

**MINUTES OF THE  
REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS  
October 23, 2013**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, October 23, 2013 at 9:00 a.m. in the City Council Chambers, 2<sup>nd</sup> floor of City Hall, Tyler, Texas, with the following present:

Mayor:	Barbara Bass
Mayor Pro Tem:	Martin Heines
Councilmembers:	Mark Whatley
	Darryl Bowdre
	Sam Mezayek
	Edward Moore
	John Nix
City Manager:	Mark McDaniel
Asst. City Manager:	Susan Guthrie
City Attorney:	Deborah G. Pullum
Deputy City Attorney:	Steve Kean
Manager for Organizational Development:	Kristi Boyett
City Engineer:	Carter Delleney
City Fire Chief:	Tim Johnson
Managing Director for Public Safety & Police Chief:	Gary Swindle
Director of Parks and Recreation:	Stephanie Rollings
Internal Auditor:	Jon Grundy
Director of Solid Waste:	Russ Jackson
Senior Public Relations Specialist:	Serena Butcher
Director of Planning:	Heather Nick
Water Quality and Production Manager:	Jimmie Johnson
Managing Director for Utilities/Public Works and Utilities:	Greg Morgan
City Clerk:	Cassandra Brager

**INVOCATION**

The Invocation was given by Brother Kenon Ollison, Sr Minister of North Tenneha Church of Christ

**MINUTES**

Motion by Councilmember Mezayek to approve the minutes of the September 25, 2013 and October 2, 2013 meeting; seconded by Councilmember Nix; motion carried 7 - 0 & approved as presented

## **EMPLOYEE AWARDS – RECOGNITIONS, SERVICE**

### **A-1 Request that the City Council consider recognizing the members of the 2013 Tyler Firefighter Combat Challenge Teams.**

**Fire Chief, Tim Johnson**- Stated that the City of Tyler hosted the Brookshires' Regional Firefighter Combat Challenge event on Friday, October 4 and Saturday, October 5, 2013. Individuals, Relay Teams and Tandem Teams competed, representing several different fire departments from across the country. The event, held in the Broadway Square Mall parking lot, drew large crowds of onlookers.

Two Tyler Fire Department Relay Teams and one City of Tyler Employee Corporate Challenge Team competed. Competitors came from Texas, Oklahoma, New Mexico, Nebraska, Indiana, and South Carolina.

The Firefighter over 40 Team, consisting of Jeff Barnett, Brandon Davis, Brent Hail, Terry Hawkins and Randy Lee came in 1st Place and qualified to compete in the World Competition at the end of this month.

The Firefighter Open Challenge Team consisting of Brian Boyd, Jeremy Driver, Jeff Hudgens, Patrick Mayo and Jay McClung came in 3rd Place against 26 other teams.

The City of Tyler Corporate Challenge Team consisting of Doug Coffman, Luke Porter, Leroy Sparrow and Jimmy Vega ran in an exhibition race without any firefighter gear, against 3 other teams and won 1st Place.

**Shari Bickman, 315 N. Broadway** – Gave an update on how much income the Firefighter Combat Challenge brought in and also thanked the volunteers and the City Council for their support of the Firefighter Combat Challenge.

## **PRESENTATIONS**

### **P-1 Request that the City Council receive a presentation regarding Tyler receiving the Texas Municipal League's Municipal Excellence Award in the Management Innovations category for City University. (Video was also shown)**

**Asst. City Manager, Susan Guthrie** – Stated that at the recent Texas Municipal League Annual Conference and Exhibition, held on October 8-11, the City of Tyler was presented with the 2013 Municipal Excellence Award in Management Innovations for cities with a population of more than 25,000. The award recognizes the City for its City University program.

The Texas Municipal League Municipal Excellence Award recognizes and encourages the achievements of Texas cities in meeting the challenge of municipal governance. According to the League, "Innovative problem-solving, excellence in management, increasing citizen participation, and reaching toward higher service levels are all daily occurrences in Texas cities, and they deserve recognition. This awards program seeks out the best of these programs to honor. It is through the recognition of the best of the best that all Texas cities share and learn from these achievements."

