

**MINUTES OF THE  
REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS  
April 27, 2011**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, April 27, 2011 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: Martin Heines  
Donald Sanders  
Mark Whatley  
Sam Mezayek  
Jason Wright

City Manager: Mark McDaniel  
City Attorney: Gary C. 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  
City Engineer: Carter Delleney  
City Police Chief: Gary Swindle  
Communications Director: Susan Guthrie  
Director of Planning and Zoning: Barbara Holly  
Director of Solid Waste: Dan Brotton  
Budget/Internal Auditor: Keidric Trimble  
Director of Utilities & Public Works: Greg Morgan  
City Clerk: Cassandra Brager

## **INVOCATION**

The Invocation was given by Mayor Pro Tem Caraway.

## **MINUTES**

Motion by Mayor Pro Tem Caraway to approve the April 13, 2011 minutes; seconded by Councilmember Sanders; motion carried 7 - 0 & approved as presented.

## **ZONING**

### **Z-1 APPLICATION A04-11-004 ROBBINS OSBORN ROAD ISLAND LLC (12010 HIGHWAY 271) (O-2011-24)**

**Request that the City Council consider adopting an ordinance providing for the annexation of approximately 5.684 acres of land and 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 Map to Northwest District #3;**
- D. The Land Use Guide to reflect Land Use General Commercial; and**
- E. Original zoning of 5.684 acres of "C-2", General Commercial District**

April 27, 2011

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

- Z-2 APPLICATION C01-11-002 CITY OF TYLER (UNIMPROVED RIGHTS-OF-WAY)**  
Request that the City Council consider closing three portions of right-of-way and adopting an Ordinance amending the Tyler Unified Development Code in Tyler City Code Chapter 10 to amend the Master Street Plan to shorten the Glass Avenue future collector to West Mims Street. (O-2011-25)

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

- Z-3 APPLICATION S04-11-006 GERARD DENGLER (2215 ROY ROAD)**  
Request that the City Council consider a special use permit site plan amendment on property zoned "R-1A", Single-Family Residential District and "AG", Agricultural District.(O-2011-26)

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

- Z-4 APPLICATION Z04-11-020 NATHAN SPILLMAN & HARRIS FENDER (1624 SOUTH FLEISHEL AVENUE)**  
Request that the City Council Consider changing the zoning from "R-2" Two-Family Residential District to "AR", Adaptive Reuse District. (O-2011-27)

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

- Z-5 APPLICATION Z04-11-021 GLENWOOD CHURCH OF CHRIST (5476 HOLLYTREE DRIVE)**  
Request that the City Council Consider changing the zoning from "R-1A", Single-Family Residential District to "RPO", Restricted Professional Office District. (O-2011-28)

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

- Z-6 APPLICATION Z04-11-023 SCHULZ BLUE RIDGE, LLC (327 EAST RIECK ROAD)**  
Request that the City Council Consider changing the zoning from "PCD", Planned Commercial Development District to "PMXD-1", Planned Mixed Use District.  
(O-2011-29)

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

- Z-7 APPLICATION Z04-11-025 MITCH BROWN (3556 WEST GRANDE BOULEVARD)**



April 27, 2011

**Request that the City Council Consider changing the zoning from "AG", Agricultural District to "C-1", Light Commercial District and "C-2", General Commercial District. (O-2011-30)**

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

## **RESOLUTION**

**R-1 Request that the City Council consider adopting a resolution authorizing the new Passenger Facility Charge (PFC) Application No. 5 and authorizing collection and expenditure of the Passenger Facility Charges for approved projects. (R-2011-15)**

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

**R-2 Request that the City Council adopt a Resolution urging the Texas Legislature to support the continuation of the high-cost gas investment tax credit. (R-2011-16)**

**Susan Guthrie, Communications Director** – Stated that in early 2010, the Tyler City Council and several other community boards and elected bodies came together in an historic undertaking to jointly adopt a measure to support the Industry Growth Initiative (IGI). The IGI is a twenty-year plan that contains strategic tactics focused on achieving an Innovation Economy which brings higher paying jobs, economic growth, job creation and a higher standard of living.

**Jeff Holliday, Texas HCN** – Stated that the tax incentive makes up about 60% of the Rainy Day Fund and it is the largest contributing tax into the Rainy Day Fund. If the State budget had to be dipped into to use the Rainy Day fund that the tax incentive would replenish that money as it is currently written in the next two years.

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

## **MISCELLANEOUS**

Councilmember Wright exits



**M-1 Request that the City Council consider adoption of the Lake Tyler Master Plan. ©**

Mark McDaniel, City Manager, Murphy Parks and Dan Sefko, Freese and Nichols, and Mark Priestner, Planning Concepts were all in agreement with the plan and stated that that in October 2009, City of Tyler Council authorized Freese and Nichols, Inc., (F&N) to develop the Lake Tyler Master Plan. Under this agreement F&N worked closely with citizens, the Lake Tyler Roundtable, various stakeholder groups and City staff to develop a master plan which addresses the community's desire for enhanced utilization for the areas surrounding Lake Tyler and Lake Tyler East. Direct public input was received via various meetings and surveys,

April 27, 2011

with the Lake Tyler Roundtable serving as a project steering committee under the leadership of Councilman Mezayek.

