

**MINUTES OF THE
REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
JUNE 9, 2010**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, June 9, 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
 Airport Manager: Davis Dickson
 Development Services Engineer: Michael Wilson
 Chief Financial Officer: Daniel Crawford
 Chief Information Officer: Benny Yazdanpanahi
 City Fire Chief: Neal Franklin
 Communications Director: Susan Guthrie
 Director of Planning and Zoning: Barbara Holly
 Fleet Administrator: Russ Jackson
 Manager of Water Quality and Production: Jimmie Johnson
 Director of Utilities & Public Works: Greg Morgan
 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 for the May 26, 2010 meeting; seconded by Councilmember 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 67-years of service with the City of Tyler.

Retirees - Service Awards

Date of Hire:	First Name:	Last Name:	Position:	Department:	Years of Service:
06/11/1993	Danny	Bristow	Fire/Driver/Engineer III	Fire	17

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Service Awards

Date of Hire:	First Name:	Last Name:	Position:	Department:	Years of Service:
06/01/1980	Terry	Morrow	Police Sergeant IV	Police	30
06/04/1990	Russ	Jackson	VES Manager	Vehicle Equipment Services	20

A-2 New Hires Recognitions

The following employees were hired by the City of Tyler during the month of May/June 2010. We would like to take this opportunity to welcome these new employees.

New Employees

First Name:	Last Name:	Position:	Department:
James	Branch	Firefighter	Fire
Zachery	Sutton	Firefighter	Fire
Larry D.	Everett	Community Development Manager	Neighborhood Services
Manuel J.	Mesa	Utilities Lab Analyst	Water

A-3 Blue Print Award

Request that the City Council consider recognizing a City employee as the Blueprint Blue Ribbon Award winner for June 2010, for placing the highest premium on responsiveness to citizens' needs.

Mayor Bass presented Traffic Engineer, Peter Eng with the Blueprint Blue Ribbon Award for June 2010, for placing the highest premium on responsiveness to citizens' needs.

ZONING

Z-1 APPLICATION S05-10-003 TONY CHUNG (1023 NORTH GLENWOOD BOULEVARD)

Request that the City Council consider a request for a Special Use Permit in order to allow for the continued use and expanded operation of a rescue mission for a period of six months.

Jim Fancher, 16618 CR 164 – Stated that he was in favor of the East Texas Rescue Mission and he is a licensed Architect and is willing to donate his time to help with the construction process.

Jim Smith, 927 Greenland Hill – Stated that he lives right behind the mission and he is speaking in favor of the mission. Since the mission has been there he has not seen one thing to cause him to fear any of those men being there. As a citizen I welcome them into my neighborhood, as a Veteran I don't want to see any of them kicked out. He is hoping that the City Council will grant Mr. Chung his permit and keep some people with a roof over their heads.

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Luther Glass, P O Box – Stated that he has had a business located next to the rescue mission and that he had the building leased out to a gentleman. When the Rescue Mission moved in, the gentleman that was renting the building talked to the Rescue Mission owner to try to get help to keep the people inside instead of sitting around talking, smoking and hanging out on his property. Mr. Glass stated that he was not against helping people but doesn't believe in helping people and hurting people and this location is hurting people.

John Teel, 1514 W. Gentry Parkway – Stated that he owned the Donut Shop located next to the Mission and they are not opposed to what Mr. Chung is doing but are opposed to the increase in the number of men that are living there. When it first started with the 34 permits they virtually had no problems and then all of a sudden it jumped up to over a 100 and then they had people going everywhere. Mr. Teel stated that they request respectfully that Mr. Chung go back to what he was originally permitted to do.

Donna Chung, 12161 Wild Horse – Stated that she is for the East Texas Rescue Mission and she has heard a lot about what people perceive homeless men to be. When some look at homeless you see criminals, drug addicts, and those that are lazy and don't want to work. When they look at homeless they see something different. They see that they are hungry, in need of clothes, a safe place to stay, and the hope that Jesus offers. In the 22 years that they have been involved with the ministries, her family has not been harmed in any kind of way or does she know of anyone that she has worked with or come down to volunteer that has been harmed in anyway. She asked City Council to not base their decision on perception of what could happen but base it on facts. The homeless men that are staying at the Mission are not from all over the United States. A survey was performed from May of last year to May of this year and out of 248 men that have come through the mission only 2 have been out of State. If this request is denied you will not stop them from being homeless or rid Tyler of having homeless you will only be moving them from a safe environment to an uncertain life outdoors.

