

**MINUTES OF THE  
REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS  
March 22, 2017**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, March 22, 2017 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:	Martin Heines
Mayor Pro Tem:	John Nix
Councilmembers:	Mark Whatley Linda Sellers Darryl Bowdre Ed Moore Don Warren (absent)
City Manager:	Edward Broussard
City Attorney:	Deborah G. Pullum
Deputy City Attorney:	Steve Kean
Sr. Assistant City Attorney:	Sharon Roberts
Assistant City Attorney:	Terrance Garmon
Chief Financial Officer:	Keidric Trimble
City Engineer:	Carter Delleney
City Fire Chief:	David Coble
Code Enforcement Manager:	Chris Lennon
Police Chief:	Jimmy Toler
Managing Director of Culture, Recreation and Tourism Services:	Stephanie Rollings
Director of Solid Waste & Transit Services:	Russ Jackson
Vehicle/Equipment Services Manager:	Leroy Sparrow
Managing Director of Planning & Economic Development:	Heather Nick
Director of Utilities:	Lisa Crossman
Managing Director of Utilities and Public Works:	Greg Morgan
City Clerk:	Cassandra Brager

**INVOCATION**

**The Invocation was given by Councilmember Bowdre.**

**MINUTES**

Motion by Councilmember Whatley to approve the February 22, 2017 minutes; seconded by Councilmember Sellers; motion carried 6 - 0 & approved as presented.

March 22, 2017

## EMPLOYEE AWARDS – RECOGNITIONS, SERVICE

### **A-1 Service Awards**

We would like to recognize the following employees 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 for the special contribution you make to our organization. They represent 45 years of service with the City of Tyler.

### Service Awards

Date of Hire	First Name	Last Name	Title	Department	Years of Service
02/03/1992	Brian	Tomlin	Police Officer IV	Police	25
02/17/1997	Darrell	Gardner	Police Officer X	Police	20

## ZONING

**Z-1 A17-002 STUDENT LIVING OF TEXAS LLC (11.40 ACRE TRACT)** Request that the City Council consider adopting an ordinance providing for the voluntary annexation of an 11.40 acre tract of land lying adjacent to the present boundary limits of the City of Tyler located northeast of the eastern terminus of McDonald Road. 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 #4.
- D. Amendment of the Future Land Use Guide to reflect Multi-Family.
- E. Establishment of Original zoning of 11.40 acres of "PMF", Planned Multi-Family Residential District with final site plan.

Motion by Councilmember Whatley; seconded by Mayor Pro Tem Nix; motion carried 6 - 0 & approved as presented. (O-2017-22)

**Z-2 A06-16-001 CENTENNIAL PROJECT LLC** Request that the City Council consider adopting an ordinance providing for the voluntary annexation of a 19.01 acre tract of land lying adjacent to the present boundary limits of the City of Tyler located south of the intersection of Kit Carson Trail and Centennial Parkway. Also consider recommending:

- A. The new boundary of the City Limits.
- B. The new boundary of the City Council District #6.
- C. Amendment of the Future Land Use Guide to reflect Multi-Family and Single-Family and Single-Family Attached Medium/High Density.
- D. Establishment of original zoning of 11.70 acres of "PMF", Planned Multi-Family Residential District and 7.29 acres of "PXR", Planned Mixed Residential District.

March 22, 2017

**Mayor Pro Tem Nix**- Stated this project started about three years ago and during that time he had multiple experiences with this neighborhood due to the Raymond Johnson tract that was annexed. Councilmember Nix stated that in the HOA meetings and at meetings at the police stations he was repeatedly asked about this development, about what could be done to control the development, and if he could offer some sort of help for the neighborhood. It is in the County and the Developer does not need anything from the City to continue building what he is already building. Councilmember Nix stated that he committed to the HOA at that time to encourage annexation so that the City could control future building, planning, and how this development funneled onto Centennial. Councilmember Nix stated that is what the City has done, and the Planning & Zoning Commission has done an excellent job as well. He stated that this is not something that this developer walked in and started, this has been on Planning & Zoning Commission's plate for about five months, with the Developer meeting demands that the City had for preliminary passage. Councilmember Nix stated that some of the pros and cons that have come through in letters and phone calls he's received include the following:

