

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



MONDAY, JANUARY 5, 2009

7:00 P.M.

1.0 Call to Order

The meeting was called to order by Mayor Fagan. Other members present were:

Councilman Quinn
Councilman Harvey
Councilman Driver
Councilman Lazenby
Councilman Webb

Others present:

City Manager – Jan Belcher
Assistant City Manager – Mary Coker
City Secretary – Doris Speer
City Attorney – Scott Bounds, Olson & Olson
Fire Chief – Randy Parr
Chief of Police – Robert Hauck
Director of Public Works – David Kauffman
Finance Director – Monica Kohlenberg
Director of Engineering and Planning – Mark McClure
City Planner/Comm. Dev. Coordinator – Kelly Violette

2.0 Invocation

- Led by Pastor Richard Jennings, River of Praise

3.0 Pledges to U. S. and Texas Flags

- Led by Randy Parr, Fire Chief

4.0 The following public comments were received:

Shirley Hockenberry - Expressed opposition to Zoning Case P08-064
29503 Orchard Grove 77377

- Darren Hockenberry
29503 Orchard Grove 77377 - Expressed opposition to Zoning Case P08-064
- R. W. Burke
29515 Orchard Grove 77377 - Expressed opposition to Zoning Case P08-064
- Marsha Todd
14514 Jasmine Springs 77377 - Expressed opposition to Zoning Case P08-064
- Chad Degges
29602 Imperial Creek 77377 - Expressed opposition to Zoning Case P08-064
- C. J. Parker
14422 Spring Mountain 77377 - Expressed opposition to Zoning Case P08-064
- Ernest Mark Gonzales
14414 Spring Mountain 77377 - Expressed opposition to Zoning Case P08-064
- Donna Murray
14419 Spring Mountain 77377 - Expressed opposition to Zoning Case P08-064
- Rhonda Pantoja
29415 Imperial Creek 77377 - Expressed opposition to Zoning Case P08-064
- James Marino
29514 Imperial Creek 77377 - Expressed opposition to Zoning Case P08-064
- Ron Ball
29411 Imperial Creek 77377 - Expressed opposition to Zoning Case P08-064
- Terry Tollefsbol
29507 Orchard Grove 77377 - Expressed opposition to Zoning Case P08-064
- Tracy DeSmit
14418 Spring Mountain 77377 - Expressed opposition to Zoning Case P08-064
- Ann Marie McWillis
29403 Imperial Creek 77377 - Expressed opposition to Zoning Case P08-064
- James Sebesta
29510 Imperial Creek 77377 - Expressed opposition to Zoning Case P08-064
- Stacey Blagrove
29303 Imperial Creek 77377 - Expressed opposition to Zoning Case P08-064

- Trent Conner
Greystar
4931 Valkeith 77096
- Expressed support for Zoning Case P08-064; project will bring in \$600,000 annually in property tax revenues to the City.
- Jeff Presnal
CCG
25614 Bridle Creek 77355
- Expressed support for Zoning Case P08-064; businesses follow rooftops; nothing similar developing in this area; development agreement would control activity; closest approach to Spring Creek Estates is 450 feet.

5.0 Reports and Announcements

Presentation:

- Mayor Fagan presented a proclamation in honor of the Tomball Volunteer Fire Department's 75th Anniversary to Chief Parr, Asst. Chief Hoffman, and the members of the Tomball Volunteer Fire Department

Reports and Announcements:

- Second Saturday at the Depot- January 10; February 14; and March 14, 2009
- **Walk Tomball!** Begins Saturday, January 10 (every Saturday at 9:00 a.m. at the Depot)

- 6.0 Motion was made by Councilman Harvey to approve the Minutes of the Regular City Council Meeting of December 15, 2008; second by Councilman Driver.

Motion carried unanimously.

