

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



**MONDAY, JANUARY 19, 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  
City Secretary – Doris Speer  
City Attorney – Scott Bounds, Olson & Olson  
Fire Chief – Randy Parr  
Chief of Police – Robert Hauck  
Finance Director – Monica Kohlenberg  
Director of Engineering and Planning – Mark McClure  
City Planner/Comm. Dev. Coordinator – Kelly Violette  
Assistant to City Manager – Shawn Cox

2.0 Invocation

- Led by Pastor Les Herron, The Journey Church

3.0 Pledges to U. S. and Texas Flags

- Led by Chris Morris and René Morris

4.0 The following public comments were received:

Jason Atkinson  
11806 Brydan, 77429

- Presented a framed copy of the 1933 survey of the City of Tomball, which was originally completed by his grandfather.

Allen Jones  
14907 Scarlet Oak, 77377

- Expressed support for the Potpourri's designation as the Official Newspaper for the City of Tomball for 2009; committed to City Council that the Potpourri will match the rates currently being charged by the Tomball-Magnolia Tribune.

## 5.0 Reports and Announcements

- Monica Kohlenberg presented the Results of Operations for the First Quarter of Fiscal Year 2009.
- **Walk Tomball!** (every Saturday at 9:00 a.m. at the Depot)
- Second Saturday at the Depot - February 14 and March 14, 2009
- Mayor Fagan announced that the portion of the scheduled Public Hearing for **ZONING CASE P08-074**: Request by James E. Spurlin with L.S. Development L.L.C. to amend the Comprehensive Zoning Ordinance to rezone a 142.770 acre tract of land in the Joseph Miller Survey, Abstract No. 50, within the City of Tomball, Harris County, Texas, generally located northerly of Zion Road, easterly of Neal Street, from the AG-Agricultural District to the SF-9- Single Family 9 District was canceled; Zoning Case P08-074 has been tabled by the Planning and Zoning Commission and additional public hearing notification will be required before a new public hearing is held.

6.0 Motion was made by Councilman Harvey to approve the Minutes of the Regular City Council Meeting of January 5, 2009; second by Councilman Lazenby.

Motion carried unanimously.

## 7.0 Old Business:

7.1 Rob Hauck presented an overview regarding Ordinance No. 2009-01. Motion was made by Councilman Driver to Adopt, on Second 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 Harvey. Vote was as follows:

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

Councilman Webb                      Aye

Motion carried unanimously.

- 7.2 Rob Hauck presented an overview regarding Ordinance No. 2009-03. Motion was made by Councilman Webb to Adopt, on Second 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 Harvey. Vote was as follows:

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

Motion carried unanimously.

8.0 New Business – Regular Items:

- 8.1 Mayor Fagan advised Council that the proposed appointment of John Ford was to include a representative from the south side of town. Motion was made by Councilman Lazenby to Appoint John Ford as an Additional Member of the Comprehensive Plan Advisory Committee (CPAC); second by Councilman Harvey.

Motion carried unanimously.

- 8.2 Jan Belcher presented information regarding the state requirement for reappointing the Municipal Court Judge. Motion was made by Councilman Webb to Reappoint George Covington as Municipal Court Judge; second by Councilman Driver.

Motion carried unanimously.

- 8.3 Monica Kohlenberg presented the Audited Financial Statements for FY 2008. Motion was made by Councilman Driver to Accept the Audited Financial Statements for FY 2008 as presented by Belt Harris & Associates, LLP; second by Councilman Harvey.

Motion carried unanimously.

- 8.4 Mark McClure presented information regarding the proposed amendment to the development agreement with Tomball Spring Creek Commons. Motion was made by

Councilman Harvey to Approve Amendment Number One to Agreement with Tomball Spring Creek Commons, L.P. for Construction of M124 Drainage Improvements; second by Councilman Lazenby.

Motion carried unanimously.

- 8.5 Jan Belcher advised Council that the date for the public hearing on the land use assumptions and capital improvements plan had been stated incorrectly in Resolution No. 2009-02 and this resolution would correct the error. Motion was made by Councilman Webb to Approve Resolution No. 2009-02C, a Resolution of the City Council of the City of Tomball, Texas, Amending Resolution 2009-02, Approved on January 5, 2009; to Correct the Date Set for the Public Hearing on Land Use Assumptions and Capital Improvements Plan Relating to Possible Adoption of Impact Fees to February 16, 2009 at 6:30 P.M; 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; second by Councilman Driver.

Motion carried unanimously.

- 8.6 Rob Hauck presented information regarding the proposed mutual aid law enforcement agreement between the City and Lonestar College-Tomball. Motion by Councilman Harvey to Approve Resolution No. 2009-04, a Resolution of the City Council of the City of Tomball, Texas, Approving a Mutual Aid Law Enforcement Agreement between the City of Tomball and Lonestar College System-Tomball to Facilitate Assistance and Cooperation in the Investigation of Criminal Activity and Law Enforcement on an As-needed and As-required Basis; Authorizing the Chief of Police to Execute the Mutual Aid Law Enforcement Agreement on Behalf of the City of Tomball; Containing other Provisions relating to the Subject; and Providing for Severability; second by Councilman Lazenby.

Motion carried unanimously.

