

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

**MONDAY, MAY 19, 2008**



**7:00 P.M.**

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

Councilman Quinn  
Councilman Lazenby  
Councilman Webb  
Councilman Harvey  
Councilman Driver

Others present:

City Manager – Jan Belcher  
Assistant City Manager – Mary Coker  
City Attorney – Bill Olson  
City Attorney – David Olson  
City Secretary – Doris Speer  
Asst. to City Manager – Shawn Cox  
Director of Engineering & Planning – Mark McClure  
Finance Director – Monica Kohlenberg  
City Planner/Community Development Coordinator – Kelly Violette

2.0 Invocation – Led by Scotty Benjamin, Tomball Campus Pastor, WoodsEdge Community Church

3.0 Pledges to U. S. and Texas Flags – Led by Mary Coker, Assistant City Manager

4.0 The Canvass of the May 10, 2008 Election was presented by Mary Coats, Election Judge.

4.1 Motion was made by Councilman Lazenby to Adopt Resolution No. 2008-11, a Resolution and Order Canvassing the Returns and Declaring the Results of the General Election Held on May 10, 2008; second by Councilman Harvey.

Motion carried unanimously.

4.2 The Oath of Office was administered by Mayor Fagan to Warren Driver and David R. Quinn as newly Elected Officials.

4.3 Motion was made by Councilman Quinn to Elect Councilman Harvey to serve as Mayor Pro-Tem, in Accordance with Section 6.08 of the City of Tomball Home Rule Charter; second by Councilman Lazenby.

Motion carried unanimously.

5.0 No Public Comments or Receipt of Petitions were received.

6.0 Reports and Announcements:

- Hazardous Waste and E-Waste Recycling Event - Saturday, June 7, 2008
- Property Tax Report – April 2008
- Special Council Meeting – Tuesday, May 27, 2008, 5:00 p.m.

7.0 Motion was made by Councilman Driver to approve the Minutes of the Regular City Council Meeting of May 5, 2008; second by Councilman Harvey.

Motion carried unanimously.

8.0 Public Hearings:

8.1 The Public Hearing to Consider the Following Annexations was opened by Mayor Fagan at 7:10 p.m.:

Annexation 1:

A 56.3111-Acre Tract Located South of Holderrieth Road; known as the M118 Drainage Channel and containing the following Tracts:

Being 3.989 Acres of Land Located in the C.M. Pillot Survey, A-632, Harris County, Texas; Said 3.989 Acre Tract Being a Part of a Called 16.4724-Acre Tract Recorded in the Name of Cooper Cameron Corporation, under Harris County Clerk's File (H.C.C.F.) No. V231618 of the Harris County Official Public Records of Real Property (H.C.O.P.R.R.P.);

Being 7.3995 Acres (322,323 Square Feet) Situated in the C. M. Pillot Survey, A-632 in Harris County, Texas, and also Being out of a Tract as Conveyed unto Larry Meuth and Wife, Brenda Meuth, by the Following Deeds: 1) a 13.6967-Acre Tract Recorded under County Clerk's File No. S825148, Film Code No. 516-59-2675 of the Official Public Records of Real Property of Harris County, Texas, and 2) a 2.00-Acre Tract Recorded under County

Clerk's File No. T113752, Film Code No. 519-53-0504 of the Official Public Records of Real Property of Harris County, Texas;

Being 26.0805 Acres of land located in the C.M. Pillot Survey, A-632, and the Elizabeth Smith Survey, A-70, Harris County, Texas; said 26.081-Acre Tract Being a Part of a Called 29.707-Acre Tract Recorded in the Name of Bernard C. Holderrieth, et ux, under Harris County Clerk's File (H.C.C.F.) No. B402171 of the Harris County Official Public Records of Real Property (H.C.O.P.R.R.P.), and a Called 18.778-Acre Tract Recorded in the Name of Bernhard C. Holderrieth, et ux, under H.C.C.F. No. P225191 of the H.C.O.P.R.R.P.;