- 7.0 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.]*

- 7.1 Award of Contract for Project No. 2009-03 (Purchase of Liquid Chlorine) to Low Bidder, PWC Solutions in the Amount of \$1.30 per Gallon
- 7.2 Award Contract for Purchase of Three Replacement Police Department Vehicles through the Texas Association of School Boards Buyboard, in the Amount of \$82,666.00
- 7.3 Approve **FINAL ABBREVIATED PLAT OF LYNCH COMMERCIAL**; Being a Replat of lots 43 & 44 in Block 96 of the Revised Map of Tomball, as recorded in the Plat Records in Volume 4, Page 25 of the Map Records of Harris County Texas; situated in the Joseph House Survey, Abstract Number 34 of Harris County, Texas

An explanation of each item in the Consent Agenda was given by Jan Belcher. Item 7.1 for liquid chlorine contains a 31.5% increase in costs; however, purchases should remain under budget. Councilman Quinn requested the removal of Item 7.2 from the Consent Agenda.

Motion was made by Councilman Harvey to approve Items 7.1 and 7.3 in the Consent Agenda; second by Councilman Lazenby.

Motion to approve Items 7.1 and 7.3 carried unanimously.

Staff recommendation to award contract for Item 7.2 to the second low bidder is based on anticipated delivery problems. Motion was made by Councilman Driver to approve Item 7.2; second by Councilman Harvey.

Motion to approve Item 7.2 carried unanimously.

8.0 New Business:

8.1 Kelly Violette presented the staff report for Rose 35 Abbreviated Plat. The Public Hearing on **ROSE 35 ABBREVIATED PLAT**; Being a Subdivision of 0.2086 Acre Tract, 9086.616 Square Feet; Being a Replat of Lots 35, 36 and 37, Block 39, Revised Map of Tomball as recorded in Volume 4, Page 25, Harris County Map Record; situated in the William Hurd Survey, A-371, Harris County, Texas was opened by Mayor Fagan at 7:34 p.m.; the following comment was received:

Edna M. Green - Neither opposed nor in favor; seeking information
518 Timkin 77375 regarding the proposed development.

No additional public comments being received, the Public Hearing was closed by Mayor Fagan at 7:37 p.m.

Motion was made by Councilman Driver to Approve **ROSE 35 ABBREVIATED PLAT**; Being a Subdivision of 0.2086 Acre Tract, 9086.616 Square Feet; Being a Replat of Lots 35, 36 and 37, Block 39, Revised Map of Tomball as recorded in Volume 4, Page 25, Harris County Map Record; situated in the William Hurd Survey, A-371, Harris County, Texas; second by Councilman Lazenby.

Motion carried unanimously.

8.2 Robert Hauck presented an overview regarding Ordinance No. 2009-01. Motion was made by Councilman Lazenby to read Ordinance No. 2009-01 by caption only on first reading; second by Councilman Harvey.

Motion carried unanimously.

Motion was made by Councilman Harvey to Adopt, on First Reading, Ordinance No. 2009-01, an Ordinance Amending the Code of Ordinances of the City Council of the City of Tomball, Texas, by Deleting Section 14-8. Maximum Sound Levels, of Chapter 14. Buildings and Building Regulations, by Providing a New Section 14-8, by Deleting Article V. Noise of Chapter 30-Environment, by Providing a New Article V of Chapter 30, all Prohibiting and Regulating Certain Noises; Establishing Rules and Regulations for the Permitting and Operation of Certain Noise-Making Activities and Devices; Providing a Penalty in an Amount Not to Exceed \$500 for Each Violation Hereof; and Providing for Severability; and Making Other Provisions and Findings Related Thereto; second by Councilman Driver. Vote was as follows:

Councilman Driver	<u>Aye</u>
Councilman Quinn	<u>Aye</u>
Councilman Lazenby	<u>Aye</u>
Councilman Webb	<u>Aye</u>
Councilman Harvey	<u>Aye</u>

Motion carried unanimously.

- 8.3 Mayor Fagan provided an explanation of the process involved in first and second readings of ordinances for passage. Kelly Violette presented the staff report regarding **ZONING CASE P08-064**: Request by CCG Venture Partners to Rezone 3 Tracts Totaling Approximately 74.406 Acres of Land, in the Joseph House Survey, within the City of Tomball, Harris County, TX, Located on the South Side of Brown Road, West of S.H. 249 Expressway, from the GR-General Retail District to the Planned Development (PD-3) District.

Motion was made by Councilman Harvey to read Ordinance No. 2009-02 by caption only on first reading; second by Councilman Driver.