- The County has no noise ordinance, in the City there is a noise ordinance.
- The County has no control over large gatherings in public without permits, the City does require these kinds of permits.
- The City has code enforcement, the County does not have building code enforcement.
- City Police and Fire would be available to call on in a necessity in that neighborhood, versus a volunteer Fire Department and or the Sheriff's Dept.
- The City has zoning control, so if approved this plat is all that could be built, the restrictions on this plat of two-stories on the quadraplex and single story on the duplex, and single family is all that could be built. If the Developer wants to change anything he has to come back through a City process where notice is required. Up to this point, if the Developer wants to change anything within the County no notice is required, he can do whatever he wants.
- The City has density control. This development is about 19 acres, and for context an apartment developer will build about 20-24 units per acre. The max allowed in the City for an apartment development is 24 units per acre. This Developer is building respectively 7 units per acre in the quad area and 3 units per acre in the duplex area. Instead of a potential 456 door density you are looking at restricting him down to 100 doors, which is not a fun number, especially because of Centennial, but it is a lot less than 450. The Developer can build that much with a commercial septic system, there is already Southern Utilities water on the property which he has access to. He could lose about 7 to 8 doors putting in a commercial septic system, which may be a net reduction of units. There is cost saving to the Developer for sewer by being in the City. Councilmember Nix stated that these were his numbers, not the Developer's numbers or an Engineer's numbers, but he believed the Developer could save anywhere from \$200 to \$300 thousand dollars tying into City sewer, and that this savings was used to

March 22, 2017

encourage the Developer to annex so that the City could control the construction site.

- Councilmember Nix stated that the Centennial expansion is one common question that he has gotten regarding the Raymond Johnson property. That piece of road is not required to be built until the construction on that piece of property begins, so traffic is a valid concern. The reality is, however, if the annexation is not accomplished, the Developer will still build 90 doors and traffic will still dump onto that roadway. So you really won't get traffic relief even if the City does not complete this annexation.
- Councilmember Nix stated that there have been questions about crime, and he would say that the Police response time and their response to citizens needs are second to none.
- Centennial expansion to the west is one of the downsides of the City's extremely low tax rate. The City puts all cost of development, even the arterial streets, on developers as they develop the land. The City does not have the ability to run in and do a preempted extension because it simply does not have the money to do that. Until the land to the west develops, the west-end of Centennial will not be expanded until the Raymond Johnson tract gets built, or sold and built, or however that ends up working out. That part of the roadway over to Paluxy won't get done as well.

Councilmember Nix stated that hopefully these comments have answered some of the questions that the neighborhood members had who have come to this Council meeting, but that Council will still want to hear from everybody that is for or against this agenda item.

**Randy Miller, 9072 Old Hickory Rd.** – Stated that Mr. Nix had addressed a lot of things that he was not aware of and just learned about this yesterday. Mr. Miller stated that he was involved in contesting the Raymond Johnson annexation, and that the proposed construction of Cumberland Parkway appears to him to be a long way off. He stated that the main concern he had was that there are only three streets that are going to have access out of this particular area of the neighborhood and they are already being used by the residents: Cherokee, Old Hickory Road and Skidmore. He stated that those streets will dump onto two roads, which are Cumberland Road and Paluxy. If the plan is for about 100 doors, then there will be approximately 200 more cars in the morning and 200 more in the evening that will have to transverse these three streets until Cumberland Parkway is finished. Mr. Miller stated that he didn't see from the comments that there will be a Cumberland Parkway until all this is finished along with Raymond Johnson construction, and that's a huge problem to him. He stated that he already has people coming by his house at 30-45 miles per hour in a hurry to work. He stated that the proper way to do this is to have the roads in place before this construction is completed. Mr. Miller stated that he asked the City to annex this area a long time ago and wished that it had been done then, and additionally he wished it would have been done on the Raymond Johnson plat. Mr. Miller requested Council not approve this annexation until Cumberland Park is finished.

