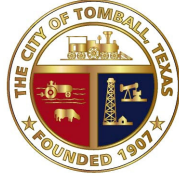


**MINUTES OF REGULAR CITY COUNCIL MEETING
CITY OF TOMBALL, TEXAS**



MONDAY SEPTEMBER 15, 2008

7:00 P.M.

1.0 Call to Order

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

Councilman Webb
Councilman Harvey
Councilman Driver
Councilman Lazenby

Members absent:

Councilman Quinn

Others present:

City Manager – Jan Belcher
Assistant City Manager – Mary Coker
City Secretary – Doris Speer
Director of Public Works – David Kauffman
Director of Engineering & Planning – Mark McClure
Fire Chief – Randy Parr
Finance Director – Monica Kohlenberg
Assistant to the City Manager – Shawn Cox
City Planner/Community Development Coordinator – Kelly Violette

2.0 Invocation

- Led by Brother James Roberson, Hufsmith Church of Christ

3.0 Pledges to U.S. and Texas Flags

- Led by Vernon Brown

4.0 The following public comments were received:

Bruce Hillegeist - The Tomball Chamber of Commerce executive board voted their
GTACC (via Email) full support for the six-cent tax increase.

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

- Regular City Council Meeting of September 2, 2008
- Special City Council Meeting of September 8, 2008

6.0 Old Business:

6.1 Motion was made by Councilman Harvey to Adopt, on Second Reading, Ordinance No. 2008-21, an Ordinance Finding and Determining that Public Convenience and Necessity No Longer Require the Continued Existence of a 0.5645-Acre Tract of Land Being that Portion of Michel Road West of its Intersection with School Street, in the William Hurd Survey, A-378, of Harris County, Texas; Vacating, Abandoning, and Closing said Portion of Michel Road; Authorizing the Mayor to Execute and the City Secretary to Attest, an Exchange Deed Conveying Said Abandoned Roadway Easement to RYM Company, Ltd. in Exchange for Property for the Relocation of Michel Road; and Containing Other Provisions Relating to the Subject; second by Councilman Lazenby. Vote was as follows:

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

Motion carried unanimously.

6.2 Motion was made by Councilman Harvey to Adopt, on Second Reading, Ordinance No. 2008-24; an Ordinance Establishing Rates and Charges for Potable Water, Sanitary Sewer, Natural Gas and Garbage Collection and Disposal Services; Repealing Ordinance No. 2007-11 and All Other Ordinances or Parts of Ordinances Inconsistent or In Conflict Herewith; Providing for an Effective Date; Providing Other Matters Relating to the Subject; and Providing for Severability; second by Councilman Driver. 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.

- 6.3 Motion was made by Councilman Harvey to Adopt, on Second Reading, Ordinance No. 2008-25, an Ordinance Adopting the Budget for the City of Tomball, Texas for Fiscal Year 2008-2009; 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; second by Councilman Lazenby. Vote was as follows:

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

Motion carried 3 - 1.

- 6.4 Motion was made by Councilman Harvey to Adopt, on Second Reading, Ordinance No. 2008-26, an Ordinance of the City of Tomball, Texas, Extending the City Limits of Said City to Include All of the Territory Within Certain Limits and Boundaries and Annexing to the City of Tomball all of the Territory Within Such Limits and Boundaries; Approving a Service Plan for All of the Area Within Such Limits and Boundaries; Containing Other Provisions Relating to the Subject; and Providing a Savings and Severability Clause (8.4395 Acres Located North of FM 2920 - Tomball Place Partners, Ltd.); second by Councilman Driver. Vote was as follows:

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

Motion carried unanimously.

- 7.0 New Business Consent Agenda:

Motion was made by Councilman Webb to remove and discuss item 7.9 from Consent Agenda; second by Councilman Driver.

Motion carried unanimously.

Motion was made by Councilman Driver to approve Items 7.1, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7, 7.8, 7.10, 7.11; second by Councilman Harvey.

Motion carried unanimously.

