

**MINUTES OF THE
REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
November 13, 2019**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, December 11, 2019 at 9:00 a.m. in the City Council Chambers, 2nd floor of City Hall, Tyler, Texas, with the following present:

Mayor:	Martin Heines
Mayor Pro Tem:	Bob Westbrook
Councilmembers:	Linda Sellers
	Don Warren
	Broderick McGee
	Shirley McKellar
	Criss Sudduth (Absent)

City Manager:	Edward Broussard
City Attorney:	Deborah G. Pullum
Deputy City Attorney:	Steve Kean
Sr. Assistant City Attorney:	Sharon Roberts
Assistant City Attorney:	Regina Moss
Managing Director of Administrative Services/HR:	ReNissa Wade
City Fire Chief:	David Coble
Police Chief:	Jimmy Toler
Compliance Engineer:	Paul Neuhaus
Managing Director of Culture, Recreation and Tourism Services:	Stephanie Franklin
Managing Director of Planning & Economic Development:	Heather Nick
City Engineer:	Lisa Crossman
Director of Utilities:	Jimmie Johnson
City Clerk:	Cassandra Brager

INVOCATION

The Invocation was prayed by, new teaching Pastor, Michael Gossett of Green Acres Baptist Church.

MINUTES

Request that the City Council consider approval of the Minutes of the regular meeting of the City Council of the City of Tyler, Texas held on September 11, 2019.

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

AWARDS

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- A-1 Request that the City Council consider accepting the “Certificate of Achievement for Planning Excellence” from the American Planning Association – Texas Chapter.**

Heather Nick, Managing Director of Planning & Economic Development - Presented City Council with the Certificate of Achievement for Planning Excellence” from the American Planning Association – Texas Chapter. Heather also recognized Michael Howell for passing the Planning Certification exam.

PRESENTATION

- P-1 Request that the City Council consider receiving a presentation from Kimley-Horn and Associates, Inc. regarding updates on the status of the Citywide Intelligent Traffic System Study.**

Kent Kacir, Kimley-Horn and Associates - Gave a brief update on the status of the Citywide Intelligent Traffic System Study.

ZONING

- Z-1 PD19-032 JOHNSON DEVELOPMENT LLC (428 CENTENNIAL PARKWAY) Request that the City Council consider approving a “PCD”, Planned Commercial Development District site plan. (O-2019-95)**

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

ORDINANCE

- O-1 ZA19-003 Unified Development Code Request that the City Council consider adopting an Ordinance amending the Unified Development Code in Tyler City Code Chapter 10 by re-adopting development and zoning-related fees, and also removing the Fees section from the Planning and Zoning Commission review process that applies to zoning amendments. (O-2019-96)**

Motion by Councilmember Warren; seconded by Councilmember Sellers; motion carried 6-0 & approved as presented.

- O-2 Request that the City Council consider adoption of an ordinance accepting a Texas Department of Transportation (TxDOT) Routine Airport Maintenance Program (RAMP) Grant totaling \$50,000 for general maintenance programs at Tyler Pounds Regional Airport and amending the FY 2019-2020 Airport Budget to provide the funding for the City’s local share. (O-2019-97)**

Motion by Councilmember McKellar; seconded by Councilmember McGee; motion carried 6-0 & approved as presented.

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- O-3** Request that the City Council consider adoption of an ordinance amending City Code Chapter 14 to add new definitions of “Adequate Food, Water, and Shelter;” “Necessary Veterinary Care;” and “Sanitary Conditions;” and creating the Class C misdemeanor offense of “Animal Neglect,” which holds persons in control of animals responsible for providing conditions to ensure proper animal care. **(O-2019-98)**

Motion by Councilmember Warren; seconded by Councilmember Sellers; motion carried 6-0 & approved as presented.

- O-4** Request that the City Council consider authorizing the City Manager to execute a Services Agreement with Fire Recovery USA, LLC, for the purpose of performing billing services in connection with motor vehicle incidents and other emergency and non-emergency incidents at which the Tyler Fire Department provides services, approving and authorizing certain fees associated with such billing services, and also consider adopting an Ordinance amending Tyler City Code Chapter 6 to establish such fees for billing services. **(O-2019-99)** *(Note: Mayor wants the Ord to make clear these fees will only be charged to an insurance co. that is responsible for the claim)*

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

MISCELLANEOUS

- M-1** Request that the City Council consider awarding the Medical and Pharmacy Stop-Loss contract to Berkshire Hathaway for the calendar year starting January 1, 2020.

