

**MINUTES OF THE REGULAR CALLED MEETING OF  
THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS  
March 27, 2024**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, March 27, 2024 at 9:00 a.m. in the City Council Chambers, 2<sup>nd</sup> floor of City Hall, Tyler, Texas, with the following present:

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| Mayor:                                  | Don Warren   |
| Mayor Pro Tem:                          | Brad Curtis  |
| Councilmembers:                         | Stuart Hene<br>Shirley McKellar<br>Broderick McGee<br>James Wynne<br>Lloyd Nichols |
| City Manager:                           | Edward Broussard   |
| Deputy City Manager:                    | Stephanie Franklin   |
| City Attorney:                          | Deborah G. Pullum  |
| Deputy City Attorney:                   | Steve Kean   |
| Senior Asst. City Attorney:             | Alesha Buckner   |
| Director of Organizational Development: | Regina Y. Moss   |
| Planning Director:                      | Kyle Kingma  |
| Chief Financial Officer:                | Keidric Trimble  |
| City Fire Chief:                        | David Coble  |
| City Librarian:                         | Ashley Taylor  |
| Police Chief:                           | Jimmy Toler  |
| City Engineer:                          | Darin Jennings   |
| Director of Utilities:                  | Kate Dietz   |
| Director of Parks & Recreation:         | Leanne Robinette   |
| Recreation Manager:                     | Kandice Johnson  |
| Manager, Wastewater Treatment Systems:  | Mike Norris  |
| City Clerk:                             | Cassandra Brager   |

**INVOCATION**

The Invocation was given by Mayor Pro Tem Curtis.

**MINUTES**

**Request that the City Council consider approving the minutes of the regular meeting of the City Council of the City of Tyler, Texas held on February 14, 2024.**

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

**AWARDS**

**A-1 Request that the City Council recognize the following Infants at Work participant for her program participation. She represents four months of service with the City of Tyler.**

**Cassidy Ingram, Infants at Work - Water Utilities, four months**

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**A-2 Request that the City Council recognize the following employees for their years of service and commitment to the City of Tyler. They represent 45 years of service with the City of Tyler.**

**Heather Nick, Assistant City Manager, 20 years of service  
Shawn Wilson, Fire Battalion Chief I, 25 years of service**

**PRESENTATION**

**P-1 Request that the City Council consider hearing a presentation and approving the Comprehensive Annual Financial Report for the fiscal year ending on September 30, 2023, as presented by Gollob Morgan Peddy.**

**Kevin Cashion, Gollob Morgan Peddy- Gave a brief presentation concerning the Comprehensive Annual Financial Report for the fiscal year ending on September 30, 2023.**

Motion by Councilmember Hene; seconded by Councilmember McKellar; motion carried 7 - 0 & approved as presented.

**ZONING**

**Z-1 PD24-004 BPI INC (3301 GOLDEN ROAD)  
Request that the City Council consider adoption of an Ordinance approving a zone change from "PMXD-1", Planned Mixed-Use District to "PCD", Planned Commercial Development District with a site narrative. (O-2024-30)**

Motion by Councilmember Nichols; seconded by Councilmember Wynne; motion carried 7 - 0 & approved as presented.

**Z-2 S24-003 JARVIS HOLDINGS LLC (3509 AND 3607 SOUTH SOUTHWEST LOOP 323)  
Request that the City Council consider adoption of an Ordinance approving a Special Use Permit to allow for an outdoor archery range. (O-2024-31)**

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

**Z-3 S24-001 HOLLY TREE PROPERTIES (3035 FAIRLAWN DRIVE)  
Request that the City Council consider adoption of an Ordinance approving a Special Use Permit to allow for an at-home day care with up to six children. (O-2024-32)**

Motion by Councilmember McKellar; seconded by Councilmember McGee; motion carried 7 - 0 & approved as presented.

**Z-4 Z24-002 WESLEY MARYION (1219 LOLLAR STREET)**

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**Request that the City Council consider adoption of an Ordinance approving a zone change from “R-MF”, Multi-Family Residential District to “R-1B”, Single-Family Residential District. (O-2024-33)**

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

**Z-5 Z24-004 JOHN WALTZ (1822 FERDELL STREET)  
Request that the City Council consider adoption of an Ordinance approving a zone change from “R-1B”, Single-Family Residential District to “R-1D”, Single-Family Detached and Attached Residential District. (O-2024-34)**

Motion by Councilmember Wynne; seconded by Councilmember McGee; motion carried 7 - 0 & approved as presented.

