

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



TUESDAY, SEPTEMBER 7, 2010

7:00 P.M.

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

Councilman Stoll
Councilman Brown
Councilman Townsend
Councilman Dodson

Member Absent: Councilman Quinn – Excused Absence

Others present:

City Manager – George Shackelford
Assistant City Manager – Christal Kliever
City Secretary – Doris Speer
City Attorney – Scott Bounds
Fire Chief – Randy Parr
Police Chief – Robert Hauck
Finance Director – Glenn Windsor
Director of Public Works – David Kauffman
Assistant to City Manager – Shawn Cox
Director of Human Resources – Lisa Coe
Director of Engineering & Planning – Mark McClure

2.0 Invocation

- Led by Chaplain Gary Crowe, Tomball Police Department

3.0 Pledges to U. S. and Texas Flags

- Led by Rita Rush and Kellen Cantrell, Tomball High School Student Council

4.0 The following public comments were received:

1. Hayward Vickery
P. O. Box 2024, Porter 77365 - Expressed his opposition to the day labor site.
2. Richard Jennings
17407 Moreton Lane, Spring 77375 - Expressed his opposition to illegal immigration and his support for the day labor site.
3. Tom Crofoot
1430 Neal Road, Tomball 77375 - Expressed his support for the day labor site.
4. Al Navarro
20019 Emerald Way, Magnolia 77355 - Expressed his support for the day labor site.
5. Mark Degge
30619 McKinney, Tomball 77375 - Expressed his opposition to the day labor site.
6. Phil Johnson
810 Sentinel Oaks Dr., Pinehurst 77362 - Expressed his opposition to the day labor site.
7. Pat Bailey
1319 Dove Trails, Tomball 77375 - Did not speak; asked that her support for the day labor site and opposition to items under 8.10 be read into the record.
8. John P. Dillon
14166 Turnervine, Tomball 77375 - Expressed his support for the day labor site.
9. Dr. Earl L. Johnson
24 Rusken, Montgomery 77356 - Expressed his support for the day labor site.
10. Chaplain Detwier
7133 Oakwood Glen, Spring 77379 - Expressed his opposition for the day labor site.
11. Ken Shuman
611 Clayton, Tomball 77375 - Expressed his support for the day labor site.
12. Rona Smith
623 Westwood Circle, La Marque 77568 - Expressed her support for the day labor site and opposition to items under 8.10
13. Dr. David M. Smith
623 Westwood Circle, La Marque 77568 - Expressed his support for the day labor site and opposition to items under 8.10.

14. Richard Smith
18611 Becker, Hockley 77447
 - Expressed his opposition to the day labor site; read portions of letter from Congressman Poe.
15. Sandra Glowski
510 Hicks, Tomball 77375
 - Expressed her support for the day labor site.
16. Gary Von Rosenberg
16403 Wolverton Drive, Spring 77379
 - Expressed his opposition to the day labor site.
17. Brent Lapsley
1419 Green Tree Drive, Tomball 77375
 - Expressed his support for the day labor site but his opposition to City's funding the site; mentioned a straw petition with 29 signatures opposing city funding of the site.
18. Arnold Sims
16302 Oaklane Trail, Magnolia 77355
 - Expressed his opposition to the day labor site.
19. Tony Mooney
11743 Timbercrest Dr., Tomball 77375
 - Expressed his opposition to the day labor site.
20. Kevin Horn
1315 Serene Trails, Tomball 77375
 - Expressed his opposition to the day labor site; use city taxes to pay for education or donate to TOMAGWA.
21. Tony Martinez
26635 Leafon Lane, Magnolia 77354
 - Expressed his support for the day labor site.
22. Lori Wallace
1821 S. Cherry, Tomball 77375
 - Did not speak; asked that her support for the day labor site and opposition to items under 8.10, with the exception of an ordinance prohibiting texting while driving, be read into the record.
23. Mike Steele
15407 Coe Loop, Magnolia 77355
 - Expresses his support for the items under 8.10 and his opposition to the day labor site.
24. Donald W. Free
11911 Westlock, Drive, Tomball 77377
 - Expressed his support for the items under 8.10 and his opposition to the day labor site.
25. Hirma G. Jasso
20023 Jane Lane, Tomball 77375
 - Expressed her support for the day labor site and her opposition to the items under 8.10.

