

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



MONDAY, APRIL 19, 2010

7:00 P.M.

1.0 Call to Order

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

Councilman Stoll
Councilman Webb
Councilman Townsend
Councilman Driver
Councilman Quinn

Others present:

Interim City Manager – Christal Kliwer
City Secretary – Doris Speer
City Attorney – Scott Bounds
Finance Director – Glenn Windsor
Police Chief – Robert Hauck
Fire Chief – Randy Parr
Director of Engineering & Planning – Mark McClure
City Planner – Kelly Violette
Assistant to City Manager – Shawn Cox
HR Director – Lisa Coe
Streets, Drainage & Parks Foreman – Mike Rowley
Streets and Drainage Serviceperson – Thomas Ollison

2.0 The invocation was led by Pastor Kay Johnson, Rosehill United Methodist Church

3.0 The pledges to U. S. and Texas Flags were led by Kayla Mundkowski and Karli Hill, members of the THS Student Council

4.0 The following public comments were received:

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| Cooper Cason
19302 Red Canyon Lane, 77377 | - Spoke about the Tomball High School “Shower for Shane” fundraiser and invited participation in the event. |
| James Liu & Cynthia Tirso
Tomball High School Student
Council Members | - Requested City sponsorship for the Tomball High School Homecoming Parade, to be held at the Tomball Depot in October. |

5.0 The following presentations were made by Mayor Fagan:

- Proclamation to Tomball Regional Medical Center Day – April 19, 2010
- Proclamation for Tomball Invocation Leaders Day – April 19, 2010
- Proclamation for Tomball High School Student Council Day – April 19, 2010
- Proclamation and Plaque for Thomas “T. Lee” Ollison Day – April 22, 2010
- Proclamation for Motorcycle Safety Awareness Month - May 2010

6.0 Reports and Announcements:

- Christal Kliewer provided an update regarding an error discovered in the contract between the City of Tomball and Sandra Van Zandt Art Sculptures, LLC for the Beckendorf Statue; the error was typographical and has been corrected.
- Grady Martin, president of the Tomball Sister City Organization, presented a report regarding the success of the **German Heritage Festival**.
- April 26-May 4 – **Early Voting** at City Hall
- Shawn Cox provided a report on the **2nd Annual City of Tomball Bunny Run 5K and Kids 1 Mile**.
- April 27, 2010 – Volunteer Firefighters and Reserve Police Officers Banquet
- May 6, 2010 – **Mayor’s Coffee** – (New Location) **Bootsie’s** – 5:30 p.m.-7:00 p.m.
- **May 8, 2010 – Election Day – General City Election at City Hall, 7:00 a.m.-7:00 p.m.**
- May 8, 2010 - **Farmers Market**
- May 8, 2010 - **2nd Saturday at the Depot**
- **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

7.0 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve the minutes of the following meetings:

- Special City Council Meeting of April 5, 2010
- Regular City Council Meeting of April 5, 2010
- Special City Council Meeting of April 14, 2010.

Motion carried unanimously.

8.0 New Business:

- 8.1 Betty Reinbeck presented information regarding the project proposed by TEDC. Motion was made by Councilman Townsend, second by Councilman Driver, to approve, as a Project of the Corporation, an agreement with FabCorp, 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 promotion of new or expanded business development, to wit: FabCorp, Inc. relocation of its light weldments line of machined fabrications to 27807 Red Fox Road in Tomball's extraterritorial jurisdiction (ETJ). The estimated amount of expenditure for such Project is \$156,000.00.

Motion carried unanimously.

- 8.2 Randy Parr and Robert Hauck presented information regarding the proposed amendment to the code of ordinances regarding false alarms. Motion was made by Councilman Driver, second by Councilman Stoll, to read Ordinance No. 2010-06 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Stoll, second by Councilman Townsend, to adopt, on First Reading, Ordinance No. 2010-06, an Ordinance of the City of Tomball, Texas, amending Chapter 26, "Emergency Services" of the Code of Ordinances of the City to Establish Policies, Procedures and Regulations as they relate to Alarms; Providing a Penalty in an Amount of not more than \$500 for Violation of any Provision Hereof; Providing for Savings and Severability; Providing for Publication; and Making other Provisions and Findings Related Thereto.

Motion was made by Councilman Townsend, second by Councilman Driver, to table consideration of Ordinance No. 2010-06 until City staff prepares and provides additional information and decision options for Council consideration.

Motion carried unanimously.

- 8.3 Kelly Violette presented the Staff Report for **ZONING CASE P10-206**: Request by Brian Matthews, on behalf of Crescent Directional Drilling, to amend the City's Comprehensive Zoning Ordinance to rezone approximately 5.006 acres of land, legally described as Tract 281 Tomball Outlots, within the City of Tomball, Harris County, Texas, generally located on the westerly side of South Persimmon Street, northerly of Agg Road from the SF-20-E Single-Family Estate Residential-20 District to the LI - Light Industrial District.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P10-206** at 8:18 p.m.

The following public comments were received:

- | | |
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| Mike O'Brien | - Expressed support for approval of rezoning request. |
| Brian Matthews
Crescent Directional Drilling | - Presented Crescent Directional Drilling's request for rezoning; expressed support for approval of rezoning request. |
| James E. Stubbs | - Representative for Crescent Directional Drilling, property owner; expressed support for approval of rezoning request. |
| Elizabeth Fowler, M.D. | - Expressed her support for approval of the rezoning request; owns land nearby and would benefit from rezoning. |
| John Ford | - Expressed his opposition to approval of the rezoning request. Historically, area has been residential; rezoned use does not align with 2030 comprehensive plan and is incompatible with existing use. |

Hearing no further comments, the public hearing was closed at 8:41 p.m.

