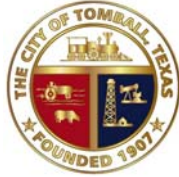


**MINUTES OF REGULAR CITY COUNCIL MEETING  
CITY OF TOMBALL, TEXAS**

**MONDAY, JULY 21, 2008**



**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 Lazenby  
Councilman Webb  
Councilman Harvey  
Councilman Driver

Others present:

City Manager – Jan Belcher  
Assistant City Manager – Mary Coker  
City Secretary – Doris Speer  
City Attorney – Scott Bounds  
Chief of Police – Rob Hauck  
Director of Public Works – David Kauffman  
Fire Chief – Randy Parr  
Director of Engineering and Planning – Mark McClure  
City Planner/Community Development Coordinator – Kelly Violette  
Finance Director – Monica Kohlenberg  
Building Official – Dave Allen  
Director of Human Resources – Lisa Coe  
Assistant to City Manager – Shawn Cox  
Executive Director-TEDC – Betty Reinbeck

2.0 Invocation – Led by Reverence John Holiday, Powerhouse Church of God in Christ

3.0 Pledges to U. S. and Texas Flags – Led by Rob Hauck, Chief of Police

4.0 The following public comments were received:

- |  |  |
|--|--|
| Dr. Ben Thomas<br>1318 Pine Brook, 77375   | - Expressed desire to be appointed to Tomball Hospital Board of Directors  |
| Tim Baucom<br>23307 Bettywood Lane, 77375  | - Requesting consideration for turn signal light for people to be able to make a right turn on SH 249 off of 2920        |
| Dane Dunagin<br>535 East Hufsmith, 77375   | - Opposed to county widening of East Hufsmith Road and installation of utilities on the north side of East Hufsmith Road |
| Adam Ruiz<br>519 East Hufsmith, 77375      | - Opposed to county widening of East Hufsmith Road and installation of utilities on the north side of East Hufsmith Road |
| Archie Maywald<br>523 East Hufsmith, 77375 | - Opposed to county widening of East Hufsmith Road and installation of utilities on the north side of East Hufsmith Road |

5.0 Reports and Announcements:

- FY2008 - Quarterly Financial Report – 3<sup>rd</sup> Quarter
- Tomball Night – Friday, August 1, 2008
- 2nd Saturday at the Depot – August 9, 2008

6.0 Motion was made by Councilman Webb to approve the minutes of the following meetings; second by Councilman Harvey:

- Regular City Council Meeting of July 7, 2008.
- Special Joint City Council and Planning and Zoning Commission Meeting of July 14, 2008

Motion carried unanimously.

7.0 Old Business:

- 7.1 Consideration and Possible Action regarding **ZONING CASE P08-008**: Request by Gerald A. Lusk, on behalf of Robert A. Sadlon, to amend the Zoning Ordinance to rezone approximately 6.6972 acres of land located on the easterly side of South Cherry Street (2503 South Cherry Street) from the AG-Agricultural District to the O-Office District.

- The Public Hearing on **ZONING CASE P08-008** was opened by Mayor Fagan at 7:14 p.m. Kelly Violette presented the staff report on the Zoning Case. Public comments were received:
  - Skylar Brown, 23314 Willow Glen, 77375 expressed concern about the possible loss of greenbelts and increase in concrete;
  - Robert Sadlon, owner of property, advised that the proposed development would maintain the trees, keep the 1880 house, and require single-story development only.

No further comments were received and the Public Hearing was closed by Mayor Fagan at 7:17 p.m.

- Motion was made by Councilman Lazenby to Adopt, on Second 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 Tract 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.

Motion was made by Councilman Driver to amend Ordinance No. 2008-09 by including provisions that the “owner has indicated that the development on the property will be deed-restricted to one-story height”, “including a height limitation of buildings to 30 feet”; second by Councilman Lazenby.

Motion to amend Ordinance No. 2008-09 by restricting the proposed development to a one-story height with a height limitation of 30 feet carried unanimously.

Vote to adopt Ordinance No. 2008-09, as amended, 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>Aye</u>

Motion to adopt Ordinance No. 2008, as amended, 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.]*

Motion was made by Councilman Harvey to approve all items on the Consent Agenda; second by Councilman Lazenby.

