

**MINUTES OF THE
REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
August 24, 2016**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, August 24, 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:	John Nix
Councilmembers:	Mark Whatley Linda Sellers Darryl Bowdre Ed Moore Don Warren
City Manager:	Edward Broussard
City Attorney:	Deborah G. Pullum
Deputy City Attorney:	Steve Kean
Sr. Assistant City Attorney:	Sharon Roberts
Airport Manager:	Davis Dickson
Chief Financial Officer:	Keidric Trimble
Chief Information Officer:	Benny Yazdanpanahi
City Engineer:	Carter Delleney
City Fire Chief:	Les Schminkey
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
Water Business Office Manager:	Jim Yanker
Development Manager:	Greg Morgan
Traffic Engineer:	Peter Eng
City Clerk:	Cassandra Brager

INVOCATION

The Invocation was given by Councilmember Bowdre.

MINUTES

Motion by Councilmember Bowdre to approve the July 27, 2016 and August 10, 2016 minutes; seconded by Councilmember Sellers; motion carried 7 - 0 & approved as presented.

ZONING

- Z-1 Z07-16-045 CHAPEL WOODS DEVELOPMENT, LTD (3929 OLD OMEN ROAD**
Request that the City Council consider approving a zone change from "AG",
Agricultural District to "R-1A", Single-Family Residential District. (O-2016- 68)

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

- Z-2 Z08-16-052 CAMP FORD HISTORICAL ASSOCIATION, INC (6501 HIGHWAY**
271) Request that the City Council consider approving a zone change from "C-1",
Light Commercial District to "C-2", General Commercial District. (O-2016-69)

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

- Z-3 Z08-16-055 TYLER BLUE RIDGE (1603 ELK RIVER ROAD) Request that the City**
Council consider approving a zone change from "AG", Agricultural District to "R-1A",
Single-Family Residential District. (O-2016-70)

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

- Z-4 S08-16-012 CENIKOR FOUNDATION (1827 WEST GENTRY PARKWAY)**
Request that the City Council consider approving a Special Use Permit renewal for a
five year period of time for the operation of a 48 bed substance abuse treatment facility
with overnight stay. (O-2016-71)

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



- Z-5 Z08-16-053 JSBS HOLDINGS, LLC (1008 WHITESIDE ROAD) Request that the**
City Council consider approving a zone change from "M-1", Light Industrial District
to "R-1A", Single-Family Residential District. (O-2016-72)

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



- Z-6 Z08-16-057 TOM DRASCHIL (815 & 817 QUEEN STREET) Request that the City**
Council consider approving a zone change from "C-1", Light Commercial District to
"R-1B", Single-Family Residential District. (O-2016-73)

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

August 24, 2016

Z-7 Z08-16-058 RESPONSIVE EDUCATION SOLUTIONS (3405 EAST GRANDE BOULEVARD) Request that the City Council consider approving a zone change from "AG", Agricultural District to "INT", Institutional District. (O-2016-74)

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

PUBLIC HEARINGS

H-1 Request that the City Council conduct the first of two public hearings and consider public input on the proposed annexation of 32 single-family homes and undeveloped land located west of the southwest intersection of Skidmore Lane and Paluxy Drive.

Mayor Pro Tem Nix – Stated that his biggest concern with this agreement is regarding the two RMF sections, he does not want them to become apartments. The Developer has agreed to do a deed restriction on the two RMF parcels to four doors or less, so it should adequately restrict a big apartment developer or someone from coming in to develop apartments.

Mayor Heines – Stated that he wanted some kind of clarification that the only reason he is agreeing to the RMF is that there will only be access from the Centennial Parkway relocation, and that it won't be done through the additional street that they are adding on through Skidmore in any fashion.

H-2 Request that the City Council consider conducting a public hearing for August 24 and August 31, 2016 on the proposed Fiscal Year 2016-2017 Annual Budget and on the proposed property tax rate of \$0.230000 per \$100 of taxable property value and consider taking action to adopt the proposed tax rate and Fiscal Year 2016-2017 Annual Budget on September 14, 2016.

Keidric Trimble, Chief Financial Officer – Gave a brief update on the proposed Fiscal Year 2016-2017 Annual Budget and on the proposed property tax rate of \$0.230000 per \$100 of taxable property value, and that the City Council would consider taking action to adopt the proposed tax rate and Fiscal Year 2016-2017 Annual Budget on September 14, 2016.

