

MINUTES OF THE REGULAR CITY COUNCIL MEETING, HELD ON MONDAY, OCTOBER 16, 2006 AT 7:00 P.M., CITY HALL, 401 MARKET STREET, TOMBALL, TEXAS, 77375

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

COUNCILMAN QUINN
COUNCILMAN FAGAN
COUNCILMAN HARVEY
COUNCILMAN DRIVER

MEMBERS ABSENT:

COUNCILMAN LAZENBY – EXCUSED.

OTHERS PRESENT:

CITY MANAGER – BEN GRIFFIN
ASSISTANT CITY MANAGER – MARY COKER
CITY ATTORNEY – BILL OLSON
CITY ATTORNEY – DAVID OLSON
CITY SECRETARY – DORIS SPEER
CHIEF OF POLICE – MICHAEL BLAKE
DIRECTOR OF PUBLIC WORKS – ROD HAINEY
FINANCIAL DIRECTOR – SHERRIE MATTSON
FIRE CHIEF – RANDY PARR
CITY ENGINEER – IVALU ROSE
EXEC. ASST. TO CITY MANAGER – SHAWN COX

- 2.0 NO PUBLIC COMMENTS WERE RECEIVED.

- 3.0 NO REPORTS OR ANNOUNCEMENTS WERE RECEIVED FROM THE COUNCILMEMBER

3.1 THE CITY MANAGER’S REPORT WAS PRESENTED:

- A. OCTOBER 23, 2006 WORKSHOP
- B. UTILITY PROJECT FROM HICKS TO BROWN RD ON SH 249

- 4.0 MOTION WAS MADE BY COUNCILMAN FAGAN TO APPROVE THE MINUTES OF REGULAR COUNCIL MEETING OF OCTOBER 2, 2006; SECOND BY COUNCILMAN HARVEY.

MOTION CARRIED UNANIMOUSLY.

DISCUSSION/ACTION OF THE FOLLOWING ITEMS:

5.0 OLD BUSINESS:

5.1 MOTION WAS MADE BY COUNCILMAN QUINN TO ADOPT SECOND READING OF ORDINANCE NO. 2006-10, AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS, BY DELETING SECTION 82-17 THEREOF AND SUBSTITUTING THEREFORE A NEW SECTION 82-17, PROVIDING FOR THE UNLAWFUL RESALE OF UTILITY SERVICES, EXCEPT FOR MASTER METERED COMPLEXES WITH MORE THAN TWELVE UNITS AND OTHER SPECIAL ARRANGEMENTS APPROVED BY CITY COUNCIL; BY DELETING SECTION 82-19 AND SUBSTITUTING THEREFORE A NEW SECTION 82-19, PROVIDING FOR SEPARATE UTILITY SERVICE CONNECTIONS FOR EVERY BUILDING, STRUCTURE OR CONSUMER, EXCEPT MULTI-FAMILY RESIDENTIAL COMPLEXES WITH MORE THAN TWELVE UNITS SHALL BE MASTER METERED; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$500 FOR EACH DAY OF VIOLATION HEREOF; AND PROVIDING FOR SEVERABILITY; SECOND BY COUNCILMAN FAGAN. VOTE WAS AS FOLLOWS:

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN LAZENBY	<u>ABSENT</u>
COUNCILMAN FAGAN	<u>AYE</u>
COUNCILMAN HARVEY	<u>AYE</u>
COUNCILMAN DRIVER	<u>AYE</u>

MOTION CARRIED UNANIMOUSLY.

5.2 MOTION WAS MADE BY COUNCILMAN HARVEY TO ADOPT SECOND READING OF ORDINANCE NO. 2006-11, AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, SETTING THE TAX LEVY OF \$0.251455 FOR THE YEAR 2006 ON ALL TAXABLE REAL AND PERSONAL PROPERTY LOCATED IN THE CITY OF TOMBALL, TEXAS; ALLOWING FOR HOMESTEAD EXEMPTIONS FOR PROPERTY OWNERS SIXTY-FIVE YEARS OF AGE AND OVER, AND FOR PROPERTY OWNERS WHO QUALIFY FOR DISABILITY BENEFITS UNDER THE FEDERAL OLD AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; PROVIDING FOR PENALTY, INTEREST, AND ADDITIONAL PENALTY ON TAXES NOT TIMELY PAID; AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT; SECOND BY COUNCILMAN DRIVER. VOTE WAS AS FOLLOWS:

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN LAZENBY	<u>ABSENT</u>
COUNCILMAN FAGAN	<u>AYE</u>

COUNCILMAN HARVEY	<u>AYE</u>
COUNCILMAN DRIVER	<u>AYE</u>

MOTION CARRIED UNANIMOUSLY.