26. Richard Ramirez
24402 Rolling Meadow, Tomball 77375 - Did not speak; asked that his opposition to the items under 8.10 be read into the record.
27. Rae Nell Thompson
14134 Carneswood Dr., Tomball 77375 - Did not speak; asked that her support for the day labor site be read into the record.
28. Nora Stovall
307 Florence, Tomball 77375 - Did not speak; asked that her support for the day labor site and opposition to items under 8.10 be read into the record.
29. Charles Dukes
631 Percival, Tomball 77375 - Did not speak; asked that his support for the day labor site be read into the record.
30. Aven McBride
14803 FM 2920, Tomball 77377 - Did not speak; asked that her support for the day labor site be read into the record.
31. Darren Hockenberry
29503 Orchard Grove Dr, Tomball 77377 - Did not speak; asked that his support for the day labor site be read into the record.
32. Shirley Hockenberry
29503 Orchard Grove, Tomball 77377 - Did not speak; asked that her support for the day labor site be read into the record.
33. Michele Beauvais
29502 Imperial Creek, Tomball 77377 - Did not speak; asked that her support for the day labor site be read into the record.
34. Juan Alvarez
402 Busch Street, Houston 77060 - Expressed his opposition to the items under 8.10 and his support for the day labor site.
35. William Harris
30810 Country Meadows, Tomball 77377 - Expressed his opposition to the day labor site; spend city funds on education.
36. Cristobal Hinojosa
8210 Bauman Road, Houston - Expressed his opposition to the item under 8.10 regarding English only.
37. Vicenta Carrizales
78536 FM 2978, Magnolia 77354 - Expressed her opposition to the items under 8.10.
38. William O'Neal
14235 Turnervine, Tomball 77375 - Expressed his opposition to the day labor site.
39. Corrine Bauer
14102 Limerick, Tomball 77375 - Did not speak; read her support for the items under 8.10 into the record.
40. Marilyn O'Neal
14235 Turnervine, Tomball 77375 - Expressed her opposition to the day labor site.

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| 41. James R. Wrentz
31203 Antonia Lane, Tomball 77375 | - Expressed his support for the day labor site and his opposition to the items under 8.10. |
| 42. Brad Neal
25020 Thrushwood, Spring 77375 | - Expressed his opposition to the items under 8.10 and his support for the day labor site. |
| 43. Linda Wrentz
31203 Antonia Lane, Tomball 77375 | - Did not speak, asked that her support for the day labor site be read into the record. |
| 44. Mary Lou Murphy (phone)
Magnolia 77355 | - Unable to attend; asked that her support for the day labor site and her opposition to those living outside the city of Tomball being allowed to speak in public comments be read into the record. |
| 45. Judith Wilson
506 N. Pecan Drive, Tomball 77375 | - Unable to attend; asked that her opposition to the day labor site be read into the record. |
| 46. Bill Webb
28011 Johnson Road, Tomball 77375 | - Asked that items under 8.10 and the day labor site be placed on the November ballot. |
| 47. Sophia Alvarez
402 Busch Street, Houston 77060 | - Expressed her opposition to the items under 8.10 and her support for the day labor site. |

5.0 Reports and Announcements:

- September 11, 2010 – **Farmers Market** – 8:00 a.m.
- September 11, 2010 – **3rd Annual Mayor's Challenge Community Blood Drive**, from 1:00 p.m. – 7:00 p.m. at the Tomball Community Center, 221 Market Street
- September 11, 2010 – **9-11 Memorial Service**, 6:00 p.m. at **2nd Saturday at the Depot**
- September 11, 2010 – **2nd Saturday at the Depot**, 6:00 p.m.
- September 25, 2010 – **Farmers Market** – 8:00 a.m.
- **Walk Tomball!** (Every Saturday at 8:00 a.m. at the Depot)
- Reports by City staff and members of Council about items of community interest on which no action will be taken
 - David Kauffman presented an update on the City of Tomball's Emergency Preparedness Plan and the Water Fluoridation Quality Award received by the City of Tomball from the Texas Department of Health.

