

**MINUTES OF THE
REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
March 23, 2016**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, March 23, 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
Chief Financial Officer: Keidric Trimble
Chief Information Officer: Benny Yazdanpanahi
City Engineer: Carter Delleney
City Fire Chief: Tim Johnson
City Librarian: Mary Vernau
Managing Director for Public Safety
& Police Chief: Gary Swindle
Director of Parks and Recreation: Stephanie Rollings
Director of Solid Waste: Russ Jackson
Director of Planning: Heather Nick
Managing Director for Utilities/Public
Works and Utilities: Greg Morgan
City Clerk: Cassandra Brager

INVOCATION

The Invocation was given by Jay Lockhart.

MINUTES

Motion by Councilmember Bowdre to approve the February 24, 2016 minutes; seconded by Councilmember Sellers; motion carried 7 - 0 & approved as presented.

EMPLOYEE AWARDS – RECOGNITIONS, SERVICE

A-1 New Hires Recognitions

The following employees were hired by the City of Tyler during the month of February 2016. We would like to take this opportunity to welcome these new employees.

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New Employees

FIRST NAME:	LAST NAME:	POSITION:	DEPARTMENT:
Nathan	Adams	Fire Recruit	Fire
Jason	Moore	Fire Recruit	Fire
Victoria	Constant	GIS Technician II	GIS
Connie	Greer	Access Librarian	Library
Christopher	Austin	Laborer	Parks
Johnny	Gonzales	Groundskeeper	Parks
Erick	Del Angel, Jr.	Planner	Planning
Bradley	Overton	Public Service Officer	Police
Kevin	Miles	Residential Equipment Operator	Solid Waste
Charlie	Turner, Jr.	Plant Laborer	Southside Water Plant
Travis	Carter	Laborer	Wastewater Collection
Charles	McCurter	Laborer	Wastewater Collection
Michael	Brodeur	Laborer	Water – Lake Tyler
Laura	Hammers	Customer Service Representative	Water Business Office
Kenny	Boyle	Utility Maintenance Repairer	Water Distribution

ZONING

Z-1 Z02-16-015 GENEANNE MASTERS (2737 DONNYBROOK AVENUE) Request that the City Council consider approving a zone change from “RPO” Restricted Professional Office District, to “AR”, Adaptive Reuse District. (O-2016-21)

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

 **Z-2 Z03-16-019 D'ANGELO HOLDINGS, LLC (120 SOUTH CENTER AVENUE AND 119 ADAMS AVENUE) Request that the City Council consider approving a zone change from “M-1”, Light Industrial District to “DBAC”, Downtown Business, Arts and Culture District. (O-2016-22)**

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

Z-3 Z03-16-018 JAMIE BORING (802 CHIMNEY ROCK ROAD) Request that the City Council consider approving a zone change from “R-1A”, Single-Family Residential District to “PUR”, Planned Unit Residential District with final site plan. (O-2016-26)

Glen Smith, 8211 Robert E Lee Dr. – Stated that another version of the plan has been put together to try and meet the needs of the neighborhood, which includes a private drive and

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changes to the rear setbacks. The addition of the private drive enables him to bring the houses closer to the street.

Councilmember Sellers - Stated that her concern was she does not want the creek gifted to the City. Councilmember Sellers stated that she does not believe the private street meets the Unified Development Code (UDC) so it will have to be approved by city staff.

Glen Smith, 8211 Robert E Lee Dr. – Stated that he could not comment on the drainage because he is not an engineer. Mr. Smith stated that he cannot gift the creek to the City if the City won't take it. Mr. Smith stated that if he doesn't do anything with that property right now the creek will still be a problem.

Mark Reis, 614 Tryon Ct. – Stated that he did not know what was going to be presented to the City Council, because he went by what was approved by Planning & Zoning. He assumed that he would see the connected street and plat, and he was going to spend some time explaining why that was a bad idea, just like he did at the Planning & Zoning meeting. Mr. Reis stated that he had fact based data that explains why connecting those streets is a bad idea. Mr. Reis stated that: 1) at the Grande and Spring Creek intersection there is only a left hand turn lane headed east-bound on Grande that will hold two cars, and if someone wanted to turn left or make a U-turn that would cause traffic to back up, and 2) there are a number of drivers that find themselves too impatient to make a left hand turn off of Old Grande, so they turn right, heading West and attempt to make a U-turn. Mr. Reis stated that the median at that location is about 8 inches, and it makes it hard to make a U-turn, so a person ends up blocking traffic coming from Grande. Mr. Reis finally stated that if the builder is willing to go forth with the PUR zoning with a cul-de-sac street then he was in favor of the zoning.