- Motion was made by Councilman Townsend, second by Councilman Driver, to read Ordinance No. 2010-07 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. 2010-07, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of approximately 5.006 Acres of land, Legally Described as Tract 281, Tomball Outlots, of the Map Records of Harris County, Texas, from the SF-20-E Single-Family Estate Residential-20 District to the LI - Light Industrial District; Said Property Being Located on the westerly side of South Persimmon Street, northerly of Agg 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. Vote was as follows:

Councilman Townsend

Aye

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

Motion carried, 4 Aye votes to 1 Nay vote.

Mayor Fagan called a recess at 8:52 p.m. Upon reconvening in regular session at 9:05 p.m., the following items were considered:

- 8.4 Kelly Violette presented the Staff Report for **ZONING CASE P10-208**: Request by the Tomball Independent School District to amend the Comprehensive Zoning Ordinance to rezone approximately 2.456 acres of land, legally described as Block 16 and Lots 25 through 36, Block 23, Tomball Townsite, within the City of Tomball, Harris County, Texas, from the SF-6 Single-Family Residential-6 District to the OT&MU - Old Town and Mixed Use District; said property being generally located on the westerly side of South Cherry Street, southerly of Fannin Street.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P10-208** at 9:10 p.m.

No public comments being received, the public hearing was closed at 9:10 p.m.

- Motion was made by Councilman Townsend, second by Councilman Driver, to read Ordinance No. 2010-08 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt on First Reading, Ordinance No. 2010-08, an Ordinance of the City of Tomball, Texas, Amending its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of approximately 2.456 Acres of land, legally described as Block 16 and Lots 25 through 36, Block 23, Tomball Townsite, within the City of Tomball, Harris County, Texas, from the SF-6 Single-Family Residential-6 District to the OT&MU - Old Town and Mixed Use District, said property being generally located on the westerly side of South Cherry Street, southerly of Fannin Street; 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.

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

Councilman Webb
Councilman Townsend

Aye
Aye

Motion carried unanimously.

- 8.5 Kelly Violette presented the Staff Report for **ZONING CASE P10-218**: Request by Russ Brown, on behalf of PCOT Investments, Inc., to amend Section 38 (Use Regulations) of the City's Comprehensive Zoning Ordinance to establish a Model Home and Temporary Real Estate Sales Office use in all zoning districts that permit Residential Use either by right or conditionally, to amend Section 43 (Supplemental Regulations) to add standards for development related to model home and temporary real estate sales office use, and to amend Section 45 (Definitions) to amend and add the definitions related thereto.

Russ Brown, on behalf of PCOT Investments, Inc., presented information supporting PCOT's request for a text amendment to the zoning ordinance.

- Mayor Fagan opened the Public Hearing on **ZONING CASE P10-218** at 9:30 p.m.

No public comments being received, the public hearing was closed at 9:30 p.m.

- Motion was made by Councilman Townsend, second by Councilman Driver, to read Ordinance No. 2010-09 by caption only on first reading.

Motion carried unanimously.

Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt on First Reading, Ordinance No. 2010-09, an Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by Amending Section 38, Use Regulations, to add "Temporary Real Estate Field Office" and "Model Home" as Listed Uses; Amending Section 43.8, Temporary Buildings, to Rename the Section "Temporary Structures and Uses" and add Development Regulations for Such; Amending Section 45, Definitions, to add a New Definition for "Temporary Real Estate Field Office;" 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.

Consensus of Council was unanimous to amend the Ordinance by including an expiration period, after which a field office must be closed, of 12 months after the last certificate of occupancy has been issued and by including a prohibition against commercial floodlights. Vote was as follows:

Councilman Quinn
Councilman Stoll

Aye
Aye

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

Motion, as amended, carried unanimously.

- 8.6 Shawn Cox presented information regarding the negotiated contract between the City of Tomball and TXU Energy for the purchase of electrical energy. Motion was made by Councilman Townsend, second by Councilman Stoll, to approve the negotiated contract between the City of Tomball and TXU Energy for the purchase of electrical energy at a price of \$0.057849/kwh for 36 months with a possible additional 12-month extension

Motion carried unanimously.

- 8.7 Field Hudgens, attorney for Gary Smith, provided an update regarding a demand for City action by Gary Smith related to a slope failure at 31422 Rigel Court

- 8.8 **EXECUTIVE SESSION:** The City Council recessed at 9:45 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 a Demand for City Action by Gary Smith Related to a Slope Failure at 31422 Rigel Court
- Section 551.074 – Personnel Matters – To Deliberate the Hiring/Employment, Duties and Responsibilities of a City Manager

Upon reconvening into Regular session at 10:26 p.m., the following action was taken:

- 8.9 Motion was made by Councilman Townsend, second by Councilman Stoll, to authorize the City Manager to write an appropriate letter to the applicable parties regarding the City's drainageway.

Motion carried unanimously.

EXECUTIVE SESSION: The City Council recessed at 10:27 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 551.074 – Personnel Matters – To Deliberate the Hiring/Employment, Duties and Responsibilities of a City Manager

Upon reconvening into Regular session at 10:51 p.m., no action was taken.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this 3rd day of May 2010.

Doris Speer
Doris Speer, TRMC
City Secretary

Gretchen Fagan
Gretchen Fagan
Mayor