6.0 Motion was made by Councilman Brown, second by Councilman Stoll, to approve the Minutes of the following City Council meetings:

- Regular City Council Meeting of August 16, 2010, as corrected
- Special City Council Meeting of August 17, 2010

Motion carried unanimously.

Mayor Fagan called for a 10-minute recess at 8:29 p.m.; upon reconvening into regular session at 8:43 p.m., the following items were considered:

7.0 Old Business:

7.1 Motion was made by Councilman Townsend, second by Councilman Brown, to adopt, on Second Reading, Ordinance No. 2010-18, Establishing Rates and Charges for Potable Water, Sanitary Sewer, Natural Gas, and Garbage Collection and Disposal Services; Repealing Ordinance No. 2009-27 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 Brown	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Quinn	<u>Absent</u>
Councilman Dodson	<u>Aye</u>

Motion carried unanimously.

7.2 Motion was made by Councilman Brown, second by Councilman Townsend, to Adopt, on Second Reading, Ordinance No. 2010-19, an Ordinance of the City Council of the City of Tomball, Texas, Electing for the City to Make Current Service and Prior Service Contributions to the City's Account in the Municipal Accumulation Fund of the Texas Municipal Retirement System (TMRS) at the Actuarially Determined Rate of Total Employee Compensation; Amending all other Ordinances or Parts of Ordinances Inconsistent or in Conflict Herewith; Providing for an Effective Date; and Providing other Matters Relating to the Subject. Vote was as follows:

Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Quinn	<u>Absent</u>
Councilman Dodson	<u>Aye</u>
Councilman Stoll	<u>Aye</u>

Motion carried unanimously.

8.0 New Business:

- 8.1 Mayor Fagan provided copies of the Council Leadership Covenant, City Council Rules and Procedures Ordinance No. 95-03, Ethics Ordinance No. 93-06, and a highlighted list of items from each of the documents for Council's consideration. Mayor Fagan mentioned the addition of rules regarding texting or emailing during Council meetings as an additional item for consideration at a future workshop. No action taken.
- 8.2 Doris Speer presented information regarding the proposed appointment to the Planning and Zoning Commission. Recommendation was made by Mayor Fagan to appoint Mary Harvey. Motion was made by Councilman Brown, second by Councilman Stoll, to appoint Mary Harvey to the Planning and Zoning Commission. Vote was as follows:

Councilman Townsend	<u>Nay</u>
Councilman Quinn	<u>Absent</u>
Councilman Dodson	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>

Motion carried 3 votes Aye, 1 vote Nay. Mary Harvey is appointed to the Planning and Zoning Commission.

- 8.3 Doris Speer presented information regarding the proposed appointment to the Tomball Economic Development Corporation. Recommendation was made by Mayor Fagan to appoint Richard Bruce. Nomination was made by Councilman Townsend to appoint Mary Harvey to the unexpired vacancy on the Tomball Economic Development Corporation. Nominations ceased. Vote was taken regarding nominated individuals for the unexpired vacancy on the Tomball Economic Development Corporation; vote was as follows:

Councilman Stoll	<u>Richard Bruce</u>
Councilman Brown	<u>Richard Bruce</u>
Councilman Townsend	<u>Mary Harvey</u>
Councilman Quinn	<u>Absent</u>
Councilman Dodson	<u>Richard Bruce</u>

Motion carried, 3 votes Richard Bruce, 1 vote Mary Harvey. Richard Bruce is appointed to the Tomball Economic Development Corporation.

- 8.4 Shawn Cox presented an overview of the proposed Request. Motion was made by Councilman Stoll, second by Councilman Brown, to approve the request from Tomball Regional Hospital for City Support of the "2010 Heart Walk".

Motion carried unanimously.

