

**MINUTES OF THE
REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
August 24, 2011**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, August 24, 2011 at 9:00 a.m. in the Council Chamber, City Hall, Tyler, Texas, with the following present:

Mayor: Barbara Bass
Mayor Pro Tem: Sam Mezayek
Councilmembers: Martin Heines
Donald Sanders
Mark Whatley
Ralph Caraway
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
Director of Neighborhood Services: Brenda Johnson
City Engineer: Carter Delleney
City Fire Chief: Tim Johnson
City Librarian: Chris Albertson
City Police Chief: Gary Swindle
Director of External Relations & Organizational Development: Susan Guthrie
Director of Parks and Recreation: Stephanie Rollings
Director of Planning and Zoning: Barbara Holly
Director of Solid Waste: Dan Brotton
Budget/Internal Auditor: Keidric Trimble
Transit Manager: Heather Nick
Director of Utilities & Public Works: Greg Morgan
Traffic Engineer: Peter Eng
City Clerk: Cassandra Brager

INVOCATION

The Invocation was given by Councilmember Caraway.

MINUTES

Motion by Councilmember Caraway to approve the August 10, 2011 minutes; seconded by Councilmember Sanders; motion carried 7 - 0 & approved as presented.

Mayor Bass introduced the Mayor for the Day, Luke Pearson.

EMPLOYEE AWARDS – RECOGNITIONS, SERVICE

A-1 Service Awards

We would like to recognize the following employee 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

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for the special contribution you make to our organization. This employee represents over 46-years of service with the City of Tyler.

Retirees - Service Awards

| DATE OF HIRE: | FIRST NAME: | LAST NAME: | POSITION: | DEPARTMENT: | YEARS OF SERVICE: |
|----------------------|--------------------|-------------------|--------------------------------|--------------------|--------------------------|
| 1/27/1986 | Ignacio | Medina | Crew Leader | Streets | 25 |
| 4/24/1990 | Kenneth | Berry | Residential Equipment Operator | Solid Waste | 21 |

ZONING

Z-1 APPLICATION A08-11-005 CAMP FORD HISTORICAL ASSOCIATION, INC. ANNEXATION

Request that the City Council consider adopting an ordinance providing for the voluntary annexation of Camp Ford Historical Association, located at 6501 N. Hwy. 271. The proposed annexation area consists of approximately 2.5 acres lying adjacent to and contiguous to the present boundary limits of the City of Tyler, Also consider recommending: (O-2011-62)

- 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 #3.
- D. The Land Use Guide to reflect Private Recreation and Open Space.
- E. Original zoning of 2.5 acres of "C-1", Light Commercial District.

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

Z-2 APPLICATION A08-11-006 PETTY'S IRRIGATION AND LANDSCAPE ANNEXATION (O-2011-63)

Request that the City Council consider adopting an ordinance providing for the voluntary annexation of approximately 8.15 acres of land, addressed as 14184, 14200, 14300 and 14352 Rhones Quarter Road. The proposed annexation area consists of territory lying adjacent to and contiguous to the present boundary limits of the City of Tyler. Also consider recommending:

- 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 #5.
- D. The Land Use Guide to reflect a Neighborhood Commercial Land Use.
- E. Original zoning of 8.15 acres of "PCD", Planned Commercial Development District.

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

Z-3 APPLICATION C08-11-005 STEVE THORNTON (PRINCEDALE)
Request that the City Council consider closing a portion of Prinedale right-of-way. (O-2011-64)

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

Z-4 APPLICATION S08-11-011 STANLEY L. SMITH (812 W 26TH STREET)
Request that the City Council consider a special use permit for a one-chair beauty salon on property zoned "R-2", Two-Family Residential District. (O-2011-65)

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

Z-5 APPLICATION Z05-11-027 MIKE SUGG (3101 BELLWOOD ROAD)
Request that the City Council consider changing the zoning from "R-1A", Single-Family Residential District to "PCD", Planned Commercial Development District, with final site plan approval. (O-2011-66)

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

Z-6 APPLICATION Z08-11-047 AMERICAN STATE BANK (1116 TROUP HIGHWAY)
Request that the City Council consider approving a site plan amendment for property zoned "PCD", Planned Commercial Development District. (O-2011-67)

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

PRESENTATIONS

P-1 Request that the City Council consider hearing a presentation from the Tyler Fire Department and Fire Association in memory of the 343 Firefighters who were victims of the 9-11 tragedy.

