

MINUTES OF REGULAR CITY COUNCIL MEETING CITY OF TOMBALL, TEXAS



**MONDAY, JULY 18, 2011
6:00 P.M.**

1.0 Call to Order

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

Councilman Hudgens
Councilman Stoll
Councilman Brown
Councilman Townsend
Councilman Dodson

Planning and Zoning Commission Members present:

Commissioner Lori Wallace
Commissioner Barbara Tague
Commissioner James Kendler
Commissioner Michelle Beauvais
Commissioner Evelyn Torres-Chervenak

Others present:

City Manager – George Shackelford
Assistant City Manager – Christal Weber
City Secretary – Doris Speer
City Attorney – Loren Smith
Finance Director – Glenn Windsor
Director of Public Works – David Kauffman
Fire Chief – Randy Parr
Assistant to City Manager – Shawn Cox
Assistant City Engineer – Lori Lakatos
Police Chief – Robert Hauck
Assistant City Planner – Rodney Schmidt

Administrative Assistant-Engineering – Brandy Pate
Executive Director-TEDC – Kelly Violette
Partners for Strategic Action - Peggy Fiandaca and Loras Rauch
Kimley Horn & Associates – Joe Willhite

2.0 Invocation

- Led by Chaplain Tara Dorough, Tomball Fire Department

3.0 Pledges to U. S. and Texas Flags

- Led by Emily Howell and Chris Mayes

4.0 The following public comments were received:

- | | |
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| Mary Harvey
405 S. Walnut, 77375 | - Expressed her support for Item 7.10, signs prohibiting heavy truck traffic on Walnut and Market. |
| John Purse
19339 Ella Blvd, 77388 | - Expressed his support for Item 7.2, proposed BMX track. |
| P. York McLane
Eagle Gasket & Packing
1110 Ulrich, 77375
9619 Thistle Trail, 77070 | - Requested Council consideration to approve rezoning of Eagle Gasket as Light Industrial instead of Commercial. |

5.0 Reports and Announcements:

- **Farmers Market** – 9 a.m.-1:00 p.m. (Every Saturday, April through July)
- **June 20-August 15** (skip July 4th) – **Tomball's Kids Club**, hosted by HEB and partner, Buffalo Wild Wings – **MLK Community Park**
- July 19, 2011 – Downtown Tomball Advisory Committee Meeting – 3:00 p.m.-5:00 p.m. at the Public Works Training Room, 501-B James Street
- July 19, 2011 – Downtown Tomball Specific Plan Public Workshop – 6:00 p.m.-8:00 p.m. at the Community Center
- July 20, 2011 – Strategic Planning Workshop – 8:00 a.m.-4:00 p.m.
- July 25, 2011 – Regular Tourism Advisory Committee Meeting – 3:00 p.m.
- July 25, 2011 – Special Council Meeting (Budget) – 4:00 p.m.
- July 26, 2011 – Special Council Meeting (Budget) – 4:00 p.m.
- August 2, 2011 – **2011 National Night Out** – 6:00 p.m.-9 p.m. at the Depot
- August 2, 2011 – **Mayor's Coffee – Nona's Italian Grill** - 5:30 p.m.-7:00 p.m.; sponsored by CommunityBank of Texas, N.A.
- August 5, 2011 – **Tomball Night**
- August 13, 2011 – **2nd Saturday at the Depot**
- September 17, 2011 – **Tomball Art Walk** – 2:00 p.m.-7:30 p.m.

- **Walk Tomball!** (every Saturday at 8:00 a.m. at the Depot)
- Reports by City staff and members of council about items of community interest on which no action will be taken
 - Glenn Windsor presented the Quarterly Investment Report for the Period Ending June 30, 2011
 - Glenn Windsor presented the Financial Report for Nine Months Ending June 30, 2011
 - Rosalie Dillon – presented an update regarding recent and future 2nd Saturday at the Depot events

6.0 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve the minutes of the July 5, 2011 Special and Regular City Council meetings.

Motion carried unanimously.

7.0 New Business:

Motion was made by Councilman Stoll, second by Councilman Brown, to consider Item 7.12 after Item 7.3.

Motion carried unanimously.

7.1 Mayor Fagan advised that the Tourism Advisory Committee has not finalized a recommendation to Council regarding prospective designs for a fountain at the Tomball Depot. No action taken.

7.2 David Mayes, John First, and Kyle Bennett, representing BMX, provided a presentation by BMX regarding a proposed BMX Track in Tomball, including a possible partnership with the City of Tomball. Council requested additional information. No action necessary.