**Z-6 PD23-026 RAINWATER DAVID (2268 AND 2278 SUNNYBROOK DRIVE AND 1210, 1212, AND 1214 WEST 10TH STREET)  
Request that the City Council consider adoption of an Ordinance approving a zone change from “R-1A”, Single-Family Residential District to “PUR”, Planned Unit Residential District with a final site plan. (O-2024-35)**

Motion by Councilmember McGee; seconded by Councilmember McKellar; motion carried 7 - 0 & approved as presented.

**Z-7 Z24-005 SRPG TROUP LLC (0.36 ACRE PORTION OF 5012 TROUP HIGHWAY)  
Request that the City Council consider adoption of an Ordinance approving a zone change from “R-1A”, Single-Family Residential District to “C-2”, General Commercial District. (O-2024-36)**

Motion by Councilmember Nichols; seconded by Councilmember Wynne; motion carried 7 - 0 & approved as presented.

**Z-8 Z24-003 DRAKE EQUITY PARTNERS, LP (16.15 ACRES OF 2951 WEST GRANDE BOULEVARD)  
Request that the City Council consider adoption of an Ordinance approving a zone change from “AG”, Agricultural District to “C-2”, General Commercial District. (O-2024-37)**

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

## **ORDINANCE**

**O-1 Request that the City Council consider adopting an Ordinance amending Tyler City Code Chapter 8 relating to Glass Recreation membership fees. (O-2024-38)**

Motion by Councilmember McKellar; seconded by Councilmember McGee; motion carried 7 - 0 & approved as presented.

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- O-2 Request that the City Council consider the adoption of an Ordinance amending Tyler City Code Chapter 8 relating to the "Field Light Usage" fee schedule. (O-2024-39)**

**John Greenslade, Rose Capital East, 3400 Woodbime Blvd** – Was in attendance to listen concerning the amendments to the fee schedule.

Motion by Councilmember Nichols; seconded by Councilmember McKellar; motion carried 7 -0 & approved as presented.

- O-3 Request that the City Council consider the adoption of an Ordinance amending the Fiscal Year 2023-2024 Budget to provide funding to complete the Keep Tyler Beautiful Lindsey Park Improvement Project. (O-2024-40)**

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

### **MISCELLANEOUS**

- M-1 Request that the City Council consider authorizing the City Manager to award Bid No. 24-008 for the Lella Memorial to Smith Builders & Developers to furnish all necessary materials, equipment, superintendence, and labor in an amount not to exceed \$74,900.**

Motion by Councilmember McGee; seconded by Councilmember McKellar; motion carried 7 - 0 & approved as presented.

- M-2 Request that the City Council consider authorizing the City Manager to execute a professional services contract in the amount of \$10,939,680.00, with Garver, for the Westside Wastewater Treatment Plant Rehabilitation Project, which will include a Preliminary Design Report for all design phases and final design, bidding, and construction oversight for both Phase 1 improvements and an expedited sludge lagoon rehabilitation, and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt. (R-2024-18)**

Motion by Councilmember McKellar; seconded by Councilmember Hene; motion carried 7 - 0 & approved as presented.

- M-3 Request that the City Council consider authorizing the City Manager to execute a professional services contract in the amount of \$120,000.00, with HDR, Inc., for the Lake Palestine Water Treatment Plant Taste and Odor Study project.**

Motion by Councilmember Hene; seconded by Councilmember McKellar; motion carried 7 - 0 & approved as presented.

- M-4 Request that the City Council consider authorizing the City Manager to execute an Engineering Services Contract, in an amount not to exceed \$535,000, with KSA Engineers, Inc. for the Consent Decree Capacity Work Group 3 Alignment Analysis.**

Motion by Councilmember Nichols; seconded by Councilmember McKellar; motion carried 7 - 0 & approved as presented.

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**M-5 Request that the City Council consider authorizing the City Manager to execute an Engineering Services Contract Addendum 2, in an amount not to exceed \$60,700 with KSA Engineers, Inc. for the Consent Decree Group 5 Remedial Measures Implementation Addendum 2.**

Motion by Councilmember Wynne; seconded by Councilmember McGee; motion carried 7 - 0 & approved as presented.

