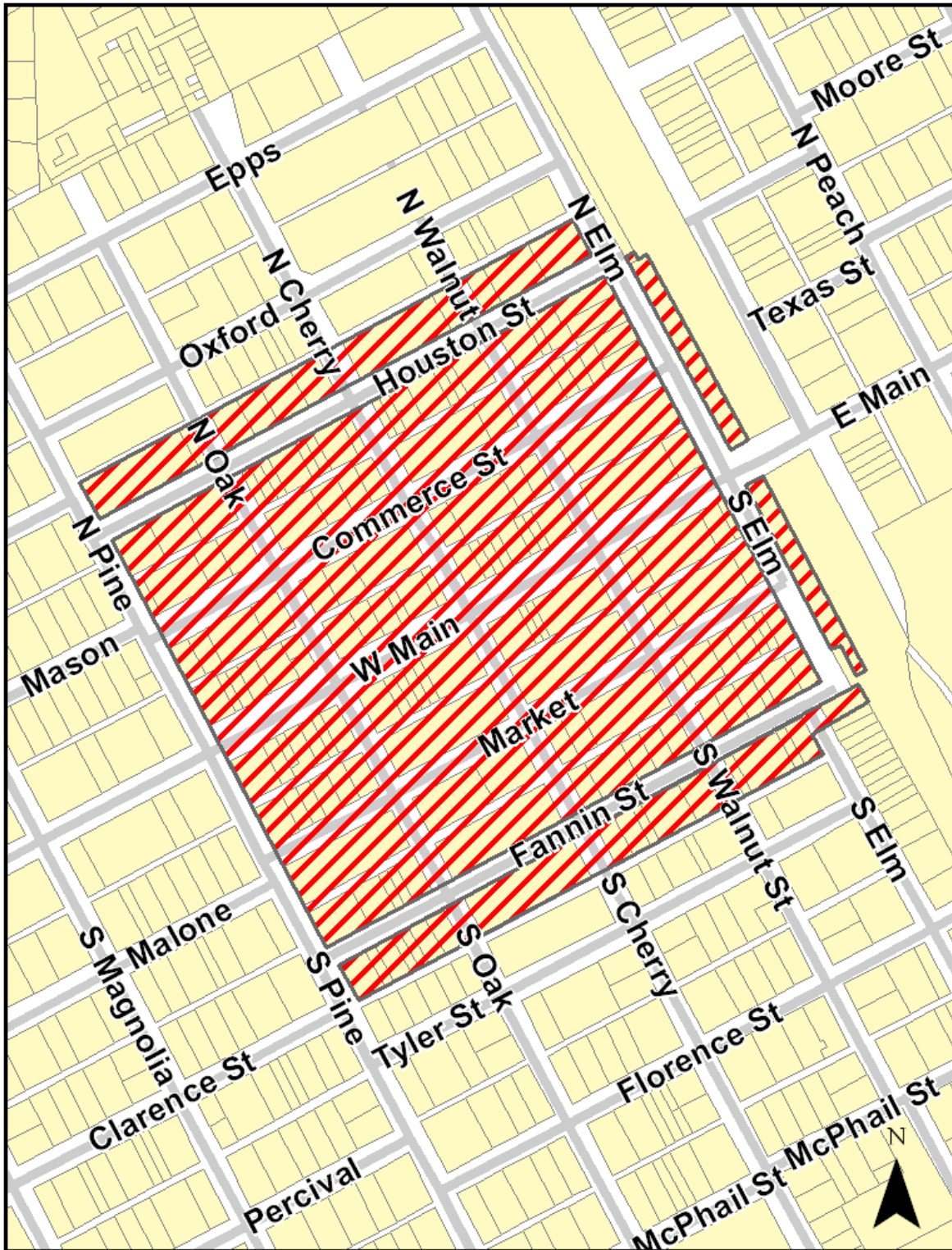


Exhibit “B”
Livable Centers Study Parking Existing Conditions



Livable Centers | Downtown Plan
TOMBALL, TEXAS

EXISTING CONDITIONS

A detailed count of existing public and private parking spaces was taken to understand the parking needs within Downtown Tomball. There are approximately 818 public and private parking spaces within the four block radius of the Downtown area, 76 of those are the parallel spaces on Main Street and are slated for removal as part of the FM 2920 Access Management Improvements. Figure 4.3 gives a view of how the parking is dispersed throughout Downtown and shows what parking category each space falls into.

Parallel parking along Main Street is of particular interest to the merchants of Tomball. While parallel parking on Main Street is convenient for patrons and business owners, it creates an undesirable traffic conflict situation because of the high volume of thru traffic on FM 2920/Main Street. This volume of traffic is due to FM 2920/Main Street functioning as a corridor between US 290 and IH 45.

Parallel parking also occurs on Market, Commerce Street and portions of Elm Street, defined by the pavement markings on the street. This on-street public parking currently provides convenient parking for smaller establishments, but will not be sufficient to sustain the anticipated parking need when the 76 parallel parking spaces on Main Street are removed.

A public lot at the corner of Pine Street and Market Street exists to serve City Hall as well as the Downtown Main Street merchants. However, proper signage and way-finding would help clarify the parking opportunity to retail patrons.

The remainder of the parking lots are small private lots to facilitate staff and patron parking across Downtown.

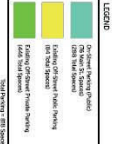


Figure 4.3

Livable Centers Downtown Plan
TOMBALL, TEXAS

The recommended layout of parking development has been created as a guide accommodating future public parking in conjunction with redevelopment (as shown in figure 4.8).

Another goal of this layout was to ensure the parking capacity for Downtown To was adequate now and in the future, especially in light of the Main Street on-street parking replacement. Currently there are 818 parking spaces in the downtown, the recommended plan of 919 spaces meets and exceeds necessary parking requirements associated with the present and future development scenario depicted.

This layout is only a recommendation and not the only alternative layout possible for private development. It is, however, one of the best accommodations for the needs of the Downtown area while still having the desired balance of parking and development.



