

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



MONDAY, FEBRUARY 15, 2010

7:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, February 15, 2010 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 Ken Shuman, Pastor, Wellspring Church

3.0 Pledges to U.S. and Texas Flags

- Led by Kayla Mundkowsky and Matt Mundkowsky, THS Student Council

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

accordance with law.]

5.0 Presentations:

- Presentation regarding the 2nd Annual City of Tomball Bunny Run 5K and Kids 1K, to be held on Saturday, April 10, 2010

6.0 Reports and Announcements

- Skating Rink Report
- Tomball Police Department Annual Data Capture Report (SB 1074); report will be provided to Council and media at the meeting
- **Farmers Market** – Will reopen March 13, 2010
- February 23, 2010 – **Trail Rider Reception** at the Depot – 2:00 p.m.
- March 1 and March 15, 2010 – **Public Hearings** regarding Tomball’s Juvenile Curfew Ordinance
- March 8, 2010 – Last Day to File Application for Place on May 8, 2009 Ballot – 5:00 p.m.
- March 8-13, 2010 – **Annual Tomball Clean-up Week** – 8:00 a.m.-4:30 p.m. daily
- March 13, 2010 – **2nd Saturday at the Depot** – 5:00 p.m.
- March 15, 2010 – Candidate Orientation (tentative date)
- April 10, 2010 – **2nd Annual City of Tomball Bunny Run 5K and Kids 1K**
- **Walk Tomball!** (every Saturday at 9:00 a.m. at the Depot)
- Comprehensive Plan website is now available online – <http://plantomball.com/index.html>
- Reports by City staff and members of council about items of community interest on which no action will be taken

7.0 Approve the Minutes of the Regular City Council Meeting of February 1, 2010

8.0 New Business:

8.1 Appoint Members to the City of Tomball Board of Appeals (BOA).

8.2 Adopt, on First Reading, Ordinance No. 2010-02, an Ordinance Amending the Code of Ordinances of the City Council of the City of Tomball, Texas, by Amending Chapter 25, “Elections,” Article I, “Political Contributions” by Increasing the Limit on Political Contributions to Candidates and Officers of the City; Providing a Penalty in an Amount of not more than \$500 for Violation of any Provision Hereof; Providing for Savings and Severability; Providing for Publication; and Making Other Provisions and Findings Related Thereto

8.3 Adopt, on First Reading, Ordinance No. 2010-03, an Ordinance amending the Code of Ordinances of the City Council of the City of Tomball, Texas, by amending Chapter 60, “Signs”, Section 60-7, “Miscellaneous Signs”, (b)

“Political Signs”, by Eliminating Restrictions regarding Private Property in order to reflect changes in State law.

- 8.4 Consideration and Possible Action regarding Restrictions on Placement of Political Signs in Public Rights-of-Way.
- 8.5 Consideration and Possible Action regarding Use of City Property during Elections.
- 8.6 Approve Reallocation of Funds for Strategic Planning Services Contract with PSA
- 8.7 Discussion regarding Process/Procedure for Councilmembers to Add Items to Future Agendas
- 8.8 Discussion regarding Process for Councilmembers to Contact the City Attorney Directly

9.0 Adjournment

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 11th day of February, 2010 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: February 15, 2010

Topic:

- Presentation regarding the 2nd Annual City of Tomball Bunny Run 5K and Kids 1K, to be held on Saturday, April 10, 2010

Background:

The City is preparing for the 2nd Annual 5K and Children's 1K Bunny Run. Staff has been approached by and has been working with 24 HR Emergency Room who has asked to be the naming partner for the event. 24 HR Emergency Room has also contacted HEB and La Quinta who are also joining as community partners. The first Bunny Run and the Woodforest National Bank Run, held in Tomball, were both successful and we anticipate between 300 and 500 participants this year in the Bunny Run. With a successful run this year, we hope to establish an event that will continue to draw people to Tomball for years to come.

The approximate cost for the 1st Annual 5K and Children's 1K Bunny Run, held on April 11, 2009, was \$3,400. These costs were covered by registration fees and community partnerships. The resulting proceeds, approximately \$4,500, were used to purchase a sound system for the City to use at the Depot and other events. The system was \$4,000, leaving \$500 in the special revenue fund to date. Please note that these figures do not include water and food provided at the run, as those items were donated.

The 2nd Annual Bunny Run will be held in conjunction with the 2nd Saturday event in April. We hope to build a day of activities that will keep race participants in Tomball for the day to shop, dine, and play.

Proceeds received from the run will be returned to the community in two way via a partnership between 24 HR. Emergency Room and the City of Tomball. 24 HR. Emergency Room will receive 25% of the proceeds, not to exceed \$1,000, which they have asked to be donated to TOMAGWA Ministries to serve the community. The remaining proceeds will go in to the special revenue fund to continue to improve & grown the Bunny Run in future years and also endow the Bunny Run to be self-supporting.

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	

Regular City Council Agenda Item Data Sheet

Meeting Date: February 15, 2010

Topic:

- Skating Rink Report
- Tomball Police Department Annual Data Capture Report (SB 1074); report will be provided to Council and media at the meeting
- **Farmers Market** – Will reopen March 13, 2010
- February 23, 2010 – **Trail Rider Reception** at the Depot – 2:00 p.m.
- March 1 and March 15, 2010 – **Public Hearings** regarding Tomball's Juvenile Curfew Ordinance
- March 8, 2010 – Last Day to File Application for Place on May 8, 2009 Ballot – 5:00 p.m.
- March 8-13, 2010 – **Annual Tomball Clean-up Week** – 8:00 a.m.-4:30 p.m. daily
- March 13, 2010 – **2nd Saturday at the Depot** – 5:00 p.m.
- March 15, 2010 – Candidate Orientation (tentative date)
- April 10, 2010 – **2nd Annual City of Tomball Bunny Run 5K and Kids 1K**
- **Walk Tomball!** (every Saturday at 9:00 a.m. at the Depot)
- Comprehensive Plan website is now available online – <http://plantomball.com/index.html>
- Reports by City staff and members of council about items of community interest on which no action will be taken

Background:

Origination:

Recommendation:

Funding:

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

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

ATTACHMENTS:

Skating Rink Report

Farmers Market

Trail Rider Reception

Public Hearings - Curfew Ordinance

Spring Clean Up Week

Walk Tomball!

**CITY OF TOMBALL, TEXAS
STATEMENT OF REVENUES AND EXPENDITURES
HOLIDAY ICE RINK
FOR THE PERIOD ENDING FEBRUARY 12, 2010**

Revenues:

Skate Fees	\$ 12,866.40
Private Parties	10,122.50
Concessions	13.65
Photos	-
Sponsorships	<u>23,700.00</u>
Total Revenues	46,702.55

Expenditures:

Rink and Skate Facility	60,500.00
Seasonal Labor	13,169.94
Security	-
Insurance	-
Installation and Breakdown	1,022.38
Advertising/Signage	2,223.50
Ice Box Rental	300.00
Tent Rental	6,850.00
POD Storage	696.60
Port-a-can Rental	787.66
Credit Card Processing Fees	968.67
Supplies	<u>1,521.56</u>
Total Expenditures	\$ 88,040.31

Revenues Over (Under) Expenditures	(41,337.76)
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Other Financing Sources (Uses)

City of Tomball Funding - Hotel Occupancy Tax	12,000.00
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Revenues and Other Sources Over (Under) Expenditures	<u><u>\$ (29,337.76)</u></u>
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CITY OF TOMBALL
ICE RINK DAILY ATTENDANCE SHEET

	Session 10:00-2:00	Session 12:00-2:00	Session 2:30-4:30	Session 5:00-7:00	Session 7:30-9:30	Session 10-Midnite	Total Daily Attendance	Notes * = private party booked for the session
Saturday, November 21		4	4	7	0		15	Thanksgiving Day - Closed
Sunday, November 22		29	6	25	3		63	
Monday, November 23				51 *	40 *		91	
Tuesday, November 24				40 *	7		47	
Wednesday, November 25				16	13		29	
Thursday, November 26								
Friday, November 27				47	35		82	
Saturday, November 28		10	15	14	41		80	
Sunday, November 29		11	21 *	4	8		65	
Monday, November 30				30 *	30 *		60	
Tuesday, December 1				55 *	0		55	Closed due to weather
Wednesday, December 2				80 *	38 *		118	
Thursday, December 3				14 *	12		26	
Friday, December 4								
Saturday, December 5		22	26	29	9		86	
Sunday, December 6		21	5	5	0		31	
Monday, December 7				28	18		46	
Tuesday, December 8				3	0		3	
Wednesday, December 9				3	0		3	
Thursday, December 10				0	0		0	
Friday, December 11			19	12	10		41	
Saturday, December 12	31	44	62	15	2		154	
Sunday, December 13		6	43	12	5		66	
Monday, December 14				43	4		47	
Tuesday, December 15				2	0		2	
Wednesday, December 16				80	33		113	
Thursday, December 17				0	37		37	
Friday, December 18				14	26		40	
Saturday, December 19		35	43	0	12		90	
Sunday, December 20		3	8	6	20		37	

CITY OF TOMBALL
ICE RINK DAILY ATTENDANCE SHEET

	Session 10:00-2:00	Session 12:00-2:00	Session 2:30-4:30	Session 5:00-7:00	Session 7:30-9:30	Session 10-Midnite	Total Daily Attendance	Notes * = private party booked for the
Monday, December 21		19	38	19	1		77	Christmas - Closed
Tuesday, December 22		51	30	10	8		94	
Wednesday, December 23		27	56	29	21		133	
Thursday, December 24		9					9	
Friday, December 25								
Saturday, December 26		36	20	2	10		68	
Sunday, December 27		19	9	21	0		49	
Monday, December 28		11	17	7	9		44	
Tuesday, December 29		33	3	0	0		36	
Wednesday, December 30		22	25	3	1		51	
Thursday, December 31		17	16	8	6	3	50	
Friday, January 1		4	12	17	7		40	
Saturday, January 2		5	4	16	8		33	
Sunday, January 3		0	13	6	0		19	
Monday, January 4				54	8		52	
Tuesday, January 5				54	24		78	
Wednesday, January 6				36	27		63	
Thursday, January 7				30	2		32	
Friday, January 8								Closed due to freezing temps.
Saturday, January 9								Closed due to freezing temps.
Sunday, January 10								Closed due to freezing temps.
Totals Per Session	31	438	495	947	535	3	2455	

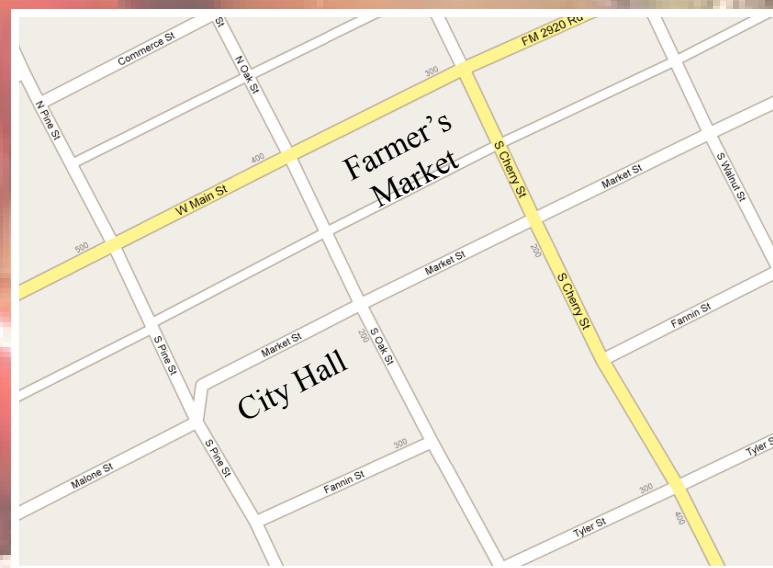


Bringing the farmers back to the community!

Come enjoy the Tomball Farmer's Market! We'll have produce, prepared foods and crafts for you to purchase.

**Now open on the
2nd & 4th Saturday
of every month!
Market opens
at 9 AM!**

**Located at the
corner of Cherry &
FM 2920**





Y'all are cordially invited
to a reception for the

SAM HOUSTON TRAIL RIDERS

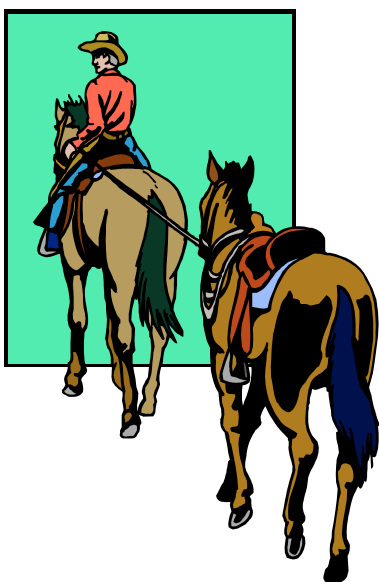
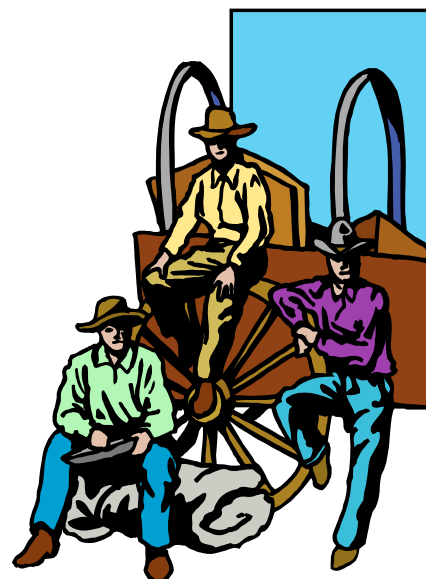
sponsored
by the
City of Tomball

Tuesday, February 23, 2010
1:00 p.m.

at
DEPOT PLAZA
201 SOUTH ELM STREET

Hosted by:

Mayor Gretchen Fagan
Mayor Pro Tem Bill Webb
Councilman David R. Quinn
Councilman Mark Stoll
Councilman Derek Townsend
Councilman Warren Driver
Interim City Manager, Christal Kliever



Dress in your Western duds
and
“Go Texan” with us!

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

**MONDAY, MARCH 1, 2010
AND
MONDAY, MARCH 15, 2010**



7:00 P.M.

Notice is hereby given that the Governing body of the City of Tomball, Texas, will hold Public Hearings during the Regular City Council Meetings to be held on Monday, MARCH 1, 2010, and Monday, MARCH 15, 2010, at City Hall, 401 Market Street, Tomball, Texas 77375 at 7:00 p.m. to consider the following:

**CONDUCT A PUBLIC HEARING AND REVIEW OF THE
CITY OF TOMBALL'S JUVENILE CURFEW ORDINANCE
TO DETERMINE THE NEED TO RE-ADOPT, ABOLISH,
CONTINUE OR MODIFY THE ORDINANCE.**

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

Written comments should be received no later than February 26, 2010 for the March 1, 2010 Public Hearing and no later than March 12, 2010 for the March 15, 2010 Public Hearing. Please submit comments to the City Secretary, 401 Market Street, Tomball, Texas 77375.

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 5th day of February 2010 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.

City of Tomball
Spring Clean up
Week of March 8, 2010 to March 13, 2010
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.

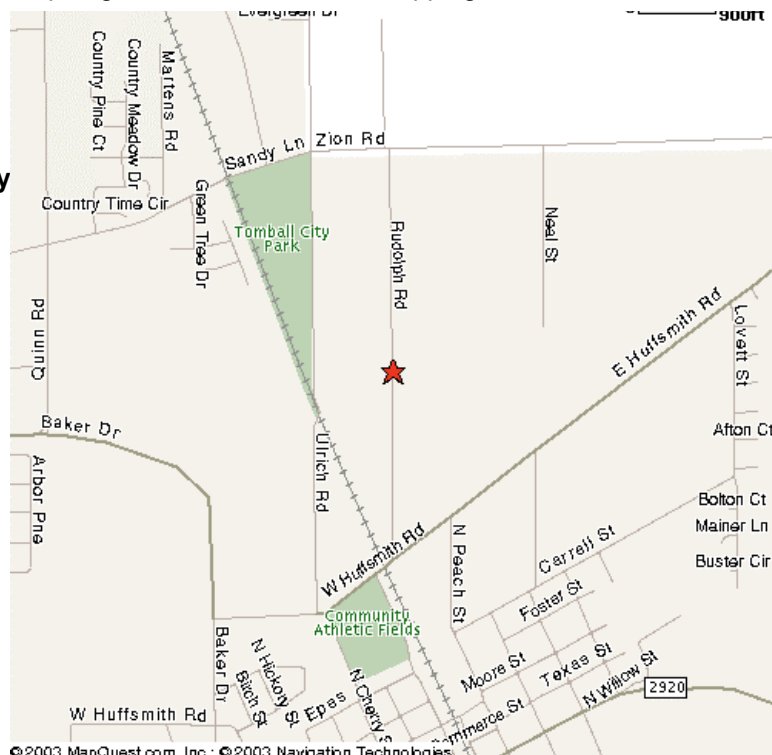
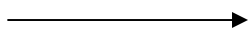
Acceptable items are anything that is inert and would not harm the environment before or after disposal into a landfill.

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



Walk Tomball!

Every Saturday—9 AM
Tomball Depot Plaza
201 S. Elm
1 Block South of Main

**WALK
TOMBALL!**



...it's a wonderful life

**Door prizes every
Saturday!!!**



~ Fitness ~ Fun ~ Friendship ~ Food ~

10 AM Coffee Stops:

**Feb. 6...Market Street Café...305 W. Market
St...Quiche or tart and drink \$5**

**Feb.13...Granny's Korner...201 W. Market
Hosted by Mary Harvey**

**Feb.20...El Emperador...601 W. Main...Tacos
\$1.50 Drinks \$1**

**Feb.27...Cornelius Florists...1215 W. Main...
Hosted by Veronica**

**For more information, please call 281-351-5484 or visit the
City of Tomball web site at www.ci.tomball.tx.us**



Regular City Council
Agenda Item
Data Sheet

Meeting Date: February 15, 2010

Topic:

Approve the Minutes of the Regular City Council Meeting of February 1, 2010

Background:

Origination:

Recommendation:

Funding:

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

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

ATTACHMENTS:

Draft Minutes_Regular Council Meeting_2/15/2010

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



MONDAY, FEBRUARY 1, 2010

7:00 P.M.

1.0 Call to Order

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

Councilman Quinn
Councilman Stoll
Councilman Townsend
Councilman Webb
Councilman Driver

Others present:

Interim City Manager – Christal Kliewer
City Secretary – Doris Speer
City Attorney – Scott Bounds
Chief of Police – Robert Hauck
Director of Public Works – David Kauffman
Fire Chief – Randy Parr
Finance Director – Glenn Windsor
Assistant to City Manager – Shawn Cox
Director of Engineering & Planning – Mark McClure
City Planner – Kelly Violette
Community Events Coordinator – Rosalie Dillon

draft

2.0 The invocation was led by Phil Johnson, Pastor, Tomball Assembly of God Church.

3.0 Pledges to U. S. and Texas Flags were led by Kirsten Holland and Cooper Cason.

4.0 The following public comments were received:

Judy Wilson
506 N. Pecan Drive, 77375

-

Requested that Council exercise fiscal
responsibility in evaluating projects and

associated costs before approving them.

Mary Lu Wiley 14120 Carneswood, 77375	-	Expressed concerns about the profitability and success of the ice skating rink.
Audrey Marks 21901 Tomball Parkway, 77077	-	Provided information to Council and expressed her support regarding the Tomball Potpourri as the official newspaper for 2010.
Nancy Nygaard 5137 West Main, 77375	-	Provided information to Council and expressed her support regarding the Tomball Tribune as the official newspaper for 2010.
Dane Dunagin 535 East Hufsmith, 77375	-	Did not speak; wished to have his support for the abandonment of Stasney Road entered into the record.
Bill Sumner 12321 Zion Road, 77375	-	Expressed his support for the abandonment of Stasney Road.
Mary Harvey 405 S. Walnut, 77375	-	Expressed her concerns regarding limitations on total contributions by individuals to candidates for municipal office.
Pat Bailey 1319 Dove Trails, 77375	-	Expressed her concerns regarding solicitations by City representatives to citizens, donations by citizens to the City, and limitations on total contributions by individuals to candidates for municipal office.

5.0 Presentation:

- Mayor Fagan presented certificates of appreciation from the City Council to Corbin Sterle, Lisa Sterle, Collin Sterle, William Conover, Rebekah Conover, Marshall Conover, Will Harris, Will Harris II, Ron Dorrell, Braden Dorrell, Tom Brewers, Ben Brewers, Daniel Torres, Mikey Torres, Sam Wells, Sam Wells II, John Dillon, Jim McKinney, and Randy Parr for their volunteer assistance as members of *Mission Tomball* in cleaning up Kathy Bitner's home following extensive water damage, enabling her to return to her home.
- Doug Sanguedolce will present the Fire Marshal's Report for 2009 on February 15, 2010.

