

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



**Monday, May 15, 2023
6:00 PM**

The City Council of the City of Tomball, Texas, conducted the meeting scheduled for May 15, 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 6:02 p.m.

PRESENT

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

ABSENT

Council 3 Dane Dunagin

OTHERS PRESENT:

City Manager – David Esquivel
Assistant City Manager – Jessica Rogers
City Attorney – Loren Smith
City Secretary – Tracylynn Garcia
Assistant City Secretary- Sasha Luna
Director of Public Works – Drew Huffman
Director of Community Development – Nathan Dietrich
Human Resource Director - Kristie Lewis
Finance Director - Katherine Tapscott
Fire Chief - Joe Sykora
Police Chief - Jeff Bert
Marketing Director - Chrislord Templonuevo
Community Center Manager - Rosalie Dillon
PD Captain - Brandon Patin
Project Coordinator – Meagan Mageo
Records Specialist – Johnita Robinson
Records Specialist - Fae Morris

- B. Invocation - Led by Pastor Tim Niekerk - Salem Lutheran Church
- C. Pledges to U.S. and Texas Flags 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.]*

L. Smith (Olson & Olson) explained 3 mins designated per person for Public for item D.

Becky Nelson – sent in email; asked that it be read
103 Covington Ct. concerns over lithium-ion batteries.
Tomball, Texas

Tom Weatherford - spoke about the striping at tennis
20203 Mahogany Rich Dr. court for pickleball.
Magnolia, Texas

- E. Canvas of Election
Escrutinio de la Elección
Kiểm Phiếu của Cuộc Bầu Cử
拉票選舉

- 1. Canvass of Election *Escrutinio de la Elección* Kiểm Phiếu của Cuộc Bầu Cử
拉票選舉

Resolution No. 2023-14, a Resolution of the City of Tomball, Texas, Canceling the Regular City Officer's Election Scheduled to be Held on the 6th Day of May 2023, in Accordance with Section 2.053(A) of the Texas Election Code; Directing the Giving of Notice of Such Cancellation of Election; and Providing Details Relating to the Cancellation of Such Election

Resolución Nro. 2023-14 Cancelando la Elección Regular de Funcionarios Municipales programada para celebrarse el día 6 de mayo de 2023 de acuerdo con la Sección 2.053(a) del Código Electoral de Texas; instruyendo que se de aviso de tal cancelación de elección; y proveyendo detalles relativos a la cancelación de tal elección.

Nghị Quyết số 2023-14, Hủy Bỏ Cuộc Bầu Cử Viên Chức Thành Phố Thường Kỳ Dự Kiến sẽ được tổ chức vào ngày 6 tháng Năm, 2023, Chiếu theo Mục 2.053(a) của Bộ Luật Tuyển Cử Texas; Chỉ thị việc đưa ra Thông Báo về Hủy Bỏ Cuộc

Bầu Cử đó; và Cung Cấp Thông Tin Chi Tiết Liên quan đến việc Hủy Bỏ Cuộc Bầu Cử đó.

案2023-

14, 取消一般市府官員應於2023年5月6日的選舉計畫, 其是根據德克薩斯州選舉法2.053(a)節; 茲此通知該選舉取消; 以及提供關於取消該選舉的詳情。

Motion made by Council 5 Parr, Seconded by Council 2 Stoll.

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

Motion carried unanimously.

2. Administer Oath of Office to Elected Officials
Administrar el juramento al cargo de los funcionarios electos
Làm lễ Tuyên Thệ Nhậm Chức cho các Viên Chức Được Bầu Chọn
管管理選舉官員宣誓就職

No action necessary taken; City Secretary administered the Oath of Office to Councilman Ford during the meeting. (City Secretary T. Garcia did formally administer the Oath of Office to both Councilman Ford and Councilman Parr prior to the start of the meeting).