Exhibit “D” Proposed Parking Lots

Proposed Conceptual Parking Lot Layout



Lot AN (N Elm Between W Main and Houston)



Lot BN (NW Corner Commerce @ N Walnut)



Lot CN (SW Corner Commerce @ N Oak)



Lot DN (NE Corner N Magnolia & W Main)



Lot AS (NW Corner Market @ S Cherry)



Lot BS (SE Corner W Main @ Walnut)



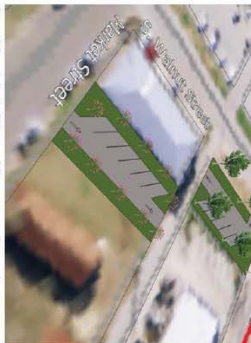
Lot CS (West of Barnes at Depot)



Lot DS (SE Corner S Elm @ Fannin)



Lot ES (SW Corner S Oak @ Fannin)



Lot CS—All 1 (West of Barnes at Depot)



Lot CS—All 2 (West of Barnes at Depot)

For discussion purposes only. Not for construction.

ORDINANCE NO. 2011-06

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY AMENDING SECTION 34.6.E.1 (“ADDITIONAL OFF-STREET PARKING SPACE REQUIREMENTS”) TO DELETE THE OFF-STREET PARKING REQUIREMENTS IN THE OT & MU - OLD TOWN & MIXED USE DISTRICT FOR THAT PORTION OF THE OLD TOWN AREA BOUNDED BY FANNIN STREET, HOUSTON STREET, THE RAILROAD TRACKS, AND PINE STREET, AND INCLUDING THE LOTS THAT FRONT ON FANNIN STREET AND HOUSTON STREET ADJACENT TO SUCH PORTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

* * * * *

WHEREAS, the City of Tomball has requested that the Comprehensive Zoning Ordinance be amended to delete the off-street parking requirements in the OT & MU - Old Town & Mixed Use District for that portion of the Old Town Area bounded by Fannin Street, Houston Street, the railroad tracks, and Pine Street, and including the lots that front on Fannin Street and Houston Street adjacent to such portion; and

WHEREAS, the Planning and Zoning Commission and the City Council of the City of Tomball, Texas, have published notice and conducted hearings regarding the request to amend Section 34.6.E.1 of the City’s Comprehensive Zoning Ordinance; and

WHEREAS, the Planning and Zoning Commission recommended in its final report that the City Council approve the amendment to Section 34.6.E.1 of the Comprehensive Zoning Ordinance; and

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

WHEREAS, after consideration of all testimony given at the public hearing and after

considering the input of the City staff, the Planning Commission recommended the changes set forth in this ordinance, and

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

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

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

Section 2. The Comprehensive Zoning Ordinance of the City of Tomball, Texas, is hereby amended by amending Section 34.6.E.1 thereof to read as follows:

“Off-street parking. For that portion of the Old Town Area bounded by Fannin Street, Houston Street, the railroad tracks, and Pine Street, and including the lots that front on Fannin Street and Houston Street adjacent to such portion, there shall not be a minimum parking requirement.”

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

notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 4. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

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

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON APRIL 18, 2011.

COUNCILMAN QUINN	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

SECOND READING:

READ, PASSED AND ADOPTED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON MAY 2, 2011.

COUNCILMAN QUINN	_____
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 18, 2011

Topic:

Approve Service Agreement with Main Street Crossing for Advertising Services

Background:

At the March 7, 2011 meeting, Council gave staff permission to negotiate with Main Street Crossing an Advertising Service Agreement.

Staff has meet with Main Street Crossing and brings to Council the proposed agreement. The agreement outlines payment schedules, content approval, sets deliverable standards.

Origination:

City Manager's Office

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

Shawn Cox - Assistant to the City Manager

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

ATTACHMENTS:

Agreement

This **ADVERTISING SERVICES AGREEMENT** (this "AGREEMENT"), effective as of _____ (the "Effective Date"), by and between Main Street Crossing ("MSC") and the City of Tomball ("CITY").

THE PARTIES HEREBY AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES.

MSC shall perform those services specified in detail in EXHIBIT A, entitled "SCOPE OF SERVICES", which is attached hereto and incorporated herein.

SECTION 2. TERM OF AGREEMENT.

The term of this AGREEMENT shall be from date of execution of this AGREEMENT as written above through the completion date, inclusive, subject to the provisions of Section 9 of this AGREEMENT.

SECTION 3. SCHEDULE OF PERFORMANCE.

MSC services shall be completed according to the schedule set out in EXHIBIT C, entitled "SCHEDULE OF PERFORMANCE", which is attached hereto and incorporated herein.

SECTION 4. COMPENSATION.

A. For satisfactory performance of the services described in Section 1, the CITY shall pay MSC the compensation provided for within this section of the AGREEMENT. The compensation paid to MSC, shall be (\$19,440.00) Dollars (the amount appropriated). The rate and schedule of payment is set out in EXHIBIT D, entitled "COMPENSATION," which is attached hereto and incorporated herein. The City shall not have any obligation to pay MSC beyond the amount appropriated by the CITY COUNCIL for this AGREEMENT.

B. This Agreement is subject to the provisions of Chapter 2260 of the Texas Government Code (The Prompt Payment Act).

SECTION 5. METHOD OF PAYMENT.

Each month, MSC shall furnish to the CITY a statement of the services performed for compensation during the preceding month. Such statement shall be sent to the following address:

The City of TOMBALL
City Manager
401 Market Street
TOMBALL, Texas 77375

SECTION 6. INDEPENDENT CONTRACTOR.

It is understood and agreed that MSC, in the performance of the work and services agreed to be performed by MSC, shall act as and be an independent contractor and not an agent or employee of the CITY; and as an independent contractor, MSC shall obtain no rights to retirement benefits or other benefits which accrue to the CITY's employees, and MSC hereby expressly waives any claim it may have to any such rights.

SECTION 7. INDEMNIFICATION.

MSC shall defend, indemnify and hold harmless the CITY, its officers, employees and agents against any claim, loss or damages arising out of or resulting in any way from services performed under this AGREEMENT due to the willful or negligent acts (active or passive) or omissions by MSC's officers, employees or agents. The acceptance of the services of MSC by the CITY shall not operate as a waiver of such right of indemnification. All of MSC's obligations under this Section are intended to apply to the fullest extent permitted by law and shall survive the expiration or sooner termination of this AGREEMENT.

SECTION 8. NONDISCRIMINATION.

MSC shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, disability, ethnicity, or national origin, in connection with or related to the performance of this AGREEMENT.

SECTION 9. TERMINATION.

