

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



MONDAY, MARCH 16, 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 Lazenby
Councilman Webb
Councilman Driver

Others present:

City Manager – Jan Belcher
City Secretary – Doris Speer
City Attorney – Scott Bounds, Olson & Olson
Chief of Police – Robert Hauck
Fire Chief – Randy Parr
Assistant to City Manager – Shawn Cox
Finance Director – Monica Kohlenberg
Director of Public Works – David Kauffman
Director of Engineering and Planning – Mark McClure
City Planner/Comm. Dev. Coordinator – Kelly Violette
Police Captain – Rick Grassi
Police Sergeant – Danny Arriaga
Community Events Coordinator – Rosalie Dillon

2.0 Invocation

- Led by Pastor Ken Shuman, WellSpring Church

3.0 Pledges to U. S. and Texas Flags

- Led by Taylor Coleman and Chris Morris

4.0 Public Comments and Receipt of Petitions *(At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Council/Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law.)*

- Bill Sumner
12321 Zion Road, 77375
- Expressed opposition to Zoning Case P08-074; presented petition.
- Michael Gatlin
31406 Capella Circle, 77375
- Item 8.3 - does agreement provide insurance for elected officials?
Item 9.5 - will any hotel/motel taxes be used to pay for a portion of the statue?
- David Martin
13319 Spring Hollow, 77375
- Item 9.1 – will City pay part of the construction costs of the infrastructure on Zion Road?
Item 9.5 – too much money for the statue
Item 9.6 – why wasn't the cost of the skating rink stated on the agenda?

5.0 Presentations:

- Mayor Fagan presented a Service Flag to Jeff and Sandra Presnal, parents of Ryan Louis Presnal, Second Lieutenant, 1st Cavalry Division, Ft. Hood, United States Army.
- Mayor Fagan presented the Award to Brianne Murray for Submitting the Winning Design in the Bunny Run 5K T-shirt Design Contest and recognized the finalists in the contest, Landon Fox, Anna Cathcart, Emily Osceola and Ali Uhle.

6.0 Reports and Announcements:

- March 27-29 – German Heritage Festival at the Depot
- April 11, 2009 – Second Saturday at the Depot
- April 11, 2009 – 1st Annual City of Tomball Bunny Run 5K and Kids 1K
- **Walk Tomball!** (every Saturday at 9:00 a.m. at the Depot)
- Comprehensive Plan website is now available online – <http://plantomball.com/index.html>
- David Kauffman provided a report on the success of Clean Up Tomball Week.
- Sales Tax Report for March 2009

7.0 Old Business:

- 7.1 Mark McClure provided a brief overview of the 2009 Major Thoroughfare Plan, recommending the adoption of the Plan as originally presented. Motion was made by Councilman Driver to Adopt, on Second Reading, Ordinance No. 2009-08, an Ordinance Adopting the "2009 Major Thoroughfare Plan" for the City of Tomball, Texas; Repealing

all Ordinances or Parts of Ordinances Inconsistent Herewith; and Providing for Severability; second by Councilman Harvey. Vote was as follows:

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

Motion carried unanimously.

- 8.0 **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.]*
- 8.1 Monica Kohlenberg provided a brief overview regarding Resolution No. 2009-07, a Resolution of the City Council of the City of Tomball, TX, Authorizing the City Treasurer to Invest the City’s Funds in the Texas Cooperative Liquid Assets Securities System (CLASS), an Investment Pool Administered by MBIA Municipal Investors Service Corporation
- 8.2 Monica Kohlenberg provided a brief overview regarding Resolution No. 2009-08, a Resolution of the City of Tomball, Texas, Authorizing Participation in TexPool/TexPool *PRIME* and Designating Authorized Representatives
- 8.3 Jan Belcher provided a brief overview regarding Resolution No. 2009-09, a Resolution of the City Council of the City of Tomball, Texas, Authorizing Creation of an Employee Benefits Trust; Designating all Members of the City Council to be Trustees of said Trust; and Authorizing the Trust to Purchase Various Forms of Insurance for the Benefit of City Officers, Employees, Qualified Retirees, and Their Dependents
- 8.4 Betty Reinbeck provided a brief overview regarding the proposed Project of the Tomball Economic Development Corporation (TEDC), an Agreement with Compass Instruments, to Make Direct Incentives to, or Expenditures for, the Creation or Retention of Primary Jobs and That are Found by the Board of Directors to be Required or Suitable for the Development, Retention, or Expansion of Manufacturing and Industrial Facilities, Research and Development Facilities, Transportation Facilities, Recycling Facilities, Distribution Centers, Small Warehouse Facilities, and Regional and Corporate Headquarter Facilities: to wit: Compass Instruments’ Relocation and Development of a Manufacturing Operation at 327 South Persimmon Street. The Estimated Amount of Expenditure for Such Project is \$10,000.00 - \$20,000.00