- 5.3 MOTION WAS MADE BY COUNCILMAN HARVEY TO ADOPT SECOND READING OF ORDINANCE NO. 2006-12, AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ORDINANCE NO. 2006-07, ADOPTED ON SEPTEMBER 5, 2006, BY DELETING SECTION 7 IN ITS ENTIRETY AND SUBSTITUTING THEREFORE A NEW SECTION 7; ESTABLISHING CHARGES FOR MONTHLY RATES AND CHARGES FOR NATURAL GAS PROVIDED BY THE CITY; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING OTHER MATTERS RELATING TO THE SUBJECT; AND PROVIDING FOR SEVERABILITY; SECOND BY COUNCILMAN QUINN. VOTE WAS AS FOLLOWS:

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN LAZENBY	<u>ABSENT</u>
COUNCILMAN FAGAN	<u>AYE</u>
COUNCILMAN HARVEY	<u>AYE</u>
COUNCILMAN DRIVER	<u>AYE</u>

MOTION CARRIED UNANIMOUSLY.

- 5.4 MOTION WAS MADE BY COUNCILMAN QUINN TO ADOPT SECOND READING OF ORDINANCE NO. 2006-13, AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS, BY DELETING THE LAST SENTENCE OF PARAGRAPH (d) OF SECTION 14-478 THEREOF, PROVIDING PROVISIONS FOR FIRE HYDRANTS IN MULTIPLE FAMILY DWELLING COMPLEXES; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2000 FOR EACH DAY OF VIOLATION HEREOF; AND PROVIDING FOR SEVERABILITY; SECOND BY COUNCILMAN HARVEY. VOTE WAS AS FOLLOWS:

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN LAZENBY	<u>ABSENT</u>
COUNCILMAN FAGAN	<u>AYE</u>
COUNCILMAN HARVEY	<u>AYE</u>
COUNCILMAN DRIVER	<u>AYE</u>

MOTION CARRIED UNANIMOUSLY.

6.0 NEW BUSINESS:

- 6.1 PUBLIC HEARING REGARDING THE FOLLOWING THREE PROPOSED

ANNEXATIONS WAS CALLED TO ORDER AT 7:09 P.M. BY MAYOR HARRINGTON:

- A. 8.1479 ACRES LOCATED ON THE EAST SIDE OF HUFSMITH-KOHRVILLE, NORTH OF SPELL ROAD
- B. 4.998 ACRES LOCATED ON THE EAST SIDE OF HUFSMITH-KOHRVILLE, NORTH OF SPELL ROAD
- C. 146 ACRES LOCATED ON THE NORTH SIDE OF ZION ROAD EAST OF ULRICH ROAD

NO COMMENTS WERE RECEIVED; PUBLIC HEARING WAS CLOSED AT 7:11 P.M. BY MAYOR HARRINGTON.

ITEMS 6.12 AND 6.13 WERE BROUGHT FORWARD BY MAYOR HARRINGTON:

- 6.12 PRESENTATION WAS MADE BY BILL CALDERON, HAWES-HILL-CALDERON, REGARDING TAX INCREMENT REINVESTMENT ZONE (TIRZ) FOR PROPOSED SUBDIVISION AT THE CORNER OF FM 2978 AND FM 2920, CALLED THE LAKES AT CROSSPOINT.
- 6.13 MOTION WAS MADE BY COUNCILMAN FAGAN TO AUTHORIZE THE CITY MANAGER TO ISSUE A 60-DAY LETTER TO APPROPRIATE TAXING JURISDICTIONS REGARDING TAX INCREMENT REINVESTMENT ZONE (TIRZ) FOR PROPOSED SUBDIVISION AT THE CORNER OF FM 2978 AND FM 2920; SECOND BY COUNCILMAN HARVEY.

MOTION CARRIED UNANIMOUSLY.

- 6.2 MOTION WAS MADE BY COUNCILMAN DRIVER TO AWARD CONTRACT FOR PROJECT 2007-01, CONSTRUCTION OF TOMBALL PLAZA TO SOLE BIDDER, GCC BUILDERS, IN THE AMOUNT OF \$338,096; SECOND BY COUNCILMAN QUINN.