RESOLUTION

R-1 Request that the City Council consider adopting a Resolution nominating Delek Refining for award of a State of Texas Enterprise Zone Project designation. (R-2016-31)

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

August 24, 2016



R-2 Request that the City Council adopt a Resolution ratifying submission of an application for and authorizing acceptance of Federal Aviation Administration (FAA) Grant Number 3-48-0215-37-2016 totaling \$8,987,961 for the 2016 Runway 4/22 Rehabilitation Construction Project 3 and Engineering Design at Tyler Pounds Regional Airport. This resolution also accepts any grant amendments to increase the grant funding levels, as well as authorizing the City's match payment not to exceed ten percent for proposed grant projects. (R-2016-32)

Davis Dickson, Airport Manager- Gave a brief presentation concerning ratifying submission of an application for and authorizing acceptance of Federal Aviation Administration (FAA) Grant Number 3-48-0215-37-2016 totaling \$8,987,961 for the 2016 Runway 4/22 Rehabilitation Construction Project 3 and Engineering Design at Tyler Pounds Regional Airport. This resolution also accepts any grant amendments to increase the grant funding levels, as well as authorizing the City's match payment not to exceed ten percent for proposed grant projects.

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

ORDINANCE

O-1 Request that City Council consider approving an ordinance amending Tyler City Code Chapter 17, "Streets and Traffic," by deleting Article VIII, "Transportation for Hire" from and adding Article XI "Transportation for Hire" to the Code of Ordinances of the City of Tyler, Texas; to amend and adopt new regulations relating to transportation for hire services. (O-2016-75)

Peter Eng, Traffic Engineer- Stated that the existing taxi ordinance was amended in November 2014, to allow for the permitting and regulation of limousines and other black car services within the City. As the ordinance currently stands, only taxis and limousines may operate in the City. No provisions were made for other forms of hired transportation. As Information Technology has become an integral part of the daily commute in many cities, Transportation Network Companies (TNCs) have continued to grow. The proposed ordinance will allow all forms of hired transportation within the City and allow consumers free choice in the selection of services.

Texas Cities with TNC Ordinances: Abilene, Beaumont, Bryan, College Station, Dallas, El Paso, Fort Worth, Lubbock, Midland, New Braunfels, Odessa, San Antonio, and San Marcos

What Remains the Same:

1. Third-party background checks performed by the Transportation-for-Hire Company.
2. Insurance for the TRH companies is as required by State law; no additional burden is added by the City.
3. Annual fee of \$250 for permitting

August 24, 2016

What Changes:

1. No distinction is made between the different types of Transportation-for-Hire.
2. Individual drivers are no longer permitted or licensed by the City.
3. Rates and fees for trips are not set by the City

Kelly Michaels, 2013 Holly Creek Dr – Stated that she was here to support bringing Uber to Tyler. Kelly stated that Tyler is a City with three thriving college campuses and needs more than one drive share option. She stated that she has used Uber in other parts of the country and feels safe in an Uber. Uber does a National background check on all their drivers

Ginger Walker, 2014 Pinehurst – Stated that bringing Uber to Tyler is something that is personal to her because of her teenage son. This allows her son to feel independent and also be able to have a dependable and fairly affordable ride. She also stated that she wanted Uber here to help make the streets safer.

Martha Bain, 5819 Covey Lane – Stated that she is an active woman that volunteers for many charity organizations here in Tyler. She stated that she has a migraine and seizure disorder that at times prevents her from driving. She has tried the cab company and it doesn't work, but she has tried Uber in other large cities and she has never had an incident or been fearful of using it. Mrs. Bain stated that a free market economy brings with it the opportunity for choice, and all that they are asking for is the courtesy of that choice. Today she is hoping that City Council will grant them the opportunity and give them the right to decide.

Troy Ellison, 14714 FM 2964 - Stated that he is retired military and moved back home about a year and a half ago. His mother and dad's company is trying to get away from being a wedding company and moving into a delivery company. He was here to seek compliance and he wants to be as legal as possible, regardless of what happens. The reason he is against Uber is because of one million dollar liability insurance per vehicle. He has to carry that on all of his vehicles and the reason for that is because of safety. He would rather all of our citizens get home safely and not have other issues of 50 cars from Dallas coming down here on Friday night and clean up on a quick buck and then head back to Dallas Sunday morning.

