

**MINUTES OF THE
REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
MAY 26, 2010**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, May 26, 2010 at 9:00 a.m. in the Council Chamber, City Hall, Tyler, Texas, with the following present:

Mayor:	Barbara Bass
Mayor Pro Tem:	Ralph Caraway
Councilmembers:	Charles Alworth
	Martin Heines
	Donald Sanders
	Sam Mezayek
	Mark Whatley
City Manager:	Mark McDaniel
Asst. City Manager:	Scott Wall
City Attorney:	Gary C. Landers
Deputy City Attorney:	Steve Kean
Assistant City Attorney:	Deborah Pullam
Assistant City Attorney:	Karen Stead
Airport Manager:	Davis Dickson
Human Resources Director:	ReNissa Wade
Development Services Engineer:	Michael Wilson
Director of Neighborhood Services:	Brenda Johnson
Chief Financial Officer:	Daniel Crawford
Chief Information Officer:	Benny Yazdanpanahi
City Engineer:	Carter Delleney
City Fire Chief:	Neal Franklin
City Librarian:	Chris Albertson
City Police Chief:	Gary Swindle
Communications Director:	Susan Guthrie
Director of Parks and Recreation:	Stephanie Rollings
Director of Planning and Zoning:	Barbara Holly
Director of Solid Waste:	Dan Brotton
Fleet Administrator:	Russ Jackson
Housing Service Manager:	Andy Davis
Budget/Internal Auditor:	Keidric Trimble
Manager of Water Quality and Production:	Jimmie Johnson
Manager/Water Utilities Business Office:	Joan Roberson
Municipal Court Administrator:	Cam McCabe
Director of Utilities & Public Works:	Greg Morgan
Street Operations Manager:	Robin Smart
Traffic Engineer:	Peter Eng
City Clerk:	Cassandra Brager

INVOCATION

The Invocation was given by Mayor Pro Tem Caraway.

Motion by Mayor Pro Tem Caraway to approve the minutes of the May 3rd (Special Called Meeting) and the May 12, 2010 meeting; seconded by Councilmember Alworth; motion carried 7 - 0 & approved as presented.

ZONING

Z-1 APPLICATION Z05-10-029 FRANCIS SEPULVADO (2111 EAST FRONT STREET)
Request that the City Council consider a zoning change from "C-1", Light Commercial District to "C-2", General Commercial District. (O-2010-41)

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



Z-2 APPLICATION Z05-10-031 EDUARDO BETANCOURT (1120 PARK STREET)
Request that the City Council consider a zoning change from "R-MF", Multi-Family Residential District to "R-1B", Single-Family Residential District. (O-2010-42)

Motion by Mayor Pro Tem Caraway; seconded by Councilmember Whatley; motion carried 7 - 0 & approved as presented.

Z-3 APPLICATION Z05-10-032 ANDREW MCINTOSH (430 SOUTH BONNER AVENUE)
Request that the City Council consider a zoning change from "RPO", Restricted Professional Office District to "PMF", Planned Multi-Family Residential District. (O-2010-43)

Motion by Councilmember Sanders; seconded by Councilmember Alworth; motion carried 7 - 0 & approved as presented.

Z-4 APPLICATION Z05-10-033 MARK TYLER (1600 NORTH GLENWOOD BOULEVARD)
Request that the City Council consider a zoning change from "R-1B", Single-Family Residential District to "C-2", General Commercial District. (O-2010-44)

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

Z-5 APPLICATION F05-10-053 T.B.I. ADDITION

Request that the City Council consider approving a one lot plat including a waiver of construction or \$38,506 in escrow costs.

Motion by Councilmember Mezayek; seconded by Councilmember Whatley; motion carried 7 - 0 & approved as presented.

Z-6 APPLICATION Z05-10-036 MATTHEW PEER (2406 SHILOH ROAD)

Request that the City Council consider a zoning change from “R-MF”, Multi-Family Residential District to “R-1D”, Single-Family Detached and Attached Residential District. (O-2010-45)

Phil Burks, 2005 Stonegate Valley – Stated that he had offered to buy the property and his offer was rejected. He applauded Mr. Peer for not timbering the property because it will help out with erosion and so forth.

