

**MINUTES OF THE REGULAR CALLED MEETING OF
THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
December 14, 2022**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, December 14, 2022 at 9:00 a.m. in the City Council Chambers, 2nd floor of City Hall, Tyler, Texas, with the following present:

Mayor:	Don Warren
Mayor Pro Tem:	James Wynne
Councilmembers:	Stuart Hene
	Shirley McKellar
	Broderick McGee
	Bob Westbrook (absent)
	Brad Curtis

City Manager:	Edward Broussard
Deputy City Manager:	Stephanie Franklin
City Attorney:	Deborah G. Pullum
Senior Asst. City Attorney:	April Earley
Director of Organizational Development:	Regina Y. Moss
Airport Manager:	Stephen Thompson
Interim Main Street Director:	Amber Varona
Planning Director:	Kyle Kingma
Chief Financial Officer:	Keidric Trimble
City Librarian:	Ashley Taylor
Police Chief:	Jimmy Toler
City Engineer:	Darin Jennings
Director of Utilities:	Kate Dietz
Parks Director:	Leanne Robinette
City Clerk:	Cassandra Brager

INVOCATION

The Invocation was given by Councilmember Curtis.

MINUTES

Motion by Mayor Pro Tem Wynne to approve the minutes of the October 26, 2022 minutes; seconded by Councilmember McKellar; motion carried 6 - 0 & approved as presented.

AWARDS

A-1 Request that the City Council consider recognizing the following Infants at Work participant for her program participation and the joy she brought to the City of Tyler. At this important milestone, we express our sincere appreciation for your dedication and for the special contribution you make to our organization. She represents 6 months of service with the City of Tyler

Livia Dietz, Infant at Work - Water, 6 months

A-2 Request that the City Council consider recognizing the following employees for their years of service and commitment to the City of Tyler. At this important milestone, we

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express our sincere appreciation for your dedication and for the special contribution you make to our organization. They represent 125 years of service with the City of Tyler.

Amanda Cook, PST Administrator, 20 years of service
James Owens, Plant Operator III, 20 years of service
Kelly Shirley, Fire Senior Captain I, 35 years of service
Gary Cannon, Project Manager, 25 years of service
Alan Lowery, Police Officer XIII, 25 years of service

ZONING

Z-1 Z22-072 BRIARCREEK GROUP LLC (0.54 ACRE TRACT ALONG FRANKSTON HIGHWAY) Request that the City Council consider adoption of an Ordinance approving a zone change from "C-2", General Commercial District to "M-1", Light Industrial District. (O-2022-107)

Motion by Councilmember McGee; seconded by Councilmember Curtis; motion carried 6 - 0 & approved as presented.

PRESENTATION

P-1 Request that the City Council consider authorizing the City Manager to execute the renewal of the Medical and Pharmacy Stop-Loss contract to Berkley for the calendar year starting January 1, 2023, with an estimated fiscal year cost of \$936,177.60; with actual final cost based upon enrollment numbers.

Lance Pendley, McGriff – Gave a brief presentation concerning the renewal of the Medical and Pharmacy Stop-Loss.

Motion by Councilmember McGee; seconded by Councilmember McKellar; motion carried 6 - 0 & approved as presented.

P-2 Request that the City Council consider approving a donation request and authorize the City Manager to accept the Smith County District Attorney's donation for partial payment for a digital forensic laser for the Tyler Police Department scanner in the amount of \$54,583.49.

Motion by Councilmember Curtis; seconded by Councilmember McKellar; motion carried 6 - 0 & approved as presented.

P-3 Request that the City Council consider authorizing the City Manager on behalf of the Tyler Police Department to purchase a Leica RTC360 digital forensic laser scanner in the amount of \$109,166.99 for the Tyler Police Department.

Motion by Councilmember McKellar; seconded by Councilmember Curtis; motion carried 6 - 0 & approved as presented.

ORDINANCE

- O-1 Request that the City Council consider adopting an Ordinance amending Tyler City Code Chapter 8 by implementing a fee for athletic field lighting usage. (O-2022-108)**

Motion by Councilmember Curtis; seconded by Councilmember McGee; motion carried 6 - 0 & approved as presented.