- 8.5 Betty Reinbeck provided a brief overview regarding the proposed "Project" of the Tomball Economic Development Corporation (TEDC), an agreement to make direct incentives to, or expenditures for, the promotion of new or expanded business development, to wit: Garth Lodging Corporation, construction of a Holiday Inn Express franchise on SH 249 and the Tomball Expressway east frontage road in the City of Tomball – Resolution No. 2009-11-TEDC, a Resolution of the City Council of the City of Tomball, Texas, Authorizing and Approving the Tomball Economic Development Corporation Project to Expend Funds to Assist in the Construction Costs of Approved Infrastructure (Water, Sewer, and Electric Utilities, Drainage, and Site Preparation Improvements) Necessary to Develop a Proposed Holiday Inn & Suites Hotel on the East Frontage Road of the Tomball Expressway at the End of Park Drive; Containing Other Provisions Relating to the Subject; and Providing for Severability
- 8.6 Betty Reinbeck provided a brief overview regarding the proposed Project of the Tomball Economic Development Corporation, an Agreement with BL Technology, Inc., to Make Direct Incentives to, or Expenditures for the Creation or Retention of Primary Jobs and That are Found by the Board of Directors to be Required or Suitable for the Development, Retention. or Expansion of Manufacturing and Industrial Facilities, Research and Development Facilities, Transportation Facilities, Recycling Facilities, Distribution Centers, Small Warehouse Facilities, and Regional and Corporate Headquarter Facilities: to wit: BL Technology, Inc.'s Relocation and Development of a Manufacturing Operation on the West Side of Cherry Street and North of Theis Lane. The Estimated Amount of Expenditure for Such Project is \$105,000.00
- 8.7 Betty Reinbeck provided a brief overview regarding the proposed Lease Agreement between the Greater Tomball Area Chamber of Commerce (GTACC) and the Tomball Economic Development Corporation (TEDC)
- 8.8 Monica Kohlenberg provided a brief overview regarding the proposed Multi-Year (3 Years) Engagement Agreement Letter with Belt Harris & Associates, LLLP for Financial Audits for Fiscal Years 2009, 2010 and 2011
- 8.9 David Kauffman provided a brief overview regarding the proposed Proposal from HDR/Claunch and Miller, Inc., to Provide Engineering Services for a Pavement Management Plan for Asphalt Streets for a Total Cost Not to exceed \$80,200.00
- 8.10 David Kauffman provided a brief overview regarding the proposed Contract with Kellogg Brown & Root (KBR) through the TCPN AJOC Contract for City of Tomball Swimming Pool Renovations in the Amount of \$71,547.00
- 8.11 David Kauffman provided a brief overview regarding the proposed Request by Konroe Stahl to Allow Submetering of Master-metered City Water Supplied to Tomball Mobile Home Park

- 8.12 Mark McClure provided a brief overview regarding the **PINE COUNTRY OF TOMBALL SECTION II REPLAT**: A residential subdivision of 26.2813 acres, 2 blocks, 68 residential lots, and 2 reserves and Pine Country of Tomball, Section Three, an unrestricted reserve of 29.4207 acres, being a Replat of Pine Country of Tomball, Section Two, of 55.7020 acres as recorded in H.C., Film Code #624053, located in the John Edwards Survey, A-20 and the Chauncey Goodrich Survey A-311 City of Tomball, Harris County, Texas
- 8.13 Mark McClure provided a brief overview regarding the **TOMBALL PARK ONE** plat; Being a Replat of Reserve "F" 8.3493 acres of Tomball Park Subdivision out of John Hooper Survey, A-375 as recorded in Harris County Map Record, Volume 335, Page 109 & 110, Harris County, Texas

Request was made by Councilman Webb to remove items 8.1, 8.2, 8.3, 8.5, 8.8, 8.9, and 8.10 from the Consent Agenda.

Motion was made by Councilman Lazenby to approve Items 8.4, 8.6, 8.7, 8.11 and 8.13 in the Consent Agenda; second by Councilman Harvey.

Motion to approve Items 8.4, 8.6, 8.7, 8.11 and 8.13 on the Consent Agenda carried unanimously.

- 8.1 Motion was made by Councilman Harvey to approve Resolution No. 2009-07, a Resolution of the City Council of the City of Tomball, TX, Authorizing the City Treasurer to Invest the City's Funds in the Texas Cooperative Liquid Assets Securities System (CLASS), an Investment Pool Administered by MBIA Municipal Investors Service Corporation; second by Councilman Driver. Vote was as follows:

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

Motion carried, 4 to 1.

- 8.2 Motion was made by Councilman Driver to approve Resolution No. 2009-08, a Resolution of the City of Tomball, Texas, Authorizing Participation in TexPool/TexPool *PRIME* and Designating Authorized Representatives; second by Councilman Harvey. Vote was as follows:

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

Motion carried, 4 to 1.