Tony Gumber – Stated that The Tyler Firefighters Association would like to remember the 343 valiant firefighter victims of the 9-11 attack on this 10 year anniversary, by raising funds on the sale of Commemorative T-shirts created by Association members. Proceeds will be given to the Tyler Firefighter Relief Fund and the Uniformed Firefighters Association of Greater New York Widow's and Children's Fund.

The Navy Blue T-shirts offered for sale depict the Twin Towers, the date of the attack and "343 / Never Forget" to honor the 343 New York Firemen who died at the World Trade Center. Tyler Firefighters will be wearing them during the month of September in memory of their fallen fellow firemen.

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The Tyler Firefighters Association appreciates the Mayor, City Council and City Manager's support of all their past and future endeavors and would like to express their appreciation.

- P-2 Request that the City Council consider recognizing Allen Samuels Dodge, General Manager Mike McClean, and Tyler Police Department Employees for efforts in raising \$50,000 for the Children of Tyler Police Department College Scholarship Fund.**

Gary Swindle, Chief of Police – Stated that Allen Samuels Dodge and General Manager Mike McClean donated a 2011 Dodge Ram Quad-cab truck and the associated advertising to raise funds for the Children of Tyler Police Department College Scholarship Fund, which benefits the children of Tyler Police employees. Employees of the police department and the Allen Samuels's dealership sold 1000 raffle tickets at \$50 each, raising \$50,000 for this fund.

PUBLIC HEARINGS

- H-1 Request that the City Council consider conducting a public hearing on the proposed fiscal year 2011-2012 Budget and on the proposed property tax rate of \$0.208865 per \$100 of taxable property value.**

Richard Cashell, Patrolman Association – Thanked the City Manager and City Council for the adjustments in the budget and for their forward thinking, planning and hard decisions they make every year to keep the City of Tyler not really solvent but growing.

Larry Meckley, 401 Sutherland – Stated that one of the priorities of the Mayor and City Council is transparency in local Government and he is asking for a transparency today. Mr. Meckley asked for more funding for roads and parks and less on employee benefits.

Shirley Cleaver, 1102 N. Fannin – Stated that she was concerned about the budget for the Tyler Transit. The raises that were being proposed and how it would affect the disabled people living on fixed income. Ms. Cleaver also stated that the bus routes had changed and are very confusing as well.

Annie Bowie, 1719 N. Confederate – Stated that she is a Transit rider as well and she does not like the new change they made because you have to walk 10 to 15 blocks to get to another bus to get to another bus. Ms. Bowie also stated that she does not think that the fees should go up as well.

ORDINANCE

- O-1 Request that the City Council consider adopting an Ordinance amending City Code Chapter 17, by establishing a new speed limit of 35 mph on a portion of Negem Road from the intersection of State Highway 31 to the intersection of Old Pleasant Retreat Road. (O-2011-68)**

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

- O-2 Request that the City Council consider adopting an Ordinance amending City Code Chapter 17, by establishing a new speed limit of 45 mph on a portion of Pleasant Retreat Road from the intersection of Negem Road to the intersection of Pleasant Holiday Road. (O-2011-69)**

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

- O-3 Request that the City Council consider adopting an Ordinance amending City Code Chapter 17, by establishing speed limit of 65 mph on a portion of State Highway 31 from a point 2650 feet east of Spur 364 to a point 5600 feet west of Spur 364. (O-2011-70)**

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

MISCELLANEOUS

- M-1 Request that the City Council consider authorizing the City Manager to enter into an agreement with Brookshire Grocery Company for the funding of the installation of a signal and a right turn deceleration lane on Old Jacksonville Road at Three Lakes Parkway at an estimated cost of \$305,130 to be reimbursed to Brookshire's during the City of Tyler FY 2011-2012 and the exchange of right-of-way on Rice Road for a right turn lane. ©**

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

- M-2 Request that the City Council consider approving a professional services contract with Kimley-Horn and Associates for an update to the Master Street Plan Update for the Tyler Area Metropolitan Planning Organization, in an amount not to exceed \$99,500. ©**

