

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



MONDAY, OCTOBER 19, 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 Webb
Councilman Stoll
Councilman Townsend
Councilman Driver

Others present:

City Manager – Jan Belcher
Assistant City Manager – Christal Klierer
City Secretary – Doris Speer
City Attorney – Scott Bounds
Director of Public Works – David Kauffman
Fire Chief – Randy Parr
Director of Engineering & Planning – Mark McClure
Assistant to City Manager – Shawn Cox
City Planner – Kelly Violette
Utilities Superintendent – John Escamilla
Community Events Coordinator – Rosalie Dillon

2.0 Invocation

- Led by Pastor Aaron Edwards, Sundays Church

3.0 Pledges to U. S. and Texas Flags

- Led by James Liu and Mansi Baxi, THS Student Council

4.0 The following public comments were received:

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| Sharon Thompson
200 N. Poplar, 77375 | - Wished to have her support for Jan Belcher and the extension of her contract read into the record. |
| Tina Salem
1310 Pine Trails, 77375 | - Wished to have her support for Jan Belcher and the extension of her contract read into the record |
| Tom Crofoot
(email, 10/19/2009), 77375 | - Email expressing his support for Jan Belcher and the extension of her contract read into the record. |
| Deanna Highsmith
1311 Pine Brook, 77375 | - Wished to have her support for Jan Belcher and the extension of her contract read into the record. |
| Linda & Jim Wrentz
31203 Antonia Lane, 77375 | - Wished to have their support for Jan Belcher and the extension of her contract read into the record. |
| Lorraine Curtis
23634 Snook Lane, 77375 | - Wished to have her support for Jan Belcher and the extension of her contract read into the record. |
| Pastor John Holiday
414 S. Chestnut Street, 77375 | - Wished to have his support for Jan Belcher and the extension of her contract read into the record. |
| Erma Holiday
414 S. Chestnut Street, 77375 | - Wished to have her support for Jan Belcher and the extension of her contract read into the record |
| Miguel Enriquez
601 W. Main, 77375 | - Wished to have his support for Jan Belcher and the extension of her contract read into the record |
| Robert "Mike" Emory
14011 FM 2920, 77375 | - Wished to have his support for Jan Belcher and the extension of her contract read into the record |
| Ava Cook
12130 Zion Road, 77375 | - Wished to have her support for Jan Belcher and the extension of her contract read into the record |
| Nettie Doty
1315 Pine Brook, 77375 | - Wished to have her support for Jan Belcher and the extension of her contract read into the record |
| Alana Holiday
414 S. Chestnut, 77375 | - Wished to have her support for Jan Belcher and the extension of her contract read into the record |
| Aleata Oeser
30331 Winfro, 77375 | - Wished to have her support for Jan Belcher and the extension of her contract read into the record |

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| Mary Harvey
405 S. Walnut, 77375 | - Expressed her support for Jan Belcher and the extension of her contract. |
| Nora Stovall
307 Florence, 77373 | - Wished to have her support for Jan Belcher and the extension of her contract read into the record |
| Preston Dodson
830 Baker, 77375 | - Expressed his support for Jan Belcher and the extension of her contract. |
| Rosalie Dillon
14166 Turnervine, 77375 | - Expressed his support for Jan Belcher and the extension of her contract. |
| Rodney Hutson
9431 Rosie Lane, 77354 | - Expressed his support for Jan Belcher and the extension of her contract. |
| Jody & Laura Higginbotham
210 Belmont, 77375 | - Wished to have their support for Jan Belcher and the extension of her contract read into the record |
| Pat Bailey
1319 Dove Trails, 77375 | - Wished to have her support for Jan Belcher and the extension of her contract read into the record |
| Jim McKinney
1306 Dove Trails, 77375 | - Wished to have his support for Jan Belcher and the extension of her contract read into the record |
| Lori Wallace
1821 S. Cherry, 77375 | - Expressed her support for Jan Belcher and the extension of her contract. |

5.0 Presentations:

- Christal Kliever presented an overview on the Candidate Recruitment and Selection Process for the City's Finance Director Position.

