

MINUTES OF REGULAR CITY COUNCIL MEETING CITY OF TOMBALL, TEXAS



**Monday, February 20, 2023
6:00 PM**

The City Council of the City of Tomball, Texas, conducted the meeting scheduled for February 20, 2023, 6:00 PM, at 401 Market Street, Tomball, Texas 77375, via physical attendance and video/telephone conference.

- A. Mayor L. Klein-Quinn called the meeting of the City of Tomball Council to Order at 6:00 p.m.

PRESENT:

Council 1 John Ford
Council 2 Mark Stoll
Council 3 Dane Dunagin
Council 4 Derek Townsend, Sr.
Council 5 Randy Parr

OTHERS PRESENT:

City Manager – David Esquivel
Assistant City Manager – Jessica Rogers
City Secretary – Doris Speer
City Attorney – Loren Smith
Assistant City Secretary – Tracylynn Garcia
Director of Public Works – Drew Huffman
Police Chief – Jeff Bert
Director of Community Development – Nathan Dietrich
Director of IT – Doug Tippey
Fire Chief - Joe Sykora
Director of Finance – Katherine Tapscott
IT Sr. Specialist – Ben Lato
Executive Director-TEDC – Kelly Violette
Court Administrator – Maria Morris
Senior Court Clerk – Inez Sanchez
Marketing Manager - Chrislord Templonuevo
Community Center Manager – Rosalie Dillon
Project Coordinator – Meagan Mageo

B. Invocation - Led by Pastor Richard Jennings - River of Praise Church

C. Pledges to U.S. and Texas Flags led by Fire Chief Joe Sykora

D. 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 - GC, 551.042.]*

Carl Monrad
25319 Waterslide Estates
Tomball, Texas 77377

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spoke about the amended request for
Crawfish Boil- New Business#1
Tomball High School Booster Club

E. Reports and Announcements

1. Announcements

- I. February 21, 2023 – ***Sam Houston Trailride Reception*** – 12 Noon at the Depot
- II. March 4, 2023 - **Tomball Little League Parade of Teams** – beginning at 7:30 a.m.
- III. March 11, 2023 – Second Saturday at the Depot – “*The Rise of Gru*” at dusk
- IV. March 24-26, 2023 – **Tomball German Heritage Festival** at the Depot

2. Reports by City staff and members of council about items of community interest on which no action will be taken:

- 1. David Esquivel expressed appreciation for Doris Speer and her 33 years of service to the City of Tomball, and the community.
- 2. Mayor presented a Proclamation to Doris Speer – 33 years of service as a Public Servant.

F. Old Business Consent Agenda: *[All matters listed under Consent Agenda are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, the item in question will be removed from the Consent Agenda and will be considered separately. Information concerning Consent Agenda items is available for public review.]*

1. Approve, on Second Reading, Resolution No. 2023-05-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 Performance Agreement by and between the Corporation and Hufsmith Kohrville Business Park, LLC to make direct incentives to, or expenditures for, assistance with infrastructure costs required or suitable for the promotion of new or expanded business enterprise related to the development and construction of a multibuilding office/warehouse park to be located on the West side of Hufsmith-Kohrville and Werich Rd, Tomball, Texas 77375. The estimated amount of expenditures for such Project is an amount not to exceed \$122,722.00.
2. Approve, on Second Reading, Resolution No. 2023-06-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 Performance Agreement by and between the Corporation and Church Holdings, Inc. to make direct incentives to, or expenditures for, assistance with infrastructure costs required or suitable for the promotion of new or expanded business enterprise related to the development and construction of a multibuilding office/warehouse park to be located near the intersection of Hufsmith-Kohrville and Spell Rd. in the City of Tomball, Texas. The estimated amount of expenditures for such Project is an amount not to exceed \$426,639.00.
3. Approve, on Second Reading, Resolution No. 2023-07-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 Performance Agreement by and between the Corporation and BCS Tomball Main, LLC to make direct incentives to, or expenditures for, assistance with infrastructure costs required or suitable for the promotion of new or expanded business enterprise related to the construction of a commercial retail development to be located at the NE corner of SH 249 and FM 2920 Rd, Tomball, Texas 77375. The estimated amount of expenditures for such Project is an amount not to exceed \$123,094.00.
4. Approve, on Second Reading, Resolution No. 2023-08-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 Performance Agreement by and between the Corporation and STUDIO a28 to make direct incentives to, or expenditures for, rental assistance for new or expanded business enterprise to be located at 1431 Graham Drive, Suites 212 and 213, Tomball, Texas 77375. The estimated amount of expenditures for such Project is an amount not to exceed \$4,063.00.
Motion made by Council 2 Stoll, Seconded by Council 4 Townsend