MOTION CARRIED UNANIMOUSLY.

- 6.3 MOTION WAS MADE BY COUNCILMAN HARVEY TO DESIGNATE THE TRIANGLE PARK AND THE LITTLE LEAGUE FIELDS AS THE "WAYNE STOVALL SPORTS COMPLEX"; SECOND BY COUNCILMAN FAGAN.

MOTION CARRIED UNANIMOUSLY.

- 6.4 MOTION WAS MADE BY COUNCILMAN FAGAN TO APPOINT

COUNCILMAN HARVEY TO SERVE AS A MEMBER OF NORTHWEST EMERGENCY SERVICES (NWEMS) BOARD OF DIRECTORS TO FILL VACANCY; SECOND BY COUNCILMAN DRIVER.

MOTION CARRIED UNANIMOUSLY.

- 6.5 MOTION WAS MADE BY COUNCILMAN QUINN TO APPROVE RESOLUTION NO. 2006-28, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, SUPPORTING "TRAIN DAY", TO BE HELD AT THE TOMBALL DEPOT ON SATURDAY, JANUARY 27, 2007, AND "FALL FIESTA", TO BE HELD IN TOMBALL ON SUNDAY, SEPTEMBER 16, 2007, AND AUTHORIZING THE CLOSURE OF PORTIONS OF MARKET, ELM, AND WALNUT STREETS FOR EACH EVENT; SECOND BY COUNCILMAN DRIVER.

MOTION CARRIED UNANIMOUSLY.

- 6.6 MOTION WAS MADE BY COUNCILMAN FAGAN TO READ ORDINANCE NO. 2006-14 BY CAPTION ONLY; SECOND BY COUNCILMAN HARVEY.

MOTION CARRIED UNANIMOUSLY.

MOTION WAS MADE BY COUNCILMAN DRIVER TO ADOPT FIRST READING OF ORDINANCE NO. 2006-14, AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS, BY DELETING PARAGRAPH (i) OF SECTION 70-35 THEREOF AND SUBSTITUTING THEREFORE A NEW PARAGRAPH (i) OF SECTION 70-35, PROVIDING FOR THE INSTALLATION OF SIDEWALKS; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$500 FOR EACH DAY OF VIOLATION HEREOF; AND PROVIDING FOR SEVERABILITY; SECOND BY COUNCILMAN HARVEY. VOTE WAS AS FOLLOWS:

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN LAZENBY	<u>ABSENT</u>
COUNCILMAN FAGAN	<u>AYE</u>
COUNCILMAN HARVEY	<u>AYE</u>
COUNCILMAN DRIVER	<u>AYE</u>

MOTION CARRIED UNANIMOUSLY.

- 6.7 MOTION WAS MADE BY COUNCILMAN DRIVER TO READ ORDINANCE NO. 2006-15 BY CAPTION ONLY; SECOND BY COUNCILMAN FAGAN.

MOTION CARRIED UNANIMOUSLY.

MOTION WAS MADE BY COUNCILMAN HARVEY TO ADOPT FIRST READING OF ORDINANCE NO. 2006-15, AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, EXTENDING THE CITY LIMITS OF SAID CITY TO INCLUDE ALL OF THE TERRITORY WITHIN CERTAIN LIMITS AND BOUNDARIES AND ANNEXING TO THE CITY OF TOMBALL ALL OF THE TERRITORY WITHIN SUCH LIMITS AND BOUNDARIES; APPROVING A SERVICE PLAN FOR ALL OF THE AREA WITHIN SUCH LIMITS AND BOUNDARIES; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT; AND PROVIDING A SAVINGS AND SEVERABILITY CLAUSE (2.00 ACRES LOCATED AT 11355 FM 2920); SECOND BY COUNCILMAN DRIVER. VOTE WAS AS FOLLOWS:

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN LAZENBY	<u>ABSENT</u>
COUNCILMAN FAGAN	<u>AYE</u>
COUNCILMAN HARVEY	<u>AYE</u>
COUNCILMAN DRIVER	<u>AYE</u>

MOTION CARRIED UNANIMOUSLY.

- 6.8 MOTION WAS MADE BY COUNCILMAN DRIVER TO READ ORDINANCE NO. 2006-16 BY CAPTION ONLY; SECOND BY COUNCILMAN HARVEY.