- 8.7 Jan Belcher presented information regarding the rates proposed by the Tribune and the Potpourri and reminded Council the Allen Jones, editor of the Potpourri, had committed to Council that the Potpourri would match the rates currently being charged by the Tribune. Motion was made by Councilman Quinn to Approve Resolution No. 2009-05, a Resolution of the City Council of the City of Tomball, Texas, Designating the Official Newspaper for 2009 for Publication of Matters Pertaining to the City of Tomball, and designating the Tomball-Magnolia Potpourri as the Official Newspaper for the City of Tomball 2009, based on the commitment made by Allen Jones during Public Comments to match the rates currently being charged by the Tomball-Magnolia Tribune; second by Councilman Webb.

Motion carried unanimously.

- 8.8 Jan Belcher presented an overview regarding Ordinance No. 2009-04. Motion was made by Councilman Driver to read Ordinance No. 2009-04 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. 2009-04, an Ordinance of the City Council of the City of Tomball, Texas, Amending Chapter 74, Taxation, of the Code of Ordinances of the City of Tomball, Texas, by Adding a New Article V. Entitled “Charitable Organization Exemption”; Providing a Property Tax Exemption for Qualified Charitable Organizations Engaged Primarily in Performing Religious, Charitable, Scientific, Literary, or Educational Functions; Requiring a Determination Letter from the State Comptroller’s Office Finding the Organization is Engaged Primarily in Performing Religious, Charitable, Scientific, Literary, or Educational Functions; Providing a Five (5) Year Term for the Property Tax Exemption; Providing a Severability Clause; and Providing for an Effective Date; 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.

- 8.9 Kelly Violette presented the staff report for Zoning Case P08-082, Texas Star Gymnastics. The Public Hearing for **ZONING CASE P08-082**, requested by Nancy Gomez to amend the Comprehensive Zoning Ordinance to rezone one tract totaling approximately 2.5 acres of land, legally described as Tract 42B situated in the Tomball Townsite, Ralph Hubbard Survey, Abstract 383, (1230 Ulrich Road) within the City of Tomball, Harris County, Texas, generally bounded by Ulrich Road and Rudolph Road, northerly of East Hufsmith Road, from the SF-20-E - Single-Family 20 Estate District to the GR-General Retail District was opened by Mayor Fagan at 7:47 p.m.; the following comments were received:

Brian Sabin 12912 Zion Road, 77375	- Expressed his opposition to the proposed zoning change.
Larry Snyder 1245 Rudolph Road, 77375	- Expressed his opposition to the proposed zoning change.

No additional public comments being received, the Public Hearing was closed by Mayor Fagan at 7:50 p.m.

Motion was made by Councilman Driver to read Ordinance No. 2009-05 by caption only on first reading; second by Councilman Harvey.

Motion carried unanimously.

Motion was made by Councilman Lazenby to Adopt, on First Reading, Ordinance No. 2009-05, an ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 2.25 acres of land legally described as Tract 42b located in the Tomball Townsite, Abstract 383, within the City of Tomball, Harris County, Texas, from the SF-20-E Single-Family-20 Estate District to the GR-General Retail District; said property also being known as 1230 Ulrich Road, generally bounded by Ulrich Road on the west, Rudolph Road on the East, and located northerly of Hufsmith Road; 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; second by Councilman Quinn. Vote was as follows:

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

Motion to adopt Ordinance No. 2009-05 **FAILED** unanimously.

- 8.10 Kelly Violette presented the staff report for Zoning Case P08-088, LS Development, LLC. The Public Hearing for **ZONING CASE P08-088**, requested by Jason Atkinson, on behalf of James E. Spurlin with L.S. Development L.L.C., for a text amendment to Section 16.4 (A.2) of the Comprehensive Zoning Ordinance to reduce the minimum lot width requirement of a radial lot from 80 feet to 75 feet at and for a distance of 30 feet behind the front yard/building line was opened by Mayor Fagan at 8:02 p.m.; the following comments were received:

- |                                       |  |
|---------------------------------------|--|
| Bill Sumner<br>12321 Zion Road, 77375 | - Expressed his opposition to the proposed zoning change.  |
| Brian Sabin<br>12912 Zion Road, 77375 | - Expressed his opposition to the proposed zoning change.  |
| Jason Atkinson<br>11806 Brydan, 77429 | - Explained rationale behind the request for text amendment to Section 16.4 (A.2) of the Comprehensive Zoning Ordinance. |

No additional public comments being received, the Public Hearing was closed by Mayor Fagan at 8:04 p.m.

Motion was made by Councilman Harvey to read Ordinance No. 2009-06 by caption only on first reading; second by Councilman Driver.

Motion carried unanimously.

Motion was made by Councilman Driver to Adopt, on First Reading, Ordinance No. 2009-06, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by amending Section 16.4 SF-9-Single-Family Residential-9 District Area Regulations to Decrease the Minimum Lot Width Requirement for Radial Lots to 75 feet from 80 feet; 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; second by Councilman Quinn.

Motion was made by Councilman Quinn to table consideration of this request until Raleigh Creek presents a rezoning request for the development; second by Councilman Webb.

Motion to **TABLE** consideration of this request carried unanimously. No action taken regarding Ordinance No. 2009-06.

- 8.11 Monica Kohlenberg presented proposed administrative policy covering the grant application process for hotel/motel tax revenue. Motion was made by Councilman Lazenby to Approve Administrative Policy No. 22, Entitled "Hotel Occupancy Tax Grant Process"; second by Councilman Harvey.

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 2nd day of February 2009.

Doris Speer  
Doris Speer, TRMC  
City Secretary

Gretchen Fagan  
Gretchen Fagan  
Mayor