- 8.5 David Kauffman presented an overview of the proposed contract for asphalt overlay. Motion was made by Councilman Dodson, second by Councilman Townsend to award the Contract for Project No. 2010-05 (Asphalt Overlay Project) to Low Bidder, Pavecon, Ltd.
- Motion carried unanimously.
- 8.6 David Kauffman presented an overview of the proposed contract for chlorine and sulfur dioxide gas. Motion was made by Councilman Townsend, second by Councilman Dodson, to award the Contract for Project No. #2010-06 (Purchase of Chlorine and Sulfur Dioxide Gas) to Sole Bidder, DXI Industries, Inc.
- Motion carried unanimously.
- 8.7 David Kauffman presented an overview of the proposed agreement. Motion was made by Councilman Brown, second by Councilman Stoll, to approve execution of Bundled Gas Service Agreement between the City of Tomball and Eagle Rock Midstream, L.P. for the Transport and Delivery of the Portion of the City's Natural Gas Supply received at the South Gate Facility.
- Motion carried unanimously.
- 8.8 Mark McClure presented an overview of the proposed agreement. Motion was made by Councilman Dodson, second by Councilman Stoll, to approve Professional Services Agreement with AECOM Technical Services, Inc. in the amount of \$98,000.00 for Professional Services related to Creating and Establishing a Utilities Geographic Information System (GIS).
- Motion carried unanimously.
- 8.9 Mark McClure presented an overview of the proposed TxDOT Change Orders. Motion was made by Councilman Townsend, second by Councilman Stoll, to approve TxDOT Change Order Number 1 for a Reduction in Project Cost of \$31,526.52, TxDOT Change Order Number 2 for an Increase in the amount of \$45,580.17, and TxDOT Change Order Number 3 for an Increase in the amount of \$15,149.99 for the Brown-Hufsmith Road Project.
- Motion carried unanimously.
- 8.10 Discussion was held regarding the following items:
- Motion was made by Councilman Brown, second by Councilman Dodson, to not adopt English as the official language of Tomball. Vote was as follows:

Councilman Townsend	<u>Nay</u>
Councilman Dodson	<u>Aye</u>
Councilman Quinn	<u>Absent</u>

Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>

Motion carried, 3 votes Aye, 1 vote Nay.

- Councilman Townsend withdrew his request for consideration to adopt an ordinance that gives the Tomball Police the discretion to impound vehicles from uninsured motorists.
- Motion was made by Councilman Stoll, second by Councilman Brown, to move forward with adopting an ordinance that disallows anyone that is not in this country legally the ability to rent or own any property, or to own and or operate any business in Tomball. Vote was as follows:

Councilman Dodson	<u>Nay</u>
Councilman Quinn	<u>Absent</u>
Councilman Stoll	<u>Nay</u>
Councilman Brown	<u>Nay</u>
Councilman Townsend	<u>Nay</u>

Motion FAILED unanimously.

- Motion was made by Councilman Brown, second by Councilman Dodson, to direct City staff and City attorney to move forward with development of an ordinance to make texting while driving illegal.

Motion carried unanimously.

- Motion was made by Councilman Townsend, second by Councilman Brown, to table consideration regarding adoption of an ordinance that mandates any company that is awarded a contract from the City of Tomball and all of their subcontractors hire and use only people who are in this country legally, pending additional information from the City staff and City attorney.

Motion to table carried unanimously.

- 8.11 Mayor Fagan presented an overview of the proposed Motion to Take from the Table. Motion was made by Councilman Townsend, second by Councilman Brown, to Take from the Table consideration of the Day Labor Site.

Motion carried unanimously.

- 8.12 Motion was made by Councilman Brown, second by Councilman Townsend, to open discussion regarding the Day Labor Site and possibly take action. Motion was made by Councilman Stoll, second by Councilman Stoll, to keep the Day Labor Site, to remove the

electric outlets, prohibit cooking, keep the port-a-cans, clean up the facilities, move out and prohibit camping, and close the Day Labor Site at night. Vote was as follows:

Councilman Townsend	<u>Nay</u>
Councilman Dodson	<u>Aye</u>
Councilman Quinn	<u>Absent</u>
Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>

Motion carried, 3 votes Aye, 1 vote Nay.

9.0 Motion was made by Councilman Dodson, second by Councilman Stoll, for adjournment.

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this 20th day of September 2010.

Doris Speer
Doris Speer, TRMC
City Secretary

Gretchen Fagan
Gretchen Fagan
Mayor