MOTION CARRIED UNANIMOUSLY.

MOTION WAS MADE BY COUNCILMAN DRIVER TO ADOPT FIRST READING OF ORDINANCE NO. 2006-16, AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS, BY DELETING ARTICLE II OF CHAPTER 74 THEREOF AND SUBSTITUTING THEREFOR A NEW ARTICLE II OF CHAPTER 74; PROVIDING FOR A SEVEN PERCENT (7%) HOTEL OCCUPANCY TAX; PROVIDING RULES AND REGULATIONS FOR COLLECTION, PAYMENT, AND REPORTING REQUIREMENTS CONTAINED HEREIN; PROVIDING A PENALTY OF AN AMOUNT NOT TO EXCEED FIFTEEN PERCENT (15%) OF THE TOTAL AMOUNT OF TAX OWED; PROVIDING FOR THE IMPOSITION OF INTEREST ON UNPAID AMOUNTS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT HERewith; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$500 FOR EACH DAY OF VIOLATION HEREOF; AND PROVIDING FOR SEVERABILITY; SECOND BY COUNCILMAN QUINN. VOTE WAS AS FOLLOWS:

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN LAZENBY	<u>ABSENT</u>
COUNCILMAN FAGAN	<u>AYE</u>
COUNCILMAN HARVEY	<u>AYE</u>

COUNCILMAN DRIVER AYE

MOTION CARRIED UNANIMOUSLY.

- 6.9 MOTION WAS MADE BY COUNCILMAN DRIVER TO READ ORDINANCE NO. 2006-17 BY CAPTION ONLY; SECOND BY COUNCILMAN QUINN.

MOTION CARRIED UNANIMOUSLY.

MOTION WAS MADE BY COUNCILMAN DRIVER TO ADOPT FIRST READING OF ORDINANCE NO. 2006-17, 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 2005-2006, AS ADOPTED BY ORDINANCE NO. 2005-06; PROVIDING FOR APPROPRIATION OF FUNDS FROM THE UTILITY FUND IN THE AMOUNT OF \$549,500 FOR A TOTAL INCREASE IN EXPENSES OF \$549,500, 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; SECOND BY COUNCILMAN HARVEY. VOTE WAS AS FOLLOWS:

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN LAZENBY	<u>ABSENT</u>
COUNCILMAN FAGAN	<u>AYE</u>
COUNCILMAN HARVEY	<u>AYE</u>
COUNCILMAN DRIVER	<u>AYE</u>

MOTION CARRIED UNANIMOUSLY.

- 6.10 MOTION WAS MADE BY COUNCILMAN FAGAN TO APPROVE PLATS AS APPROVED BY PLANNING COMMISSION; SECOND BY COUNCILMAN HARVEY:

- A. REPLAT OF TOMBALL BIBLE CHURCH (COMMERCIAL; LOCATED AT NORTH CHERRY AND HOUSTON STREETS)

- B. FINAL PLAT OF VASQUEZ-PHOENIX SUBDIVISION (COMMERCIAL; LOCATED AT LIZZIE LANE AND SOUTH PERSIMMON)

- C. FINAL PLAT OF DIXIE PROPERTIES (COMMERCIAL; LOCATED SOUTH OF FM 2920, BETWEEN TREICHEL AND TOMBALL)

CEMETERY ROADS)

MOTION CARRIED UNANIMOUSLY.

6.11 EXECUTIVE SESSION: THE CITY COUNCIL RECESSED AT 7:35 P.M. TO MEET IN EXECUTIVE SESSION AS AUTHORIZED BY TITLE 5, CHAPTER 551, GOVERNMENT CODE, THE TEXAS OPEN MEETINGS ACT, FOR THE FOLLOWING PURPOSES:

- A. SECTION 551.087 DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS
- B. SECTION 551.071 CONSULTATION WITH ATTORNEY REGARDING POTENTIAL LITIGATION
- C. SECTION 551.072 DELIBERATIONS REGARDING REAL PROPERTY

UPON RECONVENING IN REGULAR SESSION AT 7:59 P.M., NO ACTION WAS TAKEN.

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

MOTION CARRIED UNANIMOUSLY.

MEETING ADJOURNED.

(signed) Doris Speer
DORIS SPEER, TRMC
CITY SECRETARY

(signed) H. G. Harrington
H. G. HARRINGTON
MAYOR