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The Management Innovations category specifically recognizes the program that best addresses employee development and training, financial applications, intergovernmental cooperation, technology advances, or other innovative approaches to city government management.

## **ZONING**

**Z-1 APPLICATION Z09-13-051 CLISERIO RODRIGUEZ (824 HARRIS AVENUE)**  
**Request that the City Council consider approving a zone change from “C-1”, Light Commercial District, to “DBAC”, Downtown Business, Arts and Culture District. (O-2013-92)**

Motion by Councilmember Moore; seconded by Councilmember Bowdre; motion carried 7 - 0 & approved as presented.

**Z-2 S10-13-016 CENTENNIAL LP (9098 SOUTH BROADWAY AVENUE)**  
**Request that the City Council consider approving a Special Use Permit to allow for the development and use of an electronic go-kart track for an indefinite period of time. (O-2013-93) Councilmember Whatley exits**

Motion by Councilmember Nix; seconded by Councilmember Mezayek; motion carried 6 - 0-1 & approved as presented.

**Z-3 Z10-13-069 CENTENNIAL LP (9098 SOUTH BROADWAY AVENUE)**  
**Request that the City Council consider approving a “PCD”, Planned Commercial District site plan amendment to allow for an electric go-kart track. (O-2013-94)**

Motion by Councilmember Nix; seconded by Councilmember Mezayek; motion carried 6 - 0-1 & approved as presented.

**Councilmember Whatley enters**

**Z-4 APPLICATION Z10-13-063 NATIONWIDE HOUSING SYSTEMS (5150 CHANDLER HIGHWAY)**  
**Request that the City Council consider approving a zone change from “C-2”, General Commercial, and “R-1A”, Single-Family Residential District, to “C-1”, Light Commercial District. (O-2013-95)**

Motion by Councilmember Bowdre; seconded by Councilmember Moore; motion carried 7 - 0 & approved as presented.

**Z-5 Z10-13-066 DALIA GUTIERREZ (2318 OLD GLADEWATER HIGHWAY)**  
**Request that the City Council consider approving a zone change from “M-2”, General Industrial District, to “R-MH”, Manufactured Home Residential District. (O-2013-96)**

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

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**Z-6 Z10-13-070 WACO DOUBLE J (3735 VAN HIGHWAY)**

**Request that the City Council consider approving a zone change from “C-1”, Light Commercial District, to “R-1D”, Single-Family Attached and Detached Residential District. (O-2013-97)**

Motion by Councilmember Bowdre; seconded by Councilmember Nix; motion carried 7 - 0 & approved as presented.

**Z-7 F10-13-097 JETTEXAS ACRES, FIRST AMENDMENT**

**Request that the City Council consider approving a plat for a two lot subdivision containing approximately 1.00 acre of land located at the northeast intersection of County Road 4203 and County Road 485, and a waiver of \$15,493 in escrow for street improvements.**

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

**MISCELLANEOUS**

**M-1 Request that the City Council consider authorizing the City Manager to execute public benefit/services agreements with the University of Texas Health Northeast Center and the Bethesda Health Clinic in Tyler in the amount of \$33,000 each.**

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

**M-2 Request that the City Council consider authorizing the City Manager to execute a Surface Use Agreement with Roosth Production Company for Oil and Gas Lease Exploration on City owned land located east of CR 398 adjacent to the Jackson Heights Addition.**

**Russ Jackson, Solid Waste/Vehicle Services Manager** – Stated that Roosth Production Company is an oil and gas operator with mineral leases on City of Tyler property, in the vicinity of CR 398, adjacent to the Jackson Heights Addition. The Solid Waste Department administers the subject tract as future landfill space.