3. Consideration to Elect Mayor Pro-Tem, in Accordance with Section 6.08 of the City of Tomball Home Rule Charter
Considerar elegir un Alcalde Interino, de acuerdo con la Sección 6.08 de la Carta Orgánica de Gobierno Local de al Ciudad de Tomball
Xem xét Bầu Chọn Thị Trưởng Tam Thời, chiếu theo Mục 6.08 của Hiến Chương Điều Lệ Địa Phương Thành Phố Tomball
考慮選出暫替市長, 根據Tomball市自治憲章6.08節

Motion made by Councilman Parr to nominate Councilman D. Dunagin; Motion made by Councilman Stoll to nominate D. Townsend.

Voting for Councilman D. Dunagin
Voting Nay: Council 1 Ford, Council 2 Stoll, Council 4 Townsend, Sr.,
Voting Yea: Council 5 Parr
Motion fails.

Voting for Councilman D. Townsend
Voting Yea: Council 1 Ford, Council 2 Stoll, Council 4 Townsend, Sr.,
Voting Nay: Council 5 Parr

Motion carries 3 votes yea, 1 vote nay.
Councilman Townsend was elected Mayor Pro-Tem.

F. Reports and Announcements

1. Announcements

Proclamation for Tomball H.S. Color Guard was presented after a short video of their performance was viewed.

Kids Club Dates:

June 9: Soccer Clinic with HTX Soccer (formerly Dynamo/Dash Youth Soccer) at Broussard Park (1414 E. Huffsmith Rd) from 9-11 a.m. This event is open to kids aged 7-12 years of age only.

July 14: Reptile show-n-tell and Reading games (Texas Snakes & More and LSC-Tomball Community Library) at Juergens Park (1331 Ulrich Rd) from 10 a.m. to 12 p.m. This event is open to kids ages 5-12.

August 11: Learn about emergency vehicles and Splash Day at Tomball Depot Plaza (201 S. Elm St). from 10 a.m. to 12 p.m. This event is open to kids ages 5-12.

2023 Swim Season (Jerry Matheson Park Pool):

Monday-Closed

Tuesday thru Friday - 10am - 6pm

Saturday & Sunday - 12pm - 8pm

PRESEASON HOURS 2023

May 27th (Saturday) Noon - 8pm

May 28th (Sunday) Noon - 8pm

May 29th (Monday) 10am - 6pm

REGULAR SEASON HOURS 2023

May 30th (Tuesday) 10am - 6PM Start Date

August 13th (Sunday) Noon - 8pm End Date

END OF SEASON HOURS 2023

August 19th (Saturday) Noon - 8pm

August 20th (Sunday) Noon - 8pm

August 26th (Saturday) Noon - 8pm

August 27th (Sunday) Noon - 8pm

September 2nd (Saturday) Noon – 8pm
September 3rd (Sunday) Noon – 8pm
September 4th (Monday) 10am – 6p
The pool will be open to the public on Memorial Day Weekend.
The pool will be open to the public on Memorial Day.
The Pool will be open to the public on weekends until Labor Day

Depot Splash Pad:
Opens May 26, 2023

- 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 May 1, 2023, Special Joint City Council Meeting and Capital Improvements Plan Advisory Committee and the Regular City Council Meeting.
 2. Approve a contract with Hassell Construction Group, LLC for the construction of the Alley Improvement Project for E&P Project 2017-10033 (RFP 2023-07) for a not-to-exceed amount of \$1,586,683.22, authorize the expenditure of funds therefor, and authorize the City Manager to execute contract. The amount is included in the Fiscal Year 2022-2023 budget.
 3. Consider approval of Resolution No. 2023-27, a Resolution of the City of Tomball, Texas, determining the Construction Manager at Risk (CMAR) delivery method for the expansion of the South Wastewater Treatment Plant (SWWTP) provides the best value to the City and stating the award of the CMAR Contract will be based on best value; and providing an effective date.
 4. Approve a Professional Services Agreement with Civil System Engineering, Inc., for Project Number 2023-10008, Drainage Master Plan and Impact Fee Update for a not-to-exceed amount of \$844,000, authorize the expenditure of funds therefor, and authorize the City Manager to execute the agreement. This amount is included in the FY 2022-2023 budget.
 5. Consideration to approve Supplemental Number Two to Oller Engineering, Inc. for Project Number 2021-10037, S. Persimmon Water Line Replacement for an amount of \$46,706.84 (total not-to-exceed contract amount of \$139,256.84), approve the expenditure of funds therefor, and authorize the City Manager to execute the agreement. This project was included in the FY 2022-2023 budget.

