

**MINUTES OF THE
REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
November 11, 2015**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, November 11, 2015 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. Asst. City Attorney:	Sharon Roberts
Asst. City Attorney:	Terrance Garmon
Chief Financial Officer:	Keidric Trimble
Chief Information Officer:	Benny Yazdanpanahi
City Engineer:	Carter Delleney
City Fire Chief:	Tim Johnson
Interim Municipal Court Administrator:	Nicole Johnson
Managing Director for Public Safety & Police Chief:	Gary Swindle
Director of Parks and Recreation:	Stephanie Rollings
Director of Planning:	Heather Nick
Managing Director for Utilities/Public Works and Utilities:	Greg Morgan
City Clerk:	Cassandra Brager
Deputy City Clerk:	Patricia Peralta

INVOCATION

The Invocation was given by Councilmember Bowdre

MINUTES

Motion by Councilmember Whatley to approve the October 28, 2015 minutes; seconded by Mayor Pro Tem Moore; motion carried 7 - 0 & approved as presented.

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EMPLOYEE AWARDS – RECOGNITIONS, SERVICE

A-1 New Hires Recognitions

The following employees were hired by the City of Tyler during the month of October 2015. We would like to take this opportunity to welcome these new employees.

New Employees

FIRST NAME:	LAST NAME:	POSITION:	DEPARTMENT:
Lana	Griffin	Payroll Technician	Finance
Rosalinda	Gauna	Circulation Technician	Library
Virginia	Calvillo	Custodian	Parks
Robert	Gamble	Laborer	Parks
Jonathan	Sowells	Laborer	Parks
Melanie	Johnson	PS Telecommunicator II	Police
Gary	Preslar	PS Telecommunicator II	Police
Alaric	Jordan	Residential Equipment Operator	Solid Waste
Cheri	Letner	Administrative Assistant	Traffic
Antonio	Hubbard	Laborer	Wastewater Collection
Aaron	Oates	Industrial Pretreatment Inspector	Water

ZONING

- Z-1 Z11-15-001 RUBEN MARTINEZ (514 SOUTH SOUTHWEST LOOP 323)**
Request that the City Council consider approving a zone change from “M-2”, General Industrial District to “C-1”, Light Commercial District.

Motion by Councilmember Bowdre; seconded by Councilmember Whatley; motion carried 7 - 0 & approved as presented. (O-2015-99)

Councilmember Whatley exits

- Z-2 Z11-15-002 BRIAN, LEE & FRANKLIN INVESTMENTS (403 SOUTH GLENWOOD BOULEVARD)** Request that the City Council consider approving a zone change from “R-2”, Two-Family Residential District to “C-2”, General Commercial District.

Motion by Councilmember Bowdre; seconded by Councilmember Sellers motion carried 6 – 0– 1 & approved as presented. (O-2015-100)

- Z-3 Z11-15-003 BROADWAY SOUTH DEVELOPMENT A NO 2 LTD (8850 SOUTH BROADWAY AVENUE)** Request that the City Council consider approving a “PCD”, Planned Commercial Development District final site plan.

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Motion by Councilmember Nix; seconded by Councilmember Sellers motion carried 6 – 0– 1 & approved as presented. (O-2015-101)

Councilmember Whatley re-enters

Z-4 Z11-15-004 EAST TEXAS OAKS LP (13592 HIGHWAY 31 WEST) Request that the City Council consider approving a zone change from “AG”, Agricultural District to “C-2”, General Commercial District.

Rod Johnson, 10188 E. Lakeshore - Stated that he was representing Hidden Hill Lake and his mother that owns some adjacent property. Mr. Johnson stated that they have had problems with this property before. The lake has a sandbar from a previous incident on this property. Mr. Johnson stated he had over 30 pages from TCEQ of violations and recommendations to clean up the area. He stated that a year later, sand is still coming down off this property into the lake. He stated his concerns are with the trucking company, and what they are planning to put on this property. He stated that with the diesel oil and water that could come from these trucks, the runoff could go into their lake and create a problem. Mr. Johnson also stated his concerns with the possible hours of operation and the disruption for residents. He stated that the [trucking company] owner did not personally contact the [property] owners at the duplexes— and that owners of the first property on the highway did not receive a flyer. The company has worked on the property before and has not cleaned it up. Mr. Johnson stated he was given promises until the statute of limitations prevented him from suing. He stated that TCEQ can only advise on problems on the site itself, but they cannot force anyone to do anything. Mr. Johnson received a letter from an environmental engineer TCEQ hired to investigate the sand bar, and it indicated that it is not an environmental hazard to the lake so therefore it is fine.