6.0 Reports and Announcements:

- **Farmers Market** – Will reopen in March 2010
- February 4, 2010 – **Mayor's Coffee** – 5:30 p.m.-7:00 p.m. at Main Street Crossing

- February 8 through March 8, 2010 – Dates to File Application for Place on May 8, 2009 Ballot
- February 13, 2010 – **2nd Saturday at the Depot** – 5:00 p.m.
- February 15, 2010 agenda – Appointments to Board of Adjustments (expiring 3/2/10)
- February 23, 2010 – **Trail Rider Reception** at the Depot – 1:00 p.m.
- March 1 and March 15, 2010 -- **Public Hearings** regarding Tomball's Juvenile Curfew Ordinance
- March 8-13, 2010 – **Annual Tomball Clean-up Week** – 8:00 a.m.-4:30 p.m. daily
- March 15, 2010 – Candidate Orientation (tentative date)
- April 10, 2010 – **2nd Annual City of Tomball Bunny Run 5K and Kids 1K**
- **Walk Tomball!** (every Saturday at 9:00 a.m. at the Depot)
- Comprehensive Plan website is now available online – <http://plantomball.com/index.html>
- Reports by City staff and members of council about items of community interest on which no action will be taken

7.0 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve the Minutes of the Regular City Council Meeting of January 18, 2010.

Motion carried unanimously.

8.0 Old Business:

8.1 Randy Parr presented an overview of the proposed Ordinance. Motion was made by Councilman Driver, second by Councilman Townsend, to adopt, on Second Reading, Ordinance No. 2010-01, an Ordinance of the City of Tomball, Texas, Adopting **Amendment Number 1** to the Original Budget of the City of Tomball, Texas, for the Fiscal Year 2009-2010, as Adopted by Ordinance No. 2009-20; Providing for Appropriation of Funds from the Governmental Funds and the Proprietary Funds; Directing Publication of the Caption of this Ordinance; Finding that the Meetings at which this Ordinance is Considered are Open to the Public; Providing for Severability and the Repeal of Conflicting Ordinances; and Providing Other Details Relating to the Passage of This Ordinance. Vote was as follows:

Councilman Driver	<u>Aye</u>
Councilman Quinn	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Webb	<u>Aye</u>
Councilman Townsend	<u>Aye</u>

Motion carried unanimously.

8.2 Motion was made by Councilman Townsend, second by Councilman Driver, to reconsider Resolution No. 2010-04, a Resolution of the City Council of the City of Tomball, Texas, Designating the Official Newspaper for 2010 for Publication of Matters

Pertaining to the City of Tomball. Motion was made by Councilman Stoll to designate the Tomball Potpourri as the official newspaper; motion died for lack of second. Motion was made by Councilman Townsend to place reconsideration of Resolution No. 2010-04 on the February 15, 2010 agenda; motion died for lack of second. Motion to reconsider Resolution No. 2010-04 was withdrawn by Councilman Townsend, second by Councilman Driver, with request to reconsider Resolution No. 2010-04 when the 90-day period required for defeated motions under Chapter 2, Section 2-32. Rules of Procedure, (9) *Reconsideration of a subject when defeated*, in the Code of Ordinances has expired.

No action taken.

9.0 New Business:

- 9.1 Grady Martin, President of the Tomball Sister City Organization, presented an overview of the Request by the Tomball Sister City Organization for City sponsorship of the 2010 German Heritage Festival. Motion was made by Councilman Stoll, second by Councilman Driver, to approve Request by the Tomball Sister City Organization for 2010 German Heritage Festival Funding Support and Street Closures.

Motion carried unanimously.

- 9.2 Shawn Cox presented an overview of the Facilities Agreement with Tennessee Gas Pipeline. Motion was made by Councilman Townsend, second by Councilman Stoll to approve Assignment of Facilities Agreement with Tennessee Gas Pipeline Company to Alamo Pipeline, LLC and Authorize Interim City Manager to Execute Agreement.

Motion carried unanimously.

- 9.3 Kelly Violette presented an overview of the Common Access Agreement. Motion was made by Councilman Quinn, second by Councilman Webb, to approve Common (Reciprocal) Access Agreement with James A. Walker of 607 Clayton Street and James A. Rice and wife, Lavirl Rice, of 605 Clayton Street.

Motion carried unanimously.

- 9.4 Mark McClure presented an overview of the Request by Adjacent Property Owners. Motion was made by Councilman Webb, second by Councilman Townsend, to Approve Request by Adjacent Property Owners to Abandon an Unimproved Road Right-of-Way Known as Stasney Road and Authorize the City Attorney and City Staff to proceed with the Process for the Abandonment of the Unimproved Road Right-of-Way Known as Stasney Road.

Motion carried unanimously.

- 9.5 Mark McClure presented an overview of the Request by Tomball Independent School District. Motion was made by Councilman Driver, second by Councilman Stoll, to Approve Request by Tomball Independent School District to Abandon the Unimproved Road Right-of-Ways Known as Fannin Street, Tyler Street, and the Alley Way between South Cherry Street and South Oak Street and Authorize the City Attorney and City Staff to Proceed with the Process for the Abandonment of the said Unimproved Road Right-of-Ways.

Motion carried unanimously.

- 9.6 Mark McClure presented an overview of the Memorandum of Understanding requested by the Harris County Flood Control District. Motion was made by Councilman Webb, second by Councilman Townsend, to Approve Memorandum of Understanding with Harris County Flood Control District and City of Tomball to Coordinate Floodplain Management of Mapping, Models, and Data and Authorize the Mayor to Execute the Memorandum.

Motion carried unanimously.

- 9.7 Mark McClure introduced the Rudolph Road and Utilities Preliminary Engineering Report from O'Malley Engineers, dated Revised December 2009. Ronny Becker, O'Malley Engineers, presented an overview of the preliminary engineering report and the planned phases of the improvements to Rudolph Road.

No action necessary.

Mayor Fagan called for a 5-minute recess at 8:39 p.m. Upon reconvening at 8:50 p.m., the following items were considered:

- 9.8 Derek Townsend expressed his concerns regarding limitations on total contributions by individuals to candidates for municipal office. Motion was made by Councilman Townsend, second by Councilman Stoll, to Direct the Interim City Manager to prepare an Ordinance to Amend Chapter 25, Section 25-2, "Limitation on Total Contributions by Individual". Vote was as follows:

Councilman Quinn	<u>Nay</u>
Councilman Stoll	<u>Aye</u>
Councilman Webb	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Driver	<u>Nay</u>

Motion carried, 3 Aye votes to 2 Nay votes.

- 9.9 Derek Townsend expressed his concerns regarding solicitations made by City representatives to area businesses and organizations. Consensus of Council was unanimous that City representatives will practice caution with regard to solicitations to and donations from area businesses and organizations.

No action necessary.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this _____ day of _____ 2010.

Doris Speer, TRMC
City Secretary

Gretchen Fagan
Mayor

Regular City Council

Agenda Item

Data Sheet

Meeting Date: February 15, 2010

Topic:

Appoint Members to the City of Tomball Board of Appeals (BOA).

Background:

The City Council is authorized, under Section 9 of the Zoning Ordinance, to appoint five (5) regular members and up to four (4) alternate members to serve as the Board of Adjustments (BOA). Members of the BOA must be resident citizens of the City of Tomball and serve staggered two-year terms.

The positions currently held by Regular board members John Ford and Latrell Shannon and Alternate board member John Lynch will expire on March 2, 2010. Messrs. Ford and Lynch have expressed their interest in being reappointed; Mrs. Shannon does not wish to be reappointed at this time. The following individuals have also expressed their interest in serving on Board of Adjustments:

John Dillon
Evelyn Torres-Chervenak
Dea R. Bruce
April Gray
Billy Hemby
Vincent O'Donnell.

Each individual possesses qualities that would be beneficial to the Board of Adjustments. I would like to recommend the following appointments; of course, Council may make additional nominations as desired.

Regular Members:

John Ford
John Lynch (from the Alternate position)

Alternate Member

Billy Hemby

Additionally, the BOA still has vacancies for Alternate members 3 and 4; I would like to recommend the appointment of Dea R. Bruce as Alternate 3 and Vincent O'Donnell as Alternate 4. Mr. O'Donnell is currently serving on the Planning and Zoning Commission and his term expires June 2012; I would like to suggest that Council appoint a replacement for his unexpired term in June, at the same time as the other Planning and Zoning appointment is made.

Copies of applications from the above individuals are attached.

Origination:

Mayor Gretchen Fagan

Recommendation:

As recommended above

Funding:

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

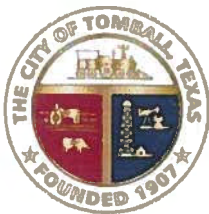
Doris Speer, City Secretary

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

ATTACHMENTS:

Applications for BOA Appointments

Current List of BOA Members



CITY OF TOMBALL

APPLICATION FOR CITY BOARDS/COMMISSIONS/COMMITTEES

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Please Type of Print Clearly:

Date: 1-26-10

Name: John F. Ford

Phone: 281 413 1215

Address: 930 Agg Rd.

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

City/State/Zip: Tomball Tx 77375

Email: brahmanje@aol.com

I have lived in Tomball 12 years.

I am ☒ am not ☐ a U.S. Citizen

Occupation: Physical Therapist, Healthcare

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

Additional Pertinent Information/References: 

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

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

Decision-Making Boards and Commissions

Meeting Information

() Planning & Zoning Commission

Second Monday each month, 6 p.m.

(1) Board of Adjustments

To Be Announced; Evenings

Separate Legal Entities

Meeting Information

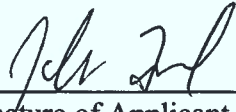
() Tomball Economic Development Corporation

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

(2) Tomball Hospital Board

Fourth Wednesday each month, 4 p.m.

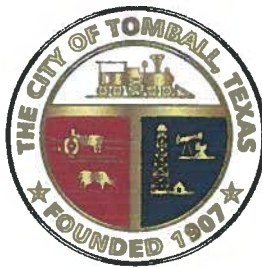
I AM INTERESTED IN SERVING ON THE ABOVE-INDICATED BOARDS, COMMISSIONS, AND COMMITTEES.



Signature of Applicant

Please return this application to:

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



CITY OF TOMBALL

APPLICATION FOR CITY BOARDS/COMMISSIONS/COMMITTEES

NOTE: AS AN APPLICANT FOR A CITY BOARD, COMMISSION, OR COMMITTEE, YOUR NAME, ADDRESS, AND PHONE NUMBER WILL BE AVAILABLE TO THE PUBLIC. ALL OTHER INFORMATION WILL REMAIN CONFIDENTIAL. YOU WILL BE CONTACTED BEFORE ANY ACTION IS TAKEN ON YOUR APPOINTMENT. INCUMBENTS WHOSE TERMS EXPIRE ARE AUTOMATICALLY CONSIDERED FOR REAPPOINTMENT UNLESS THEY INDICATE NON-INTEREST OR HAVE BEEN APPOINTED TO TWO (2) CONSECUTIVE TERMS. A MEMBER WHO IS ABSENT FOR MORE THAN 25% OF CALLED MEETINGS IN ANY TWELVE CONSECUTIVE MONTHS OR ABSENT FROM MORE THAN TWO CONSECUTIVE MEETINGS, FOR OTHER THAN MEDICAL REASONS, WILL BE AUTOMATICALLY REMOVED FROM SERVICE. APPLICANT MUST BE A CITIZEN OF THE UNITED STATES.

PLEASE TYPE OR PRINT CLEARLY: _____

DATE: 2-07-2009

NAME: John L. Lynch

PHONE: None

ADDRESS: 14219 Carneswood

281-351-0949 (HOME)

E-MAIL: john@johnlynchcpa.com

(WORK)

I have lived in Tomball 15 years.

I am ☒ ~~am not~~ a U.S. Citizen

OCCUPATION: Certified Public Accountant

PROFESSIONAL AND/OR COMMUNITY ACTIVITIES: Board of Elders/Trustees, Christ Bridge Fellowship

ADDITIONAL PERTINENT INFORMATION/REFERENCES: Member GTACC, Bruce Hillegast

APPLICATIONS FOR THE FOLLOWING COUNCIL APPOINTED BOARDS/COMMISSIONS/COMMITTEES ARE KEPT ON FILE IN THE CITY SECRETARY'S OFFICE (281-290-1002):

PLEASE INDICATE YOUR PREFERENCE BY NUMBERING 1-2-3 ...

ADVISORY BOARDS & COMMISSIONS:

- () Parks, Recreation & Beautification Advisory Board
- () Impact Fee Advisory Board

MEETING TIME

Second Tuesday each month, 5 p.m.
As needed, second Monday in
month, 6 p.m.

DECISION-MAKING BOARDS AND COMMISSIONS:

- ☐ Building Standards Board
☐ Planning and Zoning Commission
☐ Electrical Board

☐ Technical Airport Advisory Committee
☒ Board of Adjustment

MEETING TIME

As needed, 5 p.m.
Second Monday each month, 6 p.m.
First Tuesday after third Monday,
7:30 p.m.
To Be Announced; Evenings
To Be Announced; Evenings

SEPARATE LEGAL ENTITIES:

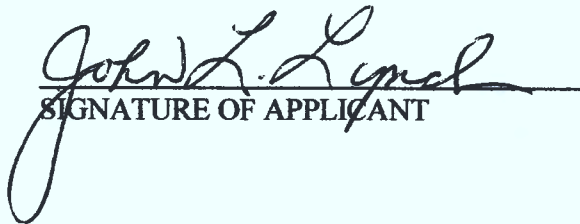
- ☐ Tomball Economic Development Corporation

☐ Tomball Hospital Board

MEETING TIME

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

I AM INTERESTED IN SERVING ON THE ABOVE CHECKED BOARDS, COMMISSIONS, OR COMMITTEES.


SIGNATURE OF APPLICANT

PLEASE RETURN THIS FORM 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: 1/25/00

Name: Dea R Bruce

Phone: 281 357 0860

Address: 14231 Spring Pines Dr.

(Home)
Phone: 281 382 8806
(Work)

City/State/Zip: Tomball TX 77375

Email: brucer-1@prodigy.net

I have lived in Tomball 5 years.

I am ☒ am not ☐ a U.S. Citizen

Occupation: Retired Educator;

Professional and/or Community Activities: Home owner Association
President; Teach Bible Classes;

Additional Pertinent Information/References: Travel 2-3 times a
Year
Norm / Martha Huebner
Randy Pass, Mark Stoll, David Quinn

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

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

Decision-Making Boards and Commissions

Meeting Information

(✓) Planning & Zoning Commission

Second Monday each month, 6 p.m.

(✓) Board of Adjustments

To Be Announced; Evenings

Separate Legal Entities

Meeting Information

(✓) Tomball Economic Development Corporation

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

(✓) Tomball Hospital Board

Fourth Wednesday each month, 4 p.m.

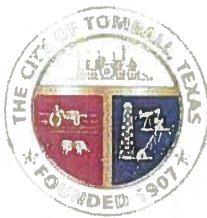
I AM INTERESTED IN SERVING ON THE ABOVE-INDICATED BOARDS, COMMISSIONS, AND COMMITTEES.

Dea R Bruce

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:

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

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Decision-Making Boards and Commissions

Meeting Information

() Planning & Zoning Commission

Second Monday each month, 6 p.m.

(1) Board of Adjustments

To Be Announced; Evenings

Separate Legal Entities

Meeting Information

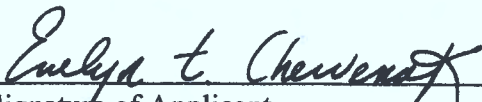
(2) Tomball Economic Development Corporation

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

(3) Tomball Hospital Board

Fourth Wednesday each month, 4 p.m.

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



Signature of Applicant

Please return this application to:

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



CITY OF TOMBALL

2009

APPLICATION FOR CITY BOARDS/COMMISSIONS/COMMITTEES

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Please Type or Print Clearly:

Date: 5-15-09Name: Billy HembyPhone: 713-899-2289Address: 14127 Pollux CourtPhone: 713-862-6364 (Home)Email: Billyhemby@aol.comPhone: 713-862-6364 (Work)I have lived in Tomball 33 years.I am ☒ am not ☐ a U.S. CitizenOccupation: Vice President / Highland Distributing CompanyProfessional and/or Community Activities: Current Captain Tomball / Magnolia / Montgomery Budeu Comm.Additional Pertinent Information/References: Mary Reagan / Bill Webb / Bruce Hillegeist / John Escamilla / Mike Rowley / Danny Hitchcock

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

Decision-Making Boards and Commissions

- ☒ Planning & Zoning Commission
☒ Board of Adjustments

Separate Legal Entities

- ☐ Tomball Economic Development Corporation

☐ Tomball Hospital Board

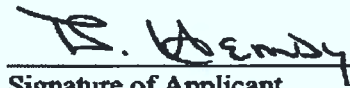
Meeting Information

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

Meeting Information

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

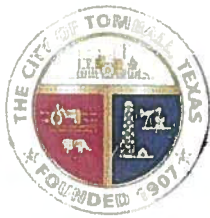
I AM INTERESTED IN SERVING ON THE ABOVE-INDICATED BOARDS, COMMISSIONS, AND COMMITTEES.



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 (1) 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.

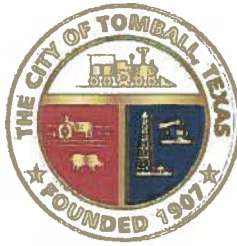
I AM INTERESTED IN SERVING ON THE ABOVE-INDICATED BOARDS, COMMISSIONS, AND COMMITTEES.



Signature of Applicant

Please return this application to:

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



CITY OF TOMBALL

2009

APPLICATION FOR CITY BOARDS/COMMISSIONS/COMMITTEES

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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

Meeting Information

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

Separate Legal Entities

- (1) Tomball Economic Development Corporation

Meeting Information

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

- (2) Tomball Hospital Board

Fourth Wednesday each month, 4 p.m.

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



Signature of Applicant

Please return this application to:

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

APRIL D. GRAY

704 Percival St.
Tomball, Texas 77375

(281) 255-8515
Email: AprilGray@Comcast.net

Objective: Key position involving Regulatory activities for Gulf of Mexico and international projects for the Oil & Gas / Energy industry.

Overview: Accomplished professional with over twenty years experience and proven performance in providing a full range of support services in Project Regulatory, Client Support, Finance, General Operations and Administration. Extensive oil & gas data, engineering and manufacturing background.

Professional Experience:

SBM Atlantia – SBM Offshore Group, Houston, Texas **2003 to Present**
SBM Atlantia is an integrated provider for engineering, procurement, construction and installation of 'complete floating production solutions' for the deepwater market.

Regulatory Administrator/Specialist

Manage a regulatory team of 4 specialist on a variety of projects from FPSO conversions to Semi-Submersibles and TLPs. Created department workflows and systems to ensure proper processing and retrieval of regulatory data. Corporate representative on offshore projects to ABS, USCG and MMS. Coordinate, monitor and track submittals to ABS, USCG and MMS. Fluent in the use of ABS' Plan Approval System (O2E). Guide engineers on regulatory issues for GoM offshore projects from Kick-Off to completion.

- Developed a regulatory submittal system to reduce time and cost on class approvals.
- Currently scheduled to complete Thunder Hawk Project at a quarter million under regulatory budget.
- Involved in the regulatory process on seven successful GoM Projects and several international projects.

IHS ENERGY GROUP, Houston, Texas **1996 to 2002**
Largest provider of petroleum data, software and consulting services both domestically and worldwide.

Client Support Specialist – Worldwide Support & Training (2001 – 2002)

Provided effective and efficient front line support of domestic products and data to users and major petroleum corporations. Requests were received by on site visit, phone, email and industry networking. Represented the company's support functions, including product training, on site at client locations throughout Texas, Oklahoma and Louisiana.

- Developed an excellent reputation and improved client support efforts within the largest clients.
- Identified under used products and promoted them on site to achieve increased sales.
- Became a patient teacher to the most difficult and technologically challenged users.

Senior Staff Administrator – Int'l Economics & Consulting (1998 – 2001)

Administrator to the President and a staff of 40 economists, engineers, analysts, researchers and editors. Produced department/product line budgets, tracked revenue and expenses, handled accounting functions and provided P/L reports. Organized and promoted public relations for my department to clients throughout the worldwide community. Created presentation productions for use in training, seminars and industry specific conferences.

Administrative Assistant – Economics Software & Consulting (1996 – 1998)

Administrative support to the Vice President and a staff of 8 economists, petroleum engineers, risk analysts and software programmers. Responsible for manufacture and distribution of copyrighted economics evaluation and estimation software packages. Maintained inventory of all software packages and published products. Produced company wide client billing. Performed informational research and maintained an in-house library.

- Restructured registered user, client and subscriber databases into a flexible tool.
- Improved the client billing procedure by creating a more automated system.

OCEANEERING INT'L / OIL INDUSTRY ENGINEERING, Houston, Texas**1990 to 1996**

Oceaneering is an advance applied technology company that provides engineered services and hardware to customers that operate in marine, space and other harsh environments.