James Wynne, 511 W 6th St – Stated that he was in favor of Uber coming to Tyler. If this ordinance passes, it will give those that qualify under the guidelines the ability to earn an extra income. The residents of Tyler are asking for this and our guests that come to Tyler have asked about the availability of ride share. Mr. Wynne stated that he was here to ask that City Council approve this to help keep our streets safe.

Jack Walker, 3509 Pat Lane – Stated that he has always been impressed with the forward thinking nature of this Council. He stated that he was not here to say, "Uber" but the City of Tyler needs ride sharing and we need the order to be deregulated so that we can open up to a free market economy, and the market will decide.

Ginger Saunders, 1506 S. Chilton – Stated that what they enjoy most is talking to the different people with the ride share program in different cities to find out their personal stories and how they got started and why they are doing it. Mrs. Saunders stated that this is

August 24, 2016

needed for people that may not have an employment opportunity and this would help them to be able to contribute to their families.

Peter Schulze, 6901 Hollytree Circle – Stated that his family is an Uber user and is always thrilled with the peace of mind that Uber provides in regards to his family members. It provides people the ability to be their own boss, have flexibility and deliver a reliable service.

Jamal Moharer, 1190 CR 3504 – Stated that he has had the privilege to serve this community since 1988. Before every meeting speakers are asked to fill out a speaker card to speak for or against this proposition, and his card is marked for both. The words that have dominated this discussion and this topic for quite some time now have been we want one even playing field, market driven transportation sector, free enterprise and that's exactly what he wants and that's why the card is marked "for." No private sector in their right mind would advocate for more government regulations and he is not about to start. Private sector will always take issues with free enterprise and an even playing field or market driven concept are only applied to a certain select group and not every participant. Then why the speaker card is marked "against" because in the recent past, this is the second time that the transportation ordinance has been changed. Both times the changes to the transportation ordinance appears to be made to accommodate a vendor. Mr. Moharer stated that his company is the only company that complied with those changes, all the other vendors ignored it and the company that requested the changes no longer exists. During both events the public was never given a chance to review comments and share how this would adversely affect them. Last time he was here he had a petition of 1500 people, a couple hundred people actually arrived here, but that didn't seem to phase anything, but today may be different. Since April, NDMJ has paid over 120,000 of its own resources to provide transportation to those less fortunate while the government agencies contemplate a solution. He stated that he has always made a point of offering transportation services to those in need regardless of their ability to pay. It has been a long standing tradition for the taxi cab company to offer services during celebratory holidays such as the Cattle Barron, and the Rose Festival. The new proposed company uses those events as an opportunity to charge more and refer to it as surcharge pricing, surcharge pricing is a polite way for consumer gouging.

How does relinquishing criminal background checks compromise the insurance by letting private sectors do their own criminal background check rather than a law enforcement agency that has in the past. How does that promote free enterprise?

Councilmember Bowdre- Asked who has been doing criminal background checks on taxi cab drivers?

Mayor Heines - Free market has been dealing with this and we have not had any issues.

Trevor Theunissen, 400 W 15th St. Austin, Tx. – Public Affairs Director for Uber – Thanked the City Council and staff for all of the work that has been done over the last few weeks. There has been a lot of talk about competition and leveling the playing field. One thing that they have seen at UBER is they are growing the pie of people that use alternative transportation options, so certainly there is an impact on taxis. What they see are a majority of people actually choosing to take an UBER and leave their car at home, these are people

August 24, 2016

that wouldn't have taken a taxi. So they are growing the pie of those who are getting around. They have a national partnership with MADD and have had substantial positive benefits on DUI reduction.

Councilmember Sellers – Stated that the ordinance states that it is protecting the health and safety. Councilmembers Sellers spoke with the Governmental Affairs Office and they told her when a passenger gets into an UBER vehicle the liability insurance goes to a million dollars, that's UBER bodily injury liability insurance coverage.

Trevor Theunissen, 400 W 15th St. Austin, Tx. – Stated, with regard to the liability insurance issue above, "That is correct."

Councilmember Bowdre – Stated that a great deal of his constituents don't have credit cards or use them, don't have cell phones, or don't have an app. He was glad to hear that Uber is growing the field of those that use ride sharing. His issues also concerns public safety. UBER has had some bad news, some bad publicity based upon some bad apples and I'm glad to hear some positive experiences that some people have had but I don't know if I'm willing to take this risk on public safety.