Roberta Eakin, 268 Bent Horseshoe Ln – Stated that she did not want the people in this community or any community to be afraid of the men that come from the East Texas Rescue Mission. There are no murders, serial killers, or child rapist only respectful, kind, helpful men who are ready to help anyone at any time. We have more criminals out on the street that are bankers, lawyers and politicians. These men have a God given right to live in any community just as you and I.

Paul Bailey, 5 Stewart Chandler Rd., Longview Texas – Stated that he was a Board member on East Texas Rescue Mission and he wanted to speak to the character of the Chungs because he has known them for about 6 years. In Longview the Chung's came there to revitalize the Highway 80 Rescue Mission. The community of Longview highly respects them and they are known to be people of integrity and have passion for those who are homeless. With a simple vote the City Council is not even putting dollars from your City at risk; all these are volunteer donations from members of your community.

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Linda Bailey, #5 Stewart Chandler Rd. Longview Texas – Stated that she was in favor of the Mission as well as the expansion of the Mission. Mrs. Bailey explained the difference between an assertion and a fact. An assertion is a declaration that is made emphatically very loud, with a lot of emotion. Very often there is no support behind it or any attempt at any proof. A fact on the other hand is a piece of information about circumstances that really exist or events that have actually occurred. We have heard assertions about the danger of the East Texas Rescue Mission how it poses danger to children. The facts are that I have been volunteering at the Rescue Mission since December 2008 and have been a part of the Christmas give away program and a lot of kids would not have received gifts if it had not been for the Rescue Mission. The men at the Rescue Mission are not murderers and rapist as some have asserted, each man is some mother's son who in this depressed economy has come upon hard times. All the kids in the Mission at Christmas were excited to be there and they were not afraid, they knew they were in no danger, this is a fact. The assertion that the presence of East Texas Rescue Mission is dangerous for children has no bases in fact, there is no proof. These assertions are based on unreasoning, unjustifiable fear and ignorance, not on fact.

Debra Christian, 1413 Crescent Dr – Stated that she is for the Rescue Mission because she has had to put 3 homeless Veterans in the facility...had it not been there they would still be homeless.

Bishop James Granberry, 1326 W Paul St. – Stated that he was homeless once and he ministers to the young men once a month and shares his lifestyle.

Derwain Walker, 4782 W. State Hwy 21, Nacogdoches Texas – Stated that he was against the Mission as it exists today. He has had an interest in the old hospital building since 2004. The building sat there vacant a number of years. It was not until the Mission was set up that there was vandalism to that building. Since that time he has been unable to keep doors locked or keep people out of the building. Mr. Walker stated that the Mission has caused him to lose over \$200,000.00 dollars on his building and prospective buyers refuse to buy the building because of the Mission.

Rev. A. D. Christian, 1601 W. 29th – Stated that he is for the Mission and he started volunteering in November 2008 as a volunteer Minister. Being homeless once in his life time has made him appreciative of the Mission because it gives the men somewhere to go when they have nowhere else to go.

Brandon Lively, 1023 N. Glenwood – Stated that he is in the discipleship program and he wanted to thank the Lord for bringing the Rescue Mission to Tyler Texas because without it he would still be out on the streets. Mr. Lively stated that his life has been changed tremendously through the mission. While at the Mission he has been working on his GED and working in the front office. When men come to the Mission they are breathalized everyday so there are no alcoholics there whatsoever. The East Texas Rescue Mission helps the men make a change in their life by providing food, clothes, shelter and a place to go.

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Jan Wood, 4722 Commanche Trail – Stated that she has been volunteering at the East Texas Rescue Mission for about a year. The Mission is throwing a rope of hope to the homeless and pulling them out from underneath the bridges, the woods and other hiding places that men frequent. The East Texas Rescue Mission has tried to be an asset to the Tyler community however because some people in the mostly commercial area do not see it that way we are coming before you today and hopefully City Council will see how Tyler needs this ministry. The East Texas Rescue Mission is located in the best location for this type of ministry.