Controller – Oceaneering Intervention Engineering (1994 – 1996)

Managed a staff of three accounting professionals. Key contributor in obtaining company ISO 9001 Certification and sale of the company to Oceaneering. Produced and maintained corporate financial reports. Expanded on financial information and produced projections for corporate executives. Conducted corporate business with all taxing authorities on a federal, state, and local level. Responsible for obtaining and administering all necessary insurance required for manufacturing facilities and operations. Responsible for all corporate banking transactions including negotiations for procurement and operating capital with bankers and other financial professionals. Produced fiscal year corporate budgets.

- Restructured cash flow to meet scheduled payments to vendors and employees. Improving relations and corporate credit ratings and abilities.
- Arranged, coordinated and completed property acquisitions and procurement of operating capital.
- Key contributor of financial data and presentation material for a major corporate acquisition. Directed corporate consolidation and changeover operations.

General Operations/Engineering Support – Oil Industry Engineering (1992 –1993)

Heavily involved in and familiar with all facets of manufacturing operations from sales, engineering, procurement, assembly and final product shipping. Directly oversee maintenance of plant, buildings, and equipment. Ability to read machine and assembly drawings as necessary for procurement and preliminary inspection of machined parts. Developed and administered Employee Safety Program.

- Held key position in manufacturing operations under ISO 9000 quality assurance program and procedures.

Senior Administrator/Project Administrator – Oil Industry Engineering (1991 –1992)

Senior Administrator to the President & Vice President. Handled all personnel records and reporting. Created presentation material for corporate meetings and investors. Represented and acted on the corporations behalf in various legal matters such as patents, contracts and other activities. Produced, managed and updated the Corporate Book in accordance with the by-laws of The State of Texas. Compiled information for special projects and produced detailed presentation quality reports. Upgraded, implemented and controlled a building security system. Scheduled and supervised property and equipment maintenance, repair and upgrading.

- Processed two corporate product patents.
- Compiled and produced a presentation on the corporate financial history.

Accounting/Purchasing – Oil Industry Engineering (1990 –1991)

Established financial accounting, reporting and planning functions. Responsible for directing the company's purchasing functions, including procurement of materials, services and capital equipment.

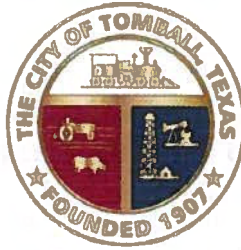
- Reestablished the purchasing department during a corporate restructure.
- Integrated purchasing, shipping/receiving and accounting departments.

Technical Skills:

Industry specific software – ABS' O2E system / SafeHull, P2000, PI/Dwight's Well and Production Data (CD and Online), Powertools, Probe, Edin, Edge, Data Visualizer, Drilling Wire and ArcView.

General software and operating systems – Microsoft Office (Word, Excel, Access and PowerPoint). All word processing and spreadsheet programs. JD Edwards, PeachTree and other accounting programs. Database and utility programs. Windows 95/98/00/NT and XP.

Education:	2002	University of Tulsa – Petroleum Engineering for Non-Engineers
	2001	University of Tulsa – Basis Petroleum Geology for the Non-Geologist
	2001	Hilton Computer Strategies – Transact SQL course
	1999	Houston Fire Department – High Rise Fire and Emergency Training
	1983	Department of Aviation, City of Houston - Airport Emergency Operations.



CITY OF TOMBALL

2009

APPLICATION FOR CITY BOARDS/COMMISSIONS/COMMITTEES

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

Please Type of Print Clearly:

Date: 4-14-09

Name: Vince O'Donnell

Phone: 281-351-7163

(Home)

Address: 322 Dove Trails

Phone: 281-731-6935

(Work)

Email: vincent.odonnell@sbcglobal.net

I have lived in Tomball 10 years.

I am X am not a U.S. Citizen

Occupation: Branch Manager/Outside Sales

Professional and/or Community Activities: Tomball Planning & Zoning Commission

Additional Pertinent Information/References: _____

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

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

Decision-Making Boards and Commissions

(1) Planning & Zoning Commission

(2) Board of Adjustments

Separate Legal Entities

(3) Tomball Economic Development Corporation

() Tomball Hospital Board

Meeting Information

Second Monday each month, 6 p.m.

To Be Announced; Evenings

Meeting Information

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

Fourth Wednesday each month, 4 p.m.

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



Signature of Applicant

Please return this application to:

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

Judith L. Wilson
506 N. Pecan Dr.
Tomball, TX 77375
(281) 351-9151
(832) 439-1072

July 31, 2009

Doris Speer, City Secretary
City of Tomball

Dear Doris:

Please accept the revised application for Council-appointed Boards,
Commissions, and Committees.

Thank you,



Judy

Judith L. Wilson
506 N. Pecan Dr.
Tomball, Texas 77375

June 5, 2009

Tomball City Council Members
Fax No. 281-351-6256

Dear City Council Members:

As a native Houstonian who grew up on the north side of Houston, I have always considered Tomball, to be a part of "my" community. There are many reasons why I love living and working here and that love for our city motivates me to offer my services to our community as a member of the following:

Impact Fee Advisory Board
Planning & Zoning Commission
Tomball Economic Development Corporation

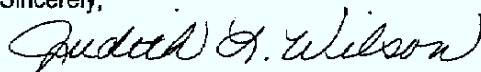
I would like to take this opportunity to tell you why I feel that I am qualified to serve the City of Tomball. I started my family after graduation from Sam Houston High School in Houston, TX, and went to work as a Directory Assistance Operator for Southwestern Bell Telephone Co, now AT&T. I held various positions over my career and lived in Austin, Victoria, Midland, Odessa, Corpus Christi, San Antonio and Houston. While working full time as a manager, I utilized the company tuition plan and graduated Magna Cum Laude from The University of Texas with a BA in Psychology with a Business minor. This was accomplished in four years as a wife and mother. I also earned a Texas Real Estate Broker's license, which is now inactive.

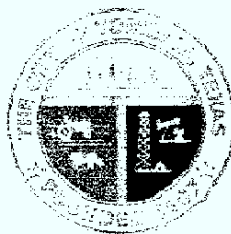
My most recent work experience while in the corporate world included various positions in the Real Estate Management Division for AT&T. Texas was divided into thirds and I was responsible for the acquisition of land/buildings/leases for one third of the state. After the real estate was acquired for administrative or equipment needs, I was responsible for the ongoing maintenance of the real estate assets. This included both short and long range planning, budget management for capital improvement projects and ongoing maintenance, contract administration, the supervision of unionized workers and staff managers, and interaction with the PUC of Texas. I also learned the operations of different departments in order to perform numerous internal audits. Since my early retirement from AT&T, I have been a small business owner in Tomball where I own and manage a small business park and partner with a builder/remodeler in the residential construction business.

I have one grown son who is married and lives in the Dallas, TX, area. I am also the grandmother of eight year old boy/girl twins with special needs. I am a member of the First Baptist Church of Buffalo, TX, and I am an active member of several lineage societies. I am the chairman of the Service for Veterans committee of one of the societies where I work to donate items to the Michael E. DeBakey Veterans Medical Center, and I am a chapter officer over ways and means in another group. I support the Greater Tomball Area Chamber of Commerce and am hopeful that I will be able to become more active in matters involving the development and well being of Tomball. I work daily with the citizens of Tomball and would like to utilize my passion for people by filling one of your appointed positions to the above.

If you have any questions, please do not hesitate to contact me at (281) 351-9151, or (832) 439-1072.

Sincerely,





CITY OF TOMBALL

2009

APPLICATION FOR CITY BOARDS/COMMISSIONS/COMMITTEES

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

Please Type or Print Clearly:

Date: 6/5/09

Name: JUDITH L. (JUDY) WILSON

Phone: 281 351 9151
(Home)

Address: 506 N. PECAN DR.

832 439 1072
(Work)

Email: JUDITH L. WILSON

I have lived in Tomball 10 years.

I am X am not a U.S. Citizen

Occupation: I AM A MINORITY FEMALE BUSINESS OWNER OF THE SILVERWOOD BUS. PARK WITH WORK EXPERIENCE AT SUB/AT&T AS AN INTERNAL AUDITOR & AREA MGR.-ARCHITECTURE RESPONSIBLE FOR CAPITAL/MTC. BUDGETS SHORT/LONG RANGE PLANNING, REAL ESTATE ASSET MANAGEMENT, CONTRACT ADMIN. & SUPERVISION/MANAGEMENT OF BOTH UNION WORKERS & STAFF MGRS. I GRADUATED MAGNA CUM LAUDE FROM UT WITH A B.A. IN PSYCHOLOGY WITH A MINOR IN BUSINESS.

Professional and/or Community Activities: GREATER TOMBALL AREA CHAMBER OF COMMERCE, DAUGHTERS OF THE REPUBLIC OF TEXAS CHAPTER OFFICER FOR WAYS & MEANS, DAR CHAPTER CHAIRMAN OF THE SERVICE FOR VETERANS COMMITTEE.

Additional Pertinent Information/References: I AM A MEMBER OF THE FIRST BAPTIST CHURCH OF BUFFALO TX WHERE I HAVE FAMILY AND HAVE OWNED A SECOND HOME. I AM THE MOTHER OF A GROWN SON & THE GRANDMOTHER OF 8 YR. OLD BOY/GIRL TWINS WITH SPECIAL NEEDS.

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

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

Advisory Boards & Commissions

7. ☒ Parks, Recreation & Beautification Advisory Board
4. ☒ Impact Fee Advisory Board

Meeting Information

Second Tuesday each month, 5 p.m.
As needed, second Monday in month, 6 p.m.

Decision-Making Boards and Commissions

6. ☒ Building Standards Board
1. ☒ Planning & Zoning Commission
8. ☒ Electrical Board
5. ☒ Board of Adjustments

Meeting Information

As needed, 5 p.m.
Second Monday each month, 6 p.m.
First Tuesday after third Monday, 7:30 p.m.
To Be Announced; Evenings

Separate Legal Entities

2. ☒ Tomball Economic Development Corporation
3. ☒ 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.

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

Judith G. Wilson
Signature of Applicant

Please return this application to: City Secretary
City of Tomball
401 Market Street
Tomball, TX 77375

Board of Adjustments
(2-year terms after first round)

Regular BOA Member

Tana Ross – Position 1

Expires: 3/2/2011

(Apptd 2008 as sub; 2009 as regular member)

John Ford – Position 2

Expires: 3/2/2010

(Apptd 2008 as regular member)

Rick Tomlinson - Position 3

Expires: 3/2/2011

(Apptd 2008 as sub; 2009 as regular member)

Latrell Simmons Shannon – Position 4

Expires: 3/2/2010

(Apptd 2008 as regular member)

Brett Tynes – Position 5

Expires: 3/2/2011

(Apptd 2008 as sub; 2009 as regular member)

Alternate BOA Member

John Lynch – Alternate 1

Expires: 3/2/2010

(Apptd 2009 as 1-yr sub)

Barbara Tague - Alternate 2

Expires 3/2/2011

(Apptd 2009 as 2-yr sub)

Vacant – Alternate 3

Expires: 3/2/2010

Vacant – Alternate 4

Expires: 3/2/2011

Regular City Council Agenda Item Data Sheet

Meeting Date: February 15, 2010

Topic:

Adopt, on First Reading, Ordinance No. 2010-02, an Ordinance Amending the Code of Ordinances of the City Council of the City of Tomball, Texas, by Amending Chapter 25, "Elections," Article I, "Political Contributions" by Increasing the Limit on Political Contributions to Candidates and Officers of the City; Providing a Penalty in an Amount of not more than \$500 for Violation of any Provision Hereof; Providing for Savings and Severability; Providing for Publication; and Making Other Provisions and Findings Related Thereto

Background:

During the February 15, 2010 Council meeting, Council authorized the City Attorney to prepare an ordinance increasing the limit on political contributions to candidates and officers of the City. The City Attorney has prepared the Ordinance as requested.

Origination:

Councilmembers Townsend and Stoll

Recommendation:

Staff makes no recommendation.

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

Doris Speer, City Secretary

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

ATTACHMENTS:

Ordinance No. 2010-02_Increasing Political Contributions

ORDINANCE NO. 2010-02

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, BY AMENDING CHAPTER 25, "ELECTIONS," ARTICLE I, "POLITICAL CONTRIBUTIONS" BY INCREASING THE LIMIT ON POLITICAL CONTRIBUTIONS TO CANDIDATES AND OFFICERS OF THE CITY; PROVIDING A PENALTY IN AN AMOUNT OF NOT MORE THAN \$500 FOR VIOLATION OF ANY PROVISION HEREOF; PROVIDING FOR SAVINGS AND SEVERABILITY; PROVIDING FOR PUBLICATION; AND MAKING OTHER PROVISIONS AND FINDINGS RELATED THERETO.

* * * * *

WHEREAS, the City Council of the City of Tomball believes that a position in government is a position of public trust that demands a high standard of behavior; and

WHEREAS, the City seeks to promote integrity, honesty, and ethical conduct in all activities undertaken by the City's officials; and

WHEREAS, the City desires to prevent corruption or the appearance of corruption in the conduct of government by the City; and

WHEREAS, the City desires to increase the base contribution limits; 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. Section 25-2 of the Code of Ordinances of the City of Tomball, Texas, is hereby amended the read as follows:

"Sec. 25-2. Limitation on total contributions by individual.

- (a) It shall be unlawful for any person to make a political contribution to a candidate that in the aggregate exceeds \$2,500 per election.

- (b) It shall be unlawful for any person to make a political contribution to a political committee that in the aggregate exceeds \$2,500 per election.
- (c) No candidate for Mayor or City Council, or any member of his or her campaign committee, shall accept a campaign contribution in excess of \$2,500 per election from any person, except the candidate.
- (d) No political committee shall accept a campaign contribution in excess of \$2,500 per election from any person.”

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

Section 4. 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 5. 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 five hundred (\$500.00) dollars for each offense.

Section 6. 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 15TH DAY OF
FEBRUARY 2010.

COUNCILMAN QUINN	_____
COUNCILMAN STOLL	_____
COUNCILMAN WEBB	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DRIVER	_____

SECOND READING:

READ, PASSED AND ADOPTED AS SET OUT BELOW AT THE MEETING OF
THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 1ST DAY OF
MARCH 2010.

COUNCILMAN QUINN	_____
COUNCILMAN STOLL	_____
COUNCILMAN WEBB	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DRIVER	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

Regular City Council

Agenda Item

Meeting Date: February 15, 2010

Data Sheet

Topic:

Adopt, on First Reading, Ordinance No. 2010-03, an Ordinance amending the Code of Ordinances of the City Council of the City of Tomball, Texas, by amending Chapter 60, "Signs", Section 60-7, "Miscellaneous Signs", (b) "Political Signs", by Eliminating Restrictions regarding Private Property in order to reflect changes in State law.

Background:

In 2002, Council amended Chapter 60, Signs; one of the provisions adopted was Section 60-7. Miscellaneous sign provisions, (b) Political signs, which included a restriction that signs erected solely for and relating to a public election could be posted for a period commencing 60 days prior to and for 10 days following such public election, and providing that such unpermitted signs shall be located on private property only.

State law prohibits the placement of political signs on all public rights-of-way; municipalities may control the placement of political signs on public rights-of-way within corporate city limits. In 2003, the state Legislature amended Local Government Code, Section 216.903, removing municipalities' authority to restrict the posting of political signs on private property.

In order to bring City ordinances into compliance with the Local Government Code, Council may adopt an ordinance amending Section 60-7(b) by removing the language controlling political signs on private property. However, to prevent the proliferation of non-election related "political" advertising throughout the year, Council may wish to consider maintaining restrictions for political advertising to a specific period before and after elections.

The recommended change to Section 60-7(b) is as follows:

"(b) Political Signs. The following signs are exempt from the permit requirements of this chapter:

A sign that contains primarily a political message and that is located on private real property with the consent of the property owner. Private real property does not include real property subject to an easement or other encumbrance that allows a municipality to use the property for a public purpose. Provided, however, the sign may not have a sign area greater than 36 square feet, be more than eight feet high, be illuminated or have a moving part. This subsection does not apply to a sign, including a billboard, that contains primarily a political message on a temporary basis and that is generally available for rent or purchase to carry commercial advertising or other messages that are not primarily political."

Ordinance No. 2010-03, containing the recommended changes, has been prepared for Council's consideration.

Origination:

City Secretary

Recommendation:

Staff makes no recommendation.

Funding:

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

Doris Speer, City Secretary

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

ATTACHMENTS:

TxDOT Rules for Campaign Signs
Local Government Code, Section 216.903
Ordinance No. 2010-03

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Rules for Posting Campaign Signs

During campaign season, the landscape blooms with a special kind of flower - the political sign. Unlike wildflowers that are welcome anywhere, putting campaign signs on public lands is illegal. So before you plant that sign, learn the law and keep Texas beautiful.

You need to know

- It is illegal to place any signs on or within the right of way. This includes posting signs on trees, telephone poles, traffic signs and other objects on the right of way.
- Campaign signs along Texas roads can be placed on private property with the owner's permission. Signs must be made of lightweight material and be no larger than 50 square feet.
- Campaign signs may be posted as early as 90 days before an election (no earlier) and must be removed within 10 days after the election.
- Before placing a sign inside of incorporated city limits, check with the city for applicable ordinances.

Sign Removal

If you've placed your sign in the right of way or it's posing a traffic hazard, we will remove it without prior notice. All costs associated with sign removal will be paid by the sign owner.

Contact Us

For more information about the rules governing campaign signs, please call (512) 416-2901.

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125 East 11th Street . Austin, Texas 78701
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Sec. 216.903. REGULATION OF POLITICAL SIGNS BY MUNICIPALITY. (a) In this section, "private real property" does not include real property subject to an easement or other encumbrance that allows a municipality to use the property for a public purpose.

(b) A municipal charter provision or ordinance that regulates signs may not, for a sign that contains primarily a political message and that is located on private real property with the consent of the property owner:

- (1) prohibit the sign from being placed;
- (2) require a permit or approval of the municipality or impose a fee for the sign to be placed;
- (3) restrict the size of the sign; or
- (4) provide for a charge for the removal of a political sign that is greater than the charge for removal of other signs regulated by ordinance.

(c) Subsection (b) does not apply to a sign, including a billboard, that contains primarily a political message on a temporary basis and that is generally available for rent or purchase to carry commercial advertising or other messages that are not primarily political.

(d) Subsection (b) does not apply to a sign that:

- (1) has an effective area greater than 36 feet;
- (2) is more than eight feet high;
- (3) is illuminated; or
- (4) has any moving elements.

Added by Acts 2003, 78th Leg., ch. 1004, Sec. 1, eff. Sept. 1, 2003.

ORDINANCE NO. 2010-03

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
TOMBALL, TEXAS, AMENDING CHAPTER 60, SIGNS, OF THE CITY'S
CODE OF ORDINANCES RELATING TO POLITICAL SIGNS;
PROVIDING A PENALTY OF UP TO \$2,000.00 FOR VIOLATIONS;
PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE; AND
MAKING OTHER FINDINGS AND PROVISIONS RELATED THERETO.**

* * * * *

Whereas the 78th Texas Legislature adopted Chapter 1004 relating to the regulation of political signs by a municipality; and

Whereas as codified by Texas Local Government Code §216.903 the Legislature restricted the City's authority to regulate certain signs that contain primarily a political message; now, therefore,

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

Section 1. Subsection (2) of “**Section 60-7, “Miscellaneous Signs”, (b) “Political Signs”**”, of the Code of Ordinances, City of Tomball, Texas, is hereby amended to read as follows:

“(b) Political Signs. The following signs are are exempt from the permit requirements of this chapter:

A sign that contains primarily a political message and that is located on private real property with the consent of the property owner. Private real property does not include real property subject to an easement or other encumbrance that allows a municipality to use the property for a public purpose. Provided, however, the sign may not have a sign area greater than 36 square feet, be more than eight feet high, be illuminated or have a moving part. This subsection does not apply to a sign, including a billboard, that contains primarily a political message on a temporary basis and that is generally available for rent or purchase to carry commercial advertising or other messages that are not primarily political.”

Section 2: All provisions of any ordinance in conflict with this Ordinance are hereby repealed, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinance shall remain in full force and effect.

Section 3. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction shall be fined an amount not to exceed \$2,000.00. Each day of violation shall constitute a separate offense.

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

Section 5. This Ordinance shall become effective upon final reading and adoption of this Ordinance when the caption hereof is published once in the official newspaper of the City, by the City Secretary, as required by law.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 15TH DAY OF FEBRUARY 2010.

COUNCILMAN QUINN	_____
COUNCILMAN STOLL	_____
COUNCILMAN WEBB	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DRIVER	_____

SECOND READING:

READ, PASSED AND ADOPTED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 1ST DAY OF MARCH 2010.