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

- M-3 Request that the City Council consider authorizing the City Manager to award multiple contracts for the sale of timber on City-owned property to John Billingsly Logging, LLC and Ellis Timber Company, for a total revenue amount of \$119,000. ©**

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

- M-4 Request that the City Council consider authorizing the City Manager to award the construction contract for Forest Meadows North Phase I to the low bidder, Capps-Capco Construction, Inc., in the amount of \$247,585.73. ©**

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

- M-5 Request that the City Council consider authorizing the City Manager to award a contract, in the amount of \$74,236.10, to RPR Construction, for the construction of sidewalks, ADA ramps and other concrete improvements contained in the 2011 Sidewalk Improvements Project, Tyler Bid 11-038. ©**

Motion by Councilmember Caraway; seconded by Mayor Pro Tem 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 apply for and accept fifth year funding under the Comprehensive Traffic Enforcement Grant program administered by the Texas Department of Transportation (TXDOT). ©**
- C-A-2 Request that the City Council consider authorizing the City Manager to renew the agreement with the United States Department of Justice, Drug Enforcement Administration to provide the Tyler Police Department's continued participation in the East Texas Drug Task Force. ©**

Motion by Councilmember Sanders to approve the entire consent agenda; seconded by Councilmember Whatley; motion carried 7 - 0 & approved as presented

BOARD APPOINTMENTS

- B-1 Request that the City Council consider making appointments and reappointments to the various City Boards.**

Airport Advisory Board

Mayor Pro Tem Mezayek made the motion; seconded by Councilmember Heines; motion carried 7-0 to reappoint the following board members:

**Dwight Parsley
Mark Miller**

Mayor Pro Tem Mezayek made the motion; seconded by Councilmember Heines; motion carried 7-0 to appoint the following board members:

**Larry Goddard
Ronald Stutes**

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Mayor Pro Tem Mezayek made the motion; seconded by Councilmember Heines; motion carried 7-0 to reappoint **Dwight Parsley** as chairman

Board of Adjustment

Councilmember Caraway made the motion; seconded by Mayor Pro Tem Mezayek; motion carried 7-0 to reappoint the following board members:

**Travis Booher
Kara Camp
Mitch Henderson**

Councilmember Caraway made the motion; seconded by Mayor Pro Tem Mezayek; motion carried 7-0 to reappoint **Kara Camp** as chairman

Civil Service Commission

Councilmember Sanders made the motion; seconded by Mayor Pro Tem Mezayek; motion carried 7-0 to reappoint the following board members:

**Jim White
Mrs. Tomi Ellis**

Construction Board of Adjustment and Appeals
On Hold until 9-14-2011 meeting

Disability Issues Review Board

Councilmember Wright made the motion; seconded by Mayor Pro Tem Mezayek; motion carried 7-0 to reappoint the following board members:

**Michelle Boyd
David Gary**

Health Facilities Development Corporation Board of Directors

Councilmember Caraway made the motion; seconded by Mayor Pro Tem Mezayek; motion carried 7-0 to reappoint the following board members:

**R. Daniel King
Cheryl Simpson**

Historical Preservation Board

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Councilmember Heines made the motion; seconded by Councilmember Sanders; motion carried 7-0 to reappoint the following board member:

Mike Patterson

Councilmember Heines made the motion; seconded by Councilmember Sanders; motion carried 7-0 to appoint the following board members:

William B. Campbell
Carol Kehl

Councilmember Heines made the motion; seconded by Councilmember Sanders; motion carried 7-0 to reappoint **Mike Patterson** as chairman

Industrial Development Corporation

Mayor Pro Tem Mezayek made the motion; seconded by Councilmember Whatley; motion carried 7-0 to appoint the following board member:

James “Wes” Volberding

Keep Tyler Beautiful Board

Councilmember Whatley made the motion; seconded by Mayor Pro Tem Mezayek; motion carried 7-0 to reappoint the following board members:

Anwar Khalifa
Cheryl Roy
Jonas Titas
Brad Baker
Jodie Meyer

Councilmember Whatley made the motion; seconded by Mayor Pro Tem Mezayek; motion carried 7-0 to appoint the following board members:

Chad Maddux
Brandye Barrington

Councilmember Whatley made the motion; seconded by Mayor Pro Tem Mezayek; motion carried 7-0 to appoint **Cheryl Roy** as chairman

Library Board

Councilmember Caraway made the motion; seconded by Mayor Pro Tem Mezayek; motion carried 7-0 to reappoint the following board member:

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Ruth Casey Fisher

Councilmember Caraway made the motion; seconded by Mayor Pro Tem Mezayek; motion carried 7-0 to appoint the following board members.