Tony Chung, 1023 N. Glenwood Blvd – Stated that the Mission does not stand to lose 40 or 50 beds anymore. According to the codes we stand at closing our doors today depending on the decision that City Council makes. Mr. Chung stated that they have been working at 100% to come in compliance with the codes and what the City has asked them to do. Mr. Chung stated that they do not accept sex offenders into the Mission.

Cindy Sulser, 15488 Joseph Rd. – Stated that about a year ago she started volunteering at the Rescue Mission picking up men from the Rescue Mission taking them to church at Marvin. A lot of the men are more faithful in their attendance than a lot of Marvin members. The volunteers at the Mission help the men to get on their feet.

Andrew Melontree, 2801 N. Whitten Ave – Stated that he would speak about one aspect of this application that he finds a great deal of resistance to and that is the safety of our children who reside, who live, who attend school within a close proximity to this group of persons that we will constantly be in contact with.

Dallas Durham, 11125 Spur 248 – Stated that Mr. Chung has come to the City of Tyler and opened up a Rescue Center without tax dollars to the citizens. If it's possible, grant Mr. Chung his extension and appropriate some city funds to help in this matter. Mr. Durham stated that the City is more worried about permits and building, and having control of the city. This man is giving the homeless a place to stay, to wash themselves, providing them clothes, food to eat, cleaning their souls up and an opportunity to fit back into this society as law bidding productive citizens of this City, County and or State.

Robert Dews, 601 Golden Rd – Stated that he knew what it meant to be homeless and he has lived at the Rescue Mission for over a year and it has really helped him out and without it he would be lost.

Alvin Chimney, 1215 W. Cochran – Stated that he preaches at the Rescue Center and has been there from the beginning and believes the Mission is a good thing. If you show a person love and have compassion for them you will see a change in their life.

Andrew Herrell, 1610 Forest – Stated that he is against the Rescue Mission in a sense. Mr. Herrell stated that he is not against the work that's taken place at the Rescue Mission. The issue that went before Planning & Zoning was the first big thing and that was what

will happen to the 40 men if they don't get the special use permit? Today we have 67 men that are out on the street, but we have a facility in Tyler called the Salvation Army. To be admitted into the Salvation Army you have to follow rules. According to the East Texas Rescue Mission they have a couple of rules and that makes them real flexible. Because of all the action plans that City of Tyler has put into place, Mr. Chung is just now doing background checks. We are here today because Mr. Chung broke the law, not only once but twice. We didn't know about the remodeling on the inside but because he did that and then he decided this is so great he went ahead and did the outside too and once he was told to stop he continued to finish the building. Mr. Herrell stated that he is not against helping the men; he is against where they are at today, what is taken place. He is against Mr. Chung because he went in and did the Longview building and unless he broke all the laws in Longview and then he asked for forgiveness but did he know what he was doing before he did it? Mr. Herrell believes Mr. Chung knew what he was doing and he broke the law. We are here today and if he would not have broke the law he would have not done what he did, then we wouldn't be here today because he would run 37 men in the Rescue Mission and everything would be good. The reason why we are here today is because he went from 37 to 100 without getting any permits, he broke the law.

Thomas Murtha, 2925 Rockbridge – Stated that he was a member of the Board and has known Tony for a number of years. Speaking as a board member it is his desire to see the City and the Ministry work to resolve the remaining differences so that both can help the down-trodden and the oppressed of society and the local businesses. Mr. Murtha stated that he has children and they also volunteer at the Mission and he would not allow them to volunteer if he thought that his kids where not safe. In any society we have a criminal element. It can be at any place at any time and the Rescue Mission is no different than a hospital or City Hall. If the Police asked some criminal that they had breaking into a place, “where do you work?” and they said, “City Hall” he did not think they would go and shut down City Hall and move it somewhere else.

Eric Broughton, 1426 Manorway – Stated that this was De ja Vue because he had been through the same thing that Tony Chung was going through and he is not against this Mission or where they are located. We have to be willing to help these men turn their lives around.

Gregory Zepher, 2118 W. Rosemont – Stated that he is a recipient of the East Texas Rescue Mission services last year. By being at the Rescue Mission and then leaving gave him a sense of partnership with those that he was leaving behind.