March 22, 2017

**Nicole Schneider, 1219 Rainmaker** – Stated that overall she supports the annexation but she questioned whether Centennial will be connected to the new Village at Cumberland shopping center. Ms. Schneider stated that there are already issues with the road conditions being bad at Cumberland, Cherokee and Centennial. Ms. Schneider stated that there has been an increase in traffic on Cumberland Rd. East due to the shopping center and she doesn't want to see that coming through her neighborhood. Ms. Schneider stated that her overall concern is with the traffic.

**Nicki Cornejo, 1557 Skidmore Ln** – Stated that she owns property across from this development and her biggest concern is traffic.

**Mark Priestner, 3815 Old Bullard Rd** – Stated that part of the land use and the design of the property is due to it being located on a collector on the Master Street Plan that connects to Cumberland Park and backs up to Toll 49. Mr. Priestner stated that it is a strip of land that needs something that is a low to medium density. He stated that as R-1-A, the current ordinance allows 9000 square foot lots, which is 4 ½ units per acre. He stated that at 4 ½ units per acre, that amounts to about 90 doors on this property regardless, so the traffic impact will change. Mr. Priestner stated that the roads need to be improved, the whole segment, everything from Paluxy all the way over to Broadway. He stated that this is about an addition of maybe 10 doors above what R-1-A zoning would allow. He stated that the quadruplex is truly an upstairs downstairs unit that will be owner occupied, they are set up to be individually owned. Mr. Priestner stated that the developer limited the driveways onto Centennial knowing that those houses across the street have not been developed, and when they are built, he stated there will be driveways on every one of the lots facing Centennial.

**Chad Edwards, 300 Bunker Dr.** - Stated that he has lived in Cumberland Estates since 1975 and he owns the property directly in front of the project. He stated that he was in favor of the zoning, but hoped that they would enforce some improvements. He stated that the City already owns the street, the traffic is not going away and if the City does not annex this property, it becomes a private sewer system, which is outside of the control of the City. Mr. Edwards stated that if the Developer builds, changes or sells this property to another developer who would increase the density, the traffic is going to be absolutely worse, so it makes sense to annex the property. Mr. Edwards stated that his main concern is whether the Developer would do something to beautify the entry into the place to make it attractive. He stated that if Planning & Zoning would really enforce the restrictions and the building codes that ought to be in place, the annexation would be better for everyone. Mr. Edwards asked if a bridge going across Shackleford Creek would not happen until some developer builds there, and then he stated that the City should be very clear on its statement that the City is not going to build the bridge until a developer comes in to develop the adjacent property.

**Ann McCrady, 8936 Cherokee Trail** – Stated that she was for annexation but that she is concerned that the development will be putting in high density housing at the back of a neighborhood in a forestry area. She stated she was concerned because

March 22, 2017

there is one way in and out and a truck would not be able to get to the back of the neighborhood in case people were being evacuated in a forest fire. She stated that if that area won't be developed with Centennial, it would be really hard to get emergency vehicles in as people were trying to evacuate down Cherokee. Ms. McCrady stated that her second concern was the condition of Cumberland and Cherokee, which is not developed with curb and gutter. She stated that it is really hard to get out of Cumberland right now from Cherokee so she could imagine cars would be backing up on Cherokee Trail. Ms. McCrady asked the Council to not let the neighborhood be at the mercy of developers in South Tyler whether it's along Broadway or Jacksonville Drive. She stated that they really need a master plan and need citizens to know what is happening when these adjacent county plots are up against a neighborhood.

