

**MINUTES OF THE
REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
APRIL 28, 2010**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, April 28, 2010 at 9:00 a.m. in the Council Chamber, City Hall, Tyler, Texas, with the following present:

Mayor: Barbara Bass
Mayor Pro Tem: Donald Sanders
Councilmembers: Charles Alworth
Chris Simons
Ralph Caraway
Sam Mezayek
Mark Whatley

City Manager: Mark McDaniel
Asst. City Manager: Scott Wall
City Attorney: Gary Landers
Deputy City Attorney: Steve Kean
Airport Manager: Davis Dickson
Human Resources Director: ReNissa Wade
Development Services Engineer: Michael Wilson
Chief Financial Officer: Daniel Crawford
Chief Information Officer: Benny Yazdanpanahi
City Engineer: Carter Delleney
City Fire Chief: Neal Franklin
City Police Chief: Gary Swindle
Communications Director: Susan Guthrie
Director of Planning and Zoning: Barbara Holly
Director of Utilities & Public Works: Greg Morgan
Traffic Engineer: Peter Eng
City Clerk: Cassandra Brager

INVOCATION

The Invocation was given by Councilmember Caraway.

Motion by Councilman Caraway to approve the minutes for the April 14, 2010 meeting; seconded by Councilman Alworth; motion carried 7 - 0 & approved as presented.

EMPLOYEE AWARDS – RECOGNITIONS, SERVICE

A-1 Service Awards

We would like to recognize the following employees for their years of service and commitment 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. These employees represent over **160** years of service with the City of Tyler.

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Retirees - Service Awards

Date of Hire:	First Name:	Last Name:	Position:	Department:	Years of Service:
07/19/1982	Et	Prem	Equipment Operator I	Water	27
02/19/1997	Tammy	Hall	Senior Utilities Specialist	Water	13
01/16/1995	Oliver	Willis	Laborer	Water	15

Service Awards

Date of Hire:	First Name:	Last Name:	Position:	Department:	Years of Service:
04/02/1990	Albert	Castaneda	Commercial Equipment Operator	Solid Waste	20
04/24/1990	Kenneth	Berry	Commercial Equipment Operator	Solid Waste	20
04/30/1990	Martha	Vargas	Senior PS Telecommunicator II	Police	20
04/08/1985	Craig	Reiland	Rose Garden Supervisor	Parks	25
04/16/1975	David	Swain	Police Officer X	Police	35

PRESENTATIONS

P-1 Special presentation regarding Tyler Pipe’s participation in the construction of the new World Trade Center.

Hunter Busch presented a memorial plaque to City of Tyler and to Tyler Pipe as participants in the construction of the new World Trade Center.

ZONING

Z-1 APPLICATION A04-10-002 TYLER PIPE

Request that the City Council consider adopting an ordinance annexing sparsely populated and owner requested territory constituting approximately 4.87 acres of land contained in the Francis Gilkerson Survey, A-406 and A-407, and Henry Mickleborough Survey A-651, Smith County, Texas, located along State Highway 69. (O-2010-29)

Also consider establishing:

- A. The new boundary of the City Limits;
- B. The new boundary of the Extraterritorial Jurisdiction;
- C. The new boundary of the City Council District Number 3;
- D. The Land Use Guide to reflect Industrial/Manufacturing Land Use; and the
- E. Original zoning of 4.87 acres of “M-2”, General Industrial District.

Motion by Councilman Caraway; seconded by Councilman Alworth; motion carried 7 - 0 & approved as presented.

Z-2 APPLICATION S04-10-002 MARK MCINTOSH (1709 EAST 5TH STREET)

Request that the City Council consider a renewal of a Special Use Permit for a home day care for a period of five years. (O-2010-30)

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Motion by Councilman Simons; seconded by Mayor Pro Tem Sanders; motion carried 7 - 0 & approved as presented

- Z-3 APPLICATION Z04-10-021 DENNIS WALKER (1505 EAST HOUSTON STREET)**
Request that the City Council consider a zoning change from "R-2", Two-Family Residential District to "R-1B", Single-Family Residential District. (O-2010-31)

Motion by Councilman Simons; seconded by Councilman Alworth; motion carried 7 - 0 & approved as presented

- Z-4 APPLICATION Z04-10-022 TONY WAHL (909 TURTLE CREEK DRIVE)**
Request that the City Council consider a zoning change from "R-MF", Multi-Family Residential District to "RPO", Restricted Professional Office District. (O-2010-32)

Motion by Councilman Alworth seconded by Councilman Whatley; motion carried 6 - 1 & approved as presented.