Councilman Sanders – Stated that this was in his district and he was glad that the City has such persons in the community with such compassionate hearts for the needs of our citizens within the City. Councilman Sanders stated that he has visited the Mission several times and he has seen the programs and so forth there at the mission. He applauded those who have given of themselves their resources and time toward the needs of the Mission. He also knew that the City was to be good stewards as to how and what had to be addressed to the needs of the situation and individuals. There have been many complaints and concerns and he is very compassionate with those concerns. Because of the excessive number of complaints, the violations that have been in place, the internal

problems, and not having a grip on the operation of the Mission he would like to make a motion that the City Council deny the request for the special use permit.

Mayor Pro Tem Caraway – Stated that the community has great compassion and has demonstrated that compassion by giving up of themselves. We have had people in the business section that have suffered loss and damage because of the Rescue Mission, but the question is why and how did we get here. We got here because of a violation of a special use permit that was given. Under the Unified Development Code it reads “any adverse affect on the character of the neighborhood or adverse affect on the general welfare of the community” and both of those exist. There is a need in this City to care for the homeless but there is also a great need to protect the people in the neighborhood and the people that have established businesses and this has been violated. Mayor Pro Tem Caraway seconded the motion to deny the request.

Motion to deny by Councilmember Sanders; seconded by Mayor Pro Tem Caraway; motion carried 7 - 0 & denied as presented.

Councilman Alworth – Stated that the reason he voted against the request is because there have been violations of the City ordinances and he can be given all kinds of assurance that it won't happen again but it did happen and that concerns him more.

Councilman Heines – Thanked all the people that give of their time and money. That's the reason this community is what it is and you are appreciated. Councilman Heines stated that the reason he voted against this was because he felt very uncomfortable with the fact that there was an agreement to keep it at 34 people. He knows there is a need and other options need to be looked at to resolve the problem.

Councilman Mezayek – Stated that he concurs with the Council that the work that is being done is great and needed in this town but the issue he had was the credibility issue. When you violate the building codes and in doing that with the expansion you are actually putting the people that you are trying to help at risk with safety concerns.

City Council took a 5 minute recess

Z-2

APPLICATION Z03-10-018 HOOPER TYLER PROPERTIES

Request that the City Council consider approving a site plan amendment on Lot 12A, 12D, and 12C of NCB 999F, three lots totaling approximately 3.21 acres located west of the southwest intersection of Timberwilde Drive and Old Bullard Road (4803 Old Bullard Road). (O-2010-51)

Jan Wood, 4722 Commanche Trail – Stated that additional screening is needed and if approved and adequate screening is not allowed then it will be a detriment to the community.

Darrell Hamilton, 4912 Richmond Rd. – Stated that he did not believe the drainage in that area could be fixed and anything done will only compound the problem. Mr. Hamilton also stated that he lives across from this property and the lights shine in his residence.

Mark Priestner, 3815 Old Bullard Rd. – Stated that this property is already zoned PCD and it is not if the development can happen but how it happens on the site. The wall that was discussed earlier was when we were changing from residential to commercial for use. This property is already zoned commercial. The Engineers who have worked on this both the City and the Developer's Engineers have worked on the structures and what can be done in the improvements under Timberwilde. The drainage improvements are a requirement of the building permit no matter what. The site plan, no matter how it's laid out, still has to meet those drainage requirements for the fully developed upstream and downstream. Everything has been done according to the site plan that can be done to accommodate the neighbors. An 8 foot wall will be extended into the building from where it currently ends right now so that it is a solid secure area. The area behind Mr. Price's house will essentially function as part of his backyard because there will be no access from that area back into the front of the structure or the development. Until the site plan is finished they cannot finish the civil plans. We will go along the back end and do some sort of french drain system that picks up everything in the back which will include where Mr. Price has that low area before his chain length fence and pulling that in with a french drain system that comes back around and ties into the overall system.

Councilman Whatley – Asked if any consideration had been given for the plants that would be planted?

Mark Priestner, 3815 Old Bullard Rd. – Stated that they would plant the 5 foot tall and they would do any sizes needed in order to get to that point.

Brian Ballard, 3815 Old Bullard Rd. – Stated that they are the Civil Engineers that designed the original building that was constructed in 2006 for Mr. Hooper. The final site plan has not been completed. This is based on our conceptual site plan and all the analysis have not been completed as required by the Development Services for the issuance of a building permit. Mr. Ballard stated that they are proposing extending the existing 8x4 box culverts that are currently under the Hooper property to the North and crossing under Timberwilde and replacing the structures that are currently existing under Timberwilde.