COUNCILMAN QUINN	_____
COUNCILMAN STOLL	_____
COUNCILMAN WEBB	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DRIVER	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

Regular City Council

Agenda Item

Meeting Date: February 15, 2010

Data Sheet

Topic:

Consideration and Possible Action regarding Restrictions on Placement of Political Signs in Public Rights-of-Way.

Background:

State law prohibits placing political signs on all public rights-of-way; however, municipalities still have the authority to control the placement of political signs on other public rights-of-way within corporate city limits.

Political signs are prohibit from being placed in city rights-of-way. The current rules for other campaign usage of city-owned property during elections were approved by City Council on March 3, 2008 in an effort to provide a higher level of comfort for voters when approaching the polling location and to reduce the unsightly proliferation of political signage. Political signs are prohibited from being placed in front of the Public Works building and on both sides of the right-of-way in front of Public Works during early voting and on Election Day and in Heritage Plaza during early voting. However, as discussed in the earlier item, candidates are given space to set-up tents on Election Day and one sign can be mounted to the tent. Candidates and supporters may carry as many signs as they can. Verbal responses from voters following the change have been positive.

In an effort to provide continuing information to the public regarding City elections during the early voting period and on Election Day, a banner is displayed across Main Street to inform voters that the voting period is open. A 'sandwich' sign is displayed in front of the entrance into City Hall, providing the hours of voting each day. Election information is provided on the City's website, posted in the foyers, provided in each agenda packet, and is published in the weekly City e-newsletter, quarterly City newsletter, and other City media. Both local newspapers typically run public-service articles providing election information as well.

Origination:

Councilmembers

Recommendation:

Staff makes no recommendation

Funding:

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

Doris Speer, City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER

☐ YES ☐ NO

☐ 1ST ☐ 2ND

ATTACHMENTS:

TxDOT Rules for Campaign Signs

Texas Local Government Code, Section 216.903

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Rules for Posting Campaign Signs

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You need to know

- It is illegal to place any signs on or within the right of way. This includes posting signs on trees, telephone poles, traffic signs and other objects on the right of way.
- Campaign signs along Texas roads can be placed on private property with the owner's permission. Signs must be made of lightweight material and be no larger than 50 square feet.
- Campaign signs may be posted as early as 90 days before an election (no earlier) and must be removed within 10 days after the election.
- Before placing a sign inside of incorporated city limits, check with the city for applicable ordinances.

Sign Removal

If you've placed your sign in the right of way or it's posing a traffic hazard, we will remove it without prior notice. All costs associated with sign removal will be paid by the sign owner.

Contact Us

For more information about the rules governing campaign signs, please call (512) 416-2901.

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Sec. 216.903. REGULATION OF POLITICAL SIGNS BY MUNICIPALITY. (a) In this section, "private real property" does not include real property subject to an easement or other encumbrance that allows a municipality to use the property for a public purpose.

(b) A municipal charter provision or ordinance that regulates signs may not, for a sign that contains primarily a political message and that is located on private real property with the consent of the property owner:

- (1) prohibit the sign from being placed;
- (2) require a permit or approval of the municipality or impose a fee for the sign to be placed;
- (3) restrict the size of the sign; or
- (4) provide for a charge for the removal of a political sign that is greater than the charge for removal of other signs regulated by ordinance.

(c) Subsection (b) does not apply to a sign, including a billboard, that contains primarily a political message on a temporary basis and that is generally available for rent or purchase to carry commercial advertising or other messages that are not primarily political.

(d) Subsection (b) does not apply to a sign that:

- (1) has an effective area greater than 36 feet;
- (2) is more than eight feet high;
- (3) is illuminated; or
- (4) has any moving elements.

Added by Acts 2003, 78th Leg., ch. 1004, Sec. 1, eff. Sept. 1, 2003.

Regular City Council

Agenda Item

Data Sheet

Meeting Date: February 15, 2010

Topic:

Consideration and Possible Action regarding Use of City Property during Elections.

Background:

The current rules for the use of City-owned property during elections were approved by City Council on March 3, 2008 in an effort to provide a higher level of comfort for voters when approaching the polling location and to reduce the unsightly proliferation of political signage. Verbal responses from voters following the change have been positive.

Currently on Election Day, one tent with one sign mounted on that tent is allowed in Heritage Plaza. No limit is made on the number of signs that may be carried by candidate supporters. The following rules currently apply in Heritage Plaza on Election Day:

- Each candidate is provided a space equal in size to the other candidates. Typically, City employees mark off three (3) parking spaces per candidate, approximately 27-ft. x 15-ft., similar to the attached maps. Depending on the number of candidates participating in the election, the spaces may be smaller but will still be equal in size, and the City Secretary will hold a drawing for a designated space for each candidate prior to the election;
- Tents may be placed on the parking lot at 6:30 a.m. on Election Day and must be taken down by 7:30 p.m. on Election Day;
- A limit of one sign per tent;
- A limit of two chairs outside the tent; (no limit on chairs inside tent)
- No cooking or camping allowed. (prepared/purchased food may be served)

The current rules regarding use of City property during elections have improved relations between candidates in that each candidate receives the same amount of space and no one candidate can 'overpower' the others in terms of electioneering in front of City Hall.

City staff provides continuing information to the public regarding City elections during the early voting period and on Election Day via the banner displayed across Main Street to inform voters that the voting period is open, a 'sandwich' sign in front of the entrance into City Hall, providing the hours of voting each day, election news/updates on the City's website, in the foyers, in each agenda packet, in the weekly City e-newsletter, in the quarterly City newsletter, and in other City media.

Origination:

Councilmembers

Recommendation:

Staff makes no recommendations

Funding:

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

Doris Speer, City Secretary

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

ATTACHMENTS:

Rules for Election Day in Heritage Plaza

2009 Map_Heritage Plaza

2008 Map_Heritage Plaza

RULES FOR ELECTION DAY CAMPAIGN LOCATION IN HERITAGE PLAZA

1. Three parking spaces per candidate, measuring 27-ft. x 15-ft., will be marked, similar to the attached map.
2. Tents may be placed on the parking lot at 6:30 a.m. on Election Day and must be taken down by 7:30 p.m. on Election Day.
3. A limit of one sign per tent.
4. A limit of two chairs outside the tent.
5. No cooking or camping allowed.

Adopted by City Council, March 3, 2008





Regular City Council Agenda Item Data Sheet

Meeting Date: February 15, 2010

Topic:

Approve Reallocation of Funds for Strategic Planning Services Contract with PSA

Background:

The City Council annually develops a Strategic Plan to help provide direction for organizational plans, a framework for decision making, and assistance in monitoring community progress. The Council has been building its strategic plans each year to be a stronger more effective, policy plan to guide the City organization.

On December 7, 2009, Council gave direction to move forward with developing its Strategic Plan based on a proposal from Partners for Strategic Action (PSA) and to appropriate funds once work was ready to begin and travel cost were estimated. PSA estimated that the additional travel cost would not exceed \$3000 bringing the total requested appropriation to \$10,000.

Peggy Fiandaca and Curt Dunham of PSA are still on schedule to begin planning process next month to help ensure the plan is ready to help guide the creation of the City's annual budget.

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

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

Regular City Council Agenda Item Data Sheet

Meeting Date: February 15, 2010

Topic:

Discussion regarding Process/Procedure for Councilmembers to Add Items to Future Agendas

Background:

The legal opinion requested by Council from the City Attorney, Ordinance No. 95-03, and the Home Rule Charter as amended in 1995 are attached for Council's convenience.

Origination:

Mayor Fagan

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

Doris Speer, City Secretary

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

ATTACHMENTS:

Legal Opinion - Scott Bounds

Ordinance No. 95-03 Council Rules and Procedures

Home Rule Charter

OLSON & OLSON L.L.P.
ATTORNEYS AT LAW

WORTHAM TOWER, SUITE 600
2727 ALLEN PARKWAY
HOUSTON, TEXAS 77019

December 21, 2009

To: Mayor and Council
From: Scott Bounds, Olson & Olson, LLP
Re: Agenda Items



Section 6.12 of the Tomball City Charter provides that “(t)he City Secretary, upon written request of the Mayor or any three (3) Council members, shall call special meetings of the Council ... (and) the subject to be considered at such meeting.” Section 6.13 of the Charter provides that the City Council shall, by ordinance, determine its own rules of business. Finally, Section 7.04 of the City Charter provides, in part, that the City Manager, with approval of the City Council, shall appoint a City Secretary ... “who shall give notice of Council meetings.”

Section 551.042 of the Texas Government Code provides that a member of the governmental body may inquire about a subject for which notice has not been given and that council may decide whether to place the subject on an agenda for a subsequent meeting. The Code appears to contemplate that “the presiding officer of a governmental body” has, and other members of a governmental body may have, authority to call a meeting or add an item to an agenda. *See, e.g.*, Texas Gov’t Code §§ 551.047, 551.103.

Consistent with the City’s Charter and state law, the City Council has adopted by ordinance its own rules of procedure. In particular, Section 2-32(d) of the Tomball Code of Ordinances provides its rules regarding placing items on an agenda. “An item may be placed on the agenda by the mayor or city manager.” *Id.* “If two or more the city council members make a request in writing that an agenda item be placed on the agenda for discussion and/or action, then such item shall be placed on the agenda for discussion and/or action as requested.” *Id.* A city council member may (in accordance with Section 551.042 *supra*) propose an item for inclusion on the

agenda for a subsequent meeting. Section 2-32(c)(2) also provides that a special meeting may be called upon written request of the mayor or any three council members.

SUMMARY

The Mayor may call meetings and place items on the agenda of any meeting.

The City Manager may place items on the agenda of any meeting.

Any two council members may, upon written request to the Mayor or the City Manager, place items on the agenda of any meeting.

Any three council members may, upon written request to the City Secretary, call meetings and place items on the agenda for any meeting.

Any one council member may, at any meeting of council, request that Council decide to place an item on the agenda for a subsequent meeting.

ORDINANCE NO. 95-03

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING THE CODE OF ORDINANCES BY STRIKING FROM CHAPTER 2, ENTITLED ADMINISTRATION, ALL OF SECTIONS 2-26, 2-27, AND 2-32, AND SUBSTITUTING IN THEIR PLACE NEW SECTIONS 2-26, 2-27, AND 2-32; ADOPTING RULES OF PROCEDURE FOR THE CONDUCT OF CITY COUNCIL MEETINGS, IN ACCORDANCE WITH SECTION 6.13 OF THE CITY CHARTER; DIRECTING PUBLICATION OF THE CAPTION OF THIS ORDINANCE; FINDING THAT THE MEETINGS AT WHICH THIS ORDINANCE IS CONSIDERED ARE OPEN TO THE PUBLIC; PROVIDING FOR INCLUSION OF THIS ORDINANCE AS AN AMENDMENT TO THE CITY'S CODE OF ORDINANCES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith; AND PROVIDING FOR SEVERABILITY.

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

The Code of Ordinances of the City of Tomball, Texas, is hereby amended by striking from Chapter 2, entitled Administration, all of Sections 2-26, 2-27, and 2-32, and substituting in their place new Sections 2-26, 2-27, and 2-32 to provide as follows:

"2.26. Reserved.

"2.27. Reserved.

"2.32. Rules of Procedure Adopted."

Such rules are set out below in the following Sections of this Ordinance, which shall upon adoption be renumbered to conform to the numbering system of the Code.

Section 1. RULES OF PROCEDURE ADOPTED. The following Rules of procedure (the "rules") are adopted by the City Council (the "Council") in accordance with Section 6.13 of the City Charter of the City of Tomball. These rules shall govern all meetings and proceedings of the City Council, the order of business, and the conduct of City Council members and persons in attendance at such meetings.

Additionally, these principles, parliamentary procedures, and rules for citizen participation shall be adhered to by all City Commissions, Boards, and Committees, to the extent such rules of procedure are not inconsistent with the public business to be conducted by such a body.

Section 2. PURPOSE AND GUIDING PRINCIPLES. These rules are simple, and meant to be kept simple. Strict technical rules tend to impede rather than advance the legislative process. Reason, common sense, and cooperation must prevail in the conduct of City business. Dissent and debate are essential and beneficial elements of our system of free and open government, but rules should not be used to hinder the process, however the ultimate outcome is viewed by an individual or group.

Section 3. MEETINGS.

3.1. **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. Any time 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.

3.1.1. All regular meetings shall begin promptly at 7:00 p.m. (See Workshop meetings below).

3.1.2. Regular meetings shall be held at the City Hall as required by the Charter.

3.2. **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.

3.2.1. Special meetings may be called to address and act on matters which should not be delayed until a regular meeting.

3.2.2. Special meetings shall be called to begin promptly at 7:00 p.m., unless circumstances reasonably require a different starting time, in which event the circumstances shall be stated on the meeting agenda.

3.2.3. Except in unusual circumstances, which shall be stated on the meeting agenda, special meetings will be held at the City Hall.

3.3. **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.

3.3.1. The purpose of workshop meetings is to give Council the opportunity to discuss in depth or explore in detail subjects of interest to the City.

3.3.2. **No action item(s)** shall be placed on the agenda for a workshop meeting.

3.3.3. Workshop meetings shall begin promptly at 5:00 p.m. preceding 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.

3.3.4. As circumstances require, public hearings may be held at workshop meetings for the convenience of the public.

3.3.5. Except in unusual circumstances, which shall be stated on the meeting agenda, workshop meetings will be held at the City Hall.

3.4. **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 4.0. AGENDA.

4.1. **Items on the Agenda.** An item may be placed on the agenda by the Mayor or City Manager. The City Manager, working in conjunction with the Mayor, will exercise their best judgment in determining what other items of City business should come before the Council. City staff seeking to have an item placed on an agenda shall submit that item to the City Manager's office for approval. If two (2) or more of the City Council members make a request in writing that an agenda item be placed on the agenda for any subsequent meeting, then such item shall be placed on the agenda for discussion and/or action as requested. A City Council member, in accordance with Section 551.042 of the Texas Government Code, may propose an item for inclusion on the agenda for a subsequent meeting, and any deliberation or decision on such item shall be limited to the proposal to place the item on the agenda.

4.2. **Submission of Items and Backup Materials.** Items to be placed on the agenda, including the materials to be distributed to Council in connection with the items, must reach the City Secretary's office at the City Hall before 12:00 o'clock noon on the Wednesday of the week preceding the Council meeting.

4.3. **Packets.** The agenda packets for all Regular Meetings will be available in City Hall after 4:00 P.M. on Thursday preceding the Monday Meetings. This should afford ample time for all Council members to inquire into the nature of each matter to be discussed.

4.4. **Notice to Media.** The City Secretary's office will assume responsibility for issuing to newspapers, radio and television stations, which have requested such notification, a copy of the agenda advising them that the regular meeting will be held on the following night. The City Secretary's office will also assume the responsibility for compliance with the Open Meetings Law.

4.5. **Consideration Limited to Agenda Items.** Except for discussions pertaining to announcements or to requests to have items placed on a subsequent agenda, the Council will restrict consideration only to the item or items on the current agenda.

4.6. **Organization and Order of Agenda.**

4.6.1. Call to Order/Roll Call/Announce that a quorum is present.

4.6.2. Pledge of Allegiance and Invocation.

4.6.3. 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.)

4.6.4. Reports and Announcements.

4.6.5. Approval of Minutes.

4.6.6. Old Business, by item, discussion/action - Final passage of ordinances and other business pending from a previous Council meeting.

4.6.7. 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.

4.6.7.1. New Business shall include all public bid openings.

4.6.8. 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.

4.6.9. Executive Session.

4.6.10. Final Comments - Mayor and Council.

4.6.11. Adjournment.

Section 5.0. COUNCIL PROCEEDINGS. In accordance with Section 6.13 of the City Charter, four (4) Council members, one of whom may be the Mayor, shall constitute a quorum for the purpose of transaction of business and no action of the Council shall be valid or binding unless adopted by the affirmative vote of three (3) or more members of the Council.

Section 6.0. PARLIAMENTARY PROCEDURE. In all Council meetings the following commonly used rules of parliamentary procedure will be followed. In the event that conflict results in gridlock, and reasonable compromise fails to move the Council forward in the conduct of City business, then Robert's Rules of Order will be followed as necessary.

The rules are as follows:

6.1. **Questions to Contain One Subject.** All questions (motions) submitted for a vote shall contain only one subject. If a question contains two or more points under one subject, any member may require a division, if the question reasonably admits of a division.

6.2. **Main Motion.** A subject is introduced by a main motion. Once seconded, no other topics should be taken up until after the motion is disposed of.

6.3. **Second.** Any motion requires a second or it dies for lack of a second.

6.4. **Motion to Amend.** This motion is used when the intention is to change, add, or omit some part of a main motion. This motion is debatable and requires a majority vote of the members present for passage. A motion to amend is not amendable. First a vote is held on the motion to amend. If that vote is affirmative, the second vote is held on the main motion as amended.

6.5. **Motion to Table or Postpone to a Certain Time.** This motion would require that consideration of a main motion be delayed until a certain, stated time - for, among other reasons, to

obtain more information. A future date certain should be set when the subject would be considered. This motion is debatable and requires a majority vote of the members present for passage.

6.6. **Motion to Table Indefinitely.** This motion postpones consideration of the main motion in such a way that the issue being discussed may be taken up at an unspecified, later date when a majority of the members present vote to "call it from the table." This motion is not debatable and requires a majority vote of the members present for passage.

6.7. **Motion to Move the Question or Call the Question.** This motion is made to end discussion that has become lengthy or repetitious. When seconded, the presiding officer immediately moves or calls the vote on the question of closing the discussion. This motion is not debatable and requires a majority vote of the members present for passage.

6.8. **Motion to Reconsider.** A vote may be reconsidered during the same meeting on motion made by a member who voted on the prevailing (winning) side of the issue. This motion is debatable and requires a majority vote of the members present for passage. First a vote is held on the motion to reconsider. If that vote is affirmative, the second vote is held on the issue to be reconsidered.

6.9. **Reconsideration of a Subject when Defeated.** When an ordinance, resolution, motion, or other measure has been placed on the agenda, voted on, and defeated, the same question shall not again be placed on the agenda for a subsequent meeting to be considered by the Council until a lapse of ninety (90) days, unless a majority of Council present vote, at a public meeting, that the question be placed on the agenda of a subsequent meeting, stating the date.

6.10. **Suspension of Rules: Order of Agenda.** Consistent with State law and the City Charter, any one or all of these rules of procedure may be suspended in order to allow a particular consideration of a subject or matter, provided a majority of the members present vote in favor of

such suspension; provided further, the order of business on the agenda may also be suspended by such a majority vote. This motion is debatable.

6.11. **Vote.** The presiding officer shall call for a vote by requesting "all in favor say aye" and "all opposed say nay." The presiding officer or any other member may request a roll call vote at any time, including immediately after a voice vote. Except for the "majority vote of the members present" provided for in applying these procedural rules, any action by Council shall require the affirmative vote of three (3) or more members of the Council (the Mayor has a binding vote only in the case of a tie), in accordance with Section 6.13 of the City Charter. A Council member shall state the reason for an abstaining vote, in accordance with Section 6.13 of the City Charter.

6.12. **Frivolous or Delaying Motions.** The presiding officer shall not entertain any motion which is frivolous or clearly made for the purpose of delay. In the event a conflict develops, any member may call for a vote (majority of the members present) to consider the matter or to move along.

6.13. **Point of Order.** A point of order can be raised at any time and supersedes any issue being discussed at the time. A member who believes the rules are not being followed may use this mechanism to call attention to the problem. The presiding officer must rule on the point of order before proceeding.

6.14. **Questions and Inquiries.** A member may ask about correct procedures, ask for facts, ask to speed things along, for a recess for comfort and convenience, or other relevant questions and inquires. The presiding officer responds to the question or refers it to the proper person.

6.15. **Limit Debate.** The Council may agree to limit debate on any subject before it is discussed or debated. The agreement should be formalized by majority vote of the members present.

6.16. **Recessed Meetings.** Recessing a meeting is not a favored practice. However, if circumstances require, any meeting of the council may be recessed to a later time, provided that no

recess shall be for a longer period than until the next scheduled meeting. Prior to the recess the presiding officer shall announce the time, date, and subject(s) of the meeting to be reconvened. A new agenda shall be posted for the reconvened meeting, making clear reference to the recessed meeting. The presiding officer may declare the meeting recessed without waiting for a motion. A member may move to recess under the same conditions. When the meeting is recessed, the meeting is immediately halted. The motion by a member is not debatable and a majority vote of the members present is required for passage.

6.17. **Motion to Adjourn.** If the time set for adjournment has arrived or if there is no further business, the presiding officer may declare the meeting recessed without waiting for a motion. A member may move to recess under the same conditions. When the meeting is recessed, the meeting is immediately halted. The motion by a member is not debatable and a majority vote of the members present is required for passage.

6.18. **Procedural Summary.** The following summary of these procedural rules is included for ease of reference. In the event of an interpretation conflict between this summary and the narrative provisions of these procedural rules, the narrative procedural rules shall control.