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

G. New Business Consent Agenda: *[All matters listed under Consent Agenda are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, the item in question will be removed from the Consent Agenda and will be considered separately. Information concerning Consent Agenda items is available for public review.]*

1. Approve the Minutes of the February 6, 2023, Regular City Council Meeting
2. Approve a contract with B&C Constructors, LP to reconstruct driveways and headwalls for the Belmont Drainage Improvement Project through a 1GPA Contract (Contract No. 19-03DP) for a not-to-exceed amount of \$73,752.62, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. This expenditure is included in the FY 2022-2023 Budget.
3. Approve a master services agreement with North Water District Laboratories Services, Inc. for wastewater sampling and laboratory services for a total not-to-exceed amount of \$75,000, approve the expenditure of funds therefor, and authorize the City Manager to execute any and all documents related to the purchase. This service is included in the FY 2022-2023 Budget.
4. Approve service agreement to use Waypoint Business Solutions as a consulting services provider for a 3-year term.
5. Approve a lease extension for two years with Frank and Russell DeNina, for 3.547-acre tract, described as TR R10, Abstract 371 W. Hurd Survey, 0 Mechanic Road, for the daily worker's site.
6. Approve Resolution No. 2023-09, a Resolution of the City Council of the City of Tomball, Texas, accepting the Preliminary Service and Assessment Plan for Authorized Improvements within the Seven Oaks Public Improvement District; Setting a Date for a Public Hearing on the Proposed Levy of Assessments; Authorizing the Publication and Mailing of Notice; and Enacting Other Provisions Relating thereto

New Business Consent Item 6 was removed for discussion at request of Council.

Motion made by Council 2 Stoll, Seconded by Council 4 Townsend, Sr. to approve items 1-5 of the Consent Agenda

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

Motion made by Council 2 Stoll, Seconded by Council 4 Townsend, Sr. to approve item 6 of the Consent Agenda

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

H. New Business

1. Motion made by Council 2 Stoll, Seconded by Council 4 Townsend, Sr. to approve an amended request from Tomball High School Athletic Booster Club (THSABC) for City Support and In-Kind Services for the THSABC Scholarship Crawfish Boil at Juergens Park, on Saturday, April 1, 2023 from 4:00-8:00 p.m.

Council 2 Stoll requested to Amend his Motion to allow alcohol.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 5 Parr
Voting Nay: Council 4 Townsend, Sr.

Motion carried 4 votes Yea, 1 vote Nay.

Motion made by Council 2 Stoll, Seconded by Council 4 Townsend, Sr. to approve request, as amended.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 5 Parr
Voting Nay: Council 4 Townsend, Sr.

Motion, as amended, carried 4 votes Yea, 1 vote Nay.

2. Motion made by Council 3 Dunagin, Seconded by Council 5 Parr to approve the Appointment, by the City Manager, of Tracylynn Garcia as City Secretary, effective March 1, 2023.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

(At this time Doris Speer stepped down and T. Garcia took the dais and served as secretary of the board for the remainder of the meeting)

3. Motion made by Council 3 Dunagin, Seconded by Council 4 Townsend, Sr. to approve Administrative Policy No. 1, entitled "Proclamation Policy"

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

4. Conduct a Public Hearing and consideration to approve **Zoning Case Z23-02**: Request by RIAA Group, LLC. to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 3.12 acres of land legally described as being portions of Lot 172, in Tomball Townsite from Agricultural (AG) to General Retail (GR). The property is located at the northwest corner of S. Cherry Street & Medical Complex Drive at 1635 S. Cherry Street, within the City of Tomball, Harris County, Texas.

