

**MINUTES OF THE
REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
January 27, 2016**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, January 27, 2016 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:	Edward Moore
Councilmembers:	Mark Whatley Linda Sellers Darryl Bowdre John Nix Don Warren
City Manager:	Edward Broussard
Asst. City Manager:	Susan Guthrie
City Attorney:	Deborah G. Pullum
Deputy City Attorney:	Steve Kean
Sr. Assistant City Attorney:	Sharon Roberts
Assistant City Attorney:	Terrance Garmon
Airport Manager:	Davis Dickson
Main Street Director:	Beverly Abell
Managing Director for Administration:	ReNissa Wade
Manager for Organizational Development:	Kristi Boyett
Development Services Engineer:	Michael Wilson
Neighborhood Services Manager:	Brenda Johnson
Neighborhood Services Operations Manager:	Larry Everett
Chief Financial Officer:	Keidric Trimble
Chief Information Officer:	Benny Yazdanpanahi
City Engineer:	Carter Delleney
City Fire Chief:	Tim Johnson
City Librarian:	Mary Vernau
Code Enforcement Manager:	Chris Lennon
Managing Director for Public Safety & Police Chief:	Gary Swindle
Director of Parks and Recreation:	Stephanie Rollings
Director of Solid Waste:	Russ Jackson
Vehicle/Equipment Services Manager:	Leroy Sparrow
Director of Planning:	Heather Nick
Water Business Office Manager:	Jim Yanker
Managing Director for Utilities/Public Works and Utilities:	Greg Morgan
Street Department Manager:	Robin Smart
Traffic Engineer:	Peter Eng
City Clerk:	Cassandra Brager

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INVOCATION

The Invocation was given by Rickey Garner, Associate Pastor of New Days Community Church.

MINUTES

Motion by Councilmember Bowdre to approve the January 13, 2016 minutes; seconded by Councilmember Whatley; Motion carried 7 - 0 and was approved as presented.

ZONING

Z-1 C12-15-001 MCK CONSTRUCTION (BREEZE DRIVE)

Request that the City Council consider approving the closure of an unimproved right-of-way known as Breeze Drive connecting Robert E. Lee Drive and Cambridge Road. (O-2016-3)

Heather Nick, Planning Director – Stated that approval of the closure, subject to the abandoned right-of-way being re-platted within six months of approval, or by July 27, 2016, and the developer completing all conditions of the agreement with Tyler Water Utilities including:

1. The Developer shall, at no cost to the City, transfer fee simple title to any interest in Lot 9A as shown on the Heritage South Subdivision Unit 14 Third Amendment, an Amending Re-plat of Heritage South Subdivision Unit 14, Part of Lot 10-C N.C.B. 1526 and Lots 1-13, N.C.B. 1526A (see Exhibit "A");
2. The Developer shall, at no cost to the City, construct a twenty-five (25) foot wide access drive to the existing Well 14 location from Robert E. Lee Drive, designed so as to not adversely impact drainage along Robert E. Lee Drive;
3. The Developer shall, at no cost to the City, prepare a legal description and easement document increasing the existing 10 foot wide water line easement, contiguous to the north right of way line of Breeze Drive, to 25 feet in width;
4. The Developer shall, at no cost to the City, install a double 12 foot wide gate in the existing Well 14 security fencing where the drive constructed under Item 2 intersects the aforementioned security fencing, along with one (1) standard man gate; and
5. The Developer shall, at no cost to the City, prepare necessary legal descriptions for any existing Tyler Water Utility easement requesting to be released

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

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- Z-2 F01-16-035 HERITAGE SOUTH SUBDIVISION UNIT 14, THIRD AMENDMENT**
Request that the City Council consider approving a three lot subdivision containing approximately 6.28 acres of land located west of the intersection of Robert E. Lee Drive and Cambridge Road and a waiver of escrow in the amount of \$87,579 for street improvements to Robert E. Lee Drive and Oakway Drive.