Cynthia Kent, 1121 ESE Loop 323 - Stated that her firm had been retained to represent certain individuals who have property interest affected by this proposal and who have been affected by the commercial development. Tyler grows and people own property and they are entitled to develop those properties as long as they develop it in a reasonable way and are good neighbors in our community. Previous retail construction was approved next to this proposed site and its construction has caused drainage problems for the Prices and the residents in the area. It is believed this site plan and its construction will not only continue the problem but will cause greater problems. It not only causes for an upstream drainage analysis before this council approves a site plan but also a downstream because what will happen is the existing culverts that have been in place are too small and will have a backup. The Texas Water Code 11.086 states that with overflow caused by diversion of water no person may divert or impound the natural flow

of surface waters in this state, or permit a diversion or impounding by him to continue, in a manner that damages the property of another by the overflow of the water diverted or impounded. Mrs. Kent stated that they hope that this City Council will delay the approval of the site plan because of the drainage problems and how they are going to be accepted.

Kenneth Cline, 8339 FM 2710, Lindale Texas – Stated that he was employed to check the drainage upstream and downstream. His concern was that something needed to be done to eliminate the drainage problem downstream instead of increasing it.

Sam Price, 510 Timberwilde – Stated that the design that has been proposed is that they have moved the building closer to Timberwilde and they have a driveway. Mr. Price asked that someone take responsibility for some trees in his yard that were dying due to the acid from a wall being erected close to his property. During further construction of the wall damage was done to his property. In another instance they were clearing trees and knocked over a tree on the fence and broke the fence in two different instances and locations.

Mark Lankford, 709 Dorchester – Stated that there have been a lot of things that Council strives to make Tyler what it is and you talk about buffers...you are tearing down a buffer that has served the residents for 50 years. Mr. Lankford stated that at the Planning & Zoning meeting there had been concessions for the neighbors. As Idlewild homeowners and Association we had asked for four (4) things:

1. A traffic study
2. A wall to separate a commercial development from the residential neighborhood
3. We asked for renderings
4. Drawings of what we should see when the construction is done.

When this area was annexed by the City of Tyler they took the responsibility, and not necessarily took any action on it, but they took the responsibility for the drainage, the sewer, the water and the rest of the Police and Fire services. The drainage is an issue and I believe it is the City of Tyler issue...they bottled necked us downstream.

Julie Edwards-Weaver, 421 Timberwilde – Stated that this particular phase is going to encompass the entire front of their home. Who would have thought that anyone would have constructed anything over a drainage ditch and a holding pond. Mrs. Weaver stated that Mr. Hooper's rights end where hers begins and hers begin right at the edge of 421 property, this is exactly 33 feet from the shrubs that he is proposing to put in...this is inadequate because the lights will come through. Mrs. Weaver asked if City Council accepts this proposal that she would like to be provided a ten (10) foot sound abatement fence that extends the entire length of their property and screen the lights out of her home while providing a buffer between this development and the residential area.

Ronald Weaver, 421 Timberwilde Dr. – Stated that no one wants to address the issue of elevation. The Engineers are requesting 25 foot curb drains at Timberwilde for revenue flooding problems. No additional amount of curb drains are going to help when the water is already over the drains. Mr. Weaver stated that you cannot put 25 feet into an 8 foot wide culvert unless you raise the level to create larger openings. If the curbs are raised it will also allow them to raise the elevation on their parking lots, creating much more water problems in Timberwilde.

Sheron Price, 510 Timberwilde Dr. – Stated that as a neighborhood we were told that we were on a witch hunt and that they were insatiable. The neighborhood pool association has lost every bit of privacy that they had along their back wall because of the landscaping that has not been replaced. The lack of proper design of the existing masonry wall constructed by Mr. Hooper are lack of proper drainage, whether it was the construction or engineering flaws, our property is damaged and it floods. Mrs. Price stated that there should have been proper drainage studies or something done before the wall was constructed so that their yard would not stay as wet as it does and the loss of trees and shrubs and everything else that has been lost and incurred in their yard.

Melinda Weedon, 4710 Richmond Rd. – Stated that her property backs up to the drainage upstream from this proposed site plan. Mrs. Weedon stated that she is fully aware that the City does not talk about drainage before a site plan is approved, however, the problem is this site plan is drainage and therefore it cannot be addressed without fully addressing the drainage issue in total not in part. Mrs. Weedon stated that at a Planning & Zoning meeting on June 2nd Mr. Ballard stated that the original drainage that he designed and approved by the City was undersized from the beginning and they are at fault for the issues that we now have.