Motion by Councilmember Sellers; seconded by Councilmember McGee; motion carried 6-0 & approved as presented.

- M-2** Request that the City Council consider awarding the Employee Long Term Disability Benefit contract to The Standard for the calendar year starting January 1, 2020. (pulled from the agenda)

- M-3** Request that the City Council authorize the City Manager to enter into a consulting services agreement with Fitzpatrick Architects in the amount of \$1,596,800 and ratify previous expenditures of \$46,267 of that total to develop a design, construction plans and construction oversight for the purpose of building Phase I of the Rose Complex Master Plan.

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

- M-4** Request that the City Council consider authorizing the City Manager to approve a reconciliation change order in the amount of \$10,269.84 and the release of final retainage to Reynolds and Kay, Ltd. for the 2019 Seal Coat Program Project.

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Councilmember Sellers - Stated that she would like to see staff work on timing repair work on streets before the seal coat goes on said streets.

Motion by Councilmember McGee; seconded by Councilmember McKellar; motion carried 6-0 & approved as presented.

M-5 Request that the City Council authorize the City Manager to sign an agreement with Oncor Electric Delivery Company for street lighting for the Martin Luther King Jr. Boulevard Project in the amount of \$68,577.59.

Motion by Councilmember McKellar; seconded by Councilmember McGee; motion carried 6-0 & approved as presented.

M-6 Request that the City Council consider authorizing the City Manager to execute a construction contract with Reynolds & Kay, Ltd. for the construction of the Brynmar Addition Drainage Improvements in the amount of \$427,266.00.

Philip Chacko, 5709 Plantation Drive, - Spoke in favor of City staff and its outside consultants for listening to and addressing his concerns about the possible drainage effects of the performance of the item. He thanked the professionalism of Lisa Crossman and Brannon Corporation.

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

M-7 Request that the City Council consider authorizing the City Manager to execute a construction contract with CFG Industries, LLC for the construction of the Troup Highway Standpipe Rehabilitation in the amount of \$936,507.50.

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

M-8 Request that the City Council consider authorizing the City Manager to award the construction contract for the Martin Luther King Jr. Improvements Project to the lowest bidder, South Texas Illumination, LLC in the amount of \$1,528,495.64.

Motion by Councilmember McKellar; seconded by Councilmember McGee; motion carried 6-0 & approved as presented.

RESOLUTION

R-1 Request that the City Council consider adopting a Resolution committing the City to participating in an equivalent-match program for the repair of the Whittle Street bridge and to authorize the Mayor to execute an Advanced Funding Agreement (AFA) with the Texas Department of Transportation (TxDOT) for the Shiloh Road Channel Reconstruction project to serve as the local match participation. (R-2019-59)

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

- R-2 Request that the the City Council consider authorizing the City Manager to execute an Engineering Services Contract, in an amount not to exceed \$1,232,000, with KSA Engineers, Inc. for the Wastewater Collection System Consent Decree Group 2 Remedial Measures Implementation Project, and to approve a resolution reserving the right to reimburse expenditures with proceeds of future debt. (R-2019-60)**

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

- R-3 Request that the the City Council consider authorizing the City Manager to execute an Engineering Services Contract, in an amount not to exceed \$500,000, with KSA Engineers, Inc. for the Consent Decree Program Management Assistance Project, and to approve a resolution reserving the right to reimburse expenditures with proceeds of future debt. (R-2019-61)**

Motion by Councilmember Warren; seconded by Councilmember McKellar; motion carried 6-0 & approved as presented.

- R-4 Request that the City Council consider adopting a Resolution authorizing the City Manager to execute an Agreement for a Local On-System Improvement Project (LOSA) with the Texas Department of Transportation (TxDOT) and consider authorizing the City Manager to execute a separate Developer Agreement with Noble RE, LLC for traffic improvements on South Broadway, north of Loop 323. (R-2019-62)**

Motion by Councilmember Sellers; seconded by Councilmember McGee; motion carried 6-0 & 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 execute the first renewal option for a three-year period from September 1, 2019 through August 31, 2022 for Agricultural Lease at the current rates as set forth in the lease for Johnny Oden at Tyler Pounds Regional Airport.**
- C-A-2 Request that the City Council consider naming the Shade Garden, Idea Garden, Sunshine Garden, and Heritage Garden to the the Tyler Botanical Garden at the Tyler Municipal Rose Garden.**
- C-A-3 Request that the City Council consider naming Softball Field #2 at Lindsey Park the "Larry Brown Field."**