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

- Z-3 S01-16-003 ALISA SIMMONS (1709 EAST 5th STREET)**
Request that the City Council consider approving the renewal of a Special Use Permit for the operation of a home based Montessori School. (O-2016-4)

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

- Z-4 Z01-16-010 SHANE MURPHY (709 SOUTH BOIS D'ARC AVENUE)**
Request that the City Council consider approving a zone change from "R-2", Two-Family Residential District to "AR", Adaptive Reuse District. (O-2016-5)

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

- Z-5 Z01-16-011 TERRY FOOTE (3517 WEST ERWIN STREET)**
Request that the City Council consider approving a zone change from "R-1A", Single-Family Residential District to "C-2", General Commercial District. (O-2016-6)

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

- Z-6 Z01-16-012 HEALTHSOUTH CORPORATION (3131 TROUP HIGHWAY)**
Request that the City Council consider approving a zone change from "C-1", Light Commercial District and "RPO", Restricted Professional Office District to "INT", Institutional District. (O-2016-7)

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

ORDINANCE

- O-1 ZA01-16-001 UNIFIED DEVELOPMENT CODE (BIANNUAL REVIEW)**
Request that the City Council consider approving an ordinance amending the Unified Development Code in Tyler City Code Chapter 10 by amending regulations relating to development standards, environmental regulations, and development approval procedures, including regulations related to donation containers, electronic message



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center boards, commercial parking lots, subdivision plat submittal requirements, duration of temporary use permits, and other clarifications. (O-2016-8)

Johnathon Dickerson, General Manager, Broadway Square Mall - 1421 Sequota Dr. – Asked if an exception would be made to the maximum number of permits allowed for property? Does this impact all zones whether it be residential or commercial? Mr. Dickerson stated that they have not had any complaints and they don't allow items to be placed around the containers. Mr. Dickerson asked if this does pass is there any way that they could request an exception or postponed a year due to budget items that they have each year for their non-profit boxes at the mall.

Councilmember Nix – Stated that since they are non-profit the temporary use fee would not be any cost to the non-profit and it would not affect their lease

Greg Molidor, 14700 Faircroft Dr. – Arc of Texas – Stated that his company started with 30 bins but now down to 12 because of the competition in town. Agreed that something needed to be done with all the donation boxes being put out everywhere but wanted to ask that the language stating “donation containers should not be allowed in the street yard” be removed or rewritten.

Robyn Dadig, 2020 S. Tipton Ave. – Stated that she was in favor of these containers and the need to have some type of regulation. She would like to see some limitation and reduction in the number of these particular containers.

Councilmember Bowdre - Have issues when an organization comes from the outside into our city, when we have groups that are doing plenty here.

Motion by Councilmember Nix to change the street yard wording in the O-1 and the UDC amendment to a minimum of side setback and remove the street yard as a specification; seconded by Councilmember Whatley; motion carried 7 - 0 & approved as presented.



O-2 ZA01-16-002 UDC AMENDMENTS - 20 YEAR CITY LIMITS

Request that the City Council consider approving an Ordinance making an uncontestable finding that all territory included within the City of Tyler since December 31, 1995 is part of the City. (O-2016-9)

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



O-3 Request that the City Council consider adopting an Ordinance amending Tyler City Code Chapter 12 for the inclusion of rates for leases of the West Side General Aviation area at Tyler Pounds Regional Airport. (O-2016-10)

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

MISCELLANEOUS

M-1 Request that the City Council consider authorizing the City Manager to execute an agreement with Centene Charitable Foundation for a donation of \$325,000 for the reconstruction of the Bergfeld Park Stage.

Councilmember Warren – Stated that his vision is to take a blanket out to the park and sit with his family and listen to the East Texas Orchestra perform.

Nancy Wrenn, East Texas Symphony Orchestra – Spoke in favor of the project.

Motion by Councilmember Warren; seconded by Councilmember Sellers; motion carried 7 - 0 & approved as presented.

M-2 Request that the City Council consider awarding Medical Stop-Loss and Life Insurance contracts to Arch Insurance for the calendar year starting January 1, 2016 with two additional (1) one-year renewal options.

ReNissa Wade – Managing Director of Administrative Services – ReNissa Wade's presentation consisted of the following:

1. A policy designed to limit claim coverage (losses) to a specific amount.
2. A type of coverage to ensure that catastrophic claims (specific stop-loss) or numerous claims (aggregate stop-loss), do not upset the financial reserves of a self-funded plan.
3. Aggregate stop-loss protects the employer against higher-than-expected.
4. If total claims exceed the aggregate limit, the stop-loss insurance carrier reimburses the employer.

What Stop Loss Insurance Is Not:

1. This is not the Health Plan for the City of Tyler employees.
2. City employees do not pay any premiums associated with this policy.

