

MINUTES OF THE **REGULAR CITY COUNCIL MEETING**, HELD ON **MAY 2, 2005** AT 7:00 P.M. AT CITY HALL, 401 MARKET STREET, TOMBALL, TEXAS 77375.

1.0 MEETING WAS CALLED TO ORDER BY MAYOR HARRINGTON. OTHER MEMBERS PRESENT:

COUNCILMAN MARTIN
COUNCILMAN FORD
COUNCILMAN FAGAN
COUNCILMAN GATLIN
COUNCILMAN DRIVER

OTHERS PRESENT:

CITY MANAGER – BEN GRIFFIN
ASSISTANT CITY MANAGER – MARY COKER
CITY ATTORNEY – BILL OLSON
CITY SECRETARY – DORIS SPEER
FINANCE DIRECTOR – SHERRIE MATTSON
CHIEF OF POLICE – MICHAEL BLAKE
FIRE CHIEF – RANDY PARR
DIRECTOR OF PUBLIC WORKS – ROD HAINEY
CITY ENGINEER – JOE SHERWIN
ASSISTANT TO CITY MANAGER – TERRI DESHAZIER
EXECUTIVE DIRECTOR-TEDC – BETTY REINBECK

2.0 PUBLIC COMMENTS

PUBLIC COMMENTS WERE RECEIVED:

RAN DAVIS 152335 STAGECOACH ROAD, 77355	- SUPPORT OF SMOKING BAN ORDINANCE
BETTY REINBECK (AS INDIVIDUAL)	- OPPOSITION TO SMOKING BAN ORDINANCE
BARBARA SEMBERA, OWNER PECOS GRILLING 28900 TOMBALL PARKWAY, 77375	- OPPOSITION TO SMOKING BAN ORDINANCE, PARTICULARLY FOR RESTAURANT BARS

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BRUCE HILLEGEIST
CHAMBER OF COMMERCE

- DISAPPOINTMENT REGARDING BIDS FOR DOWNTOWN REVITALIZATION; OPPOSITION TO SMOKING BAN ORDINANCE

STACEY EMMET
PEDIATRIC P.A.

- SUPPORT OF SMOKING BAN ORDINANCE

STEPHEN HOHL
13607 LOST CREEK, 77375

- SUPPORT OF SMOKING BAN ORDINANCE

TIM MILLER
14019 TIMBERGREEN DRIVE, 77355

- SUPPORT OF SMOKING BAN ORDINANCE

- 2.1 PRESENTATION OF PLAQUE TO DAVID MARTIN, COUNCILMAN, POSITION 1, WAS MADE BY MAYOR HARRINGTON.
- 2.2 PRESENTATION OF TELGTE, GERMANY EXCHANGE STUDENTS WAS MADE BY KIT PFEIFFER, ON BEHALF OF THE SISTER CITY COMMITTEE. PRESENTATION WAS MADE TO JIMMY RYAN, WINNER OF THE 2005 "WAYNE STOVALL WAY OF LIFE AWARD."
- 3.0 VARIOUS REPORTS AND ANNOUNCEMENTS WERE RECEIVED FROM THE COUNCILMEMBERS.
 - 3.1 THE CITY MANAGER'S REPORT WAS RECEIVED:
 - A. A CEREMONY IN HONOR OF "POLICE WEEK" AND "PEACE OFFICERS MEMORIAL DAY" WILL BE HELD IN HERITAGE PLAZA, WITH RECEPTION FOLLOWING AT THE POLICE DEPARTMENT.
 - B. GREENSPACE REQUIREMENTS

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- C. ELECTION DAY - SATURDAY, MAY 7, 2005
- D. THE TOMBALL POLICE DEPARTMENT AND TOMBALL VOLUNTEER FIRE DEPARTMENT WILL CONDUCT A CITY-WIDE DISASTER DRILL ON SATURDAY, MAY 14, 2005
- E. CANVASS OF ELECTION - MONDAY, MAY 16, 2005
- F. VOLUNTEER DINNER – THURSDAY, MAY 19, 2005
- G. CONTRACTS AND CHANGE ORDERS
- H. APPOINTMENT OF BOARD MEMBER TO CITY OF TOMBALL PLANNING COMMISSION
- I. NWEMS FREE CPR INSTRUCTION AT COMMUNITY CENTER