- A. The CITY shall have the right to terminate this AGREEMENT, without cause, by giving not less than seven (7) days written notice of termination.
- B. If MSC fails to perform any of its material obligations under this AGREEMENT, in addition to all other remedies provided by law, the CITY may terminate this AGREEMENT immediately upon written notice.
- C. The CITY MANAGER is empowered to terminate this AGREEMENT on behalf of the CITY.
- D. In the event of termination, MSC shall deliver to the CITY copies of all reports, documents, and other work performed by MSC under this AGREEMENT, and upon receipt thereof, the CITY shall pay MSC for services performed and reimbursable expenses incurred to the date of termination.

SECTION 10. GOVERNING LAW.

The CITY and MSC agree that the law governing this AGREEMENT shall be that of the State of Texas.

SECTION 11. COMPLIANCE WITH LAWS.

MSC shall comply with all applicable laws, ordinances, codes and regulations of the federal, state, and local governments.

SECTION 12. CONFIDENTIAL INFORMATION.

All data, documents, discussions or other information developed or received by or for MSC in performance of this AGREEMENT are confidential and not to be disclosed to any person except as authorized by the CITY or as required by law.

SECTION 13. WAIVER.

MSC agrees that waiver by the CITY of any breach or violation of any term or condition of this AGREEMENT shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition. The acceptance by the CITY of the performance of any work or services by MSC shall not be deemed to be a waiver of any term or condition of this AGREEMENT.

SECTION 14. MSC'S BOOKS AND RECORDS.

- A. MSC shall maintain any and all ledgers, books of account, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to the CITY for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to MSC pursuant to this AGREEMENT.
- B. MSC shall maintain all documents and records which demonstrate performance under this AGREEMENT for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this AGREEMENT.
- C. Any records or documents required to be maintained pursuant to this AGREEMENT shall be made available for inspection or audit at no cost to the CITY, at any time during regular business hours, upon written request by the City Auditor, the City Manager, or a designated representative of any of these officers. Copies of such documents shall be provided to the CITY for inspection at the City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at MSC's address indicated for receipt of notices in this AGREEMENT.
- D. Where the CITY has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment, or termination of MSC's business, the CITY may, by written request by any of the above-named officers, require that custody of the records be given to the CITY and that the records and documents be maintained in the City Hall. Access to such records and documents shall be granted to any party authorized by MSC, MSC's representatives, or MSC's successor-in-interest.

SECTION 15. CONFLICT OF INTEREST.

MSC shall avoid all conflict of interest or appearance of conflict of interest in performance of this AGREEMENT.

SECTION 16. GIFTS.

- A. MSC agrees not to offer any CITY officer or designated employee any gift prohibited by state law, and to comply with the filing requirements of Chapter 176 of the Texas Local Government Code.
- B. The offer or giving of any gift prohibited by law shall constitute a material breach of this AGREEMENT by MSC. In addition to any other remedies the CITY may have in law or equity, the CITY may terminate this AGREEMENT for such breach as provided in SECTION 12 of this AGREEMENT.

SECTION 17. PERSONNEL.

MSC acknowledges that a material consideration in the CITY entering into this AGREEMENT was MSC'S commitment of as the individual in charge of the project. MSC agrees that as long as this AGREEMENT is in effect and that individual remains employed by MSC, their services will be dedicated to the project as the individual with day to day control over the Project throughout the term of this AGREEMENT. Within five (5) business days of the execution of this AGREEMENT and the execution of any subsequent service order, MSC shall provide the CITY with the names and resumes of individuals assigned to the Project. The CITY must approve changes to the individuals assigned to the Project, in writing, and replacement personnel must have equivalent or better qualifications.

SECTION 18. NOTICES.

All notices and other communications required or permitted under this AGREEMENT shall be in writing and shall be personally served or mailed, postage prepaid and return receipt requested, addressed to the respective parties as follows:

To The CITY:
City Manager
401 Market Street
Tomball, TX 77375
281-351-5484
281-351-6256 Fax

To MSC:
Manager
Main Street Crossing
111 W. Main
Tomball, TX 77375

All notices of a legal nature including any claims against the CITY, its officers, or employees shall also be served in the manner specified above to the following address:

The City of TOMBALL
CITY SECRETARY
401 MARKET STREET
TOMBALL, Texas 77375

A notice shall be deemed effective on the date of personal delivery by hand or the date of receipt of facsimile transmission (with verification of receipt) or, if mailed, three (3) days after deposit in the mail.

SECTION 19: NO THIRD PARTY BENEFICIARIES.

This AGREEMENT is for the benefit of the parties hereto only, and no provision shall be interpreted to grant or convey to any person not a Party to this Contract any benefits or rights.

SECTION 20. VENUE.

In the event that suit shall be brought by either party to this contract, the parties agree that venue shall be exclusively vested in the state courts of the County of Harris, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Southern District of Texas, Harris, Texas.

SECTION 21. PRIOR AGREEMENTS AND AMENDMENTS.

This AGREEMENT, including all Exhibits attached hereto, represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This AGREEMENT may only be modified by a written amendment duly executed by the parties to this AGREEMENT.

SECTION 22. SEVERABILITY.

If any term, covenant, condition or provision of this AGREEMENT, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this AGREEMENT, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

SECTION 23. REPRESENTATION OF AUTHORITY.

The person executing this AGREEMENT on behalf of MSC does hereby represent and warrant that MSC is a duly authorized and existing Texas corporation, that MSC is and shall remain during the term of this AGREEMENT qualified to do business in the State of Texas, that MSC has full right, power and authority to enter into this AGREEMENT and to carry out all actions contemplated by this AGREEMENT, that the execution and delivery of this AGREEMENT were duly authorized by proper action of MSC and no consent, authorization or approval of any person is necessary in connection with such execution, delivery and performance of this AGREEMENT except as have been obtained and are in full force and effect, and that this AGREEMENT constitutes the valid, binding and enforceable obligation of MSC. Upon the CITY's request, MSC shall provide the CITY with evidence reasonably satisfactory to the CITY confirming the foregoing representations and warranties.

WITNESS THE EXECUTION HEREOF on the day and year first hereinabove written.

CITY OF TOMBALL, a municipal corporation

By _____

Gretchen Fagan, Its Mayor

MSC

By _____

Corporate officer, partner, or sole proprietor

Company address

Employer I.D.

