

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



**MONDAY, SEPTEMBER 21, 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 Stoll  
Councilman Webb  
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  
Chief of Police – Robert Hauck  
Fire Chief – Randy Parr  
Director of Engineering & Planning – Mark McClure  
Finance Director – Monica Kohlenberg  
Assistant to City Manager – Shawn Cox  
City Planner – Kelly Violette  
Community Events Coordinator – Rosalie Dillon  
Executive Director-TEDC – Betty Reinbeck  
NWEMS – Brian Petrilla

2.0 Invocation

- Led by Pastor Mike Lindsey, Covenant Christian Center

3.0 Pledges to U. S. and Texas Flags

- Led by Betty Reinbeck, Executive Director-TEDC

4.0 No public comments were received.

5.0 Presentation:

- Mayor Fagan presented the “Mayor’s Challenge” Cup to Brian Petrilla, on behalf of Northwest EMS, Winner of the **3<sup>rd</sup> Annual Mayor’s Challenge Community Blood Drive** Challenge, and a plaque to Robert Hauck, winner of the 2<sup>nd</sup> Annual Mayor’s Challenge Community Blood Drive Challenge.

6.0 Reports and Announcements:

- September 23, 2009 – Elected and Appointed Officials/CPAC Meeting #6 – Public Works Training Room – 6:00 p.m.
- September 26, 2009 – **Walk Tomball!** – Depot Plaza – 8 a.m.
- September 26, 2009 – **Farmers Market**, 8:00 a.m.
- October 3, 10, 17, 24, and 31, 2009 – **Walk Tomball!** – Depot Plaza – 9:00 a.m. (**Please note change in time**)
- October 10, 2009 – **Farmers Market**, 8:00 a.m.
- October 10, 2009 - **2<sup>nd</sup> Saturday at the Depot**
- October 21-23, 2009 – Texas Municipal League Conference – Ft. Worth
- October 24, 2009 – **Farmers Market**, 8:00 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.
- **Tomball Holiday Ice Rink at the Depot** - November 21, 2009 through January 10, 2010
- Comprehensive Plan website is now available online <http://plantomball.com/index.html>
- Reports by City staff and members of council about items of community interest on which no action will be taken

Councilman Webb announced that First Baptist will be celebrating its 100<sup>th</sup> Birthday and commended Betty Reinbeck and the TEDC staff for the excellent job they perform in improving the quality of life for the city.

7.0 Motion was made by Councilman Webb, second by Councilman Townsend, to approve the Minutes of the Regular City Council Meeting of September 8, 2009.

Motion carried unanimously.

8.0 Old Business

8.1 Betty Reinbeck provided an overview of the proposed project. Motion was made by Councilman Townsend, second by Councilman Webb to Approve, by Second Reading, Resolution No. 2009-20-TEDC, as a Project of the Corporation, an agreement with WireTel Services, L.P. to make direct incentives to, or expenditures for the promotion of

new or expanded business development, to wit: WireTel Services relocation and development of its corporate headquarters to be located at 1032 Lizzie Lane within the City of Tomball. The estimated amount of expenditures for such Project is \$225,000.00.

Motion carried unanimously.

- 8.2 Betty Reinbeck provided an overview of the proposed project. Councilman Quinn advised that he would abstain from consideration and vote, due to a conflict of interest, and that he had filed an Affidavit with the City Secretary. Motion was made by Councilman Driver, second by Councilman Stoll, to Approve, by First Reading, Resolution No. 2009-21-TEDC, as a Project of the Corporation, an agreement with Klein Financial Services, Inc. and David R. Quinn Architect, AIA to make direct incentives to, or expenditures for, the promotion of new or expanded business development, to wit: Klein Financial Services, Inc. and David R. Quinn Architect, AIA construction of an office building at 403 Baker Drive within the City of Tomball. The estimated amount of expenditures for such Project is \$50,000.00.

Merritt Spencer and Lori Klein Quinn provided additional information regarding the projects and expressed their support for the proposed project.

Vote was as follows:

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

Motion FAILED, 1 Aye to 3 Nay votes.

- 8.3 Mark McClure provided an overview of the proposed project. Motion was made by Councilman Webb, second by Councilman Driver, to Approve Change Order, in the Amount of \$688,800.00, with Schier Construction Company, Inc. (Contractor) for the City of Tomball Water Supply & Storage Facility No. 5 Project.

Motion carried unanimously.

