

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

**MONDAY, NOVEMBER 19, 2007**



**7:00 P.M.**

1.0 Call to Order

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

Councilman Lazenby  
Councilman Webb  
Councilman Harvey  
Councilman Driver

Members absent:

Councilman Quinn - Excused

Others present:

City Manager – Jan Belcher  
Assistant City Manager – Mary Coker  
City Attorney – David Olson  
City Secretary – Doris Speer  
Fire Chief – Randy Parr  
Finance Director – Monica Kohlenberg  
City Engineer – Ivalu Rose  
Exec. Asst. to City Manager – Shawn Cox  
Fire Marshal – Steve Chapman

2.0 The following Public Comments were received:

Bruce Hillegeist

Greater Tomball Area

Chamber of Commerce - Introduced 2008 Miss Tomball,  
Caroline Dernick; expressed appreciation of City's  
support and participation in the annual holiday  
parade

- Rodney Hutson  
9431 Rosie Lane, 77354 - Increase in pay for Mayor and Council; should have been more
- Bill Webb  
212 Belmont, 77375 - Tomball High School Alumni All Class Reunion, December 1, 2007
- Merritt Spencer  
12403 Hammersmith, 77377 - Item 6.13, requesting approval of Tomahawk Properties plat
- Harry Bird  
602 Hickory, 77375 - Item 6.13, requesting Tomahawk Properties plat be tabled
- Trace Morrill  
Haynes & Boone, 77010 - Item 6.13, requesting Tomahawk Properties plat be tabled
- Matt Heffner  
1903 Hemlock, 77375 - Concerns about loss of deed restrictions protection

3.0 Reports and Announcements

3.1 Presentations:

- 3.1.1 Proclamation was presented by Mayor Fagan to Diane Holland and Vickie Butler-Rindos on behalf of the Centennial Commission Honoring Tomball's 100<sup>th</sup> Birthday.

Various reports and/or announcements were made by the Mayor and Councilmembers.

4.0 Motion was made by Councilman Webb to approve the Minutes of the following Meetings; second by Councilman Harvey:

- A. Regular Council Meeting of November 5, 2007  
B. Special Council Meeting of November 12, 2007

Motion carried unanimously.

Discussion/action of the following items:

5.0 Old Business:

- 5.1 Motion was made by Councilman Driver to Adopt, on Second Reading, Ordinance No. 2007-07, an Ordinance Amending the Code of Ordinances of the City of Tomball, Texas, by Deleting All of Chapter 38 Thereof and Substituting Therefor a New Chapter 38; Providing Rules and Regulations Designed to Prevent Damage to Property and Injury to Persons Resulting from Flooding, Providing a Penalty in an Amount Not to Exceed \$2,000 for Each Day of Violation of Any Provision Hereof; and Providing for Severability; 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>Absent</u>

Motion carried unanimously.

6.0 New Business:

- 6.1 Motion was made by Councilman Driver to Approve Payment to TxDOT in Connection with Brown Road Extension, in the Amount of \$1,086,890.90; second by Councilman Webb.

Motion carried unanimously.

- 6.2 Motion was made by Councilman Webb to Approve Agreement between the City of Tomball and Cobb Fendley & Associates for Professional Surveying Services along Rudolph Road in Connection with Rudolph Road Right-of-Way Widening and Public Utility Easement Acquisitions and Authorize City Manager to Execute Agreement; second by Councilman Harvey.

Motion carried unanimously.

- 6.3 Motion was made by Councilman Webb to Approve Additional Funding to Process Final Pay Estimate for Mechanic Street Extension Project to Kingsley Constructors, Inc., in the Amount of \$38,787.50; second by Councilman Driver.

Motion carried unanimously.

- 6.4 Motion was made by Councilman Driver to Approve Agreement with MME Desoto Pipeline, L.P., to Relocate/Lower 900 Feet of MME's Existing Pipeline to

Accommodate the Liberty Lane/Hicks Detention Facility Project, in the Amount of \$42,074.00 and Authorize City Manager to Execute Agreement; second by Councilman Lazenby.

Motion carried unanimously.

- 6.5 Motion was made by Councilman Webb to Approve Letter of Understanding from AmeriCo Energy Resources, LLC and to Authorize the Preparation of Contract between the City of Tomball and AmeriCo Energy Resources, LLC for Release and Relocation of Pipelines in Liberty Lane/Hicks Detention Project and Authorize City Manager to Execute Letter; second by Councilman Driver.

Motion carried unanimously.

- 6.6 Motion was made by Councilman Lazenby to Award Contract for Project 2008-04, Wastewater Polymer, to Low Bidder, Fort Bend Services, in the Amount of \$1.10/Pound or \$519.70/55-Gallon Drum and Authorize City Manager to Execute Contract; second by Councilman Harvey.

Motion carried unanimously.

- 6.7 Motion was made by Councilman Webb to Ratify Renewal of the Agreement between the City of Tomball and Apache Oil Co., Inc. for Diesel Fuel and Gasoline; second by Councilman Lazenby.

Motion carried unanimously.