**M-6 Request that the City Council consider authorizing the City Manager to execute an engineering agreement in the amount of \$1,811,346.00 with Halff for the design and construction phase services for the Upper Pressure Plane Elevated Storage Tank and Transmission Main project and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt. (R-2024-19)**

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

**M-7 Request that the City Council consider authorizing the City Manager to execute an engineering agreement in the amount of \$285,000 with Elledge Engineering for the design and construction phase services for the 2024 Water Main Improvements (2-Inch Replacement) project and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt. (R-2024-20)**

Motion by Councilmember Wynne; seconded by Councilmember Nichols; 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 abandon a sanitary sewer easement across the UT Health Medical Building, NCB 679-F.**

**C-A-2 Request that the City Council consider authorizing the City Manager to execute Contract Amendment No. 2 with KSA Engineers, Inc. for additional construction services associated with the construction of improvements that exceed the construction contract time stipulated in the previous contract amendment for the Southside Wastewater Treatment Plant Chlorination/Dechlorination Improvements project in the amount of \$49,000.00.**

**C-A-3 Request that the City Council consider authorizing the City Manager to declare the designated vehicles from Vehicle Services, Water Treatment, and Police Department as surplus and ready to be auctioned.**

**C-A-4 Request that the City Council consider authorizing the City Manager to purchase a backhoe to replace unit 15402 for Street Department and 15459 for Waste Collection from Doggett through Sourcewell Contract 032119-JDC for a total purchase cost of \$262,148.38.**

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- C-A-5      **Request that the City Council consider authorizing the City Manager to ratify an expenditure in the amount of \$77,005.87 to JWC Environmental Inc. for the repairs to the Westside Wastewater Treatment Plant influent fine screen.**
- C-A-6      **Request that the City Council consider authorizing the City Manager to ratify staff action for adoption of the Operations and Maintenance Plan and maintenance easement for the Rosewood Senior Villas detention pond located at 2929 Calloway Road.**
- C-A-7      **Request that the City Council consider authorizing the City Manager to declare certain City of Tyler TV 3 studio equipment as surplus and ready to be auctioned.**
- C-A-8      **Request that the City Council consider authorizing the City Manager to execute the replat of Lot 3-A in the Southpoint No. 1 Subdivision at Lake Tyler.**

**Kate Dietz, Director of Utilities** – Stated that all of this would probably be explained during the process of the Mayor calling citizens up to speak. This is just a replat that was requested of my office to look at potential replat of the 378 MSL line and that's at Lake Tyler. That's the line, the shoreline that's along. So, it's just a property line replat. There was a space up near the road between these two properties previously. There was a dispute between the two parties, the two lessees, about where that fence should go because there was a gap between the two of them. One of them wasn't happy with the placement of the fence. And so, I thought that this replat could potentially resolve that issue. Because we'd have clear delineation whose property went to where. And so that's why, the replat was presented to you.

**Natalie Osborne. 17790 South Point Road in White House, TX 75791.** Thank you for letting me speak today. I did bring some things if you have any questions. Sorry. I'm a little bit nervous. I had put some notes in my phone and, of course, my phone died. So anyway, we're going to wing it. Is that okay? So, I know, Ms. Deitz kind of explained why we decided to replat. We purchased the property, two and a half years ago. And, we received the plat whenever we purchased it. It was from 1999. Honestly, we didn't look much to the plat. We just received it and that was it. Anyway, the plat was brought to our attention, and so we wanted to have the City look at it. So, we set a meeting with Mrs. Dietz and Mr. Hassell and went over that 1999 plat. Well, we all realized that there was a lot of extensive work done to that property by the previous owners, not us, that would probably change the trajectory of the lot itself because of the way the lake works and that cove and everything. And so, they actually suggested to me that I have a surveyor resurvey it, so we could see what was going on. The previous owner actually put in a seawall and backfilled a whole lot of dirt from that seawall. I had emailed her and asked what all she had done, and I've got that printed for you all. But she explained that she had put a lot of dirt back there and raised the property and all this stuff. So therefore, it makes sense to look at the resurvey, so we did. And it was resurveyed and sure enough, it was different. And so the surveyor presented that to Mrs. Dietz and she approved it. And we really felt like it would do 2 things. (1) this property is just really strange. We actually live in a boathouse. We don't have a house on the property and by making this plat current it will actually benefit the Southpoint Subdivision because it will give us some room to or somebody some room to possibly build a home on that property. And if it's not re-platted, that possibility is probably not there. And then the other thing that it will do is, Ms. Dietz mentioned that there is just a weird gap that none of us