Mark Priestner, 3815 Old Bullard Rd – Stated that the portion that Mr. Peer is buying is the L-shaped section that comes down beside the mobile home park and all the way across the bottom. When you look at the topography of the section between Stonegate and the mobile home park, it has some really steep slopes, a creek running through it, it is really very difficult to develop so there is no way to go in and do it. Mr. Peer has backed off of timbering the land because it is very difficult to get in and timber the land.

Carolyn Swift, 3015 Stonegate Dr. – Stated that she was glad Mr. Peer made the commitment to leave this area as an urban forest. Mrs. Swift’s concern was the rezoning and the traffic on Shiloh. Mrs. Swift stated that Mr. Peer’s development when constructed will open onto Shiloh right on the base of the hill just east of Paluxy and that will exacerbate an already extremely hazardous driving condition.

Mathew Peer, 235 Baganie – Stated that he has no intention of timbering the back parcel and he feels the concerns have been put to rest.

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

Z-7 APPLICATION Z05-10-039 TYLER JUNIOR COLLEGE (1914 AND 2028 DEVINE STREET)

Request that the City Council consider a zoning change from “R-1A”, Single-Family Residential District to “INT”, Institutional District. (O-2010-46)

Motion by Councilmember Heines; seconded by Councilmember Whatley; motion carried 7 - 0 & approved as presented.

Z-8 APPLICATION Z05-10-035 MEZAYEK BUILDING

Request that the City Council consider changing the zoning from "R-1A", Single-Family Residential District to "AR", Adaptive Reuse District. (O-2010-47)

Councilmember Mezayek exits

Motion by Councilmember Alworth seconded by Councilmember Whatley; motion carried 6 - 0 & approved as presented.

RESOLUTION

R-1 Request that the City Council consider a Resolution calling a runoff Election for June 19, 2010, to fill the office of Tyler City Councilmember for Single Member District No. 6 on the Tyler City Council. (R-2010-13)

Motion by Councilmember Alworth seconded by Councilmember Heines motion carried 7 - 0 & approved as presented.



R-2 Request that the City Council consider adopting a Resolution authorizing eminent domain proceedings for the acquisition of right of way on land owned by the Josephus and Rosa Browning Estate for the construction of Earl Campbell Parkway including portions of Noonday Road. (R-2010-14)

Motion by Councilmember Alworth seconded by Councilmember Sanders; motion carried 7 - 0 & approved as presented.

ORDINANCE



O-1 Request that the City Council consider approving an Ordinance prohibiting the use of designated groundwater from beneath the properties whose addresses include 212 Border Avenue; 613, 624, 638, 710, 714, & 812 West Ferguson Street; and 512, 520, 527, 623, 700, 711, 717, 725, & 829 West Erwin Street located in the downtown Tyler area and containing approximately 11.059 acres of land in Tyler, Texas, to facilitate the certification of said properties with a Municipal Setting Designation by the Texas Commission on Environmental Quality pursuant to the Texas Solid Waste Disposal Act; and providing an effective date. (O-2010- 48)

Motion by Councilmember Alworth seconded by Councilmember Sanders; motion carried 7 - 0 & approved as presented.

MISCELLANEOUS



M-1 Request that the City Council conduct a public hearing and consider adoption of an Ordinance creating City of Tyler Reinvestment Zone No. 11/GenCore at 5750 Eagles Nest Boulevard; and approving the tax abatement agreements with Gencore LLC and GenCore Candeco, Ltd. (O-2010-49)

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

- M-2** Request that the City Council consider approving a Resolution of the City of Tyler, Texas whereby the City Council is asked to ratify the City Manager's adoption of the Identity Theft Prevention Program ("Program") for the purpose of ensuring compliance with the Code of Federal Regulations [16 CFR 681.2(e)(1)] mandated by the Red Flags Rule. (R-2010-15)

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



- M-3** Request that the City Council consider authorizing the City Manager to execute a new Master Agreement for Engineering Services with The C.T. Brannon Corporation for engineering, planning, environmental and construction phase services on an as needed basis in connection with improvements at Tyler Transit and Work Order No. 1 totaling \$46,750. ©

Motion by Councilmember Whatley; seconded by Mayor Pro Tem Caraway; motion carried 7 - 0 & approved as presented.