4.0 MOTION WAS MADE BY COUNCILMAN FAGAN TO APPROVE THE MINUTES OF THE REGULAR MEETING OF APRIL 18, 2005; SECOND BY COUNCILMAN MARTIN. MOTION WAS MADE BY COUNCILMAN GATLIN TO APPROVE THE MINUTES OF THE REGULAR MEETING OF APRIL 18, 2005 WITH CHANGES; SECOND BY COUNCILMAN MARTIN.

MOTION CARRIED UNANIMOUSLY.

DISCUSSION/ACTION REGARDING THE FOLLOWING ITEMS:

5.0 OLD BUSINESS:

5.1 MOTION WAS MADE BY COUNCILMAN FORD TO ADOPT SECOND READING OF ORDINANCE NO. 2005-03, AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS, BY DELETING ALL OF SECTION 14-340 OF DIVISION 3 OF CHAPTER 14 THEREOF; REPEALING THE ADOPTION OF CERTAIN OBSOLETE CODES; AND PROVIDING FOR SEVERABILITY; SECOND BY COUNCILMAN DRIVER. VOTE WAS AS FOLLOWS:

COUNCILMAN MARTIN	<u>AYE</u>
COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN FAGAN	<u>AYE</u>
COUNCILMAN GATLIN	<u>AYE</u>
COUNCILMAN DRIVER	<u>AYE</u>

MOTION CARRIED UNANIMOUSLY.

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6.0 NEW BUSINESS:

6.1 COUNCILMEMBERS CAST VOTES FOR APPOINTEES TO THREE TWO-YEAR POSITIONS ON THE TOMBALL ECONOMIC DEVELOPMENT CORPORATION BOARD OF DIRECTORS. VOTE WAS AS FOLLOWS:

COUNCILMAN MARTIN	-	H. G. HARRINGTON GRETCHEN FAGAN DAVID QUINN
COUNCILMAN FORD	-	GRETCHEN FAGAN AMY HAFFNER DIANE HOLLAND
COUNCILMAN FAGAN	-	H. G. HARRINGTON GRETCHEN FAGAN DAVID QUINN
COUNCILMAN GATLIN	-	H. G. HARRINGTON GRETCHEN FAGAN DAVID QUINN
COUNCILMAN DRIVER	-	H. G. HARRINGTON GRETCHEN FAGAN DAVID QUINN

RESULTS OF VOTE:

H. G. HARRINGTON	4 VOTES
GRETCHEN FAGAN	5 VOTES
DAVID QUINN	4 VOTES
AMY HAFFNER	1 VOTE
DIANE HOLLAND	1 VOTE

APPOINTEES TO THE THREE TWO-YEAR POSITIONS ON THE TOMBALL ECONOMIC DEVELOPMENT CORPORATION ARE:

H. G. HARRINGTON
GRETCHEN FAGAN
DAVID QUINN

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COUNCILMEMBERS CAST VOTES FOR AN APPOINTEE TO THE REMAINING TERM OF A VACATED POSITION ON THE TOMBALL ECONOMIC DEVELOPMENT CORPORATION BOARD OF DIRECTORS. VOTE WAS AS FOLLOWS:

COUNCILMAN FORD	-	DIANE HOLLAND
COUNCILMAN FAGAN	-	DIANE HOLLAND
COUNCILMAN GATLIN	-	MARK STOLL
COUNCILMAN DRIVER	-	AMY HAFFNER
COUNCILMAN MARTIN	-	MARK STOLL

RESULTS OF VOTE:

DIANE HOLLAND	2 VOTES
MARK STOLL	2 VOTES
AMY HAFFNER	1 VOTE

VOTE WAS TIED BETWEEN DIANE HOLLAND AND MARK STOLL.