6. Approve a contract with ISJ Underground Utilities, LLC. for the construction of the S. Persimmon Water Line Replacement for E&P Project 2021-10037 (Bid 2023-10) for a not-to-exceed amount of \$305,970, authorize the expenditure of funds therefor, and authorize the City Manager to execute contract. The amount is included in the Fiscal Year 2022-2023 budget.
7. Approve a contract with Heartland Park & Recreation, LLC for the purchase and construction of a splashpad and necessary components at Jerry Matheson Park through a BuyBoard Contract (Contract No. 592-19) for a not-to-exceed amount of \$514,570.24, 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.
8. Consider action to approve Resolution No. 2023-29, a Resolution of the City of Tomball, Texas, authorizing the use of the BuyBoard Purchasing Cooperative for the purchase of equipment and components for Jerry Matheson Park as required as a recipient of the Texas Parks and Wildlife Non-Urban Outdoor Recreation Grant; and providing an effective date.

Motion made by Council 4 Townsend, Sr., Seconded by Council 2 Stoll.

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

Motion carried unanimously.

H. New Business

New Business and we will be considering items in a different order; but all items were posted in accordance with the Open Meetings Act. Items were voted in the following order 3, 1, 5, 2, 4, 6 through 15.

1. Consideration to approve **Case CUP23-03**: Request by Chris & Tiona Campbell, for a Conditional Use Permit to allow “Residential Use” within General Retail (GR) zoning. Affecting approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas.

Conduct Public Hearing on **Case CUP23-03**

Adopt, on First Reading, Ordinance No. 2023-13, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances

by issuing a Conditional Use Permit to allow “Residential Use” within General Retail (GR) zoning. Affecting approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, 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.

No action

2. Consideration to approve **Case CUP23-04**: Request by Michael Kirtley, represented by Sam Jackson of Black Mountain Energy Storage II LLC., for a Conditional Use Permit to allow an “Electric Storage System” within Light Industrial (LI) zoning. Affecting land legally described as being all of Lot 265 in Tomball Townsite. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas.

Conduct Public Hearing on **Case CUP23-04**

Adopt, on First Reading, Ordinance No. 2023-14, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by issuing a Conditional Use Permit to allow an “Electric Storage System” within Light Industrial (LI) zoning. Affecting land legally described as being all of Lot 265 in Tomball Townsite. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, 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.

No action taken was taken on this item.

3. Consideration to Approve **Zoning Case Z23-03**: Request by Chris & Tiona Campbell, to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite from Single Family Residential Estate – 20 (SF-20-E) to General Retail (GR) zoning. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas.

Conduct Public Hearing on **Zoning Case Z23-03**

Adopt, on First Reading, Ordinance No. 2023-09, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 4.94 acres of land legally described as being a portion of Lot 48 in Tomball Townsite from Single Family Residential Estate – 20 (SF-20-E) to General Retail (GR) zoning. The property is generally located within the 11100-11200 blocks (east side) of Rudolph Road, within the City of Tomball, Harris County, Texas; 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.

- Mayor Klein Quinn called the PH to order at 6:37 pm.

Tiona & Chris Campbell (Presenter) -
19611 Glennflinch Ln.,
Spring, Texas

- Hearing no further comments Mayor Klein Quinn closed the PH at 6:42 pm.