6.0 Reports and Announcements:

- **2009 City of Tomball Photo Contest** – “What You Love about Tomball and What Should be Preserved for the Future”
- FY 2009 Unaudited Year End Financial Report
- October 21-23, 2009 – Texas Municipal League Conference – Ft. Worth
- October 24, 2009 – **Farmers Market**, 8:00 a.m.
- October 24 and 31, 2009 – **Walk Tomball!** – Depot Plaza – 9:00 a.m.
- October 27, 2009 – Joint City Council and Planning & Zoning Comprehensive Plan Meeting – City Hall at 5:00 p.m.
- October 28, 2009 – CPAC Meeting #7 – Community Center at 6:00 p.m.

- November 5, 2009 – **Mayor’s Coffee - 7:30 a.m.**
- November 7, 14, 21, and 28, 2009 – **Walk Tomball!** – Depot Plaza – 9:00 a.m.
- November 14, 2009 - **2nd Saturday at the Depot**
- **Tomball Holiday Ice Rink at the Depot** - November 21, 2009-January 10, 2010
- Comprehensive Plan website is now available online – <http://plantomball.com/index.html>
- No reports were made by City staff and members of Council about items of community interest on which no action will be taken

7.0 Motion was made by Councilman Stoll, second by Councilman Townsend, to approve the Minutes of the Regular City Council Meeting of October 5, 2009.

Motion carried unanimously.

8.0 Old Business

8.1 Mark McClure presented an overview of Ordinance No. 2009-30. Motion was made by Councilman Webb, second by Councilman Townsend, to Adopt, on Second Reading, Ordinance No. 2009-30, an Ordinance Amending the Code of Ordinances of the City Council of the City of Tomball, Texas, by Adding a new Article IV to Chapter 38; Implementing and Enforcing Erosion and Sediment Control Management Guidelines; 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. Vote was as follows:

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

Motion carried unanimously.

9.0 New Business:

9.1 Christal Kliever presented an overview of the proposed Public Improvement District Number Three. The Public Hearing to consider the Advisability of the Creation of a Public Improvement District to make Certain Improvements over Certain Property Located within the Corporate Limits of the City of Tomball: Proposed City of Tomball Public Improvement District Number Three – Reserve at Spring Lake was opened by Mayor Fagan at 7:37 p.m.

No public comments being received, the Public Hearing was closed by Mayor Fagan at 7:37 p.m.

- 9.2 Christal Kliever and Scott Bean, Hawes Hill & Calderon, presented an overview of the proposed Resolution No.2009-27, advising that the district will be responsible for 100% of the cost. Bob Allen, owner, and David Kelly, architect, were present but did not speak. Motion was made by Councilman Driver, second by Councilman Webb, to Approve Resolution No. 2009-27, a Resolution of the City of Tomball, Texas, Making Findings in Connection with the Proposed Public Improvement District Number Three related to the Advisability of the Improvements, the Nature of the Improvements, the Estimated Cost of the Improvements, the Boundaries of the Proposed District, the Method of Assessment and the Apportionment of Cost between the District and the City as a Whole; and Making other Findings related to the District – Reserve at Spring Lakes.

Motion carried unanimously.

- 9.3 Christal Kliever presented an overview of the proposed Resolution No.2009-28. Motion was made by Councilman Townsend, second by Councilman Webb, to Approve Resolution 2009-28, a Resolution of the City of Tomball, Texas, Authorizing the Establishment of the Public Improvement District Number Three in the City of Tomball, Texas; Authorizing Publication of This Resolution, Providing for the Preparation of a Service and Assessment Plan; and Making Other Provisions Related to the Subject – Reserve at Spring Lakes.

Motion carried unanimously.