9.0 New Business:

- 9.1 David Kauffman provided an overview of the proposed project. Motion was made by Councilman Townsend, second by Councilman Driver, to Approve Request from "Beautify Tomball" for City Assistance in Volunteer Effort to Pick Up Litter

Motion carried unanimously.

- 9.2 Shawn Cox presented an overview of the proposed project. Motion was made by Councilman Townsend, second by Councilman Stoll, to Approve Resolution No. 2009-22, a Resolution of the City Council of the City of Tomball, Texas, Supporting the Woodforest National Bank 5K Fun Run to be held on Saturday, November 14, 2009.

Motion carried unanimously.

- 9.3 Monica Kohlenberg provided an overview of the proposed contract. Motion was made by Councilman Driver, second by Councilman Townsend, to Award Contract for Janitorial Services for City of Tomball Facilities to Accent Maintenance Inc., in the amount of \$42,480.00, for Fiscal Year Beginning October 1, 2009.

Motion carried unanimously

- 9.4 Monica Kohlenberg presented an overview of the proposed tax rate. Motion was made by Councilman Driver, second by Councilman Stoll, to Ratify the FY 2010 Budget and Find that the Proposed Tax Rate of \$.251455/\$100 Generates Less Property Tax Revenue than the FY 2009 Budget.

Motion carried unanimously.

- 9.5 Monica Kohlenberg presented an overview of the proposed tax rate for the Interest and Sinking Fund. Motion was made by Councilman Townsend, second by Councilman Driver, to adopt \$0.130000 as the Portion of the Tax Rate for the Interest and Sinking (Debt Service) Fund for FY 2010.

Motion carried unanimously.

- 9.6 Monica Kohlenberg presented an overview of the proposed tax rate for Maintenance and Operations. Motion was made by Councilman Townsend, second by Councilman Driver, to adopt \$0.121455 as the Portion of the Tax Rate to Fund Maintenance and Operations (M&O) for FY 2010.

Motion carried unanimously.

- 9.7 Monica Kohlenberg presented an overview of proposed tax levy ordinance. Motion was made by Councilman Townsend, second by Councilman Webb, to read Ordinance No. 2009-26 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Driver, second by Councilman Stoll, to Adopt, on First Reading, Ordinance No. 2009-26, An Ordinance of the City of Tomball, Texas, Setting the Tax Levy of \$0.251455/\$100 Value Assessed for the Year 2009 on All Taxable Real and Personal Property Located in the City of Tomball, Texas; Allowing for Homestead

Exemptions for Property Owners Sixty-Five Years of Age and Over, and for Property Owners Who Qualify for Disability Benefits Under the Federal Old Age, Survivors, and Disability Insurance Program; Providing for Penalty, Interest, and Additional Penalty on Taxes Not Timely Paid; and Providing Other Matters Relating to the Subject. 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.

- 9.8 Monica Kohlenberg presented an overview of proposed ordinance establishing utility rates for FY 2010. Motion was made by Councilman Stoll, second by Councilman Webb, to read Ordinance No. 2009-27 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Driver, second by Councilman Townsend to Adopt, on First Reading, Ordinance No. 2009-27, Establishing Rates and Charges for Potable Water, Sanitary Sewer, Natural Gas, and Garbage Collection and Disposal Services; Repealing Ordinance No. 2008-24 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. Vote was as follows:

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

Motion carried unanimously.

- 9.9 Monica Kohlenberg presented an overview of proposed ordinance for the budget amendment. Motion was made by Councilman Townsend, second by Councilman Webb, to read Ordinance No. 2009-28 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Driver, second by Councilman Webb, to Adopt, on First Reading, Ordinance No. 2009-28, an Ordinance of the City of Tomball, Texas, Adopting Amendment Number 4 to the Original Budget of the City of Tomball, Texas, for the Fiscal Year 2008-2009, as Adopted by Ordinance No. 2008-25; 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. Vote was as follows:

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

Motion carried unanimously.

- 9.10 Kelly Violette presented the staff report for **ZONING CASE P09-158**. The public hearing for **ZONING CASE P09-158**, as requested by Carl Kleimann to amend the Comprehensive Zoning Ordinance to rezone approximately 0.614 acres of land in the Ralph Hubbard Survey, Abstract 383, in Harris County, Texas, generally located on the westerly side of Snook Lane, southerly of Crestview subdivision, from the SF-9- Single Family 9 District to the C-Commercial District was opened by Mayor Fagan at 8:05 p.m.