Mark Lazarf, 3180 Park Center, Drug Alcohol and Testing Services – Stated that he would like to see added to the policy that they not only do a criminal background check but also a drug and alcohol test.

Motion by Mayor Pro Tem Nix; seconded by Councilmember Sellers; motion carried 5 - 2 & approved as presented. Councilmember Moore and Bowdre were against

Councilmember Warren – Stated that he has been on the fence about this and he took his time and investigated the issues by doing his due diligence by checking to see how many DUI arrests have been done in Tyler. Councilmember Warren also stated that he saw the employment opportunity with the UBER and LYFT program. This is about consumer choice and if you are afraid then don't use it.

O-2 ZA08-16-004 UNIFIED DEVELOPMENT CODE (BIANNUAL REVIEW) Request that the City Council consider recommending an ordinance amending the Unified Development Code in Tyler City Code Chapter 10 by amending regulations relating to zoning districts, use regulations, subdivision design and improvements, development standards, streets and thoroughfares, environmental regulations, administration and enforcement, and other clarifications. (O-2016-76)

Carlos DeAngelo – Asked City Council to approve the changes in the code concerning the water and drainage area to help them out concerning the food trucks. Asked for City Council to help with the endeavors with NETPHD.

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

August 24, 2016



MISCELLANEOUS

M-1 Request that the City Council consider reviewing and accepting the Revenue and Expenditure Report for the quarter ending June 30, 2016.

Motion by Mayor Pro Tem Nix; seconded by Councilmember Warren; 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 Asset Forfeiture Sharing Agreement with the Smith County District Attorney's Office for one year, at which time the agreement shall automatically renew unless renegotiated by the parties.
-  **C-A-2** Request that the City Council accept the Proposal received from Raving Fan Technologies, Inc. for the fiber optic installation for the new parking lot equipment at Tyler Pounds Regional Airport.
- C-A-3** Request that the City Council consider authorizing the City Manager to execute a Work Order in the amount of \$104,190 with Adams Engineering for construction phase services for the hotel/conference center water feature project.
- C-A-4** Request that the City Council consider authorizing the City Manager to award a construction contract to Reid Construction in the amount of \$567,480.50 for the hotel/conference center project.
- C-A-5** Request that the City Council consider authorizing the City Manager to execute a Water Line Easement across City-owned property for a Southern Utilities water line at Lake Tyler.
-  **C-A-6** Request that the City Council consider authorizing the City Manager to authorize a new agricultural lease to Johnny Oden at Tyler Pounds Regional Airport.
- C-A-7** Request that the City Council consider authorizing the City Manager to approve an Interlocal Purchasing Agreement between Wood County and the City of Tyler.
- C-A-8** Request that the City Council consider authorizing the City Manager to award the Renovation of the Rose Garden Gazebo and Bridge Repair to Newman Construction in the amount of \$54,813.

August 24, 2016

C-A-9 Request that the City Council consider reviewing and accepting the Investment Report for the quarter ending June 30, 2016.

C-A-10 Request that the City Council consider adoption of an ordinance amending Tyler City Code Chapter 17 by amending the parking meter holiday references to conform to the City Holiday Schedule and updating provisions related to the Fair Plaza Parking Garage. (O-2016-77)

Motion by Mayor Pro Tem Nix to approve the entire consent agenda; seconded by Councilmember Moore; motion carried 7 - 0 & approved as presented.

CITY MANAGER'S REPORT

1. Texas Chapter American Public Planning Association-Certificate of Achievement awarded to Tyler Planning Department.
2. Development Services went live August 10th with its E/Trackit system, which allows contractors to monitor status of items they have pending with the City.
3. Tyler Junior College football team gave a signed football to Tyler Police Department.
4. CIP report update.
5. Majority of work should be cleaned up and cleared out before Texas College homecoming on 26th Street project.

ADJOURNMENT

Motion by Councilmember Whatley to adjourn the meeting at 11:49 am; seconded by Councilmember Warren; motion carried 7 - 0 & meeting adjourned.



**MARTIN HEINES, MAYOR OF
THE CITY OF TYLER, TEXAS**

A T T E S T:



CASSANDRA BRAGER, CITY CLERK