E.J. "Jim" Hocker – 610 Tryon Court – Stated that the two key issues in this area are traffic and drainage. The PUR site water runoff is approximately 4 times undeveloped, and the cost to fix the drainage would be substantial. Mr. Hocker stated that it comes down to who will own the creek and foot the bill. Mr. Hocker stated that if the drainage isn't fixed then there is a risk of flooding homes and properties. Mr. Hocker requested the City Council table this item due to inadequate planning and excess risks to the city and the residents. He stated that the plan that Mr. Smith showed to the City Council today has great promise.

Councilmember Whatley – Stated that we have two options here at this point, 1) the developer can leave the zoning like it is and build what he wants, or 2) the developer can do what he is proposing with this requested zoning. Councilmember Whatley asked Mr. Hocker of the two options, which one was he in favor of.

E.J. "Jim" Hocker – 610 Tryon Court- Stated he was in favor of the revised plan he just presented to the City Council.

Councilmember Warren – Asked who would be responsible if Mr. Smith goes in and builds the drainage infrastructure and everything works great until ten to twelve years down the road, then there is an engineering failure. Councilmember Warren stated that he does not want the City to own a creek ten to fifteen years from now.

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Deborah Pullum, City Attorney – Stated that the question of who would be responsible for a drainage failure in the future could only be answered at that point in time. The City would have to review all the information available at that time to determine responsibility.

Reggie Howell, 604 Chimney Rock Dr. – Stated that he is affected because his home backs up against the creek. Mr. Howell stated that the creek has been a problem for a long time and some of the water that comes from the apartment complexes has caused damage to his property. He asked that the City Council approve this zoning item because the neighborhood loses if it's not approved.

Kathleen Oesterle, 708 Chimney Rock, Tyler, Texas – Stated that all the involved property was developed from Rieck Rd. to Grande, and the developer was given permission by the City Council to handle the drainage, to put it all in the creek. Mrs. Oesterle stated that she was not here to point blame but their building has extreme problems and someone has to pay for it. She stated that the City allowed someone to build some things on a natural creek and no one thought into the future. Mrs. Oesterle stated that half of her back yard is eroded and the water sometimes come up to and beyond her yard.

Steven Salas - 736 Sutherland – Stated that he was against this zoning item because of the experience he has had from previous run offs from the creek.

Sam Mezayek, 7750 Hollytree Dr. – Stated that the involved location was his old neighborhood, and that the neighborhood has drainage issues. Mr. Mezayek stated that if the property is never developed then the drainage will never be improved until someone develops the property.

Johni Gregory, 5812 Fall Meadow – Stated that he wanted the property developed, and that developed property is what is in demand.

John Cox, 613 Tryon Ct. – Stated that he had two items that he wished to address: 1) he questioned if everything that is being discussed today at the Council meeting will be put in writing, will it be read, with all t's crossed and i's dotted. Mr. Cox stated that no matter what happens, the action needs to be published in the Tyler paper and broadcasted prior to anything happening at that location; 2) he wanted to know the a time estimate the developer has in mind for the development to take place. He stated that there was a need to know the status of the land while all of the houses are being built.

Glen Smith, 8211 Robert E Lee Dr – Stated that he estimates the time required for building the development will be about four (4) years.

Motion by Councilmember Sellers to approve the zone change from "R-1A", Single-Family Residential District to "PUR", Planned Unit Residential District with final revised site plan, subject to the obtaining of a variance approval from the Planning and Zoning Commission for the cul de sac design in the revised site plan; seconded by Councilmember Nix; motion carried 7 - 0 & approved as presented.

Deborah Pullum, City Attorney – Stated that because there was a 20 percent protest on

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this item it required a favorable vote of three-fourths of all of the members of the city council to become effective, which would have been 6 favorable votes of the 7 members. This item is approved because 7 of the 7 City Council members voted to approve the item.