Stop Loss Insurance – Process

1. The policy year is based on a calendar year (January – December)
2. Quotes are requested for this product taking into consideration nine (9) months worth of data (January – September 30 of the current policy year 2015)
3. HealthFirst and Ken Wethe and Associates took the information to market on October 1, 2015.
4. The bid closed on November 15, 2015.
5. HealthFirst received 5 quotes and Ken Wethe and Associates received 2 quotes.
6. Tabulations and Evaluations were concluded December 15, 2015.
7. Vendors presented best and final quote to City staff on December 28, 2015.

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8. City signed disclosure statement on December 29, 2015 for Arch to hold the proposals to the claim information that was provided by the broker to the insurance company through November 15, 2015 (City not committed to anything).
9. Presented recommendations to the City Council Health Insurance Task Force on January 19, 2016.

Stop Loss Insurance –Option A presented to Task Force

- Arch Insurance Group
 - \$250,000 Specific Stop Loss
 - Includes Medical and Prescription Drug
 - No lasers
 - Unlimited specific maximum annual benefit
 - \$1,000,000 aggregate maximum limit
 - Maximum Claim liability \$14,208,248
- Premium \$512,562 (\$113,535 year of year increase)

Stop Loss Insurance – Option B Presented to Task Force

- Arch Insurance Group
 - \$375,000 Specific Stop Loss
 - Includes Medical and Prescription Drugs
 - No lasers
 - Unlimited specific maximum annual benefit
 - \$1,000,000 aggregate maximum limit
 - Maximum Claim liability \$14,422,614
- Premium \$334,886 (-\$64,142 year of year decrease)

Stop Loss Insurance – Assessment of Options:

2 year review reveals that 2 claims would have hit the \$250,000 deductible for maximum payout of \$23,000. Compared to an additional premium of \$113,535.

Stop Loss Insurance – Staff Recommendation

- Arch Insurance Group
 - \$375,000 Specific Stop Loss
 - No lasers
 - Unlimited specific maximum annual benefit
 - \$1,000,000 aggregate maximum limit
 - Maximum Claim liability \$14,422,614
- Premium \$334,886 (-\$64,142 year of year decrease)

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Councilmember Sellers – Stated that HealthFirst does a great job of paying our 3rd party claims. The concern is the 1 million dollar limit. Councilmember Sellers completed research on two (2) other governmental entities. One entity has a 2 million dollar general aggregate and the other one is unlimited. The Affordable Care Law at some point is going to require the City to get to unlimited if it stands in its current form. Councilmember Sellers wanted the Council to know that insurance is about managing risk. In September she voted on the budget and it was her understanding that they were going to a 2 million dollar general aggregate. The current insurance carrier had quoted a 27,000 dollar premium to go to the 2 million dollars. As long as we do not go over 1 million that's great, but these two other entities have already seen a need to do that. We are raising the stop loss deductible, were going from 350,000 to 375,000, those other two entities are much lower than we are on the stop loss amount. You have to weigh the risk in today's Affordable Health Care world. We have to realize that a premature baby can run 2 million dollars easily. The City had a 1.6 million dollar claim about 3 years ago, so we are looking at that exposure. The concern is that this new insurance company did not quote 2 million, it said not available. I would like to know why it was not available, and if we can get a premium for the general aggregate of 2 million dollars?

ReNissa Wade, Managing Director of Administrative Services – Stated that one of the things we need to clarify is that the million and a half dollar baby would fall under the specific stop loss which is currently unlimited. The limit of the 1 million dollar is based on the 14 million dollar payout for the entire program. Arch did not quote for a 2 million dollar limit, however our current incumbent did quote for a 2 million dollar premium limit of 32,000. It's important to note that, in speaking with our broker and providers that one person has been with their organization for 19 years. In the 19 years that she has been there, there has been one time when a company has actually hit the general aggregate loss. Typically, the way that this is calculated, an entity will not typically hit that general aggregate loss, so the 1 million dollar limit is not as big of an obstacle for us. The main portion where we want the unlimited limit is on the specific stop loss portion.

Kevin Hall, Director of Underwriting and Analytics at HealthFirst – Stated that the aggregates are calculated claims for the entire group. The situation that was addressed earlier where you have a 1 million dollar or 2 million dollar claim, will be reimbursed under the specific. The City would be responsible for the first 375,000 and everything after that, unlimited is covered under the specific, none of that amount would fall up under the aggregate because it is being reimbursed by the carrier already. Mr. Hall stated that he has done 1,000 renewals in his career and has had two instances where the aggregates were more than 1 million dollars. As an underwriter, in his eyes, it's a wasted premium.