**Ted Crabtree, 9363 Chisholm Trail** – Stated that overall he supports the annexation of this property, but that not having a date on the street expansion or managing traffic flow is not a plan, it is an idea. Mr. Crabtree questioned how many of the condos will be owner occupied. He stated that the biggest concern he has is traffic control coming out of either Skidmore or Old Hickory at certain times of the day.

**Mark Priestner, 3815 Old Bullard Rd.** - Stated that the intent on the condo side is that they are all owner occupied.

**Joe Sutton, 9173 Old Hickory Road** – Stated that up and down the streets along the curbs and the narrowness of the street is going to be a traffic issue.

**Manuel Bulhoes, 1505 Santa Fe Trail** – Stated that he was in favor of annexation so that there can be control over the development. He stated his biggest concern is traffic and he wished that the development was single family homes. Mr. Bulhoes stated that he is also concerned about the high density. He stated that down the road, years from now those things end up becoming rental units instead of owner occupied, he stated the crime rate tends to jump, and he questioned whether there is enough room for emergency services to get in and out of the neighborhood. He stated that instead of concentrating homes they need to have an area for outside activity for the residents that live there.

**Richard Perryman, 9142 Old Hickory Rd**- Stated that annexation is somewhat a bad deal, he would prefer this to be single family. He stated that he was in favor of the annexation even with all the concerns, it beats nothing.

**Richard Spinks, 9205 Cherokee Trail** – Stated that he was in favor of the annexation and his concern is the traffic. Mr. Spinks stated that what he is hearing is that the developer is going to continue regardless of what the City does, so the Centennial extension will not happen regardless. He stated that the citizens here have no recourse when it comes to traffic.

**Dr. Elizabeth Lisot, 1423 Santa Fe Trail**- Stated that she agreed with the Planning & Zoning Commission to agree to annex the property, but she does not agree with the

March 22, 2017

zoning. She agrees to the annexation so that the City could have control of the Centennial project and help with safety issues. However she stated she would like to suggest to the Council not to accept the original zoning of PMF that would allow the Centennial project to build 80 units onto a section of their land. She realizes that 12 units have already been built but the plan is to add 68 more units, and she stated that not only is this too much traffic for the neighborhood, it's too much traffic even with the expansion of Centennial to Paluxy and the eventual expansion of Centennial to Cumberland mall. She stated that she believes this zoning is going to happen and the increase in units is going to lower her property value, and put her family at risk.

Motion by Mayor Pro Tem Nix to approve the motion; seconded by Councilmember Whatley; motion carried 6 - 0 & approved as presented. (O-2017-23)

**Z-3 Z17-004 HA TRAN (3433 CHANDLER HIGHWAY) Request that the City Council consider approving a zone change from "RPO", Restricted Professional Office District to "C-1", Light Commercial District.**

Motion by Councilmember Moore; seconded by Councilmember Sellers; motion carried 6 - 0 & approved as presented. (O-2017-24)

**Z-4 Z17-006 TEXAS TYLER 31, LLC (13428 HIGHWAY 31 WEST) Request that the City Council consider approving a zone change from "C-2", General Commercial District to "R-MF", Multi-Family Residential District.**

**Robert Murray, 4689 Old Pond Dr. Plano, Texas** – Stated that he was here to represent the developer.

**Rod Johnson, 11587 CR 168** – Stated that he was representing his mother that lived in the subdivision and Raymond Johnson estate, which has two properties adjoining this property. Mr. Johnson questioned where they would be getting their entry and exits to the property.

**Melanie Vodnicks, 14111 Scottslawn Rd. Matysville, OH** – Stated that they are requesting that City Council reject the zoning change for this property.

**Robert Murray, 4689 Old Pond Dr.** – Stated that TxDOT will sometimes give you an exception if you have a turn lane instead of just pulling over off the highway. He stated that there will be an emergency exit in the back area and that they will have to go through the neighborhood to get to it, if it's a possibility.