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knew what it was on the 1999 plat. It's a plat and it shows the gap is so little, you can't even hardly see it. So we were really not even aware of it. But once we started looking at it, no one knew what it was. And we tried to get explanation of what it was, by talking with, Lake Authority and by talking with Mrs. Dietz. And it was explained to us that nobody really understood what that gap was, but there was, evidence of there being a drainage area there at one time. And so there is communication from the City Council actually back in 1999 that explains that drainage area was there basically our side of the property. And so anyway, that's the reason why we are trying to replat it. So I have some things that you all would like to look at, but I'm here really just for questions because our goal is to get this resolved. We have wonderful neighbors. We have loved being beside them for the last two years and definitely don't want to cause any conflict. It was brought to all of our attention when he decided to put up a fence, and none of us were aware of it.

**Nikki Baker-17730 Southpoint, White House, Texas.** We've lived at the residence for 12 years.

**Hank Baker:** I'm probably speaking a little slower, but okay. Alright. First off, good morning again. Hank and Nikki Baker, we're neighbors over there. We have a very good relationship. The issue here, I want to start off with is that on the replat request that came up, and we didn't see this until Friday when the agenda was published. But the replat request has some land that is previously to the City is now allocated towards the applicant and that's where we take issue. We don't understand why that area, which has been a drainage area, would be that way. (Mr. Baker showed a plat on the overhead projector and asked Council to look at it) The highlighted area on the plat was given to us by Joseph Pollard. He actually talked to both of us last Fall and clarified that, yes, there is a gap potentially in there between the two because this is an important drainage area. It's roughly about 15 and a half feet. Okay? If you look next on their replat request, it's a little bit hard to see, but the very top right that's up there, that there is, we see there's no gap that winds up being there. That's where their surveyor has incorporated what we call the City land. This strip of land has been in there between us has incorporated that into theirs. Now Mr. Pollard was asked about if there were any discrepancies earlier when this 1999 plat was done specifically, and he answered to both us and the Osbornes that no. Yeah, there were some internal discussions. The decision didn't work. There were some internal discussions with the City Council at that time about whether that should be included in one part or the other. Obviously, the City Council decided not to, and that's why the plat was approved the way it is. And it's an important drainage area that that we'll wind up showing to you here in just a second. Now a couple of things I want to clarify really quick, some information about how stuff is done on the lake. The lake elevation is 376. The next important concept is an elevation of 378. On the 378 elevations, that's where the City says your land that you own, your legal property is between that 378 up to the road frontage, and then below the 378 is City land, okay, all the way to the lakeshore. Now you're still entitled to use that land, potentially fence that land if you want to. In fact, they still want you to take care of that. Okay? But that is deemed to city land. So, 378 elevation becomes very important from a proper line standpoint, but not from a use standpoint. You can use the property that is below the 378 for your own benefit. You cannot build on it or anything, but you can use it for your benefit as if you owned it. So when we showed this survey request to Mr. Matus, Monday, his first question was, well, why what's the justification for including this city land that previously was not on anybody's plat and now beyond the new re-plat request. So, we're at a loss for that. There's maybe a float that there was a change in the elevation, but at the same time, we're kind of going, why does

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that even exist? Again, this is an important drainage area in here. And one reason why I think it's really important from a policy standpoint is that now you're talking about this is previously city land. If you allocate it to any one person, then they start to have the rights for this land, including potentially the opportunity to fence this land and encumber them the entire city property. So we have a concern about that. Let me show you just real quick some thoughts about the about the drainage.