EXHIBIT A. SCOPE OF SERVICES.

1. The City of Tomball will have a one minute ad before and after the live Wednesday Radio show
2. The City of Tomball will have the information for the on air ad to MSC the Monday before the show
3. The City of Tomball will be provided ad space in MSC's weekly flyer
4. One week prior to publication of weekly flyers, the City of Tomball will provide MSC with the necessary information

EXHIBIT D. Compensation (including federal ID number)

1. Payments to Main Street Crossing will be made monthly through December 2011 in the amount of \$1,944.00
2. Main Street Crossing will bill the City of Tomball
3. A copy of the “run” sheet will be attached to the bill.
4. Payments made pursuant to Texas Prompt Payment Act.
5. MSC federal ID number is _____.

Regular City Council

Agenda Item

Data Sheet

Meeting Date: April 18, 2011

Topic:

Approve Amendments to Administrative Policy Number 22, *"Hotel Occupancy Tax Grant Process and Application,"* as recommended by the Tourism Advisory Committee

Background:

At its February 16, 2011 meeting, the Tourism Advisory Committee (TACH) suggested the following changes be made to HOT Fund Grant application found in the Administrative Policy Number 22:

1. All dates should be updated
2. Change the requirement limiting funding from 25% of the Organizations Operational budget to 35% of the event budget
3. Change requiring an organization to hold quarterly meetings to, to hold meeting as outlined in the organizations by-laws

The TAC also requests that dates on the Grant Application be allowed to be updated without Council approval.

Origination:

City Manager's Office

Recommendation:

Funding:

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

Shawn Cox - Assistant to the City Manager

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

ATTACHMENTS:

Administrative Policy Number 22

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

SUBJECT HOTEL OCCUPANCY TAX GRANT PROCESS	NUMBER: 22	EFFECTIVE DATE: October 5, 2009	PAGE 1 OF 2
	REVISED:	APPROVED BY CITY MANAGER:	
	SUPERSEDES: October 5, 2009	APPROVED BY CITY COUNCIL:	

Guidelines for Expenditures, Requests for Funding, and Reporting

Hotel Occupancy Tax

Chapter 351 of the Texas Tax Code authorizes a municipality to impose a tax on a person who pays for the right to use or temporarily take possession of a room located in a hotel/motel that is ordinarily used for sleeping. The tax is imposed on the cost of the room itself and is not imposed on the cost of any food served or on any other services provided by the hotel/motel.

The revenue derived from the municipal hotel occupancy tax may only be used to promote tourism and the convention and hotel industry in the community. For a city the size of Tomball and located in a county the size of Harris County, that use is limited to the following:

1. the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers or both;
2. the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;
3. advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;
4. the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms;
5. historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:
 - a. at or in the immediate vicinity of convention center facilities or visitor information centers; or
 - b. located elsewhere in the municipality or its vicinity that would be frequented by tourists and convention delegates;
6. signage directing the public to sights and attractions that are visited frequently by hotel guests in the municipality; and
7. day-to-day operations, supplies, salaries, office rental, travel expenses, and other administrative costs only if those administrative costs are incurred directly in the promotion and servicing of those authorized expenditures listed in 1-6 above.

Tourist is defined in Chapter 351 as an individual who travels from the individual's residence to a different municipality, county, state, or country for pleasure, recreation, education, or culture. *Tourism* is defined as the guidance or management of tourists.

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

SUBJECT HOTEL OCCUPANCY TAX GRANT PROCESS	NUMBER: 22	EFFECTIVE DATE: October 5, 2009	PAGE 2 OF 2
	REVISED:	APPROVED BY CITY MANAGER:	
	SUPERSEDES: October 5, 2009	APPROVED BY CITY COUNCIL:	

Requests for Hotel Occupancy Tax Funding

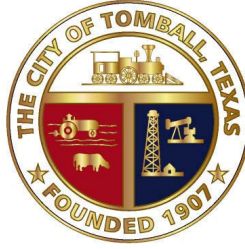
Any organization requesting the use of City of Tomball Municipal Hotel Occupancy Tax funds for an event that qualifies as an authorized use of funds as listed above must complete the “**Application for Use of Hotel Occupancy Tax**” a minimum of 45 days prior to the date of the event. All requests for funding must be approved by the City of Tomball City Council. Only one project may be requested per application. Applications for annual events must be submitted each year. Funding approved in one year does not guarantee funding in subsequent years.

Approved funding will be paid to the requesting organization on a reimbursement basis and will not be paid in advance. The reimbursement paid to the organization will be based on the lesser of the actual costs or the amount originally approved.

Reporting

Subsequent to the event/purpose for which occupancy tax funding was approved, the organization receiving the funds shall submit a full accounting of the event/purpose and specifically highlight the costs to be reimbursed by the hotel occupancy tax. In addition to the financial accounting of the event/purpose, the report shall also include a narrative describing how the event/purpose directly enhanced or promoted tourism and the convention and hotel industry in Tomball as well as the projected number of tourists or convention delegates coming to Tomball as a result of the event/purpose and the basis for the projection. If the event/purpose is one that is ongoing throughout the year, the financial and narrative report shall be updated and submitted on a quarterly basis. Reports shall be submitted to:

Director of Finance
City of Tomball
501 James Street
Tomball, TX 77375
281.290.1417



CITY OF TOMBALL
APPLICATION FOR USE OF HOTEL OCCUPANCY TAX
(Must be submitted no less than 45 days prior to the event)

Applications may be mailed or hand delivered to:

Director of Finance
City of Tomball
501 James Street
Tomball, TX 77375

Applicant Organization: _____

Organization Director: _____

Project or Event for which funding is requested: _____

Date of Event: _____

Description of project or event for which funding is requested: _____

Location of project or event: _____

GRANT AMOUNTS:

Amount Requested for 2010-2011 \$ _____

Amount Received for 2009-2010 \$ _____

% increase requested over last year's grant _____%

2010-2011 Organization Budget Summary

	City Funds	Other Funds	Total
Personnel			
Contracted Services			
Travel			
Rental Expense			
Depreciation/Mortgage	N/A		
Advertising			
Insurance			
Other Expenses			
Volunteer Time	N/A		
Donated Goods/Services	N/A		
Total			

Grants to an organization will not exceed 35% of the organization's adopted event budget for 2010-2011.