Motion made by Council 4 Townsend, Sr., Seconded by Council 2 Stoll to read Ordinance No 2023-09 by caption only on First Reading.

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

Motion carried unanimously.

Motion made by Council 4 Townsend, Sr., Seconded by Council 1 Ford to adopt on First Reading.

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

Motion fails unanimously.

4. Consideration to approve **Zoning Case Z23-04**: Request by Rosehill Estates, LLC represented by George Jarkey to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 5.11 acres of land legally described as being Lot 2, Block 1 of Swinghammer/Hauck Subdivision from Single Family Residential Estate – 20 (SF-20-E) to Commercial (C). The property is located at 1820 S. Cherry Street, within the City of Tomball, Harris County, Texas.

Conduct Public Hearing on **Zoning Case Z23-04**

Adopt, on First Reading, Ordinance No. 2023-10, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 5.11 acres of land legally described as being Lot 2, Block 1 of Swinghammer/Hauck Subdivision from Single Family Residential Estate – 20 (SF-20-E) to Commercial (C). The property is located at 1820 S. Cherry Street, within the City of Tomball, Harris County, Texas; 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.

- Mayor Klein Quinn called the PH to order at 7:25 pm.
- Hearin no public comments Mayor Klein Quinn closed the PH at 7:26pm.

Motion made by Council 4 Townsend, Sr., Seconded by Council 5 Parr to read Ordinance No. 2023-10 by caption only on First Reading.

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

Motion carries unanimously.

Motion made by Council 5 Parr, Seconded by Council 4 Townsend, Sr. adopt on First Reading as amended Ordinance No. 2023-10.

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

Motion carries unanimously.

5. Conduct a Public Hearing and Consideration to Approve **Zoning Case Z23-05**: Request by Michael Kirtley represented by Sam Jackson of Black Mountain Energy Storage II LLC., to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 5 acre of land legally described as being all of Lot 265 in Tomball Townsite from Agricultural (AG) to Light Industrial (LI) zoning. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas.

Conduct Public Hearing on **Zoning Case Z23-05**

Adopt, on First Reading, Ordinance No. 2023-11, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of

Ordinances by rezoning approximately 5 acre of land legally described as being all of Lot 265 in Tomball Townsite from Agricultural (AG) to Light Industrial (LI) zoning. The property is generally located within the 900-1000 blocks (west side) of S. Pitchford Road, within the City of Tomball, Harris County, Texas; 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.

- Mayor Klein Quinn called the PH to order at 7:15 pm.
- Hearing no public comments Mayor Klein Quinn closed the PH at 7:16 pm.

No further action was taken on this item.

6. Consideration to approve **Zoning Case Z23-06**: Request by Red Grip LLC., represented by Mike Matheson to amend Chapter 50 (Zoning) of the Tomball Code of Ordinances, by rezoning approximately 1.04 acres of land legally described as being Lot 72, Block 1 of Acquest Tomball Replat No.1 from Commercial (C) to Office (O) zoning. The property is generally located within the 1200-1300 blocks (south side) of Rudel Drive, within the City of Tomball, Harris County, Texas.

Conduct Public Hearing on **Zoning Case Z23-06**

Adopt, on First Reading, Ordinance No. 2023-12, an Ordinance of the City of Tomball, Texas, amending Chapter 50 (Zoning) of the Tomball Code of Ordinances by rezoning approximately 1.04 acres of land legally described as being Lot 72, Block 1 of Acquest Tomball Replat No.1 from Commercial (C) to Office (O) zoning. The property is generally located within the 1200-1300 blocks (south side) of Rudel Drive, within the City of Tomball, Harris County, Texas; 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.

- Mayor Klein Quinn called the PH to order at 7:36 pm.
- Hearing no comments Mayor Klein Quinn closed the PH at 7:37 pm.

