

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



MONDAY, JANUARY 4, 2010

7:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, January 4, 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 Pastor Denny Dillon, New Life Community Church

3.0 Pledges to U.S. and Texas Flags

- Led by Members of Girl Scout Troop 14220

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:

- Report on Depot Tree Project

6.0 Reports and Announcements

- **Tomball Holiday Ice Rink at the Depot** – through January 10, 2010
- January 9 and 23, 2010 - **Farmers Market** - 9:00 a.m.-1:00 p.m.
- January 9, 2010 – **2nd Saturday at the Depot** – 5:00 p.m.
- January 9, 16, 23 and 30, 2010 – **Walk Tomball!** – Depot Plaza – 9:00 a.m.
- February 8 through March 8, 2010 – Dates to File Application for Place on May 8, 2009 Ballot
- Reports by City staff and members of council about items of community interest on which no action will be taken
- Appointments to Board of Adjustments (expiring 3/2/2010) – February 15, 2010 agenda

7.0 Approve the Minutes of the Special City Council Meeting of December 21, 2009 and the Regular City Council Meeting of December 21, 2009

8.0 Old Business:

- 8.1 Adopt on Second Reading, Ordinance No. 2009-34, an Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 0.0695 acres of land, Legally Described as Lot 34, Block 89 of Revised Map of Tomball, as Recorded in Volume 4, Page 25, of the Map Records of Harris County, Texas, from the SF-6-Single-Family Residential-6 District to the D-Duplex Residential District; Said Property Being Located on the Easterly Side of Ash Street, Southerly of Timkin Road; Providing for the Amendment of the Official Zoning Map of the City; Providing for Severability; Providing for a Penalty of an amount not to exceed \$2,000 for each day of violation of any Provision Hereof, Making Findings of Fact; and Providing for other Related Matters
- 8.2 Adopt, on Second Reading, Ordinance No. 2009-35, an Ordinance of the City of Tomball, Texas, amending Its Comprehensive Zoning Ordinance by Granting a Conditional Use Permit to Tomball Hospital Authority (D/B/A Tomball Regional Hospital), to Allow a Sixty-Five (65) Foot Tall Health Science Center in a General Retail District, Where a Maximum Height of Forty-Two (42) Feet is Permitted; Said Tract Being Located within the City in Zoning District GR-General Retail and Being Legally Described as Reserve A, Block 1 as Shown on the Final Plat of “Doctors Professional Office Building Subdivision,” Generally Located on the Northerly Side of Graham Drive, Easterly of Holderrieth Boulevard in Tomball, Texas; Providing Requirements and Conditions for this Conditional Use Permit; Containing Findings and other Provisions Relating to the Subject; Providing a Penalty in an Amount not to exceed Two Thousand

Dollars for Violations Hereof; and Providing for Severability.

9.0 New Business:

- 9.1 Adopt, on First 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.
- 9.2 Approve Resolution No. 2010-01, Ordering a Regular City Officer's Election to be Held on the 8th day of May, 2010; Designating the Polling Places and Appointing Election Officials for such Election; Directing the Giving of Notice of Such Election; and Providing Details Relating to the Holding of such Election.
- 9.3 Approve Proposed Revisions to the City of Tomball Boards, Commissions, and Committees Handbook

10.0 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 31st day of December 2009 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: January 4, 2010

Topic:

- Report on Depot Tree Project

Background:

Origination:

Recommendation:

Funding:

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

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

Regular City Council Agenda Item Data Sheet

Meeting Date: January 4, 2010

Topic:

- **Tomball Holiday Ice Rink at the Depot** – through January 10, 2010
- January 9 and 23, 2010 - **Farmers Market** - 9:00 a.m.-1:00 p.m.
- January 9, 2010 – **2nd Saturday at the Depot** – 5:00 p.m.
- January 9, 16, 23 and 30, 2010 – **Walk Tomball!** – Depot Plaza – 9:00 a.m.
- February 8 through March 8, 2010 – Dates to File Application for Place on May 8, 2009 Ballot
- Reports by City staff and members of council about items of community interest on which no action will be taken
- Appointments to Board of Adjustments (expiring 3/2/2010) – February 15, 2010 agenda

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:

Tomball Holiday Ice Rink at the Depot
Farmers Market
2nd Saturday at the Depot



**Lone Star Chevrolet & The Women's Center at Tomball Regional Hospital
Invite You to the Tomball Holiday Ice Rink!**

The Holiday Ice Rink opens at the Tomball Depot Plaza (201 S. Elm –one block south of Main St. adjacent to the railroad tracks) on November 21st and will be open daily through January 10th. The rink will be closed for Thanksgiving Day and Christmas Day.

Price at the Door - \$8.50 per person
(2 hr. session - includes skates)

Book your group of 20 or more before October 31st and get special pricing.

Special advance group rate - \$6.25
Group rate after October 31st - \$7.50

To reserve the rink please call 281-351-2088. For all other information please contact Sandra Martin at 281-290-1400 or smartin@ci.tomball.tx.us.

Concessions operated daily by Tomball Youth Booster Clubs - Come Out and Support Our Youth!

 [Ice Rink Waiver and Release](#) - Save time, print this waiver, fill it out and bring it with you. Forms will also be available at the rink.

 [Holiday Ice Rink Calendar](#)

 [Click here for office party pricing information](#)

 [Group Reservation Information](#)

 [ROCKIN NEW YEARS EVE](#)



Special thanks to our sponsors.

Platinum

24 Hour Emergency Room – Tomball
TX
(Across from Silverado Theaters).

Gold

First Community Credit Union
Concordia Lutheran High School
Children's Building Blocks
Gretchen & Michael Fagan - Farmers
Insurance
Mann's Tire and Wheel Connection

Silver

InvesTex Credit Union
Foxmoor Kennels
Montgomery Co. YMCA
TXU Energy

Bronze

The Whistle Stop Tearoom
The McLane Agency – Todd McLane
Aquascapes Pools & Spas
Fox & Bubela, Inc.

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City of Tomball - 401 Market St., Tomball, TX 77375
Phone: 281-351-5484 Fax: 281-351-6256
Mon. – Thurs.: 7:45 AM to 5:00 PM - Friday: 7:45 AM to 4:00 PM

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Today our Weekly
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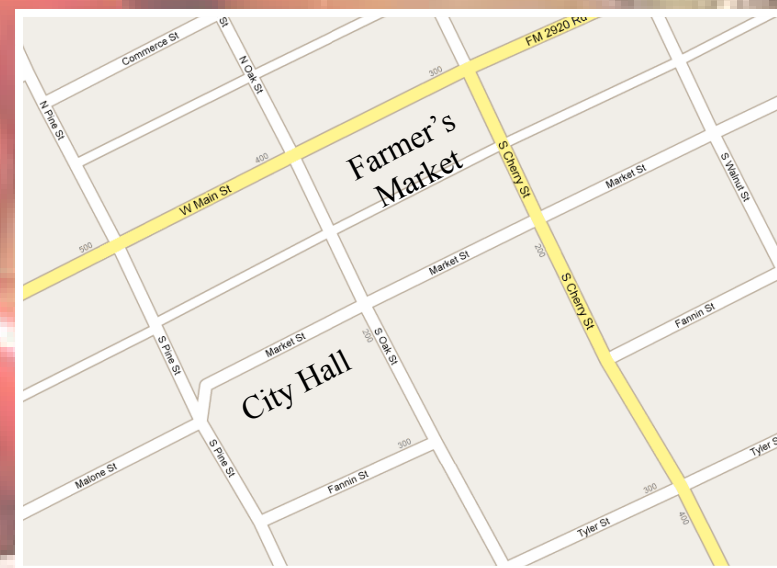
Bringing the farmers back to the community!

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**



2ND SATURDAY AT THE DEPOT JANUARY 9, 2010



TOMBALL HOLIDAY ICE RINK OPEN

Music:

Provided at the Ice Rink

Children's Activities:

North Harris Astronomy
Club

Concessions by:

H.O.S.A at the Ice Rink

HISTORIC TOMBALL DEPOT PLAZA

201 South Elm ~ One block south of Main Street

Opens at 5:00 PM ~ Movie begins at dark

Family entertainment for all ages

Bring your lawn chairs

Concessions available

No Glass Containers!

For more information, please call

Rosalie Dillon at 281-610-2595

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

Regular City Council Agenda Item Data Sheet

Meeting Date: January 4, 2010

Topic:

Approve the Minutes of the Special City Council Meeting of December 21, 2009 and the Regular City Council Meeting of December 21, 2009

Background:

Origination:

Recommendation:

Funding:

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

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

ATTACHMENTS:

Draft Minutes - 12/21/2009 Special Council Meeting
Draft Minutes - 12/21/2009 Regular Council Meeting

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



MONDAY, DECEMBER 21, 2009

6:00 P.M.

1.0 Call to Order

The meeting was called to order by Mayor Pro Tem Webb. Other Council members present were:

Councilman Quinn
Councilman Stoll
Councilman Townsend
Councilman Driver

Members absent:

Mayor Fagan

Others present:

Acting City Manager – Christal Kliewer
City Secretary – Doris Speer
City Attorney – Scott Bounds
Director of Public Works – David Kauffman
Director of Engineering and Planning – Mark McClure
Fire Chief – Randy Parr
Chief of Police – Robert Hauck
Assistant to the City Manager – Shawn Cox
City Planner – Kelly Violette

2.0 No public comments or petitions were received

Draft

3.0 Workshop Session:

3.1 The Tomball City Council met in a Workshop Session at 6:02 p.m. for the following purpose:

- Presentation and discussion regarding process to recruit and select the City Manager.

Christal Kliewer presented recruitment and selection criteria for Council's consideration.

Preferences were expressed for excellent interpersonal communication and relationships skills with the community, Council, and City staff; experience in working with developers to facilitate projects, in transportation, budget and finance; cost containment; commitment to community life, etc.

Current issues for the City and the new city manager, along with possible benefits for the new city manager, were discussed. Recruitment, position requirements and criteria, and advertisement documents will be brought back to Council for review and approval. Initial screenings of applicants will be conducted by the Assistant City Manager and the HR Director.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this ____ day of _____ 2009.

Doris Speer, TRMC
City Secretary

Bill Webb
Mayor Pro Tem

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



MONDAY, DECEMBER 21, 2009

7:00 P.M.

1.0 Call to Order

The meeting was called to order by Mayor Pro Tem Webb. Other members present were:

Councilman Quinn
Councilman Stoll
Councilman Townsend
Councilman Driver

Members Absent: Gretchen Fagan - Excused

Others present:

Acting City Manager – Christal Klierer
City Secretary – Doris Speer
City Attorney – Scott Bounds
Chief of Police – Robert Hauck
Director of Public Works – David Kauffman
Director of Engineering & Planning – Mark McClure
Fire Chief – Randy Parr
Assistant to City Manager – Shawn Cox
City Planner – Kelly Violette
Executive Director-TEDC – Betty Reinbeck
Community Events Coordinator – Rosalie Dillon
Chief-NWEMS - Brian Petrilla

draft

2.0 Invocation

- Led by Brother James Roberson, Hufsmith Church of Christ

3.0 Pledges to U. S. and Texas Flags

- Led by Fire Chief, Randy Parr

4.0 The following public comments were received:

- | | |
|---|---|
| Judy Wilson
506 N. Pecan Drive, 77375 | - Expressed her appreciation of Council's service in 2009; need for citizens to become involved in 2010; relocation of Chaparral Genealogy Library; need for continued downtown revitalization. |
| Rosalie Dillon
14166 Turnervine, 77375 | - Expressed her appreciation to Council and City personnel for support and assistance in creating a successful 2 nd Saturday and the annual German Christmas Market. |
| Bruce Hillegeist
29201 Quinn Road, 77375 | - Expressed his appreciation of the City's support in 2009; congratulations to David Quinn for being selected as 2010 Citizen of the Year; introduced Brooke Allie Hopper, 2010 Miss Tomball. |

5.0 Presentations:

- Mayor Pro Tem Webb presented Resolution No. 2009-34 to members of the 2010 Census Bureau: Ida Love, Emmelyn Kendrick, Dessire Hinojosa, Dave Roberts, Elizabeth Brondo, Wanda Leblanc of Harris County Judge Ed Emmett's Office, and James Mays, the Tomball Census Office Manager
- Presentation of a plaque expressing the department's appreciation was made by members of the Tomball Fire Department to Fire Chief Randy Parr, Asst. Fire Chief Eric Hoffman, and Asst. Fire Chief Trae Gammon.

6.0 Reports and Announcements:

- December 24 and 25, 2009 – City Holidays, Offices Closed
- January 1, 2010 – City Holiday, Offices Closed
- **Tomball Holiday Ice Rink at the Depot** – through January 10, 2010
- **Free Skate Week** – January 4-7, 2010, 5:30 p.m.-9:30 p.m.
- December 26, 2009 and January 2, 2010 – **Walk Tomball! – 9:00 a.m.**
- January 9 and 23, 2010 - **Farmers Market** - 9:00 a.m.-1:00 p.m.
- January 9, 2010 – **2nd Saturday at the Depot** – 5:00 p.m.
- January 9, 16, 23 and 30, 2010 – **Walk Tomball!** – Depot Plaza – 9:00 a.m.
- 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 Stoll, second by Councilman Townsend, to approve the Minutes of the Special Joint City Council and Planning and Zoning Commission Meeting of December 7, 2009, as corrected, and the Regular City Council Meeting of December 7, 2009.

Motion carried unanimously.

8.0 Old Business:

8.1 Doris Speer presented an overview of the proposed Resolution. Motion was made by Councilman Townsend, second by Councilman Driver, to Approve, as a Project of the Corporation, an Agreement with Albers Properties, LP, to Make Direct Incentives to, or Expenditures for, Assistance with Infrastructure Costs related to the Construction and Development of a Multi-building Commercial/Industrial Development to be located on Chestnut Street and Timkin Road in Tomball, Texas, and Approve, on Second Reading, Resolution No. 2009-36-TEDC, a Resolution of the City Council of the City of Tomball, Texas, Authorizing and Approving the Tomball Economic Development Corporation's Project to Expend Funds in Accordance with an Economic Development Agreement by and Between the Corporation and Albers Properties, L.P. to Promote and Develop a New or Expanded Business Enterprise; Containing Other Provisions Relating to the Subject; and Providing for Severability, as corrected.

Motion carried unanimously.

9.0 New Business:

9.10 Mayor Pro Tem Webb requested that item 9.10 be moved to the top of the agenda. Contributors Ray Laughter, Lone Star College Foundation; Lynn LeBoeuf, Tomball Regional Hospital; Dennis Snodgrass, Tomball Rotary, Rosalie Dillon on behalf of Rosehill United Methodist Church, and Elmer Beckendorf spoke on this item. Motion was made by Councilman Quinn, second by Councilman Townsend to Approve the Creation of a Sculpture Representing Tomball's Heritage as an Agricultural Center and the Installation of the Piece on City property. Vote was as follows:

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

Motion carried 3-1.

- 9.1 Kelly Violette presented an overview of the proposed **ZONING CASE P09-180**. The Public Hearing for **ZONING CASE P09-180** Requested by Philip O'Sullivan to amend the Comprehensive Zoning Ordinance to rezone one lot totaling approximately 0.0695 acres of land, legally described as Lot 34, Block 89 of Revised Map of Tomball, as Recorded in Vol. 4, Page 25, of the Map Records of Harris County, within the City of Tomball, TX, generally located on the easterly side of Ash Street, southerly of Timkin Road from the SF-6-Single Family 6 District to the D-Duplex Residential District was opened by Mayor Pro Tem Webb at 7:43 p.m.

No public comments being received, the Public Hearing was closed by Mayor Pro Tem Webb at 7:43 p.m.

Motion was made by Councilman Townsend, second by Councilman Driver, to read Ordinance No. 2009-34 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Driver, second by Councilman Townsend, to Adopt on First Reading, Ordinance No. 2009-34, an Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 0.0695 acres of land, Legally Described as Lot 34, Block 89 of Revised Map of Tomball, as Recorded in Volume 4, Page 25, of the Map Records of Harris County, Texas, from the SF-6-Single-Family Residential-6 District to the D-Duplex Residential District; Said Property Being Located on the Easterly Side of Ash Street, Southerly of Timkin Road; Providing for the Amendment of the Official Zoning Map of the City; Providing for Severability; Providing for a Penalty of an amount not to exceed \$2,000 for each day of violation of any Provision Hereof, Making Findings of Fact; and Providing for other Related Matters. The vote was as follows:

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

Motion carried unanimously.

- 9.2 Kelly Violette presented an overview of **ZONING CASE P09-182**. The Public Hearing for **ZONING CASE P09-182** Requested by Hal Lynch, on behalf of Tomball Hospital Authority (d/b/a Tomball Regional Hospital), for a Conditional Use Permit to construct a three-story Health Science Center (Lone Star College) at the height of 65 feet, where the maximum height permitted is 42 feet in the GR-General Retail District. The property is an approximately 5.5658 acre site, legally described at Reserve A, Block 1 as shown on

the final plat of "Doctors Professional Office Building Subdivision," generally located on the northerly side of Graham Drive, easterly of Holderrieth Boulevard was opened by Mayor Pro Tem Webb at 7:50 p.m.

No public comments being received, the Public Hearing was closed by Mayor Pro Tem Webb at 7:51 p.m.

Motion was made by Councilman Townsend, second by Councilman Stoll, to read Ordinance No. 2009-35 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Townsend, second by Councilman Driver, to Adopt on First Reading, Ordinance No. 2009-35, an Ordinance of the City of Tomball, Texas, amending Its Comprehensive Zoning Ordinance by granting a Conditional Use Permit to Tomball Hospital Authority (D/B/A Tomball Regional Hospital), to allow a Sixty-Five (65) Foot Tall Health Science Center in a General Retail District, Where a Maximum Height of Forty-Two (42) Feet is Permitted; Said Tract Being Located within the City in Zoning District GR-General Retail and Being Legally Described as Reserve A, Block 1 as Shown on the Final Plat of "Doctors Professional Office Building Subdivision," Generally Located on the northerly side of Graham Drive, easterly of Holderrieth Boulevard in Tomball, Texas; Providing requirements and conditions for this Conditional Use Permit; Containing findings and other provisions relating to the subject; Providing a penalty in an amount not to exceed two thousand dollars for violations hereof; and providing for severability. Vote was as follows:

Councilman 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.

- 9.3 Doris Speer provided an overview of the proposed Resolution. Motion was made by Councilman Townsend, second by Councilman Stoll, to Approve Resolution No. 2009-35, A Resolution of the City Council of the City of Tomball, Texas, Supporting the Annual Baseball Parade, to be held in Tomball on Saturday, March 6, 2010.

Motion carried unanimously.

- 9.4 Mark McClure presented an overview of the proposed Project. Motion was made by Councilman Townsend, second by Councilman Stoll, to Award Contract for Bid 2010-01, Project Number 2007-10005, Quinn Road Sidewalks and Utilities, to Low Bidder, MAS

Contractors, Inc., in the Amount of \$461,228.56.

Motion carried unanimously.

- 9.5 Christal Kliever presented an overview of the proposed Resolution. Motion was made by Councilman Townsend, second by Councilman Stoll, to Approve Resolution No. 2009-37, a Resolution of the City of Tomball, Texas, Expressing the City's Intent to Finance Expenditures to be Incurred.

Motion carried unanimously.

- 9.6 David Kauffman presented an overview of the proposed emergency repairs; repairs were completed \$12,968 under the estimated costs. Motion was made by Councilman Driver, second by Councilman Stoll, to Approve Pay Estimate #2 to Layne Christensen in the Amount of \$72,225.00, as Final Payment of the Total Actual Cost of \$129,945.00 for Emergency Repairs for the Pine Street #2 Water Well.

Motion carried unanimously.

- 9.7 Mark McClure presented an overview of the proposed Development Agreement. Motion was made by Councilman Driver, second by Councilman Townsend, to approve a Development Agreement between the City of Tomball and New Experience Fellowship Church for Construction of a Portion of M121 West Drainage Channel.

Motion carried unanimously.

- 9.8 Rob Hauck, Brian Petrilla, and Randy Parr presented an overview of the proposed Interlocal Agreement. Motion was made by Councilman Townsend, second by Councilman Stoll, to Approve Interlocal Agreement (ILA) between the City of Tomball and Emergency Services District #8 for Shared Communications Resources.

Motion carried unanimously.

- 9.9 Rob Hauck, Brian Petrilla, and Randy Parr presented an overview of the proposed Interlocal Agreement. Motion was made by Councilman Driver, second by Councilman Townsend, to Approve Interlocal Agreement (ILA) between the City of Tomball and the Tomball Independent School District for Shared Communications Resources.

Motion carried unanimously.

- 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 _____ 2009.