- 7.1 Consideration to Award Contract for Project 2008-26, Janitorial Services, to Low Bidder, C & S Janitorial Services, Inc., in the Amount of \$44,160.
- 7.2 Consideration to Approve the Designation of Belt Harris and Associates, LLP as the City's Auditors for the FY 2008 Audit.
- 7.3 Consideration to Approve Nikhill Subdivision Final Plat; Being a Subdivision of an 8.4762-Acre Tract; Situated in the Chauncey Goodrich Survey, A-311, Harris County, Texas
- 7.4 Consideration to Accept Proposed Donation of Lots 73, 80, 87 and 88, Block 9, Linebarger Bros. Oil Tract Addition, Surface Rights Only, to the City of Tomball by the Heirs of the Margaret Edens Cox Trust.
- 7.5 Consideration to Approve Application for Emergency Wrecker License by Tomball Towing and Recovery to Participate in Emergency Wrecker Rotation.
- 7.6 Consideration to Approve Amended Employment Contract for Jan Belcher, City Manager; Extending the Contract to September 30, 2010; and Setting Compensation at \$130,000 per Year.
- 7.7 Consideration to Approve Professional Engineering Services Contract with LJA Engineering and Surveying, Inc., in the Amount of \$262,717.00, to Complete the Preliminary Engineering Report (PER) for the Willowcreek Tributary M118-00-00 Drainage Channel
- 7.8 Consideration to Approve Professional Engineering Services Contract with LJA Engineering and Surveying, Inc., in the Amount of \$459,400.00, to complete the Preliminary Engineering Report (PER) for the Willowcreek Tributary M121-00-00 and M121 East Lateral Drainage Channels
- 7.10 Consideration to Adopt Resolution No. 2008-19, a Resolution of the City Council of the City of Tomball, Texas Declaring the Intention of the City of Tomball, Texas, to Institute Proceedings to Annex Certain Territory; Describing Such Territory; Setting the Dates, Times, and Places for Two Public Hearings at which All Interested Parties Shall Have an Opportunity to be Heard; Providing for Publication of Notices of Such Public Hearings; and Directing Preparation of a Municipal Service Plan for the Territory Proposed to be Annexed (State Highway 249 Bypass Road Right-of-Way)

- 7.11 Consideration to Approve Resolution No. 2008-20, a Resolution of the City of Tomball, Texas, Amending the City of Tomball's Personnel Policy by Deleting Section 11.26 of Chapter 11, entitled "Certification and Education Payments" in its Entirety and Adding a New Section 11.26, entitled "Certification/License Pay"
- 7.9 Consideration to amend consulting services agreement with Waypoint Business Solutions, LLC, for turnkey outsourcing of information technology services for the City of Tomball. Motion was made by Councilman Lazenby to approve this item, second by Councilman Driver. Vote was as follows:

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

Motion carried 3 – 1.

8.0 New Business:

- 8.1 Motion was made by Councilman Harvey to Approve a Proposed Tax Rate for Tax Year 2008 of \$.311455/\$100 of Assessed Value and to Set September 29, 2008 and October 6, 2008 as the Dates for the Public Hearings for the Proposed Tax Rate; second by Councilman Webb. Vote was as follows:

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

Motion carried 3 - 1.

- 8.2 Motion was made by Councilman Harvey to Ratify FY 2009 Budget, Acknowledging that the Budget is Based on a Tax Rate that Generates More Property Tax Revenue than the FY 2008 Budget; second by Councilman Lazenby.

Motion carried unanimously

- 8.3 The Public Hearing to consider **ZONING CASE P08-064** was declared open by Mayor Fagan at 7:20 p.m. Kelly Violette gave the staff report. Jeff Presnal from CCG and Trent Connor from Greystar Development Group made presentations regarding the zoning case.

ZONING CASE P08-064: Request by CCG Venture Partners is to Rezone 3 Tracts, Totalling Approximately 74.406 Acres of Land, Legally Described as Reserve “B” of Block 1 of Tomball Center II and Tracts 6 and 21B, Abstract 34, in the Joseph House Survey, within the City of Tomball, Harris County, TX, Located on the Southerly Side of Brown Road, Westerly of S.H. 249 Expressway, from the GR-General Retail District to the Planned Development (PD-3) District, in Order to Facilitate a Mixed-Use Planned Development for Multi-family Uses and General Retail Uses.

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

- 8.4 The Public Hearing to consider the following **ZONING CASE P08-056** was declared open by Mayor Fagan at 7:52 p.m. Kelly Violette gave the staff report.

ZONING CASE P08-056: Request by Johnny Khalaf, on Behalf of Karen Kawaja, to Amend the Comprehensive Zoning Ordinance to Rezone Two Tracts Totalling Approximately 3.8261 Acres, Legally Described as Tracts 7 and 8, Located in the Jesse Pruitt Survey, Abstract 629, within the City of Tomball, Harris County, TX, Generally Located on the Westerly Side of South Persimmon Street, Northerly of Lizzie Lane, from the SF-6- Single Family 6 District to the C-Commercial District.

No further public comments being received, the public hearing was closed at 7:52 p.m.