Roosth Production Company has obtained leases on the subject Solid Waste tract of land where the City owns only the surface estate and is seeking to explore, drill and produce oil and gas on this Solid Waste tract. The Solid Waste Department has used attorney Richard Ring to assist with negotiating a surface use agreement that is protective of City interests in the surface estate.

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

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- M-3** Request that the City Council consider acceptance of the 2013 State Homeland Security Program (SHSP) Grant in the amount of \$100,925 and authorize award of the bid for construction of the Emergency Communication/Command Trailer to Satellite & Wireless Solutions in the total amount of \$301,925.

Motion by Councilmember Whatley; seconded by Councilmember Moore; 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 adoption of an Ordinance amending Tyler City Code Chapter 3, Civil Service Classification Plan, and the number of authorized Civil Service Positions by adding one new position in the Police Department for fiscal year 2013-2014 and two positions in the Police Department for fiscal year 2012-2013. (O-2013-98)
- C-A-2** Request that the City Council consider authorizing the City Manager to purchase one replacement Gradall Excavator.
- C-A-3** Request that the City Council consider adopting a negotiated resolution between the Atmos cities steering committee and Atmos Energy Corp., Mid-Tex Division regarding the Company's 2013 annual rate review mechanism filing in all cities exercising original jurisdiction; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement and finding the rates to be set by the attached tariffs to be just and reasonable; requiring the company to reimburse cities' reasonable ratemaking expenses. (R-2013-25)
- C-A-4** Request that the City Council consider ratifying staff action in the approval of a contract with Apex Geoscience, Inc. in the amount of \$59,142 for full-time construction inspection services.
- C-A-5** Request that the City Council consider ratifying staff action for acquisition of right-of-way and utility easements for the Cumberland Road project.

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

## **BOARD APPOINTMENTS**

- B-1** Request that the City Council consider approving the reappointment of Mr. Ron Shaffer to the Smith County 9-1-1 Communications District Board of Managers for a two year term ending on December 31, 2015.

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Motion by Mayor Pro Tem Heines to reappoint Ron Shaffer; seconded by Councilmember Mezayek; motion carried 7 - 0 & approved as presented.

**B-2 Request that the City Council consider making appointments to the Keep Tyler Beautiful Board and the Traffic Safety Board.**

Motion by Councilmember Whatley to appoint Breanna Taylor, Charity French, and Diana Wilt to the Keep Tyler Beautiful Board and J. Torey Nalbone to the Traffic Safety Board; Seconded by Councilmember Bowdre; motion carried 7 - 0 approved as presented.

**CITY MANAGER'S REPORT**

1. Monthly CIP Report (June 2014-Construction of Cumberland Rd., Rental Car Facility at Airport coming along, Quiet Zone progressing with Railroad)
2. Recognition dinner was held last night for the citizens volunteering on City Boards and Commission.

**RECESS FOR EXECUTIVE SESSION** – City Council convened into executive session at 9:39 am.

**Executive Item No. 1:**

Under Section 551.072 "Real Estate" deliberation regarding the following:

Discuss the purchase, exchange, sale, 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.

**Executive Item No. 2:**

Under section 551.087 "Economic Development" deliberation regarding the following:

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

**Executive Item No. 3:**

Under section 551.071 "Litigation" deliberation regarding the following:

1. Possible or contemplated litigation and settlement offer involving TJ Hospitality and The Yield Master Fund II, L.P., et. al.
2. Possible or contemplated litigation and settlement offer involving Sarah R. Mason v. James Suggs, Jr. et al. suit.


Any final action to be taken by the City Council will be taken in open session.

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City Council reconvened from executive session at 10:06 am with no action taken.


**ADJOURNMENT**

Motion by Councilmember Mezayek to adjourn the meeting at 10:07 am; seconded by Councilmember Nix; motion carried 7 - 0 & meeting adjourned.

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

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 the word "SEAL" in a large, bold, serif font, flanked by two stylized olive branches.