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- C-A-4** Request that the City Council consider authorizing the City Manager to purchase a Tymco street sweeper from the selected vendor through HGAC as part of the Fleet Replacement program for FY2020.
- C-A-5** Request that the City Council consider and approve a resolution authorizing an engagement agreement for bond counsel legal services associated with utilities fund debt issuances with Norton Rose Fulbright US LLP and other matters in connection therewith. **(R-2019-63)**
- C-A-6** Request that the City Council consider ratifying the purchase of additional Pour and Play surface material, in an amount not to exceed \$24,960.00, by Child's Play, Inc. for the Southside Park playground project.
- C-A-7** Request that City Council consider ratifying an expenditure in the amount of \$132,692.90 for the Mandated Water Quality Assessment Fee to the Texas Commission on Environmental Quality.
- C-A-8** Request that the City Council consider approving the 2019 Certified Property Tax Roll.
- C-A-9** Request that the City Council consider authorizing the City Manager to execute the first renewal option for a five-year period from January 1, 2020 through December 31, 2024 for corporate hangar/operator lease at the current rates as set forth in the lease for Dixie Hangar, LLC at Tyler Pounds Regional Airport.
- C-A-10** Request that the City Council consider authorizing the City Manager to execute the first renewal option for a five-year period from January 1, 2020, through December 31, 2024, for the (non-profit) lease at the current rates as set forth in the lease for Dixie Volunteer Fire Department at Tyler Pounds Regional Airport.
- C-A-11** Request that the City Council consider authorizing the City Manager to ratify Change Order No. 1 with W.M. Miller Construction for the additional work on the Fleishel Avenue Drainage Improvements project, increasing the total contract amount by \$124,905.51.
- C-A-12** Request that the City Council consider adopting a Resolution authorizing staff to file an application with the Texas Parks and Wildlife Department (TPWD) for a Community Outdoor Outreach Program (CO-OP) Grant and authorizing the City Manager to take all actions needed to receive and expend grant funds. **(R-2019-64)**
- C-A-13** Request that the City Council consider adopting a Resolution authorizing staff to file an application with the Texas Parks and Wildlife Department (TPWD) for a Local Parks Non-Urban Outdoor Recreation Grant and authorizing the City Manager to take all actions needed to receive and expend grant funds. **(R-2019-65)**

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

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CITY MANAGER'S REPORT

1. The City and Union Pacific Railroad (UPRR) received notification from the Federal Railroad Administration on Tuesday (10/29) that the City's Quiet Zone was back in compliance. However, staff received notification from UPRR this morning (Friday, 11/1) that they have an issue with the sidewalk that was installed on Palace Avenue in front of the car lot and will not consider the Quiet Zone in compliance until the sidewalk is addressed. Staff does not yet know exactly what they are going to require from the City in order to address their issues with the sidewalk, and we are awaiting further information from them by email.
2. The Public Works Roundup – A monthly project update was posted as a video report for October. Production for the November Roundup is complete, and it should be posted to our YouTube channel soon.
3. Heather Oswald with the Library provided great customer service with an expression of empathy while waiting on a patron who was applying for a library card. The patron stated she had just gotten out of jail and could not wait to come to the library and check out books, to which Heather responded "Welcome Home". Imagine how much that must have meant to someone who had just gotten out of jail. How often do you think they hear that? This kind response was not lost on the patron as the patron beamed and went on about how they loved the library and have wanted to check out books for such a long time and was excited to check out again. The smallest of kindnesses can have the biggest effect on people's lives. Thank you, Heather, for your great customer service skills and your kind nature.

EXECUTIVE SESSION- City Council convened into executive session at 10:35 a.m.

Executive Item No. 1:

Under Texas Gov't Code 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.

Executive Item No. 2:

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

The employment, duties and evaluation of the City Manager.

Council reconvened at 11:16 a.m. and took action on the following:


ES -1 Request that the City Council authorize the City Manager to execute a Contract of Sale with TD Land Management to three certain tracts of land located on West Erwin Street for the purchase price of \$3.25 per square foot (or \$411,968.70).

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Motion by Councilmember Warren; seconded by Councilmember McGee; motion carried 6-0 & approved as presented.

ADJOURNMENT

Motion by Mayor Pro Tem Westbrook to adjourn the meeting at 11:19 a.m.; seconded by Councilmember Sellers; motion carried 6-0 & meeting adjourned.



MARTIN HEINES, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:



CASSANDRA BRAGER, CITY CLERK

