

AGENDA - PUBLIC HEARING OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, TO BE HELD ON MONDAY, JULY 23, 2012, AT 6:30 P.M. IN THE COUNCIL CHAMBERS, CITY HALL, 3519 LIBERTY DRIVE, PEARLAND, TEXAS.

- I. CALL TO ORDER**
- II. PURPOSE OF HEARING - PUBLIC COMMENT AND TESTIMONY REGARDING THE ABANDONMENT OF AN UNUSED TWENTY FOOT (20') ALLEYWAY. *Mr. Darrin Coker, City Attorney.***
- III. STAFF REVIEW OF THE ADOPTION OF THE ABANDONMENT OF AN UNUSED TWENTY FOOT (20') ALLEYWAY. *Mr. Darrin Coker, City Attorney.***
- IV. CITIZEN COMMENTS**
- V. COUNCIL/STAFF DISCUSSION**
- VI. ADJOURNMENT**

This site is accessible to disabled individuals. For special assistance, please call Young Lorfing at 281-652-1655 prior to the meeting so that appropriate arrangements can be made.

**AGENDA REQUEST
BUSINESS OF THE CITY COUNCIL
CITY OF PEARLAND, TEXAS**

AGENDA OF: 7-23-12	ITEM NO.: Public Hearing
DATE SUBMITTED: 6-30-12	DEPARTMENT OF ORIGIN: Legal
PREPARED BY: Darrin Coker	PRESENTOR: Darrin Coker
REVIEWED BY: NA	REVIEW DATE: NA
SUBJECT: Public Hearing- ROW Abandonment	
EXHIBITS: Petition for Abandonment, Survey	
EXPENDITURE REQUIRED: AMOUNT AVAILABLE: ACCOUNT NO.:	AMOUNT BUDGETED: PROJECT NO.:
ADDITIONAL APPROPRIATION REQUIRED: ACCOUNT NO.: PROJECT NO.:	
To be completed by Department: <input type="checkbox"/> Finance <input checked="" type="checkbox"/> Legal <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution	

EXECUTIVE SUMMARY

Buccee's recently submitted a Petition requesting the abandonment of a 20 foot alleyway ("ROW") for their property located at the intersection of SH 35 and Walnut. The property was developed several years ago by combining numerous narrow lots into one lot for purposes of constructing the existing gas station. The ROW, which bisects the property (north to south under the pump islands), was supposed to have been abandoned at the time of lot consolidation but that did not occur. The Petition for Abandonment is designed to facilitate the abandonment that should have occurred prior to construction of the gas station. Public Works has reviewed the Petition, and does not object to the request because no City facilities are currently located in the ROW. Furthermore, the City has no intention of placing future facilities in the ROW. If the Council desires to proceed with the abandonment, the first reading of an abandonment ordinance has been placed on the new business portion of the Council meeting for your consideration.



327 FM 2004
Lake Jackson, TX 77566

Tel: (979) 230-2920
Fax: (979) 230-2931

June 1, 2012

Dear Council,

We ask for your consideration regarding a right-of-way vacation on property address 2541 Main Street Pearland, TX 77581.

Recently, the unused right-of-way has been brought to the attention of our lenders. Banks have requested that we submit a right-of-way vacation request to the City.

Thank you for taking the time to review our application. Your consideration will help us satisfy the concerns our lenders have pertaining to the unused right-of-way.

Sincerely,

Tyler Boyd
Buc-ee's, Ltd.
327 FM 2004 Rd.
Lake Jackson, TX 77566
Phone 979-238-6328
Fax 979-238-6338

AFFIDAVIT

THE STATE OF TEXAS §
 §
COUNTY OF BRAZORIA §

BEFORE ME, the undersigned Notary Public, on this day personally appeared **SAGNESS GIROUARD, III** who, having been duly sworn by me stated on his oath as follows:

"My name is **SAGNESS GIROUARD, III**. I am over the age of eighteen (18) years, am legally competent to make this affidavit and have personal knowledge of all matters stated herein.

"I am an attorney, licensed by the State of Texas to practice law in the State of Texas. My Texas Bar number is 07981600.

"I was asked to provide an affidavit related to my opinion about the whether Buc-ee's, Ltd. owns property immediately adjacent to an alley located in Block Twenty-Eight (28) Pearland Townsite, a subdivision in Brazoria County, Texas, according to the map or plat thereof recorded in Volume 29, Page 41 of the Deed records of Brazoria County, Texas ("Plat").