Doris Speer, TRMC
City Secretary

Gretchen Fagan
Mayor

Regular City Council

Agenda Item

Data Sheet

Meeting Date: January 4, 2010

Topic:

Adopt on Second Reading, Ordinance No. 2009-34, an Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 0.0695 acres of land, Legally Described as Lot 34, Block 89 of Revised Map of Tomball, as Recorded in Volume 4, Page 25, of the Map Records of Harris County, Texas, from the SF-6-Single-Family Residential-6 District to the D-Duplex Residential District; Said Property Being Located on the Easterly Side of Ash Street, Southerly of Timkin Road; Providing for the Amendment of the Official Zoning Map of the City; Providing for Severability; Providing for a Penalty of an amount not to exceed \$2,000 for each day of violation of any Provision Hereof, Making Findings of Fact; and Providing for other Related Matters

Background:

On November 2, 2009, the City received a rezoning application from Philip O'Sullivan to rezone 0.0695 acres of land, legally described as Lot 34, Block 89 of Revised Map of Tomball, generally located on the easterly side of Ash Street, southerly of Timkin Road, from the SF-6-Single Family 6 District to the D-Duplex Residential District.

The adjacent three lots to the south were rezoned to the D- Duplex Residential District under zoning case P08-060 on October 6, 2008. Under P08-060, the property owner indicated that the request was to facilitate the development of an approximately 1,960 square foot duplex development on lots 35, 36, and 37. Those lots were subsequently replatted and a building permit was issued for the construction of the duplex on June 18, 2009. The duplex is constructed and nearing completion.

Several months ago, the property owner became aware of a surveying error that caused the duplex to be constructed in the wrong location. A significant portion of the duplex was constructed on Lot 34 rather than on Lots 35, 36 and 37 as intended. Mr. O'Sullivan has since purchased Lot 34 and has replatted the property to consolidate Lots 34, 35, 36 and 37.

The current request is to rezone Lot 34 to the Duplex District in order to correct this error and move forward with the duplex development. The staff report and public notices are included for review.

On December 14, 2009, the Planning and Zoning Commission voted unanimously to recommend approval of Zoning Case P09-180, as recommended by staff. On December 21, 2009, Council adopted Ordinance No. 2009-34 on first reading.

Origination:

Philip O'Sullivan, Property Owner

Recommendation:

Adopt, on Second Reading, Ordinance No. 2009-34, approving Zoning Case P09-180 based on the following: (a) the proposed zoning of D-Duplex Residential District is compatible with the existing land uses in the immediate area, and (b) the proposed zoning of D-Duplex Residential District is consistent with the Comprehensive Plan future land use designation.

Funding:

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

City Secretary

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

ATTACHMENTS:

Ordinance No. 2009-34

P09-180 Staff Report

Notice of Public Hearings

Adjacent Property Owner Notification

ORDINANCE NO. 2009-34

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 0.0695 ACRES OF LAND, LEGALLY DESCRIBED AS LOT 34, BLOCK 89 OF REVISED MAP OF TOMBALL, AS RECORDED IN VOLUME 4, PAGE 25, OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS, FROM THE SF-6-SINGLE-FAMILY RESIDENTIAL-6 DISTRICT TO THE D-DUPLEX RESIDENTIAL DISTRICT; SAID PROPERTY BEING LOCATED ON THE EASTERLY SIDE OF ASH STREET, SOUTHERLY OF TIMKIN ROAD; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS

* * * * *

Whereas, the owner(s) of 0.0695 acres of land, legally described as Lot 34, Block 89 of Revised Map of Tomball, generally located on the easterly side of Ash Street, southerly of Timkin Road, in the City of Tomball, Harris County, Texas, (the "Property"), have requested that the Property be rezoned; and

Whereas, at least eight (8) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days written notice of that hearing to the owners of land within two hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the proposal to change the zoning for the Property from SF-6-Single-Family Residential-6 District to the D-Duplex Residential District; and

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

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

Whereas, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing on the proposal to change the zoning district classification for the Property from SF-6-Single-Family Residential-6 District to the D-Duplex Residential District, the City Council held the public hearing on the proposal to change the zoning for the Property and the City Council considered the final report of the Planning & Zoning Commission regarding the change of zoning district classification, and,

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

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

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

Section 2. The zoning classification of 0.0695 acres of land, legally described as Lot 34, Block 89 of Revised Map of Tomball, generally located on the easterly side of Ash Street, southerly of Timkin Road, in the City of Tomball, Harris County, Texas, (the "Property"), is hereby changed from SF-6-Single-Family Residential-6 District to the D-Duplex Residential District subject to the regulations, restrictions, and conditions hereafter set forth.

Section 3. The Official Zoning Map of the City of Tomball, Texas-Ordinance 2008-01, ("Zoning District Map"), shall be revised and amended to show the designation of 0.0695 acres of land, legally described as Lot 34, Block 89 of Revised Map of Tomball, generally located on the easterly side of Ash Street, southerly of Timkin Road, as D-Duplex Residential District, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification for 0.0695 acres of land, legally described as Lot 34, Block 89 of Revised Map of Tomball, generally located on the easterly side of Ash Street, southerly of Timkin Road, to D-Duplex Residential District as described above.

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

Section 6. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

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

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF
THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 21ST DAY OF
DECEMBER 2009.

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN WEBB	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN DRIVER	<u>AYE</u>

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF
THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 4TH DAY OF
JANUARY 2010.

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

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary



Rezoning Staff Report

Planning and Zoning Commission Hearing Date: December 14, 2009

Rezoning Case: P09-180

Property Owner(s): Philip O'Sullivan

Applicant(s): Philip O'Sullivan

Legal Description: One lot totaling approximately 0.0695 acres of land, legally described as Lot 34, Block 89 of Revised Map of Tomball, as Recorded in Volume 4, Page 25, of the Map Records of Harris County, within the City of Tomball, Texas

Location: 409 Ash Street, generally located on the easterly side of Ash Street, southerly of Timkin Road

Area: 0.0695 acres

Present Zoning and Use: SF-6-Single Family 6 Residential District / Duplex

Proposed Zoning and Use: D- Duplex Residential District / Duplex

It should be noted, that any use permitted in the proposed district would be allowed at this location if the zoning is changed. Furthermore, the Planning & Zoning Commission may consider zoning classifications other than that sought by the applicant for this property.

Adjacent Zoning & Land Uses:

North: SF-6- Single Family 6 District / Vacant land

South: D- Duplex District / Duplex

East: SF-6- Single Family 6 District / Vacant land, single family residential, and a future office park development

West: SF-6- Single Family 6 District / MLK Park

BACKGROUND / PROJECT DESCRIPTION

The subject lot is approximately 0.0695 acres in size and is described as lot 34, Block 89 of the Revised Map of Tomball. The lot is situated on the easterly side of Ash Street, southerly of Timkin Road. The adjacent three lots to the south were rezoned to the D- Duplex Residential District under zoning case P08-060 on October 6, 2008. Under P08-060, the property owner indicated that the request was to facilitate the development of an approximately 1,960 square foot duplex development on lots 35, 36, and 37. Those lots were subsequently replatted and a building permit was issued for the construction of the duplex on June 18, 2009. The duplex is constructed and nearing completion.

Several months ago, the property owner became aware of a surveying error that caused the duplex to be constructed in the wrong location. A significant portion of the duplex was constructed on Lot 34 rather than on Lots 35, 36 and 37 as intended (Exhibit G). According to the rezoning request letter submitted by the applicant, “A unfortunate survey error has resulted in an encroachment on the adjoining lot 34, block 89 by the duplex that I am building. In order to mitigate this error I have purchased lot 34 and will replat to consolidate lots 34, 35, 36, and 37 of block 89. Although lots 35, 36, and 37 are zoned as ‘Duplex’ lot 34 is zoned as ‘SF6’. I am requesting that lot 34 be rezoned as ‘Duplex’ as in order to allow the duplex structure to be completed.”

After discussions with City staff, the property owner submitted applications to replat and rezone the property in order to correct this error and move forward with the development. The replat was approved by the City Council on November 16, 2009 and was recorded by Harris County on November 25, 2009 (Exhibit “F”).

ANALYSIS

The D-Duplex (Two Family) Residential District is intended to promote stable, quality multiple-occupancy residential development at slightly increased densities. This district is typically used as a “buffer” or transition district between lower density residential areas and higher density or nonresidential areas or major thoroughfares.

• Zoning Considerations

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

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

The subject site is located in an area that is developed with small lot single family residences to the south, a city-owned community park to the west, a vacant lot to the north and a single family residence and future 18-acre office park to the east. Across Timkin Road, to the northeast, is Concordia Lutheran High School located within the GR-General Retail District and to the northwest is a mixture of commercial, institutional, and undeveloped lots located in the OT & MU-Old Town and Mixed Use District.

Given the fact that the area of the project site currently acts as a buffer between the single family residences to the south and the mixture of commercial and institutional uses to the north, east, and west, a duplex designation would be an appropriate land use in the proposed location.

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

Changing the zoning designation of this lot to D-Duplex will not significantly affect existing or proposed plans for schools as the density of the area would not increase given the fact that the development of the duplex was previously considered under Zoning Case P08-060. There are no changes proposed by the City with regard to

streets or utilities along Timkin Road or Ash Street as there is existing capacity for water, sewer, and other utilities in this area.

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

Other than Lots 35, 36, and 37 of Block 89 which are part of this development, there are no areas within the immediate vicinity that are zoned D-Duplex. The closest Duplex District is located on the south side of Lizzie Lane, however it is a city-owned detention facility. The OT & MU District to the northwest (across Timkin Road) does permit the construction of duplex units.

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

There has been one duplex (other than the one associated with this request) developed in the vicinity located on Holiday Street. There have been several duplex developments in the area north of F.M. 2920, bordered by North Live Oak Street and North Willow Street.

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

If the proposed zoning change were approved, there should be few, if any, affects on other areas designated for similar developments.

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

The proposed zone change is not anticipated to adversely affect health, safety, morals, or general welfare.

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

The request is consistent with the Comprehensive Plan which identifies the area as high density residential. According to the Comprehensive Plan, high density residential provides for “patio homes, townhomes, lofts, duplexes, condominiums, and apartments.” As previously stated, the location of the site currently acts as a buffer or transition area between the single family residences to the south and the commercial and institutional uses to the north, east, and west.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on December 2, 2009 and as of the writing of this report, no public comment forms were received.

RECOMMENDATION

That the Planning and Zoning Commission recommend:

1. APPROVAL of Zoning Case P09-180 based on the following:
 - a. The proposed zoning of D-Duplex Residential District is compatible with the existing land uses in the immediate area, and
 - b. The proposed zoning of D-Duplex Residential District is consistent with Comprehensive Plan future land use designation.
2. APPROVAL of the staff report as the Planning and Zoning Commission's final recommendation to the City Council.

EXHIBITS

- A. Location/Zoning Map
- B. Aerial Photo
- C. Rezoning Application
- D. Rezoning Request Letter – Philip O'Sullivan
- E. Rezoning Request Letter – Emil Haddad
- F. Rose 35 Replat
- G. Area Survey
- H. Site Photos

Exhibit "A"
Location/Zoning Map

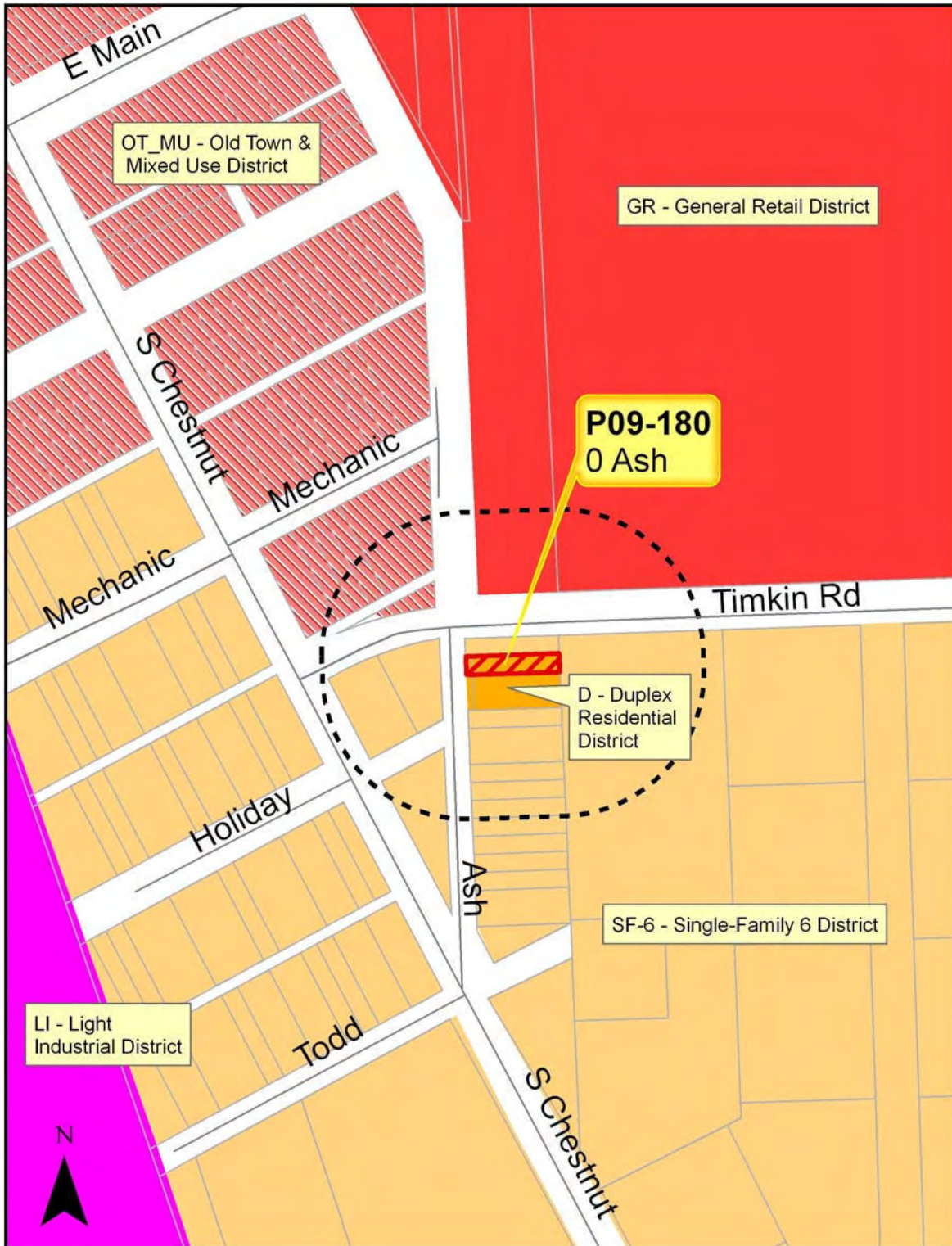


Exhibit "B"
Aerial Photo

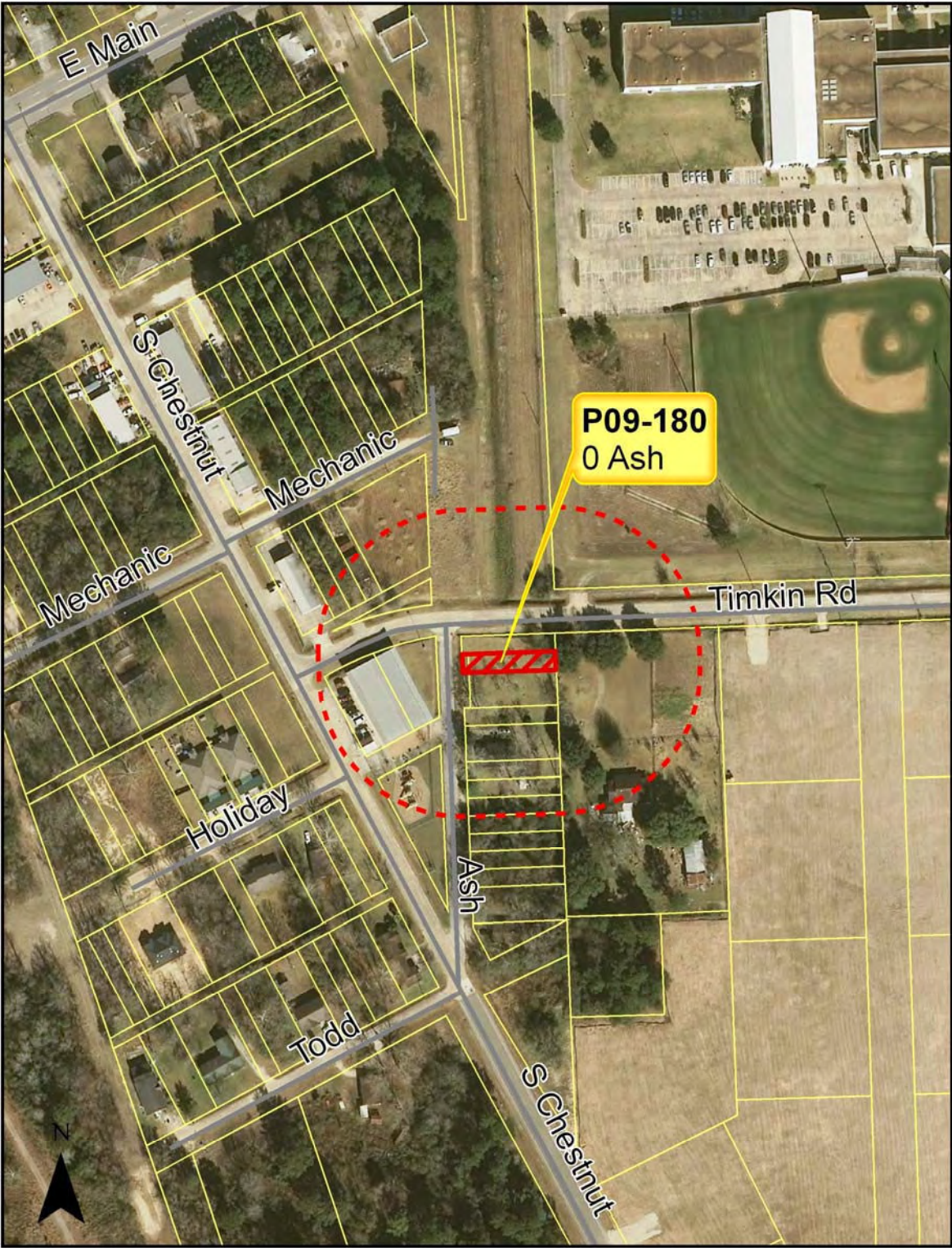


Exhibit "C"
Rezoning Application

Revised 1/20/09



APPLICATION FOR REZONING
Engineering & Planning Department

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

Applicant

Name: Philip O'Sullivan Title: Pres. Rose Land Ventures
Mailing Address: 16014 Birchview City: Tomball State: TX
Zip: 77317
Phone: (832) 6032725 Fax: () Email: RLV@earthlink.net

Owner

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

Engineer/Surveyor (if applicable)

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

Description of Proposed Project: DUPLEX

Physical Location of Property: 409 Ash St Corner Ash & Timmer
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: Block 89 Lot 34 and "Rose 35" (lots 35, 36, 37)
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

Current Zoning District: DUPLEX AND SF6

Current Use of Property: _____

Proposed Zoning District: DUPLEX

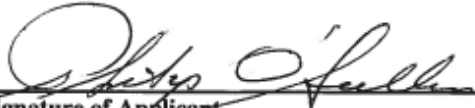
Proposed Use of Property: DUPLEX

HCAD Identification Number: _____ Acreage: _____

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

Lot 35, 36-0352780890035
Lots 34, 36-0352780890034
Lot 37 0352780890037

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

X 

Signature of Applicant Date

X 

Signature of Owner Date

Exhibit "D"
Rezoning Request Letter – Philip O'Sullivan



Philip O'Sullivan
16014 Birchview Drive
Tomball, TX 77377

Ms. Kelly Violette
Tomball City Planner
501 James Street
Tomball, TX 77375

October 22, 2009

Dear Kelly,

A unfortunate survey error has resulted in an encroachment on the adjoining lot 34, block 89 by the duplex that I am building. In order to mitigate this error I have purchased lot 34 and will replat to consolidate lots 34,35,36 and 37 of block 89.

Although lots 35, 36, and 37 are zoned as "Duplex" lot 34 is zoned as "SF6". I am requesting that lot 34 be rezoned as "Duplex" as in order to allow the duplex structure to be completed.

I would like to thank you and all those in the Public Works Department for their help in finding expedient solutions to this problem.

Sincerely,

Philip O'Sullivan
President
Rose Land Ventures LLC

Exhibit "E"
Rezoning Request Letter – Emil Haddad



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

October 30, 2009

Kelly Violette
City Planner/ Community
Development Coordinator
501 James Street
Tomball, Texas 77375

Re: Re- Zoning Lot 34
Dear Ms. Violette,

Our client, Philip O'Sullivan, provided us a copy of his prior survey and BOA Staff Report Case No. P 08-061 and approved letter for Re-Zoning, done on Lots 35, 36 & 37, each in Block 89 of Revised Map of Tomball, and known as 409 Ash Street. Mr. O'Sullivan's prior survey was prepared by Jerry W. Cope, RPLS No. 5370, dated 9/26/06. We found all the called for monumentation at the site as well as additional control to match that shown on said Cope Survey and moved forward with our platting of Lots 35 thru 37 as is represented on the present recorded plat. The tract was platted as Rose 35 and Mr. O'Sullivan moved forward with the approved construction.