- O-2 Request that the City Council consider adopting an Ordinance amending the Fiscal Year 2022-2023 Budget to provide funding to complete various construction projects, motor vehicle purchases, and other purchases not completed by September 30, 2022, as anticipated. (O-2022-109)**

Motion by Councilmember Curtis; seconded by Councilmember McKellar; motion carried 6 - 0 & approved as presented.

MISCELLANEOUS

- M-1 Request that the City Council review and consider accepting the Revenue and Expenditure Report for the period ending September 30, 2022.**

Motion by Councilmember Curtis; seconded by Councilmember McKellar; motion carried 6 - 0 & approved as presented.

- M-2 Request that the City Council consider authorizing the City Manager to execute a contract with Morton Enterprise for the construction of the 2023 Asphalt Crack Seal Project in the amount of \$429,919.00.**

Motion by Mayor Pro Tem Wynne; seconded by Councilmember McGee; motion carried 6 - 0 & approved as presented.

- M-3 Request that the City Council consider authorizing the City Manager to sign the Chapter 380 Economic Development Incentive Agreement between the City of Tyler and NORF Development for rehabilitation of the Carlton Hotel at 106 E Elm, Downtown Tyler, Texas.**

Stephanie Rollings, Deputy City Manager – Stated that she was here today to ask City Council consideration for a Chapter 380 agreement, which is an economic incentive grant that we are looking to partner with NORF Development. So NORF Development purchased the Carlton Hotel downtown and staff has been meeting with them regularly and discussing the project that they're looking at. They've owned the property for about two years. They have pursued both local and state and federal historic tax incentives. They also are pursuing the opportunity zone incentive. So they're using all of their tools. But one of the things that has happened is construction prices continuing to escalate, as well as interest rates and post-COVID, coming out of COVID. Some of the issues that they're having is just really trying to secure all of the financing. And one of the things that the Texas State Law allows cities to do

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is to provide for these types of incentives. And particularly, on the Carlton building, it has posed a pretty serious health and safety risk for us. And if we were to really look at demolition of the property, consideration for that could be quite expensive. So one of the things we're considering in this economic incentive grant is to provide a million and a half cash reimbursement. So once they are substantially complete with the construction, which includes us issuing a temporary certificate of occupancy, or later, a certificate of occupancy, then that would trigger them requesting the reimbursement from the City of Tyler, for the 1.5 million. The investment that they're making at this time, is over a 30 million-dollar investment for rehabilitation of the structure. The other thing they had requested and that we would be providing is up to 200,000-dollar reimbursement for permit fees. So that would mean they would pay those permit fees up front, and then we would reimburse them for that, once the construction, again, is substantially complete. So at that point, no funds would be released until the City of Tyler Building Inspections Department would release that building. A temporary C.O. really just means that they move in. It's safe. It's ready to be occupied, just not by the public. We allow a lot of commercial businesses to do that when they need to move merchandise in or do other types of finish outs. The construction, as I mentioned, is a 30 million-dollar construction project, with about 115,000 square feet of renovation, including the first floor completely being retail and a parking garage that corresponds with that. So the agreement directly relates to having all of that finished, not just a part of the building or part of the parking garage. It's the entire thing receiving the temporary certificate of occupancy or certificate of occupancy. The other thing I wanted to mention is that I know that there were some questions that some--I think a few changes that needed to be made. And Jack Fulgham from Flowers Davis, representing NORF, is here, as well.

Councilmember Hene – Stated that some of the things that he noticed in the agreement, when looking at it, and I don't know if y'all would classify these as substantial. But they raised a question in his mind, at least. In third "Whereas" paragraph, and then also in Paragraph 3.2A, the indemnification paragraph, which he thinks is a huge paragraph, or an important paragraph. There's references to "Grantor," and he was a little unsure of who "Grantor" is. Because throughout the entire document, we are referred to as "The City." So he thinks there needs to be some clarification there, either an added definition of who "Grantor" is or, if "Grantor" is intending to be referring to as "The City," then just reverting that to "City," so there's no ambiguity there. And then, in Paragraph 4.4, the continuous ownership and occupancy, he think there's some ambiguity there. Because one of the concerns he had with this grant of 1.5 is what happens if NORF sells the building or wants to assign this contract or drags their feet and doesn't want to really do anything. That language in 4.4, with that alternative provision, I think created too much of an ambiguity. And so he'd like to see that alternatively removed, where it's just one continuous requirement of NORF of what they have to do, both of those things and not an alternative measure. And he thinks that is a substantial change, which if that means an amended motion this morning, then that's fine. Just to remove some of that ambiguity.