Councilmember Warren - Asked what kind of disturbance occurred to the west to the lake?

Rod Johnson, 10188 E. Lakeshore —Stated the company took 46 acres of land, removed everything and raked all of the roots off of the land. According to Mr. Johnson, his paperwork indicated that the company was required to put in a silt dam and the company never did. The company that was handling it for them was sending TCEQ reports that everything was fine, but investigations showed the silt dams were full and the sediment was not being removed and the company did not do anything. Mr. Johnson stated that he has all of the paperwork for anyone who would like to read it.

Councilmember Sellers - Asked if Mr. Johnson lives on Lakeshore Drive?

Rod Johnson, 10188 E. Lakeshore —Mr. Johnson stated that his mother does; she owns property adjacent to the location and (at the time) a piece of property across the street from the tract. Mr. Johnson noted he also has pictures of sand in his mother’s yard and recounted the issues he has with getting the sand removed from the previous company.

Councilmember Whatley - Asked Mr. Johnson if the issue that he has is the sand?

Rod Johnson, 10188 E. Lakeshore - Stated that the biggest issue was the sand, but the noise is also an issue. He stated that he is sure the company is planning to operate with trucking—

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he was told truck repair and storage.

Mark Priestner, 3815 Old Bullard - Stated that this property is a contingency zoning and contract. The buyer of the property has nothing to do with any prior development of the property. Mr. Priestner stated it is a dry goods trucking company—minor repair for trucks. The property would be used for office and storage and would not be a 24 hour operation, probably a 6:00 a.m. - 9:00 p.m. operation, but a truck yard for a trucking company. Mr. Priestner added that the owner will only use about four or five of the 20 acres. Mr. Priestner stated that he spoke to the owner of the majority of the duplexes about what they were going to do with the tract and his only concern was security fencing. Mr. Priestner assured the Council that they will keep development on the more western side of the tract, and stated that he doesn't know what happened with drainage before. Mr. Priestner believes the tree clearing was done before the matter was brought to the City, and the development would have to still follow the TCEQ guidelines. Mr. Priestner stated that the property is in the heart of an industrial area and to the South of the property is Kelly Springfield, which is in the process of being redeveloped. Mr. Priestner assured the Council that they would keep the work to the west and farther away from the adjacent properties. He stated that he has spoken to and made plans to include the owner of the majority of the duplexes in plans for the future.

Councilmember Nix—Asked about residential being outside the city limits, can he say what kind of buffer will they include between the C-2 and residential?

Mark Priestner, 3815 Old Bullard—Stated no because it goes with zoning, they have to see what kind of zoning is approved before they can make the design plans, but they would do that anyway and keep it as far west as they can.

Councilmember Warren- Asked where in that area is the silt going into the lake?

Mark Priestner, 3815 Old Bullard - Showed a picture of the channel that is in the area and area on the map where the area is affected. The majority of their work would be below the dam.

Councilmember Whatley – Stated that TCEQ is pretty picky about silt fencing and if there is enough of a problem, the joint property owners can do something on their own. Councilmember Whatley asked if the drainage would not go into the lake or where they are constructing.

Mark Priestner, 3815 Old Bullard - Stated that because this has been brought to the City, there is an extra layer of oversight. There is a ridge that splits what goes north and what goes south.

Councilmember Whatley -Asked how many feet of frontage is there?

Mark Priestner, 3815 Old Bullard – Mr. Priestner estimated about 700 feet.

Councilmember Whatley - Asked if there will only be one drive?

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Mark Priestner, 3815 Old Bullard - Stated that's a separate issue and it will be a part of the platting and that they will try to do a shared drive. TxDot has asked that they pursue that.

Councilmember Nix - Asked what can be done to protect the residential property?

Heather Nick, Planning Director – Heather Nick noted that the UDC (Unified Development Code) doesn't protect property outside the city limits; if it was, there would have to be a buffer yard between 10 and 20 feet.

Mayor Heines – Asked if the property would be R-2?

Heather Nick – Heather Nick stated it would most likely be R-2. She stated that would require a buffer yard of 10 to 20 feet if they were inside the city limits.

Mayor Heines – Asked if there would be a problem with committing them to 10 to 20 feet?

Mark Priestner – Stated that they probably will do more than that because the more they leave in place, the less they have to do as far as drainage.