Stephen Horlander
Pete Kerr
Shana Steele

Councilmember Caraway made the motion; seconded by Mayor Pro Tem Mezayek; motion carried 7-0 to appoint **Ruth Casey Fisher** as Chairman

Neighborhood Revitalization Board

Councilmember Sanders made the motion; seconded by Councilmember Whatley; motion carried 7-0 to reappoint the following board member:

Cheryl Simpson

Northeast Texas Public Health District Board

Councilmember Sanders made the motion; seconded by Mayor Pro Tem Mezayek; motion carried 7-0 to reappoint the following board member:

Dr. Otis Webster

Park Board

Councilmember Caraway made the motion; seconded by Councilmember Whatley; motion carried 7-0 to reappoint the following board members:

John Adkins
Jennifer Carson
William McKenzie

Councilmember Caraway made the motion; seconded by Councilmember Whatley; motion carried 7-0 to appoint the following board members:

Billy Hall
Rosemary Jones
Stuart Meisenheimer

Councilmember Caraway made the motion; seconded by Councilmember Whatley; motion carried 7-0 to reappoint **John Adkins** as chairman

Planning and Zoning Board

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Mayor Pro Tem Mezayek made the motion; seconded by Councilmember Sanders; motion carried 7-0 to reappoint the following board members:

Michael Carmichael
Aubrey Sharpe

Mayor Pro Tem Mezayek made the motion; seconded by Councilmember Sanders; motion carried 7-0 to appoint the following board members:

David Hudson
William Sheehy

Mayor Pro Tem Mezayek made the motion; seconded by Councilmember Sanders; motion carried 7-0 to appoint **David Hudson** as chairman

Traffic Safety Board

Councilmember Sanders made the motion; seconded by Mayor Pro Tem Mezayek; motion carried 7-0 to reappoint the following board members:

Donn Rust
George (Butch) Willingham
Kevan Kirksey

Councilmember Sanders made the motion; seconded by Mayor Pro Tem Mezayek; motion carried 7-0 to reappoint **George Willingham** as chairman

CITY MANAGER'S REPORT

1. Audit meeting following City Council meeting.

RECESS FOR EXECUTIVE SESSION – City Council convened into executive session at 10:08 am.

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

Ex Session No. 1

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

1. Pending & Possible contemplated litigation involving TTUC (Algonquin)
2. Possible contemplated litigation involving Guinn Farms subdivision street conditions
3. Pending litigation in Danny Harris (Plaintiff) v. **Jordan L. Hill**, City of Tyler Police Officer, and **Lee A. Davis** City of Tyler Police Officer, and **Darin W. Grissom**, City of Tyler Police Officer.

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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


City Council reconvened into executive session at 10:59 am with the following action taken

After returning to Open Session, Councilmember Wright made the following motion, seconded by Councilmember Sanders which was approved 7-0:

1. I move that the City Council, based upon all evidence and information available to it at this time, hereby agrees to provide a defense and indemnity to Jordan L. Hill, Lee A. Davis and Darin W. Grissom in the lawsuit styled *Danny Harris v. Jordan L. Hill, City of Tyler Police Officer; Lee A. Davis, City of Tyler Police Officer and Darin W. Grissom, City of Tyler Police Officer*; Cause No. 6:11cv426, United States District Court, Eastern District of Texas, and that written Resolution of the City Council incorporating this Motion be prepared if approved. (R-2011-27)

ADJOURNMENT

Motion by Councilmember Whatley to adjourn the meeting at 11:00 am; seconded by Mayor Pro Tem Mezayek; motion carried 7-0 & adjourned.


BARBARA BASS, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:


CASSANDRA BRAGER, CITY CLERK



The seal is circular with a double-line border. The outer ring contains the text 'CITY OF TYLER' at the top and 'TEXAS' at the bottom. The center of the seal features a stylized emblem with the word 'SEAL' written across it.