- 9.4 Kelly Violette presented the staff report for **ZONING CASE P09-156**. The Public Hearing for **ZONING CASE P09-156** as requested by Allen Land Management, on behalf of Zion Road Properties, L.L.C., for a text amendment to Section 14.4 (B.2) of the Comprehensive Zoning Ordinance to reduce the minimum side yard requirement from 30 feet to 15 feet for lots within the AG-Agricultural District was opened by Mayor Fagan at 7:49 p.m.

No public comments being received, the Public Hearing was closed by Mayor Fagan at 7:49 p.m.

Motion was made by Councilman Townsend, second by Councilman Driver, to read Ordinance No. 2009-31 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Stoll, second by Councilman Driver, to Adopt on First Reading, Ordinance No. 2009-31, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by amending Section 14.4 AG-Agricultural District Area Regulations to Decrease the Minimum Side Yard Requirement for a Dwelling-Single Family Detached and Garage, Private to 15 feet from 30 feet; 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 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.

- 9.5 Kelly Violette presented the staff report for **ZONING CASE P09-161**. The Public Hearing for **ZONING CASE P09-161** as requested by Joe Daniels, Jr., on behalf of Cappadonna Electrical Management Corporation and Gatewood & Associates, to amend the Comprehensive Zoning Ordinance to rezone approximately 0.287 acres of land, legally described as Lots 1-4, Block 62, Tomball Townsite, within the City of Tomball, Harris County, Texas, generally located at the northeast corner of the intersection of the Burlington Northern Santa Fe Railway and the unimproved Foster Street right-of-way, from the SF-6-Single-Family Residential-6 District to the OT&MU-Old Town & Mixed Use District was opened by Mayor Fagan at 8:03 p.m. The following comments were received:

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| Michael Kelly
30630 Quinn, 77375 | - Expressed concern about the number of businesses and the traffic level on Quinn. |
| Joe Daniels
Property Owner
24926 FM 2978, 77375 | - Provided additional information to Council regarding extension of Sycamore Street to serve the property. |

No further public comments being received, the Public Hearing was closed by Mayor Fagan at 8:07 p.m.

Motion was made by Councilman Driver, second by Councilman Townsend, to read Ordinance No. 2009-32 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. 2009-32, an Ordinance of the City of Tomball, Texas, Amending it's Comprehensive Zoning Ordinance by changing the Zoning District Classification of approximately 0.287 acres of land, legally described as Lots 1-4, Block 62, Tomball Townsite, from the SF-6-Single-Family Residential-6 District to the OT&MU-Old Town & Mixed Use District; generally located at the northeast corner of

the intersection of the Burlington Northern Santa Fe Railway and the unimproved Foster Street right-of-way; 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 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.

- 9.6 Mark McClure presented an overview of the Planning and Zoning Commission's recommendations regarding the Pine Country Plat. Motion was made by Councilman Driver, second by Councilman Stoll, to Approve **PINE COUNTRY OF TOMBALL SECTION III REPLAT**: Being a residential subdivision of 29.4207 acres comprised of 4 residential estate acreage lots and being a replat of Pine Country of Tomball, Section Three of 29.4207 acres as recorded in H.C. Film Code # 628282 located in the John Edwards Survey, A-20 and the Chauncey Goodrich Survey A-311, City of Tomball, Harris County, Texas.

Motion carried unanimously.

- 9.7 Mark McClure presented an overview of the Planning and Zoning Commission's recommendations regarding the Tomball South Commercial Plat. Motion was made by Councilman Webb, second by Councilman Townsend, to Approve **TOMBALL SOUTH COMMERCIAL – FINAL PLAT**: Being a subdivision of a 33.3760 acre tract of land situated in the Elizabeth Smith Survey, Abstract Number 70, of Harris County, Texas, as described in deed recorded in Clerk's File Number 20070269548 of the Real Property Records of Harris County, Texas; Said 33.3760 acre subdivision including a REPLAT of all of Lots 392, 393, and 395 and part of Lot 394 of the TOMBALL OUTLOTS, a subdivision according to the map or plat thereof recorded in Volume 2, Page 65 of the Map Records of Harris County, Texas.