FUNDS FROM SOURCES OTHER THAN THE CITY OF TOMBALL

<u>Government</u>	<u>Amount of Funds</u>
Local	_____
County	_____
State	_____
Federal	_____
<u>Other Investors/Contributors</u>	
Individual	_____
Corporate	_____
Foundations	_____
<u>Fees</u>	
Admissions	_____
Applications	_____
Vendors	_____
Tuition	_____

<u>Concessions</u>	_____
<u>Memberships</u>	_____
<u>Subscriptions</u>	_____
<u>Other</u>	_____
Total	\$ _____

How many people do you expect will visit Tomball from out-of-town as a result of this project or event?

Explain the basis for your answer to the preceding question: _____

Are attendees for this event or users of this project expected to stay overnight in Tomball hotels or motels? If you answer Yes, state the basis for your answer: _____

Organization Contact Name, Title, Address and Phone Number: _____

Contact's Signature: _____

Date: _____



VALIDATION OF APPLICATION

The signatory declares that he/she is an authorized official of the applicant, is authorized to make this application, and certifies that the information in this application is true and correct to the best of his/her knowledge. Signatory further declares that applicant, if previously funded by the City of Tomball, has successfully fulfilled all prior Grant contract obligations.

Signature of Authorizing Official

Date

Typed Name

Title within Organization

Telephone

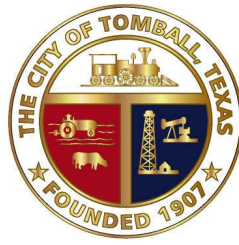
Email address



NARRATIVE QUESTIONS

Please look at the criteria in the grant guidelines when you answer the following questions. **Be specific and give examples.** Answers to individual questions should be as brief as possible and should in no case exceed one page.

1. Describe the history and purpose of the organization.
2. Describe how any grant funds will be used.
3. List the programs and activities for the grant year.
4. Show evidence of growth in community support prior to the grant year. Include the number of performances, exhibitions, audience sizes, services or enrollment. Be sure to include specific information as to the percent of activities taking place within the City of Tomball.
5. How does your project/event qualify for use of Municipal Hotel Occupancy Tax funds as defined in the Hotel Occupancy Tax Guidelines?
6. How do you publicize your activities? How do you evaluate these efforts and what have you done to increase the effectiveness of your marketing efforts?
7. Explain the public benefits to the City of Tomball that will result from your organization's efforts.
8. What is your organization doing to bring visitors to Tomball, to stay in local hotels and otherwise support the hospitality industry?



OTHER REQUIRED DOCUMENTATION

The following information is required to process the grant application:

1. Articles of Incorporation, if applicable
2. Constitution and/or By-Laws
3. If your organization's budget exceeds \$100,000 (exclusive of in-kind) attach a copy of the last independent audit of financial records. If no audit was completed, explain why.
4. Schedule of Board of Directors meetings for the period of October 1, 2010 through September 30, 2011. Board of Directors meetings must occur as outlined in the organizations by-laws.
5. Resumes of principal staff and artists or relevant job descriptions.
6. Depending on the nature of the project or event for which grant funding is requested, the organization shall obtain a Certificate of Insurance for liability coverage as outlined in the attached Exhibit A. The City of Tomball requires each grantee having an event in the City aimed to attract both residents and tourists to have liability insurance to protect the public for acts by the grantee. This mandated coverage does not cover the grantee or any of its members. We encourage the grantee to acquire insurance to cover itself and its members as it deems fit. Please see your insurance agent for the local government endorsement. The cost of the local government endorsement may be included as part of your budget to be considered for a grant.

OPTIONAL SUPPORTING DOCUMENTATION

This should be additional material that you wish to attach that further explains the activities of your organization such as:

1. Long Range Plan – 3-5 years
2. One labeled videotape of performance(s), exhibits, workshops, capital project and /or other activities for which City of Tomball grant funds will be utilized.
3. Programs, publicity, articles, reviews, etc.
4. Letters of support from patrons or other organizations in the community.



EXHIBIT A

Organization shall procure and maintain for the duration of the grant agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the services performed or to be performed hereunder by the Organization its agents, representatives, employees, volunteers, officers, directors or sub-contractors.

The organization shall maintain insurance with limits not less than \$500,000 per occurrence, \$1,000,000 aggregate and will be as broad as ISO Form Number GL 0002 (Ed 1/72) covering Comprehensive General Liability and ISO Form Number GL 0404 covering Broad Form Comprehensive General Liability, or ISO Commercial General Liability coverage ("occurrence for CG 0001). Coverage will include: A) Premises – Operations; B) Broad Form Contractual Liability, C) Broad Form Property Damage and D) Personal Injury.

The policy will be endorsed to contain the following provisions: The City, its officials, employees, volunteers, Boards and Commissions are to be added as "Additional Insured" in respect to liability arising out of any activities performed by or on behalf of the Organization. The policy shall contain no special limitations to the scope of coverage afforded to the City. The Organization's insurance shall be primary and any insurance or self-insurance shall be in excess of the Organization's insurance and shall not contribute with it. Certificate must include a waiver of subrogation as regards to the workers compensation policy. If your organization has no employees, and therefore does not carry workers compensation insurance, you must provide to the City of Tomball a letter stating that you have no employees and therefore do not carry workers compensation insurance.

Insurance shall be placed with insurers with an A.M. Best rating of no less than A:VI or a Standard & Poor rating of A or better.

The Organization shall furnish the City with a certificate of insurance which shows the coverage provided. The insurance policy will be endorsed to state that coverage shall not be suspended, voided, canceled, non-renewed, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

Regular City Council

Agenda Item

Data Sheet

Meeting Date: April 18, 2011

Topic:

Adopt on First Reading, Ordinance No. 2011-07, an Ordinance of the City of Tomball, Texas, amending Chapter 2. Administration, of Its Code of Ordinances to Change Its Regular Meeting Time to 6:00 P.M.; amending Subsections 2-32(C) Meetings and 2-32(D)(6) Organization and Order Of Agenda Related to the Same; Making Other Provisions Related Thereto; Repealing Ordinances or Parts of Ordinances Inconsistent Herewith; and Providing for Severability

Background:

At the April 4 meeting, Councilmembers expressed a desire to change the regular meeting time from 7:00 p.m. to 6:00 p.m.