Motion by Councilmember Curtis to table the item to the next meeting which will be January 11, 2023 ; seconded by Councilmember McGee; motion carried 6 - 0 & tabled to next meeting.

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M-4 Request that the City Council consider authorizing the City Manager to execute a contract with Southern Trenchless Solutions in the amount of \$1,492,750.20 for the Consent Decree Group 5 Manhole Rehabilitation, Bid 23-007 and to adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt. (R-2022-34)

Motion by Councilmember Curtis; seconded by Mayor Pro Tem Wynne; motion carried 6 - 0 & approved as presented.

M-5 Request that the City Council consider authorizing the City Manager to execute a contract with Reynolds & Kay, LTD in the amount of \$807,219.00 for the Sanitary Sewer Repair, Bid 23-008 and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt. (R-2022-35)

Motion by Councilmember McGee; seconded by Councilmember McKellar; motion carried 6 - 0 & approved as presented.

M-6 Request that the City Council consider authorizing the City Manager to execute an Engineering Services Contract, in an amount not to exceed \$8,408,500, with KSA Engineers, Inc. for the Consent Decree Capacity Work Group 2 Implementation and to adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt. (R-2022-36)

Chris Aylor and Jeremy Orr with KSA were present to answer questions.

Motion by Councilmember McGee; seconded by Councilmember McKellar; motion carried 6 - 0 & approved as presented.

CONSENT

(These items are considered to be routine or have been previously discussed, and can be approved in one motion, unless a Council Member asks for separate consideration of an item.)

C-A-1 Request that the City Council consider authorizing the City Manager to approve the Additional Services proposed by Halff Associates for the remaining work to complete the City of Tyler Water Model & Master Plan in the amount of \$75,000.

C-A-2 Request that the City Council consider reviewing and accepting the Investment Report for the quarter ending September 30, 2022.

C-A-3 Request that the City Council consider authorizing the City Manager on behalf of the Tyler Police Department to seek funding from the Department of Justice through the Edward Byrne Memorial Justice Assistance Grant in the amount of \$55,000.00 to fund the purchase of ten (10) Getac A140 tablets with accessories.

C-A-4 Request that the City Council consider authorizing the City Manager to ratify an expenditure in the amount of \$132,692.90 for the Mandated Annual Water Quality Assessment Fee to the Texas Commission on Environmental Quality.

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- C-A-5 Request that the City Council consider authorizing the City Manager to execute both a temporary and permanent Easement and Right-of-Way agreement with Oncor to install electrical lines on City-owned property at Lake Tyler.**
- C-A-6 Request that the City Council consider authorizing the City Manager to approve Vehicle Services to purchase new fuel dispensers for the City of Tyler Oakwood Complex in the total proposed amount of \$39,120.10.**
- C-A-7 Request that the City Council consider authorizing the City Manager to purchase a tractor for the Airport from Lowe Tractor for \$76,305.34.**
- C-A-8 Request that the City Council consider authorizing the City Manager to purchase a residential refuse truck chassis from Bond Equipment and a refuse body from Reliance Truck for a total purchase cost of \$405,229.44 to replace unit 21745 that caught fire and was considered a total loss by insurance.**
- C-A-9 Request that the City Council consider amending and updating Tyler City Code Chapter 12 for adjustments to Office space rental rates and Minimum Concession Fee for On-Site Car Rentals at Tyler Pounds Regional Airport.**
- C-A-10 Request that the City Council consider authorizing the City Manager to execute an amendment of an Airport Auto Rental Lease between the City of Tyler and The Hertz Corporation at Tyler Pounds Regional Airport.**
- C-A-11 Request that the City Council consider authorizing the City Manager to execute an amendment of an Airport Auto Rental Lease between the City of Tyler and EAN Holdings, LLC dba Enterprise Rent-A-Car at Tyler Pounds Regional Airport.**
- C-A-12 Request that the City Council consider authorizing the City Manager to execute an amendment of an Airport Auto Rental Lease between the City of Tyler and EAN Holdings, LLC dba National Car Rental at Tyler Pounds Regional Airport.**
- C-A-13 Request that the City Council consider authorizing the City Manager to execute the final lease renewal option for a five-year period from January 1, 2021 through December 31, 2025 for the Bob L. Herd Corporate Hangar/Operator Lease between the City of Tyler and Bob L. Herd at Tyler Pounds Regional Airport.**
- C-A-14 Request that the City Council consider authorizing the City Manager to execute the one (1) year lease with The Braun Corporation for 81,276 square feet of the Airport Drive North Parking Lot from December 15, 2022 to December 14, 2023 at Tyler Pounds Regional Airport.**
- C-A-15 Request that the City Council consider adopting a Resolution agreeing to the sale of certain tracts of land located at 1601 M L King, Jr. within the Tyler city limits and owned by taxing entities including the City of Tyler. (R-2022-38)**
- C-A-16 Request that the City Council consider adopting a Resolution agreeing to the sale of certain tracts of land located at 3200 Shaw within the Tyler city limits and owned by taxing entities including the City of Tyler. (R-2022-39)**