Councilmember Whatley stated that he still has reservations about this and the density and the adjoining use. He stated that he would like to encourage development, but this seems to be a shoe horn approach.

Motion by Councilmember Bowdre to approve; seconded by Councilmember Moore; motion carried 5 - 0 - 1 & approved as presented. Councilmember Sellers opposed.

March 22, 2017

(O-2017-25)

- Z-5 PD17-003 KING-HART PROPERTIES, LLC (7513 OLD JACKSONVILLE HIGHWAY) Request that the City Council consider approving a “PCD”, Planned Commercial Development District final site plan amendment.**

Motion by Councilmember Bowdre to approve restricting Lot 2 to RPO office use only; seconded by Councilmember Whatley; motion carried 5 – 1 – 0 & approved as presented. Councilmember Sellers opposed. (O-2017-26).

- Z-6 17-07 MARVIN HUMPHRIES (601 TURTLE CREEK AND 531 VICTORY DRIVE) Request that the City Council consider approving a zone change from “R-1B”, Single-Family Residential District and “R-MF”, Multi-Family Residential District to “RPO”, Restricted Professional Office District.**

Motion by Councilmember Whatley; seconded by Councilmember Sellers; motion carried 6 - 0 & approved as presented. (O-2017-27)

- Z-7 PD17-006 REED PROPERTY MANAGEMENT LLC (1709 PINE CREST DRIVE) Request that the City Council consider approving a zone change from “R-1D”, Single-Family Detached and Attached Residential District to “PMF”, Planned Multi-Family Residential District with final site plan.**

**Brad Donley, 17229 CR 1204** – Stated that he has a reservoir of water sitting under the building and he has an Engineer that’s trying to determine what to do, but at this time he is asking for this item to be postponed.

**Jimmy Reed, 2103 Macbeth Ct.** – Stated that they are well within their rights to continue construction but he would like to know what tabling would do in this process because they have already been approved by the Planning & Zoning Commission.

**Greg Mitchell, 2026 B Republic Dr.** – Stated that the preliminary work has been done and they are going to divide the area into two drainage areas. He stated that part of it will go out east to Pine Crest and the remainder half will go out north from where it’s draining now. Mr. Mitchell stated that the proposed run off will not exceed the existing runoff to the north. Their concern is not storm water run-off, they are worried about ground water. He stated while developing the site they were pushing ground water up under the building, so they have recommended hiring a GOTech expert to investigate, because they believe that should not be occurring.

Motion by Mayor Pro Tem Nix to approve; seconded by Councilmember Sellers; motion carried 6 - 0 & approved as presented. (O-2017-28)

- Z-8 F17-014 BEN HOOKS ADDITION, FINAL PLAT Request that the City Council consider approving a five lot subdivision containing approximately 5.84 acres of land located west of the southwest intersection of County Road 178 and County Road 166 and a waiver of escrow for street improvements to County Roads 166 and 178 estimated**



March 22, 2017

to be \$159,895.99.

Motion by Councilmember Whatley to approve the final plat and the waiver; seconded by Mayor Pro Tem Nix; motion carried 6 - 0 & approved as presented.

## **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, 2016, as presented by Gollob Morgan Peddy PC.**

Motion by Councilmember Bowdre; seconded by Councilmember Whatley; motion carried 6 - 0 & approved as presented.

## **HEARING**

**H-1 Request that the City Council conduct a public hearing and consider adoption of a Resolution authorizing tax-exempt financing by the Crawford Education Facilities Corporation for the benefit of Cumberland Academy, with no financial obligation to the City of Tyler.**

City Council opened up the meeting to conduct a public hearing to hear concerns from citizens at 11:51 am. No citizen spoke at the public hearing so Mayor Heines closed the public hearing at 11:51 am.