- M-4** Request City Council consider authorizing City Manager to execute Amendment No. 1 to the Wholesale Customer Treated Water Delivery Contract with Walnut Grove Water Supply Corporation increasing the maximum daily demand from 1.2 million gallons per day to 2.0 million gallons per day and authorizing future adjustment to the maximum daily demand if agreed to, in writing, by both parties. ©

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

- M-5** Request that the City Council consider authorizing the City Manager to enter into a contract with Garrett and Associates for the purpose of renovating the existing elevator and existing restrooms at City Hall, and consider adopting an Ordinance amending the Fiscal Year 2009-2010 Budget to appropriate funds for said expenditure. (O-2010- 50) ©

Motion by Councilmember Alworth seconded by Councilmember Mezayek; 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 authorizing the City Manager to execute an anchor guy easement to Cherokee County Electric Cooperative Association at Lake Tyler near the intersection of FM 848 and Peninsula Road. ©

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- C-A-2** Request that the City Council consider authorizing the City Manager to execute a Consent to Assign the Encore Operating, L.P. surface use agreements, leases and easements on City of Tyler property, at Lake Tyler and Lake Tyler East, to Quantum Resources Management, LLC. ©
- C-A-3** Request that the City Council consider authorizing the City Manager to award three-year contracts with a provision for an optional three-year extension renewal for non-consent police tows with Absolute Wrecker, Crow Towing, Campbell's Towing and Recovery, Hi-Way Towing, Issac's Wrecker Service, and Liberty Services, Incorporated. ©
- C-A-4** Request that the City Council consider authorizing the City Manager to award multiple vendors for the annual price agreement for various categories of hydraulic component services and repairs per Bid No. 10-020.
- C-A-5** Request that the City Council consider authorizing the City Manager to award multiple vendors for the annual price agreement for various categories of automotive and truck services and repairs per Bid No. 10-010.
- C-A-6** Request that the City Council consider authorizing the City Manager to sign an Interlocal Agreement with Smith County so the Sheriff's Office can make application for and accept the Edward Byrne Memorial Justice Assistance Formula Grant for the Year 2010 in the amount of \$104,313, of which \$52,156.50 is the City of Tyler's portion. ©

Motion by Mayor Pro Tem Caraway; seconded by Councilmember Whatley; motion carried 7 - 0 & approved as presented.

BOARD APPOINTMENTS

- B-1** Request that the City Council consider appointing a Chairman for the Disabilities Issues Review Board.

Motion by Councilmember Mezayek to appoint Juanita Fletcher; seconded by Councilmember Alworth; motion carried 7 - 0 & approved as presented.

CITY MANAGER'S REPORT

1. Thanks to Chief Swindle and Franklin for the clean up last week at Troup & the Loop
2. Annual Water Quality report going out next week
3. Mayor – Annual Mayor's address State of the City today

RECESS FOR EXECUTIVE SESSION – City Council convened into Executive Session at 10:06 am

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

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

1. TCEQ docket involving LNVA
2. Condemnation & TCEQ docket involving TTUC (Algonquin)

City Council reconvened from Executive Session at 10:35 am with the following action.

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.

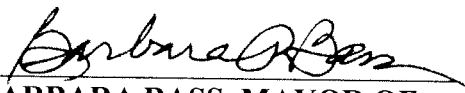
Motion by Councilmember Alworth seconded by Mayor Pro Tem Caraway to authorize staff to settle the LNVA TCEQ docket; motion carried 7 - 0 & approved as presented.

Motion by Councilmember Alworth seconded by Councilmember Mezayek to ratify the revised final offer to TTUC in the amount of \$1,869,000.00 and continue negotiations; motion carried 7 - 0 & approved as presented.

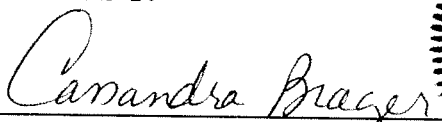
Motion by Councilmember Alworth seconded by Councilmember Mezayek that staff is authorized to proceed with the purchase of two tracts Southeast of Runway 4-22 for \$55,000 (Warnell) and \$255,000 (Richards) plus closing and relocation costs as needed; motion carried 7 - 0 & approved as presented.

ADJOURNMENT

Motion by Councilmember Mezayek to adjourn the meeting at 10:38 am; seconded by Councilmember Whatley; motion carried 7 - 0 & meeting adjourned.


BARBARA BASS, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:


CASSANDRA BRAGER, CITY CLERK