- Z-4 Z02-16-017 DAVRIP DEVELOPMENT, LLC (830 CAMBRIDGE BEND, 8416 AND 8420 CAMBRIDGE ROAD) Request that the City Council consider approving a zone change from "R-1D", Single-Family Attached and Detached Residential District to "PMF", Planned Multi-Family Residential District with final site plan. (O-2016-23)**

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

- Z-5 Z03-16-020 FAB & INA, LLC (1821 EAST SOUTHEAST LOOP 323) Request that the City Council consider approving a zone change from "PCD", Planned Commercial Development District to "C-1", Light Commercial District. (O-2016-24)**

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

- Z-6 Z03-16-022 BOT REAL ESTATE, INC (4151 BRIARWOOD DRIVE) Request that the City Council consider approving a "PMF", Planned Multi-Family Residential District site plan amendment. (O-2016-25)**

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

- Z-7 F03-16-045 BRIDLE RIDGE UNIT 1, FINAL PLAT Request that the City Council consider approving a 12 lot subdivision containing approximately 21.20 acres of land located north of the northeast intersection of County Road 122 and Vanderbilt and a waiver of escrow for street improvements for a planned collector street in the amount of \$282,748.**

Motion by Councilmember Nix to approve with the escrow waiver; seconded by Councilmember Bowdre; motion carried 7 - 0 & approved as presented.

PRESENTATIONS

- 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, 2015, as presented by Gollob Morgan Peddy PC.**

Kevin Cashion, Gollob Morgan Peddy PC – Gave a presentation on the Comprehensive Annual Financial Report for the fiscal year ending on September 30, 2015.

Motion by Councilmember Whatley; seconded by Mayor Pro Tem Moore; motion carried

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7 - 0 & approved as presented.

ORDINANCE

- O-1 Request that the City Council consider adopting an ordinance canceling the election for City Council district two and district four scheduled for May 7, 2016, and declaring the unopposed candidates for City Council district two and district four elected to office. (O-2016-27)**

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

- O-2 Request City Council consider authorizing the City Manager to enter into an agreement with Unique Management Services, Inc. collection agency to pursue delinquent Library patron accounts; consider adopting an Ordinance amending Tyler City Code Chapter 9 to permit the addition of a processing fee to delinquent patron accounts submitted to the collection agency; and consider directing any successful collections to the Library's donation account so that new and replacement materials may be purchased. (O-2016-28)**

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

- O-3 Request that the City Council consider adoption of an ordinance terminating the City of Tyler Tax Increment Reinvestment Zone No. 2. (O-2016-29)**

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

MISCELLANEOUS

- M-1 Request that the City Council consider authorizing the City Manager to award the construction contract for the City of Tyler Sidewalk Extension Project to South Texas Illumination in the amount of \$1,918,471.19**

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

- M-2 Request that the City Council consider authorizing the City Manager to award a contract, in the amount of \$52,865.00, to Apex Geoscience Incorporated to perform construction materials testing and inspection for the City of Tyler Sidewalk Extension Project.**

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

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- M-3 Request that the City Council consider authorizing the City Manager to execute an agreement providing for the transfer of a building and lot located in the Mrs. J. Pabst North Addition on Lot 34, Block 231, also known as 601 Valentine Street, Tyler, Texas, to the Hiway 80 Rescue Mission Non-profit entity for public purpose use as a homeless day resource room.**

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



- M-4 Request that the City Council consider accepting various donations to be used for the Innovation Pipeline Program.**

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

- M-5 Request that the City Council consider authorizing the City Manager to award a construction contract to Gracon Construction, Inc. in the amount of \$1,746,929.00 for the Southside Wastewater Treatment Plant Sludge Dewatering Facility project.**

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

- M-6 Request that the City Council consider authorizing the City Manager to execute Work Order #2 in the amount of \$102,000 with KSA Engineers, Inc. for construction phase services for the Southside Wastewater Treatment Plant Sludge Dewatering Facility project.**

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

- M-7 It is recommended that the City Council authorize the City Manager to execute Work Order #1, Amendment #3 in the amount of \$66,200 with Elledge Engineering Corporation for construction phase services for the Hwy. 31 Lift Station project.**

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

- M-8 Request that the City Council consider authorizing the City Manager to award a construction contract to Reynolds & Kay, Ltd. in the amount of \$593,035.61 for the Hwy. 31 Lift Station project.**

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

CONSENT

(These items are considered to be routine or have been previously discussed, and can be approved in one motion, unless a Council Member asks for separate consideration of an item.)