- 8.1 Consideration to Award Contract for Project No. 2008-14, Matheson Park Tennis Court Resurfacing and Fence Repairs, to GCC Builders, in the amount of \$152,000.00
- 8.2 Consideration to Approve Upgrade of Video Recording Equipment (VHS to Digital) in Patrol Units, in the Amount of \$85,116.85
- 8.3 Consideration to Approve Contract with Jones and Carter, Inc. for Professional Engineering Services associated with the Quinn Rd. Sidewalk and Utilities project in the amount of \$120,000.00
- 8.4 Consideration to Approve Wachovia Encroachment Agreement for Encroachment into a Dedicated City of Tomball 10-Ft. Public Utility Gas Line Easement
- 8.5 Consideration to Approve Resolution No. 2008-16, a Resolution of the City of Tomball, Texas, Expressing the City's Intent to Finance Expenditures to be Incurred

Motion to approve all items on the Consent Agenda carried unanimously.

9.0 New Business:

- 9.1 Motion was made by Councilman Driver to Reappoint Ellen Stutts and Ray Lingo and to Appoint Dr. Ben Thomas to the Tomball Hospital Authority Board of Directors; second by Councilman Harvey.

Motion carried unanimously.

Ellen Stutts and Ray Lingo are reappointed to their respective positions and Dr. Ben Thomas is appointed to the vacant position of the Tomball Hospital Authority Board of Directors.

- 9.2 Motion was made by Councilman Harvey to Approve the Amendment to a Previously Approved Development Agreement for Pine Country of Tomball between the City of Tomball and PCOT Investments, Inc. for PID No. 1; second by Councilman Lazenby.

Motion carried unanimously.

9.3 Consideration and Possible Action regarding **ZONING CASE P08-025**: Request by Weingarten/Investments, Inc. to amend the Comprehensive Zoning Ordinance to rezone eight lots totaling approximately 43.741 acres of land located in Tomball Marketplace on the southerly side of FM 2920, westerly of Tomball Parkway (S.H. 249) from the AG-Agricultural and GR-General Retail Districts to the C-Commercial District.

- The Public Hearing on **ZONING CASE P08-025** was opened by Mayor Fagan at 7:32 p.m. Kelly Violette presented the staff report on the Zoning Case. No public comments were received and the Public Hearing was closed by Mayor Fagan at 7:32 p.m.
- Motion was made by Councilman Driver to read Ordinance No. 2008-17 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. 2008-17, an Ordinance of the City of Tomball, Texas, amending its comprehensive zoning ordinance by changing the zoning district classification of approximately 43.741 acres legally described as Lots 1-3, 5-8 and Reserve B located in Tomball Marketplace, Film Code No. 605157, H.C.M.R. in the John Hooper Survey, Abstract No. 375, within the City of Tomball, Harris County, TX, from the AG-Agricultural and GR-General Retail Districts to the C-Commercial 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 Lazenby. 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.

9.4 Consideration and Possible Action regarding **ZONING CASE P08-029**: Request by Scott Hallmark to amend the Comprehensive Zoning Ordinance to rezone an approximately 6.321 acre lot in the Jesse Pruett Survey, A-629, being a portion of lots 197, 201 and 205, "Five Acre Tracts, Tomball Townsite," generally located on the easterly side of South Cherry Street near the easterly terminus of Theiss Lane, from the SF-20-E-Single Family 20 Estate District to the LI-Light Industrial District. (1919 South Cherry Street)

- The Public Hearing on **ZONING CASE P08-029** was opened by Mayor Fagan at 7:36 p.m. Kelly Violette presented the staff report on the Zoning Case. Scott Hallmark, owner, presented comments; no additional comments were received and the Public Hearing was closed by Mayor Fagan at 7:37 p.m.
- Motion was made by Councilman Driver to read Ordinance No. 2008-18 by caption only on First Reading; second by Councilman Harvey.

Motion carried unanimously.