<u>MOTION</u>	<u>DEBATABLE</u>	<u>AMENDABLE</u>	<u>MAJORITY VOTE OF MEMBERS PRESENT</u>
Main Motion	yes	yes	yes
Motion to amend	yes	no	yes
To a certain time	yes	yes	yes
Table indefinitely	no	no	yes
Move or call question	no	no	yes
Reconsider	yes	yes	yes
Suspend Rules	yes	yes	yes

Point of Order	no	no	(Presiding Officer)
Limit Debate	yes	yes	yes
Recess	no	no	yes
Adjourn	no	no	yes

Section 7.0. CITY COUNCIL MEMBERS DECORUM AND DEBATE. When a measure is presented for consideration to the Council, the presiding officer shall recognize the appropriate individual to present the matter. When two (2) or more members wish to speak, the presiding officer shall name the member who is to speak first. No member of the Council shall interrupt another while speaking, except to make a point of order. The presiding officer shall not be obligated to recognize any Council member for a second comment on the subject or amendment until every Council member wishing to speak has been allowed a first comment. Council members shall also have the right to yield the floor to another member.

Council members should not indulge in personal attacks, use personally offensive language, arraign motives of Council members or staff, charge deliberate misrepresentation, or use language tending to hold a member of the City Council or staff up to contempt.

If a member is transgressing the rules of the Council, the presiding officer shall, or any Council member may, call him/her to order, in which case he/she shall immediately be quiet unless permitted to explain. The Council shall, if appealed to, decide the matter by majority vote of the members present without debate. If the decision is in favor of the member called to order, he/she shall then be at liberty to proceed, but not otherwise, in compliance with these rules.

Section 8. DUTIES OF MAYOR OR PRESIDING OFFICER. At all meetings it is the responsibility of the presiding officer to use the rules of procedure appropriately so that good order and reasonable decorum are maintained and the business of the meeting goes forward. The presiding officer's duties include:

1. calling the meeting to order at the time set.
2. following the agenda and clarifying to the members what is being voted on at all times.
3. ensuring that the rules and procedures for the conduct of meetings are followed.
4. dealing firmly with whispers, commotion, disruptions, and frivolous motions.
5. ensuring that debate is confined to the merits of the question and that personal comments are avoided.
6. ensuring that the rules for citizen participation are followed.
7. remaining calm and dealing fairly with all sides of an issue, regardless of personal opinion.
8. ensuring that City business is handled expeditiously during Council meetings.

Section 9.0. CITIZENS' PARTICIPATION AT MEETINGS.

9.1. Rules for Speakers.

9.1.1. **Recognition.** Citizens will be allowed to speak at a meeting; however, before a member of the public may address City Council or speak at a meeting, the presiding officer must first recognize the member of the public who wishes to speak and announce that the person may proceed.

9.1.2. **Time Limit.** The presiding officer, or the City Council by majority vote of the Council members present, may set a reasonable time limit for any citizen or person in attendance who desires to address the council or speak at a meeting.

9.1.3. **Identification.** All members of the public speaking before Council shall preface their statements with their name and home address for the record.

- 9.1.4. **Speaking from the podium.** All speakers must come to the podium, unless the presiding officer permits speakers to make their statements from their seat in the meeting room.
- 9.1.5. **Spokesperson.** Speakers with similar or common interests are encouraged to select someone to act as a spokesperson in order to move the proceedings along. The presiding officer may urge the implementation of this rule at any time.
- 9.1.6. **Public Comments and Receipt of Petitions: Public Hearings.** Any person desiring to be heard by the City Council on any matter shall be heard during that part of the meeting reserved for public comments and receipt of petitions, or as scheduled for a public hearing.
- 9.1.7. **Scheduled Speakers.** Speakers may request, in writing, an opportunity to be placed on the agenda to speak at a meeting concerning a specific matter, as identified in their written request. Written requests to be placed on the agenda to speak must be delivered to the City Secretary, or the City Secretary's designee, by 12:00 o'clock noon on Wednesday of the week preceding the regular, special, or workshop meeting of the City Council. In the event that the number of speakers who request to be scheduled on the agenda indicates that the comments will be lengthy or repetitious, the presiding officer may schedule such matter for a public hearing or make other appropriate arrangements to ensure that the conduct of the City's business is not unduly impeded.
- 9.1.8. **Speaking During Consideration of Agenda Items.** The presiding officer at his or her own discretion, or by majority vote of the Council members

present, may recognize a person or persons in attendance and allow such person(s) to speak prior to consideration and discussion of an agenda item by the City Council. Any further discussion of the same matter shall likewise be at the discretion of the presiding officer, or by majority vote of Council members present.

9.1.9. **Rules Not to Restrict the City.** These rules for speakers will not be construed or applied in such a manner that they restrict the ability of the Mayor, or the City Council by majority vote of the members present, to reasonably limit or expand the debate and discussion of any item, when necessary in the City's best interest.

Section 10.0. PUBLICATION; EFFECTIVE DATE; OPEN MEETINGS. The City Secretary of the City of Tomball, Texas, is hereby directed to publish this Ordinance in the official newspaper of the City of Tomball, Texas, in compliance with the provisions of Section 6.14(A) of the City Charter, which publication shall be sufficient if it contains the caption of this Ordinance. This Ordinance shall be effective upon passage as provided by the City Charter and after the publication requirement of the City Charter is satisfied.

It is found and determined that the meetings at which this Ordinance was considered were open to the public, as required by Chapter 551 of the Texas Government Code, and that advance public notice of the time, place, and purpose of the meetings was given.

Section 11.0. REPEAL. All ordinances or parts of ordinances inconsistent or in conflict herewith, are, to the extent of such inconsistency or conflict, hereby repealed.

Section 12.0. 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 6TH DAY OF MARCH, 1995.

COUNCILMAN FORD	<u>ABSTAIN</u>
COUNCILMAN MATHESON	<u>AYE</u>
COUNCILMAN OLDHAM	<u>AYE</u>
COUNCILMAN WILEY	<u>AYE</u>
COUNCILMAN WOOD	<u>AYE</u>

SECOND READING:

READ, PASSED, APPROVED, AND ADOPTED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 20TH DAY OF MARCH, 1995.

COUNCILMAN FORD	<u>NAY</u>
COUNCILMAN MATHESON	<u>AYE</u>
COUNCILMAN OLDHAM	<u>AYE</u>
COUNCILMAN WILEY	<u>AYE</u>
COUNCILMAN WOOD	<u>NAY</u>

PASSED, APPROVED, AND ADOPTED this 20TH day of MARCH 1995.

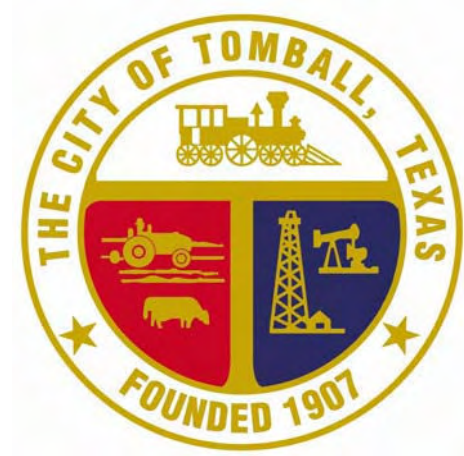
(signed) H. G. Harrington
H. G. HARRINGTON, Mayor

ATTEST:

(signed) Mary Reagan
MARY REAGAN, City Secretary

APPROVED AS TO FORM:

(signed) Mario L. Dell'Oso
MARIO L. DELL'OSSO
Olson & Olson
Attorneys for the City of Tomball



Home Rule

CHARTER

for the

City of Tomball, Texas

ADOPTED

January 17, 1987

REVISED

May 6, 1995

TOMBALL, TEXAS
HOME RULE CHARTER

CHARTER COMMISSION
Elected April 5, 1986

COMMISSION MEMBERS

Earle D. Oldham, Sr., Chairman	
Lessie L. Upchurch, Vice Chairman	
Diane N. Holland, Secretary-Treasurer	
Laurie C. Godbold, Assistant Secretary-Treasurer	
Gregory D. Bogard, DVM	Billie Joe Lovett
Allan K. Cox	Charlie Middlebrook
Joe B. Fuerst	B. Randall Mongold
H. G. "Hap" Harrington	John H. Odom
Stephen L. Hohl	Robert C. Whitaker
Leslie L. Lagerquist, D.D.S.	

CITY COUNCIL
Lee Tipton, Mayor
Ty Self, Mayor Pro Tem

Theda Henry	W. F. "Slim" Plagens
Jerry Matheson	Don Tinsley

CITY ADMINISTRATION

Don Taylor	Eula Bingle
City Administrator	Administrative Assistant

CHARTER ELECTION
January 17, 1987

PREFACE

During the past eight months, we, the fifteen members of the Home Rule Commission of Tomball, Texas, have corporately given innumerable hours in meetings, research and writing in drafting this, the first Home Rule Charter for our City.

It is with a sense of fulfillment, accomplishment and pride, both in the culmination of our efforts and in the initiating of a new era in the life of our City, that we present this Charter to the citizens of Tomball.

We wish to take this opportunity to express our appreciation to Mayor Tipton and the City Councilmen of Tomball for their foresight and vision in giving impetus to this effort. At the same time, we wish to express our sincere appreciation to City Administrator Don Taylor, and his staff, for their moral support and untiring efforts in assisting the Commission with its work. To Mrs. Eula Bingle, Administrative Assistant for the City of Tomball, we express our heart-felt gratitude for the many hours of dedicated service, above and beyond the call of duty, which she gave in support of the Commission's efforts.

And, finally, we wish to thank you, the citizens of Tomball, for the confidence which you expressed in us by entrusting us with the responsibility for writing this document, thus allowing us to significantly share in this most important moment in the history of our City.

Respectfully submitted,

Earle D. Oldham, Sr.
Chairman, Home Rule Charter Commission
City of Tomball, Texas

Members of the Charter Commission:

Lessie L. Upchurch, Vice-Chairman
Diane N. Holland, Secretary
Laurie C. Godbold, Assistant Secretary
Gregory D. Bogard, DVM
Allan K. Cox
Joe B. Fuerst
H. G. "Hap" Harrington
Steven L. Hohl
Leslie L. Lagerquist, DDS
Billie Joe Lovett
Charlie Middlebrook
B. Randall Mongold
John H. Odom
Robert C. Whitaker

TOMBALL, TEXAS
HOME RULE CHARTER

CHARTER REVIEW BOARD

Appointed
Appointed May 2, 1994

CHARTER REVIEW BOARD MEMBERS

Diane Holland - Chair
Allan Cox
Betty Doughtie
April Gray
Leslie Lagerquist
C. E. McMullen
Ty Self

CITY COUNCIL

H. G. Harrington, Mayor
Homer Ford, Mayor Pro Tem
Mary Lu Wiley
Jerry Matheson
David Wood
Earle Oldham

CITY ADMINISTRATION

Warren Driver
City Manager

Mary Reagan
City Secretary

CHARTER AMENDMENT ELECTION

May 6, 1995

TABLE OF CONTENTS

PREFACE

PREAMBLE

ARTICLE I. INTRODUCTORY PROVISIONS

SECTION 1.01 - CORPORATE NAME
SECTION 1.02 - MEANING OF THE WORD "CITY"
SECTION 1.03 - MEANING OF THE WORD "COUNCIL"
SECTION 1.04 - EFFECT OF CHARTER ON EXISTING LAW
SECTION 1.05 - CONTINUATION OF BUDGET
SECTION 1.06 - INTERIM MUNICIPAL GOVERNMENT
SECTION 1.07 - INTERIM ELECTION PROCEDURE
SECTION 1.08 - GENDER OF WORDING
SECTION 1.09 - SUBMISSION OF THE CHARTER TO THE VOTERS

ARTICLE II. FORM OF GOVERNMENT AND BOUNDARIES

SECTION 2.01 - FORM OF GOVERNMENT
SECTION 2.02 - BOUNDARIES
SECTION 2.03 - ANNEXATION
SECTION 2.04 - DETACHMENT OF TERRITORY
SECTION 2.05 - BOARDS, AGENCIES AND COMMISSIONS

ARTICLE III. GENERAL PROVISIONS

SECTION 3.01 - OFFICIAL OATH
SECTION 3.02 - AMENDING THE CHARTER
SECTION 3.03 - SEVERABILITY CLAUSE
SECTION 3.04 - JUDICIAL NOTICE
SECTION 3.05 - PUBLIC RECORDS
SECTION 3.06 - OFFICIAL NEWSPAPER
SECTION 3.07 - PROVISIONS RELATING TO ASSIGNMENT, EXECUTION AND
GARNISHMENT
SECTION 3.08 - SECURITY AND BOND NON-REQUIREMENT

ARTICLE IV. POWERS OF THE CITY

SECTION 4.01 - GENERAL
SECTION 4.02 - GENERAL POWERS ADOPTED
SECTION 4.03 - EMINENT DOMAIN
SECTION 4.04 - REQUIRED NOTICE FOR CLAIMS AGAINST THE CITY

ARTICLE V. ELECTIONS

SECTION 5.01 - ELECTIONS: REGULAR AND SPECIAL
SECTION 5.02 - REGULATIONS AND LAWS GOVERNING CITY ELECTIONS
SECTION 5.03 - FILING FOR OFFICE
SECTION 5.04 - OFFICIAL BALLOT
SECTION 5.05 - ELECTION BY MAJORITY
SECTION 5.06 - CONDUCTING ELECTIONS
SECTION 5.07 - CANVASSING ELECTIONS
SECTION 5.08 - COUNCIL TO BE JUDGE OF ELECTION QUALIFICATIONS
SECTION 5.09 - OATH OF OFFICE

ARTICLE VI. THE TOMBALL CITY COUNCIL

SECTION 6.01 - POWERS OF THE CITY COUNCIL
SECTION 6.02 - NUMBER, SELECTION AND TERM
SECTION 6.03 - QUALIFICATIONS
SECTION 6.04 - COMPENSATION
SECTION 6.05 - NEPOTISM
SECTION 6.06 - HOLDING DUAL OFFICES
SECTION 6.07 - CONFLICT OF INTEREST IN CITY CONTRACTS
SECTION 6.08 - MAYOR AND MAYOR PRO-TEM
SECTION 6.09 - VACANCIES
SECTION 6.10 - APPOINTMENTS AND REMOVALS
SECTION 6.11 - INTERFERENCE WITH ADMINISTRATION
SECTION 6.12 - MEETINGS OF COUNCIL
SECTION 6.13 - RULES OF PROCEDURE
SECTION 6.14 - ORDINANCES
SECTION 6.15 - OFFICIAL BONDS FOR CITY EMPLOYEES
SECTION 6.16 - INVESTIGATIVE BODY

ARTICLE VII. ADMINISTRATIVE SERVICES

SECTION 7.01 - CITY MANAGER
SECTION 7.02 - ASSISTANT CITY MANAGER
SECTION 7.03 - POLICE DEPARTMENT
SECTION 7.04 - CITY SECRETARY
SECTION 7.05 - CITY TREASURER
SECTION 7.06 - DEPARTMENT OF TAXATION
SECTION 7.07 - CITY FIRE DEPARTMENT
SECTION 7.08 - CITY ATTORNEY
SECTION 7.09 - MUNICIPAL COURT
SECTION 7.10 - HEALTH DEPARTMENT
SECTION 7.11 - DEPARTMENT OF PUBLIC WORKS
SECTION 7.12 - CITY BUILDING OFFICIAL AND INSPECTORS
SECTION 7.13 - DEPARTMENT OF PARKS, RECREATION, AND BEAUTIFICATION

ARTICLE VIII. MUNICIPAL FINANCE

SECTION 8.01 - FISCAL YEAR
SECTION 8.02 - BUDGET AS A PUBLIC RECORD
SECTION 8.03 - PREPARATION AND SUBMISSION OF BUDGET
SECTION 8.04 - ANTICIPATED REVENUES COMPARED WITH OTHER YEARS
SECTION 8.05 - PROPOSED EXPENDITURES COMPARED WITH OTHER YEARS
SECTION 8.06 - NOTICE OF PUBLIC HEARING ON BUDGET
SECTION 8.07 - PUBLIC HEARING OF BUDGET
SECTION 8.08 - PROCEEDINGS ON BUDGET AFTER PUBLIC HEARINGS
SECTION 8.09 - VOTE REQUIRED FOR ADOPTION
SECTION 8.10 - DATE OF FINAL ADOPTION
SECTION 8.11 - EFFECTIVE DATE OF BUDGET; CERTIFICATION; COPIES MADE AVAILABLE
SECTION 8.12 - BUDGETARY AMENDMENTS
SECTION 8.13 - BUDGET ESTABLISHED AMOUNT TO BE RAISED BY PROPERTY TAX
SECTION 8.14 - ESTIMATED EXPENDITURES SHALL NOT EXCEED ESTIMATED RESOURCES
SECTION 8.15 - EMERGENCY APPROPRIATION
SECTION 8.16 - PURCHASE PROCEDURE
SECTION 8.17 - DISBURSEMENT OF FUNDS
SECTION 8.18 - POWER TO TAX
SECTION 8.19 - PROPERTY SUBJECT TO TAX; RENDITION, APPRAISAL AND ASSESSMENT
SECTION 8.20 - TAXES, WHEN DUE AND PAYABLE
SECTION 8.21 - TAX LIENS
SECTION 8.22 - TAX REMISSION AND DISCOUNTS
SECTION 8.23 - ISSUANCE OF BONDS
SECTION 8.24 - INDEPENDENT AUDIT

ARTICLE IX. FRANCHISE AND PUBLIC UTILITIES

SECTION 9.01 - POWER TO GRANT FRANCHISE
SECTION 9.02 - FRANCHISE VALUE NOT TO BE ALLOWED
SECTION 9.03 - RIGHT OF REGULATION
SECTION 9.04 - GRANT NOT TO BE EXCLUSIVE
SECTION 9.05 - OTHER CONDITIONS
SECTION 9.06 - ACCOUNTS OF MUNICIPALLY-OWNED UTILITIES
SECTION 9.07 - SALES OF MUNICIPAL UTILITIES
SECTION 9.08 - REGULATION OF RATES AND UTILITIES

ARTICLE X. MUNICIPAL PLANNING

SECTION 10.01 - PLANNING COMMISSION
SECTION 10.02 - PLATTING OF PROPERTY
SECTION 10.03 - DEVELOPMENT OF PROPERTY

ARTICLE XI. RECALL OF OFFICER

SECTION 11.01 - GENERAL POWER
SECTION 11.02 - SCOPE OF RECALL
SECTION 11.03 - PETITION FOR RECALL
SECTION 11.04 - FORM OF RECALL PETITION
SECTION 11.05 - VARIOUS PAPERS CONSTITUTING PETITION
SECTION 11.06 - PRESENTATION OF PETITION TO CITY COUNCIL
SECTION 11.07 - PUBLIC HEARING TO BE HELD
SECTION 11.08 - ELECTION TO BE CALLED
SECTION 11.09 - FAILURE OF CITY COUNCIL TO CALL AN ELECTION
SECTION 11.10 - BALLOTS IN RECALL ELECTION
SECTION 11.11 - RESULT OF RECALL ELECTION
SECTION 11.12 - RECALL, RESTRICTIONS THEREOF

ARTICLE XII. LEGISLATION BY THE PEOPLE, INITIATIVE AND REFERENDUM

SECTION 12.01 - GENERAL POWER
SECTION 12.02 - INITIATIVE
SECTION 12.03 - REFERENDUM
SECTION 12.04 - VOLUNTARY SUBMISSION OF LEGISLATION BY THE COUNCIL
SECTION 12.05 - FORM OF BALLOTS
SECTION 12.06 - PUBLICATION OF PROPOSED AND REFERRED ORDINANCES
SECTION 12.07 - ADOPTION OF ORDINANCES
SECTION 12.08 - INCONSISTENT ORDINANCES
SECTION 12.09 - ORDINANCES PASSED BY POPULAR VOTE, REPEAL OR AMENDMENT
SECTION 12.10 - FURTHER REGULATION BY THE COUNCIL
SECTION 12.11 - FRANCHISE ORDINANCES

APPENDIX - INDEX GLOSSARY

PREAMBLE

We, the citizens of Tomball, Texas, in order to establish a Home Rule Municipal Government, provide for the future progress of our City and obtain more fully the benefits of local self-government, do hereby adopt this Home Rule Charter in accordance with the Constitution and Statutes of the State of Texas; and do hereby declare the residents of the City of Tomball, in Harris County, Texas, living within the legally established boundaries of the said City, to be a political subdivision of the State of Texas incorporated forever under the name and style of the "City of Tomball" with such powers, rights and duties as herein provided.

ARTICLE I INTRODUCTORY PROVISIONS

SECTION 1.01 - CORPORATE NAME

The inhabitants of the City of Tomball, in Harris County, Texas, within the Corporate limits as now established and as hereafter established, shall continue to be and are hereby constituted a municipal body politic and corporate, in perpetuity, under the name of "The City of Tomball", and having such powers, privileges, rights, duties and immunities as are herein provided.