Recently we were approached by others stating that there appeared to be a problem with the lot location. We then located control from FM 2920, Main Street Tomball, south to Todd Street and west to South Chestnut Street and discovered that there was a problem with the lot location. The Cope Survey and the recorded plat are off by one lot. What is represented as lot 35 on the recorded plat is actually lot 34, and lot 36 on the plat is actually lot 35 and so forth. The newly constructed building is setting on lot 34 and 35 instead of lot 35 and lot 36 as was planned and approved.

Mr. O'Sullivan now owns lot 34 and we are re-platting the subdivision to include lots 34 thru lot 37 and lot 34 will now need to be re-zoned to include lot 34 which was represented as lot 35 for location on the original plat.

If you have any questions, please contact our office at 281-955-2772.

Sincerely,

Emil Haddad, R.P.L.S.,
Vice President

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

Page 12 of 17

Exhibit "G" Area Survey

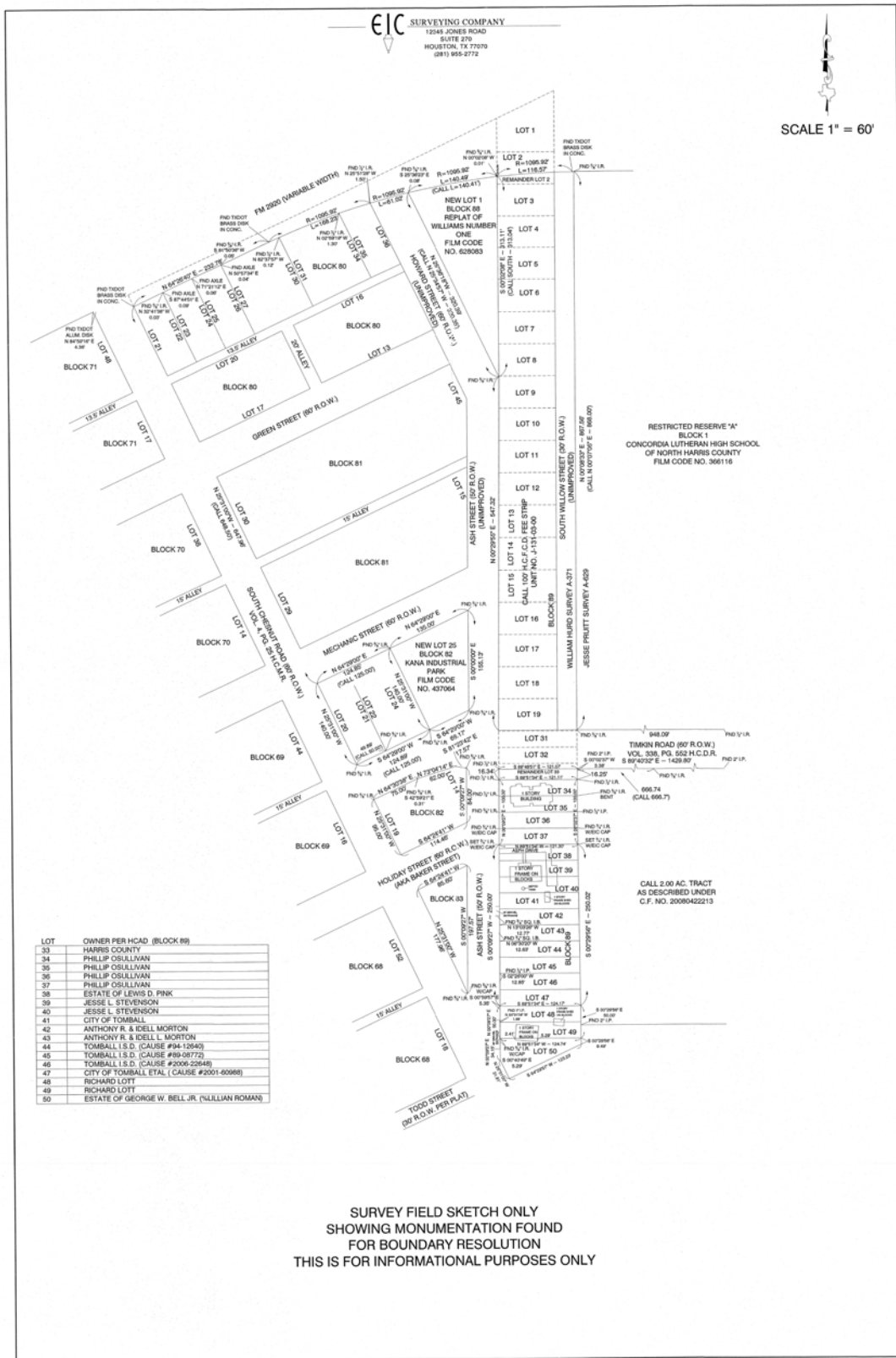
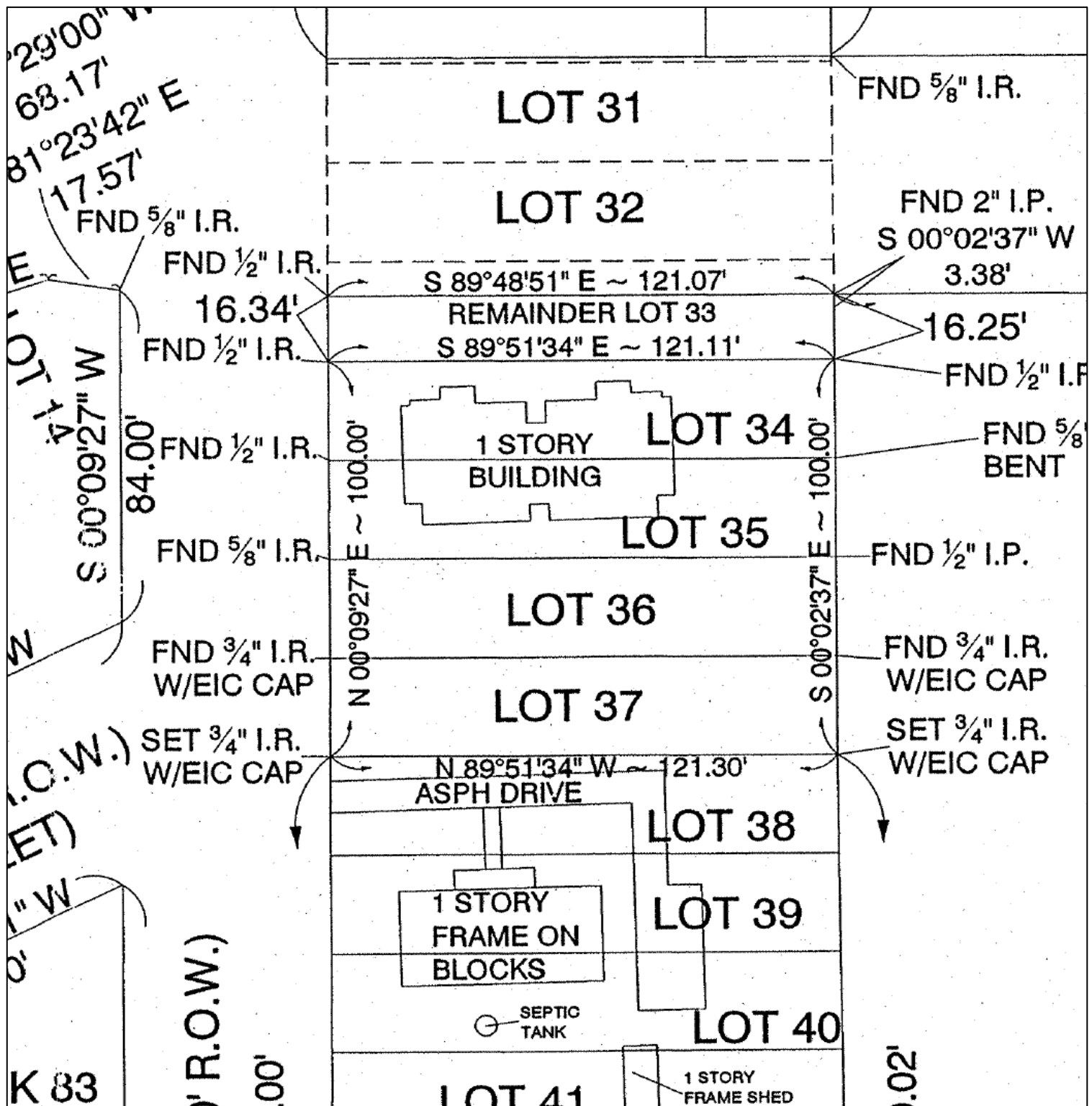


Exhibit “G”
Area Survey (enlarged)



**Exhibit “H”
Site Photos**



Figure 1: Easterly view of subject site.



Figure 2: Northeasterly view of subject site.



Figure 3: Single-family residence to the south of subject site.



Figure 4: MLK Park to the west of subject site.



Figure 5: Southerly view down Ash Street. Subject site to the left; MLK Park to the right.



Figure 6: Duplex development at 310 Holiday Street.

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
DECEMBER 14, 2009
&
CITY COUNCIL
DECEMBER 21, 2009**



Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, December 14, 2009, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, December 21, 2009, at 7:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P09-180: Request by Philip O'Sullivan to amend the Comprehensive Zoning Ordinance to rezone one lot totaling approximately 0.0695 acres of land, legally described as Lot 34, Block 89 of Revised Map of Tomball, as Recorded in Vol. 4, Page 25, of the Map Records of Harris County, within the City of Tomball, TX, generally located on the easterly side of Ash Street, southerly of Timkin Road from the SF-6-Single Family 6 District to the D-Duplex Residential District.

ZONING CASE P09-182: Request by Hal Lynch, on behalf of Tomball Hospital Authority (d/b/a Tomball Regional Hospital), for a Conditional Use Permit to construct a three-story Health Science Center (Lone Star College) at the height of 65 feet, where the maximum height permitted is 42 feet in the GR-General Retail District. The property is an approximately 5.5658 acre site, legally described at Reserve A, Block 1 as shown on the final plat of "Doctors Professional Office Building Subdivision," generally located on the northerly side of Graham Drive, easterly of Holderrieth Boulevard.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning and Zoning Commission serves as a recommendation to the City Council and is not a final action on the request. Should the Planning & Zoning Commission vote to table a decision/recommendation on one or more of the above cases, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a decision/recommendation is forwarded to the City Council by the Planning

and Zoning Commission. The application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Engineering & Planning Department office, located at 501 James Street, Tomball, TX 77375. **Contact City Planner** Kelly Violette, (281) 290-1491, kviolette@ci.tomball.tx.us

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 **10th** day of **December** 2009 by **5:00** p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Brandy Pate

Brandy Pate
Senior Administrative Assistant

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



Notice of Public Hearing

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

CASE NUMBER: P09-180

APPLICANT: Philip O'Sullivan

LOCATION: Easterly side of Ash Street, southerly of Timkin Road

PROPOSAL: Request to amend the Comprehensive Zoning Ordinance to rezone one lot totaling approximately 0.0695 acres of land, legally described as Lot 34, Block 89 of Revised Map of Tomball, as Recorded in Vol. 4, Page 25, of the Map Records of Harris County, within the City of Tomball, TX, from the SF-6-Single Family 6 District to the D-Duplex Residential District.

* * *

CONTACT CITY PLANNER: Kelly Violette

PHONE: (281) 290-1491

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

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

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



**Planning and Zoning Commission
Public Hearing:
Monday, December 14, 2009, 6:00 PM**

**City Council Public Hearing:
*Monday, December 21, 2009, 7:00 PM**

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

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

Regular City Council

Agenda Item

Meeting Date: January 4, 2010

Data Sheet

Topic:

Adopt, on Second Reading, Ordinance No. 2009-35, an Ordinance of the City of Tomball, Texas, amending Its Comprehensive Zoning Ordinance by Granting a Conditional Use Permit to Tomball Hospital Authority (D/B/A Tomball Regional Hospital), to Allow a Sixty-Five (65) Foot Tall Health Science Center in a General Retail District, Where a Maximum Height of Forty-Two (42) Feet is Permitted; Said Tract Being Located within the City in Zoning District GR-General Retail and Being Legally Described as Reserve A, Block 1 as Shown on the Final Plat of "Doctors Professional Office Building Subdivision," Generally Located on the Northerly Side of Graham Drive, Easterly of Holderrieth Boulevard in Tomball, Texas; Providing Requirements and Conditions for this Conditional Use Permit; Containing Findings and other Provisions Relating to the Subject; Providing a Penalty in an Amount not to exceed Two Thousand Dollars for Violations Hereof; and Providing for Severability.

Background:

On November 3, 2009, the City received a Conditional Use Permit (CUP) application from Hal Lynch, on behalf of Tomball Regional Hospital, related to the proposed development of an approximately 60,000-square foot Health Science Center (Lonestar College) on approximately 5.56 acres, generally located on the northerly side of Graham Drive, easterly of Holderrieth Boulevard in the General Retail District.

The CUP request is to exceed the 42-foot height limit outlined in the GR-General Retail District. The proposed development is three stories with a parapet height of 48 feet and an overall building height of 65 feet (mechanical penthouse).

One public comment form was received in opposition to this request prior to the meeting. However, no one spoke in opposition during the public hearing portion of the meeting. The public comment form is attached for reference. The staff report and public notices are attached for review.

On December 14, 2009, the Planning and Zoning Commission voted unanimously to recommend approval of Zoning Case P09-182, as recommended by staff. On December 21, 2009, Council adopted Ordinance No. 2009-35 on first reading.

Origination:

Hal Lynch, on behalf of Tomball Regional Hospital

Recommendation:

Adopt, on Second Reading, Ordinance No. 2009-35, approving Zoning Case P09-182 based on the following: (a) the proposal is consistent with the general purpose and intent of the applicable zoning district regulations and Comprehensive Plan, and (b) the proposal is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.

Funding:

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

City Secretary

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

ATTACHMENTS:

Ordinance No. 2009-35

P09-182 Staff Report

Public Comment_Received 12-14-09

Adjacent Property Owner Notification

Notice of Public Hearings

ORDINANCE NO. 2009-35

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY GRANTING A CONDITIONAL USE PERMIT TO TOMBALL HOSPITAL AUTHORITY (D/B/A TOMBALL REGIONAL HOSPITAL), TO ALLOW A SIXTY-FIVE (65) FOOT TALL HEALTH SCIENCE CENTER IN A GENERAL RETAIL DISTRICT, WHERE A MAXIMUM HEIGHT OF FORTY-TWO (42) FEET IS PERMITTED; SAID TRACT BEING LOCATED WITHIN THE CITY IN ZONING DISTRICT GR-GENERAL RETAIL AND BEING LEGALLY DESCRIBED AS RESERVE A, BLOCK 1 AS SHOWN ON THE FINAL PLAT OF “DOCTORS PROFESSIONAL OFFICE BUILDING SUBDIVISION,” GENERALLY LOCATED ON THE NORTHERLY SIDE OF GRAHAM DRIVE, EASTERLY OF HOLDERRIETH BOULEVARD IN TOMBALL, TEXAS; PROVIDING REQUIREMENTS AND CONDITIONS FOR THIS CONDITIONAL USE PERMIT; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE SUBJECT; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED TWO THOUSAND DOLLARS FOR VIOLATIONS HEREOF; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, Hal Lynch, on behalf of Tomball Hospital Authority (d/b/a Tomball Regional Hospital), (the “Applicant”) has made application for a Conditional Use Permit to allow a sixty-five (65) foot tall Health Science Center in a General Retail District, where a maximum height of forty-two (42) feet is permitted. The property is an approximately 5.5658 acre site, legally described as Reserve A, Block 1 as shown on the final plat of “Doctors Professional Office Building Subdivision,” generally located on the northerly side of Graham Drive, easterly of Holderrieth Boulevard, within the City of Tomball, Harris County, Texas, particularly described in Exhibit “A” attached hereto and made a part hereof for all purposes; and

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

Ordinance No. 2009-35

WHEREAS, the Owner of the Property, through its duly authorized representative, has presented an application to the City for the granting of a Conditional Use Permit to allow a sixty-five (65) foot tall Health Science Center in a General Retail District, where a maximum height of forty-two (42) feet is permitted (the “Conditional Use”); and

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

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

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

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

Section 2. A Conditional Use Permit for a sixty-five (65) foot tall Health Science Center in a General Retail District, to the Tomball Hospital Authority (d/b/a Tomball Regional Hospital) generally located on the northerly side of Graham Drive, easterly of Holderrieth Boulevard in Tomball, TX, subject to the terms and conditions set forth below, is hereby granted to the Owner, including any successor in interest.

Section 3. The Official Zoning District Map of the City shall be revised and amended to show the Conditional Use authorized hereby for the Property as provided in Section 2 hereof, with the

appropriate references thereon to the number and effective date of this Ordinance and a brief description of the nature of the Conditional Use authorized.

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

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

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

- A. Compliance with Application and Site Plan. The granting of the Conditional Use Permit shall be, and is hereby, conditioned upon the Conditional Use being constructed in substantial conformance with the application to the City of Tomball dated November 3, 2009, and as shown on the site plan and building elevations attached hereto as Exhibit "B" and Exhibit "C" made a part hereof for all purposes.

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

Section 8. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or

Ordinance No. 2009-35
Page 4 of 7

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 21ST DAY OF DECEMBER 2009.

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN WEBB	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN DRIVER	<u>AYE</u>

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 4TH DAY OF JANUARY 2010.

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

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

[illegible]