- C-A-1** Request that the City Council consider authorizing the City Manager to enter into an agreement with KPE Town Oaks Center, LLC for the funding of certain improvements to the right turn lane on Old Bullard Road north of West Southwest Loop 323 at a cost of \$30,725 to be reimbursed by the City once construction is complete.
- C-A-2** Request that the City Council consider releasing retainage to A.E. Shull & Company for the construction of Cherokee Trail Culvert Replacement and accept the project.
- C-A-3** Request that the City Council consider authorizing the City Manager to enter into a Public Highway At-Grade Crossing Improvement Agreement contract with Union Pacific Railroad (UPRR) for upgrades to Grand Avenue crossing in the amount of \$149,665.00.
- C-A-4** Request that the City Council consider ratifying staff action to execute an agreement with KSA Engineers, Inc. to perform design and construction management services for the Ashmore Channel Repair project in the amount of \$358,500.
- C-A-5** Request that the City Council consider adopting a Resolution authorizing the sale of certain tracts of land located at 1633 W. Pine Street and 1631 W. Pine Street within the Tyler city limits and owned by taxing entities including the City of Tyler. (R-2016-5)
- C-A-6** Request that the City Council consider adopting a Resolution authorizing the sale of certain tracts of land located at 2622 Hughey Drive within the Tyler city limits and owned by taxing entities including the City of Tyler. (R-2016-6)
- C-A-7** Request that the City Council consider adopting a Resolution authorizing the sale of certain tracts of land located at 601 Moore Avenue within the Tyler city limits and owned by taxing entities including the City of Tyler. (R-2016-7)
- C-A-8** Request that the City Council consider adopting a Resolution authorizing the sale of certain tracts of land located at 1505 Tenneha within the Tyler city limits and owned by taxing entities including the City of Tyler. (R-2016-8)
- C-A-9** Request that the City Council consider ratifying the purchase of a new articulated compactor from United Rentals in the amount of \$28,037.

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- C-A-10** Request that the City Council consider authorizing the City Manager to declare certain City of Tyler vehicles, equipment, and miscellaneous items as surplus and authorize for auction.
- C-A-11** Request that the City Council consider authorizing the City Manager to award the Glass Recreation Center Parking Expansion Project to L & L Asphalt in an amount not to exceed \$182,338.20.
- C-A-12** Request that the City Council consider ratifying staff action for the emergency purchase of concrete pre-cast pipe for the Ashmore Addition emergency drainage repair in the amount of \$54,560.00.
- C-A-13** Request that the City Council consider authorizing an expenditure to Southern Utilities in the amount of \$129,289.58 for water system upgrades at Lake Tyler.
- C-A-14** It is recommended that the City Council authorize an expenditure to Fuquay, Inc. in the amount of \$100,000 for sanitary sewer system inspection and cleaning services.
- C-A-15** Request that the City Council consider ratifying the Settlement of *Lamar Advantage Outdoor Company, L.P. v. City of Tyler, Texas* lawsuit.

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

CITY MANAGER'S REPORT

1. Grand opening of two projects
2. Working with FEMA to inspect 22 homes for possibility of Federal assistance
3. 22 entries received for the Art Box project.
4. CIP Update.

RECESS FOR EXECUTIVE SESSION – City Council convened into executive session at 11:47 am.

Executive Item No. 1:

Under Tex. 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, related to the development of municipal facilities.

Executive Item No. 2:

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Under Tex. Gov't Code section 551.087 "Economic Development" deliberation regarding the following:

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

Executive Item No. 3:

Under section 551.071 "Litigation" deliberation regarding the following:

Pending or contemplated litigation or settlement offer involving *Owens v. Chatelain and City of Tyler*.

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

City Council reconvened from executive session at 12:19 pm with no action taken.

ADJOURNMENT

Motion by Councilmember Whatley to adjourn the meeting at 12:19pm; seconded by Councilmember Nix; motion carried 7 - 0 & meeting adjourned.



MARTIN HEINES, MAYOR OF
THE CITY OF TYLER, TEXAS

A T E S T:



CASSANDRA BRAGER, CITY CLERK
TEXAS