SECTION 1.02 - MEANING OF THE WORD "CITY"

When used in the Charter, unless otherwise apparent from the context, the word "City" shall be construed to mean the City of Tomball.

SECTION 1.03 - MEANING OF THE WORD "COUNCIL"

When used in the Charter, unless otherwise apparent from the context, the word "Council" shall be construed to mean the City Council of the City of Tomball.

SECTION 1.04 - EFFECT OF CHARTER ON EXISTING LAW

All codes, ordinances, resolutions, rules and regulations in force in the City on the effective date of this Charter, and not in conflict with this Charter, shall remain in force until altered, amended or repealed by Council. All taxes, assessments, liens, encumbrances and demands, of or against the City, fixed or established before such date, or for the fixing or establishing of which proceedings have begun at such date, shall be valid when properly fixed or established either under law in force at the time of the beginning of such proceedings or under the law after the adoption of this Charter.

SECTION 1.05 - CONTINUATION OF BUDGET

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

SECTION 1.06 - INTERIM MUNICIPAL GOVERNMENT

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

SECTION 1.07 - INTERIM ELECTION PROCEDURE

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

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

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

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

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

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

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

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

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

SECTION 1.08 - GENDER OF WORDING

The masculine gender of the wording used throughout this Charter shall always be interpreted to mean either sex.

SECTION 1.09 - SUBMISSION OF THE CHARTER TO THE VOTERS

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

a copy of said Charter, which copy of the Charter so adopted, authenticated and certified by his signature and the seal of the City, shall be forwarded by the Mayor to the Secretary of the State of Texas and shall show the approval of such Charter by majority vote of the qualified voters at that election.

ARTICLE II FORM OF GOVERNMENT AND BOUNDARIES

SECTION 2.01 - FORM OF GOVERNMENT

The municipal government provided by the Charter shall be known as the "Council-Manager" Government. Pursuant to its provisions and subject only to the limitations imposed by the State Constitution, the Statutes of this State and by this Charter, all powers of the City shall be vested in an elective Council which shall enact local legislation, adopt budgets, determine policies and appoint the City Manager, who in turn, shall be held responsible to the Council for the execution of the laws and the administration of the government of the City. All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance, the State Constitution or the Statutes of this State.

SECTION 2.02 - BOUNDARIES

The boundaries and limits of the City are hereby established and described as those which exist under authority of the current City ordinances as displayed on a map maintained by the City Secretary and those boundaries established and changed hereafter as amended.

SECTION 2.03 - ANNEXATION

The Council may by ordinance annex territory lying adjacent to the City with or without the consent of the inhabitants in such territory or the owners thereof, not inconsistent with the procedural rules prescribed by law applicable to the cities operating under charters as adopted or amended under State law.

As provided by State statutes, any annexation of territory initiated at the request of the landowner shall not be charged against the City's annual annexation quota.

SECTION 2.04 - DETACHMENT OF TERRITORY

Territory lying within the boundary limits of the City and adjoining the outer boundary of the City may be detached from the City by ordinance following a petition or by ordinance

following public notice. However, any territory so detached shall be liable for its pro-rata share of any debts incurred while it was a part of the City, and the City shall continue to levy and collect taxes on the property within said territory until indebtedness has been discharged.

SECTION 2.05 - BOARDS, AGENCIES AND COMMISSIONS

The Council shall have the authority to establish by ordinance such boards, agencies and commissions as it may deem necessary or desirable for the conducting of the City's business and the management of its affairs. The membership, authority, duties, functions and responsibilities of such boards, agencies and commissions shall be such as are specified by ordinance. The authority, duties, functions and responsibilities thus granted to and conferred on such boards, agencies and commissions shall not be incompatible with the provisions of this Charter and shall in no manner conflict with, usurp or transfer any privilege, authority, duty, function or responsibility specifically granted herein or by the laws of the State of Texas to another office, board, agency or commission of the City.

ARTICLE III GENERAL PROVISIONS

SECTION 3.01 - OFFICIAL OATH

Before entering upon the duties of their respective offices, all officers of the City shall take and subscribe to the official oath prescribed in the Constitution of the State of Texas.

SECTION 3.02 - AMENDING THE CHARTER

Amendments to this Charter may be framed and submitted to the voters of the City in the manner provided by State law.

SECTION 3.03 - SEVERABILITY CLAUSE

If any Section or part of a Section of this Charter is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not invalidate or impair the validity, force or effect of any other Section or part of a Section of this Charter.

SECTION 3.04 - JUDICIAL NOTICE

This Charter shall be deemed an official document; shall have the force and effect of a general law; may be read in evidence without pleading or proof; and judicial notice shall be taken hereof in all courts and places without further proof.

SECTION 3.05 - PUBLIC RECORDS

All public records of every office, department, agency or other entity of the City shall be open to inspection by any citizen at all reasonable times, except for those records exempted by the Texas Open Records Act or other law.

SECTION 3.06 - OFFICIAL NEWSPAPER

The Council shall have power to contract with, and by ordinance or resolution, annually designate a public newspaper of general circulation in the City as the official newspaper thereof and to continue as such until another is designated, and shall cause to be published therein all ordinances, notices and other matters required to be published by this Charter, by the ordinances of the City or by the Constitution or laws of the State of Texas.

SECTION 3.07 - PROVISIONS RELATING TO ASSIGNMENT, EXECUTION AND GARNISHMENT

The property, real and personal, belonging to the City shall not be liable to be sold or appropriated under any writ of execution or cost bill. The funds belonging to the City in the hands of any person, firm or corporation shall not be liable for garnishment, attachment or sequestration nor shall the City be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the City nor any of its officers or agents shall be required to answer any writ or garnishment on any account whatever. The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

SECTION 3.08 - SECURITY AND BOND NON-REQUIREMENT

It shall not be necessary in any action, suit or proceedings in which the City is a party, for any bond or other security to be demanded or executed by or on behalf of said City in any of the State Courts, but in all such actions, suits, appeals or proceedings same shall be conducted in the manner as if such bond or other security had been given as required by law.

ARTICLE IV POWERS OF THE CITY

SECTION 4.01 - GENERAL

The City may use a corporate seal; may sue and be sued; may contract and be contracted with; may implead and be impleaded in all courts in all matters whatsoever; may cooperate with the government of the State of Texas or any agency thereof, the Federal Government or any agency thereof or any political subdivision of the State of Texas; and shall have all the powers granted to Home Rule cities by the Constitution and laws of the State of Texas, together with all the implied powers necessary to carry into execution of all the powers granted. The City may own or acquire property within or without its boundaries for any municipal purpose in fee simple or in any lesser interest or estate, by purchase, gift, devise, lease or condemnation and may sell, hold, lease, manage, control and police any property now owned by it or which it may hereafter acquire, and shall have the right to lease or let its property whether inside or outside the City limits, subject to the limitation hereinafter set out, and may construct, own, lease, operate and regulate the public utilities; may assess, levy and collect taxes for general and special purposes on all lawful subjects of taxation; may borrow money on the faith and credit of the City by issuance and sale of bonds, warrants or notes of the City; may appropriate the money of the City for all lawful purposes; may regulate and control the use, for whatever purpose, of the streets and other public places; may make and enforce all police, health, sanitary and other regulations; and may pass such ordinances as may be expedient for the protection and maintenance of good government, peace and welfare of the City, for the performance of the functions thereof, for the order and security of its residents; and may provide suitable penalties for the violation of any ordinance enacted by the City; and, except as prohibited by the Constitution and laws of this State or restricted by this Charter, the City may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.

SECTION 4.02 - GENERAL POWERS ADOPTED

The enumeration of the particular powers in this Charter shall not be held or deemed to be exclusive but in addition to the powers enumerated herein or implied hereby or appropriate to the exercise of such powers, the City shall have and may exercise all power of local self-government and all other powers which, under the Constitution and laws of the State of Texas, it would be competent for this Charter specifically to enumerate.

SECTION 4.03 - EMINENT DOMAIN

The City shall have the full power and right to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the Constitution and laws of the State of Texas. The City may exercise the power of eminent domain in any manner authorized or permitted by the Constitution and laws of this State.

The power of eminent domain hereby conferred shall include the right of the City to take the fee in land so condemned and such power and authority shall include the right to condemn public property for such purposes. The City shall have and possess the power of condemnation for any municipal or public purpose even though not specifically enumerated in this Charter.

SECTION 4.04 - REQUIRED NOTICE FOR CLAIMS AGAINST THE CITY

Before the City shall be liable for damages for the death or personal injuries of any person or for damages to or destruction of property of any kind, the person injured, if living, or his representatives, if deceased, or the owner of the property damaged or destroyed, his agent or attorney shall give the City Manager or City Secretary notice in writing of such death, injury, damage or destruction, duly verified by affidavit, within six (6) months after the damages were sustained, stating specifically in such written notice when, where, and how the death, injury, damage or destruction occurred, and the apparent extent of any such injury, the amount of damages sustained, the actual residence of the claimant by street and number at the date the claim is presented, the actual residence of such claimant for six (6) months immediately preceding the occurrence of such death, injury, damage or destruction and the names and addresses of all witnesses upon whom it is relied to establish the claim for damages. No action at law for damages shall be brought against the City for such death, injury, damage or destruction prior to the expiration of ninety (90) days after the notice herein described has been filed with the City Manager or City Secretary.

ARTICLE V ELECTIONS

SECTION 5.01 - ELECTIONS: REGULAR AND SPECIAL

The annual regular election shall be held on the first (1st) Saturday in May for the purpose of electing a Mayor and Council members. The City Municipal Building will be the polling place for elections. The Council may, by ordinance or resolution, call special elections as authorized by State or Federal law and this Charter.

SECTION 5.02 - REGULATIONS AND LAWS GOVERNING CITY ELECTIONS

The provisions of the General Election Laws of the State of Texas shall apply to all elections held under this Charter. All elections provided for by this Charter shall be conducted by the election authorities established by law.

The Council shall adopt any ordinances or regulations which it considers desirable, consistent with the election laws of the State of Texas and this Charter.

SECTION 5.03 - FILING FOR OFFICE

Any qualified citizen as defined by Article 6.03 of this Charter, who resides within the City's jurisdiction may file for election to the Office of Mayor or Council Member. A signed application and loyalty oath shall be filed with the City Secretary not later than 5 P.M. of the forty-fifth (45) day prior to the regular election and thirty-one (31) days prior to a special election.

SECTION 5.04 - OFFICIAL BALLOT

Candidates for all offices may reside in any portion of the City. The names of all candidates for office, except such as may have withdrawn, become ineligible or died, shall be printed on the official ballot in an order determined by the drawing of lots conducted by the City Secretary. Council members shall be designated on the official ballot with the place system, as defined by Article 6.02 of this Charter. The position number sought by the candidate shall be indicated on the ballot. Incumbent Council members seeking re-election must file for the position for which they were originally elected.

SECTION 5.05 - ELECTION BY MAJORITY

At the regular election, or any special election held to fill vacancies in the Mayor or Council member positions, the candidate receiving the majority of votes cast for the position shall be declared elected. If none of the candidates for a given position receives a majority of the votes cast, a run-off election shall be conducted in accordance with the TEXAS ELECTION CODE between the two candidates receiving the greatest number of votes.

SECTION 5.06 - CONDUCTING ELECTIONS

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

SECTION 5.07 - CANVASSING ELECTIONS

The returns of all elections shall be delivered forthwith to the Mayor and City Secretary by the Election Judge. The Council shall canvass the returns and declare the results of such election in accordance with the provisions prescribed by State (Texas Election Code 67.003) and Federal election laws.

SECTION 5.08 - COUNCIL TO BE JUDGE OF ELECTION QUALIFICATIONS

The Council shall make all regulations which it considers needful or desirable, not inconsistent with this Charter or the laws of the State of Texas as now or hereafter amended, for the conduct of municipal elections, for the prevention of fraud in such elections and for the recount of ballots in case of doubt of fraud. Municipal elections shall be conducted by appointed election authorities in accordance with Federal and State law. Should a run-off election result from any regular or special election, the appointed election authorities shall continue to act under their original commissions and shall conduct said resulting run-off election.

SECTION 5.09 - OATH OF OFFICE

All elected officials shall, before entering upon the duties of their respective offices, take and subscribe to the official oath prescribed in the Constitution of the State of Texas.

ARTICLE VI THE TOMBALL CITY COUNCIL

SECTION 6.01 - POWERS OF THE CITY COUNCIL

All powers and authority which are expressly or impliedly conferred on or possessed by the City shall be vested in and exercised by the Council. The Council shall levy all taxes, apportion all funds of the City among the various departments, adopt the budget, establish special funds for special purposes, authorize the issuance of bonds, order elections, canvass the returns and declare the results, enact all ordinances of any nature, provide penalties for their violation, grant all franchises which they deem proper, set compensation for City officers and employees and have general power over the City finances, subject to the conditions and limitations imposed by this Charter.

SECTION 6.02 - NUMBER, SELECTION, AND TERM

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

- A. The Mayor shall be elected from the City at large. The Councilmen shall be elected from the City at large by positions which shall be known as Positions 1, 2, 3, 4, and 5.
- B. The Mayor shall be the presiding officer of the Council and shall be recognized as the head of the City Government for all ceremonial purposes and by the Governor for purposes of military law. The Mayor shall be allowed to vote only in case of a tie vote and shall not have the authority to veto any action of the Council.

- C. The Mayor and each Councilman shall hold office for a period of three (3) years or until his successor is elected and qualified. All elections shall be held in the manner provided for by this Charter and the election laws of the State of Texas. (See Article 1.07 for transition details.)
- D. Beginning with the 1993 election year, the pairing and order of Positions for elective offices of the City shall be: Positions 1 and 5, Positions 2 and 4, and Position 3 and Mayor. Prior to 1993, the Interim Election Procedure outlined in Section 1.07 shall be followed in the election of all City officers.
- E. There shall be no limitation of elected terms for the Office of Mayor and Councilman.

SECTION 6.03 - QUALIFICATIONS

Each member of the Council shall be a resident citizen of the City, shall be a minimum of twenty-one (21) years of age and a qualified voter of the State of Texas, shall have been a resident citizen of Tomball for a period of not less than one (1) year immediately preceding his election. An incumbent seeking re-election must file for the same position number. Any person presently holding an elective office shall resign that office upon election to another elective office of profit or trust. No employee of the City shall continue in such position after election to an elective office. A citizen cannot file for an elective office if the candidate has a felony conviction except as provided by the State Election Code. The Mayor or Councilman shall, if convicted of a felony while in office, immediately upon conviction thereof, forfeit said office. If the Mayor or any Councilman fails to maintain the foregoing qualifications or shall be absent from two (2) regularly scheduled meetings within any six (6) month period without valid excuse, the Council must, at its next regular meeting, declare a vacancy as set forth in Section 6.09 of this Charter.

SECTION 6.04 - COMPENSATION

By ordinance, the Council shall set the compensation for its members in attendance at its meetings. The Council shall also set a monthly stipend for the Mayor. The Mayor and City Councilmen shall also be reimbursed for actual expenses incurred while on official business.

SECTION 6.05 - NEPOTISM

No officer of the City or officer of any City Board shall appoint, or vote for or confirm the appointment to any office, position, clerkship, employment or duty, of any person related with the second-degree of affinity (by marriage) or within the third-degree by consanguinity

(by blood) to the person so appointing or so voting, or related to any other member of the governing body or board of the City; provided that any person who has been continuously employed in any employment for a period of six (6) months prior to the election or thirty (30) days prior to the appointment of the officer or member of a board may be retained in such employment, as provided by state statutes.

SECTION 6.06 - HOLDING DUAL OFFICES

The Mayor and City Councilmen are prohibited by the provision of Article XVI, Section 40, of the Texas Constitution and statutes of the State of Texas, from holding more than one civil office of emolument concurrently. Violation of this Section shall constitute malfeasance in office and any officer found guilty thereof shall be subject to removal from office.

SECTION 6.07 - CONFLICT OF INTEREST IN CITY CONTRACTS

No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or shall be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies or services except as provided by State law. Any violation of this Section shall constitute malfeasance in office, and any officer or employee guilty thereof shall be subject to removal from his office or position. Any violation of this Section, with the knowledge, expressed or implied, of the person or corporation contracting with the Council may invalidate the contract involved.

SECTION 6.08 - MAYOR AND MAYOR PRO-TEM

The Mayor shall be the official head of the City government. The Mayor shall be the Chairman and shall preside at all meetings of the Council. The Mayor shall see that all ordinances, bylaws and resolutions of the Council are faithfully obeyed and enforced. The Mayor shall, when authorized by the Council, sign all official documents such as ordinances, resolutions, conveyances, grant agreements, official plats, contracts and bonds. The Mayor shall appoint special committees as he deems advisable, subject to approval by Council, or as instructed by the Council. The Mayor shall perform such other duties consistent with this Charter or as may be imposed upon him by Council.

The Council, at its first meeting after the election of Councilmen, shall elect one of its members Mayor Pro-Tem, and he shall perform all the duties of the Mayor in the absence or disability of the Mayor. The Mayor Pro-Tem shall retain his voting privileges when acting in the absence of the Mayor.

SECTION 6.09 - VACANCIES

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

Any vacancy or vacancies occurring shall not be filled by appointment but must be filled by majority vote of the qualified voters voting in a special election called for such purpose on the next Uniform Election Date.

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

SECTION 6.10 - APPOINTMENTS AND REMOVALS

Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the City Manager or any of his subordinates are empowered to appoint. (See Section 7.01,C-1)

SECTION 6.11 - INTERFERENCE WITH ADMINISTRATION

Except for the purpose of inquiries and investigations under SECTION 6.16, the Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.

SECTION 6.12 - MEETINGS OF COUNCIL

The Council shall schedule at least two (2) regular meetings each month and as many additional meetings as it deems necessary to transact the business of the City and its citizens.

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

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

or in the event of the inability to locate said Council member within the City of Tomball, Texas, delivery of such notice to his or her home shall be sufficient.

SECTION 6.13 - RULES OF PROCEDURE

The Council shall, by ordinance, determine its own rules and order of business and the rules shall provide that citizens of the City shall have a reasonable opportunity to be heard at any meeting in regard to any matter under consideration. The Council shall provide for the taking and recording of minutes of all meetings, and such minutes shall be a public record. Voting, except on procedural motions, shall be by roll call and the ayes, nays and abstentions shall be recorded in the minutes. A Councilman shall state the reason for an abstaining vote. Four (4) Council members, one of whom may be the Mayor, shall constitute a quorum for the purpose of transaction of business and no action of the Council shall be valid or binding unless adopted by the affirmative vote of three (3) or more members of the Council.

The Mayor shall have a binding vote only in case of tie votes from Councilmen.

The minutes shall reflect the names of all Council members in attendance at both regular and special Council meetings, with status of absence being addressed as "Excused" or "Unexcused" by the presiding officer. Council, by resolution, shall define the guidelines for determination of absences "Excused" and "Unexcused".

SECTION 6.14 - ORDINANCES

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

A. Procedure for Passage of Ordinances

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

published as required by the Charter, and the date of such publication, and promulgation of such ordinance; provided, that the provisions of this section shall not apply to the correction, revision and modification of the ordinances of the City for publication in book or pamphlet form. It shall be necessary to the validity of any ordinance that it shall be read two (2) times and considered at two (2) sessions of the Council unless addressed otherwise by this Charter. At the first (1st) reading, said ordinance shall be read in its entirety unless a motion is made and passed suspending the requirement of the reading of the ordinance, in which case such ordinance shall be read by caption only, followed by an explanation of the ordinance. The one (1) remaining presentation of said ordinance may be by caption only. Copies of any ordinance being considered by Council shall be available, in draft form, at that Council meeting for public review during that meeting. Copies of said ordinances, after final passage, are available at the City Hall for a fee. Every ordinance shall be authenticated by the signature of the Mayor and City Secretary and shall be systematically recorded in an ordinance book in a manner approved by the Council. It shall only be necessary to record the caption or title of ordinances in the minutes or journal of Council meetings. The Council shall have power to cause the ordinances of the City to be corrected, revised, codified and printed in code form as often as the Council deems advisable, and such printed code, when adopted by the Council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. However, if the ordinance is amended, it then must be published one time, by caption only, in the official City newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof.

B. Emergency Ordinances

To meet a public emergency affecting life, health, property, or the public peace, the Council may adopt emergency ordinances. Such ordinances shall not levy taxes, grant or renew or extend a franchise, regulate the rate charged by any public utility for its services, or authorize the borrowing of money except to fund emergency appropriations in accordance with Article 8.15 of this Charter. An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that it shall be plainly designated in the title as an emergency, with a description in clear and specific terms and with one (1) reading sufficing for its passage. Such emergency clause shall require the affirmative vote of three (3) members elected to Council. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced. After adoption, the ordinance shall become effective immediately and shall be published in the official newspaper for the City of Tomball once within fourteen (14) days after the passage of such ordinance. After adoption, the ordinance shall be numbered as required for other adopted ordinances, with the designation of "E" following the number. Every emergency ordinance so adopted, except one authorizing the borrowing of money as described herein, shall automatically stand repealed as of the sixty-first (61st) day

following the day on which it became effective, but this shall not prevent re-enactment of the ordinance.