Exhibit "B" Site Plan

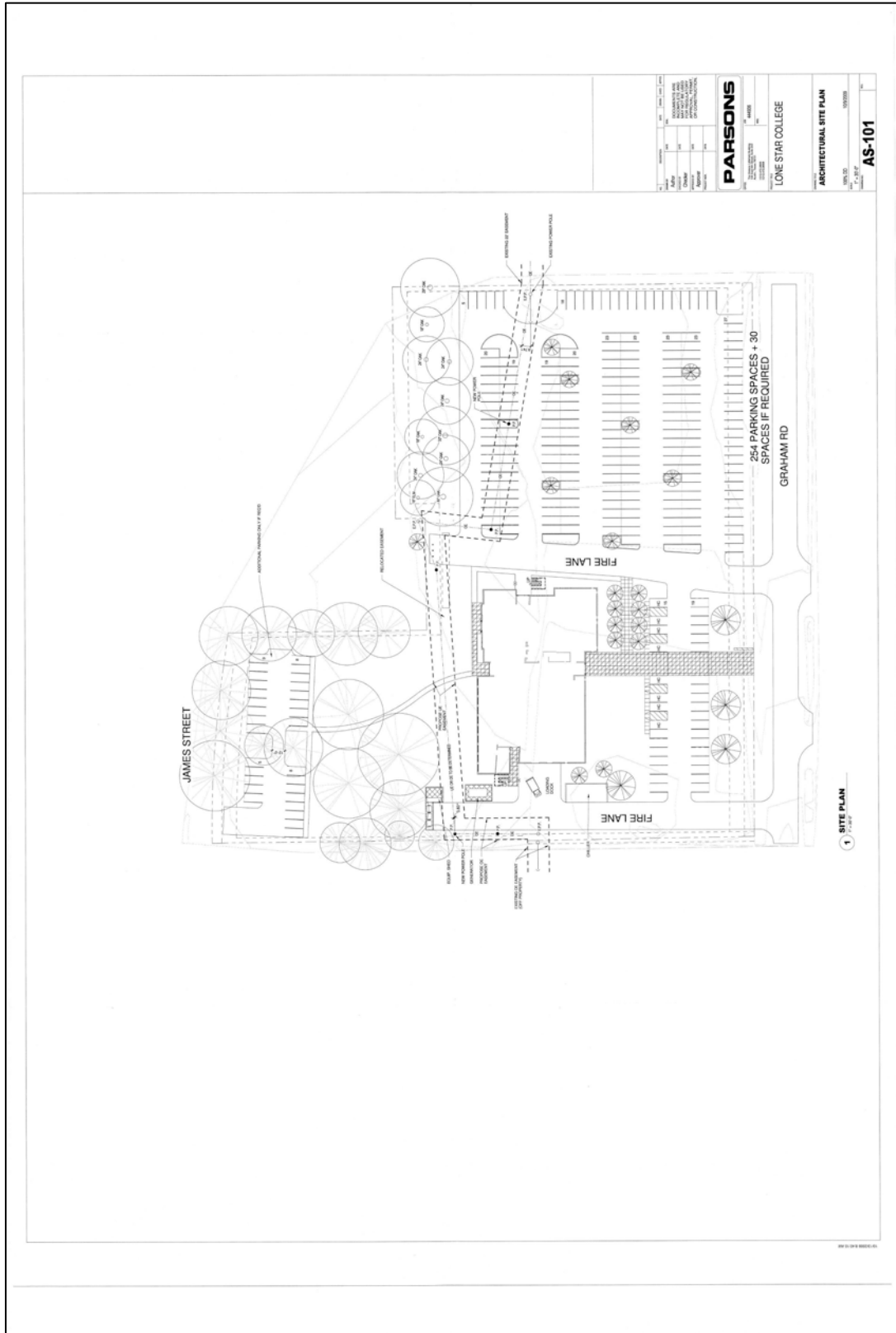
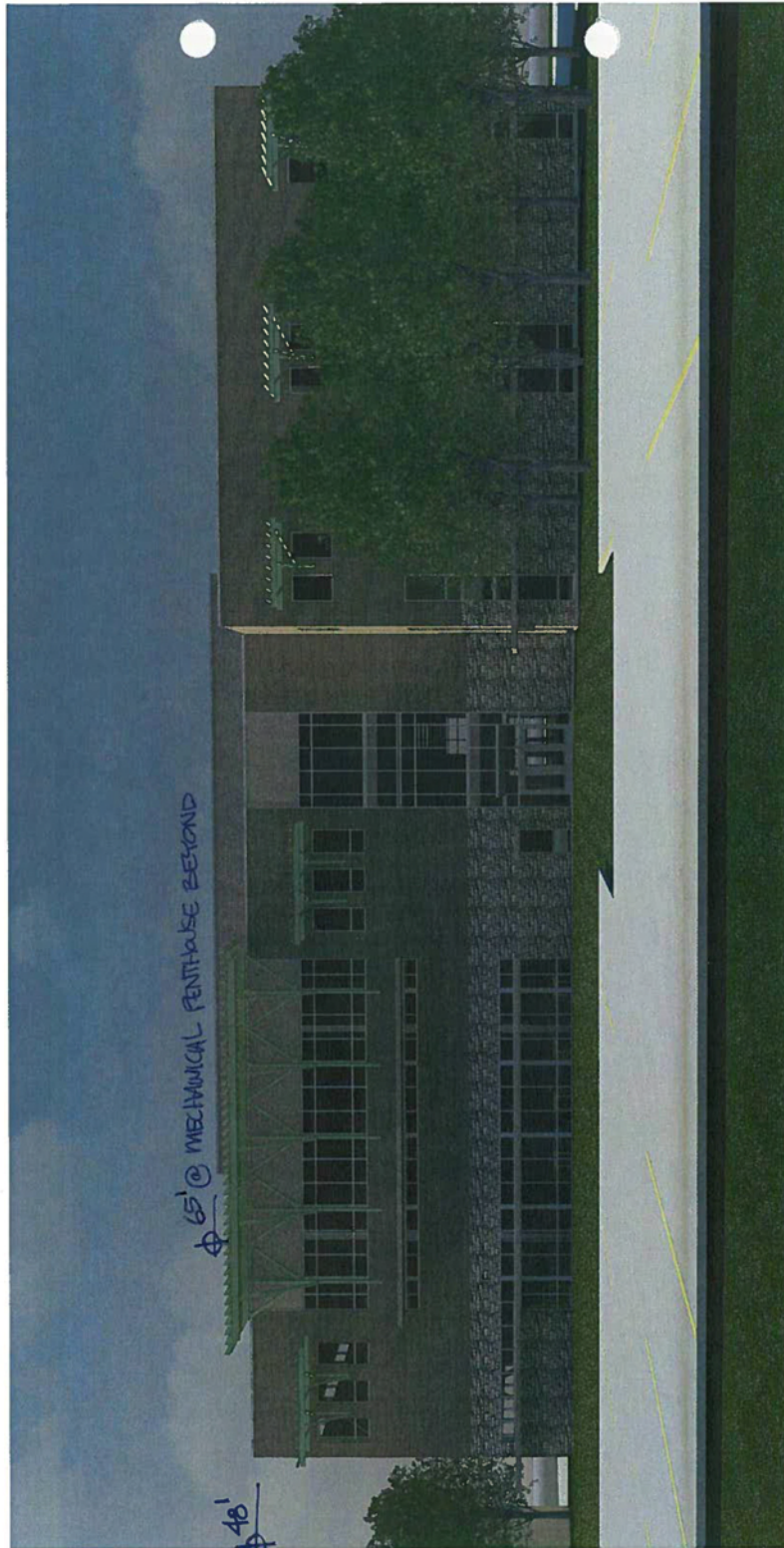
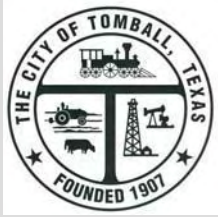


Exhibit "C"
Building Elevation





CUP Staff Report

Planning & Zoning Commission Hearing Date: December 14, 2009

Rezoning Case: P09-182

Property Owner(s): Tomball Hospital Authority (d/b/a Tomball Regional Hospital)

Applicant(s): Hal Lynch

Legal Description: Reserve A, Block 1, Doctors Professional Office Building Subdivision

Location: Generally located on the northerly side of Graham Drive, easterly of Holderrieth Boulevard

Area: 5.5658 acres

Present Zoning and Use: GR – General Retail District / Vacant

Proposed Use: Lone Star College Health Science Center

Request: Conditional Use Permit to construct a three-story Health Science Center (Lone Star College) at the height of 65 feet, where the maximum height permitted is 42 feet in the GR-General Retail District

Adjacent Zoning & Land Uses:

North:	GR and SF-6 Districts / Single-family, multi-family, and duplex residences; Medical offices
South:	GR District / Medical uses and vacant land
East:	GR and SF-6 Districts / Medical uses and single-family residences
West:	GR District / Medical uses

BACKGROUND / PROJECT DESCRIPTION

The subject site is approximately 5.56 acres in size with a lot width of 566.01 feet and a maximum lot depth of 552.84 feet. The property is currently vacant and is located within the GR-General Retail District (Exhibit “A”). The lot is considered a “double frontage” or “through” lot with frontage on both Graham Drive and James Street. However, the majority of the lot fronts onto Graham Drive. There are a mixture of existing land uses in the immediate vicinity including single-family, multi-family, medical uses, and vacant land within the GR and SF-6 Districts.

On August 5, 2009, representatives from Lone Star College-Tomball met with City staff to discuss the proposed development of an approximately 60,000 square foot Health Science Center on the site. The facility was approved under the Lone Star College System’s \$420 million bond proposal in 2008. The facility will provide medical-oriented programs for the Lone Star College

System and will train future medical professionals in pediatric care, nursing, pharmacy operations, and operating room procedures. It will include several lab components, including a nursing lab, simulation lab and surgical technology lab.

On November 3, 2009, the project architect, Mr. Hal Lynch, on behalf of the property owner, Tomball Regional Hospital, submitted a conditional use permit application (Exhibit "C") to the Engineering & Planning Department in order to exceed the 42 foot height limit outlined in the GR-General Retail District. The proposed development is 3-stories with a parapet height of 48 feet and an overall building height of 65 feet (mechanical penthouse).

The applicant has submitted a conceptual site plan and building elevations (Exhibits E & F), which indicate that the health science building will be oriented towards Graham Drive with the majority of the parking located on the easterly portion of the site. The site plan depicts two entrances to the site from Graham Drive and a possible secondary access to a potential 30 space parking lot off James Street (to be developed for future needs as necessary).

As a matter of information, the applicant received a special exception for this project from the Board of Adjustments on November 19, 2009 for a reduction in the on-site parking requirement in order to maintain a significant tree buffer along the northerly property line under BOA case P09-175.

ANALYSIS

The proposed use of the property as a health science facility is consistent with the Zoning Ordinance and the Tomball Comprehensive Plan. The use of the property as a "school- college or university" is permitted by right within the GR District. The Future Land Use Plan Map designates this area as Office/Employment, which encourages campus setting office and employment operations. The Comprehensive Plan recommends that a Medical Campus Specific Area Plan be established in this area in order to promote and protect Tomball's medical industry.

The Employment/Office Planning Guidelines outlined in the Comprehensive Plan indicate that building heights should be evaluated during the review process in relationship to the location, surrounding land uses, and fire suppression. With regard to location and land use, staff notes that the site abuts an existing single story medical office building and a two-story multi-family development on the north, and two-story medical office buildings to the east and west of the site. To the south of the site along Graham Drive is the 10-story Tomball Regional Hospital facility and three-story Triumph Hospital facility. Staff notes that the property does not directly abut any single family residences and that the closest single family residential lot to the northeast of the site would be over 200 feet from the proposed location of the building. As such, staff believes that the location of the project is appropriate given the similar uses and range of building heights in the vicinity.

With regard to fire suppression, the building will be required to comply with the 2006 International Fire Code, which requires an automatic fire sprinkler system for all buildings that are more than 30 feet or three stories in height. The City's Fire Marshall has reviewed the request and does not have any objections to the proposed height.

Height restrictions are generally used to help maintain similar building mass and scale, to preserve viewshed values, and as one of the tools to limit density. Staff observes that none of these purposes of height restrictions would be violated by approving the requested CUP. Based

upon the size of the site, the proposed layout of the building, the significant tree buffer along the northerly property line, and the fact that the site will be oriented towards Graham Drive which is away from residential uses in the area staff suggests that the allowance of the requested 65 foot building height for the Health Science Center will not substantially injure the value of abutting properties, will be compatible with abutting uses and structures and will not alter the overall objectives or purpose of the GR District or Comprehensive Plan.

As a matter of information, the applicant has submitted a letter from the Federal Aviation Administration indicating that the proposed 65 foot tall building would not be a hazard to air navigation (Exhibit “G”).

PUBLIC COMMENTS

Property owners within 200 feet of the project site were notified of this proposal, and, as of the writing of this report, one public comment form was received from the CEO of Tomball Regional Hospital in support of the request.

RECOMMENDATION

That the Planning and Zoning Commission recommend:

1. Approval of Zoning Case P09-182, with conditions, based on the following:
 - a. The proposal is consistent with the general purpose and intent of the applicable zoning district regulations and Comprehensive Plan ;
 - b. The proposal is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.

Recommended Conditions of Approval:

1. If approved, this Conditional Use Permit shall only be used for the construction of a Health Science Center.
2. The height of the structure shall not exceed 65 feet without a revised CUP granted by the City Council.
3. No use authorized by a CUP shall be enlarged, extended or relocated, nor may the number of dwelling units be increased, unless an application is made for approval of a new CUP in Development of the use shall not be carried out until the applicant has secured all the permits and approvals required by these zoning regulations, the City Code of Ordinances, and any permits that may be required by regional, State or Federal agencies accordance with the procedures set forth in this Section and Section 10 of this Ordinance.

EXHIBITS

- A. Location/Zoning Map

- B. Aerial Photo
- C. CUP Application
- D. CUP Request Letter
- E. Conceptual Site Plan
- F. Conceptual Elevations
- G. FAA Determination of No Hazard to Air Navigation
- H. Site Photos
- I. Public Comment Form(s)

Exhibit "A"
Location/Zoning Map

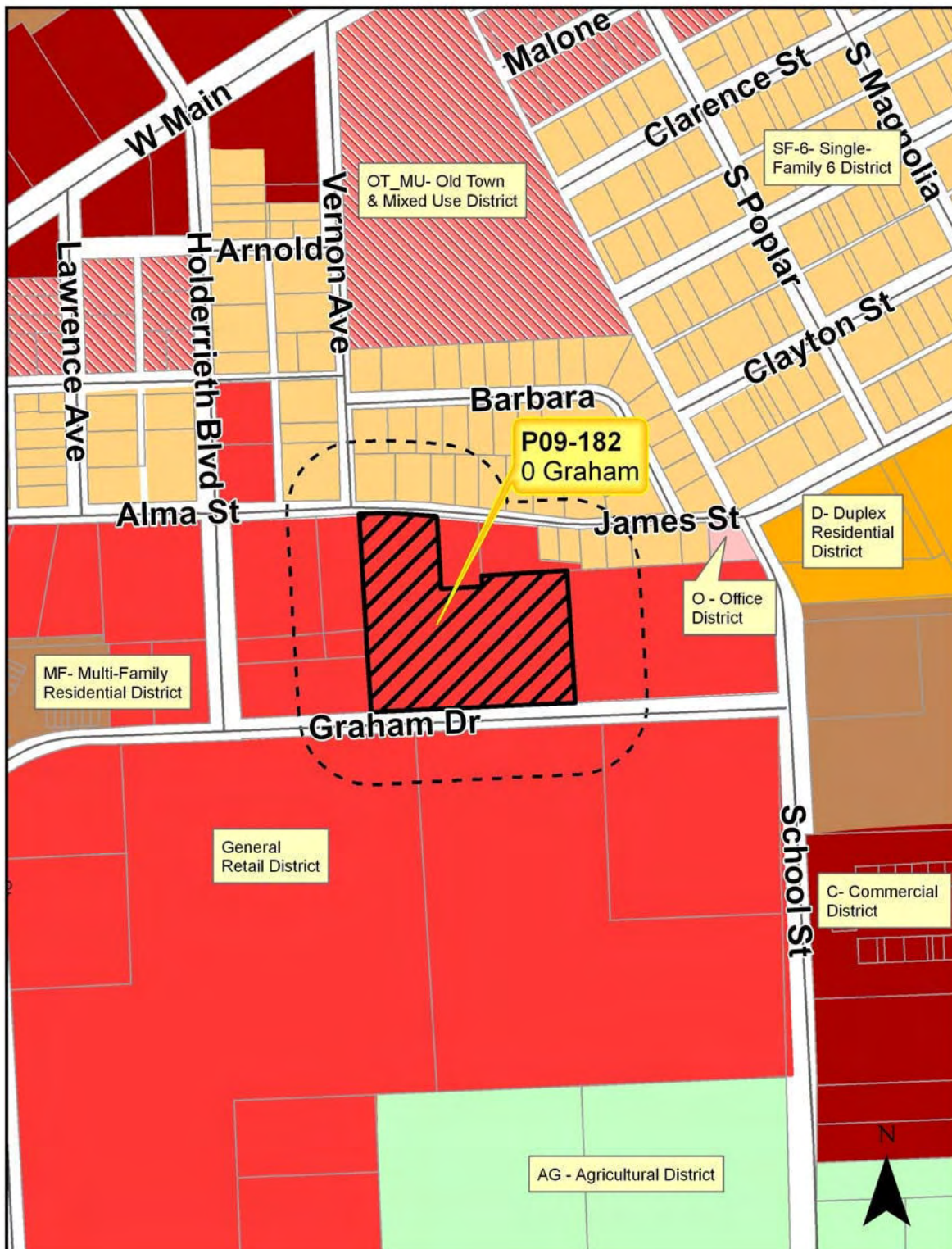


Exhibit "B"
Aerial Photo



Exhibit "C"
CUP Application

Revised 1/20/09



**APPLICATION FOR
CONDITIONAL USE PERMIT**
Engineering & Planning Department

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

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

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

Applicant
Name: HAL E Lynch Title: Senior Architect
Mailing Address: 106 East 6th street, ste 200 City: Austin State: TX
Zip: 78701
Phone: (512) 472-0800 Fax: (512) 472-8668 Email: hal_lynch@parson.com

Owner Tomball Hospital Authority
Name: TBA: Tomball Regional Hospital Title: George Covington
Mailing Address: 605 Holderieth St. City: Tomball State: TX
Zip: 77375
Phone: (281) 401-7875 Fax: (281) 357-2257 Email: gcovington@parsons.com

Engineer/Surveyor (if applicable)

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

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

www.ci.tomball.tx.us

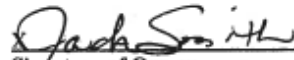
Description of Proposed Project: A new 60k square foot Health Science Building for Lone Star College System.
Physical Location of Property: Between Holcomb and School Streets on North side of Graham
[General Location – approximate distance to nearest existing street corner] & South of James.
Legal Description of Property: See Attached
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]
HCAD Identification Number: 1279580010001 Acreage: 5.3658
Current Use of Property: VACANT LAND
Proposed Use of Property: Lone Star College Health Science Center

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

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


Signature of Applicant

Nov 2, 2009
Date


Signature of Owner

11 / 01 / 09
Date

Exhibit "D"
CUP Request Letter



106 East Sixth Street, Suite 200 • Austin, Texas 78701 • (512) 472-0800 • Fax (512) 472-8668 • www.parsons.com

November 2, 2009

Zoning Board of Adjustments
Engineering and Planning Department
City of Tomball, Texas 77375

RE: Building height variance.

Board members,

We are requesting that a parapet height of **forty-eight feet**, with an overall building height of **sixty-five feet** be allowed for this property. The current project design calls for a parapet height just under forty-five feet with mechanical penthouse to sixty feet. We have submitted the project for approval with the FAA and they have assigned aeronautical study number (ASN): 2009-ASW-5455-OE.

The enforcement of the zoning height restriction would require that the project be built with a larger footprint which in turn would reduce the area available for parking and as required to maintain the existing landscape and heritage oak trees. The building user had expected to utilize the existing outdoor spaces in support of the occupational therapy training program which will be located as part of the college function on site. The existing oak tree groves are currently considered in an optimal location to support both the owner's program and as buffers to the residential, multifamily and commercial uses of the adjacent properties to the north.

We do not feel that granting this variance will prevent the orderly use of other land within the area. The building is located well within property building setbacks and the trees provide a great visual barrier to the areas north of the site. Tomball regional hospital is located across the street to the south of the property and is much taller than our proposed height.

The heritage oak tree groves are a natural feature unique to this site and are worthy of protection. Through the removal of these trees the owner could achieve the same building program with a two story structure of a greater footprint, but the experience of utilizing the current natural outdoor spaces cannot be duplicated. Providing outdoor spaces for students and faculty to enjoy is very much in keeping with the environment the college has created at their main campus.

It is our firm belief that granting a conditional use permit is harmonious with both the spirit and purpose of the zoning ordinance.

Respectfully submitted,

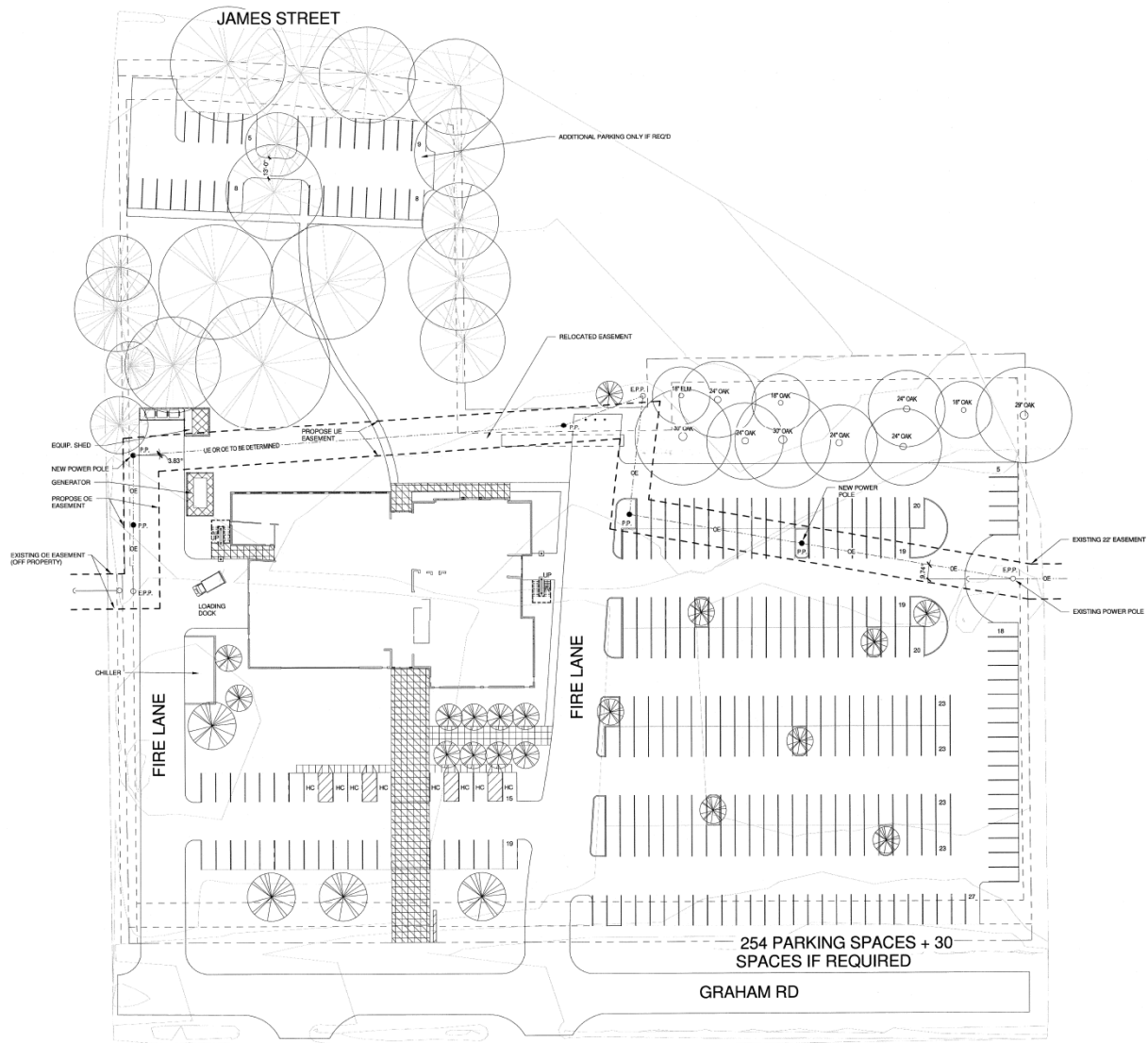
A handwritten signature in blue ink, appearing to read "Hal E. Lynch".