- Mayor Klein Quinn called the Public Hearing on **Zoning Case Z23-02** to order at 6:47 p.m.
- Receiving no public comments, Mayor Klein Quinn closed the Public Hearing at 6:48 p.m.

Motion made by Council 3 Dunagin, Seconded by Council 2 Stoll, to read Ordinance No. 2023-02 by caption only on First Reading.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

Motion made by Council 2 Stoll to Adopt, on First Reading, Ordinance No. 2023-02, an Ordinance of the City of Tomball, Texas, Amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by Changing the Zoning District Boundaries Affecting Certain Properties (Exhibit "A"); from Agricultural (AG) to General Retail (GR) District; 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 (1635 S. Cherry; 3.12 Acres, located at the Northwest Corner of S. Cherry Street and Medical Complex Drive)

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr.

Voting Nay: Council 5 Parr

Motion carried 4 votes Yea, 1 vote Nay.

5. Conduct a Public Hearing and consideration to approve **Ordinance Amendment OAM23-01**: Request by Apex Clean Energy Holdings, LLC to amend Section(s) 50-2 (*Definitions*) and Section 50-82 (*Use Regulations (Charts)*), Subsection (b) (*Use Charts*) of the Tomball Code of Ordinances by adding standards pertaining to “Energy Storage System”.

- Mayor Klein Quinn called the Public Hearing on **Ordinance Amendment OAM230-01** to order at 7:05 p.m.

Presentation was made by Apex Clean Energy Holdings –

Micah King, Attorney with Hush Blackwell

Jake Simon, 120 Garrett Street, Charlottesville VA, with Apex Clean Energy

Sam & Latrell Shannon submitted their comments to be read during the council meeting requesting that Council not approve the proposed amendment.

- Receiving no further comments, Mayor Klein Quinn closed the Public Hearing at 7:21 p.m.

Motion made by Council 5 Parr, Seconded by Council 3 Dunagin, to read Ordinance No. 2023-03 by caption only on First Reading.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

Motion made by Council 4 Townsend, Sr., Seconded by Council 5 Parr to adopt, on First Reading, Ordinance No. 2023-03, an Ordinance of the City of Tomball, Texas, Amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by Revising Its Code of Ordinance Amending Section 50-2 (Definitions), of Article I, in General and Section 50-82 (Use Regulations (Charts)), Subsection (B)(Use

Charts), of Article III, District Regulations; Providing for 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 (Establishing an “Electric Storage System” Land Use and Definition in the City’s Code of Ordinances).

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 4 Townsend, Sr., Council 5 Parr

Voting Nay: Council 3 Dunagin

Motion carried 4 votes Yea, 1 vote Nay.

6. Executive Session: The City Council recessed at 8:00 p.m. to meet Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

Sec. 551.071 – Consultation with the City Attorney regarding a matter which the Attorney’s duty requires to be discussed in closed session.

Sec. 551.072 – Deliberations regarding Real Property

Sec. 551.076 – Deliberations regarding Security Devices

Sec. 551.087 – Deliberations regarding Economic Development

Council reconvened back into regular session at 9:08 pm.

7. Motion made by Council 4 Townsend Sr., Seconded by Council 5 Parr to approve, on First Reading, Resolution No. 2023-04-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving the Project of the Tomball Economic Development Corporation, the designation of a mixed-use development in Old Town Tomball, to promote new or expanded business development, with such Project including the expenditure of funds for the purchase of land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements related to the Project, and authorizing the Executive Director or designee to execute any and all documentation related to the Project.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

8. Motion by Council 5 Parr, Seconded by Council 4 Townsend Sr., to approve, on First Reading, Resolution No. 2023-03-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving an Amendment to the

Tomball Economic Development Corporation Fiscal Year 2022-2023 Budget to allow for the expenditure of funds and related project costs for the acquisition of land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements near Old Town Tomball.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

- I. Motion by Council 5 Parr, Seconded by Council 4 Townsend, Sr., to adjourn.

Voting Yea: Council 1 Ford, Council 2 Stoll, Council 3 Dunagin, Council 4 Townsend, Sr., Council 5 Parr

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this 6th day of March 2023

Tracylynn Garcia
City Secretary, TRMC, CMC, CPM

Lori Klein Quinn
Mayor