- Motion was made by Councilman Webb to Adopt, on First Reading, Ordinance No. 2008-18, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of Approximately 6.321 Acres of Land in the Jesse Pruett Survey, A-629, Harris County, Texas from SF-20-E-Single Family 20 Estate District to the LI-Light Industrial District; said Property also being known as a Portion of Lots 197, 201 and 205, "Five Acre Tracts, Tomball Townsite," Located at 1919 South Cherry Street, According to the Map or Plat thereof recorded in Vol. 2, Page 65, of the Harris County Map Records, Located on the Easterly side of South Cherry Street near the Easterly terminus of Theiss 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>Aye</u>
Councilman Lazenby	<u>Aye</u>
Councilman Webb	<u>Aye</u>

Motion carried unanimously

- 9.5 Consideration and Action regarding **ZONING CASE P08-035**: Request by Ben and Ortensia Fiscu to amend the Comprehensive Zoning Ordinance to rezone an approximately 0.7785 acre lot, legally described as Tomball Townsite, Outlot No. 125-A, generally located on the easterly side of South Pine Street, southerly of McPhail Street, from the SF-6-Single Family 6 District to the C-Commercial District. (609 South Pine Street)

- The Public Hearing on **ZONING CASE P08-035** was opened by Mayor Fagan at 7:44 p.m. Kelly Violette presented the staff report on the Zoning Case. No public comments were received and the Public Hearing was closed by Mayor Fagan at 7:45 p.m.

- Motion was made by Councilman Driver to read Ordinance No. 2008-19 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. 2008-19, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of Approximately 0.7785 Acres of Land at 609 South Pine Street, Legally Described as Tomball Townsite, Outlot No. 125-A, Generally Located on the Easterly Side of South Pine Street, Southerly of McPhail Street, from SF-6-Single Family 6 District to C-Commercial 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 Driver.

Consensus of Council was that the request for rezoning should be rejected and the Applicant should request rezoning under Multi-Family.

Vote was as follows:

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

Motion to adopt Ordinance No. 2008-19 on First Reading **FAILED** unanimously.

- 9.6 Consideration and Action regarding **ZONING CASE P08-036**: Request by Tucker Mach Development, LLC., on behalf of Capital One, N.A., to amend the Comprehensive Zoning Ordinance to rezone an approximately 96.572-acre tract of land, generally located on the northerly side of Holderrieth Road, westerly of Hufsmith-Kohrville Road from AG-Agricultural District and SF-20-E-Single-Family Estate Residential-20 District to SF-6-Single-Family Residential-6 District and C-Commercial District

- The Public Hearing on **ZONING CASE P08-036** was opened by Mayor Fagan at 8:01 p.m. Kelly Violette presented the staff report on the Zoning Case. Public comments were received:
  - Eric Mach, owner, presented comments regarding residential and commercial development of the property.

- Phillip O’Sullivan, 16014 Birchview Drive, 77375, addressed drainage concerns.

No further comments were received and the Public Hearing was closed by Mayor Fagan at 8:08 p.m.

- Motion was made by Councilman Driver to read Ordinance No. 2008-20 by caption only on First Reading; second by Councilman Lazenby.

Motion carried unanimously.

- Motion was made by Councilman Harvey to Adopt, on First Reading, Ordinance No. 2008-20, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of an Approximately 96.572-Acre Tract of Land, Generally Located on the Northerly Side of Holderrieth Road, Westerly of Hufsmith-Kohrville Road within the City of Tomball, Harris County, Texas, from AG-Agricultural District and SF-20-E-Single-Family Estate Residential-20 District to SF-6-Single-Family Residential-6 District and C-Commercial District; describing that Portion of Such Tract of Land Rezoned to SF-6 Single-Family Residential-6 District and C-Commercial District, Respectively; Providing for Amendment of the Official Zoning Map of the City; Providing for Severability; Providing a Penalty in 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 Webb. 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.

- 9.7 Motion was made by Councilman Lazenby to Approve the Tomball Economic Development Corporation 2008-2009 Strategic Work Plan; second by Councilman Harvey.

Motion carried unanimously.

- 9.8 Motion was made by Councilman Harvey to Approve the Tomball Economic Development Corporation 2007-2008 Annual Report; second by Councilman Lazenby.

Motion carried unanimously.



- 9.9 Motion was made by Councilman Driver to Approve, as a Project of the Tomball Economic Development Corporation, an Agreement with Ameresco Solar, 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: Ameresco Solar Relocation and Development of a Distribution and Systems Integration Operation at South Peach Street, Tomball, Texas, in the Amount of \$75,000.00; second by Councilman Harvey.