Hal E. Lynch, FA, LEED GA
Senior Architect



Exhibit “E”

Conceptual Site Plan



1 SITE PLAN
1" = 30'-0"

NO.	DESCRIPTION	DAYS	ISSUED	REVISED
ISSUED BY Author	DAYS	NO.		
DESIGNED BY Checker	DAYS	DOCUMENTS ARE INCOMPLETE AND MAY NOT BE USED FOR REGULATORY APPROVAL, PERMIT OR CONSTRUCTION		
APPROVED BY Approver	DAYS			
PROJECT NO.	DAYS			

PARSONS

NOTES: The University of Maryland System 1000 North College Street College Park, Maryland 20742 (301) 405-2000 (301) 405-2000	JOB: 441936 REV:
---	--

PROJECT TITLE

LONG STAR COLLEGE

DRAWING TITLE

ARCHITECTURAL SITE PLAN

100% DD

SCALE

1" = 30' 0"

10/9/2009

DATE/REVISED

REV.

AS-101

Exhibit "F"
Conceptual Elevation

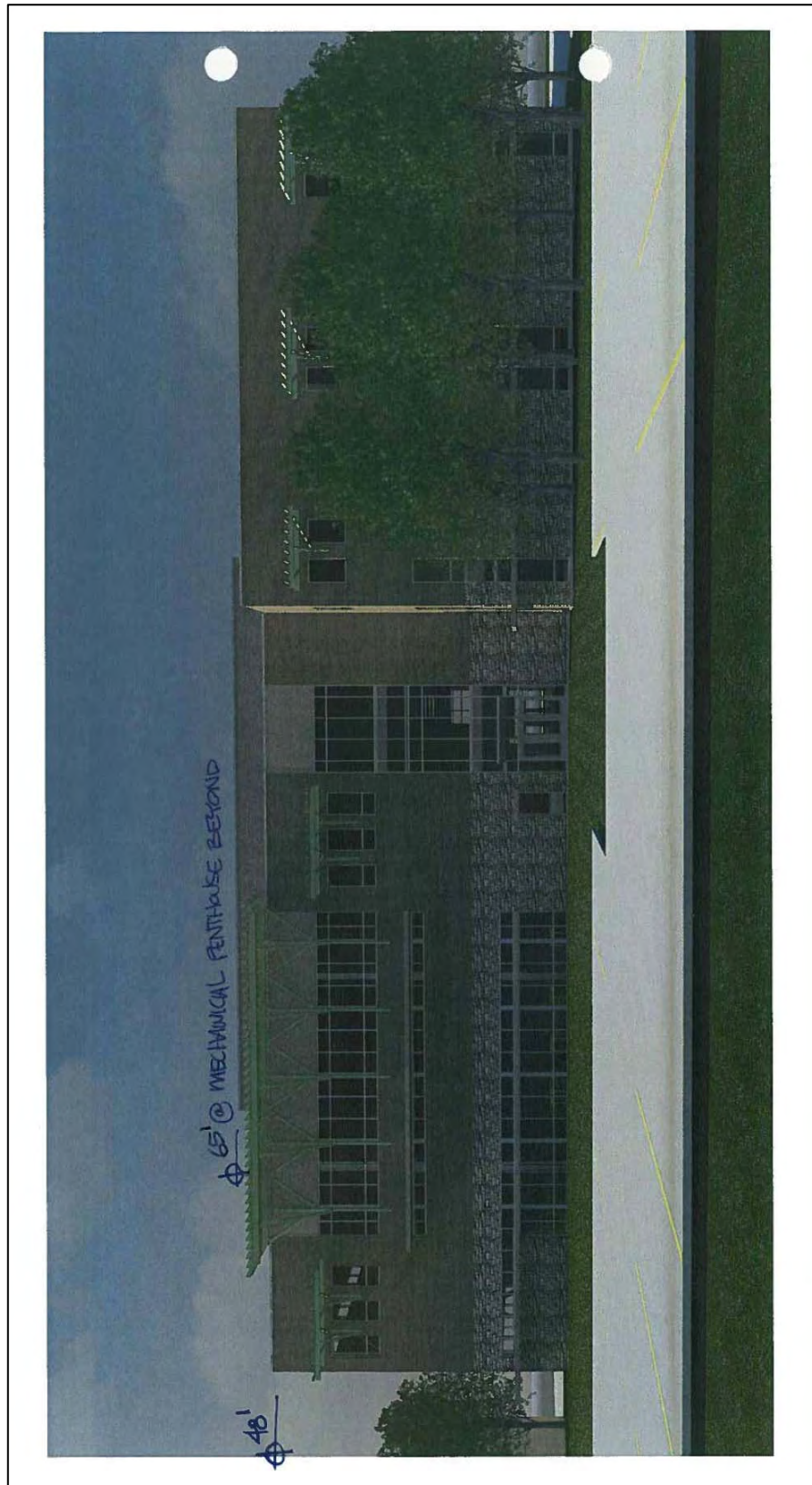


Exhibit "G"
FAA Determination of No Hazard to Air Navigation



Federal Aviation Administration
Air Traffic Airspace Branch, ASW-520
2601 Meacham Blvd.
Fort Worth, TX 76137-0520

Aeronautical Study No.
2009-ASW-5455-OE

Issued Date: 12/03/2009

Hal Lynch
Parsons
106E 6th Street
Austin, TX 78701

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:	Building Lone Star College Health Science Building
Location:	Tomball, TX
Latitude:	30-05-22.00N NAD 83
Longitude:	95-37-15.13W
Heights:	65 feet above ground level (AGL) 247 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking and/or lighting are accomplished on a voluntary basis, we recommend it be installed and maintained in accordance with FAA Advisory circular 70/7460-1 K Change 2.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

If we can be of further assistance, please contact our office at (817) 838-1999. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2009-ASW-5455-OE.

Signature Control No: 664549-120536877
Debbie Cardenas
Technician

(DNE)

**Exhibit “H”
Site Photos**



Figure 1: Northerly view of subject site.



Figure 2: Southerly view of subject site.



Figure 3: Medical office building to the west of subject site.



Figure 4: Asthma and allergy clinic to the west of subject site.



Figure 5: Multi-family residence to the north of subject site.



Figure 6: Medical offices to the north of subject site.



Figure 7: Typical single-family residence along James/Alma Street



Figure 8: Triumph Hospital to the southeast of subject site.



Figure 9: Tomball Medical Plaza to the east of subject site.



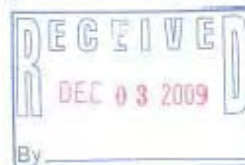
Figure 10: Tomball Regional Hospital to the south of subject site.

Exhibit "I"
Public Comment Form(s)

	Engineering and Planning Department Public Comment Form (Please type or use black ink)
---	--

All submitted forms will become a part of the public record.

Please return to:
City of Tomball
Department of Planning
Attn: Kelly Violette
501 James Street
Tomball, TX 77375



Name: Lynn LeBouef CEO
(please print)
Address: Tomball Regional Hospital
605 Holderness Tomball TX 77375
Signature: [Signature]
Date: 12/4/09

☒

I am **FOR** the requested Conditional Use Permit as explained on the attached public notice for Zoning Case P09-182. (Please state reasons below)

☐

I am **AGAINST** the requested Conditional Use Permit as explained on the attached public notice for Zoning Case P09-182. (Please state reasons below)

Date, Location & Time of Planning & Zoning Commission meeting:

Monday, December 14, 2009, 6:00 PM
City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

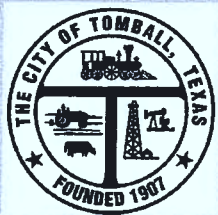
Date, Location & Time of City Council meeting:

Monday, December 21, 2009, 7:00 PM
City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

COMMENTS:

You may also comment via email to kviolette@ci.tomball.tx.us. Please reference the Zoning Case number in the subject line.

For questions regarding this request please call 281-290-1491.



Public Comment Form

(Please type or use black ink)

All submitted forms will become a part of the public record.

Please return to:

City of Tomball
Department of Planning
Attn: Kelly Violette
501 James Street
Tomball, TX 77375

Name:

(please print)

Address:

HARVEY SCHMIDT

730 JAMES ST.

TOMBALL, TX 77375

Signature:

Date:

Harvey Schmidt
10.9.09

I am **FOR** the requested Conditional Use Permit as explained on the attached public notice for **Zoning Case P09-182**. (Please state reasons below)

☒

I am **AGAINST** the requested Conditional Use Permit as explained on the attached public notice for **Zoning Case P09-182**. (Please state reasons below)

Date, Location & Time of **Planning & Zoning Commission** meeting:

Monday, December 14, 2009, 6:00 PM

City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

Date, Location & Time of **City Council** meeting:

Monday, December 21, 2009, 7:00 PM

City Council Chambers of the City of Tomball, City Hall
401 Market Street, Tomball, Texas

COMMENTS:

You may also comment via email to kviolette@ci.tomball.tx.us. Please reference the Zoning Case number in the subject line.

For questions regarding this request please call 281-290-1491.



Notice of Public Hearing

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

CASE NUMBER: P09-182

APPLICANT: Hal Lynch, on behalf of Tomball Hospital Authority (d/b/a Tomball Regional Hospital)

LOCATION: Northerly side of Graham Drive, easterly of Holderrieth Boulevard

PROPOSAL: Request for a Conditional Use Permit to construct a three-story Health Science Center (Lone Star College) at the height of 65 feet, where the maximum height permitted is 42 feet in the GR-General Retail District. The property is an approximately 5.5658 acre site, legally described at Reserve A, Block 1 as shown on the final plat of "Doctors Professional Office Building Subdivision"

* * *

CONTACT CITY PLANNER: Kelly Violette

PHONE: (281) 290-1491

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

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

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



Planning and Zoning Commission

Public Hearing:

Monday, December 14, 2009, 6:00 PM

City Council Public Hearing:

***Monday, December 21, 2009, 7:00 PM**

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

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

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
DECEMBER 14, 2009
&
CITY COUNCIL
DECEMBER 21, 2009**



Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, December 14, 2009, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, December 21, 2009, at 7:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P09-180: Request by Philip O'Sullivan to amend the Comprehensive Zoning Ordinance to rezone one lot totaling approximately 0.0695 acres of land, legally described as Lot 34, Block 89 of Revised Map of Tomball, as Recorded in Vol. 4, Page 25, of the Map Records of Harris County, within the City of Tomball, TX, generally located on the easterly side of Ash Street, southerly of Timkin Road from the SF-6-Single Family 6 District to the D-Duplex Residential District.

ZONING CASE P09-182: Request by Hal Lynch, on behalf of Tomball Hospital Authority (d/b/a Tomball Regional Hospital), for a Conditional Use Permit to construct a three-story Health Science Center (Lone Star College) at the height of 65 feet, where the maximum height permitted is 42 feet in the GR-General Retail District. The property is an approximately 5.5658 acre site, legally described at Reserve A, Block 1 as shown on the final plat of "Doctors Professional Office Building Subdivision," generally located on the northerly side of Graham Drive, easterly of Holderrieth Boulevard.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning and Zoning Commission serves as a recommendation to the City Council and is not a final action on the request. Should the Planning & Zoning Commission vote to table a decision/recommendation on one or more of the above cases, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a decision/recommendation is forwarded to the City Council by the Planning

and Zoning Commission. The application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Engineering & Planning Department office, located at 501 James Street, Tomball, TX 77375. **Contact City Planner** Kelly Violette, (281) 290-1491, kviolette@ci.tomball.tx.us

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the **10th** day of **December** 2009 by **5:00** p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Brandy Pate

Brandy Pate
Senior Administrative Assistant

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

Regular City Council Agenda Item Data Sheet

Meeting Date: January 4, 2010

Topic:

Adopt, on First 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.

Background:

Each year the City amends its adopted budget to provide for uncompleted projects and expenditures from the prior fiscal year. These carryovers typically relate to budgeted capital projects that are in process or that are about to commence or to the purchase of goods and services that had been planned, ordered or contracted for prior to the end of the fiscal year, but were not received or completed by year end. Each department had to project to spend the funds and the funds had to be remaining in the department's budget from fiscal 2009 for the amount to be included in the carryover request. The carryovers included in this Ordinance are primarily from capital projects. Only the funds impacted by the carryover are included in the Exhibits.

Origination:

Randall Parr, Interim Finance Director

Recommendation:

Staff recommends approval

Funding:

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

Randall Parr, Interim Finance Director

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

ATTACHMENTS:

Ordinance 2010-01

General Fund Amendment

Enterprise Fund Amendment

Hotel Tax Fund Amendment

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.

* * * * *

WHEREAS, the City of Tomball fiscal year 2009-2010 Budget was adopted by Ordinance No. 2009-20, with the time and in the manner required by State law; and

WHEREAS, the City Council finds it is necessary to amend the 2009-2010 Budget to provide for the appropriation of funds for certain events, and to allocate and reclassify funds as described in the Exhibits to this Ordinance; and

WHEREAS, the City Council finds that the significance of this matter is a matter of public necessity and a pressing need for the City of Tomball; now, therefore,

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

Section 1. The facts and matters set out above in the recitations are found to be true and correct.

Section 2. The City of Tomball, Texas, Fiscal Year 2009-2010 Budget is hereby amended to provide for the appropriation and reclassification of funds as reflected in the attached Exhibit A. This **Amendment Number 1 to the Original Budget of the City of Tomball, Texas, for the Fiscal Year 2009-2010** shall be attached to and made a part of the Original budget by the City Secretary and filed as required by State law and the City Charter

Section 3. Publication; Effective Date; Open Meetings. The City Secretary of the City of Tomball, Texas, is hereby directed to publish a descriptive caption of this Ordinance in the official newspaper of the City of Tomball, Texas. This Ordinance shall be effective 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 4. **Severability.** In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part of provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 5. **Repeal.** All ordinances or parts of inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

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 4TH DAY OF JANUARY 2010.

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

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE
CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 18TH DAY OF JANUARY 2010.

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

GRETCHEN FAGAN, Mayor

ATTEST:

DORIS SPEER, City Secretary

General Fund
Fiscal Year 2010
Amendment #1

	FY2010 Adopted Budget	1/4/10 Amendment	Total Amended Budget
Revenues:			
Property taxes	\$ 1,439,221	\$	\$ 1,439,221
Sales taxes	6,200,000		6,200,000
Franchise taxes	1,254,540		1,254,540
Permits and licenses	254,650		254,650
Fines and warrants	731,200		731,200
Service fees	2,236,000		2,236,000
Transfers In	2,810,134		2,810,134
Contributions	32,000		32,000
Interest	350,000		350,000
Other	236,400		236,400
Total Revenues	15,544,145		15,544,145
Expenditures:			
City Hall Administration			
City Manager's Office	414,103		414,103
Mayor and Council	79,968		79,968
City Secretary	304,655	13,500 1	318,155
Human Resources	378,423	30,410 2	408,833
Finance	461,450		461,450
Information Systems	226,129	23,800 3	249,929
Legal	153,425		153,425
Non-Departmental	1,893,310		1,893,310
Building Permits and Inspections	352,300		352,300
Police	4,334,262		4,334,262
Fire			-
Fire	994,598	10,445 4	1,005,043
Fire Marshal	174,373		174,373
Emergency Services	14,520		14,520
Municipal Court	347,449		347,449
Public Works Administration			-
Public Works Administration	47,242		47,242
Engineering and Planning	813,516	112,416 5	925,932
Facilities Maintenance	489,478		489,478
Garage	68,366		68,366
Streets	729,769	152,773 6	882,542
Sanitation	2,358,400	126,655 7	2,485,055
Parks	320,261		320,261
Community Center	136,096		136,096
Total Expenditures	15,092,094	469,999	15,562,093
Net Income from Operations	452,051	(469,999)	(17,948)
Other Sources/(Uses):			
Vehicle Replacement	489,034		489,034
Capital Projects/Outlay	724,900	3,067,660 8	3,792,560
Transfers Out			-
Total Other Sources/(Uses)	1,213,934	3,067,660	4,281,594
Revenues Over/(Under) Expenditures	(761,883)	(3,537,659)	(4,299,542)
Beginning Fund Balance	7,100,773		7,100,773
Ending Fund Balance	\$ 6,338,890	(3,537,659)	2,801,231
25% of Operating Expenses - Target	43%		18%

Footnotes:

- 1 - Balance of Recodification
- 2 - Balance of Citywide Training, Medical Testing, and Employee Items
- 3 - Fire Data Software, SQL Upgrade, Exchange 2007 Server, Windows Server 2008
- 4 - CAD Map Update and Integration, Software implementation
- 5 - Balance on contract for Livable Centers Study, Balance on Contract Water Modeling Study, Balance on Comp Plan Contract
- 6 - Balance on Contract for Asphalt Management Program and Maintenance
- 7 - Balance on landfill closure contracts, Garbage Bags
- 8 - Capital Projects - Agg Road, Barbara Street Drainage, Brown-Hufsmith Utilities, Brown Hufsmith Phase 2, Liberty Hicks Drainage, M118 Drainage, M124 Drainage, Mechanic Street, Michel Road Extension, Quinn Road Improvements, Rudolph Road, School Street Sidewalks, Central Fire Station Improvements, Stovall Park, Downtown Revitalization

Enterprise Fund
Income Statement
FY 2010 Adopted Budget

	FY2010 Adopted Budget	1/4/2010 Amendment	Total Amended Budget
Operating Revenues:			
Water sales	\$ 3,000,000		3,000,000
Sewer sales	2,350,000		2,350,000
Gas sales	4,080,000		4,080,000
Tap fees	32,000		32,000
Reconnect fees	34,000		34,000
Interest	214,000		214,000
Other	879,800		879,800
Transfers	-		-
Total Operating Revenues	10,589,800		10,589,800
Expenses:			
Enterprise Administration	268,350	21,828 1	290,179
Utility Billing	267,165	11,782 2	278,949
Water	1,780,846	118,757 3	1,899,606
Wastewater	1,249,230	56,246 4	1,305,480
Gas	2,424,423		2,424,423
Administrative Transfer to General Fund	2,260,134		2,260,134
Total Operating Expenses	8,250,147	208,613	8,458,760
Net Revenue Available for Debt	2,339,653	(208,613)	2,131,040
Debt Service			
Revenue Bonds	836,183		836,183
Certificates of Obligation	948,797		948,797
Fiscal Fees	10,000		10,000
Total Debt Service	1,794,979	-	1,794,979
Non-Operating Revenues (expenses)			
Proceeds from debt	-		-
Vehicle replacement	121,510		121,510
Capital outlay	2,007,100	2,132,705 5	4,139,810
Short Term Financing	-		-
Total Non-Operating Revenue	2,128,610	2,132,705	4,261,320
Net Income (Excluding Depr.)	(1,583,937)	(2,341,318)	(3,925,260)
Beginning Fund Balance	6,814,204		6,814,204
Ending Fund Balance	\$ 5,230,267	(2,341,318)	2,888,944
Fund Balance as % of Operating Costs	64.2%		35.0%
Debt Coverage on Revenue Debt	280%		255%
Debt Coverage on Total Debt	131.1%		119.4%

Footnotes:

- 1 - Balance on the Comp Plan Contract
- 2 - Badger Meter Equipment ordered in August but not invoiced until October
- 3 - Pine Street Well Repairs
- 4 - Control Panel at the NWWTP
- 5 - Capital Projects - Brown-Hufsmith Road Utilities, Hufsmith Sanitary Sewer, Hufsmith Water and Gas Improvements, Neal Road Utilities, Quinn Road Improvements, Rudolph Road, Tomball Hills Lift Station, Water Well #5

Hotel Occupancy Tax Fund
Fiscal Year 2010
Amendment #1

	FY 2010 Adopted Budget	1/4/2010 Amendment	Total Amended Budget
Revenues:			
Occupancy tax	\$ 220,000		220,000
Skating Rink		95,685 1	95,686
Interest	3,000		3,000
Miscellaneous income	-		-
Total	223,000	95,685	318,686
Expenditures:			
Personnel services	8,000		8,000
Greater Tomball Chamber	35,000		35,000
Spring Creek Historical	-		-
The Regional Arts Council	-		-
Tomball Community Chorus	-		-
Chaparral Genealogical	-		-
Tomball Sister City	15,000		15,000
Second Saturday Events	30,000		30,000
Grants	30,000		30,000
Skating Rink Expenses		90,350 2	90,352
Other	20,000		20,000
Total	138,000	90,350	228,350
Revenues Over (Under)			
Expenditures	85,000	5,335	90,336
Beginning Fund Balance	238,429		238,429
Ending Fund Balance	\$ 323,429	5,335	328,765

Footnotes:

1 - Expected Revenues from the Holiday Ice Rink based on the budget presented at the Council Meeting on March 16th, 2009

2 - Expenses for the Holiday Ice Rink based on the budget presented on March 16th, 2009

Regular City Council

Agenda Item

Data Sheet

Meeting Date: January 4, 2010

Topic:

Approve Resolution No. 2010-01, Ordering a Regular City Officer's Election to be Held on the 8th day of May, 2010; Designating the Polling Places and Appointing Election Officials for such Election; Directing the Giving of Notice of Such Election; and Providing Details Relating to the Holding of such Election.