The Lake Tyler Master Plan focuses on four main areas to:


- Protect the Water Quality of Lake Tyler and Lake Tyler East
- Balance Lake Benefits for Citizens of Tyler and Lake Tyler/Lake Tyler East Residents/Users
- Establish Partnerships between City of Tyler and Lake Tyler Lease Holders
- Create Recreation Opportunities for Citizens of Tyler and Lake Tyler/Lake Tyler East Residents/Users

Councilmember Mezayek – Thanked the Lake Tyler Round Group committee for their hard work and input.

**David Stoner, 18185 Concession Rd** – Stated that the marina will not be self-supportive six months out of the year without the RV Park. Asked City Council to consider the idea of the two weeks should be the maximum stay in an RV Park. No other RV Park in the State of Texas operates that way and this RV Park will not work that way.

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

Councilmember Wright enters



**M-2 Request that the City Council consider authorizing the City Manager to award a construction contract for the Highway 69 /Interstate 20 Corridor Sanitary Sewerage System Improvements project to S.J. Louis Construction, in the amount of \$5,125,344.32.**

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

**M-3 Request that City Council consider reviewing and accepting the Revenue and Expenditure Report for the quarter ending March 31, 2011.**

Motion by Councilmember Heines; seconded by Mayor Pro Tem Caraway; 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 for City Council to consider authorizing the City Manager to sign a “Letter of Engagement for Professional Audit Services” with Henry & Peters PC to perform the Fiscal Year 2010-2011 Annual Audit. ©**



April 27, 2011

- C-A-2** Request for City Council to consider authorizing the City Manager to execute an agreement with Valley View Consulting to provide assistance with the process of soliciting, evaluating and implementing a new contract for banking services and continue providing investment advisory services. ©
- C-A-3** Request that the City Council consider reviewing and accepting the Investment Report for the quarter ending March 31, 2011.
- C-A-4** 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 \$9,384 for the 2010 Airport Security Fencing Improvements Project at Tyler Pounds Regional Airport. ©
- C-A-5** Request that the City Council consider authorizing the City Manager to apply for and to enter into an agreement with the Texas Department of Transportation for grant funds in the amount of \$4,994.64 that is to be used to enforce seat belt usage and child safety seat usage during the Memorial Day weekend. ©
- C-A-6** Request that the City Council consider approving an Interlocal Agreement with Smith County 9-1-1 Emergency Communications District for Public Safety Answering Point (PSAP) project participation funding. ©
- C-A-7** Request that the City Council consider adopting a Resolution agreeing to the sale of certain tracts of land located within the City of Tyler city limits and owned by taxing entities including the City of Tyler and being located at 835 W 5<sup>th</sup> Street. (R-2011-17)
- C-A-8** Request that the City Council consider approving an Ordinance amending the City of Tyler Code Chapter 19, "Utilities", to include the requirement of an extra jurisdictional contract to comply with the Texas Commission on Environmental Quality (TCEQ) requirements. (O-2011-31)
- C-A-9** Request that the City Council consider authorizing the City Manager to award the Bid No. 11-009, to accomplish herbicide treatment of 25.98 miles of Tyler Roadside Rights-of-Way and approximately 6.105 miles of drainage ditches, within the City of Tyler, to Edko, LLC of Tyler, Texas for the amount of \$35,300.
- C-A-10** Request that the City Council consider declaring certain City of Tyler vehicles and miscellaneous vehicle parts as surplus and authorize for auction.

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

### **CITY MANAGER'S REPORT**

1. Storm damage from last night, Code Red calls and use of sirens all worked well last night, street crews work thru night to clear trees.

April 27, 2011

2. Redistricting-preliminary options underway, plan to present at regular City Council meeting in May.

**RECESS FOR EXECUTIVE SESSION** – City Council convened into executive session at 10:29 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. Contemplated litigation involving TTUC (Algonquin)**

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 551.087 "Economic Development" deliberation regarding the following:**

Possible offer of financial or other incentive to or from prospects and to consider financial and other information about prospects/projects with which the City is conducting economic development negotiations that could lead to a partnership in Tyler.

City Council reconvened from executive session at 10:49 am with no final action taken

**ADJOURNMENT**

Motion by Councilmember Whatley to adjourn the meeting at 10:49 am; seconded by Mayor Pro Tem Caraway; motion carried 7 - 0 & meeting adjourned.

  
**BARBARA BASS, MAYOR OF  
THE CITY OF TYLER, TEXAS**

**ATTEST:**

  
**CASSANDRA BRAGER, CITY CLERK**