Motion carried unanimously.

- 9.10 Motion was made by Councilman Harvey to Approve Resolution No. 2008-12-TEDC, A Resolution of the Board of Directors of the Tomball Economic Development Corporation, Approving a Request from Century Hydraulics LLC to Assign its Rights to the Proceeds under an Agreement with the Corporation to Memorial City Bank; second by Councilman Lazenby.

Motion carried unanimously.

- 9.11 Motion was made by Councilman Harvey to Approve, as a Project of the Tomball Economic Development Corporation, an Agreement with McGUFFY Systems LP, 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: McGUFFY Systems LP Relocation and Development of a Fabrication Operation at 303 South Peach Street, Tomball, Texas, in the Amount of \$120,000.00; second by Councilman Webb.

Motion carried unanimously.

- 9.12 Motion was made by Councilman Lazenby to Approve the First Reading of Resolution No. 2008-17-TEDC, Approving, as a Project of the Tomball Economic Development Corporation, an Agreement to Make Direct Incentives to, or Expenditures For, the Promotion of New or Expanded Business Development, Without the Project Having to Create or Retain Primary Jobs: to wit: OM Hospitality Construction of a Hampton Inn and Suites Franchise on Medical Complex Drive in the City of Tomball, in the Amount of \$72,615.00; second by Councilman Harvey.

Motion carried unanimously.

- 9.13 Motion was made by Councilman Webb to Approve, as a Project of the Tomball Economic Development Corporation, an Agreement with Professional Welding Supply, 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: Professional Welding Supply, Inc. Relocation and Development of a Manufacturing and Distribution Operation at 503 East Main Street, Tomball, Texas, in the Amount of \$18,000.00; second by Councilman Harvey.

Motion carried unanimously.

- 9.14 Motion was made by Councilman Webb to Approve, as a Project of the Tomball Economic Development Corporation, an Agreement with the City of Tomball (the "City") to Make Expenditures for Facilities and Improvements found by the Board of Directors to be Required or Suitable for Tourism, Entertainment, Convention, and Public Park Purposes and Events, to wit: Purchase of a Bronze Statue of Thomas Henry Ball for the Historic Depot Plaza to Commemorate the 100th Anniversary of the Establishment of the City, in the Amount of \$26,000.00; second by Councilman Lazenby.

Motion carried unanimously.

- 9.15 Motion was made by Councilman Harvey to approve a contract with Buxton Company for Development of a Retail Economic Development Strategy for Tomball, Texas, in the Amount of \$60,000.00; second by Councilman Driver.

Motion carried unanimously.

- 9.16 Motion was made by Councilman Harvey to Approve Proposal from Cobb, Fendley and Associates regarding Agg Road/Medical Complex Drive Expansion, including Phase I - Preliminary Design Memorandum/Feasibility Study Report Services in the Amount of \$507,674.00; second by Councilman Lazenby.

Motion carried unanimously.

- 9.17 Motion was made by Councilman Harvey to Approve Amendments to Administrative Policy No. 35, Entitled "*City Vehicle Policy*"; second by Councilman Driver.

Motion carried unanimously.

- 9.18 Motion was made by Councilman Driver to read Ordinance No. 2008-16 by caption only on First Reading; second by Councilman Lazenby.

Motion carried unanimously.

Motion was made by Councilman Harvey to Adopt, on First Reading, Ordinance No. 2008-16, an Ordinance of the City of Tomball, Texas, Providing for a Fee to Defray Costs of Collecting Delinquent Fines, Fees, and Other Debts Pursuant to Article 103.0031 of the Texas Code of Criminal Procedure; Authorizing the Mayor to Execute and the City Secretary to Attest, Respectively; and Containing Other Provisions Relating to the Subject; second by Councilman Webb. 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>Aye</u>

Motion carried unanimously.

9.19 Executive Session: The City Council recessed at 8:20 p.m. to meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purposes:

- Section 551.071 - Consultation with Attorney Regarding Potential Litigation
- Section 551.072 - Deliberations Regarding Real Property

Upon reconvening into Regular session at 8:37 p.m., no action was taken.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this 4th day of August 2008.

Doris Speer  
Doris Speer, TRMC  
City Secretary

Gretchen Fagan  
Gretchen Fagan  
Mayor