Motion made by Council 4 Townsend, Sr., Seconded by Council 2 Stoll to read Ordinance No. 2023-12 by caption only on First Reading.

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

Motion carried unanimously.

Motion made by Council 1 Ford, Seconded by Council 4 Townsend, Sr. to adopt on First Reading Ordinance No. 2023-12.

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

Motion carried unanimously.

7. Approve Resolution No. 2023-28, a Resolution of the City of Tomball (COT), Texas regarding Compliance with the Major Thoroughfare extension of Telge Road (North) regarding approximately 18.739-Acre Tract of Land located at 16000 FM 2920 being released from the Extraterritorial Jurisdiction of the City of Houston (Tomball Golf Driving Range) into the COT ETJ.

Motion made by Council 2 Stoll, Seconded by Council 1 Ford.

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

Motion carried unanimously.

Mayor L. Klein-Quinn called for a brief recess from 7:48 pm until 8:00 pm.

8. Approve request from MAD for Vets for City Support and In-Kind Services for the MAD for Vets 3rd Annual Freedom 5k Ruck March at the Depot and around downtown Tomball, on Saturday, September 16, 2023.

Motion made by Council 4 Townsend, Sr., Seconded by Council 1 Ford.

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

Motion carried unanimously.

9. Approve a Professional Services Agreement with Freese and Nichols Inc., for project number 2023-10017, to update current City guiding documents which includes the Comprehensive Plan (Comp Plan), the Major Thoroughfare Plan (MTFP), and the creation of a Unified Development Code (UDC). The contract is for an amount not-to-exceed \$450,000, authorizes the expenditure of funds, and authorizes the City Manager to execute the agreement. This amount is included in the FY 2022-2023 budget.

Motion made by Council 4 Townsend, Sr., Seconded by Council 2 Stoll.

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

Motion carried unanimously.

10. Authorize the City Manager and the Fire Chief to execute a First Responder Organization Agreement with Harris County Emergency Services District 8 to provide first responder medical services within the jurisdiction of the Tomball Fire Department.

Motion made by Council 5 Parr, Seconded by Council 4 Townsend, Sr..

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

Motion carried unanimously.

11. Authorize expenditure of greater than \$50,000 with- RSM US related to the procurement of information technology consulting services, software, and hardware for Fiscal Year 2022-2023.

Motion made by Council 4 Townsend, Sr., Seconded by Council 2 Stoll.

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

Motion carried unanimously.

12. Approve the purchase of one (1) Chevrolet Silverado 1500 2WD Crew Cab truck through the TIPS USA (Contract No. 210907) for a not-to-exceed amount of \$44,579.25, approve the expenditure of funds therefore, and authorize the City Manager to execute any and all documents related to the purchase. This purchase is included in the FY 2022-2023 Budget. This vehicle is in place of one (1) Ford

F-150 Crew Cab Truck authorized November 7, 2022 because the dealership cancelled the purchase due to lack of inventory. The difference in price for the two vehicles is \$3,226.25.

Motion made by Council 4 Townsend, Sr., Seconded by Council 2 Stoll.

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

Voting Abstaining: Mayor Klein Quinn

13. J. Rogers provided update regarding Legislative Items at the 2023 Texas Legislative Session.
14. Council held discussion regarding Private Detention Ponds.
15. Executive Session: The City Council will meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

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

Sec. 551.074 – Personnel Matters; Deliberation of the Appointment, Employment, and Duties of a Public Officer or Employee-City Manager

Sec. 551.087 – Deliberations regarding Economic Development

Executive Session Started: 8:35 PM

Executive Session Ended: 8:55 PM

I. Adjournment

Motion made by Council 4 Townsend, Sr., Seconded by Council 5 Parr.

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

Motion carried unanimously.

PASSED AND APPROVED this 5th day of June 2023.

Tracylynn Garcia
City Secretary, TRMC, CMC, CPM

Lori Klein Quinn
Mayor