**Nikki Baker:** You can see in Exhibit 3, the proximity of the City land to our land and to our neighbor's land. So the City land is that highlighted brown part. To the immediate left of the City land is our driveway, and to the right, further down is our neighbor's driveway. So you can see why we have such a vested interest in this City area. Even though it's only 15 feet, it's literally in our front yard. We took pictures probably about 10 years ago. The City land we're referring to, this is how it appeared 10 years ago. This overgrown area that you see behind our chain link fence, that's our chain link fence in the overgrown area. Really the drainage there was terrible. It stayed swampy. You can see under our chain link fence, that's basically how it looks on the City land. This is another just closer picture of the same area. Again, that's our chain link fence to the left. The overgrown part is what we're referring to as the City land. The mysterious part that we don't know what to do with it, we had permission at that time with the overgrown area. We started working closely with the lake Authority. At that time, it was James Weaver and Robert Hassell on ways to improve the drainage for our neighbors, for us, and for the City land. Basically, all the water on Southpoint drains down through our front yard and through the City lands. Now, this picture, pardon the children, but this is after a large rain You can see the amount of water that we're actually talking about. The water coming through this drainage ditch goes through our front yard. The water on the side on the right is the water coming through the City land after we've already cleared the land. You can also see that we had permission from James Weaver from Lake Authority to extend our chain link fence across the City land, this is 10 years ago, and connect to our previous neighbor's, column. This is actually after the chain link fence, we did a major remodel on our home, and part of the remodel was removing the chain link fence.

**Hank Baker:** So, where it comes down to it is if you look at the permitting pipes that are out there, this is where the fencing issues should be. Part of the issue is if you wind up allocating some of the land, then you have pits and issues that are also there.

**Mayor Warren:** Okay. Thank you. Do you all have any questions for the Bakers?

**Councilmember Wynne:** Hank, you said you all lived there 12 years and you all have been maintaining this because it is at your front door. So, we appreciate you all taking care of that.

**Nikki Baker:** Can I say blood, sweat, and tears? Like, we have been maintaining it.

**Mayor Warren** -So what questions do we have? I mean...

**Hank Baker:** I don't I mean, I thought what our recommendation would be is that the City land, I think it's really important from a City policy standpoint is that the City retain the use of this land. There's no reason to allocate this drainage land to any one property owner or the other. And if you wind up allocating to one or the other, then you're starting to take sides by who gets it. And the other aspect would be how you consider abandoning them, which in essence, if you wind up giving the same property to somebody, well, then they have the right



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to use it again from the road probably all the way down. So, if you want to go there, that's a different discussion. I think the simple thing is that right now, the City just winds up saying our best policy is we need to retain our land. We don't change property owners. You don't get into fencing issues. It's very straightforward if you just keep your land.

**Mayor Warren:** So, Kate, does the staff have a recommendation on this?

**Kate Dietz, Director of Utilities** - I mean the sides that have been presented. We originally recommended the replat. But based on the opposition, really, it doesn't matter one way or another to City staff because this land that we're talking about remains City property between the two leaseholds. So, we still will maintain ownership of that property. So, in all honesty, if you want to reject the replat, that's fine. If you want to go with the replat, that's fine as well. It doesn't really change the City's stance on it.

**Mayor Warren** - So you're saying it doesn't matter if we accept the plan or reject the plan, the City is still going to have ownership of that strip?

**Kate Dietz, Director of Utilities** - Yes. And we have full control over...

**Mayor Warren-** We'll be clear.

**Kate Dietz, Director of Utilities** - This strip, okay. One thing to note, though, is this is all the City's property. This is leasehold property. Nobody owns the land. We own the land as a city. So, this 15-foot strip that we're talking about, is just up at the fence line. It's mere square footage. It's not a massive amount of land that we're transferring over.

**Mayor Warren:** It's not part of the lease right now?

**Kate Dietz, Director of Utilities** - Right now, it is not a part of the lease. Correct.

**Natalie Osborne:** The leasehold property.

**Edward Broussard, City Manager** -: It can't be built on?

**Kate Dietz, Director of Utilities** - No. And even this replat really doesn't help much in building on this piece of property. It's a very difficult, piece of property to build on due to the 100-foot setback that is required.

