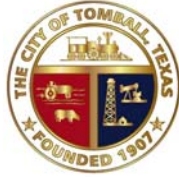


**MINUTES OF REGULAR CITY COUNCIL MEETING
CITY OF TOMBALL, TEXAS**



MONDAY, AUGUST 17, 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 Stoll
Councilman Webb
Councilman Townsend
Councilman Driver

Others present:

City Manager – Jan Belcher
City Secretary – Doris Speer
City Attorney – Scott Bounds
Director of Public Works – David Kauffman
Lisa Coe – HR Director
Chief of Police – Robert Hauck
Fire Chief – Randy Parr
Finance Director – Monica Kohlenberg
Assistant to City Manager – Shawn Cox
City Planner – Kelly Violette
Assistant City Engineer – Lori Lakatos
Community Events Coordinator – Rosalie Dillon

2.0 Invocation

- Led by Rev. Tommy Lyles, Tomball United Methodist Church

3.0 Pledges to U. S. and Texas Flags

- Led by Kirsten Holland and Shelby Allison, Tomball High School Student Council

4.0 The following public comments were received:

- | | |
|--|---|
| Mary Lu Wiley
14120 Carneswood, 77375 | - Theme of “Shop Tomball”; why go outside Tomball to find a sculptor? |
| Mary Harvey
405 S. Walnut, 77375 | - Performed a personal impact study, which supports the Raleigh Creek development. Thanks to Council and City Staff for another successful Tomball Night. Prohibiting use of cell phones in school zones is a great idea. |

5.0 Presentation:

- Mayor Fagan Presented a Proclamation to Felix Jarrell, declaring Monday, August 24, 2009, as “Felix Jarrell Day.”

6.0 Reports and Announcements:

- August 22, 2009 – **Walk Tomball!** – Depot Plaza – 8 a.m.
- August 24, 2009 – Retirement reception for Felix Jarrell – Public Works Training Room – 3:00-4:30 p.m.
- August 24, 2009 – Planning and Zoning Commission Special Meeting Livable Centers, Downtown Plan Presentation by HNTB – 6:00 p.m.
- August 24, 2009 – Livable Centers Workshop with Planning & Zoning Commission – City Hall – 6:00 p.m.
- August 27, 2009 – ESD #8/NWEMS Groundbreaking for New Building – 29530 Quinn Road – 5:30 p.m.
- August 29, 2009 – **Walk Tomball!** – Depot Plaza – 8 a.m.
- September 8, 2009 (**Tuesday**) – Reception for Christal Kliewer, new Assistant City Manager, City Hall – 5:30 p.m.
- September 12, 2009 – **Farmers Market**, 8:00 a.m.
- September 12, 2009 - **2nd Saturday at the Depot**, 6:00 p.m.
- Comprehensive Plan website is now available online – <http://plantomball.com/index.html>

7.0 Motion was made by Councilman Webb, second by Councilman Townsend, to Approve the Minutes of the following meetings:

- Regular City Council Meeting of August 3, 2009
- Special City Council Meeting of August 11, 2009

Motion carried unanimously.

8.0 Old Business

- 8.1 Presentation was given by James E. Spurlin, President, L.S. Development, regarding the proposed Raleigh Creek Subdivision. No action necessary.
- 8.2 Doris Speer provided an overview of TxDOT's request that Council adopt new *prima facie* speed limits, as recommended by TxDOT. Motion was made by Councilman Townsend, second by Councilman Stoll, to Adopt, on Second Reading, Ordinance No. 2009-18, an Ordinance Altering the *Prima Facie* Speed Limits Established for Vehicles under the Provisions of §545.356, Texas Transportation Code, upon the Basis of an Engineering and Traffic Investigation, upon Certain Streets and Highways, or Parts Thereof, within the Corporate Limits of the City of Tomball, including Brown Road and SH 249/Tomball Expressway Main Lanes and Bypass, as Set Out in this Ordinance; and Providing a Penalty of a Fine in an Amount Not to Exceed Two Hundred Dollars (\$200.00) for the Violation of this Ordinance (SH 249/Tomball Expressway). Vote was as follows:

Councilman Townsend	<u>Aye</u>
Councilman Driver	<u>Aye</u>
Councilman Quinn	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Webb	<u>Aye</u>

Motion carried unanimously.

- 8.3 Monica Kohlenberg presented an overview regarding the proposed amendment to Ordinance 99-02. Motion was made by Councilman Stoll, second by Councilman Townsend, to Adopt, on Second Reading, Ordinance No. 2009-19, an Ordinance of the City Council of the City of Tomball, Texas, Amending Ordinance No. 99-02, Adopted March 1, 1999, Authorizing the Issuance of \$7,550,000 City of Tomball, Texas Waterworks and Sewer System Revenue Bonds, Series 1999. Vote was as follows:

Councilman Driver	<u>Aye</u>
Councilman Quinn	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Webb	<u>Aye</u>
Councilman Townsend	<u>Aye</u>

Motion carried unanimously.