7.3 Shawn Cox presented information regarding a request from The North Houston Volkswagen Club to Use the Depot Area, with a waiver of the Depot fees, and to close portions of Depot-area Streets for a Volkswagen Car Show and Swap Meet to be held on Saturday, October 1, 2011. Motion was made by Councilman Stoll, second by Councilman Brown, to approve the request by The North Houston Volkswagen Club.

Motion carried unanimously.

7.12 David Kauffman presented information regarding the proposals received for Project No. 2011-06. Motion was made by Councilman Dodson, second by Councilman Stoll, to award Contract for Project No. 2011-06 (City Hall Roof Replacement) to F.W. Walton, Inc, for a Total Contract Amount of \$147,100.00.

Motion carried unanimously.

- 7.4 Chair Lori Wallace called the Planning and Zoning Commission Meeting to order at 7:15 p.m.

The Tomball City Council and the Planning and Zoning Commission entered into a workshop session to review the Downtown Specific Plan, as presented by Partners for Strategic Action (PSA).

Peggy Fiandaca and Loras Rauch, Partners for Strategic Action, presented the Downtown Specific Plan, as it has been developed to date. Joe Willhite, Kimley Horn & Associates, introduced DSP circulation requirements, water usage, and drainage requirements. Peggy Fiandaca provided information regarding anticipated Council, Planning and Zoning Commission, and Downtown Tomball Advisory Committee meetings.

Motion was made by Commissioner Tague, second by Commissioner Beauvais, to adjourn the Planning and Zoning Commission portion of the meeting.

Motion carried unanimously. Planning and Zoning Commission meeting adjourned at 7:55 p.m.

Mayor Fagan announced a recess at 7:55 p.m.; upon reconvening into regular session at 8:08 p.m., the following items were considered:

- 7.5 Lori Lakatos provided information on **PINE COUNTRY OF TOMBALL SECTION THREE REPLAT**; A residential subdivision of 29.4207 acres comprised of 5 residential estate acreage lots and being a Replat of Pine Country of Tomball, Section Three, a residential subdivision of 29.4207 acres comprised of 4 residential estate acreage lots as recorded in H.C. Film Code #632143, located in the John Edwards Survey, A-20 and the Chauncey Goodrich Survey A-311, City of Tomball, Harris County, Texas. Motion was made by Councilman Dodson, second by Councilman Townsend to approve **Pine Country of Tomball Section Three Replat** as presented.

Motion carried unanimously.

- 7.6 Rodney Schmidt presented information regarding **ZONING CASE P11-333**: Request by Eagle Gasket and Packing Company, Inc., on behalf of Faires Properties Inc. LLC, to amend the City's Comprehensive Zoning Ordinance to rezone an approximately 3.86 acre site, legally described as Lot 1, Block 1, Eagle Gasket and Packing Company Subdivision Number 1 Replat, generally located on the easterly side of Ulrich Road, northerly of Hufsmith Road at 1110 Ulrich Road, Tomball, Texas from the SF-20-E Single-Family Estate Residential-20 District to the C-Commercial District, in conjunction with Zoning Case P11-334.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P11-333** at 8:17 p.m., in conjunction with Zoning Case P11-334; public comments were received as follows:

P. York McLane - Current Eagle Gasket operations are consistent with a zoning of Light Industrial; the facility was originally zoned as light industrial. Zoning as Commercial will interfere with Eagle Gasket's future operations, transfer of property, etc. Eagle Gasket requests Council's consideration and action to re-zone Eagle Gasket as Light Industrial.

Rodney Schmidt presented information regarding rezoning the property as Commercial versus Light Industrial.

No further public comments being received, Mayor Fagan closed the Public Hearing at 8:22 p.m.

- Motion was made by Councilman Townsend, second by Councilman Brown, to read Ordinance No. 2011-11 by caption only on First Reading.

Motion carried unanimously.

Motion was made by Councilman Hudgens, second by Councilman Stoll, to adopt, on First Reading, Ordinance No. 2011-11, an Ordinance of the City of Tomball, Texas, amending its Comprehensive Zoning Ordinance by changing the Zoning District classification of approximately 3.86 acres of land, legally described as Lot 1, Block 1, Eagle Gasket and Packing Company Subdivision Number 1 Replat, Within the City of Tomball, Harris County, Texas, from the SF-20-E Single-Family Estate Residential-20 District to the **C-Commercial District**; said property being generally located on the Easterly side of Ulrich Road, Northerly of Hufsmith Road at 1110 Ulrich Road, Tomball, Texas; providing for the Amendment of the Official Zoning Map of the City; providing for severability; providing for a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof, making findings of fact; and providing for other related matters. Vote was as follows:

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

Motion FAILED, 1 vote Aye, 4 votes Nay.