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- C-A-17 Request that the City Council consider adopting a Resolution agreeing to the sale of certain tracts of land located at 915 Buckley Ave. within the Tyler city limits and owned by taxing entities including the City of Tyler. (R-2022-40)
- C-A-18 Request that the City Council consider adopting a Resolution agreeing to the sale of certain tracts of land located at 108 Adams within the Tyler city limits and owned by taxing entities including the City of Tyler. (R-2022-41)
- C-A-19 Request that the City Council consider adopting a Resolution agreeing to the sale of certain tracts of land located at Hwy 155 South within the Tyler city limits and owned by taxing entities including the City of Tyler. (R-2022-42)

Motion by Councilmember Curtis to approve the entire consent agenda as approved; seconded by Mayor Pro Tem Wynne; motion carried 6 - 0 & approved as presented.

CITY MANAGER'S REPORT

1. On last Saturday, the Glass Recreation Center had a great festive morning, breakfast with Santa and Shorty. Breakfast with Santa was a free event and had a little over 300 people attend. They were able to get pictures with Santa and Shorty, craft kits, writing letters to Santa, breakfast and hot chocolate.
2. The police department was also able to take part in the Houston Temple and Christus Mother Frances Holiday Giveaway. Sergeant Kevin Mobley has stated, "Representatives from both Christus and Houston Temple were ecstatic at how well this event turned out and offered nothing but praises to the department and specialized units that contributed to its success. And so we thank everyone for their hard work and efforts. We look forward to next year's event being even bigger."
3. Also, our police department is involved in the Blue Santa Program, and that's coming up this coming Sunday and Tuesday nights. Chuck Boyce did let me know they have 350-plus children signed up to participate with Blue Santa this year. They'll have The Grinch, Buddy the Elf and pink rabbit pajamas from The Christmas Story. Sunday night will be at the Walmart on 6801 South Broadway, and then on Tuesday night, Blue Santa will be at the Walmart on Troup Hwy. So those are always just a great event to be part of and to come out and participate with.
4. The Tyler Pounds Airport also gets into the holiday season. They teamed up with their pet squad to welcome holiday travelers to the airport and enhance their experience by having dogs there to greet you as you arrive or as you depart from Tyler. It's always a stressful thing and so they have a dog there to say, "Hey, it's going to be okay," is a great thing. So they return during the Christmas travel rush and continue making customer experience unique and memorable there.
5. And then also, just a couple of rewards and recognitions. The Hispanic Business Alliance of Tyler recently held their annual luncheon and recognized Carol Coffman, with our Solid Waste Department, as the community impact leader of the year. Carol's been with the City for 13 years and is currently Account Specialist and Auditor with the Solid Waste Department. The Hispanic Business Alliance also recognizes City of Tyler itself with the President's Adelante Award--I think I got that--of the year. And so we're very honored to receive this award for a forward outreach with the Hispanic Community of Tyler. And so we just want to make sure that that is passed on and for the hard work of the City, the City Council does and is recognized.

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ADJOURNMENT

Motion by Councilmember McGee to adjourn the meeting at 10:33 am; seconded by Mayor Pro Tem Wynne; motion carried 6 - 0 & meeting adjourned.



DONALD P WARREN, MAYOR OF THE
CITY OF TYLER, TEXAS

ATTEST:

Cassandra Brager

CASSANDRA BRAGER, CITY CLERK