Motion carried unanimously.

Motion was made by Councilman Harvey to Adopt, on First Reading, Ordinance No. 2009-02, an Ordinance of the City of Tomball, Texas, Amending Zoning Ordinance No. 2008-01, by approving a Planned Development District (“PD”) of approximately 74.3 Acres of land at State Highway 249 and Brown Road; Amending the Official Zoning Map of the City to reflect the PD to be known as PD-3; Adopting a Land Use Plan and Regulations applicable to PD-3, Including Building Elevations, Building Height, Building Setbacks, Landscaping, Signs, Vehicle Access, Off-Street Parking, Outdoor Storage, and Site Drainage; Providing for severability; and providing a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof; second by Councilman Webb. Vote was as follows:

Councilman Quinn	<u>Nay</u>
Councilman Lazenby	<u>Nay</u>
Councilman Webb	<u>Aye</u>
Councilman Harvey	<u>Nay</u>
Councilman Driver	<u>Nay</u>

Motion to adopt Ordinance No. 2009-02 on first reading **FAILED, 4-1.**

- 8.4 Robert Hauck presented an overview regarding Ordinance No. 2009-03. Motion was made by Councilman Harvey to read Ordinance No. 2009-03 by caption only on first reading; second by Councilman Driver.

Motion carried unanimously.

Motion was made by Councilman Harvey to Adopt, on First Reading, Ordinance No. 2009-03, an Ordinance Amending the Code of Ordinances of the City Council of the City of Tomball, Texas, Chapter 78, Article VIII. Automated Red Light Enforcement, by Deleting Section 78-224. Administrative Adjudication Hearing and by Providing a New Section 78-224. Administrative Adjudication Hearing, Extending the Period in Which the Administrative Adjudication Hearing Must be Held to 180 Days; Providing for Severability; and Making Other Provisions and Findings Related Thereto; second by Councilman Lazenby. Vote was as follows:

Councilman Lazenby	<u>Aye</u>
Councilman Webb	<u>Aye</u>
Councilman Harvey	<u>Aye</u>
Councilman Driver	<u>Aye</u>
Councilman Quinn	<u>Aye</u>

Motion carried unanimously.

- 8.5 Doris Speer presented an overview regarding Resolution No. 2009-01, ordering the May 9, 2009 General Election. Motion was made by Councilman Driver to Approve Resolution No. 2009-01, Ordering a Regular City Officer's Election to be Held on the 9th day of May, 2009; Designating the Polling Places and Appointing Election Officials for such Election; Directing the Giving of Notice of Such Election; and Providing Details Relating to the Holding of such Election; second by Councilman Harvey.

Motion carried unanimously.

- 8.6 Mark McClure presented an overview regarding Resolution No. 2009-02, approving the Capital Improvements Plan and recommending the appointment of Crystal Graham as the additional member of the CIP Advisory Committee. Motion was made by Councilman Harvey to Approve Resolution No. 2009-02, a Resolution of the City Council of the City of Tomball, Texas, Receiving Land Use Assumptions and Capital Improvements Plan (the

“CIP”) Prepared by Lockwood, Andrews, & Newnam, Inc., P.E.; Establishing a Public Hearing Date and Form of Notices for the CIP; Providing for a CIP Advisory Committee; all in Accordance with Chapter 395, Texas Local Government Code; Making other Findings and Providing Details Related Thereto; Repealing all resolutions and Orders or Parts Thereof Inconsistent or in Conflict Herewith; and Providing for Severability and to appoint Crystal Graham as the sixth member of the CIP Advisory Committee; second by Councilman Quinn.

Motion carried unanimously.

- 8.7 Monica Kohlenberg presented an overview regarding the arbitrage rebate payment. Motion was made by Councilman Driver to Approve an Additional Appropriation of Funds in the Debt Service Fund for \$22,110.31 for an Arbitrage Rebate Payment; second by Councilman Lazenby.

Motion carried unanimously.

- 9.0 Motion was made by Councilman Harvey to adjourn, second by Councilman Lazenby.

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this 19th day of January 2009.

Doris Speer
Doris Speer, TRMC
City Secretary

Gretchen Fagan
Gretchen Fagan
Mayor