- 8.3 Motion was made by Councilman Harvey to approve Resolution No. 2009-09, a Resolution of the City Council of the City of Tomball, Texas, Authorizing Creation of an Employee Benefits Trust; Designating all Members of the City Council to be Trustees of said Trust; and Authorizing the Trust to Purchase Various Forms of Insurance for the Benefit of City Officers, Employees, Qualified Retirees, and Their Dependents; second by Councilman Lazenby.

Motion carried unanimously.

- 8.5 Motion was made by Councilman Driver to approve by Resolution, a "Project" of the Tomball Economic Development Corporation (TEDC), an agreement to make direct incentives to, or expenditures for, the promotion of new or expanded business development, to wit: Garth Lodging Corporation, construction of a Holiday Inn Express franchise on SH 249 and the Tomball Expressway east frontage road in the City of Tomball – Resolution No. 2009-11-TEDC, a Resolution of the City Council of the City of Tomball, Texas, Authorizing and Approving the Tomball Economic Development Corporation Project to Expend Funds to Assist in the Construction Costs of Approved Infrastructure (Water, Sewer, and Electric Utilities, Drainage, and Site Preparation Improvements) Necessary to Develop a Proposed Holiday Inn & Suites Hotel on the East Frontage Road of the Tomball Expressway at the End of Park Drive; Containing Other Provisions Relating to the Subject; and Providing for Severability; second by Councilman Harvey.

Motion carried unanimously.

- 8.8 Motion was made by Councilman Harvey to approve Multi-Year (3 Years) Engagement Agreement Letter with Belt Harris & Associates, LLLP for Financial Audits for Fiscal Years 2009, 2010 and 2011; second by Councilman Lazenby.

Motion carried unanimously.

- 8.9 Motion was made by Councilman Harvey to approve Proposal from HDR/Claunch and Miller, Inc., to Provide Engineering Services for a Pavement Management Plan for Asphalt Streets for a Total Cost Not to exceed \$80,200.00; second by Councilman Driver.

Motion carried unanimously.

- 8.10 Motion was made by Councilman Lazenby to award Contract to Kellogg Brown & Root (KBR) through the TCPN AJOC Contract for City of Tomball Swimming Pool Renovations in the Amount of \$71,547.00; second by Councilman Harvey.

Motion carried unanimously.

9.0 **New Business:**

- 9.1 Kelly Violette presented the staff report for **Zoning Case P08-074**. Mark McClure presented an overview of drainage and infrastructure. The Public Hearing for **ZONING CASE P08-074** requested 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 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 opened by Mayor Fagan at 8:14 p.m.; the following comments were received:

- | | |
|--|---|
| Parke Patterson
Developer
P. O. Box 994, 77479 | - Spoke in support of Zoning Case P08-074; the development will meet all City of Tomball requirements. |
| Rosalie Dillon
14166 Turnervine, 77375 | - Not opposed to zoning change as such, but wants a quality development and wants Council to protect everyone's legal rights. |
| Carter Frank
12318 Zion Road, 77375 | - Did not speak; wanted to record his opposition against Zoning Case P08-074. |
| Diane Pettigrew
12330 Zion Road, 77375 | - Did not speak; wanted to record her opposition against Zoning Case P08-074. |
| Kevin Frank
12220 Zion Road, 77375 | - Spoke in opposition to Zoning Case P08-074. |
| Bill Sumner
12321 Zion Road, 77375 | - Spoke in opposition to Zoning Case P08-074. |
| Brian Sabin
12912 Zion Road, 77375 | - Not opposed to zoning change as such, but Harris County needs to fix Zion to handle the traffic. |
| Ray and Barbara Field
12638 Zion Road, 77375 | - Did not speak; wanted to record his opposition against Zoning Case P08-074. |
| Gary Williams
12128 Zion Road, 77375 | - Spoke in opposition to Zoning Case P08-074. |
| David Ward
12642 Zion Road, 77375 | - Spoke in opposition to Zoning Case P08-074. |

No additional public comments being received, the Public Hearing was closed by Mayor Fagan at 8:30 p.m.

Motion was made by Councilman Driver to read Ordinance No. 2009-09 by caption only on first reading; second by Councilman Lazenby.

Motion carried unanimously.

Motion was made by Councilman Driver to Adopt on First Reading, Ordinance No. 2009-09 an Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by changing the Zoning District classification of approximately 142.770 acres of land in the Joseph Miller Survey, Abstract No. 50 in Harris County, Texas, Being a portion of a called 153.45 acre tract described in deed recorded under Harris County Clerk's File Number C-817579 and Being all of a called 7.3795 acre tract described in deed recorded under Harris County Clerk's File Number S-040076 located northerly of Zion Road, northwesterly of Hufsmith Road, northeasterly of Neal Street, southerly of the Missouri Pacific Railroad line from AG-Agricultural District to SF-9-Single Family 9 Residential District; 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.