Councilmember Sellers – Asked why did the City of Longview and Smith County Employee Plan go to unlimited and 2 million?

Kevin Hall, Director of Underwriting and Analytics at HealthFirst - Stated that he would guess that they were scared into purchasing, specifically Smith County. As an Administrator for several public entities, he knows how important purchasing specific aggregate is, but he has never had a public entity approach anywhere near a million dollars over the aggregate. So the maximum claim liability is 15.4 million dollars under this

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scenario, you would have to reach 15.4 million dollars before you would hit that maximum payout.

Councilmember Sellers – Stated that last year the City reached 11.5 million with pharmacy and medical, is that right?

ReNissa Wade, Managing Director of Administrative Services – No, the fund statements that are presented to Council that have health benefit expenditures in them also include other items under the health benefit expenditure which include cost for HealthFirst, which also include costs for this stop loss policy.

Councilmember Sellers – Asked for the claims for medical and prescription?

ReNissa Wade, -Managing Director of Administrative Services – Stated that for medical and prescription claims for 2014 the City hit 9.3 million and for medical and prescription plan for 2015 we hit 8.9 million and that's on a calendar year. For the fiscal year 2015 for medical and prescription for active employees we hit right at 7 million dollars.

Councilmember Sellers – Asked if that included run off claims?

ReNissa Wade, -Managing Director of Administrative Services – Stated that run off claims come over into the new year. The run off claims that are projected for this year are going to be about 800,000 dollars.

Councilmember Sellers – Asked if the City would get close to 8 million?

ReNissa Wade, -Managing Director of Administrative Services – Stated, “Yes.”

Mayor Heines – Stated that for a guy that's not an insurance person or a Water Chemist he would like to hear the whole thing again about the 1 million aggregate and the 14.42 million maximum claim liability.

Kevin Hall, Director of Underwriting and Analytics at HealthFirst – Stated that, in this scenario, let's say we are talking about the 375,000 dollar deductible renewal with Arch. The City is responsible for the first 375,000 dollars on each individual. That amount under 375,000 would accumulate into the aggregate. The aggregate is the maximum of 14.4 million dollars so the City liability on each individual under the 375,000 dollars would go into that bucket, which is called the aggregate. Once that hits 14.4 million dollars, that's an estimate, because it will be adjusted monthly based on your enrollment. Once that amount has exceeded then you have 1 million dollars of umbrella coverage for all medical claims that fall under the 375,000.

Mayor Heines - Once you reach 14.4 then it starts the 1 million for an individual?

Kevin Hall, Director of Underwriting and Analytics at HealthFirst - No, it's for the group.

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Councilmember Whatley – Stated we have never reached more than 9 million?

Kevin Hall, Director of Underwriting and Analytics at HealthFirst – Stated that was your high point.

Councilmember Whatley – Stated, “so we have 6 million dollars cushion at this point.”

Kevin Hall, Director of Underwriting and Analytics at HealthFirst – Stated, “Yes, it’s called a corridor.”

Mayor Heines – Asked if the City has one individual, God forbid, has a horrible accident or something and then all of a sudden they have a year of claims worth 1.4 million dollars and we are under the overall 14.4 million all the City pays for that individual is 375,000.

Kevin Hall, Director of Underwriting and Analytics at HealthFirst – Stated, “Yes sir that is correct.”

Mayor Heines – Stated, “So we are not limited on the million.”

Kevin Hall, Director of Underwriting and Analytics at HealthFirst – Stated you are not limited on the million for an individual.

Mayor Heines – Stated unless we are over the 14.4 and then we are limited all over the place so that’s why it’s 6 million dollars more.

Kevin Hall, Director of Underwriting and Analytics at Healthfirst – Stated that is correct.

Councilmember Sellers – Asked if the City Council should be told when they are going to have to comply with the unlimited maximum bill under the Affordable Care Law.

Kevin Hall, Director of Underwriting and Analytics at HealthFirst – Stated that’s only under the specific which you already have. There is no requirement under the ACA for aggregate coverage. Actually there is no requirement that an entity purchase aggregate coverage. The ACA is just saying you have to have specific coverage with an unlimited maximum.

Councilmember Sellers – Asked if Mr. Hall was saying that the County and City of Longview were over sold by going to 2 million and unlimited?

Kevin Hall, Director of Underwriting and Analytics at HealthFirst – Stated, “I don’t know too much about the City of Longview, but I do know about the County and if I was doing that renewal I would never recommend anything more than a million dollar aggregate.”