- 6.8 Motion was made by Councilman Driver to Approve Purchase of 800 MHz Radios for Fire Department Ladder Truck #2, Through HGAC Purchasing Program, in the Amount of \$30,980.76 and Authorize City Manager to Execute Agreement; second by Councilman Webb.

Motion carried unanimously.

- 6.9 Motion was made by Councilman Harvey to Approve Purchase of Notebook Computers for Fire Apparatus through HGAC Purchasing Program, in the Amount of \$25,920.26 and Authorize City Manager to Execute Agreement; second by Councilman Driver.

Motion carried unanimously.

- 6.10 Motion was made by Councilman Driver to Approve Amendment to Compensation Agreement between the City of Tomball and ESD #15, in the Amount of \$40,000, for

Fire Protection Services Provided by the City of Tomball Fire Department and Authorize City Manager to Execute Agreement; second by Councilman Harvey.

Motion carried unanimously.

- 6.11 Motion was made by Councilman Driver to Approve Amendments to the Schedule of Fees for Fire Permits, Construction Permits, Fire Plan Review Fees and Fire Inspection Fees; second by Councilman Harvey. Vote was as follows:

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

Motion **failed**, 1-3.

- 6.12 Motion was made by Councilman Driver to Approve the Recommended Changes to the 2006 International Fire Code, as Presented by the Fire Chief, and to Authorize the City Attorney to Draft an Ordinance for Council Consideration; second by Councilman Webb.

Motion was amended by Councilman Driver to Table Consideration of the Recommended Changes to the 2006 International Fire Code, as Presented by the Fire Chief, and to Authorize the City Attorney to Draft an Ordinance for Council Consideration until additional information is presented; second by Councilman Webb.

Motion, **as amended to table consideration**, carried unanimously

- 6.13 Motion was made by Councilman Driver to Approve the Bivens Home and Holman House Plats, as Approved by the Planning Commission; second by Councilman Harvey:

- A. Bivens Tract (Residential, Located on Magnolia Street)
- B. Holman House (Residential; located on Houston Street)

Motion carried unanimously.

Motion was made by Councilman Driver to **DENY** approval of the plat for Tomahawk Properties, based on improper notice and restrictive language on the plat; second by Councilman Lazenby.

C. Tomahawk Properties (Commercial; Located at Intersection of Baker and Hicks Streets)

Motion was made by Councilman Webb to amend the motion to deny approval of the plat for Tomahawk Properties, based on improper notice and restrictive language on the plat, to include waiving the requirement to pay additional fees for resubmitting the final plat and to remove/eliminate any procedural restrictions due to procedural error that may pertain to the resubmittal of the plat; second by Councilman Harvey.

Motion to **DENY, as amended**, carried unanimously.

- 6.14 Motion was made by Councilman Driver to Read Ordinance No. 2007-18 by Caption Only on First Reading; second by Councilman Lazenby.

Motion carried unanimously.

Motion was made by Councilman Lazenby to Adopt, on First Reading, Ordinance No. 2007-18, an Ordinance of the City of Tomball, Texas, Adopting Amendment Number 1 to the Original Budget of the City of Tomball, Texas, for the Fiscal Year 2007-2008, as Adopted by Ordinance No. 2007-10; Providing for Appropriation of funds from the Governmental Funds and the proprietary Funds; Directing publication of the Caption of This Ordinance; Finding that the Meetings at Which This Ordinance is Considered are Open to the Public; Providing for Severability and the Repeal of Conflicting Ordinances; and Providing Other Details Relating to the Passage of This Ordinance; second by Councilman Harvey. Vote was as follows:

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

Motion carried unanimously

- 6.15 Motion was made by Councilman Harvey to Read Ordinance No. 2007-19 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. 2007-19, an Ordinance Amending the Code of Ordinances of the City of Tomball, Texas, by Renumbering Paragraph (30) of Subsection (a) of Section 14-487 Thereof to

Now Read as Paragraph (31) of Such Subsection, and Adding a New Paragraph (30) to Subsection (a) of Section 14-487 Thereof, Establishing Off-street Parking Requirements for Shopping Centers; by Deleting Subsection (e) of Section 14-487 Thereof, and Substituting Therefor a New Subsection (e) of Section 14-487, Referencing the Paragraph Establishing Method for Computing Required Parking Spaces of Shopping Centers; by Deleting Paragraph (4) of Subsection (o) of Section 14-487 Thereof, and Substituting Therefor a New Paragraph (4) of Subsection (o) of Section 14-487, Also Referencing the Paragraph Establishing Method for Computing Required Parking Spaces of Shopping Centers; Providing a Penalty in an Amount Not to Exceed \$500 for Each Day of Violation of Any Provision Hereof; and Providing for Severability; second by Councilman Lazenby. Vote was as follows:

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

Motion carried unanimously

6.16 Executive Session: The City Council recessed at 8:05 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:

A. Section 551.072 Deliberations Regarding Real Property

Upon reconvening in Regular Session at 8:26 p.m., no action was taken.

7.0 Motion was made by Councilman Harvey to adjourn; second by Councilman Webb.

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this 3rd day of December 2007.

(signed) Doris Speer  
Doris Speer, TRMC  
City Secretary

(signed) Gretchen Fagan  
Gretchen Fagan  
Mayor