Being 2.0436 Acres of Land (89,019 Square Feet) Situated in the C.M. Pillot Survey, A-632 in Harris County, Texas, and also Being out of a Tract as Conveyed unto RMC Land Ltd. by Deed Recorded under County Clerk's File No. T714508, Film Code No. 525-54-0508 of the Official Public Records of Real Property of Harris County, Texas;

Being 0.4203-Acres of Land Located in the John Mitchell Survey, A-570, Harris County, Texas; said 0.420-Acre Tract Being a Part of a Called 10.2532-Acre Tract Recorded in the Name of Robert Y. Edmondson under Harris County Clerk's File (H.C.C.F.) No. S923201 of the Harris County Official Public Records of Real Property (H.C.O.P.R.R.P.);

Being 0.2636 Acres (11,483 Square Feet) Situated in the John Mitchell Survey, A-570 in Harris County, Texas, and Being out of a Tract as Conveyed unto Robert Y. Edmondson and Spouse, Laura Edmondson by Deed Recorded under County Clerk's File No. S296234, Film Code No. 511-61-2735 of the Official Public Records of Real Property of Harris County, Texas;

Being 0.5912 Acres (25,753 Square Feet) out of a 2.0436-Acre Tracts (89,019 Square Feet) Situated in the John Mitchell Survey, A-570 in Harris County, Texas, and also Being out of a Tract as Conveyed unto Robert Y. Edmondson and Spouse, Laura Edmondson by Deed Recorded under County Clerk's File No. S296234, Film Code No. 511-761-2735 of the Official Public Records of Real Property of Harris County, Texas;

Being 13.9456 Acres of Land Located in the C. M. Pillot Survey, A-632, Harris County, Texas; said 13.946-Acre Tract Being a Part of a Called 30.182-Acre Tract Recorded in the Name of RMC Land Ltd., under Harris County Clerk's File (H.C.C.F.) No. T714508 of the Harris County Official Public Records of Real Property (H.C.O.P.R.R.P.); and

Being 1.5778 Acres (68,728 Square Feet) Situated in the Elizabeth Smith Survey, A-70, and the C. M. Pillot Survey, A-632, in Harris County, Texas, and also Being out of a 30.182-Acre Tract as conveyed unto RMC Land Ltd. By Deed Recorded under County Clerk's File No. T714508, Film Code No. 525-54-0508 of the Official Public Records of Real Property of Harris County, Texas

Annexation 2:

44.787 Acres of Land Located at the Southwest Corner of Brown Road and State Highway 249; Being a 44.787-Acre Tract of Land Situated in the Joseph House Survey, A-34, of Harris County, Texas; Being the Residual of a Tract (Hereinafter called "Parent Tract") Described in Deed Recorded in Clerk's File Number H-539706 of the Real Property Records of Harris County, Texas; Said 44.787 Acres Being More Particularly Described on the Recorded Plat for TOMBALL CENTER III, a Subdivision in Harris County, Texas, According to the Map or Plat Thereof Recorded in Volume 551, Page 80, of the Map Records of Harris County, Texas

No public comments were received and the public hearing was closed at 7:10 p.m.

Public Hearing Items 8.2, 8.3, and 8.4 were moved to New Business.

9.0 Old Business:

- 9.1 Motion was made by Councilman Driver to accept the recommended amendment to Ordinance No. 2008-07, providing an exception for schools, as presented by Jan Belcher; second by Councilman Lazenby.

Motion to accept the recommended amendment carried unanimously.

Motion was made by Councilman Harvey to Adopt Second Reading of Ordinance No. 2008-07, an Ordinance Amending the Code of Ordinances of the City Council of the City of Tomball, Texas, by Adding the Definition of "Changeable Electronic Variable Message Sign (CEVMS)" to Section 60-1 Thereof; by Adding a New Section 60-11 to Chapter 60 Thereof, Prohibiting all On-Premise and Off-Premise Changeable Electronic Variable Message Signs (CEVMS) Within the Corporate Limits of the City and the Area of Its Extraterritorial Jurisdiction; Providing a Penalty in an Amount not to Exceed \$2000 for Each Day of Violation Hereof; and Providing for Severability; and Making Other Provisions and Findings Related Thereto; 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                      Aye

Motion carried unanimously.