City staff and the City Attorney have prepared an ordinance proposing amendments to Chapter 2. Administration regarding the starting times and locations for regular, special and workshop meetings. The proposed amendments will offer greater flexibility in setting times and locations for Council meetings.

Since the City and its boards now use an electronic agenda process, additional amendments are proposed to bring the organization and order of agendas into alignment with the organization and order of the web-based agenda.

Origination:

City Council

Recommendation:

Adopt Ordinance No. 2011-07 on First Reading

Funding:

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

City Secretary

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

ATTACHMENTS:

Ordinance No. 2011-07 - Redlined Version

ORDINANCE NO. 2011-XX

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 2. ADMINISTRATION, OF ITS CODE OF ORDINANCES TO CHANGE ITS REGULAR MEETING TIME TO 6:00 P.M.; AMENDING SUBSECTIONS 2-32(C) MEETINGS AND 2-32(D)(6) ORGANIZATION AND ORDER OF AGENDA RELATED TO THE SAME; MAKING OTHER PROVISIONS RELATED THERETO; REPEALING ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT HEREWITH; AND PROVIDING FOR SEVERABILITY.

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

Section 1: The Code of Ordinances of the City of Tomball, Texas, Chapter 2. Administration, is hereby amended by striking Subsection 2-32 (c) *Meetings* and substituting therefore a new Subsection 2-32(c) *Meetings* to provide as follows:

"2.32. (c) Meetings.

(1) *Regular meetings.* In accordance with Section 6.12 of the City Charter, the Council shall conduct regular meetings on the first (1st) and third (3rd) Mondays of each month. ~~Anytime~~ Whenever a regular meeting date falls on a holiday observed by the City of Tomball, such regular meeting shall be scheduled and held on the next calendar day which is not a holiday observed by the City of Tomball, unless the Council takes action in advance, by resolution or ordinance, to reschedule such meeting.

a. All regular meetings shall begin promptly at ~~7:00 p.m.~~ (See ~~Workshop meetings below~~) 6:00 p.m. (See Special/Workshop meetings below).

b. Regular meetings shall be held at the City Hall as required by the Charter, unless the City Council votes to approve a location other than the City hall in the public interest.

- (2) *Special Meetings.* In accordance with Section 6.12 of the City Charter additional special meetings may be called upon written request of the Mayor or any three (3) Council members. If a majority of the City Council members at a public meeting request a subsequent special meeting, a special meeting shall be scheduled at the earliest practical time as requested. The Council meeting minutes reflecting the request to call a special meeting shall also reflect the scheduled date and time of such special meeting.
- a. Special meetings may be called to address and act on matters which should not be delayed until a regular meeting.
 - b. Special meetings shall be called to begin promptly at ~~7:00 p.m.~~ **the time designated**, unless circumstances reasonably require a different starting time, in which event the circumstances shall be stated on the meeting agenda.
 - c. Except in unusual circumstances, which shall be stated on the meeting agenda, special meetings will be held at the City Hall.
- (3) *Workshop Meetings.* In accordance with Section 6.12 of the City Charter, additional workshop meetings may be called upon written request of the Mayor or any three (3) Council members. If a majority of the City Council members at a public meeting request a subsequent workshop meeting, a workshop meeting shall be scheduled at the earliest practical time as requested. The Council meeting minutes reflecting the request to call a workshop meeting shall also reflect the scheduled date and time of such workshop meeting.

- a. The purpose of a workshop meeting is to give Council the opportunity to discuss in depth or explore in detail subjects of interest to the City.
 - b. **No action item(s)** shall be placed on the agenda for a workshop meeting.
 - c. Workshop meetings shall begin promptly ~~at 5:00 p.m. preceding a regular or special meeting~~ **at the time designated and may precede a regular or special meeting.** If circumstances reasonably require a different starting time or a different date, such circumstances shall be stated on the meeting agenda.
 - d. **As circumstances require, public hearings may be held at workshop meetings for the convenience of the public.**
 - e. **Except in unusual circumstances, which shall be stated on the meeting agenda, workshop meetings will be held at the City Hall.**
4. *Public Meetings: Executive Sessions.* All meetings of the City Council are open to the public, in compliance with the Texas Open Meetings Act. Further, the City Council may conduct executive sessions in compliance with the Texas Open Meetings Act.”

Section 2: The Code of Ordinances of the City of Tomball, Texas, Chapter 2. Administration, is hereby amended by striking Subsection 2-32 (d)(6) *Organization and order of agenda*, and substituting therefore a new Subsections 2-32 (d)(6) *Organization and order of agenda.*, to provide as follows:

“2.32. (d) Agenda.

(6) *Organization and order of agenda.*

- a. Call to order/roll call/~~announce that a quorum is present.~~
- b. Pledges of allegiance and invocation.
- c. Public comments and receipt of petitions. Citizens desiring to be heard will be given the opportunity. Petitions will be received.
(See rules for "citizen participation at meetings" below.)
- d. **Presentations.**
- e. Reports and announcements.
- f. Approval of minutes.
- g. Old business, by item, discussion/action. Final passage of ordinances and other business pending from a previous council meeting.
- h. **New Business** Consent agenda. Items requiring little or no discussion. If one or more members of council desire to remove an item from the consent agenda, such item(s) shall be considered and acted upon separately (**placed before New Business**).
- i. New business, by item, discussion/action. New ordinances, resolutions, budget amendments and changes, bid openings and bid awards, contracts, policies and other matters to be considered

and/or acted upon.

1. New business shall include all public bid openings.

2. Reserved.

j. Executive session.

~~k. Final comments. Mayor and council.~~

k. Adjournment.”

Section 3. REPEAL. All ordinances or parts of ordinances inconsistent or in conflict herewith, are, to the extent of such inconsistency or conflict, hereby repealed.

Section 4. SEVERABILITY. In the event any 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 the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

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 18TH DAY OF APRIL 2011.

COUNCILMAN QUINN	_____
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 MAY 2011.

COUNCILMAN QUINN	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

Regular City Council

Agenda Item

Meeting Date: April 18, 2011

Data Sheet

Topic:

Adopt, on First Reading, Ordinance No. 2011-08, an Ordinance of the City Council of the City of Tomball, Texas, Providing for Minor Plats; and Making other Findings and Provisions related Thereto

Background:

At the City Council meeting on December 13, 2010, Council discussed whether, under the City Charter, the City Council may use the minor plat process provided by State law. This amendment allows city staff to approve minor plats in lieu of presenting them to City Council.