Motion was made by Councilman Lazenby to amend the main motion by changing the zoning district classification “from AG-Agricultural District to SF-9-Single Family 9 Residential District” to “from AG-Agricultural District to SF-20-E-Single Family 20 Estate District”; second by Councilman Driver.

Motion to amend carried unanimously.

Vote to approve main motion, as amended, 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.

- 9.2 Kelly Violette presented the staff report for Zoning Case P08-074. The public hearing for **ZONING CASE P09-099** Requested by Bob and Debi Lee, on behalf of FNR, LLC, to amend the Comprehensive Zoning Ordinance to rezone approximately 10.1750 acres of land, legally described as Lot 187 and Tracts 188, 191A and 192A, of the Tomball Outlots, situated in the Jesse Pruitt Survey, Abstract 629, within the City of Tomball, Harris County, Texas, generally located on the westerly side of Cherry Street, northerly of Theis Lane,

from the AG-Agricultural District to the C-Commercial District was opened by Mayor Fagan at 8:57 p.m.

No public comments being received, the Public Hearing was closed by Mayor Fagan at 8:57 p.m.

Motion was made by Councilman Driver to read Ordinance No. 2009-10 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. 2009-10, an Ordinance of the City of Tomball, Texas, Amending it's Comprehensive Zoning Ordinance by Changing the Zoning District Classification of Approximately 10.1750 Acres of Land in the Jesse Pruitt Survey, A-629, Harris County, Texas, from the AG-Agricultural District to the C-Commercial District; said Property also Being Known as Lot 187 and Tracts 188, 191A, and 192A, of the Tomball Outlots, Located on the westerly side of Cherry Street, northerly side of Theis Lane; 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 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.

- 9.3 Mark McClure provided information regarding the Brown-Hufsmith Phase II project. Motion was made by Councilman Webb to table consideration of the Brown-Hufsmith Phase II Design and Surveying Contract with CLR, Inc. in the amount of \$200,054.00 until more information regarding estimated expense is available; second by Councilman Driver.

Motion carried unanimously.

- 9.4 Mark McClure provided information regarding the proposed agreement to develop a drainage ordinance and revise the City's floodplain ordinance. Motion was made by Councilman Harvey to approve Professional Services Agreement with AECOM USA Group, Inc. to Develop a Drainage Ordinance, to Revise the City of Tomball Floodplain Ordinance No. 2007-07, Chapter 38, "Flood Damage Prevention", and Provide General Consulting Services in the Amount of \$35,000.00; second by Councilman Quinn.

Motion carried unanimously.

- 9.5 Jan Belcher and Betty Reinbeck presented information regarding the proposed Tomball Economic Development Corporation (TEDC) "Project". Motion was made by Councilman Harvey to approve the TEDC "Project", an Expenditure for Facilities and Improvements Found by the Board to be Required or Suitable for Tourism, Entertainment, Convention, and Public Park Purposes and Events, to wit: Purchase of a Bronze Statue of a Train Conductor for the City's Historic Depot Plaza, the Estimated Amount of Expenditure for Such Project is \$42,000.00; and to approve Resolution No. 2009-10-TEDC, a Resolution of the City Council of the City of Tomball, Texas, Authorizing and Approving the Tomball Economic Development Corporation's Project to Expend Estimated Funds of \$42,000.00 to Commission the Production and Purchase of a Statue of a Railroad Conductor for Placement in the City of Tomball Historic Depot Plaza; Containing Other Provisions Relating to the Subject; and Providing for Severability; second by Councilman Quinn. Vote was as follows:

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

Motion carried, 3 to 2.

- 9.6 Monica Kohlenberg and Jan Belcher presented information regarding the proposed skating rink. Motion was made by Councilman Harvey to Approve Proposal Submitted by Ice Anywhere for the City to Have a Holiday Skating Rink at the Depot, to Run from Thanksgiving Weekend 2009 through the 2nd Saturday of January 2010; second by Councilman Driver. Vote was as follows:

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

Motion carried, 4 to 1.

- 9.7 Request was made by Jan Belcher to withdrawn the request to Reject All Bids for the Expansion of City of Tomball Fire Station No. 1 from the agenda. Consensus of the Council was unanimous to withdraw consideration of this item at the City Manager's request.

No action necessary.

9.8 Executive Session: The City Council recessed at 9:57 p.m. to meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose:

- Sec. 551.072 – Deliberations Regarding Real Property

Upon reconvening into Regular session at 10:15 p.m., no action was taken.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this 6th day of April 2009.

Doris Speer
Doris Speer, TRMC
City Secretary

Gretchen Fagan
Gretchen Fagan
Mayor