Motion carried unanimously.

- 9.8 David Kauffman presented an overview of the proposed Agreement with HDR/Claunch & Miller. Motion was made by Councilman Stoll, second by Councilman Driver, to Approve Agreement with HDR/Claunch & Miller for Engineering Services for an Engineered Pavement Management Plan for Concrete Streets for a Cost Not to Exceed \$56,800.00.

Motion carried unanimously.

Mayor Fagan called a 5-minute break at 8:24 p.m.; upon reconvening into regular session at 8:30 p.m., the following action was taken:

- 9.9 Randy Parr presented an overview of the proposed Interlocal Agreement with ESD #15. Motion was made by Councilman Townsend, second by Councilman Stoll, to approve the Yearly Compensation Amendment to Interlocal Agreement for Fire Protection, Fire Suppression, and Rescue Services, in the Amount of \$45,000, Covering the City of Tomball Fire Department's Continued Provision of Fire Protection and Rescue Services to the Area Contained in the Boundaries of Harris County ESD #15.

Motion carried unanimously.

- 9.10 David Kauffman and John Escamilla presented an overview on the status of Pine Street #2 Water Well, the Costs to Date, and Estimated Total Costs Associated with the Repairs, advising that the well should be returned to service by mid-November. No action was necessary.

- 9.11 David Kauffman presented an overview of the costs for Emergency Repairs for the Pine Street #2 Water Well. Motion was made by Councilman Stoll, second by Councilman Webb, to Approve Pay Estimate #1 to Layne Christensen in the Amount of \$57,720.00, as Partial Payment of the Total Estimated Cost of \$142,913.00 for Emergency Repairs for the Pine St. #2 Water Well.

Motion carried unanimously.

- 9.12 Rob Hauck presented an overview of the proposed Police Officer Reserve Appointment of David Sparks. Motion was made by Councilman Webb, second by Councilman Townsend, to approve the Appointment of David Sparks as a Tomball Police Department Reserve Officer.

Motion carried unanimously.

- 9.13 Randy Parr presented an overview of the Investment Policy and the requirement that Council reaffirm the Investment Policy annually. Motion was made by Councilman Driver, second by Councilman Townsend, to Reaffirm Administrative Policy No. 13, entitled "Investment Policy".

Motion carried unanimously.

- 9.14 Christal Kliever presented an overview on the City's Financial Practices. Majority consensus of the Council (3 to 2) is to have a work session to define the scope of a Potential Report on the City's Financial Practices and receive an opinion from the city attorney regarding potential conflicts of interest with Belt Harris:

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

9.15 Executive Session: Jan Belcher requested that the Executive Session be conducted in public, as authorized by Title 5, Chapter 551, Government Code, Section 551.074(b). The City Council met in a public Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose:

- Section 551.074 – Personnel Matters: Deliberate the Evaluation, Assignments and Duties of the City Manager

Councilmembers expressed their concerns to Jan Belcher, who responded to each question/concern. Councilman Stoll requested a copy of the letter written by Jan Belcher and Betty Reinbeck to a developer regarding his proposed development.

A majority consensus of Council (3 to 2) is to have a workshop to set goals for the City Manager, prior to a regular Council meeting.

Motion was made by Councilman Webb to have an item on the November 2, 2009 agenda to “approve the termination of the current auditor”; motion died for lack of a second.

Motion was made by Councilman Webb, second by Councilman Townsend, to include an item on the November 2, 2009 agenda for “discussion and possible action regarding termination of contract with the current auditor, based on the findings of Counsel.”

Motion carried unanimously.

Motion was made by Councilman Townsend, second by Councilman Driver, for adjournment.

Motion was made by Councilman Webb for the acceptance of resignation or possible termination of the City Manager; motion died for lack of a second.

Motion was made by Councilman Townsend, second by Councilman Stoll, for adjournment.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this 19th day of October 2009.

Doris Speer
Doris Speer, TRMC
City Secretary

Gretchen Fagan
Gretchen Fagan
Mayor