Background:

Resolution No. 2010-01 orders the Regular City Officer's Election, which will be held on Saturday, May 8, 2010 for Mayor and Council Position 3.

The first day to file an Application for Place on Ballot is Monday, February 8; the last day to file an Application for Place on Ballot is Monday, March 8, at 5:00 p.m.

The Resolution also designates the polling places, appoints the election officers, authorizes the use of the eSlate Voting System, and authorizes two 12-hour days of early voting on Tuesday, April 27, and Tuesday, May 4, 2010. In line with Harris County's recent increases in pay for election workers, a proposed increase of \$1.00 per hour has been included in the Resolution to allow the City to remain competitive with Harris County in keeping our election workers. The total additional expense will be between \$250 and \$400 depending on whether or not a runoff election is required.

The 2009 City general and runoff elections cost \$14,055.13. Additional expenses may be incurred due to new translation requirements, training requirements, increased costs in the contract with Harris County Elections Division, the rising costs of advertising, or a required run-off election. The amount budgeted for elections for FY 2010 is \$21,805, which originally included funds for a November bond election; the approved funding will be sufficient to cover any additional charges.

Origination:

City Secretary

Recommendation:

Approve Resolution No. 2010-01

Funding:

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

City Secretary

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

ATTACHMENTS:

Resolution No. 2010-01

RESOLUTION NO. 2010-01

**A RESOLUTION OF THE CITY OF TOMBALL, TEXAS,
ORDERING A REGULAR CITY OFFICER'S ELECTION TO BE
HELD ON THE 8TH DAY OF MAY, 2010; DESIGNATING THE
POLLING PLACES AND APPOINTING ELECTION OFFICIALS
FOR SUCH ELECTION; DIRECTING THE GIVING OF NOTICE
OF SUCH ELECTION; AND PROVIDING DETAILS RELATING
TO THE HOLDING OF SUCH ELECTION.**

* * * * *

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

Section 1: It is hereby ordered that a Regular Election be held in the City of Tomball on the second Saturday in May, the 8th day of May, 2010, at which election the following officers shall be elected by the qualified voters of the City:

POSITION

MAYOR
COUNCIL POSITION 3.

Section 2: The present boundaries of the City constituting one election precinct, the polls shall be open for voting from seven o'clock (7:00) a.m. until seven o'clock (7:00) p.m. at the following polling place, and the following are hereby appointed officers to conduct the election at said polling place:

POLLING PLACE

Tomball City Hall
401 Market Street
Tomball, Texas 77375

ELECTION OFFICERS

Mary Coats, Presiding Judge
Patsy Kinsey, Alternate Presiding Judge.

The City Secretary is hereby authorized and directed to provide a copy of the RESOLUTION to the judges as written notice of their appointment as required by Section 32.009 of the Texas Election Code.

The Presiding Judge shall have the authority to appoint no more than seven (7) clerks to assist in the holding of such election, but in no event shall the Presiding Judge

appoint less than two clerks. Said election officers shall also serve as the Early Voting Ballot Board for such election; the Presiding Judge of such election precinct shall also serve as the Presiding Officer of the Early Voting Ballot Board.

The Election Judge shall be compensated at an hourly rate of \$11.00; early voting clerks and election clerks shall be compensated at an hourly rate of \$10.00 as provided by Title 3, Section 32.091(a) of the State Election Code. The Election Judge shall be compensated in the amount of \$25 for the delivery of election equipment and supplies as provided by Title 3, Section 32.091(a) of the State Election Code, if such delivery is necessary. The City will pay for any required training of the City's election judges and clerks. Judges and clerks will also be reimbursed for travel and will be paid at the set hourly rates for training time.

Section 3: The City Secretary is hereby appointed the Elections Clerk for early voting; the appointment of a deputy clerk or clerks for early voting by the City Secretary shall be in accordance with Section 83.001 *et seq.* of the Texas Election Code. The place for early voting for such election is hereby designated as:

City Hall
City of Tomball, Texas
401 Market Street
Tomball, Texas 77375.

Said clerks shall keep said office open during the hours that the City Hall is regularly open for business, that is, from seven forty-five o'clock (7:45) a.m. until five o'clock (5:00) p.m. on Monday, Wednesday, and Thursday, from seven forty-five o'clock (7:45) a.m. until seven forty-five o'clock (7:45) p.m. on Tuesday, and from seven forty-five o'clock (7:45) a.m. until four o'clock (4:00) p.m. on Friday, on each day for early voting which is not a Saturday, a Sunday, or an official state holiday, beginning on the twelfth (12th) day and continuing through the fourth (4th) day preceding the date of such election. As required under Section 85.005 (d), Election Code, early voting by personal appearance at the main early voting polling place shall be conducted for at least 12 hours on two weekdays, if the early voting period consists of six or more weekdays; therefore, early voting by personal appearance shall be conducted for 12 hours on Tuesday, April 27, 2010 and Tuesday, May 4, 2010.

Said clerks shall not permit anyone to vote early by personal appearance on any day which is not a regular working day for the clerk's office, and under no circumstances shall they permit anyone to vote early by personal appearance at any time when such office is not open to the public. The above-described place for early voting is also the clerk's mailing address to which ballot applications and ballots voted by mail may be sent. The early voting clerk, in accordance with the provisions of the Texas Election Code, shall maintain a roster listing each person who votes early by personal appearance and each person to whom a ballot to be voted by mail is sent. The roster shall be maintained in a form approved by the Secretary of State.

Section 4: All ballots shall be prepared in accordance with Texas Election Code. Optical Scan ballots shall be used for early voting by mail and the eSlate Direct Recording Electronic (DRE) Voting System shall be used for early voting by personal appearance and voting on Election Day, both of which are part of the eSlate DRE Voting System. The City Council hereby adopts for use in early and election day voting the eSlate Direct Recording Electronic (DRE) Voting System as approved by the Secretary of State. All expenditures necessary for the conduct of the election, the purchase of materials therefore, and the employment of all election officials is hereby authorized.

Section 5: The City Secretary is hereby authorized and directed to furnish all necessary election supplies to conduct such election.

Section 6: Notice of this election shall be given in accordance with the provisions of the Texas Election Code and returns of such notice shall be made as provided for in said Code. The Mayor shall issue all necessary orders and writs for such election, and returns of such election shall be made to the City Secretary after the closing of the polls.

Section 7: Said election shall be held in accordance with Texas Election Code and the Federal Voting Rights Act of 1965, as amended.

PASSED, APPROVED and RESOLVED this ____ day of January, 2010.

GRETCHEN FAGAN, Mayor
City of Tomball

ATTEST:

DORIS SPEER, City Secretary
City of Tomball

Regular City Council Agenda Item Data Sheet

Meeting Date: January 4, 2010

Topic:

Approve Proposed Revisions to the City of Tomball Boards, Commissions, and Committees Handbook

Background:

On June 1, 1998, the City Council approved the City of Tomball Boards, Commission, and Committees Handbook. The handbook has remained basically the same, with the application being replaced each year and changes made to the Tomball Hospital Authority page following passage of Ordinance 2000-03.

On Tuesday, January 26, 2010, the City will host a Boards and Commissions Reception at the Community Center, inviting any citizen interested in serving on one of the City's boards, commissions, or committees to visit with City staff and current board members. The reception will provide an opportunity for interested individuals to see which board would best suit their education and skills.

As part of the reception, we will provide application forms and a copy of the updated handbook to interested citizens. The handbook has been reviewed by the Engineering and Planning Department, the City Attorney, and the City Secretary's office; suggested additions are in red font and suggested deletions have been struck through. Chapter VI includes Ordinance No. 93-06, in which Council adopted the Code of Ethics for City officers and employees; should a new ordinance be adopted replacing 93-06, Chapter VI will be replaced in the handbook.

Origination:

City Secretary's Office

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:

Draft Board and Commission Handbook_Proposed Revisions

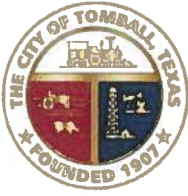
The City of Tomball, Texas



Boards, Commissions, and Committees Handbook

Draft

Proposed Revisions 12/28/09



City of Tomball

**Gretchen Fagan
Mayor**

Dear Citizen:

I would like to thank you on behalf of the citizens of Tomball for your willingness to serve the City as an appointed member of a Board, Commission, or Committee. Your commitment of time and talent is a very important contribution to our community.

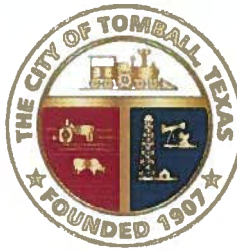
The work performed by citizens serving on boards, commissions and committees is a vital part of our city government. Board, commission and committee members assist the City Council in setting and implementing public policy and in communicating that policy to the community as a whole.

In recognition of the important civic commitment members of boards, commissions and committees have made, we have prepared this orientation handbook for those who have been recently appointed and those who are interested in possible service in an effort to assist appointed members in performing their duties.

It is our hope that your service to the City of Tomball will be both rewarding and fulfilling. Again, thank you for your willingness to serve.

Sincerely,

Gretchen Fagan
Mayor



CITY OF TOMBALL

2010

APPLICATION FOR CITY BOARDS/COMMISSIONS/COMMITTEES

As an Applicant for a City Board, Commission, or Committee, your application will be available to the public. You will be contacted before any action is taken on your appointment to confirm your continued interest in serving. All appointments are made by the Tomball City Council. Incumbents whose terms expire are automatically considered for reappointment unless they indicate non-interest or have been appointed to two (2) consecutive terms. A member who is absent for more than 25% of called meetings (**typically, three meetings**) in any twelve consecutive months or absent from more than **two three** consecutive meetings, for other than medical reasons, will be automatically removed from service. Applicant must be a citizen of the United States and must reside within the city limits of Tomball unless otherwise stated in the position announcement. Applications for 2010 will expire on December 31, 2010; a new application will be required in 2011.

Please Type of Print Clearly:

Date: _____

Name: _____

Phone: _____

(Home)

Address: _____

Phone: _____

(Work)

Email: _____

I have lived in Tomball ____ years.

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

Occupation: _____

Professional and/or Community Activities: _____

Additional Pertinent Information/References: _____

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

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

Decision-Making Boards and Commissions

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

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

() Tomball Hospital Board

Fourth Wednesday each month, 4 p.m.

**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**

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CHAPTER I

DEFINITIONS

Boards, Commissions, and Committees Defined. The City of Tomball City Council depends on the input from residents serving on Boards, Commissions and Committees. Tomball **may have** five kinds of Boards, Commissions and Committees, **including**:

Advisory Boards, Commissions, and Committees
Decision-making Boards
Separate Legal Entities
Standing Committees
Sunset Committees.

Advisory Boards, Commissions and Committees Defined. These Boards, Commissions and Committees advise the City Council, City Manager and City staff. They play a key role in keeping the City government close to the people it serves and provide ideas, feedback, and suggestions and may serve as a sounding board for proposed policy. These Boards, Commissions and Committees **currently (or may)** include:

Capital Improvement Plan Advisory Committee.



Capital Improvement Plan Advisory Board Committee



Purpose: To regularly review and update the Capital Improvements Program (CIP) in accordance with the requirements of Vernon's ~~Annotated Civil Statutes, Art. 1269j-4.11~~ [V.T.C.A., **Texas** Local Government Code §395.001 et seq.], and its successors **Chapter 395**.

Duties: At least annually review, analyze and interpret the CIP with the City Manager, Director of ~~Public Works~~ **Engineering and Planning**, and **Planning and Zoning** Commission. Recommend changes indicated by sound planning principals and financial constraints.

Time Commitments: Typically, one to two times annually, approximately 1½ to 2 hours per meeting.

Members: Membership is composed of the members of the Planning **and Zoning** Commission plus a resident of the City of Tomball's extraterritorial jurisdiction (ETJ) for a total of 6 members appointed by City Council.

Term: ~~Three (3) year terms, expiring June 1. Terms are overlapped, creating vacancies every year.~~ **This is an ad hoc committee, called as needed to review the CIP; terms expire when the board is no longer active.**

Meetings: Usually held at 6:00 p.m. on the second Monday in the month. The Chair of the Planning and Zoning Commission chairs the meetings. Separate minutes of the meeting are taken and **recorded kept**.

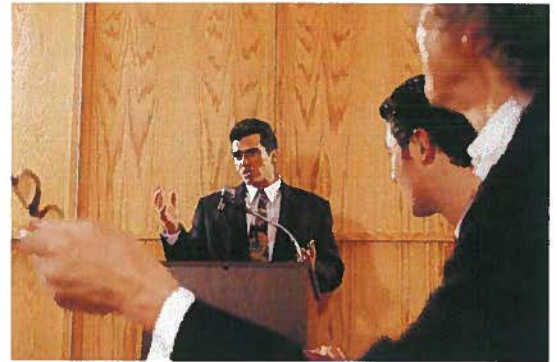
Decision-making Boards and Commissions Defined. These are legislative and/or ‘quasi-judicial’ bodies which are empowered by State law to make decisions affecting City policy relating to the public health, safety or welfare. These Boards and Commissions are “governing bodies” under the Texas Open Meetings Act and are thus required to comply in all respects with the Act. These Boards and Commissions include:

Board of Adjustments ~~and Appeals~~
Impact Fee Advisory Committee
Planning ~~and Zoning~~ Commission
Building Standards ~~Board~~ Commission.

Board of Adjustments

Purpose: To hear appeals of decisions by the City Council and interpretations of the Building Official and consider variances of the technical codes. To consider variances and special exceptions to the terms of the Zoning Ordinance and to hear and decide appeals of decisions and interpretations made by an administrative official in the enforcement of the Zoning Ordinance.

Duties: The duties of the Building Code Board of Adjustments ~~and Appeals~~ shall be to:



1. ~~To hear appeals of decisions and interpretations of the Building Official and consider variances of the technical codes whenever any one of the following conditions is claimed to exist:—~~
 - ~~* the Building Official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure or service system;~~
 - ~~* the provisions of the Southern Building Code and/or the Code of Ordinances of the City of Tomball do not apply to this specific case;~~
 - ~~* that an equally good or more desirable form of installation can be employed in any specific case; and~~
 - ~~* the true intent and meaning of the Southern Building Code and/or the Code of Ordinances of the City of Tomball or any of the regulations thereunder have been misconstrued or incorrectly interpreted.~~
2. To vary the application of any provision of the Southern Building Code and/or the Code of Ordinances of the City of Tomball, including the Zoning Ordinance, to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this or the technical codes or public interest, and also finds all of the following:

- * ~~that special conditions and circumstances exist which are peculiar to the building, structure or service system involved and which are not applicable to others;~~
- * ~~that the special conditions and circumstances do not result from the action or inaction of the applicant;~~
- * ~~that granting the variance requested will not confer on the applicant any special privilege that is denied by the Southern Building Code and/or the Code of Ordinances of the City of Tomball to other buildings, structures or service systems;~~
- * ~~that the variance granted is the minimum variance that will make possible the reasonable use of the building, structure or service system; and that the grant of the variance will be in harmony with the general intent and purpose of the Southern Building Code and/or the Code of Ordinances of the City of Tomball and will not be detrimental to the public health, safety and general welfare.~~

~~In granting a variance, the Board may prescribe a reasonable time limit within which the action for which the variance is required shall be commenced or completed or both. In addition, the Board may prescribe appropriate conditions and safeguards in conformity with the Southern Building Code and/or the Code of Ordinances of the City of Tomball. Violation of the conditions of a variance shall be deemed a violation of the Southern Building and/or the Code of Ordinances of the City of Tomball.~~

1. To hear and decide cases under the City's Zoning Ordinance, including appeals that allege error in an order, requirement, decision or determination made by an administrative official in the enforcement of the Zoning Ordinance;
2. To hear and decide special exceptions when the Zoning ordinance requires the Board to do so; and
3. To authorize, in specific cases, a variance ~~or special exception~~ from the terms of the Zoning Ordinance if the variance is not contrary to the public interest and if, due to special conditions, a literal enforcement of the Zoning Ordinance would result in unnecessary hardship, and so that the spirit of the Zoning Ordinance is observed and substantial justice is done. In order to grant a variance, the Board of Adjustments must make findings that an undue hardship exists, using the following criteria:
 - a. That literal enforcement of the controls will create an unnecessary hardship or practical difficulty in the development of the affected property.
 - b. That the situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district.
 - c. That the relief sought will not injure the permitted use of adjacent conforming property.
 - d. That the granting of a variance will be in harmony with the spirit and purpose of these regulations.
 - e. Financial hardship alone is not an "undue hardship" if the property can be used, meeting the requirements of the zoning district it is located in.

In granting a variance, the Board may impose such conditions, limitations and safeguards as it deems appropriate to protect adjacent property owners and to ensure the public health, safety, convenience and general welfare.

4. Make interpretations on zoning district boundaries shown on the Zoning Map where uncertainty exists because physical features on the ground differ from those on the Zoning Map or where the “Zoning District Boundaries” rules do not apply or are ambiguous.

Limitations on Authority:

1. The Board of Adjustments may not grant a variance authorizing a use other than those permitted in the district for which the variance is sought, except as specifically provided for in the Zoning Ordinance.
2. The Board of Adjustments shall have no power to grant or modify Conditional Use Provisions.
3. The Board of Adjustments shall have no power to grant a zoning amendment. In the event that a request for a zoning amendment is pending before the Planning and Zoning Commission or the City Council, the Board shall neither hear nor grant any variances with respect to the subject property until final disposition of the zoning amendment by the Commission and the City Council.
4. The Board of Adjustments shall not grant a variance for any parcel of property or portion thereof upon which a required site plan or any plat is pending on the agenda of the Planning and Zoning Commission and/or the City Council. All administrative and procedural remedies available to the applicant shall have been exhausted prior to hearing by the Board of Adjustments.

~~**Time Commitments:** As needed, in the evening, usually requiring 1 to 2 hours. Additional meetings may be required to accommodate particular circumstances.~~

Time Commitments: As needed. Typically every 30-60 days, usually requiring 1 to 2 hours.

~~**Members:** The City Council appoints 7 members. Such Board members should be residents of the City of Tomball and should be individuals with knowledge and experience in the technical codes, such as design professionals, contractors or building industry representatives. In addition to the regular members, there should be two alternate members, one member at large from the building industry and one member at large from the public. A Board member shall not act in a case in which he has a personal or financial interest.~~

Members: The City Council appoints five (5) regular members and up to four (4) alternate members to serve in the absence of one or more of the regular Board members on an alternating basis. Such Board members shall be residents of the City of Tomball. Knowledge of and experience in technical review, design or the development industry is helpful. The members of the Board (and alternate members, as needed) shall regularly attend meetings and public hearings of the Board, shall serve without compensation, and shall not hold any other office or position with the City while serving on the Board. A Board member shall not act in a case in which he has a personal or financial interest.

~~**Term:** Three (3) year terms. The terms of office of the Board members shall be staggered so no more than 1/3 of the Board is appointed or replaced in any 12-month period. The two alternates, if~~

~~appointed, shall serve one-year terms.~~ Two (2) year terms. The terms of office of the Board members shall be staggered so no more than one-half (½) of the Board is appointed or replaced in any 12-month period. The four (4) alternates, if appointed, shall serve two-year terms. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. Continued absence of any member from required meetings of the Board shall, at the discretion of the City Council, render any such member subject to immediate removal from office.

Meetings: ~~As needed, in the evening, at 6:00 p.m. in City Hall.~~ As needed, typically every 30-60 days. The Board shall conduct regular biannual meetings in May and November. All regular meetings shall begin at 6:00 p.m. and shall be held at Tomball City Hall unless otherwise posted in accordance with state law.

Planning and Zoning Commission

Purpose: To review, advise and make recommendations to the City Council on matters relating to City and extraterritorial jurisdiction (ETJ) planning and development.

Duties: The Planning and Zoning Commission shall:

1. Serve as an advisory body and adjunct to the City Council and shall make recommendations regarding amendments to the Master or Comprehensive Plan, changes of zoning, zoning ordinance amendments, and zoning to be given to newly annexed areas, and other planning related matters for the physical development of the City.
2. Recommend to the Council the approval or disapproval of ~~Approve or disapprove~~ plats of proposed subdivisions submitted in accordance with City ordinances 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. Conduct an annual review of the City's Comprehensive Plan and make recommendations to the City Council as deemed necessary to keep the City's Comprehensive Plan current with changing conditions and trends and with the planning needs of the City.
5. Serve in an advisory capacity on any planning related item(s) in the City and perform other duties as provided for by the City Charter.
6. Serve as the Building Standards Commission.
7. 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.
8. 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.
9. The Commission shall have all the rights, powers, privileges and authority authorized and granted by the City Council and through the Statutes of the State of Texas authorizing and granting cities the power of zoning and subdivision regulation as found in Chapters 211 and 212 of the Texas Local Government Code, as amended from time to time.
10. Operate under the guidelines of the powers granted by the Civil Statutes of the State of Texas.