COUNCILMEMBERS CAST VOTES AGAIN FOR AN APPOINTEE TO THE REMAINING TERM OF A VACATED POSITION ON THE TOMBALL ECONOMIC DEVELOPMENT CORPORATION BOARD OF DIRECTORS. VOTE WAS AS FOLLOWS:

COUNCILMAN FORD	-	DIANE HOLLAND
COUNCILMAN FAGAN	-	DIANE HOLLAND
COUNCILMAN GATLIN	-	MARK STOLL
COUNCILMAN DRIVER	-	MARK STOLL
COUNCILMAN MARTIN	-	MARK STOLL

RESULTS OF VOTE:

DIANE HOLLAND	2 VOTES
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MARK STOLL

3 VOTES

APPOINTEE TO THE UNEXPIRED TERM OF THE VACATED POSITION ON THE
TOMBALL ECONOMIC DEVELOPMENT CORPORATION IS:

MARK STOLL

COUNCILMAN GATLIN REQUESTED THAT AN ITEM BE PLACED ON A
FUTURE AGENDA TO CONSIDER THE MERITS OF INDIVIDUALS SERVING ON
MULTIPLE BOARDS.

- 6.2 MOTION WAS MADE BY COUNCILMAN DRIVER TO AUTHORIZE CITY
ATTORNEY TO PREPARE AN ENCROACHMENT AGREEMENT BETWEEN THE
CITY OF TOMBALL AND DR. RODNEY HUTSON; SECOND BY COUNCILMAN
MARTIN. VOTE WAS AS FOLLOWS:

COUNCILMAN MARTIN	<u>NAY</u>
COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN FAGAN	<u>NAY</u>
COUNCILMAN GATLIN	<u>NAY</u>
COUNCILMAN DRIVER	<u>AYE</u>

MOTION FAILED.

- 6.3 MOTION WAS MADE BY COUNCILMAN MARTIN TO REJECT ALL BIDS ON
PROJECT 2005-10, OLD TOWN TOMBALL – DEPOT IMPROVEMENTS; SECOND
BY COUNCILMAN FAGAN.

MOTION CARRIED UNANIMOUSLY.

- 6.4 MOTION WAS MADE BY COUNCILMAN DRIVER TO REJECT ALL BIDS ON
PROJECT 2005-11, OLD TOWN TOMBALL – IMPROVEMENTS TO ELM STREET,
MAIN STREET AND DEPOT PLAZA; SECOND BY COUNCILMAN FAGAN.

MOTION CARRIED UNANIMOUSLY.

- 6.5 MOTION WAS MADE BY COUNCILMAN DRIVER TO READ ORDINANCE
NO. 2005-04 BY CAPTION ONLY; SECOND BY COUNCILMAN FORD.

MOTION CARRIED UNANIMOUSLY.

MOTION WAS MADE BY COUNCILMAN DRIVER TO ADOPT FIRST READING OF ORDINANCE NO. 2005-04, AN ORDINANCE AMENDING CHAPTER 42 OF THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS, BY DELETING THEREFROM THE DEFINITION OF "RETAIL AND SERVICE ESTABLISHMENTS" IN SECTION 42-131 OF ARTICLE V THEREOF AND SUBSTITUTING THEREFOR A NEW DEFINITION, BY DELETING ALL OF SUBPARAGRAPHS (6) AND (7) OF PARAGRAPH (a) OF SECTION 42-133 THEREOF AND SUBSTITUTING THEREFOR NEW SUBPARAGRAPHS (6), (7) AND (8), BY DELETING ALL OF SECTION 42-134 THEREOF, AND BY DELETING THE FIRST SENTENCE OF PARAGRAPH (a) OF SECTION 42-135 THEREOF AND SUBSTITUTING THEREFOR A NEW FIRST SENTENCE OF PARAGRAPH (a); PROVIDING THAT SMOKING SHALL BE PROHIBITED IN FOOD SERVICE ESTABLISHMENTS AND RESTAURANT BARS WITHIN THE CITY; PROVIDING A PENALTY IN AN AMOUNT OF NOT MORE THAN \$2,000 FOR VIOLATION OF ANY PROVISION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY; SECOND BY COUNCILMAN MARTIN.