Bryan Gardner, 14214 Red Creek Cove Lane - Stated that a study has not been done upstream or downstream to analyze if this culvert will do anything and the Engineers going blindly into this consciously indifferent to the Idlewood resident's property values. The second addition has caused problems and the third addition we don't have a clue if it will cause problems or not. There were promises made regarding the parking, the dumpster, and no take out dinner...now we have parking directly behind where they said it would not be, a dumpster that's real close to the Price's home and now we have take out dinner. According to Tyler Unified Development Code Article 1, Section 10.8 one of the Planning and Zoning top four priorities is to protect the character and establishment of residential neighborhoods and protect property values.

Julie Lankford, 709 Dorchester – Did not speak

Marvin Mayer, 4814 Halle Ln – Stated that promises were made to the residents of Idlewild on March 2nd that 1. An 8 foot buffer wall between the proposed site and the Price's home. 2. An 8 foot buffer wall to rap from Price's home to Timberwilde. 3. A buffer wall to be constructed before site construction begins. The City Engineer, Michael Wilson designed buffer walls to allow water to flow through and not divert water flow into existing properties. Barbara Holly stated on March 2nd no dumpster behind the Prices home within a minimum of 50 foot and no eating establishment of any kind so that the development would not be invasive to the neighborhood. On April 14th Ballard and Broughton promised to study the full 65 acres affected by this site plan to establish proper drainage solution. Seven promises made...promises kept, zero. Mr. Mayer stated that as a resident of the area he was concerned that they would be looking at increased traffic through the subdivision because there is already serious traffic problems on Old Bullard Rd and when you add the number of parking spaces in this proposal for additional retail is going to add to that congestion.

Councilman Whatley – Asked if a wall is to be constructed what will be done to keep the trees from dying?

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Sam Price, 510 Timberwilde – Stated that if you cut a tree root and prune those roots and put special backing into the hole it will preserve the life of that tree...not a hundred percent guarantee but when you are talking about a tree that's 75 to 100 years old those are the proper ways to maintain and preserve the trees.

Greg Morgan, Director of Utilities and Public Works – Stated that since 1978 there have been 3 attempts at a public private partnership to address the drainage along Leisure Lane. At the request of Councilman Mezayek we are in the process of developing a new letter to send out once again to see if we can develop interest in a public private partnership to address the drainage between Richmond and Leisure Lane and this time will incorporate the people who have property that front on Richmond Road in an attempt to generate interest in the participation. That participation process will be the way to move this forward to address the drainage in the Leisure Lane area. The City of Tyler does not have easements and while there is water that collects in the backyards the City of Tyler does not have the ability to go in an address those issues.

Councilman Mezayek – Stated that regardless of what happens with the zoning case there is a drainage issue north of Timberwilde and it needs to be addressed at some point.

Councilman Whatley – Stated that from an Engineering standpoint and approving the building permit, if we go forward with the site plan approval what is the process of him getting the permit...overall drainage assessment and everything?

Michael Wilson, Development Services Engineer - Stated that he has to address the drainage questions that we raise for his site whether they are impacting drainage upstream or downstream negatively.

Mayor Pro Tem Caraway – Asked Mark Priestner to explain the concerns with the rear of the property, not knowing what the site plan would look like and the concerns with the wall.

Mark Priestner, 3815 Old Bullard Rd - Stated that the rear of the property will look just like the back side of Harleys which is Stucco with columns on it with no window, doors or lights.

Councilman Alworth – Stated that drainage is an issue that needs to be resolved at the building permit stage. Councilman Alworth stated that he is still concerned about the neighborhood and it sounds like the neighbors have not been properly heard.

Councilman Mezayek – Stated that he believes this is an encroachment into the neighborhood and he does appreciate the developer talking with the neighbors to see if the two sides could meet.

Mark Priestner, 3815 Old Bullard Rd - Stated that when it was brought up they address that and brought the wall from 3 foot to 5 foot and agreed to put in the nellie stevens holly, or whatever they ask for as far as a screening standpoint.