SECTION 6.15 - OFFICIAL BONDS FOR CITY EMPLOYEES

All City Officers and such employees as the Council may require, shall, before entering upon the duties of their offices or employment by the City, enter into a good and sufficient fidelity bond in a sum to be determined by the Council payable to the City and conditioned upon the faithful discharge of the duties of such persons and upon the faithful accounting of all monies, credits and things of value coming into the hands of such persons, and such bonds shall be signed as surety by some company authorized to do business under the laws of the State of Texas, and the premium on such bonds shall be paid by the City, and such bonds must be acceptable to the Council.

SECTION 6.16 - INVESTIGATIVE BODY

The Council shall have the power to inquire into the official conduct of any department, agency, office, officer or employee of the City, and for that purpose shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers and other evidence material to the inquiry. The Council shall provide by ordinance, penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers or other evidence, and shall have the power to punish any such contempt in the manner provided by such ordinance.

ARTICLE VII ADMINISTRATIVE SERVICES

SECTION 7.01 - CITY MANAGER

A. Appointment and Qualifications:

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

B. Term and Salary:

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

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

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

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

SECTION 7.02 - ASSISTANT CITY MANAGER

The City Manager, with the approval of the Council, may appoint an Assistant City Manager. Such Assistant City Manager shall have all of the powers and duties as delineated by his job description, and in the event of the absence or disability of the City Manager, he shall fill all the duties of the City Manager.

SECTION 7.03 - POLICE DEPARTMENT

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

A. Chief of Police

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

B. Reserve Police

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

SECTION 7.04 - CITY SECRETARY

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

SECTION 7.05 - CITY TREASURER

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

SECTION 7.06 - DEPARTMENT OF TAXATION

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

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

SECTION 7.07 - CITY FIRE DEPARTMENT

A. Fire Marshal

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

B. Volunteer Fire Department

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

C. Contractual Agreement

Approval of the by-laws and operating budget of the Volunteer Fire Department shall constitute an agreement between the City and members of the Tomball Volunteer Fire Department to provide protection to the City from fire and other

disasters. The Council shall also cooperate with contiguous neighboring communities on problems of fire protection and other disasters.

SECTION 7.08 - CITY ATTORNEY

The Council shall appoint an attorney duly licensed in the State of Texas, who shall be the City Attorney. He shall receive for his services such compensation as may be fixed by the Council and shall hold his office at the pleasure of Council. The City Attorney, or such other attorneys selected by him with the approval of the Council shall represent the City in all litigation. He shall be the legal advisor of, attorney and counsel for, the City and all officers and departments thereof. A City Attorney shall hold no other City office or City employment during the term for which he is appointed by the Council. Should a person serving as City Attorney become a candidate in a City election, he shall resign his position as City Attorney upon election to a City Office.

SECTION 7.09 - MUNICIPAL COURT

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

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

- F. The Mayor shall serve as Judge of the Municipal Court in the absence of the City Judge or his alternates.

SECTION 7.10 - HEALTH DEPARTMENT

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

A. City Health Officer

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

B. Duties of City Health Officer

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

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

SECTION 7.11 - DEPARTMENT OF PUBLIC WORKS

The City shall establish a Department of Public Works. The City Manager, with the approval of the Council, shall appoint a Director of Public Works who shall be the administrator of this department. The Department of Public Works shall perform such duties as maintenance of gas, water, and sewage facilities; maintenance of streets, collection of garbage; and such other duties as may be assigned by the City Manager.

SECTION 7.12 - CITY BUILDING OFFICIAL AND INSPECTORS

The City shall establish a Building Department to enforce the City Building Code, to work with outside agencies in matters related to the City Building Code and to perform other such duties assigned by the City Manager.

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

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

SECTION 7.13 - DEPARTMENT OF PARKS, RECREATION, AND BEAUTIFICATION

The Council shall appoint an Advisory Board for Park, Recreation and Beautification. The Advisory Board shall study the recreation, park facilities, and beautification programs of the City and shall confer with the City Manager and advise him with respect to the development and use of the City's parks, the recreation programs and City's beautification program. The Advisory Board shall recommend to the Council rules for the use of parks, public grounds, and recreation facilities consistent with the ordinances of the City and the statutes of the State of Texas and appropriate programs for the beautification of the City. (See Sec. 2.05)

ARTICLE VIII MUNICIPAL FINANCE

SECTION 8.01 FISCAL YEAR

The fiscal year of the City shall begin at the first day of October and shall end on the last day of September of each calendar year. Such fiscal year shall constitute the budget and accounting year.

SECTION 8.02 - BUDGET AS A PUBLIC RECORD

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

SECTION 8.03 - PREPARATION AND SUBMISSION OF BUDGET

The City Manager, between sixty (60) and one hundred twenty (120) days prior to the beginning of each fiscal year, shall submit to the Council a proposed budget, which shall provide a complete financial plan for the fiscal year and shall contain the following:

- A. A budget message which shall contain an explanation of the budget and an outline of the proposed financial policies of the City for the fiscal year; shall set forth the

reasons for salient changes from the previous fiscal year in expenditures and revenue items; and shall explain any major changes in financial policy.

- B. A consolidated statement of anticipated receipts and proposed expenditures for all funds.
- C. A review and analysis of property valuations.
- D. An analysis of tax rates.
- E. The tax levies and tax collections by years for at least the immediate past five (5) years.
- F. The general funds resources in detail.
- G. The special funds resources in detail.
- H. A summary of proposed expenditures by function, department, and activity with detailed estimates of expenditures shown separately for each activity to support the summary.
- I. A revenue and expense statement for all types of bonds, time warrants and other indebtedness.
- J. A description of all bond issues, time warrants, and other indebtedness outstanding, showing rate of interest, date of issue, maturity date, amount authorized, amount issued, and amount outstanding.
- K. A schedule of requirements for the principal and interest of each issue of bonds, time warrants, and other indebtedness.
- L. The appropriation ordinance.
- M. The tax levying ordinance.
- N. The total monies in all reserves (designated, undesignated, and debt) shall not exceed the budgeted City expenditures for the fiscal year. Likewise, the total monies included in all reserves shall not be less than one quarter of the budgeted City expenditures for a fiscal year.

The total proposed expenditures shall not exceed the total of estimated resources.

SECTION 8.04 - ANTICIPATED REVENUES COMPARED WITH OTHER YEARS

In preparing the budget, the City Manager shall place in parallel columns opposite the items of revenue the actual amount of each revenue item for the last completed fiscal year, the estimated amount for the current fiscal year and the proposed amount for the ensuing fiscal year.

SECTION 8.05 - PROPOSED EXPENDITURES COMPARED WITH OTHER YEARS

In preparing the budget, the City Manager shall place in parallel columns opposite the items of expenditures the actual amount of such items of expenditures for the last completed fiscal year, the estimated amount for the current fiscal year and the proposed amount for the ensuing fiscal year. The total of proposed expenditures shall not exceed the total of estimated income.

SECTION 8.06 - NOTICE OF PUBLIC HEARING ON BUDGET

At the Council meeting at which the budget is submitted, the Council shall authorize the publishing of the Budget Hearing notice in the City's official newspaper. The notice shall set forth the time, place and date of the budget hearing and the location and times at which the citizens may inspect the proposed budget. The notice shall be published at least fourteen (14) days prior to the scheduled date of the meeting.

SECTION 8.07 - PUBLIC HEARING OF BUDGET

The Public Hearing, as required in Section 8.06, shall give the citizens ample opportunity and time to speak for or against any and all items in the proposed budget.

SECTION 8.08 - PROCEEDINGS ON BUDGET AFTER PUBLIC HEARINGS

After the Public Hearing, the Council may insert new items or make changes in the proposed budget. Should changes be made, the same "Notice of Public Hearing on Budget" (Section 8.06) must be followed. After public hearings are completed and no changes made as a result, the Council may adopt the budget. In no case may the Council bring to a vote a budget in which expenditures are greater than the total estimated income.

SECTION 8.09 - VOTE REQUIRED FOR ADOPTION

The budget shall be adopted by a majority vote of the Council.

SECTION 8.10 - DATE OF FINAL ADOPTION

The budget shall be adopted no later than fifteen (15) days prior to the beginning of the fiscal year. Should the Council fail to adopt a new budget, the then existing budget, together with its tax levying ordinance and its appropriation ordinance, shall be deemed adopted, on a month-to-month basis, for the ensuing fiscal year. Additional budget hearings may be held with proper notice (Section 8.06), until a budget is ultimately adopted.

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

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

SECTION 8.12 - BUDGETARY AMENDMENTS

From the effective date of the budget, any budgetary amendments shall be made in accordance with State and Federal laws and the Constitution of the State of Texas.

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

From the effective date of the budget, the established amount to be raised by property tax shall in no event exceed the legal limit provided by State and Federal laws and the Constitution of the State of Texas.

SECTION 8.14 - ESTIMATED EXPENDITURES SHALL NOT EXCEED ESTIMATED RESOURCES

The total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund. The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the Governmental Accounting Standards Board or some other nationally accepted classifications.

SECTION 8.15 - EMERGENCY APPROPRIATION

At any time in any fiscal year, the Council may, pursuant to this section, make emergency appropriations to meet a pressing need for public expenditure, for other than recurring requirements, to protect the public health, safety or welfare. Such appropriations shall be by ordinance adopted at a special or regular meeting by the majority vote of the Council.

SECTION 8.16 - PURCHASE PROCEDURE

All purchases made and contracts executed by the City shall be pursuant to the laws established by the State of Texas.

SECTION 8.17 - DISBURSEMENT OF FUNDS

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

SECTION 8.18 - POWER TO TAX

The Council shall have the power, and is hereby authorized to levy and collect an annual tax upon all real and personal property within the City not to exceed the maximum limits set by the Constitution and laws of the State of Texas.

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

All real, tangible and intangible personal property within the jurisdiction of the City of Tomball not expressly exempted by law, shall be subject to annual taxation. The method and procedures for the rendition, appraisal and assessment of all real and personal property within the City shall be in accordance with applicable provisions of the Property Tax Code of the State of Texas.

SECTION 8.20 - TAXES, WHEN DUE AND PAYABLE

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

SECTION 8.21 - TAX LIENS

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

from January 1 in each year until the taxes are paid, and limitations as to seizures and suits for collection of taxes shall be as prescribed by State law.

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

SECTION 8.22 - TAX REMISSION AND DISCOUNTS

Except as provided by State law, neither the Council or any other official of the City shall ever extend the time for payment of taxes nor remit, discount or compromise any tax legally due the City, nor waive the penalty, interest and costs that may be due thereon to or for any person, association, corporation, firm or partnership owing taxes to the City for such year or years.

SECTION 8.23 - ISSUANCE OF BONDS

The City shall have the power to issue bonds and levy a tax to support the issue for permanent improvements and all other lawful purposes.

- A. General Obligation Bonds

The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds for permanent public improvements or for any other public purpose not prohibited by the Constitution and laws of the State of Texas and to issue refunding bonds to refund outstanding bonds of the City previously issued. All such bonds shall be issued in conformity with the laws of the State of Texas and shall be used only for the purpose for which they were issued.

- B. Revenue Bonds

The City shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by the Constitution and Laws of the State of Texas and to issue revenue bonds to evidence the obligation created thereby, and to issue refunding bonds to refund outstanding revenue bonds of the City previously issued. All such bonds shall be issued in

conformity with the laws of the State of Texas and shall be used only for the purpose for which they were issued.

C. Sale of Bonds

No bonds, other than refunding bonds issued to refund and in exchange of previously issued outstanding bonds, issued by the City shall be sold for less than par value and accrued interest. All bonds of the City having been issued or sold in accordance with the terms of this section and having been delivered to the purchasers thereof shall thereafter be incontestable and all bonds issued to refund and in exchange of outstanding bonds previously issued shall, after said exchange, be incontestable.

SECTION 8.24 - INDEPENDENT AUDIT

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

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

**ARTICLE IX
FRANCHISE AND PUBLIC UTILITIES**

SECTION 9.01 - POWER TO GRANT FRANCHISE

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

SECTION 9.02 - FRANCHISE VALUE NOT TO BE ALLOWED

In fixing reasonable rates and charges for utility service within the City and in determining the just compensation to be paid by the City for public utility property which the City may acquire by condemnation or otherwise, nothing shall be included as the value of any franchise granted by the City under this Charter.

SECTION 9.03 - RIGHT OF REGULATION

Every grant, renewal, extension or amendment of a public utility franchise, whether so provided in the ordinance or not, shall be subject to the right of the City unless Federal or State law dictates otherwise:

- A. To forfeit any such franchise by ordinance at any time for failure of the holder thereof to comply with the terms of the franchise. Such power shall be exercised only after written notice to the franchise holder stating wherein the franchise holder has failed to comply with the terms of the franchise and setting a reasonable time for the correction of such failure, and shall be exercised after such reasonable time has expired.
- B. To impose reasonable regulations to insure safe, efficient and continuous service to the public.
- C. To require such expansion, extension, enlargement and improvement of plants and facilities as are necessary to provide adequate service to the public.
- D. To require every franchise holder to furnish to the City, without cost to the City, full information regarding the location, character, size, length and terminals of all facilities of such franchise holder in, over and under the streets, alleys and other public properties of the City, and to regulate and control the location, relocation and removal of such facilities.
- E. To collect from every public utility operating in the City such proportion of the expense of excavating, grading, paving, repaving, constructing, reconstructing, draining, repairing, maintaining, lighting, sweeping and sprinkling the streets, alleys, bridges, culverts, viaducts and other public places of the City which represent the increased cost of such operation resulting from the occupancy of such public places by such public utility, and such proportion of that cost of such operations as results from the damage to or the disturbance of such public places caused by such public utility; or to compel such public utility to perform, at its own expense, such operations as above listed which are made necessary by the occupancy of such public places by such utility or by damage to or disturbance of such public places caused by such public utility.

- F. To require every franchise holder to allow other public utilities to use its poles and other facilities, including bridges and viaducts, whenever in the judgment of the Council such use shall be in the public interest, provided that in such an event, a reasonable rental shall be paid such owner of the facilities for such use. Provided further, that inability of such public utilities to agree upon rental facilities shall not be an excuse for failure to comply with such requirement by the Council.
- G. To require the keeping of accounts in such form as will accurately reflect the value of the property of each franchise holder which is used and useful in rendering its service to the public and the expenses, receipts and profits of all kind of such franchise holder.
- H. To examine and audit at any time during business hours the accounts and other records of any franchise holder.
- I. To require reports on the operation of the utility, which shall be in such form and contain such information as the Council shall prescribe.
- J. To require that the public utility give notice to any subscriber to its service prior to the permanent or temporary discontinuance or disruption of such service by the public utility, except in cases of emergency, and to require that no officer, agent, servant or employee of the public utility nor any vehicles or equipment under their control shall make use of, go upon or across any private property in the City without first obtaining the permission of the owner or occupant of such property, except in cases of emergency, and to provide a penalty for the violation of such requirements.
- K. To impose such other reasonable regulations, restrictions, requirements and conditions as may be deemed necessary or desirable to promote the health, safety, welfare or accommodations of the public.
- L. No franchise shall be transferable except with the approval of the Council as expressed by ordinance. The term "transferable", as used herein, shall not be construed in such a manner as to prevent the franchise from pledging said franchise as security for a valid debt or mortgage.

SECTION 9.04 - GRANT NOT TO BE EXCLUSIVE

No grant of franchise to construct, maintain or operate a public utility and no renewal or extension of such grant shall be exclusive.

SECTION 9.05 - OTHER CONDITIONS

All franchises heretofore granted are recognized as contracts between the City and the grantee, and the contractual rights as contained in any such franchise shall not be impaired

by the provisions of this Charter except that the power of the City to exercise the rights of eminent domain in the acquisition of any utility property is in all things reserved, and except the general power of the City heretofore existing and herein provided for to regulate the rates and services of a utility, which shall include the right to require adequate and reasonable quality of utility service to the public. Every public utility franchise hereafter granted shall be held subject to all the terms and conditions contained in the various sections of this Article whether or not such terms are specifically mentioned in the franchises. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the Council or the voters of the City in imposing terms and conditions as may be reasonable in connection with any franchise grant, including the right to require such compensation or rental as may be permitted by the laws of the State of Texas and the United States of America.

SECTION 9.06 - ACCOUNTS OF MUNICIPALLY-OWNED UTILITIES

Accounts shall be kept for each public utility owned or operated by the City in such manner as to show the true and complete financial results of such City ownership and operation, including all assets and all liabilities, appropriately subdivided by classes, depreciation reserve, other reserves and surplus; also revenues, operating expenses including depreciation, interest payment, rental and other disposition of annual income, the accounts shall show actual capital cost to the City of each public utility owned; the cost of all extensions, additions and improvements and the source of funds expended for such capital purposes. They shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any City Government Department. The Council shall cause an annual report to be made by a Certified Public Accountant giving the information specified in this section and such other data as the Council shall deem expedient.

SECTION 9.07 - SALES OF MUNICIPAL UTILITIES

The Council shall have the power and authority to:

- A. Sell and distribute water, sell and provide sewer services, sell and distribute natural gas, provide for garbage and trash collection and disposition, and provide similar services within the Corporate limits of the City or its extraterritorial jurisdiction (ETJ).
- B. Prescribe the types of materials used within or beyond the limits of the City for such municipal services, inspect the same and require such materials to be kept in good order and condition at all times, make such rules and regulations as shall be necessary and proper and prescribe penalties for noncompliance with same.

SECTION 9.08 - REGULATION OF RATES AND UTILITIES

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

ARTICLE X MUNICIPAL PLANNING

SECTION 10.01 - PLANNING COMMISSION

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

A. Term of Office

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

B. Rules of Procedure

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

C. Vacancies

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

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

D. Powers and Duties

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

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

E. Liaison with City Council

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

SECTION 10.02 - PLATTING OF PROPERTY

Every owner of any tract of land situated within the corporate limits of the City or its extraterritorial jurisdiction (ETJ), who may divide the same into two (2) or more parts for the purpose of laying out any subdivisions or any addition to the City shall comply with all applicable provisions contained in the Code of Ordinances of the City, as adopted or hereafter amended. [Article 970(a), Section 4, V.A.T.S., Municipal Annexation Act.]

SECTION 10.03 - DEVELOPMENT OF PROPERTY

The Council shall cooperate in every manner possible with persons interested in the development of property within the corporate limits of the City or its extraterritorial jurisdiction (ETJ). No expenditure of public funds, however, shall be authorized for the development of privately-owned subdivisions situated within or beyond the corporate limits of the City, except for the extension of utilities or services to such areas.

ARTICLE XI RECALL OF OFFICERS

SECTION 11.01 - GENERAL POWER

The qualified voters of the City, in addition to the method of legislation herein provided, shall have the power of direct legislation by recall vote.

SECTION 11.02 - SCOPE OF RECALL

Any elected City official, elected to office by the qualified voters of the City, shall be subject to recall and removal from office by the qualified voters of the City on grounds of incompetency, misconduct or malfeasance in office.

SECTION 11.03 - PETITION FOR RECALL

Before the question of recall of such officers shall be submitted to the qualified voters of the City, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of City Secretary; which said petition shall be signed by qualified voters of the City equal in number to at least thirty-percent (30%) of the number of votes cast at the last regular municipal election of the City, for the position in question, but in no such event less than one hundred seventy-five (175) petitioners. Each signer of such recall petition shall personally sign his name thereto in ink, and shall write after his name, his place of residence, giving name of street and number. He shall also write thereon his voter registration number, and the day, month and year his signature was affixed.

SECTION 11.04 - FORM OF RECALL PETITION

The recall petition must be addressed to the Council of the City, must distinctly and specifically point out the ground or grounds upon which such petition for removal is predicated, and if there be more than one ground, such as for incompetency, misconduct or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed notice of the matters and things with which he is charged.

One of the signers of each separate petition shall make a notarized affidavit that he, and he only, personally circulated such petition, and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be.

SECTION 11.05 - VARIOUS PAPERS CONSTITUTING PETITION

The petition may consist of one or more copies, and the several parts of copies of the petition may be filed separately and by different persons; but no signature to such petition shall remain effective or be counted which was placed thereon more than forty-five (45) days prior to the filing of such petition or petitions with the person performing the duties of City Secretary. All papers comprising a recall petition shall be filed with the person performing the duties of City Secretary on the same day, and the said City Secretary shall immediately notify, in writing, the officer so sought to be removed by mailing such notice by Certified Mail to his Tomball mailing address.

SECTION 11.06 - PRESENTATION OF PETITION TO CITY COUNCIL

Within five (5) business days after the date of the filing of the papers constituting the recall petition, the person performing the duties of City Secretary shall certify such petition or return same to petitioners for correction. After certification, the person performing the duties of City Secretary shall present such petition to the Council of the City at the next regular meeting.