Motion by Councilmember Bowdre; seconded by Mayor Pro Tem Nix; motion carried 6 - 0 & approved as presented. (R-2017-6)

## **RESOLUTION**

**R-1 Request that the City Council consider adoption of a Resolution to support and implement the Smith County Uniform Truancy Plan.**

Motion by Councilmember Whatley; seconded by Councilmember Bowdre; motion carried 6 - 0 & approved as presented. (R-2017-7)

## **MISCELLANEOUS**

**M-1 Request that the City Council consider authorizing the City Manager to award RFP 16-033 to McDonald Transit for Management of the Tyler Transit System in the amount of \$156,864 per year to provide a general manager to manage the Tyler Transit System.**

Motion by Councilmember Whatley; seconded by Councilmember Bowdre; motion carried 6 - 0 & approved as presented.

March 22, 2017

**M-2 Request that the City Council consider authorizing City staff to advertise for bids for the construction of the 2017 Asphalt Enhancement Program.**

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

**M-3 Request that the City Council consider authorizing the City Manager to execute a contract with Capps-Capco Construction, Inc. to construct the Lake Street Culvert Replacement Project in an amount not to exceed \$345,859.00 and consider adopting an ordinance amending the Fiscal Year 2016-2017 Budget to appropriate funds for said expenditure.**

Motion by Councilmember Bowdre; seconded by Councilmember Sellers; motion carried 6 - 0 & approved as presented. (O-2017-29)

**M-4 Request that the City Council consider authorizing the City Manager to amend the agreement with Adams Engineering for design of the Courtney Miller Drainage Project for an additional \$28,500.00.**

Motion by Councilmember Whatley; seconded by Councilmember Moore; motion carried 6 - 0 & approved as presented.

**M-5 Request that the City Council consider authorizing the City Manager to execute a Task Order Contract with Halff Associates, Inc., and authorize the Development Services Department to use their services as needed.**

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

**M-6 Request that the City Council consider authorizing the City Manager to award a construction contract in the amount of \$4,435,000.00 to Gracon Construction, Inc. for the Golden Road Backwash Pump Station and Clearwell Baffles project and to approve a resolution reserving the right to reimburse expenditures with proceeds of future debt.**

Motion by Councilmember Whatley; seconded by Mayor Pro Tem Nix; motion carried 6 - 0 & approved as presented. (R-2017-8)

### **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.)**

March 22, 2017

- C-A-1** Request City Council consider ratifying staff approval of Change Order No. 1, in the amount of \$7,675.00, and Change Order No. 2, in the amount of \$107,610.00, to the Cumberland Park Water Feature contract with Reid Construction.
- C-A-2** Request that the City Council consider authorizing the City Manager to purchase heavy duty frontload boxes for Solid Waste from Roll-Offs USA in the amount of \$38,766.
- C-A-3** Request that the City Council consider authorizing the City Manager to execute Work Order No. 5, in the amount of \$35,000 with Elledge Engineering Corporation for the Lake Tyler Concession Road Repair project and to approve a resolution reserving the right to reimburse expenditures with proceeds of future debt. (R-2017-9)
- C-A-4** Request that the City Council consider authorizing the City Manager to award the annual price agreement for Roadside and Drainage Way Herbicide Spray Program for this Fiscal Year.
- C-A-5** Request that the City Council consider adopting an ordinance amending Tyler City Code Chapter 18 by amending the vegetation accumulation prohibitions to include a definition of, and an exception for, ornamental grasses. (O-2017-30)

Motion by Councilmember Bowdre; seconded by Councilmember Whatley; motion carried 6 - 0 & approved as presented.

## CITY MANAGER'S REPORT

## ADJOURNMENT

Motion by Councilmember Whatley to adjourn the meeting at 12:36 pm; seconded by Councilmember Bowdre; motion carried 6 - 0 & approved as presented.

  
MARTIN HEINES, MAYOR OF  
THE CITY OF TYLER, TEXAS

A T E S T:

  
CASSANDRA BRAGER, CITY CLERK