- Z-5 APPLICATION Z04-10-023 TRINITY MOTHER FRANCES (529 AND 535 SOUTH FLEISHEL AVENUE AND 1022 EAST HOUSTON STREET)**
Request that the City Council consider a zoning change from "R-2", Two-Family Residential District to "INT", Institutional District. (O-2010-33)

Motion by Councilman Simons; seconded by Mayor Pro Tem Sanders; motion carried 7 - 0 & approved as presented.

- Z-6 APPLICATION Z04-10-024 EDWARD HOBBS (5605 OLD BULLARD ROAD)**
Request that the City Council consider a zoning change from R-MF", Multi-Family Residential District to "C-1", Light Commercial District. (O-2010-34)

Motion by Councilman Mezayek; seconded by Councilman Alworth; motion carried 7 - 0 & approved as presented.

- Z-7 APPLICATION Z04-10-028 GALEN HAYES (1209 AND 1215 DONNYBROOK AVENUE)**
Request that the City Council consider a zoning change from "R-1B", Single-Family Residential District to "R-1D", Single-Family Detached and Attached District. (O-2010-35)

Motion by Councilman Simons; seconded by Councilman Mezayek; motion carried 7 - 0 & approved as presented.

- Z-8 APPLICATION C04-10-007 CURTIS WILLIAMS (UNIMPROVED RIGHT-OF-WAY)**
Request that the City Council consider closing a portion of the Tyler Avenue right-of-way beginning at the intersection of East Granville Street and continuing south terminating at the railroad right-of-way. (O-2010-36)

Motion by Councilman Caraway; seconded by Councilman Whatley; motion carried 7 - 0 & approved as presented.

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RESOLUTION

- R-1 Request that the City Council consider adopting a Resolution proclaiming the month of May, 2010, as Building Safety Month in the City of Tyler, Texas. (R-2010-9)**

Motion by Councilman Alworth seconded by Councilman Mezayek; motion carried 7 - 0 & approved as presented.

- R-2 Request that the City Council consider adopting a Resolution to authorize the application for and acceptance of Federal Transit Administration (FTA) Grant Funds in the amount of \$542,499 for the purpose of providing public transportation for the Tyler Transit. This resolution also accepts any grant amendments to increase the grant funding levels. (R-2010-10)**

Motion by Councilman Alworth seconded by Councilman Mezayek; motion carried 7 - 0 & approved as presented.

ORDINANCE

- O-1 Request that the City Council consider adopting an Ordinance making an uncontestable finding that all territory included within the City of Tyler since April 28, 1990 is part of the City. (O-2010-37)**

Motion by Councilman Simons; seconded by Councilman Caraway; motion carried 7 - 0 & approved as presented.

- O-2 Request that the City Council consider adopting an Ordinance amending City Code Chapter 17, by increasing the speed limit from 40 mph to 50 mph on a portion of Loop 323 near State Highway 155. (O-2010-38)**

Motion by Mayor Pro Tem Sanders; seconded by Councilman Alworth; motion carried 7 - 0 & approved as presented.

- O-3 Request that the City Council consider adopting an Ordinance amending City Code Chapter 17, by increasing the speed limit from 35 mph to 40 mph on a portion of Roy Road from the east curb line of Paluxy Drive to the east City limit, said point near the junction of Rhones Quarter Road. (O-2010-39)**

Motion by Councilman Whatley; seconded by Councilman Alworth; motion carried 7 - 0 & approved as presented.

MISCELLANEOUS

- M-1 Request that the City Council authorize the City Manager to execute a Memorandum of Agreement (MOA) with the Texas General Land Office for Tyler State Veterans Home Services. ©**

Motion by Councilman Alworth seconded by Councilman Mezayek; motion carried 7 - 0 & approved as presented.