Motion was made by Councilman Townsend, second by Councilman Dodson, to adopt, on First Reading, Ordinance No. 2011-11, an Ordinance of the City of Tomball, Texas, amending its Comprehensive Zoning Ordinance by changing the

Zoning District classification of approximately 3.86 acres of land, legally described as Lot 1, Block 1, Eagle Gasket and Packing Company Subdivision Number 1 Replat, Within the City of Tomball, Harris County, Texas, from the SF-20-E Single-Family Estate Residential-20 District to the **LI-Light Industrial District**; said property being generally located on the Easterly side of Ulrich Road, Northerly of Hufsmith Road at 1110 Ulrich Road, Tomball, Texas; 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, and to review the current zoning ordinance land use tables regarding Conditional Use Permits in Light Industrial zones. Vote was as follows:

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

Motion carried, 4 votes Aye, 1 vote Nay.

- 7.7 Rodney Schmidt presented information regarding **ZONING CASE P11-334**: Request by Eagle Gasket and Packing Company, Inc., on behalf of Faires Properties Inc. LLC, for a Conditional Use Permit to operate a “Any Manufacture or Industrial Process Not Listed and Not Prohibited by Law” use. The property is an approximately 3.86 acre site, legally described as Lot 1, Block 1, Eagle Gasket and Packing Company Subdivision Number 1 Replat, generally located on the easterly side of Ulrich Road, northerly of Hufsmith Road at 1110 Ulrich Road, Tomball, Texas. The site is located in the SF-20-E Single-Family Estate Residential-20 District, in conjunction with Zoning Case P11-333.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P11-334** at 8:17 p.m., in conjunction with Zoning Case P11-333; public comments were received as follows:

P. York McLane - Current Eagle Gasket operations are consistent with a zoning of Light Industrial; the facility was originally zoned as light industrial. Zoning as Commercial will interfere with Eagle Gasket’s future operations, transfer of property, etc. Eagle Gasket requests Council’s consideration and action to re-zone Eagle Gasket as Light Industrial.

Rodney Schmidt presented information regarding rezoning the property as Commercial versus Light Industrial.

No further public comments being received, Mayor Fagan closed the Public Hearing at 8:22 p.m.

- No consideration or motion was made to adopt, on First Reading, Ordinance No. 2011-12, an Ordinance of the City of Tomball, Texas, amending its Comprehensive Zoning Ordinance by granting a Conditional Use Permit to Eagle Gasket and Packing Company, to operate a “Any manufacture or industrial process not listed and not prohibited by law” use; said tract being an approximately 3.86 acre site, and being legally described as Lot 1, Block 1, Eagle Gasket and Packing Company Subdivision Number 1 Replat, generally located on the Easterly side of Ulrich Road, Northerly of Hufsmith Road in Tomball, Texas; providing requirements and conditions for this Conditional Use Permit; containing findings and other provisions relating to the subject; providing a penalty in an amount not to exceed two thousand dollars for violations hereof; and providing for severability. No action taken.

7.8 Lori Lakatos presented information regarding **ZONING CASE P11-335**: Public hearing to consider a City-initiated text amendment to the Tomball Comprehensive Zoning Ordinance (Ordinance No. 2008-01) to amend Section 7 (“Nonconforming Uses & Structures”) and Section 9 (“Board of Adjustments”) to authorize the Board of Adjustments to grant special exceptions related to the continuance, conversion, enlargement, extension and expansion of nonconforming structures and uses.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P11-335** at 9:03 p.m.; no public comments being received, Mayor Fagan closed the Public Hearing at 9:03 p.m.
- Motion was made by Councilman Townsend, second by Councilman Stoll, to read Ordinance No. 2011-13 by caption only on First Reading.

Motion carried unanimously.

Motion was made by Councilman Stoll, second by Councilman Townsend, to adopt, on First Reading, Ordinance No. 2011-13, an Ordinance Amending Ordinance No. 2008-01, the Comprehensive Zoning Ordinance, of the Code of Ordinances of the City of Tomball, Texas, passed, approved and adopted on the 4th day of February, 2008, by Amending Subsection 7.1, Nonconforming Uses, of Section 7, Nonconforming Uses & Structures, by adding a new paragraph (D) to allow the Board of Adjustments to approve Expansions of Nonconforming Uses in certain circumstances; by amending Subsection 7.2, Nonconforming Structures of Section 7, Nonconforming Uses & Structures, by adding a new paragraph (G) to allow the Board of Adjustments to approve Expansions of Nonconforming Structures in certain circumstances; by amending Subsection 9.4(a), Authority of Board of Adjustments, to Section 9, Board of Adjustments (BOA), by adding a new paragraph (4) authorizing expansions of Legally Nonconforming Uses and