Councilman Alworth - Made the motion to return it to Planning & Zoning and work out the screening and try to satisfy Mr. and Mrs. Weever who will look at a horrible thing if we don't handle that and take the wall the Prices want and bring it around toward the front and change it back as it comes into the front part of the property line where Timberwilde is and have it look like a neighborhood and not a development.

Councilman Heines – Stated that the drainage issue is a fundamental issue that will need to be worked on for this neighborhood and staff will work on it.

Mark Priestner, 3815 Old Bullard Rd – Stated that Mr. Hooper has agreed to...he will run the nellie stevens holly all the way down that property line and across the front of Timberwilde.

Julie Edwards-Weaver, 421 Timberwilde – Stated that she needs the wall because it is a sound abatement wall and also the nellie stevens holly along the front of the wall.

Cynthia Stevens Kent, 1121 ESE Loop 323, - Stated that she would like to make a suggestions on behalf of her clients that it does go back to Planning & Zoning and in the interim time they could sit down and probably do some mediation and discussion to try and resolve not only that issue but some serious drainage issues.

Melinda Weedon, 4710 Richmond Rd. – Stated that in the original Planning & Zoning meeting Mr. Means stated that they would gladly put an 8 foot masonry wall behind the Prices and in front of the Weavers.

Mark Lankford, 709 Dorchester – Stated that a wall and drainage was important and did not see doing anything until the issues are addressed.

Councilman Whatley, - Asked if Mr. Hartley was willing to build a 8 foot masonry wall along the Price's east boundary line and along Timberwilde that was initially discussed.

Robert Means - Stated that taking the wall all the way to Timberwilde and turning East on Timberwilde at 4 foot height on Timberwilde? Mr. Means stated, "No."

Motion by Councilman Alworth to approve the site plan as presented with the following changes:

1. The wall that is on the far south side of the Prices' residence be completed so that no access comes from the back.
2. That an 8 foot wall with evergreen run from the east side of the Prices property all the way around to the front and terminate wherever that back lot is (12C).
3. There has to be drainage at the base of the wall
4. The wall setback 5 feet from the property line.

Landscaping is there to soften the wall and the wall is there for noise abatement wall. seconded by Councilmember Whatley; motion carried 6 - 1 & approved as presented.

Councilmember Whatley exit

ORDINANCE

O-1 Request that the City Council conduct a public hearing and consider adopting an Ordinance amending Tyler City Code Chapter 15 to adopt a new Electric Power Franchise Ordinance with Oncor Electric Delivery Company, LLC, on the third and final reading of three readings. (O-2010-52)

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

MISCELLANEOUS

M-1 Request that the City Council consider authorizing the City Manager to issue Final Acceptance for and execute the Reconciliation Change Order reducing the total contract amount by \$374,936.98 for the 2009 Runway 17/35 Overlay Project at Tyler Pounds Regional Airport.

Motion by Councilmember Mezayek; seconded by Councilmember Sanders; motion carried 6 - 0 & approved as presented.

BOARD APPOINTMENTS

B-1 Request that the City Council consider making appointments to the Zoning Board of Adjustments and Tyler Historical Preservation Board.

Motion by Councilmember Mezayek to appoint David Pierson and Mary Endres (Alternate) to the Zoning Board of Adjustments; seconded by Mayor Pro Tem Caraway; motion carried 6-0 & approved as presented.

Motion by Councilmember Mezayek to appoint Billy Bartush to the Historical Preservation Board; seconded by Councilmember Heines; motion carried 6-0 & approved as presented.

CITY MANAGER'S REPORT

1. Monthly CIP report delivered
2. Liberty Hall bids going out, plans available

RECESS FOR EXECUTIVE SESSION - City Council convened into Executive Session at 1:28 pm.

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:

Pending or contemplated litigation involving condemnation of Tall imbers/Algonquin sewer system in Southwest Tyler and in ETJ;

June 9, 2010

Pending or contemplated litigation involving enforcement of lease provisions for City lease.

City Council reconvened from Executive Session at 1:43 pm.

ADJOURNMENT

Motion by Mayor Pro Tem Caraway to adjourn the meeting at 1:43pm; seconded by Councilmember Alworth; motion carried 6 - 0 & meeting adjourned.

Barbara Bass

BARBARA BASS, MAYOR OF
THE CITY OF TYLER, TEXAS



ATTEST:

Cassandra Brager

CASSANDRA BRAGER, CITY CLERK