Motion was made by Councilman Driver to read Ordinance No. 2008-28 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. 2008-28, an Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of Approximately 3.8261 Acres of Land in the Jesse Pruitt Survey, A-629, Harris County, Texas, from SF-6-Single-Family 6 Residential District to the C-Commercial District; said Property also Being Known as Tracts 7 & 8 of the Jesse Pruitt Survey, Located at 430 South Persimmon Street on the Westerly Side of South Persimmon Street, Northerly of Lizzie 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 Lazenby. 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 to approve Zoning Case P08-056 carried unanimously.

- 8.5 The Public Hearing to consider **ZONING CASE P08-060** was declared open by Mayor Fagan at 8:00 p.m.. Kelly Violette gave the staff report and property owner Philip O’Sullivan presented his request.

ZONING CASE P08-060: Request by Rose Land Ventures, LLC to amend the Comprehensive Zoning Ordinance to rezone three lots totaling approximately 0.2238 acres legally described as Lots 35, 36 and 37 of Block 89 of Revised Map of Tomball, as Recorded in Vol. 4, Page 25, of the Map Records of Harris County, generally located on the easterly side of Ash Street, southerly of Timkin Road from the SF-6-Single Family 6 District to the D- Duplex Residential District (409 Ash Street).

No further public comments being received, the public hearing was closed at 8:00 p.m.

Motion was made by Councilman Driver to read Ordinance No. 2008-29 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. 2008-29, An Ordinance of the City Of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of Approximately 0.2238 Acres of Land Legally Described as Lots 35, 36, and 37 of Block 89 of Revised Map of Tomball, as Recorded in Volume 4, Page 25, of the Map Records of Harris County, Texas, from SF-6-Single-Family Residential-6 District to the D-Duplex Residential District; said Property being Located at 409 Ash Street, Situated on the Easterly side of Ash Street, Southerly of Timkin 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 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 to approve Zoning Case P08-060 carried unanimously.

- 8.6 The Public Hearing to consider **ZONING CASE P08-062** was declared open by Mayor Fagan at 8:04 p.m. Kelly Violette gave the staff report.

ZONING CASE P08-062: Request by Garth Lodging, on behalf of Pete Terpstra, for a Conditional Use Permit (CUP # 4) to construct a hotel facility (Holiday Inn Express) at the height of four (4) stories (70 feet), where the maximum height permitted is 42 feet. The property is an approximately 2.4095 acre site, legally described as Reserve "F1" in Tomball Park, John M. Hooper Survey, Abstract 375, within the City of Tomball, Harris County, TX, located at the Terminus of Park Drive, easterly of S.H. 249 Expressway in the GR-General Retail District.

No further public comments being received, the public hearing was closed at 8:04 p.m.

Motion was made by Councilman Harvey to read Ordinance No. 2008-30 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. 2008-30, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by Granting a Conditional Use Permit to Garth Lodgings, to Allow a Seventy (70) Foot Tall Hotel in a General Retail District, Where a Maximum Height of Forty-Two (42) Feet is Permitted; said Tract being Located within the City in Zoning District GR-General Retail and being Further Identified as the Holiday Inn Express Hotel Generally Located at Park Drive and S.H. 249 Expressway in Tomball, Texas; Providing Requirements and Conditions for this Conditional Use Permit; Containing Findings and Other Provisions Relating to the Subject; Providing a Penalty in an Amount not to Exceed Two Thousand Dollars for Violations Hereof; and Providing for Severability; second by Councilman Lazenby. Vote was as follows:

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

Motion to approve Zoning Case P08-062 carried unanimously.

- 8.7 Motion was made by Councilman Lazenby to Approve Resolution 2008-21, to Appoint a Representative, Mayor Fagan and an Alternate, Mayor Pro-Tem Harvey for the Houston-Galveston Area Council 2009 General Assembly; second by Councilman Driver.

Motion carried unanimously.

- 8.8 Motion was made by Councilman Webb to Approve Resolution 2008-22, a Resolution of the City Council of the City of Tomball, Texas, Supporting the Homecoming Parade and Pep Rally, to Be Held at the Tomball Depot, Sponsored by the Tomball Independent

School District and the TISD Student Council, to be held in Tomball on Wednesday, October 1, 2008; second by Councilman Harvey.

Motion carried unanimously.

- 8.9 Motion was made by Councilman Harvey to Cast Ballot as recorded in TML Intergovernmental Risk Pool (TML-IRP) Board of Trustees Election; second by Councilman Lazenby.

Motion carried unanimously.

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

Motion carried unanimously.

Meeting adjourned

PASSED AND APPROVED this 6 day of October 2008.

Doris Speer
Doris Speer, TRMC
City Secretary

Gretchen Fagan
Gretchen Fagan
Mayor