A minor plat is a replat involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities. Minor plats will be presented to the Planning and Zoning Commission as a non-action item for informational purposes only.

Ordinance No. 2011-08 is presented to City Council for consideration and approval to provide a means for city staff to handle minor plats; City Council maintains final control through an appeal process.

Origination:

City Council

Recommendation:

City staff recommends approval of Ordinance No. 2011-08 to provide a means for approving minor plats.

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:

City Attorney Minor Plat Memo

Ordinance No. 2011-08 - Providing for Minor Plats

January 17, 2011

To: George Shackelford, City Manager

From: Scott Bounds, Olson & Olson, LLP

Re: Authority of Tomball City Council to Delegate Plat Approval

Section 212.005 of the Texas Local Government Code provides that the “municipal authority responsible for approving plats must approve a plat or replat that is required to be prepared under (Subchapter A)... . Section 212.006 provides that “the municipal authority responsible for approving plats” is the municipal planning commission. It also provides that “the governing body by ordinance may require approval of the governing body in addition to that of the municipal planning commission.” Id.

In 1989, the Texas Legislature adopted Section 212.0065 that authorized city council to delegate to one or more officers or employees of the city the ability to approve certain amending plats, minor plats and replats involving four or fewer lots fronting on an exiting street and not requiring the extension of municipal facilities, and certain other replats not requiring the creation of any new street or extension of municipal facilities. The delegation was limited to the authority to approve such plats; any disapproval must be the municipal authority otherwise responsible for plat approval.

The City’s Charter grants the City, and its council, broad general powers. See Section 4.01. City Council may, except as prohibited by the Constitution and laws of the State, or as restricted by the Charter, exercise all municipal powers. Id. With regard to municipal planning, Article X of the City Charter creates the planning commission. Section 10.01. The Charter also expressly provides that every owner of land in the City or its ETJ shall comply with the subdivision regulations adopted by City Council consistent with State law. Section 10.02. The Charter further expressly grants the Planning Commission the power to “recommend to City council the approval or disapproval of plats of proposed subdivisions submitted in accordance with city ordinance as adopted or hereafter amended.”

At the City Council meeting on December 13, 2010, the City Council discussed whether, under the City Charter, the City Council may use the minor plat process provided by State law and, more broadly, whether the City Council may remove itself from the plat approval process. Section 10.01 D 2 of the City Charter that provides:

“The Commission shall have the power AND SHALL BE REQUIRED TO RECOMMEND TO THE COUNCIL THE APPROVAL or the disapproval of plats of proposed subdivisions submitted in accordance with City ordinance as adopted or hereafter amended.” (emphasis added).

In *Byars v. City of Austin*, 910 S.W.2d 520 (Tex.App.-Austin 1995), the Court was required to interpret the Austin City Charter provision “that the City Manager “shall have the power and shall be required to” [a]ppoint and remove any officer or employee of the City.” The Plaintiffs argued that only the City Manager, and not any other person delegated the authority by him, could remove an employee. The Court, in upholding the City of Austin’s practice permitting such delegation, noted that the City Manager retained the authority to control the process whether the City Manager made the decision or not, and that was sufficient to comply with the Charter. Similarly in *City of New Orleans v. Bradley*, 731 So.2d 353 (La.App. 1999), the City of New Orleans Charter provided, in part, that the Mayor “shall have the power and shall be required to sign contracts, bonds, or other instruments requiring the assent of the City.” In denying the City’s argument that the provision required that the Mayor sign all agreements, the Court found that the Mayor delegated that authority to others. In other words, although the Charter expressly required the Mayor’s signature, the Court found that the Mayor could delegate that requirement. In my opinion, the City Charter provision requiring that the City Council approve or disapprove plats does not preclude the City Council from delegating to an employee, officer or board of the City the power to approve minor plats so long as the City Council retains the authority to control the process by an appeal process.

The Tomball City Charter grants the City Council the authority (permissive not mandatory) to manage its boards, agencies, and commissions consistent with state law and the Charter. Tomball City Charter Sections 2.05, 4.01 and 4.01. With regard to the platting of property, the Charter provides that “[e]very owner ... of land, within the ... City or its ... ETJ, who may divide the same ... shall comply with all ... Ordinances of the City.” Tomball City Charter 10.02. That section specifically references Article 970a, the predecessor of Chapter 212. Since the adoption of the City Charter, the Texas Legislature has amended the Local Government Code to expressly authorize every city the power to delegate to one or more officers or employees of the city the ability to approve certain minor plats involving four or fewer lots fronting on an existing street and not requiring the extension of municipal facilities. The delegate was limited to the authority to approve plats; any disapproval must be by the municipal authority otherwise responsible for plat approval. The Texas Legislature occasionally gives guidance whether a general law is intended to be preemptive or cumulative of a municipal charter. See, e.g., Texas Local Government Code 43.022, 43.030, 104.005, 171.007, 273.009 and 306.003. In my opinion the minor plat provision is an additional grant of authority for general law cities, and the provision does not preempt or alter a city’s municipal charter related to the subject matter.

Summary

In my opinion the City Council may delegate the authority to approve or disapprove plats to others so long as the City Council maintains final control through an appeal process.

ORDINANCE NO. 2011-08

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF TOMBALL, TEXAS, PROVIDING FOR MINOR PLATS;
AND MAKING OTHER FINDINGS AND PROVISIONS
RELATED THERETO.**

* * * * *

Whereas, Section 212.0045(c) of the Texas Local Government Code provides that a municipality need not require platting for every division of land otherwise within the scope of Subchapter A of Chapter 212; and

Whereas, Section 212.0065 of the Texas Local Government Code further provides that a municipality may delegate approval responsibility of certain amending plats, minor plats and replats to one or more officers or employees of the City subject to the right to appeal the disapproval of those plats; and

Whereas, Article X of the City Charter of the City provides, in part, that every owner of property in the City or its ETJ who may divide their land shall comply with Subchapter A of Chapter 212, and that the Planning Commission of the City shall be required recommend to the Council the approval or the disapproval of plats of proposed subdivisions submitted in accordance with the City's ordinances; and

Whereas, the City Council desires to provide, by ordinance, the delegation of approval of responsibility of certain plats subject to the right to appeal to the City Council; now therefore,

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

Section 1: [Section 70-2.](#) – Definitions, of the Code of Ordinances of the City of Tomball, Texas, is amended by adding, in the appropriate alphabetical position, the following definition:

“Minor Plat” means an amending plat described in Section 212.016 of the Texas Local Government Code, a replat involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities; or a replat under Section 212.0145 that does not require the creation of any new street or the extension of municipal facilities.”