SECTION 11.07 - PUBLIC HEARING TO BE HELD

The officer whose removal is sought may, within five (5) business days after such recall petition has been presented to the Council, request that a public hearing be held to permit him to present facts pertinent to the charges specified in the recall petition. In this event, the Council shall order such public hearing to be held not less than five (5) business days, nor more than fifteen (15) days, after receiving such request for a public hearing.

SECTION 11.08 - ELECTION TO BE CALLED

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

SECTION 11.09 - FAILURE OF CITY COUNCIL TO CALL AN ELECTION

In case all the requirements of this Charter shall have been met and the Council shall fail or refuse to receive the recall petition, or to order such recall election or to discharge any other duties imposed upon the Council by the provisions of this Charter with reference to such recall, then the petitioner shall have the right to file an action in an appropriate court to obtain a writ of mandamus or other relief requiring the Council to call the election.

SECTION 11.10 - BALLOTS IN RECALL ELECTION

Ballots used at recall elections shall conform to the following requirements:

- A. With respect to each person whose removal is sought, the question shall be submitted:

"Shall (name of person) be removed from the office of (name of office) by recall?"

- B. Immediately below each such question, therefore, shall be printed the following words, one above the other, in the order indicated:

"Yes"
"No".

SECTION 11.11 - RESULT OF RECALL ELECTION

If a majority of the votes cast at a recall election shall be "NO", that is against the recall of the person named on the ballot, he shall continue in office for the remainder of his unexpired term, subject to recall as before.

If a majority of the votes cast as such election be "YES", that is for recall of the person named on the ballot, he shall be deemed removed from office, and the vacancy shall be filled as vacancies in the Council are filled, as provided in Section 6.09.

SECTION 11.12 - RECALL, RESTRICTIONS THEREOF

No recall petition shall be filed against any officer of the City within three (3) months after his election nor within (3) months after an election for such officer's recall.

ARTICLE XII LEGISLATION BY THE PEOPLE, INITIATIVE AND REFERENDUM

SECTION 12.01 - GENERAL POWER

The qualified voters of the City, in addition to the method of legislation herein before provided, shall have the power of direct legislation by initiative and referendum.

SECTION 12.02 - INITIATIVE

Qualified voters of the City may initiate legislation by submitting a petition addressed to the Council which requests the submission of a proposed ordinance or resolution to a vote of the qualified voters of the City. Said petition must be signed by qualified voters of the City equal in number to thirty-percent (30%) of the average of the highest number of votes cast at the last three regular municipal elections for council place or Mayor of the City, or two hundred fifty (250) qualified voters whichever is greater, and each copy of the petition shall have attached to it a copy of the proposed legislation. Each signer of such petition shall personally sign and print his name thereto in ink, and write his place of residence, giving name of street and number. He shall also write thereon his voter registration number and the day, month, and year his signature was affixed. The petition may consist of one (1) or more notarized copies as permitted in Section 11.05 of this Charter. Such petition shall be filed with the person performing the duties of City Secretary. Within five (5) business days after the filing of such petition, the person performing the duties of City Secretary shall certify such petition or return same to petitioners for corrections. After certification, the person performing the duties of City Secretary shall present said petition and proposed ordinance or resolution to the Council at the next regular meeting. Upon presentation to the Council of the petition and draft of the proposed ordinance or resolution, it shall become the duty of the Council, on or before the next regularly scheduled meeting of the Council, to pass and adopt such ordinance or resolution without alteration as to meaning or effect in the opinion of the persons filing the petition to call a special election on the next uniform election date as provided by the State Election Code, at which the qualified voters of the City shall vote on the question of adopting or rejecting the proposed legislation. No ordinance shall be proposed by an initiative petition which is on the same question as an ordinance so submitted and defeated at an election held within the preceding twelve (12) months.

SECTION 12.03 - REFERENDUM

Qualified voters of the City may require that any ordinance or resolution, with the exception of ordinances or resolutions levying taxes, issuing tax or revenue bonds or relating to annexation or franchises, passed by the Council, be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within thirty (30) days after

final passage of said ordinance or resolution or within thirty (30) days after its publication. Said petition shall be addressed, prepared, signed and certified as required for petitions initiating legislation, as provided in Section 12.02 of this Charter and shall be submitted to the person performing the duties of City Secretary. Immediately upon the filing of such petition, the City Secretary shall present said petition to the Council. The Council shall immediately reconsider such ordinance or resolution and, if it does not entirely repeal the same, shall submit it to the voters as provided in Section 12.02 of this Charter. Pending the holding of such election, such ordinance or resolution shall be suspended from taking effect and shall not later take effect unless a majority of the qualified voters voting thereon at such election shall vote in favor thereof.

SECTION 12.04 - VOLUNTARY SUBMISSION OF LEGISLATION BY THE COUNCIL

The Council, by majority vote, may submit to the voters any ordinance, resolution or measure for adoption, rejection or repeal in the same manner and with the same force and effect as provided in this Article. A special election may be called for this purpose, if necessary, as provided in Section 12.02.

SECTION 12.05 - FORM OF BALLOTS

The ballots used, when voting upon such proposed and referred ordinances, resolutions or measures, shall set forth their nature sufficiently to identify them and shall set forth upon separate lines, the words:

"FOR THE ORDINANCE" and
"AGAINST THE ORDINANCE"; or
"FOR THE RESOLUTION" and
"AGAINST THE RESOLUTION".

SECTION 12.06 - PUBLICATION OF PROPOSED AND REFERRED ORDINANCES

The person performing the duties of City Secretary shall publish at least once in a newspaper of general circulation in the City, a caption of the proposed or referred ordinance or resolution within fifteen (15) days before the date of the election, and shall give other notices and do such things relative to such elections as are required in general municipal elections or by the ordinance or resolution calling said election. Entire and complete copies of the proposed or referred ordinance shall be made available to any citizen upon request.

SECTION 12.07 - ADOPTION OF ORDINANCES

If a majority of the qualified voters voting on any proposed ordinance, resolution or measure shall vote in favor thereof, it shall thereupon, or at any time fixed therein, become effective as a law or as a mandatory order to the Council.

SECTION 12.08 - INCONSISTENT ORDINANCES

If the provisions of two or more proposed ordinances or resolutions approved at the same election are inconsistent, the ordinance or resolution receiving the highest number of votes shall prevail.

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

No ordinances or resolutions which may have been passed by the Council upon a petition or adopted by popular vote under the provisions of this Article shall be repealed or amended except by the Council in response to a referendum petition or by submission as provided in Section 12.03 of this Charter.

SECTION 12.10 - FURTHER REGULATION BY THE COUNCIL

The Council may pass ordinances or resolutions providing other and further regulations for carrying out the provisions of this Article consistent herewith.

SECTION 12.11 - FRANCHISE ORDINANCES

Nothing contained in this Article shall be construed to be in conflict with any of the provisions of Article IX of this Charter, pertaining to ordinances granting franchise when valuable rights shall have accrued thereunder.

INDEX

	Section	Page
Abstentions	6.13	14
Administrative Services	7.01	17
Affinity	6.05	11
Agencies	2.05	5
Amending the Charter	3.02	5
Annexation	2.03	4
Appraisal	8.19	26
Assessment	8.19	26
Assignment	3.07	6
Assistant City Manager	7.02	17
Audit	8.24	28
Ballot	5.04	9
Beautification	7.13	22
Blighted Area	10.01-D(3)	33
Boards	2.05	5
Bond Non-Requirement	3.08	6
Bonds	6.15, 8.23	16, 27-28
Boundaries	2.02	4
Budget	1.05, 8.02-8.13	2, 22-25
Building Code	10.01-D(4)	33
Capital Improvements	10.01-D(5)	33
Charter	1.04, 1.09	2-4
Chief of Police	7.03	18
City Attorney	7.08	20
City Building Inspector	7.12	21-22
City Depository	8.17	26
City Judge	7.09	20-21
City Manager	7.01-7.07, 7.10-7.13	16-22
City Secretary	7.04, 7.09	18, 20-21
City Treasurer	7.05	18
City-Definition	1.02	1
Commissions	2.05	5
Consanguinity	6.05	12
Contractual Agreement	7.07	19-20
Corporate Name	1.01	1
Corporate Seal	4.01	7
Cost Bill	3.07	6
Council	1.03, 6.01-6.16	1, 10-16
Department of Public Works	7.11	21
Department of Taxation	7.06	19
Detachment of Territory	2.04	4-5
Development of Property	10.03	34
Disbursement of Funds	8.17	26
Dual Offices	6.06	12

APPENDIX

	Section	Page
Election by Majority	5.05	9
Election Procedure - Interim	1.07	2-3
Elections	5.01-5.09	8-10
Emergency Appropriations	8.15	25
Emergency Ordinances	6.14	15-16
Eminent Domain	4.03	7-8
Encumbrance	8.21-A	26-27
Existing Law	1.04	2
Extraterritorial Jurisdiction (ETJ)	10.02-10.03	33-34
Fee Simple	4.01	7
Fidelity Bond	6.15	16
Filing for Office	5.03	9
Fire Department	7.07	19-20
Fire Marshall	7.07-A	19
Fiscal Year	8.01	22
Foreclosure Proceedings	8.21-C	27
Form of Government	2.01	4
Franchise	9.01-9.08, 12.11	28-32,39
Garnishment	3.07	6
Gender	1.08	3
General Funds	8.03-F	23
Health Department	7.10	21
Immunities	4.01	7
Incumbent	5.04	9
Initiative and Referendum	12.02	37
Interim Municipal Government	1.06	2
Investigative Body	6.16	16
Issuance of Bonds	8.23	27-28
Judicial Notice	3.04	6
Legislation-Voluntary Submission	12.04	38
Loyalty Oath	5.03, 5.09	9-10
Malfeasance	6.06, 6.07	12
Mayor	6.08	12
Mayor Pro-Tem	6.08	12
Misdemeanor	7.09	20
Municipal Body	7.09	20-21
Municipal Court	7.09	20-21
Municipal Finance	8.01	22
Municipal Government - Interim	1.06	2
Municipal Planning	10.01	32-33
Nepotism	6.05	11-12
Oath of Office	5.09	10
Official Bonds	6.15	16
Official Newspaper	3.06	6
Official Oath	3.01, 5.09	5,10
Ordinances	6.14,12.06-12.11	14-16,38-39
Parks	7.13	22

	Section	Page
Planning Commission	10.01	32-33
Platting of Property	10.02	33
Police Department	7.03	18
Power To Tax	8.18	26
Powers of the City - Adopted	4.02	7
Powers of the City - General	4.01	7
Property - Intangible	8.19, 8.21-B	26-27
Property - Seizure of	8.21-C	27
Property - Subject to Taxation	8.19	26
Property - Tangible	8.19,8.21-B	26
Public Records	3.05	6
Public Utilities	9.01-9.08	28-32
Public Works Department	7.11	21
Purchasing	8.16	25
Qualified Voter	6.03, 11.01-11.03	11, 34
Recall	11.01-11.12	34-36
Recreation	7.13	22
Referendum	12.03-12.11	37-39
Rendition	8.19	26
Reserve Police	7.03-B	18
Revenues	8.04	23
Right of Regulation	9.03	29-30
Sequestration	3.07	6
Special Funds	8.03-G	23
Stipend	6.04	11
Tax - Discounts	8.22	27
Tax - Liens	8.21	26-27
Tax - Remission	8.22	27
Taxation	8.19	26
Taxes - Due Date	8.20	26
Taxes - Levying of	8.18	26
Time Warrants	8.03-K	23
Uniform Election Date	6.09, 12.02	13,37
Utilities	9.06-9.08	31-32
Utilities-Accounts of Municipally-Owned	9.06	31
Valid Debt	9.03-L	30
Volunteer Fire Department	7.07-B	19
Writ of Execution	3.07	6

GLOSSARY

Abstentions (Section 6.13) - The act or fact of not voting.

Accrued (Section 8.23-C) - To have accumulated or added to in a periodic manner. Interest or charges may be added to (or accrued); a loan, bond or charge.

Affinity (Section 6.05) - Kinship established by law; relationships resulting from marriage; inlaws.

Amend (Section 6.14-A) - To alter formally by parliamentary or constitutional procedure.

Assessment (Section 8.19) - The appraisal of property, real or otherwise, as a basis for establishing a tax rate.

Blighted Area (Section 10.01-D-3) - An area which is "run down", in a state of ill repair, unsightly.

Building Code (Section 10.01-D-4) - A City ordinance enacted to specify the procedures and rules by which real property improvements are made within the City limits.

Capital Improvements (Section 10.01-D-5) - Any major construction, additions or extensions of buildings, utilities, streets or other City properties.

Caption (Section 6.14-A) - A title or heading, as at the beginning of an article, an Ordinance, a law, etc.

Charter (Section 1.04) - A formal written document issued by a government (City) or its citizens granting the rights and setting forth guidelines for conducting business as a governing body.

City Depository (Section 8.17) - The financial institution at which City funds are placed on deposit by resolution of the Council.

Claimant (Section 4.04) - A person who files a formal complaint or claim or action against another; e.g., a person who files a lawsuit against another individual, corporation, or entity.

Codified (Section 6.14-A) - To arrange in a systematic way; put into a code; e.g., the City Charter organized into Sections and Sub-sections.

Commissioned (Section 7.07-B) - The act of appointing or electing an individual or a group of persons to perform certain duties.

Complainant (Section 4.04) - A person who files a formal complaint in a lawsuit.

Concurrently (Section 6.06) - Corresponding with, or running simultaneously with another; happening at the same time.

Consanguinity (Section 6.05) - Kinship by descent from the same ancestors; relationship by blood.

Contiguous (Section 7.07-C) - The state of one object being in actual contact with or touching another object; e.g., the State of Texas is contiguous to Mexico, New Mexico, Oklahoma, Arkansas, Louisiana, and the Gulf of Mexico.

Contractual Agreement (Section 7.07-C) - A "meeting of the minds" or harmony of opinion that specifies all the details of the concord in a legal and binding form.

Council (Section 1.03) - Any reference shall be considered to be the Council as a body or as a quorum.

Countersigned (Section 8.17) - The act of attesting to the authenticity of a document signed by another; e.g., countersigning a check as a testator to the correctness and authority of that check.

Cost Bill (Section 3.07) - Any charge, invoice or order presented for payment as a result of expenses incurred by litigation.

Delinquent Tax (Section 8.20) - An amount of money due for legally specified tax that has not been paid by the date specified by the taxing authority.

Emergency Appropriations (Section 8.15) - The establishing of special accounts to accommodate special needs that call for immediate action and for which no provisions were made.

Eminent Domain (Section 4.03) - The power to take private property for public use; e.g., the act of condemning property by the State of Texas to build highways is an "act of eminent domain".

Encumbrance (Section 8.21-A) - A claim, mortgage, lien or loan against property.

Ex-officio (Section 7.09-B) - The act of being a part of a body by virtue of, or because of, one's office or position; the Mayor is an ex-officio member of all special committees of the City Council.

Extraterritorial Jurisdiction (ETJ) (Section 10.02) - The unincorporated areas, not a part of any other City, that lies next to (contiguous to) the Corporate limits of the City. (Tomball's ETJ is two miles wide.)

Fee Simple (Section 4.01) - The largest, most complete ownership rights one can hold in land or other real estate.

Fidelity Bond (Section 6.15) - A binding agreement or bond, issued by a surety or one who has become legally liable, that would pay the holder should the person on whom the bond was placed fail to exhibit strict and continuing faithfulness to an obligation, trust or duty.

Fiscal Year (Section 1.05) - The twelve-month period of time assigned by the City in which the financial matters of the City are performed.

Franchise (Section 9.01) - The right or privilege to do something, transact business, in a given geographical area for a prescribed time.

Garnishment (Section 3.07) - A legal summons or warning concerning the attachment of property to satisfy a debt or other obligation.

Gender (Section 1.08) - The classification of words that distinguishes chiefly between male, female, and neuter; e.g., he, she, and it.

General Funds (Section 8.03-F) - All funds which accrue to the City other than those funds derived from utility revenues.

Immunities (Section 4.01) - Special exemptions, as from laws, taxes; those things that are marked by protection or exempt from risk.

Implead (Section 4.01) - The act of taking legal action against an individual or a group in a court of law.

Incumbent (Section 5.04) - The act of holding an office; a person who holds an office.

Initiative (Section 12.02) - The right of citizens to introduce or enact new law.

Intangible (Section 8.19) - That which is not able to be precisely identified or perceived; an asset (as goodwill) that is not real or corporeal.

Invalid (Section 3.03) - Without force, basis, or authority; being without foundation or force in fact, truth or law.

Judicial (Section 3.04) - Of, or related to, courts of law and the administration of justice.

Liaison (Section 10.01-E) - A line of communication between parts of an organization.

Litigation (Section 6.12) - The act or process of carrying on a lawsuit; the process of settling conflicts in a court of law.

Malfeasance (Section 6.06, 6.07) - Wrongdoing or misconduct of a public official.

Mayor Pro Tem (Section 6.08) - Someone elected or appointed to temporarily perform the duties of Mayor in his absence.

Misdemeanor (Section 7.09) - A crime less serious than a felony; e.g., violation of traffic laws, and other minor infractions of law.

Nepotism (Section 6.05) - The giving of special jobs to relatives by a person in a high or official office.

Par Value (Section 8.23-C) - The face amount or monetary value placed on a stock or bond at time of issuance.

Perpetuity (Section 1.01) - The state or quality of endless existence or duration.

Petition (Section 11.03) - A formal request made to a person or group in a position of authority.

Platting (Section 10.02) - All persons desiring to subdivide land within the area of jurisdiction of the City shall submit a plat as prescribed by the Tomball Code of Ordinances.

Politic (Section 1.01) - The granting of authority to govern and manage.

Promulgation (Section 6.14-A) - To make known by open declaration or put into action or force by law; e.g., an ordinance may be promulgated by putting into action or proposing for comment.

Pro Rata (Section 2.04) - Something that has been calculated or divided proportionately according to an exactly calculable factor.

Pursuant To (Section 2.01) - In accordance with.

Qualified Voter (Section 6.03) - A person who meets all the requirements for voting as outlined by law in order to participate in the election process of a given entity.

Quorum (Section 6.13) - The minimum number of members of a governing group whose presence at a meeting is necessary if the meeting is to make binding or legal decisions.

Real Property (Section 8.19) - Those holdings or possession in which a person has the right to own land and improvements associated with those holdings.

Recall (Section 11.03) - The process of removing an unwanted public official from office before his term is over by a vote of the people.

Referendum (Section 12.03) - A method of presenting public measures to the vote of the people for approval or rejection.

Rendition (Section 8.19) - The act of furnishing for consideration, approval or information all details regarding a property, including location and ownership.

Reserve Police (Section 7.03-B) - "Special", "extra" or "auxiliary" police officers that may be appointed or released, as needed, in accordance with guidelines established by the City Council.

Seizure (Section 8.21-A, C) - The act of taking possession of persons or property by legal process.

Sequestration (Section 3.07) - The act authorizing (by legal writ) a sheriff or commissioner to take into custody the property of a defendant who is in contempt until he complies with the orders of the Court.

Special Funds (Section 8.03-G) - Those funds set aside for the expressed purpose of executing special projects.

Statutes (Section 3.02) - Laws enacted by legislative body; e.g., ordinances established by the City Council.

Stipend (Section 6.04) - A fixed sum of money paid periodically for services or to defray expenses.

Subpoena (Section 6.16) - A writ or demand requiring a person designated in it to appear in Court under penalty for failure to do so.

Tangible (Section 8.19) - Capable of being perceived, touched, precisely identified or appraised for value; substantially real.

Tax Levies (Section 8.03-E) - The taxes imposed or collected by force or authority by a governing agency.

Tax Lien (Section 8.21) - A legal claim placed on the property of another for payment of back taxes (a debt).

Time Warrants (Section 8.03-K) - A commission or document giving authority to do something that may require the delivery of money or other consideration at, or during, a specific time; e.g., a short-term obligation of the City in anticipation of future revenues.

Uniform Election Date (Section 6.09, 12.02) - Means an election date as prescribed by the State Election Code.

V.A.T.S. (Section 2.03, et. a.) - The acronym for Vernon's Annotated Texas Statutes; the books (volumes) which contain (embody) the laws of the State of Texas.

Valid Debt (Section 9.03-L) - A real and legally binding debt.

Vested (Section 2.01) - Law; not depending on anything; fixed; settled; possessing an established right to; e.g., a vested interest in a retirement plan.

Waive (Section 8.22) - To give up voluntarily; to put aside for the present, to defer.

Writ of Execution (Section 3.07) - An order or mandatory process issued, in writing, by order of the Court or judicial officer that commands the person to who it is issued to perform, or refrain from performing, the acts specified therein.

Regular City Council
Agenda Item
Data Sheet

Meeting Date: February 15, 2010

Topic:

Discussion regarding Process for Councilmembers to Contact the City Attorney Directly

Background:

Origination:

Mayor Fagan

Recommendation:

Funding:

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

Doris Speer, City Secretary

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