10.0 New Business Consent Agenda:

Motion was made by Councilman Quinn to remove Item 10.1 from the Consent Agenda.

10.1 Motion was made by Councilman Driver to Approve a Professional Services Agreement with Randall Scott Architects for the Facility Needs Assessment, in the Amount of \$88,500; second by Councilman Harvey.

Motion carried unanimously.

Motion was made by Councilman Driver to approve Item 10.2 on the Consent Agenda; second by Councilman Harvey.

10.2 Consideration to Approve Plats, as Recommended by the Planning and Zoning Commission:

- Tomball Parkway Subdivision; being a Replat of Restricted Tract 3 of the Replat of Tomball Parkway Subdivision, as recorded in FC No. 529214 of the Map Records of Harris County, dividing said Tract 3 into 2 lots containing 1.2783 and 1.7282 acres, respectively
- Century Hydraulics; Being a 2.1612-Acre Tract, Jesse Pruitt Survey, A-629, Harris County, Texas as Described in Deed Recorded in Clerks' File Number 20080654438, H.C.R.P.R., Located on Snook Lane

Motion to approve Item 10.2 on the Consent Agenda carried unanimously.

11.0 New Business:

8.2 The Public Hearing to Consider **ZONING CASE P08-005**: Request by Keenan Lewis to rezone approximately 0.2754 acres of land, legally described as Lot 1 Block 3 of the Lizzie-Persimmon Subdivision, a subdivision within the City of Tomball, Harris County, Texas, according to a plat recorded in Volume 352, Page 80, of the Harris County Deed Records, located on the easterly side of South Persimmon Street, northerly of Lizzie Lane from the SF-6-Single-Family 6 District to the C-Commercial District was opened by Mayor Fagan at 7:22 p.m., after presentation of Staff Report by Kelly Violette.

No public comments were received and the public hearing was closed at 7:22 p.m.

- 11.1 Motion was made by Councilman Lazenby to Approve **ZONING CASE P08-005**: Request by Keenan Lewis to rezone approximately 0.2754 acres of land, legally described as Lot 1 Block 3 of the Lizzie-Persimmon Subdivision, a subdivision within the City of Tomball, Harris County, Texas, according to a plat recorded in Volume 352, Page 80, of the Harris County Deed Records, located on the easterly side of South Persimmon Street, northerly of Lizzie Lane from the SF-6-Single-Family 6 District to the C-Commercial District; second by Councilman Harvey.

Motion carried unanimously.

- 11.2 Motion was made by Councilman Driver to read Ordinance No. 2008-08, by Caption only, on First Reading; second by Councilman Harvey.

Motion carried unanimously.

Motion was made by Councilman Driver to Adopt, on First Reading, Ordinance No. 2008-08, an Ordinance of the City of Tomball, Texas, amending its comprehensive zoning ordinance by changing the zoning district classification of approximately 0.2754 acres of land in the Lizzie-Persimmon Subdivision, Harris County, Texas, from SF-6-Single Family District to C-Commercial District; said property also being known as lot 1 block 3 of the Lizzie-Persimmon Subdivision, a subdivision within the City of Tomball, Harris County, Texas, according to a plat recorded in Volume 352, Page 80, of the Harris County Deed Records, located on the easterly 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 Quinn	<u>Aye</u>
Councilman Lazenby	<u>Aye</u>
Councilman Webb	<u>Aye</u>
Councilman Harvey	<u>Aye</u>
Councilman Driver	<u>Aye</u>

Motion carried unanimously.

- 8.3 The Public Hearing to Consider **ZONING CASE P08-008**: Request by Gerald A. Lusk, on behalf of Robert A. Sadlon to rezone approximately 6.6972 acres of land, as recorded in H.C.F.C # 038706, in the C.N. Pillot Survey, A-632, located on the easterly side of South Cherry Street, northerly of Holderrieth Road from the AG-Agricultural District to the O-Office District (2503 South Cherry Street) was opened by Mayor Fagan at 7:27 p.m., after presentation of Staff Report by Kelly Violette.