**Deborah Pullum, City Attorney** - There are a lot of different interests out there at the lake, including leasehold, City's property and then the different, regulations and requirements that the City has on different pieces of property. That can range depending on where the property is located, how it's located, by the 380-foot line. And so, it can be more of a complicated issue. And that is why we always have a review of what if someone is wanting to do something on a piece of property that is either in the leasehold or in the leasehold that is a part of what City controls more strictly. It has to go through, the Water Department and the Director in order to determine, you know, what they can do, when they can do it, and how they can do it. And specifically on the property that is below 378. And so there are a lot of issues with respect to that. That's what I wanted to say. It's not cut and dry, not truly black

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and white, but what Kate said is absolutely correct that all of it is City property and the City has the ability to regulate it as it needs to.

**Councilmember Wynne**: So, Deborah, are you saying that we should possibly table this to further study it, or that it's complicated lake property and it's sometimes a little bit of the Wild West at the lake.

**Deborah Pullum, City Attorney**: It is complicated, as it stands now. I am not uncomfortable with, the recommendation of the Water Director that as it is now, it could stay because that is fine. If you are considering any changes, which, the replat might do, then I would feel, more comfortable if it was tabled. If you are deciding and thinking that, as it is now, which is the recommendation that Kate has given you, and you reject the replat, it is as it is, and that is fine.

**Councilmember Nichols** - I think we're having the same conversation that Council had years ago, where they recommended leaving it because we said that it's been before Council before years ago. And they left it because we need to own that drainage, have good access, and no complication. We owned it anyway. So why even cloud it?

**Councilmember Wynne**- Kate, on this, it's 15 feet. Why would it not be offered to both of the leaseholders? Let lessees since it's right in between them.

**Kate Dietz, Director of Utilities** - Well, it's not really property that anything can be done with. And all that was like when, really, it was just trying to straighten out a fencing issue. We tend to get involved in a lot of these disputes out of the lake. And so, it was just based on Ms. Osborn coming to me. I was not aware of the opposition from Mr. Baker until just recently.

**Deborah Pullum, City Attorney**-When we talk about offering, obviously, we're looking at a sale of city owned property, but with that out at the lake, it's pure leasing. And so we don't normally look at, you know, offering one or offering the other. Wherever the plat has originally been, that has worked, that's where that lot is. We do get, occasionally requests from the, lease holders to change that, and we usually just look at that change, in focus unless a neighbor comes forth with opposition. That answer?

**Mayor Pro Tem Curtis**: What's the size of this property again?

**Kate Dietz, Director of Utilities** - Well, it was the size of the entire property.

**Mayor Pro Tem Curtis**: No. The area in question.

**Kate Dietz, Director of Utilities** - Well, it's 15 feet.

**Nikki Baker**: The area is 15 and a half feet, which the City owns, and we're not even requesting that it be given to us. We think it's in the City's best interest to maintain control of this simply because it is such a drainage issue, for our front yard and for the City. And we planned to live in SouthPoint for the rest of our lives, but we don't know. Perhaps we sold our house. Well, the next people just like Osbornes who bought the property wouldn't know

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the history of the property, wouldn't know how much work had gone into the drainage, and may end up trying to, I don't know, do something else with the property.

**Hank Baker:** And I'm going to clarify, so if you look back over here just real quick, so if you see those firming flags that are out there, the one supposed to be the fence is putting a survey put up. One on the right side is the Osborn's property line. One on the left side is ours.

**Mayor Pro Tem Curtis:** So, it's that gap that we're talking about. That is that gap.

**Hank Baker:** So the issue this is with the picture within the City, with the lake, you know, which is an important, I said, unique aspect of some of the lake. Like, now it's your time to fence generally from your property corner to the lake. I pass them to the 370. They use their property line or we use our property line, nobody has the right to put a fence around the City land. If anybody is allocated then the property at the road frontage, even though it's a few feet of road frontage, then they have that property owner has a right of use below the 378 line, which would include running the fence down that way. Now Mrs. Dietz has appropriately said she's adamant that will take place, and I fully appreciate her commitment to that aspect, but the custom is that your property court order is allowed to do that. So that's what the change becomes. We don't want anybody to be able to encumber that property into their own.

**Mayor Warren - Kate,** did you have something to say, then Ms. Osborne you can come back up.

**Kate Dietz, Director of Utilities -** So just quickly, two points on that. Just because it's custom and it does happen does not mean that it will be allowed to happen. And this property that we've spoken of is very different, than most properties. I'm trying to go back to the plat to show you. Okay. In the picture, it appears that the drainage ditch is going to be allocated to that leasehold, on the right. It is not. You can see on the replat that you have. It's the 15-foot. That whole drainage ditch that belongs to nobody but the City. And it's not in the lease. It's not in the replat. I just want to be clear on that as well. Okay.