11. All meetings of the Planning and Zoning Commission must comply with the Texas Open Meetings Act, Chapter 551, Texas Government Code.

Time Commitments: Once per month, in the evening, if needed, usually requiring 1 to 2 hours. Additional meetings may be required infrequently to accommodate particular circumstances.

Members: The City Council appoints 5 members. Members must be residents of the City of Tomball, real property owners, and not employees of the City. Members also perform duties as the City's Building Standards ~~Board~~ **Commission** and the **Capital Improvement Plan Impact Fee Advisory Board Committee**.

Term: ~~All appointments~~ **ees** to the Commission shall serve as a member of the Commission for a term of office of ~~three (3) years~~ **Three (3) year terms**, expiring June 1 of each year. Terms overlap, creating at least one vacancy each year. **Members may be reappointed with no limitation on the number of terms one member may serve.**

Meetings: Usually every second Monday of the month at 6:00 p.m. ~~in City Hall~~ **at Tomball City Hall.**

Building Standards Board Commission

Purpose: ~~To administer due process as it relates to substandard buildings in the City of Tomball.~~
To administer due process in matters concerning alleged violations of ordinances related to substandard buildings or structures in the City of Tomball.

Duties: The duties of the Building Standards Board shall be:



- ~~* To consider and determine appeals whenever it is claimed that the true intent and meaning of this Code Model Codes (building codes adopted and enforced by the City of Tomball) or any of its regulations have been misconstrued or wrongly interpreted.~~
- ~~* To permit, in appropriate cases where the application of the requirement of this Code the Model Codes in the allowance of the stated time for the performance of any action required hereunder would appear to cause undue hardship on an owner, one or more extensions of time, not to exceed 120 days each, from the date of such decision of the Board. Applications for additional extensions of time shall be heard by the Board. Such requests for additional extensions of time shall be filed with the Building Inspector not less than 30 days prior to the expiration of the current extension. An appeal should not be considered where an appeal case has been previously decided involving the same premises.~~
- 1. To order the repair, within a fixed period, of buildings found to be in violation of an ordinance.
- 2. To declare a building substandard in accordance with the powers granted by Chapter 54 of the Local Government Code.
- 3. To order, in an appropriate case, the immediate removal of persons or property found on private property, enter on private property to secure the removal of persons or property if it is determined that conditions exist on the property that constitute a violation of an ordinance, and order action to be taken as necessary to remedy, alleviate, or remove any substandard building or structure found to exist.
- 4. To issue orders or directives to any peace officer of the State, including a sheriff or constable or the Police Chief, to enforce and carry out the lawful orders or directives of the Commission.
- 5. To determine the amount and duration of a civil penalty the City may recover in an amount permitted by State law.

Time Commitments: ~~Once per month, in the evening, if needed, usually requiring 1 to 2 hours.~~
Additional meetings may be required infrequently to accommodate particular circumstances. As needed. Typically one to two times annually, in the evening, usually requiring 1 to 2 hours. Additional meetings may be required infrequently to accommodate particular circumstances.

Members: The City Council appoints 5 members. Members must be residents of the City of Tomball, real property owners, and not employees of the City. ~~Members also perform duties as the City's Planning and Zoning Commission and the Capital Improvement Plan Impact Fee Advisory Board Committee.~~ The Planning and Zoning Commission members serve as the members of the Building Standards Commission, along with the City's Building Official and the City's Fire Marshall as ex officio members.

Term: All appointments to the Commission shall serve as a member of the Commission for a term of office of three (3) years, ~~Three (3) year terms~~ expiring June 1 of each year. Terms overlap, creating at least one vacancy each year. ~~Members may be reappointed with no limitation on the number of terms one member may serve.~~

Meetings: ~~Called on a case-by-case basis; usually every second Monday of the month at 6:00 p.m. in City Hall~~ typically one to two times annually, generally in conjunction with a Planning and Zoning Commission meeting.

Separate Legal Entities Defined. These are boards that are recognized by the State as separate legal entities with their own Articles of Incorporation and By-Laws and are registered with the office of the Secretary of State and, in the case of the Hospital Board, are created by an act of the State Legislature and recognized as a separate governmental entity. These Boards include:

The Tomball Economic Development Corporation Board of Directors
The Tomball Regional Hospital Board of Directors.

Tomball Economic Development Corporation



Purpose: To promote economic development in the City of Tomball and to promote or develop municipal infrastructure related to the development or expansion of business enterprise.

Duties: Directors shall exercise ordinary business judgment in managing the affairs of the Corporation. In acting in their official capacity as Directors of the Corporation, Directors shall act in good faith and take actions they reasonably believe to be in the best interests of the Corporation or which would be lawful and shall refrain from actions not in the best interest of the Corporation or which would be unlawful. A Director shall not be liable if, in the exercise of ordinary care, the Director acts in good faith relying on written financial and legal statements provided by an accountant or attorney retained by the Corporation.

Time Commitment: The time commitment varies somewhat, based on projects being undertaken. Normally, 8 to 9 meetings annually, typically Wednesday mornings, in meetings of 2 to 3 hours' duration. Some outside reading and study will be required.

Members: Seven (7) members are appointed by the City Council. Each Director must reside within the City of Tomball. The Mayor and members of the Tomball City Council who are not members of the Corporation shall be ex-officio directors of the Corporation. The Mayor and the City Council of Tomball may appoint up to three individuals who meet the special qualifications as outlined in Section 3.09, to serve as ex-officio directors of the Corporation. Ex-officio directors shall be given notice of all meetings of the Board, may participate in discussions at Board meetings, but shall not be entitled to vote on matters considered by the Board.

Term: Two (2) year terms, which may be staggered, if so provided for by the Governing Body (the City of Tomball). Currently, terms are staggered.

Meetings: Usually Wednesday at 9:00 a.m. in City Hall, averaging 8 to 9 times annually. Meetings are usually 2 to 3 hours in duration. One annual meeting during the month of February is required. Other meetings are called at the discretion of the Board.

Tomball Regional Hospital Authority

Purpose: To act as the governing body of the Tomball Regional Hospital, a Hospital Authority chartered by the State of Texas.

Duties: To oversee the plans, organization, operation and services of the Hospital and its affiliate organizations.



Time Commitment: Regular meetings, approximately 4 hours, per month. One mandatory training class of approximately 2 days' duration, once annually. There may also be periodically called committee meetings.

Members: Eleven (11) members, five (5) of which are appointed by City Council; the other six (6) are appointed by the Hospital Board. The Council-appointed members must reside within the City of Tomball.

Term: Two (2) year terms. Positions 1, 3 and 5 expire in the same year; Positions 2 and 4 expire in the same year. (Ord. 2000-03).

Meetings: The third Wednesday of each month beginning at approximately 4:00 p.m. at Tomball Regional Hospital, averaging 4 hours' duration. The Hospital Board is also organized into oversight committees which may also meet periodically.

Standing Committees Defined. Currently, the City of Tomball does not have any Standing Committees. These are permanent advisory committees, in most cases reporting to the City Council and sometimes to the City Manager. Examples of Standing Committees in other cities are insurance advisory committees and oil and gas advisory committees.

Sunset Committees Defined. Sunset Committees are temporarily appointed advisory committees that terminate upon completion of their specific task. Example:

The Comprehensive Plan Advisory Committee (CPAC).

There have been other Sunset Committees, such as the Charter Review Commission, the Zoning Commission, and the Oil and Gas Advisory Committee.

CHAPTER II

BOARD, COMMISSION, AND COMMITTEE APPOINTMENT PROCESS

Application Process. Citizens interested in serving on a board, commission, committee or separate legal entity can obtain an application from the City Secretary's office at City Hall or from the City's website, www.ci.tomball.tx.us. The completed application can be submitted directly to the Mayor or returned to the City Secretary's office. Applications are valid for one year and a new application must be submitted each January.

Appointment Process. The City of Tomball City Council makes appointments to City of Tomball Boards, Commissions, Committees, and separate legal entities. The City Council considers applications to these boards during regular City Council meetings.

Notice of Appointment. After the City Council appoints a person to serve as a member of a Board, Commission, Committee or separate legal entity, the City Secretary will notify the appointee in writing of the appointment.

Eligibility and Qualifications. The Tomball City Council seeks the best-qualified persons to serve on Boards, Commissions and Committees. The qualifications required to serve on a particular Board, Commission or Committee are determined by City of Tomball Home Rule Charter, Ordinance, or by the State law which established the Board, Commission, or Committee.

Appointments to Boards, Commissions, Committees or separate legal entities that do have eligibility requirements must be made in accordance with the governing City Home Rule Charter, City Ordinance or State statutes. Board, Commission or Committee members must continue to meet the eligibility requirements during the entire time they serve. If a member cannot continue to maintain the necessary requirements he/she shall resign his/her position.

Nepotism. Section 6.05 of the Home Rule Charter provides that 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 within the second-degree of affinity (by marriage) or within the third-degree by consanguinity (by blood) to the person so appoint or so voting, or related to any other member of the governing body or board of the City.

Oath of Office. Upon appointment, an oath of office is administered to all members of Boards, Commissions, and Committees. The oath of office can be administered by the City Secretary or designee or a City-employed Notary Public for the State of Texas.

Open Meetings Act Training. Upon appointment, each new board member is required to complete the Open Meetings Act Training as required by the State of Texas Attorney General within ninety (90) days of his/her appointment and provide a certificate of completion to the City Secretary for the City's records.

CHAPTER III

MEETINGS

Role of the Chair. The function of the Chair is to provide leadership for the group. The Chair is selected by other board members in a method agreeable to all board members. There are certain duties and responsibilities which must be performed.

The Chair can ensure the smooth operation of the board, commission or committee. The Chair must be strong enough to make certain that the meeting is run by the rules, but democratic enough to use the power and authority of the position wisely. The Chair's ability to handle meetings will have a significant impact on operation and effectiveness.

The Chair must make certain that discussions do not get sidetracked on minor issues and must have the ability to remain focused on the agenda.

The Role of Other Offices. The Vice-Chair will serve as Chair in the absence of the Chair. Other officers and duties shall be determined by the respective board, commission, or committee.

The Agenda. The agenda should always be prepared prior to the meeting and copies given to all Board, Commission, or Committee members. Extra copies of the agenda should be available for the public.

The agenda is prepared by the department head or staff person assigned to the Board, Commission or Committee. ~~Although certain~~ **Certain** Boards, Commissions and Committees are required by the state, in the Open Meetings Act, to post the agenda publicly, at least 72 hours prior to the meeting and it is a City of Tomball practice that all boards, commissions and committees follow these procedures.

Parliamentary Procedures. Meetings of Boards, Commissions and Committees are generally conducted under standard parliamentary rules adopted by that body.

Public Hearings. These hearings are open forums that allow the public an opportunity to express their opinions on a specific issue. Public Hearings are generally conducted in the following manner:

- * The Chairman of the Board, Commission or Committee formally opens the public hearing.
- * The applicant's presentation of his request.
- * Proponents (those in favor) of a measure speak first.
- * Opponents (those against) speak second.

After hearing all who wish to comment on the issue, the proponents are allowed to give a rebuttal and summarize their position, and then the Chair formally closes the Public Hearing.

Members of the Board, Commission or Committee may ask questions at any time of the witness, if recognized by the Chair. Members are encouraged to ask questions even after the hearing is closed.

After the Public Hearing is closed, members of the public may speak ONLY when recognized by the Chair.

A time limit for individual speakers may be set by the Board, Commission or Committee for purposes of order and equity before the Public Hearing begins.

Signing the Minutes for the Meeting. The minutes of Boards, Commissions and Committees MUST be signed by the Chair and the Secretary once the minutes are approved by a majority vote of the members of the Board, Commission or Committee.

Meeting Attendance. Every Board, Commission or Committee member is expected to maintain a suitable attendance record. It is important to keep in mind that attendance is very important to the Board, Commission or Committee. Because attendance is important, the City Council has adopted an attendance policy of no more than three (3) consecutive absences without an excuse for regular board, commission or committee members. The Chair of the Board, Commission or Committee can excuse a member's absence.

The term "meetings" includes all meetings of the board and all meetings of the board's subcommittees on which the member serves. The Secretary of the Board, Commission or Committee is responsible for keeping track of the members' attendance. If a member does not follow the attendance policy set for the board, commission or committee, the member can be removed from service by a vote of the City Council.

Working with City Staff. Each Board, Commission, or Committee member is encouraged to work closely with City staff and with the appropriate department staff assigned to that Board, Commission or Committee. City staff is assigned to provide general assistance, such as preparation of agenda materials and general review of department programs and activities, and to perform limited studies and other services.

Reporting to the City Council. The Council is dependent on each Board, Commission or Committee to make recommendations to City projects. It is through the Boards, Commissions and Committees that the City Council can receive community input. All Boards, Commissions and Committees are encouraged to communicate the position of the body to the City Council and, from time-to-time, may want to visit informally with a Council member.

There will be occasions when City staff will be required to prepare an agenda item for City Council review. In preparation of such a report the staff member should present both the staff position and Board, Commission or Committee's position. The position of a member not voting in the majority on an item should also be presented in the staff report if indicated by the member.

It is the desire of the City Council to have an opportunity to hear and consider all sides of an issue and alternative recommendations to assist in their decision-making process.

CHAPTER IV

RESPONSIBILITIES OF THE MEMBERS OF BOARDS, COMMISSIONS AND COMMITTEES

General. It is an honor to be selected as a City Board, Committee, or Committee member and it provides an unusual opportunity for genuine public service. Although specific duties of each body vary widely, there are certain responsibilities that are common to all members. The following is a summary of those responsibilities

1. Members should understand the role and scope of their responsibilities and should be informed of the individual board, commission or committee's purpose and of its operating procedures.
2. Members should be careful to represent the majority views of their individual board, commission or committee. Individual "opinions" to the public and press should be identified as such.
3. Members should represent the public interest and not special-interest groups.
4. Good communication is essential - members are in a position to serve as liaison between the City and its citizens and can help to reconcile opposing viewpoints and to build a consensus around common goals and objectives. Members serve as a communication link between the community, staff, and City, presenting recommendations and providing a channel for citizen expression.
5. Members are encouraged to ~~do their homework~~ review their agenda packets, contact City staff with questions, and be thorough in their recommendations; if possible, members should personally view situations under consideration prior to the meeting in order to be fully prepared to discuss, evaluate, and act on all matters scheduled for consideration. Conclusions based on preparedness will strengthen the value of the group's recommendations.
6. Members are encouraged to establish a good working relationship within the group; respect individual viewpoints; allow other members time to present their views fully before making comments; be open and honest; welcome new members.
7. Council appointments to boards, commissions or committees are made without regard to political party affiliation. Members are not restricted from participating in political activities; however, members should not use or involve their membership in the conduct of political activities.

Open Meetings Act. Texas Law requires that every meeting of the City Council be open to the public. The law also requires all Boards and Commissions, other than Advisory Boards, Commissions, and Committees, to follow this as well. However, In Tomball, all Boards, Commissions and Committees follow the procedures for open meetings.

- * A Posted Notice is required of a meeting. Written notice of the date, hour, place and subject of each meeting must be posted on a public bulletin board, located at a place convenient to the public for at least 72 hours preceding the scheduled time of the meeting. Only those matters posted can be discussed and acted on by the governmental body.
- * Minutes are required to be prepared or a tape recording made of each open meeting. Minutes must state the subject of each deliberation and indicate each vote, order, decision or other action taken.
- * Closed Meetings. The Texas Open Meetings Act, does allow for closed or executive meetings on a few limited subjects. Generally, Boards, Commissions or Committees will not have occasion or legal basis to meet in closed or executive session. Closed meetings are allowed to discuss pending litigation, certain personnel matters, and the lease or acquisition of land. However, before a closed meeting can be held, a quorum of the governmental body must convene in an open meeting and the presiding officer publicly announce that a closed meeting will be held and identify the sections of the Open Meeting Act authorizing the closed meeting. No final action, decision, or vote can be made in a closed meeting. All final actions, decisions, and votes must be made in open meetings. Further, the governmental body is required to keep a certified agenda of the matters discussed in the closed meeting and a record of any further action taken. The presiding officer must include an announcement at the beginning and end of the closed meeting indicating the time and place, and must certify that the agenda is a true and correct record of the proceedings. **Blank certified agenda forms for use by presiding officers are available in the City Secretary's office.** In lieu of maintaining a certified agenda, a tape recording of the closed meeting may be made.
- * Penalties. A fine of not less than \$100 nor more than \$500 or imprisonment in the county jail for not less than one month nor more than six months, or both fine and imprisonment, can be imposed for violating the provisions of the Open Meetings Act or conspiring to circumvent the provisions of the Open Meetings Act by meeting in numbers less than a quorum for the purposes of secret deliberations.

Open Records Act. Texas law also requires that virtually all information held by a governmental body must fall under the rules of the Texas Open Records Act. If a request for information is received by a Board, Commission or Committee, the City Secretary should be notified for the proper procedure.

CHAPTER V

LEGAL LIABILITY

Personal Liability. Board, commission or committee members cannot be held personally liable for erroneous acts while honestly exercising the functions of their offices in good faith. The only time a member can be held personally liable is when they act outside the scope of their office and in bad faith. When members of City Boards, Commissions or Committees are acting in good faith and within the bounds allowed by the City, state and federal law, the City will provide a defense for such members to the greatest extent permissible. However, if a Board, Commission or Committee member acts fraudulently, maliciously, or in violation of a criminal law while serving in his/her official capacity, the City generally will not provide that member a defense.

Board Liability. A city, its officers, and members of boards, commissions or committees as a governmental entity, must treat all individuals or groups in the same manner unless there is a compelling governmental interest to treat someone or some group differently. Therefore, the City Attorney should be consulted concerning whether or not an individual or group can be treated differently. If an officer or board, commission or committee member illegally discriminates against an individual or group, that individual or group can seek damages from the City and **from** the individual officer for a violation of rights under the state and federal civil rights statutes.

The above discussion is by no means intended to be a comprehensive and complete discussion of legal liabilities to which the City or Board, Commission or Committee member may be subjected.

Board, Commission or Committee members are strongly encouraged to consult with the City Attorney anytime they feel their actions while serving on such Board, Commission or Committee may have some legal consequences. The law in this area is quite complex and requires a thorough analysis of the law and facts pertaining to each particular situation.



CHAPTER VI
CODE OF ETHICS OF
THE CITY OF TOMBALL, TEXAS

ORDINANCE NO. 93-06

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING THE CODE OF ORDINANCES BY ADDING A NEW ARTICLE III, DIVISION 4, TO CHAPTER 2 OF THE CODE TO ESTABLISH A CODE OF ETHICS FOR CITY OFFICERS AND EMPLOYEES; CONTAINING DEFINITIONS; PROVIDING A PENALTY IN AN AMOUNT OF \$500 PER OFFENSE, OR AS PROVIDED BY STATE LAW; DIRECTING PUBLICATION OF THE CAPTION OF THIS ORDINANCE; FINDING THAT THE MEETINGS AT WHICH THIS ORDINANCE IS CONSIDERED ARE OPEN TO THE PUBLIC; PROVIDING FOR SEVERABILITY AND THE REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING OTHER DETAILS RELATING TO THE PASSAGE OF THIS ORDINANCE.

* * * * *

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

Section 1.0. That Chapter 2 of the Code of Ordinances of the City of Tomball, Texas, is hereby amended by adding a new Article III, Division 4, which provides as follows, and which shall be renumbered to conform to the numbering system of such Code:

“CODE OF ETHICS OF
THE CITY OF TOMBALL, TEXAS”

1.0. Declaration of Policy.

It is hereby determined by the City Council of the City of Tomball, Texas, that the proper operation of government requires that public officers and employees be independent and impartial; that the government's decisions and policies be made within the proper channels of the governmental structure; that a public office not be used for personal gain; and that the public have confidence in the integrity of its government and its governmental officials.

The purpose of this Code is to enumerate existing state laws which regulate the conduct and activities of City officers and employees, and to promulgate such additional minimum standards as are deemed necessary and appropriate to assure the faithful and impartial administration of the City's government.

2.0. Definitions.

For the purposes of this Code of Ethics the following words, terms, and phrases shall have the meanings ascribed thereto:

- 2.01. **City Employee.** Any person employed by the City, including those individuals employed on a part-time basis.
- 2.02. **City Officer.** The Mayor, members of the City Council, the City Manager, City Secretary, Municipal Court Judge and Clerk, Alternate Judges, and Substitute Judges, and each member and alternate member of all of the City Boards, Commissions, and Committees.
- 2.03. **City Official.** A City officer or City employee.

3.0. Ethical Principals.

The following Code of Ethics for all City officers and employees is adopted. To further the objectives of this Code of Ethics, certain ethical principles shall govern the conduct of every officer or employee, who shall:

- 1. Be dedicated to the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and confidence of the citizens of Tomball;
- 2. Recognize that the chief function of local government at all times is to serve the best interests of all of the people;
- 3. Be dedicated to public service by being cooperative and constructive, and by making the best and most efficient use of available resources;
- 4. Refrain from any activity or action that may hinder one's ability to be objective and impartial on any matter coming before the Council or the City. Do not seek or accept gifts or special favors; believe that personal gain by use of confidential information or by misuse of public funds or time is dishonest;
- 5. Recognize that public and political policy decisions, based on established values, are ultimately the responsibility of the City and City Council; and
- 6. Conduct business in open, duly noticed meetings in order to be directly accountable to the citizens of Tomball. It is recognized that certain exceptions are made by the State for executive sessions; however, any action as a result of that type of meeting will be handled later in open session.