Section 2: Section 70-3 - Special provisions, of the Code of Ordinances of the City of

Tomball, Texas, is amended by amending subsection (d) thereof to read as follows:

“Sec. 70-3 (d) *Exceptions.*

(1) The provisions of this chapter shall not be construed to prohibit the issuance of permits for construction on any lot which was in existence prior to August 15, 1983, nor to prohibit the repair, maintenance or installation of any street or public utility service for, to or abutting any lot, the last recorded conveyance of which prior to August 15, 1983, was by metes and bounds, and/or any subdivision, or lot therein, recorded or unrecorded, which subdivision was in existence prior to August 15, 1983.

(2) A division of land does not include a minor plat approved in accordance with Section 70-4.”

Section 3: The Code of Ordinances of the City of Tomball, Texas, is amended by adding a new Section 70-4, Lot consolidations and minor plats, that shall read as follows:

“Sec. 70-4 – Lot consolidations and minor plats.

(a) Upon payment of the fee established by Council, a person may submit an application for a minor plat approval.

(b) The City Manager, or the City Manager’s designee(s), may approve a minor plat.

(c) After the City Manager approves a minor plat, the minor plat shall be placed on the Planning Commission’s next regular agenda as a non-action item for information purposes only.

(d) Any person may appeal the approval of a minor plat by filing a written notice of appeal within 3 working days after the Planning Commission meeting at which the minor plat approval is submitted. Upon the filing of the appeal, the minor plat shall be deemed a preliminary plat shall be placed on the City Planning Commission’s next regular agenda for consideration within the time periods specified in this Chapter.

(e) Upon expiration of the time for appeal, the City Engineer shall sign the minor plat on behalf of the City.

(f) The person to whom a minor plat is presented shall not disapprove a minor plat, but shall be required to refer any plat which such person refuses to approve to the City’s Planning Commission within the time period specified in this Chapter.”

Section 4. All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 5. It is the intent of the City that this Ordinance shall comply in all respects with the applicable provisions of the United States Constitution, the Texas Constitution, and the Charter of the City of Tomball. In the event any 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 the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 6. Any person, firm or corporation that knowingly violates any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Tomball, Texas, and, upon conviction, shall be punished by a fine not to exceed two thousand (\$2,000.00) dollars for each offense.

Section 7. This Ordinance shall take effect immediately from and after its passage and the publication of the caption hereof, as provided by law and the City's home rule Charter.

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 18TH DAY OF APRIL 2011.

COUNCILMAN QUINN	_____
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 _____ DAY OF _____
2011.

COUNCILMAN QUINN	_____
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 18, 2011

Topic:

Discussion and Possible Direction to City Staff regarding Lone Star College-Tomball's Decision to Purchase Natural Gas Supplies from the Texas General Land Office (GLO)

Background:**Origination:**

George Shackelford

Recommendation:

N/A

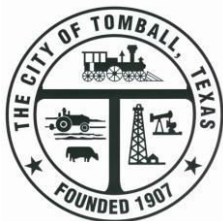
Funding:**Party(ies) responsible for placing this item on agenda:**

City Secretary

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

ATTACHMENTS:

GLO Summary



City of Tomball Public Works Department

* 501 James St. * Tomball, Texas 77375 * 281.290.1425 * FAX 281.351.4735 *

* Utilities * Streets * Parks * Fleet Maintenance * Facilities Maintenance * Solid Waste *

INTEROFFICE MEMORANDUM

To: George Shackelford, City Manager

From: David Kauffman, Director of Public Works

Re: Natural Gas Supply for Lone Star College

Date: April 14, 2011

The purpose of this memo is to provide a summary regarding the request by the Texas General Land Office (GLO) for the City to propose a transport rate and contract for transport of natural gas by the GLO to Lone Star College.

December 16, 2010, public works staff met with Al Lewandowski, director of energy and sustainability for Lone Star College. The purpose of the meeting was for Mr. Lewandowski to become familiar with City staff members responsible for maintenance and billing for the utilities serving the college, including natural gas.

December 21, 2010, I received an email from Kenton Odom with the GLO requesting a tariff rate to move gas across the City's gas distribution system to serve the Lone Star College. I advised Mr. Odom that the City operated a distribution system and was not authorized by the Railroad Commission to transport gas; therefore I could not offer a tariff rate for transport. Mr. Odom advised that, based on my statement, he did not feel the GLO request was feasible.

December 21, 2010, I received a follow up email from Mr. Odom stating that the GLO could arrange for transport to the college on the Tennessee pipeline, and asked how the City receives gas from the Tennessee pipeline. I advised that the Tennessee line terminated at our gate and that the City distribution system distributes gas directly to our customers.

January 5, 2011, I received an email from Mr. Odom wanting to know how much of the City is served by the Tennessee pipeline, and how much is served by the Eagle Rock pipeline.

January 10, 2011, City Manager received a letter from Stephen Schneider with the GLO requesting that the City propose a transport rate and contract for transport of natural gas by the GLO to Lone Star College.

February 23, 2011, Mayor Fagan, City Manager, and Public Works Director met with Dr. Karr, president of Lone Star College, Mike Dannenbaum, director of facilities & plant operations, Chad Crocker, director of facilities planning & construction, and Al Lewandowski, to discuss the request by GLO on the behalf of the college. Alternatives to the GLO proposal were discussed.

March 6, 2011, City Manager issued a letter to Dr. Karr requesting direction from the college with regard to the request made by the GLO.

April 11, 2011, Dr. Karr advised City Manager that Lone Star College requests that the City proceed with proposing a tariff rate and contract as requested by the GLO.

Regular City Council

Agenda Item

Data Sheet

Meeting Date: April 18, 2011

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:

- Sec. 551.072 – Deliberations Regarding Real Property

Background:**Origination:**

George Shackelford, City Manager

Recommendation:

N/A

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

City Secretary

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