**Deborah Pullum, City Attorney -** We have been through this in some recent litigation where, it's always been the City's position that the leaseholder owns what is on the lease survey boundary is what is on that. And everything else is within the City's control. And primarily, we strictly control what is below the 387.

**Mayor Warren -** Ms. Osborne, did you have anything else to add? I see you back there with your hand up.

**Natalie Osborne -** If you looked at the papers, one of my questions is, if you look at the plat, what we're talking about is on our plat. This replat actually has nothing to do with the Bakers' property. The Bakers' property line is very clear of where their property line is. And so everything that we're talking about is not on their side of their property line. And so, I gave you what we got when we closed that showed our property. But I also showed you or, I gave you this, that he also gave you what Matus gave us. And if you'll note, it's marked, Matus highlighted it and put this footage there because I had called him and I said, as far as I know, you're not supposed to have an unplatted area on a plat, and this is on our plat. If you look at his plat, it's not on his plat. The unplatted area is not on the Bakers' plat. It's on our

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plat. And so I did ask him about that, and he wrote that 15 foot in there. And that was one of my questions with Mrs. Dietz is that, you know, that is a concern because as long as that unplatted area is there, there's always going to be a question about where the property is and who has access to that 378. If you look at the last picture on the Bakers' property, there used to be a chain link fence that divided the two properties. And, I did include an email from Mrs. Medley Urbene that she emailed me and explained to me because, of course, I didn't know the history on the property. So she explained to me that the Bakers had called and asked her if they could take down the fence, because they did do some more work in that area. And then I also showed a picture of what the property looked like when we bought it. That drainage area was still very treed right there. And we had cleaned that up. And I showed a picture of my husband out there cleaning it up as well. So, we've done work out there as well. And, of course, I really appreciate all the work that the Bakers did before we purchased the property. But I know, similarly, we have a neighbor that recently had this property for four years, and he had put a lot of expense into it, putting a tree line of evergreen trees down his property line, he thought. Basically, what happened is that people bought the property next door. They came and surveyed it and found out that it wasn't his property line. Even though he had taken care of that property, put a lot of money into it, they didn't give that property to him. It was still that other person's property. And this is the City's property. Every lake lot, if you look, if you're not familiar with lake property, it can get very confusing. And one of the reasons why it can get confusing is that everybody has 378 property completely around their property. That is like but we have access to that property. And just because I pick up trash and stuff like that on the Bakers' side of the cove, it wouldn't give me the right to go over there and utilize that 378 property that's in their area. And so, you know, like I said, this replat doesn't affect him. It's on the other side of his property line.

**Mayor Warren:** Okay. Thank you. Alright. Thank you all. We're going to make a decision up here. Okay.

**Councilmember Wynne:** Just a question for you. Should we look at tabling this today so that we can get a better idea of what we're going to potentially do on the replat so that we're not doing what the Council did in 1990 and kind of pushed it down the road? Or are we better off to deny the replat, leave everything as is, and move forward?

**Deborah Pullum, City Attorney -** If I may, I would, if given that, it sounds like there are complicated issues in terms of interest in what the City's history or what the future needs to be about that piece of property that is drainage, that may take us longer than, tabling it today and bringing it back, within a couple of weeks or a couple of months even. And so, we'd like some time to review it. And, as in terms of status quo right now, that is a reasonable place for it to stay until we look at the issue.

**City Manager, Edward Broussard:** If I get to the point where, you know, staff time spent on this piece of property, you know, right now, the status quo of it is, you know, for staff and this is where Kate kind of came up and talked about the fact that we, you know, between these two property owners, you know, we have, you know, no interest in anything other than kind of the status quo as is. And so, you know, the question of tabling, like, is there any type of any resolution between what is now kind of a neighboring dispute on the property versus just leaving as is, with the denial, which is kind of, you know, ultimately, a denial gets you to the point of where, you know, you're able to go spend time and focus on the stuff that, you

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know, the other all the other water and wastewater items, that were approved today. And this one kind of stays as is.