MOTION CARRIED UNANIMOUSLY.

MOTION WAS MADE BY COUNCILMAN DRIVER TO WITHDRAW HIS MOTION TO ADOPT FIRST READING OF ORDINANCE NO. 2005-04, AN ORDINANCE AMENDING CHAPTER 42 OF THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS, BY DELETING THEREFROM THE DEFINITION OF "RETAIL AND SERVICE ESTABLISHMENTS" IN SECTION 42-131 OF ARTICLE V THEREOF AND SUBSTITUTING THEREFOR A NEW DEFINITION, BY DELETING ALL OF SUBPARAGRAPHS (6) AND (7) OF PARAGRAPH (a) OF SECTION 42-133 THEREOF AND SUBSTITUTING THEREFOR NEW SUBPARAGRAPHS (6), (7) AND (8), BY DELETING ALL OF SECTION 42-134 THEREOF, AND BY DELETING THE FIRST SENTENCE OF PARAGRAPH (a) OF SECTION 42-135 THEREOF AND SUBSTITUTING THEREFOR A NEW FIRST SENTENCE OF PARAGRAPH (a); PROVIDING THAT SMOKING SHALL BE PROHIBITED IN FOOD SERVICE ESTABLISHMENTS AND RESTAURANT BARS WITHIN THE CITY; PROVIDING A PENALTY IN AN AMOUNT OF NOT MORE THAN \$2,000 FOR VIOLATION OF ANY PROVISION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY; SECOND TO MOTION TO WITHDRAW BY COUNCILMAN MARTIN.

MOTION CARRIED UNANIMOUSLY.

MOTION WAS MADE BY COUNCILMAN MARTIN TO TABLE CONSIDERATION OF ORDINANCE 2005-04; SECOND BY COUNCILMAN DRIVER. MOTION TO AMEND WAS MADE BY COUNCILMAN MARTIN TO TABLE CONSIDERATION OF ORDINANCE 2005-04 FOR SIX WEEKS; SECOND TO AMENDED MOTION BY COUNCILMAN DRIVER.

THE QUESTION WAS CALLED BY COUNCILMAN DRIVER. VOTE TO TABLE WAS AS FOLLOWS:

COUNCILMAN MARTIN	<u>AYE</u>
COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN FAGAN	<u>NAY</u>
COUNCILMAN GATLIN	<u>AYE</u>
COUNCILMAN DRIVER	<u>AYE</u>

MOTION CARRIED.

COUNCILMAN GATLIN REQUESTED THAT AN ITEM BE PLACED ON THE MAY 16, 2005 AGENDA TO DISCUSS POSSIBLE PROVISIONS TO BE INCLUDED IN ORDINANCE 2005-04.

6.6 MOTION WAS MADE BY COUNCILMAN FAGAN TO APPROVE PLATS AS RECOMMENDED BY THE PLANNING COMMISSION; SECOND BY COUNCILMAN DRIVER:

- A. TOMBALL BIBLE CHURCH
- B. PARR COURT
- C. PDGL ACRES

MOTION CARRIED UNANIMOUSLY.

7.0 MOTION WAS MADE BY COUNCILMAN MARTIN TO ADJOURN; SECOND BY COUNCILMAN FAGAN.

MOTION CARRIED UNANIMOUSLY.

MEETING ADJOURNED.

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(signed) Doris Speer

DORIS SPEER, TRMC
CITY SECRETARY

(signed) H. G. Harrington

H. G. HARRINGTON
MAYOR