4.0. Standards of Conduct.

In order to more fully effectuate the policy declared in this Code of Ethics, to assure that all City officials act and conduct themselves both inside and outside the City's service so as to give no occasion for distrust of their integrity, and to avoid even the appearance of impropriety by any City official, the following standards of conduct are adopted.

4.01. Grant of Special Consideration.

No City official shall grant any special consideration, treatment, or advantage to any citizen, individual, business organization, or group beyond that which is normally available to every other citizen, individual, business organization, or group. This shall not prevent special considerations authorized and granted by the City Council for the purpose of creating incentives necessary to secure or retain employees.

4.02. Appearances on Behalf of Private Interests.

No City official shall represent or appear on behalf of private interests of others before any agency of the City, or any City board, commission, committee, or City Council concerning any case, project, or matter over which the official exercises discretionary authority, nor shall a City official represent any private interest of others in any action or proceeding involving the City, nor voluntarily participate on behalf of others in any litigation to which the City is a party.

4.03. Appearances by Past Officials.

No City official, holding a position which involves decision-making, advisory, or supervisory responsibility, shall, within twelve (12) months following the end of service with the City, represent or appear on behalf of private interests of others before the City or any agency thereof concerning any case, project, or matter over which the official has exercised discretionary authority.

4.04. Securing Special Privileges.

No City official shall use his official position to secure special privilege or exemption for himself or others.

4.05. Gifts.

No City official shall accept or solicit any gift or favor that could reasonably tend to influence that individual in the discharge of official duties or that the official knows or should know has been offered with the intent to influence or reward official conduct.

4.06. Disclosure or Use of Confidential Information.

No City official shall disclose any confidential information gained by reason of his office or employment with the City, concerning any property, operation, policy, or affair of the City, or use such confidential information to advance any personal interest, financial or otherwise, of such official or others.

4.07. Incompatible Outside Activities.

No City official shall engage in any outside activity which will conflict with, or be incompatible with, the City office or employment.

4.08. Incompatible Employment.

No City official shall accept outside employment which is incompatible with the full and proper discharge of his or her duties and responsibilities with the City, or which might impair his or her independent judgment in the performance of his or her public duty.

4.09. Use of City Property for Personal Use.

No City official shall use City supplies, equipment, vehicles, or facilities for any purpose other than the conduct of official City business, unless otherwise specifically provided for by law, ordinance, or City policy.

5.0. State Laws Governing Conduct.

5.01. Conflicts of Interest.

- 5.01.01. Pursuant to §171.001 et seq., Texas Local Government Code, a local public official having a substantial interest in a business entity or piece of real property must file, before any vote or decision is made on any matter affecting the business entity or real property, an affidavit stating the nature and extent of the interest. The official must file the affidavit with the City Secretary, and is required to abstain from any further participation in the matter if (1) the proposed action would have a special economic effect on the business entity that is distinguishable from the effect on the public, or (2) it is reasonably foreseeable that the action would have a special economic effect on the value of the real property which is distinguishable from its effect on the public. An exception to the abstention rule is provided in cases where a majority of members of the entity are likewise required to and do file affidavits.
- 5.01.02. A substantial interest in a business entity exists when the official (1) owns ten percent (10%) or more of the voting stock or shares of the business entity, or (2) owns ten percent (10%) or more or Fifteen Thousand Dollars (\$15,000) or more of the fair market value of the business entity, or (3) has received from the business entity funds which exceed ten percent (10%) of the official's gross income for the prior year.
- 5.01.03. A substantial interest in real property exists when the official has an equitable or legal interest in such property which has a fair market value of \$2,500 or more.

- 5.01.04. A local public official means a member of the City Council or other official of the City, paid or unpaid, who exercises responsibilities which are more than advisory only. A business entity means any entity recognized by law.
- 5.01.05. It is an offense for a local public official to act as a surety for a business entity that is contracting with the City, or to act as a surety on any official bond required of an officer of the City. §171.003.
- 5.01.06. A local public official is considered to have a substantial interest if a person related to the official in the first degree by consanguinity or affinity has a substantial interest. §171.002©).
- 5.01.07. The provisions of §171.001 et seq., are IN ADDITION to any other municipal charter provisions or municipal ordinances defining and prohibiting conflicts of interest.

5.02. Bribery.

It is unlawful for a City official to accept or agree to accept (1) any benefit as consideration for a decision, opinion, recommendation, vote, or other exercise of discretion as a public servant or (2) any benefit as consideration for a decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding, or (3) any benefit as consideration for a violation of a duty imposed by law on a public servant. §36.02, Penal Code.

5.03. Gifts to Public Servants.

- 5.03.01. It is unlawful for a City official to solicit, accept, or agree to accept any benefit from a person the official knows is subject to regulation, inspection, or investigation by the official or the City. §36.08(a), Penal Code.
- 5.03.02. In the event of litigation involving the City, it is unlawful for any City official to solicit, accept, or agree to accept any benefit from a person against whom the official knows litigation is pending or contemplated by the official or the City. §36.08(c), Penal Code.
- 5.03.03. It is unlawful for a City official who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government to solicit, accept, or agree to accept any benefit from a person the official knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion. §36.08(d), Penal Code.

5.03.04 It is unlawful for a City official who has judicial or administrative authority, is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decision, to solicit, accept, or agree to accept any benefit from a person the official knows is interested in or likely to become interested in any matter before the official or tribunal. §36.08(e), Penal Code.

5.03.05. Exceptions to Gifts to Public Servants.

The provisions of §36.08, Penal Code, described above, do not apply to (1) fees prescribed by law to be received by the public official or any other benefit to which the official is lawfully entitled and for which the official has given legitimate consideration; (2) gifts or other benefits conferred on account of kinship or personal, professional, or business relationships independent of the official's status with the City; (3) certain honorariums in consideration of legitimate services; (4) benefits consisting of food, lodging, transportation, or entertainment accepted as a guest and reported as required by law; or (5) benefits for which statements must be filed pursuant to §251.001 and §251.012, Texas Election Code, if the benefit and source of any benefit exceeding fifty dollars (\$50.00) is reported and the benefit is used solely to defray expenses which accrue in the performance of duties or activities in connection with office which are nonreimbursable by the City. §36.10, Penal Code.

5.04. Tampering with Governmental Records.

It is unlawful for any person to knowingly make a false entry in, or false alteration of, a governmental record, or to make, present, or use any record, document, or thing with knowledge of its falsity with the intent that it be taken as a genuine governmental record, or to intentionally destroy, conceal, remove, or otherwise impair the verity, legibility, or availability of a governmental record. §36.10, Penal Code.

5.05. Impersonating Public Servant.

It is unlawful for any person to impersonate a City official with intent to induce another to submit to his pretended official authority or to rely on his pretended official acts. §37.11, Penal Code.

5.06. Misuse of Official Information.

It is unlawful for a City official, in reliance on information to which he has access as a result of his office and which has not been made public, to acquire or aid another in acquiring a pecuniary interest in any property, transaction, or enterprise that may be affected by the information or to speculate or aid another in speculating on the basis of the information. §39.03, Penal Code.

5.07. Disrupting Meeting or Procession.

It is unlawful for any person, with intent to prevent or disrupt a lawful meeting, to obstruct or interfere with the meeting by physical action or verbal utterance. §42.05, Penal Code.

5.08. Official Oppression.

It is unlawful for a City official to intentionally subject another to mistreatment or to arrest, detention, search, seizure, dispossession, assessment, or lien that he knows is unlawful, to intentionally deny or impede another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing his conduct is unlawful, or to intentionally subject another to sexual harassment. §39.02, Penal Code.

5.09. Official Misconduct.

It is unlawful for a City official, with intent to obtain a benefit or with intent to harm another, to intentionally or knowingly violate a law relating to his office or employment or to misapply any thing of value belonging to the government that has come into his custody or possession by virtue of his office of employment. §39.01, Penal Code.

5.10. Nepotism.

It is unlawful for any City official to appoint, or vote for the appointment or confirm the appointment to any office, employment or duty, of any person related within the second degree by affinity or within the third degree by consanguinity to the person so appointing or so voting, or to any other member of a board or governing body to which the person so voting or appointing may be a member, when the salary, fees, or compensation of such appointee is to be paid out of public funds. An exception is provided for persons who have been continuously employed in such office, employment or duty for the following periods prior to the election or appointment, as applicable, of the officer or member related to such employee in the prohibited degree: (1) at least thirty (30) days, if the officer or member is appointed, or (2) at least six (6) months, if the officer or member is elected.

When a person is allowed to continue in an office, position, or duty because of an exception above, the officer who is related to such person in the prohibited degree shall not participate in the deliberation or voting upon the appointment, reappointment, employment, confirmation, reemployment, change in status, compensation, or dismissal of such person, if such action applies only to such person and is not taken with respect to a bona fide class or category of employees. Art. 5996a, Tex. Rev. Civ. Stat. Ann.

5.11. Disclosure of Interest in Property.

It is unlawful for a City official, or a person elected, appointed, or employed as a City official but for which office such person has not yet qualified, to fail to make public disclosure of any legal or equitable interest he may have in property which is acquired with public funds, provided such official has actual notice of the acquisition or intended acquisition. The public disclosure required is the filing of an affidavit with the county clerks of all counties in which the

property is located and wherein the official resides at least ten (10) days prior to the acquisition. Article 6252-9e, Tex. Rev. Cit. Stat. Ann.

6.0. Violations.

- 6.01. Any person violating any standard contained in Article 4.0 above shall be deemed guilty of a misdemeanor and, upon conviction thereof shall be fined in an amount not to exceed \$500. Each day of violation shall constitute a separate offense.
- 6.02. Penalties for violations of conduct described in Article 5.0 above are as set forth in the applicable statutory provision.

Section 7.0. 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 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 Article 6252-17, V.A.T.C.S., and that advance public notice of the time, place, and purpose of the meetings was given.

Section 8.0. Severability. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid and held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional, and the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 9.0. Rights and Remedies; Repeal; Code of Ordinances.

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

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

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

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 3rd DAY OF May, 1993.

COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN WILEY	<u>AYE</u>
COUNCILMAN MATHESON	<u>AYE</u>
COUNCILMAN OLDHAM	<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 17th DAY OF May, 1993.

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

(signed) H. G. Harrington

H. G. (Hap) Harrington
Mayor

ATTEST:

(signed) Mary Reagan

Mary Reagan, City Secretary

APPROVED AS TO FORM:

(signed) Mario L. Dell'Osso

Mario L. Dell'Osso
Olson & Olson
Attorneys for the City of Tomball

APPENDIX A

DEFINITIONS

“Affinity”	means a relation by marriage.
“Business entity”	means a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, trust or any other entity recognized by law.
“Board” or “Body”	means any board, commission, agency or committee of the City created by the passage of a City Ordinance or Resolution with decision or advisory making authority designated as a board, commission, agency or committee by the City Council.
“City”	means the City of Tomball.
“City Council”	means the City Council of the City of Tomball.
“Closed meeting”	means a meeting closed to the public which complies with specific state statutes.
“Consanguinity”	means a relation or connection by blood.
“Degree”	relating to consanguinity and affinity. First degree of consanguinity means parents, children and siblings First degree of affinity means spouse, in laws/parents, children and siblings Second degree means grandparents, grandchildren, aunts, uncles, nephews, nieces and first cousins
“Deliberation”	means a verbal exchange during a meeting between a quorum of a governmental body, or between a quorum of a governmental body and another person, concerning an issue within the jurisdiction of the governmental body or any public business.
“Employee”	means a person who is employed by the City.
“Ex officio”	means by virtue or because of an office.
“Governmental”	means a board or commission that has rule-making, quasi-judicial, or advisory power and that is classified as a department, agency or political subdivision of a county or municipality.

“Governing body”	means the Tomball City Council and every Board, Commission, or Committee that exercises decision-making authority on behalf of the City.
“He,” “his” or “him”	shall include the female gender as well as the masculine.
“Incidental Interest”	means an interest in a person, entity or property which is not a substantial interest and which has insignificant value or which would be affected only in a de minimis fashion by a decision.
“Judicial”	the power to judge, to administer justice and interpret laws and ordinances.
“Meeting”	means a deliberation between a quorum of a governmental body, or between a quorum of a governmental body and another person, during which public business or public policy over which the governmental body has supervision or control is discussed or considered or during which the governmental body takes formal action. The term does not include the gathering of a quorum of a governmental body at a social function unrelated to the public business.
“Member”	means a member of a board.
“Person”	means any individual, firm, trust, corporation, partnership or any other legal entity.
“Quorum”	means the prescribed number of members of any body that must be present to legally transact business.
“Remote Interest”	means an interest of a person or entity, including an Officer or Member who would be affected in the same way as the general public. The interest of a council member in the property tax rate, general city fees, city utility charges or a comprehensive zoning ordinance or similar decisions is incidental to the extent that the council member would be affected in common with the general public.
“Substantial Interest in a business entity or real property”	means an individual, firm, trust, corporation, partnership or any other legal entity: 1) with respect to a business entity, the interest is ownership of ten percent (10%) or more of the voting stock or shares of the business entity or ownership of either ten percent (10%) or more or Fifteen Thousand Dollars (\$15,000) or more of the fair market value of the business entity. 2) with respect to a business entity, funds received by the person from the business entity exceed ten percent (10%) of the officer or

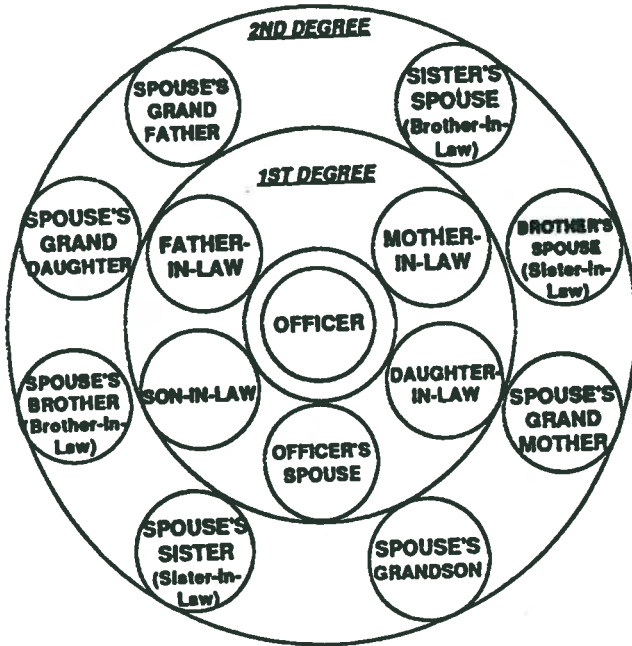
member's gross income for the previous year.

- 3) with respect to real property, equitable or legal ownership with a fair market value of Two Thousand Five Hundred Dollars (\$2,500) or more.

or as established from time to time in Section 171.002, Texas Local Government Code.

APPENDIX B

CHART OF KINSHIP



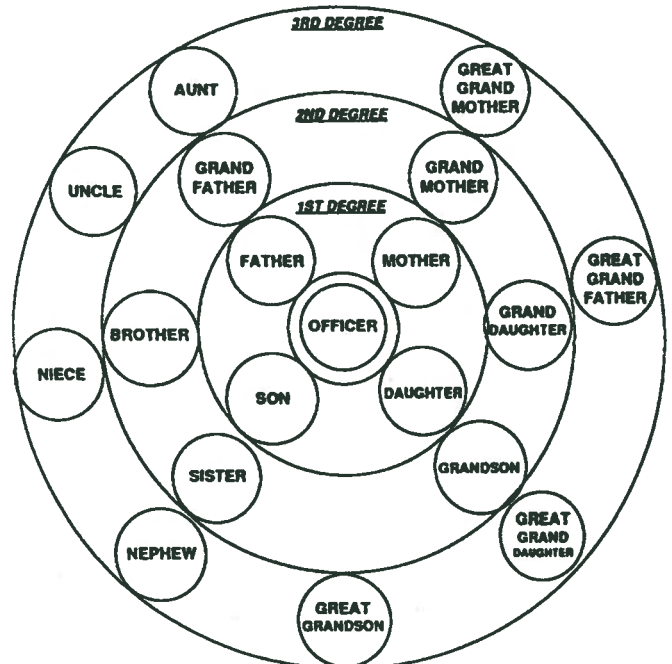
Affinity Kinship Chart
(Marriage)

The chart to the left shows:

*Affinity Kinship (relationship by marriage)

The chart to the right shows:

*Consanguinity Kinship (relationship by blood)
for purposes on interpreting nepotism as
defined in VTCA Government Code,
Chapter 573, §§573.021-.025.



Consanguinity Kinship Chart
(Blood)

APPENDIX C

ROBERT'S RULES OF ORDER RELATING TO MOTIONS

MOTION	DEBATABLE	DEBATE CONFINED TO PENDING QUESTION	CAN BE AMENDED	CAN RECONSIDER	REQUIRES MAJORITY VOTE	MUST BE SECONDED	OUT OF ORDER WHEN ANOTHER HAS THE FLOOR
Adjourn	No	Yes	No	No	Yes	Yes	Yes
Adopt/Accept a Report	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Adopt Constitutions, By-laws, and Rules of Order	Yes	Yes	Yes	1	Yes	Yes	Yes
Adopt Standing Rules	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Amend	2	Yes	Yes	Yes	Yes	Yes	Yes
Amend an Amendment	2	Yes	No	Yes	Yes	Yes	Yes
Amend Constitution, By-laws, and Rules or Order	Yes	Yes	Yes	1	3	Yes	Yes
Amend Standing Rules	Yes	Yes	Yes	Yes	4	Yes	Yes
Appeal (excluding Indecorum)	Yes	Yes	No	Yes	Yes	Yes	No
Debate, to Close, Limit or Extend	No	Yes	Yes	Yes	No	Yes	Yes
Division of Assembly	No	Yes	No	No	Yes	No	No
Division of Question	No	Yes	Yes	No	Yes	5	5
Fix the Time to Adjourn	6	Yes	Yes	Yes	Yes	Yes	Yes
Informal Consideration of Question	Yes	Yes	No	1	Yes	Yes	Yes
Lay on the Table	No	Yes	Yes	No	Yes	Yes	Yes
Main Motion or Question	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Nomination, to Make	Yes	Yes	No	No	Yes	No	Yes
Nominations, to Close	No	Yes	Yes	No	No	Yes	Yes
Nomination, to Re-open	No	Yes	Yes	1	Yes	Yes	Yes
Objection to Consideration of a Question	No	Yes	No	1	7	No	No

MOTION	DEBATABLE	DEBATE CONFINED TO PENDING QUESTION	CAN BE AMENDED	CAN RECONSIDER	REQUIRES MAJORITY VOTE	MUST BE SECONDED	OUT OF ORDER WHEN ANOTHER HAS THE FLOOR
Order, Question of	No	Yes	No	No	Yes	No	No
Order, to Make a Special	Yes	Yes	Yes	Yes	No	Yes	Yes
Orders of the Day, to Call for	No	Yes	No	No	Yes	No	No
Parliamentary Inquire	No	Yes	No	No	Yes	No	No
Postpone Definitely (to Certain Time)	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Postpone Indefinitely	Yes	No	No	8	Yes	Yes	Yes
Previous Question	No	Yes	No	9	No	Yes	Yes
Privilege, to Raise Question of	No	Yes	No	No	Yes	No	No
Recess, to Take a	6	Yes	Yes	No	Yes	Yes	Yes
Reconsider	2	10	No	No	Yes	Yes	Yes
Substitute (same as Amend)	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Suspend the Rules	No	Yes	No	No	No	Yes	Yes
Take from the Table	No	Yes	No	No	Yes	Yes	Yes
Withdraw	No	Yes	No	1	Yes	No	Yes

FOOTNOTES TO TABLE OF ROBERT'S RULES OF ORDER

1. An affirmative vote on this motion cannot be reconsidered.
2. Undebatable when the motion to be amended, reconsidered, or rescinded is undebatable.
3. Constitutions, By-Laws, and Rules of Order before adoption are in every respect main motions and may be amended by majority vote. After adoption they require prior notice and 2/3 vote for amendment.
4. Standing Rules may be amended at any time by a majority vote if previous notice has been given, or by a 2/3 vote without notice.
5. If resolutions or propositions relate to different subjects which are independent of each other, they must be divided on the request of a single member, which may be made when another has the floor. If they relate to the same subject and yet each part can stand alone, they may be divided only on a regular motion and vote.
6. Undebatable if made when another question is before the assembly.
7. The objection can be made only when the question is first introduced, before debate. A 2/3 vote must be opposed to the consideration in order to sustain the objection.
8. Negative vote on this motion cannot be reconsidered.
9. Cannot be reconsidered after a vote has been taken under it.
10. Opens to debate main question when latter is debatable.