Structures in specific cases; by adding a new subsection 9.9, expansion of Legally Nonconforming Uses and Structures, to Section 9, Board of Adjustments (BOA), granting authority to the Board of Adjustments and establishing the procedure for the expansion of legally nonconforming uses and structures; by renumbering the current Subsection 9.9, Procedures, of Section 9, Board of Adjustments (BOA), striking all of the new Subsection 9.10 and Substituting therefore a new Subsection 9.10, Procedures, establishing the procedures for an application before the Board of Adjustments; by renumbering current Subsection 9.10 to be numbered 9.11; providing a penalty in an amount of not more than \$2,000 for violation of any provision hereof; providing for savings and severability; providing for publication; and making other provisions and findings related thereto. Vote was as follows:

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

Motion to adopt Ordinance No. 2011-13 **FAILED** unanimously.

- 7.9 Motion was made by Councilman Dodson, second by Councilman Townsend, to read Ordinance No. 2011-14 by caption only on First Reading.

Motion carried unanimously.

Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt, on First Reading, Ordinance No. 2011-14, an Ordinance of the City Council of the City of Tomball, Texas, Amending Section 60-11, Changeable Electronic Variable Message Signs (CEVMS), of Chapter 60, Signs, of the City's Code of Ordinances relating to Changeable Electronic Variable Message Signs to Allow CEVMS as On-Premise Signs on Properties Located Adjacent to All County and State Rights-of-Way; Providing Regulations for Such CEVMS; Providing a Penalty of up to \$2,000.00 for Violations with Each Day Constituting a Separate Violation; Providing for the Publication of This Ordinance; and Making Other Findings and Provisions related Thereto, with requested amendments as follows:

- a. the removal of "County" road rights-of-way;
- b. adding approval process by Council for signs located on properties not adjacent to a State right-of-way;
- c. the removal of a single color requirement, and
- d. changing the sizes of signs to 32 square feet (single business) and 50 square feet (multi-tenant).

. Vote was as follows:

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

Motion carried unanimously.

- 7.10 Motion was made by Councilman Townsend, second by Councilman Brown, to read Ordinance No. 2011-16 by caption only on First Reading.

Motion carried unanimously.

Motion was made by Councilman Townsend, second by Councilman Brown, to adopt, First Reading of Ordinance No. 2011-16, an Ordinance amending Chapter 78, Traffic and Vehicles, Article III, Operation of Vehicles Generally, of the Code of Ordinances of the City Council of the City of Tomball, Texas, by adding a New Section 78-74, Through Truck Traffic Prohibited; Establishing Regulations related to Truck Traffic on Public Streets Designated as No Through Truck Street; Providing a Penalty in an Amount Not to Exceed \$200 for Each Violation Hereof; and Providing for Severability; and Making other Provisions and Findings related Thereto. Vote was as follows:

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

Motion carried unanimously.

- 7.11 Motion was made by Councilman Dodson, second by Councilman Brown, to award Contract for Project No. 2011-07 (Asphalt Overlay Improvements) to Low Bidder, Turner Paving & Construction, for a Total Contract Amount of \$59,215.00.

Motion carried unanimously.

- 7.13 Executive Session: The City Council recessed at 9:44 p.m. to in Executive Session, as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

- Sec. 551.072 – Deliberations Regarding Real Property

Upon reconvening into regular session at 10:07 p.m., the following action was taken:

- 7.14 Motion was made by Councilman Dodson, second by Councilman Townsend, to approve the Purchase of Approximately 97.5 Acres of Land Generally Located at the Northwest Corner of Hufsmith-Kohrville and Holderrieth Roads, Tomball, Texas, in an Amount of \$1,605,000 and to Authorize an Engineering Services Contract with CLR Inc. in an Amount of \$58,405 and a Market Analysis Contract with CDS Market Research in an Amount of \$28,000 and Other Services Including Title Costs and Miscellaneous Expenses related to the Due Diligence and Closing of the Property, for the Development of a Business Park for Purposes of Projects related to the Creation or Retention of Primary Jobs, and to Authorize the City Manager to Execute the Agreements.

Motion carried unanimously.

- 8.0 Motion was made by Councilman Brown, second by Councilman Dodson, to adjourn.

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this 1st day of August 2011.

Doris Speer
Doris Speer, TRMC
City Secretary

Gretchen Fagan
Gretchen Fagan
Mayor