Councilmember Sellers – Asked if Arch would go for 2 million?”

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Kevin Hall, Director of Underwriting and Analytics at HealthFirst – Stated, “No, they will not.”

Councilmember Sellers – Asked, is there a reason for that?

Kevin Hall, Director of Underwriting and Analytics at HealthFirst – Stated, “Just like myself they just think that it is unnecessary and it’s not a product that is even offered.”

Mayor Pro Tem Moore – Asked how would the medical and prescription drugs part work as far as the City’s part?

Kevin Hall, Director of Underwriting and Analytics at HealthFirst – Stated that you’re adding a product and you’re getting a reduction in your cost. In the past, only medical services, inpatient out-patient, hospitalization, physicians visit, specialty visits accumulated towards that specific deductible. Now any prescription drugs, whether they be generic, brand or specialty drugs are going to accumulate towards that 375,000 and will now be reimbursable. In the past they have been carved out and never been reimbursable, so once a person hits that specific, where someone, God forbid, has a 1.4 million dollar claim, all the prescription drugs included in that amount will now be reimbursable as well.

Councilmember Warren – Stated that the 375,000 dollar stop loss is the way to go because last year we only had two claims that went over 250,000 dollars. So why would you pay the higher premium if you only had two (2) claims that went over the 250,000. Anything under 250,000 the City is going to pay for anyway and the two that went over 250,000 the insurance company got involved in those and paid that. The 375,000 makes sense to me rather than the 250,000.

Councilmember Sellers – Stated that we should approve this contract today and next year look at it closer and compare with other government entities where they are going with their insurance. Hopefully a new Consultant can help us do that because it is my understanding that the Consultant is retiring this year.

Motion by Councilmember Sellers; seconded by Councilmember Warren; motion carried 7 - 0 & approved as presented.

M-3 Request that the City Council consider approving tax abatement agreements for BIO-MEDICAL APPLICATIONS of TEXAS, INC. (Fresenius Medical Care) and TYLER TEXAS OFFICE CENTER, L.P. (Myers & Crow) authorizing the City Manager to sign all documents necessary to implement the tax abatement amended agreement.

Richard Crow – Thanked City staff and stated they were looking forward to coming to Tyler.

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

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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 an expenditure to Duke's Root Control, Inc. in the amount of \$50,000 for chemical root control services in the sanitary sewer system.
- C-A-2** Request that the City Council consider authorizing the City Manager to approve a Change Order in the amount of \$122,999.75 to Doughtie Construction Co. for the Loop 323 Utility Relocation project.
- C-A-3** Request that the City Council consider approving a resolution reserving the right to reimburse expenditures with proceeds of future debt related to the South Paluxy and East Grande Sanitary Sewer Improvements project. (R-2016-2)

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

BOARD APPOINTMENTS

- B-1** Request that the City Council consider reappointment of a chairman and three members of the City of Tyler Tax Increment Reinvestment Zone No. 1 Board of Directors.

Motion by Councilmember Warren to reappoint Ms. Sidney Green, Ms. Kathy Harry, and Mr. Ed Wallace as three of the City's six representatives and the terms will be January 1, 2016 to January 1, 2018; seconded by Councilmember Whatley; motion carried 7 - 0 & approved as presented.

Motion by Councilmember Warren to reappoint Dean Cagle as Chairman of the Board of Directors for a one-year term from January 1, 2016 to January 1, 2017; seconded by Councilmember Whatley; motion carried 7 - 0 & approved as presented.

CITY MANAGER'S REPORT

1. Texas Association for Performance Excellence in attendance at City Council meeting.
2. Downtown Tyler received National Accreditation.
3. Sound of Music sing a long at 10:00 am on Saturday morning, downtown venue.
4. CIP Summary presented.

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RECESS FOR EXECUTIVE SESSION – No executive session

Executive Item No. 1:

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. 2:


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.

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


ADJOURNMENT

Motion by Councilmember Bowdre; seconded by Councilmember Nix; motion carried 7 - 0 & meeting adjourned at 10:44 am.




MARTIN HEINES, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:



CASSANDRA BRAGER, CITY CLERK



The seal is circular with a double-line border. The outer ring contains the text "CITY OF TYLER" at the top and "TEXAS" at the bottom. The center of the seal features the word "SEAL" in a bold, serif font, flanked by two stylized olive branches.