**Councilmember Hene-** Mr. Mayor, I make a motion to deny it because, I believe the applicant, if there is future study, they could come back and ask for a replat later. And so that way, that needs to be tabled indefinitely. So, I'm going to make a motion to deny the request to replat.

Motion by Councilmember Hene to deny C-A-8; seconded by Councilmember Nichols; motion carried 7 - 0 & item denied.

Motion by Mayor Pro Tem Curtis to approve C-A-1 through C-A-7; seconded by Councilmember Hene; motion carried 7 - 0 & approved as presented.

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

1. Renovation with decomposed granite and fresh sod in field six at Golden Road Park, has been complete as of March 20th. Baseball season is in full swing as you all had a great conversation about today. The Rose Capital East Little League posted to their Facebook the following message yesterday. We always appreciate when they kind of give us a shout out. "You may have noticed over the last few weeks that our 5-pitch field has been getting some work done. The resurfacing of the 5-pitch field is the latest improvement to the Rose City East Little League facilities at Golden Road and make possible through our amazing partnership with the City of Tyler. While the five pitch isn't quite ready to play on, the City has installed base anchors and a temporary fence on field two to ensure there is no interruption to our season. We are so thankful for the City's support of Rose City, East Little League, and all the baseball players that come through our programs. And we can't wait to see the leagues hit the dirt, on the 5-pitch field soon." And so, that goes, you know, it's earlier today, you, like I said, you had the baseball out here and they really are, it is a great partnership that has been developing and always something we're glad to know that.
2. The Tyler Pounds Regional Airport achieved a Zero-Discrepancy FAA inspection today, always glad to know how safe things are out there.
3. A major thing that kind of happened that we've been getting a lot of gratitude on and something the Council has been taking action over the past year on, which was the opening of the Grande Boulevard and Old Noonday traffic signal, making that operational. And so, last or two weeks ago, the traffic signal at West Grande in Old Noonday was turned on and is running full colors for all approaches. There are still some work outages being completed, but the intersection has been operating as signalized, and this will provide increased safety to motorists through the area. And like I said, we've already been receiving just multiple thanks, from the neighbors and residents that are in the area for making that happen.
4. And this is the season of the year where there are some exciting things happening, last week the Azalea Trail kicked off. The Mayfair grand opening is scheduled for Thursday, April 4th at 5:30 We will have the Tuxedo Cats performing. There'll be food. There'll be dancing. The Mayor will be leading that. And it is, we are very just excited about this, and getting it up and operational, and having it open to the community. In fact, for the Council, immediately after this, we invite you to go over to the Mayfair building where we'll give you a tour so you all can get a special behind the scenes.

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5. And then the solar eclipse happens on that Monday, April 8th. You can go get your glasses. And sometimes I'm very proud of staff looking at opportunities to how we can kind of make some revenue off of this. Go get your glasses for \$2 a pair at the downtown business center.
6. We have the silent disco over at Pollard Park. Councilman Curtis will be over there leading that dance. Of, where, you know, people could sign up. I think it's \$10 an hour to go do your silent disco. And so, we're kind of really excited about this, especially Councilmember Curtis dancing. And then, of course, we'll have on April 8, the actual eclipse date itself. That ends at the square. And then, Chief Coble will be leading the emergency operations center, to where we're making sure that we don't have any incidents or problems, during the eclipse, especially immediately afterwards with kind of the traffic issues we're expecting.

**EXECUTIVE SESSION**- City Council convened into executive session at 11:01 am

The City Council may go into Executive Session regarding any item posted on the agenda as authorized by Title 5, Chapter 551 of the Texas Government Code. Notice is hereby given that the City Council may go into Executive Session in accordance with the following provisions of the Government Code:

Under Tex. Gov't Code section 551.074 "Personnel Matters" deliberation regarding the following:

The employment, duties and evaluation of the City Manager.

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

City Council reconvened from executive session at 11:13 am with no action taken.

**ADJOURNMENT**

Motion by Councilmember McKellar to adjourn the meeting at 11:13 am; seconded by Councilmember Hene; motion carried 7 - 0 & meeting adjourned.

  
DONALD P WARREN, MAYOR OF  
THE CITY OF TYLER, TEXAS

ATTEST:

  
CASSANDRA BRAGER, CITY CLERK