No public comments being received, the Public Hearing was closed by Mayor Fagan at 8:06 p.m.

Motion was made by Councilman Webb, second by Councilman Townsend, to read Ordinance No. 2009-29 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Webb, second by Councilman Driver to Adopt, on First Reading, Ordinance No. 2009-29, an Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of Approximately 0.614 Acres of Land in the Ralph Hubbard Survey, Abstract 383, Harris County, Texas, from the SF-9- Single Family 9 Residential District to the C-Commercial District; Said Property also being known as a 0.614 acre tract of land out of and a part of a 1.3997 acre tract of land described in deed recorded under Clerk's File No. S487819 of the Official Public Records of Real Property of Harris County, Texas, generally located on the westerly side of Snook Lane, southerly of Crestview Subdivision; 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 Townsend	<u>Nay</u>
Councilman Driver	<u>Aye</u>

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

Motion carried, 4 Aye to 1 Nay votes.

- 9.11 Kelly Violette presented an overview of the Public Hearing on ZONING **CASE P09-156** 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.

Mayor Fagan advised that the applicant has requested a continuance to the October 12, 2009 Planning and Zoning Commission meeting; therefore, the City Council will not conduct a public hearing or review the subject case until a recommendation is forwarded to the City Council by the Planning and Zoning Commission.

- 9.12 Kelly Violette presented an overview of the Tomball Livable Centers Downtown Plan. Motion was made by Councilman Stoll, second by Councilman Webb, to Approve Resolution No. 2009-23, a Resolution of the City Council of the City of Tomball, Texas, Accepting and Approving the Tomball Livable Centers Downtown Plan.

Motion carried unanimously.

- 9.13 Doris Speer provided an overview of the request for appointments to the Houston-Galveston Area Council 2010 General Assembly. Motion was made by Councilman Driver, second by Councilman Stoll to Approve Resolution No. 2009-24, a Resolution of the City Council of the City of Tomball, Texas for the Designation of Representative and Alternate for the Houston-Galveston Area Council 2010 General Assembly, appointing Councilman Townsend as the Representative and Mayor Pro Tem Webb as the Alternate. Vote was as follows:

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

Motion carried, 4 Aye to 1 Nay votes.

- 9.14 Doris Speer provided an overview regarding the nomination of an individual to the Harris County Appraisal District Board of Directors. Motion was made by Councilman Driver, second by Councilman Townsend to Approve Resolution No. 2009-25, a Resolution of the City Council of the City of Tomball, Texas, Nominating Ed Heathcott for a Position on the Board of Directors of the Harris County Appraisal District.

Motion carried unanimously.

- 9.15 Jan Belcher provided an overview of the proposed request to approve a resale deed. Motion was made by Councilman Driver, second by Councilman Stoll, to Approve Resale Deed for Property acquired by Foreclosure Tax Sale in Cause No. 2001-49949, styled City of Tomball, et al vs. Mathis, Travis, said Property being described as: Lot 33, Block 69 in the Town of Tomball, in Harris County, Texas, and being more particularly described in map of said addition recorded in Volume Two, Page Thirty-Six of the Map of Records of Harris County, Texas (Account No. 035-273-069-0033).

Motion carried unanimously.

- 9.16 Executive Session: The City Council recessed at 8:15 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:

- Section 551.074 Personnel Matters – Evaluation of City Manager

Upon reconvening into Regular session at 9:38 p.m., the following action was taken:

- 9.17 Motion was made by Councilman Townsend, second by Councilman Quinn to postpone approving the amended Employment Agreement for Jan Belcher, City Manager; Extending the Contract to September 30, 2011; and Setting Compensation at \$130,000.00 per Year for 90 days and calling an executive session for October 5 to discuss goals and objectives for the City Manager. Vote was as follows:

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

Motion FAILED, 2 Aye to 3 Nay votes.

Motion was made by Councilman Quinn, second by Councilman Stoll, to adjourn. Vote was as follows:

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

Motion FAILED, 2 Aye to 3 Nay votes.

Motion was made by Councilman Webb, second by Councilman Driver, not to extend the contract for the City Manager. Vote was as follows:

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

Motion carried, 3 Aye to 1 Nay votes.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this 5th day of October 2009.

Doris Speer  
Doris Speer, TRMC  
City Secretary

Gretchen Fagan  
Gretchen Fagan  
Mayor