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M-2 Request that the City Council consider reviewing and accepting the Investment Report for the quarter ending March 31, 2010.

Motion by Councilman Alworth seconded by Councilman Simons; motion carried 7 - 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 approving a reconciliation change order in the amount of \$7,790.30 and releasing final retainage in the amount of \$30,575.72 to East Texas Bridge, Incorporated for the Drainage Improvements on Jeb Stuart Drive. ©

C-A-2 Request that the City Council consider authorizing the City Manager to award the sale of surplus property Lot 18, NCB 1509 Hampton Hills Subdivision, Unit 2, (704 Wellington Street) to CRS Properties, LLC.

C-A-3 Request that the City Council consider authorizing the City Manager to award the contract to Striping Technology, Limited Partnership in the amount of \$98,120 for the construction of a traffic signal at the intersection of Briarwood Road and Loop 323. ©

C-A-4 Request that the City Council consider authorizing the City Manager to purchase three traffic signal poles with mast arms from Pelco Structural Limited Liability Corporation in the amount of \$29,562 for the construction of a traffic signal at the intersection of Briarwood Road and Loop 323.

C-A-5 Request that the City Council consider authorizing the City Manager to award a construction contract for the Briarwood Road Box Culvert Repair to the low bidder, J.C. Johnson Construction. ©

C-A-6 Request that the City Council consider approving a Memorandum of Understanding (MOU) between the City of Tyler and the Texas Forestry Service, authorizing two Tyler Firefighters to participate with the Regional Incident Management Team when needed outside our region.

Motion by Mayor Pro Tem Sanders; seconded by Councilman Mezayek; motion carried 7 - 0 & approved as presented.

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BOARD APPOINTMENTS

B-1 Request that the City Council consider making an appointment to the Civil Service Commission Board.

Motion by Councilman Whatley to appoint Tomi Ellis; seconded by Councilman Alworth; motion carried 7 - 0 & approved as presented.

CITY MANAGER'S REPORT

1. Mid year Revenue & Expenditures report coming to CC, good progress on \$2 million gap/shortfall; sales tax update to CC soon.
2. Audit Committee meeting cancelled, Keidric back in Tyler, but out of office.

RECESS FOR EXECUTIVE SESSION - City Council convened into Executive Session at 9:45 am

As allowed by the Texas Open Meetings Law, Chapter 551 of the Government Code, the City Council may consider the following:

-under section 551.071 "Litigation" deliberation regarding the following:

1. Smith-Yahoos v. City appeal;
2. Clark v. City of Tyler et al appeal;
3. Tardy v. City of Tyler;
4. Maldonado v. City of Tyler;
5. Cedillo-Valdovinos v. City of Tyler;
6. Crocker/Smart v. City of Tyler et al;
7. Toole v. City of Tyler
8. Yates v. Striping Technology, TxDOT, & City of Tyler;
9. Condemnation & TCEQ docket involving TTUC (Algonquin)
10. TCEQ docket involving LNVA

Litigation is, by its nature, an on-going process, and questions may arise as to trial tactics, which need to be explained to the City Council. Upon occasion, the City Council may need information from the City Attorney as to the status of the pending or contemplated litigation subjects listed above

-under Section 551.072 "Real Estate", deliberation regarding the following:

Discuss the purchase, exchange, lease or value of real property, the public discussion of which would have a detrimental effect on the negotiating position of the City, related to the development of municipal facilities and encouragement of private investment.

City Council reconvened from Executive Session at 10:34 am

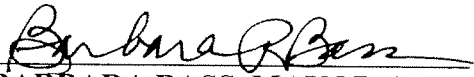
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Motion by Councilman Alworth to accept all lawsuit settlements and dismissals since last City Council vote; seconded by Councilman Mezayek; motion carried 7 - 0 & approved as presented.

Motion by Councilman Alworth to approve Real Estate Sales agreement between City and Loggins Boondock, Ltd.; seconded by Mayor Pro Tem Sanders; motion carried 7 - 0 & approved as presented

ADJOURNMENT

Motion by Mayor Pro Tem Sanders; seconded by Councilman Mezayek; motion carried 7 - 0 & approved as presented


BARBARA BASS, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:


CASSANDRA BRAGER, CITY CLERK