The following Public comments were received:

- |                                       |  |
|---------------------------------------|--|
| Monique Dermeaux<br>2531 South Cherry | - Opposition to Approval of Zoning Case<br>P08-008 |
| Gerald Lusk                           | - Support for Approval of Zoning Case<br>P08-008   |
| Doug Brown                            | - Support for Approval of Zoning Case<br>P08-008   |
| Grant Mottershaw<br>2531 South Cherry | - Opposition to Approval of Zoning Case<br>P08-008 |
| Matthew Heffernan<br>2503 S. Cherry   | - Support for Approval of Zoning Case<br>P08-008   |

The public hearing was closed at 7:59 p.m.

- 11.3 Motion was made by Councilman Driver to Approve **ZONING CASE P08-008:** Request by Gerald A. Lusk, on behalf of Robert A. Sadlon to rezone approximately 6.6972 acres of land, as recorded in H.C.F.C # 038706, in the C.N. Pillot Survey, A-632, located on the easterly side of South Cherry Street, northerly of Holderrieth Road from the AG-Agricultural District to the O-Office District (2503 South Cherry Street); second by Councilman Lazenby. Vote was as follows:

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

Motion carried, 3-2.

- 11.4 Motion was made by Councilman Driver to read Ordinance No. 2008-09, 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. 2008-09 , an Ordinance of the City of Tomball, Texas, amending its comprehensive zoning ordinance by changing the zoning district classification of approximately 6.6972 acres of land in the C.N. Pillot Survey, A-632, Harris County, Texas, from AG-Agricultural District to O-Office District; said property also being known as Tracts 4A and 4A-3, as recorded in H.C.F.C # 038706, in the C.N. Pillot Survey, A-632, located on the easterly side of South Cherry Street, northerly of Holderrieth 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 Driver. 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>Nay</u>

Motion carried, 4-1.

- 8.4 The Public Hearing to Consider **ZONING CASE P08-012**: Request by CIVE Consulting, Inc., on behalf of Dr. Tarek Al Fahl, to rezone two lots totaling approximately 2.8278 acres, located in the William Hurd Survey, A-378, Vol. 43, Page 44, Tract 2, on the southeast corner of Michel Road and Johnson Road from the D-Duplex District to the C-Commercial District was opened by Mayor Fagan at 8:03 p.m., after presentation of Staff Report by Kelly Violette.

No public comments were received and the public hearing was closed at 8:03 p.m.

- 11.5 Motion was made by Councilman Harvey to Approve **ZONING CASE P08-012**: Request by CIVE Consulting, Inc., on behalf of Dr. Tarek Al Fahl, to rezone two lots totaling approximately 2.8278 acres, located in the William Hurd Survey, A-378, Vol. 43, Page 44, Tract 2, on the southeast corner of Michel Road and Johnson Road from the D-Duplex District to the C-Commercial District; second by Councilman Driver.

Motion carried unanimously.

- 11.6 Motion was made by Councilman Driver to read Ordinance No. 2008-10, 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. 2008-10 , an Ordinance of the City of Tomball, Texas, amending its comprehensive



zoning ordinance by changing the zoning district classification of approximately 2.8278 acres of land in the Meadowlark Hill Subdivision, Harris County, Texas, from D-Duplex Residential District to C-Commercial District; said property also being known as Tracts 12 and 13 of the William Hurd Survey, A-378, Vol. 43, Page 44, located at the southeast corner of Michel Road and Johnson 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 Harvey. Vote was as follows:

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

Motion carried unanimously.

12.0 Motion was made by Councilman Lazenby for adjournment; second by Councilman Harvey.

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this 2nd day of June 2008.

Doris Speer  
Doris Speer, TRMC  
City Secretary

Gretchen Fagan  
Gretchen Fagan  
Mayor