- 8.4 Lisa Coe presented the proposed changes to the Human Resources Policies and Employee Handbook that were requested by Council on August 3, 2009 and proposed changes requested by city staff. Motion was made by Councilman Townsend, second by Councilman Webb, to Approve Resolution No. 2009-19, a Resolution of the City of Tomball, Texas, Replacing the City of Tomball's Personnel Policy in its Entirety with the

“Human Resources Policies and Employee Handbook” and Repealing all other Resolutions or Parts of Resolutions Inconsistent or in Conflict Herewith; and Providing for Severability, with the proposed changes as presented to Council.

Motion carried unanimously.

9.0 New Business:

- 9.1 Presentation was made by Bob Allen, developer, and David Kelly, engineer, regarding The Reserve at Spring Lake Residential Development; original plan has been reduced to 75 homes in order to facilitate large-acreage homes. No action necessary.
- 9.2 Shawn Cox presented information regarding the request by the Tomball Sister City organization to waive rental fees for their meetings on the third Monday of each month in Room B of the Community Center. Motion was made by Councilman Driver, second by Councilman Quinn to Waive Community Center Fees, as requested by Tomball Sister City, Inc. Vote was as follows:

Councilman Quinn	<u>Aye</u>
Councilman Stoll	<u>Nay</u>
Councilman Webb	<u>Aye</u>
Councilman Townsend	<u>Nay</u>
Councilman Driver	<u>Aye</u>

Motion carried, 3 Aye to 2 Nay votes.

- 9.3 Jan Belcher provided an overview of the proposed budget for Fiscal Year 2009-2010. No property tax rate increase is proposed for Fiscal Year 2009-2010. Water rates have been tiered to meet newly adopted State laws regarding water conservation rates based on usage.

The Public Hearing was opened by Mayor Fagan at 8:30 p.m.; the following comments were received:

Michael Gatlin - Thanked Council for maintaining the same property
31406 Capella Circle, 77375 tax rate for Fiscal Year 2009-2010.

No additional public comments being received, Mayor Fagan closed the Public Hearing at 8:34 p.m.

- 9.4 Monica Kohlenberg presented an overview of the proposed budget ordinance and explained the grant process previously adopted by City Council for organizations wishing to receive hotel/motel tax revenues, as required by State law. Motion was made by Councilman Townsend, second by Councilman Quinn, to read Ordinance No. 2009-22 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Townsend, second by Councilman Quinn to Adopt, on First Reading, Ordinance No. 2009-20, an Ordinance of the City Council of the City of Tomball, Texas, Adopting the Budget for the City of Tomball, Texas, for Fiscal Year 2009-2010; and Authorizing the City Manager to Approve Intra-departmental (within the same Department only) Transfers of Budgeted Funds; and Providing other Details Relating to the Passage of This Ordinance. Vote was as follows:

Councilman Quinn	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Webb	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Driver	<u>Aye</u>

Motion carried unanimously.

- 9.5 Rob Hauck presented an overview regarding prohibiting the use of cell phones within school zones. Motion was made by Councilman Webb, second by Councilman Townsend, to read Ordinance No. 2009-22 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Townsend, second by Councilman Driver to Adopt, on First Reading, Ordinance No. 2009-21, an Ordinance of the City Council of the City of Tomball, Texas, Prohibiting the Use of Cell Phones in School Zones During the Hours that the School Zone is in Effect; and Providing for a Penalty Not to Exceed \$200.00 for Each Violation of This Ordinance. Vote was as follows:

Councilman Stoll	<u>Aye</u>
Councilman Webb	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Driver	<u>Aye</u>
Councilman Quinn	<u>Aye</u>

Motion carried unanimously.

- 9.6 Kelly Violette presented the staff report for **ZONING CASE P09-128**. The public hearing for **ZONING CASE P09-128**, as requested by Dr. Muhammad A. Shaikh to amend the Comprehensive Zoning Ordinance to rezone approximately 1.3643 acres of land, legally described as Lot 9 of Meadowlark Hill, an unrecorded subdivision, situated in the William Hurd Survey, Abstract 378, within the City of Tomball, Harris County, Texas, generally located on the easterly side of Johnson Road, northerly of Theis Lane,

from the D-Duplex Residential District to the C-Commercial District was opened by Mayor Fagan at 9:16 p.m.

No public comments being received, the Public Hearing was closed by Mayor Fagan at 9:17 p.m.

Motion was made by Councilman Townsend, second by Councilman Driver, to read Ordinance No. 2009-22 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Stoll, second by Councilman Townsend to Adopt on First Reading, Ordinance No. 2009-22, An Ordinance of The City of Tomball, Texas, Amending it's Comprehensive Zoning Ordinance by changing the zoning district classification of approximately 1.3643 acres of land in the William Hurd Survey, Abstract 378, Harris County, Texas, from the D-Duplex Residential District to the C-Commercial District; Said property also being known as Lot 9 of Meadowlark Hill, an unrecorded subdivision, within the City Of Tomball, Harris County, Texas, generally located on the easterly side of Johnson Road, northerly 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. Vote was as follows:

Councilman Stoll	<u>Aye</u>
Councilman Webb	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Driver	<u>Aye</u>
Councilman Quinn	<u>Aye</u>

Motion carried unanimously.