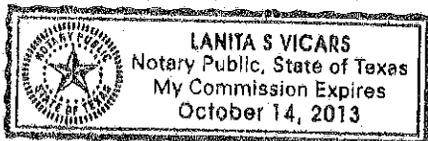
"I have reviewed the Plat. A copy of the Plat is attached hereto as Exhibit "A". Further, I have reviewed that one certain special warranty deed ("Special Warranty Deed") transferring the following described property to Buc-ee's, Ltd. (formerly Buc-ee's, Inc.), recorded at Clerk's file no. 01000560 of the Official Records of Brazoria County, Texas, to wit:

Lot Seventeen (17) to Thirty-two (32) inclusive, Block Twenty-Eight (28) Pearland Townsite, a subdivision in Brazoria County, Texas, according to the map or plat thereof recorded in Volume 29, Page 41 of the Deed records of Brazoria County, Texas.

"Based upon my review of the Plat, my review of the Special Warranty Deed, and my review of the partnership records of Buc-ee's, Ltd., Buc-ee's, Ltd, presently owns eight lots (lots 17 through lot 24) on the east side of the alley and eight lots (Lots 25 through Lots 32) on the west side of the alley depicted on the Plat ("Buc-ee's Sixteen Lots"). All of the Buc-ee's Sixteen Lots are immediately adjacent to the alley in Block 28 on the Plat. Lot 17 is immediately across the alley from Lot 32. Lot 18 is immediately across the alley from Lot 31. Lot 19 is immediately across the alley from Lot 30. Lot 20 is immediately across the alley from Lot 29. Lot 21 is immediately across the alley from Lot 28. Lot 22 is immediately across the alley from Lot 27. Lot 23 is immediately across the alley from Lot 26. Lot 24 is immediately across the alley from Lot 25. Again, all of these lots are adjacent to the alley in Block 28 of the Plat."

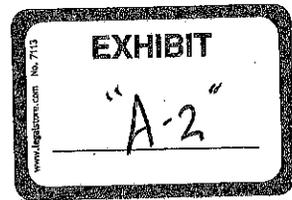
SAGNESS, GIROUARD, III, Affiant

SUBSCRIBED AND SWORN TO BEFORE ME on this the 1ST day of May, 2012 by **SAGNESS, GIROUARD, III**.



Lanita S. Vicars

NOTARY PUBLIC, STATE OF TEXAS



STATE OF TEXAS

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COUNTY OF
BRAZORIA

Metes and Bounds Description
Tract II

All that certain 0.4255 acre (18,533 square-foot) tract of land situated in the H. T. & B. RR Company Survey, Section 2, Abstract No. 542, Brazoria County, Texas, being Lots 25 through 32 inclusive, in Block 28, of Pearland Townsite, a subdivision in Brazoria County, Texas, according to the map or plat thereof recorded in Volume 29, Page 41 of the Deed Records of Brazoria County, Texas, Save and Except there from the South five (5) feet of Lot 25, as awarded to the City of Pearland, Texas, in that certain Condemnation Proceeding filed under Cause No. CI 040891 in County Civil Court at Law No. 2 of Brazoria County, Texas, and set forth and defined in that certain Agreed Final Judgment, a certified copy of which is recorded under Document No. 2011032084 (Exhibit "A" attachment) of the Official Public Records of Brazoria County, Texas (OPRBCT): said 0.5596 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at an iron rod at the intersection of the North Right-Of-Way line of East Walnut Street (60' ROW) and the East Right-Of-Way line of South Main Street (100' ROW) in the West line of Lot 25 at the Northwest corner of said Save and Except Tract for the Southwest corner of the herein described Tract II;

Thence North 14°00'42" West along the West line of Lots 25, 26, 27, 28, 29, 30, 31 and 32 and the East line of South Main Street, a distance of 198.87 feet to an iron rod found at the common front corner of Lots 32 and 33 for the Northwest corner of the herein described Tract II;

Thence North 87°19'02" East along the common line of Lots 32 and 33, a distance of 114.58 feet to an iron rod set in the East line of a 20-foot dedicated Public Alley at the common rear corner of Lots 32 and 33 for the Northeast corner of the herein described Tract II;

Thence South 02°40'58" East along the East line of Lots 32, 31, 30, 29, 28, 27, 26 and 25 and the West line of said 20-foot Public Alley, a distance of 195.00 feet to an iron rod set in the North line of East Walnut Street and the East line of Lot 25 at the Northeast corner of said Save and Except Tract for the Southeast corner of the herein described Tract II;

Thence South 87°19'02" West across Lot 25 along the North line of said Save and Except Tract and the North line of East Walnut Street, a distance of 75.51 feet to the POINT OF BEGINNING and containing 0.4255 acre or 18,533 square feet of land.



Allen D. Hughes
Professional Land Surveyor, No. 3891
December 20, 2011
Job No. 11-10603Bmb