- 9.7 Kelly Violette presented the staff report for **ZONING CASE P09-129**. The public hearing for **ZONING CASE P09-129**, as requested by Cherian Cherian to amend the Comprehensive Zoning Ordinance to rezone approximately 1.3643 acres of land, legally described as Lot 8 of Meadowlark Hill, an unrecorded subdivision, situated in the William Hurd Survey, Abstract 378, within the City of Tomball, Harris County, Texas, generally located on the easterly side of Johnson Road, northerly of Theis Lane, from the D-Duplex Residential District to the C-Commercial District was opened by Mayor Fagan at 9:20 p.m.

No public comments being received, the Public Hearing was closed by Mayor Fagan at 9:20 p.m.

Motion was made by Councilman Townsend, second by Councilman Driver, to read Ordinance No. 2009-23 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Stoll, second by Councilman Townsend to Adopt on First Reading, Ordinance No. 2009-23, an Ordinance of the City of Tomball, Texas, amending its Comprehensive Zoning Ordinance by changing the zoning district classification of approximately 1.3643 acres of land in the William Hurd Survey, Abstract 378, Harris County, Texas, from the D-Duplex Residential District to the C-Commercial District; said property also being known as Lot 8 of Meadowlark Hill, an unrecorded subdivision, within the City of Tomball, Harris County, Texas, generally located on the easterly side of Johnson Road, northerly 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. Vote was as follows:

Councilman Stoll	<u>Aye</u>
Councilman Webb	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Driver	<u>Aye</u>
Councilman Quinn	<u>Aye</u>

Motion carried unanimously.

- 9.8 Kelly Violette presented the staff report for **ZONING CASE P09-142**. The public hearing for **ZONING CASE P09-142**, as requested by Paul Gonzalez, on behalf of Robert Smith, to amend the Comprehensive Zoning Ordinance to rezone approximately 1.9789 acres of land, legally described as Tracts 81, 81A, 90D, and a portion of 89A of Tomball Outlots, recorded in Volume 2, Page 65 of the Map Records of Harris County, Texas within the City of Tomball, Harris County, Texas, generally located on the westerly side of Hospital Road, southerly of Hufsmith Road, from the AG-Agricultural District to the C-Commercial District was opened by Mayor Fagan at 9:28 p.m.; the following public comments were received:

- | | |
|---------------------------------------|---|
| Sallie Fisher
723 Hospital, 77375 | - Expressed her opposition to the proposed change in zoning designation. |
| Robin Davidson
612 Hospital, 77375 | - Expressed her opposition to the proposed change in zoning designation. |
| Maudie Hasley
610 Hospital, 77375 | - Did not wish to speak; asked to record her opposition to the zoning change request. |

No additional public comments being received, the Public Hearing was closed by Mayor Fagan at 9:34 p.m.

Paul Gonzales, representing Robert Smith, requested that the request for rezoning be withdrawn at the request of the owner.

No action necessary.

- 9.9 Kelly Violette presented the staff report for **ZONING CASE P09-146**. The public hearing for **ZONING CASE P09-146**, as requested by Paul Gonzalez, on behalf of Sammie Jean Cole, to amend the Comprehensive Zoning Ordinance to rezone approximately 1.729 acres of land, legally described as Unrestricted Reserves "A", "B", & "C", Leslie's Park, a subdivision in the Joseph House Survey, A-34, within the City of Tomball, Harris County, Texas, generally located on the westerly side of Quinn Road, northerly of Inwood Street, from the SF-20-E Single-Family Estate Residential-20 District to the SF-9 Single-Family Residential-9 District was opened by Mayor Fagan at 9:37 p.m.

No public comments being received, the Public Hearing was closed by Mayor Fagan at 9:37 p.m.

Motion was made by Councilman Townsend, second by Councilman Driver, to read Ordinance No. 2009-25 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Townsend, second by Councilman Stoll to Adopt, on First Reading, Ordinance No. 2009-25, An Ordinance of the City of Tomball, Texas, Amending it's Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 1.729 acres of land, legally described as Unrestricted Reserves "A", "B", & "C", Leslie's Park, a subdivision in the Joseph House Survey, A-34, from the SF-20-E Single-Family Estate Residential-20 District to the SF-9 Single-Family Residential-9 District; generally located on the westerly side of Quinn Road, northerly of Inwood Street; 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. Vote was as follows:

Councilman Stoll	<u>Aye</u>
Councilman Webb	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Driver	<u>Aye</u>
Councilman Quinn	<u>Aye</u>

Motion carried unanimously.

- 9.10 Motion was made by Councilman Townsend, second by Councilman Driver to Receive City Manager's Vested Rights Determination Letter dated August 13, 2009, regarding the Everhealth Tract.

Motion carried unanimously; Vested Rights Determination Letter was received.

- 10.0 Motion was made by Councilman Driver, second by Councilman Townsend, to adjourn.

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this 9th day of September 2009.

Doris Speer
Doris Speer, TRMC
City Secretary

Gretchen Fagan
Gretchen Fagan
Mayor