Motion by Mayor Pro Tem Moore; seconded by Councilmember Warren motion carried 7 - 0 & approved as presented. (O-2015-102)

Z-5 F09-15-121 WILLOW RUN ADDITION UNIT 2, SECOND AMENDMENT

Request that the City Council consider approving a two lot subdivision containing approximately 5.45 acres of land located east of the northeast intersection of Golden Road and East 5th Street, and a waiver of escrow estimated to be \$36,187 for street improvements to Wayside Drive.

Motion by Councilmember Warren; seconded by Councilmember Nix to approve the plat; motion carried 7 - 0 & approved.

Motion by Councilmember Warren to conditionally approve the waiver of escrow for street improvements to Wayside Drive in the amount of \$36,187, conditioned upon the applicant-owner agreeing to and placing a notation on the subject plat stating that "no access shall be allowed from the property of the residential neighborhoods that are adjacent to the subject property"; seconded by Councilmember Nix, motion carried 7 - 0 & approved as stated.

H-1 REMOVAL OF LANDMARK STATUS (B.W. Rowland-Liebreich Building – 100 & 104 West Erwin Street) Request that the City Council conduct a hearing and consider a removal of the Landmark located at 100 & 104 West Erwin Street, Tyler, Texas from the Tyler Historic Landmark Register.

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

P-1 Request that the City Council receive a presentation on the review and analysis of the Municipal Court processes.

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Nicole Johnson, Interim Court Administrator and Terrance Garmon, Assistant City Attorney – Gave a brief presentation on the scopes of the Municipal Court process and how to better the process with the creation of a standard operating procedure.

R-1 Request that the City Council consider adopting a Resolution appointing a City of Tyler representative to the Smith County Appraisal District Board of Directors.

Motion by Councilmember Bowdre to appoint Councilmember Whatley; seconded by Councilmember Sellers; motion carried 7 - 0 & approved as presented. (R-2015-30)

M-1 ALFONSO OCHOA (1403 WEST ELM STREET)

Request that the City Council consider approving a waiver of development exactions relating to the widening of the applicant's portion of West Elm Street.

Motion by Councilmember Bowdre seconded by Mayor Pro Tem 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 releasing retainage to Reynolds and Kay, LTD for the 2015 Asphalt Enhancement Program.

C-A-2 Request that the City Council consider ratifying staff action to enter into contracts for the purchase of multiple properties for the Palace, 26th Street, and Grand Avenue Improvement Project.

C-A-3 Request that the City Council consider adoption of an Ordinance amending Tyler City Code Chapter 3, Civil Service Classification Plan and number of authorized Civil Service positions for Fiscal Year 2015-2016. (O-2015-103)

C-A-4 Request that the City Council consider authorizing the City Manager to execute Work Order No. 1 with KSA Engineers, Inc., in the amount of \$255,500, for engineering services for the Troup Hwy. Booster Pump Station project.

C-A-5 Request that the City Council consider authorizing an expenditure, in the amount of \$126,688.85 for the Mandated Water Quality Assessment Fee to the Texas Commission on Environmental Quality (TCEQ).

C-A-6 Request that the City Council consider authorizing the City Manager to sign a contract with David Pettit to perform professional services related to TIRZ No. 2 in downtown Tyler.

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- C-A-7** Request that the City Council consider authorizing the City Manager to purchase playground equipment for Golden Road Park and Emmett J. Scott Park through the Buy Board Purchasing Cooperative from May Recreation Equipment & Design, L.P. in the amount of \$79,890.

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

- B-1** Request that the City Council consider the re-appointment of Mr. Ron Shaffer to serve on the Smith County 9-1-1 Emergency Communications District Board of Managers.

Motion by Councilmember Sellers to appoint Ron Shaffer for a term to end December 31, 2017; seconded by Councilmember Bowdre; motion carried 7 - 0 & approved as presented.

CITY MANAGER'S REPORT

1. Sale's tax figures show 8% increase from last year
2. Texas Transportation institute to meet with Transit staff for analysis and recommendations for a long range plan.
3. Awards received for Downtown Tyler
4. HET, 3rd party consultant for City's Water System, is still working on gathering information, but had complimentary comments concerning staff.
5. CIP report handed out.

RECESS FOR EXECUTIVE SESSION – City Council reconvened into executive session at 10:10 a.m.

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.

Executive Item No.3:

Under section 551.071 "**Litigation**" deliberation regarding the following:

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1. Pending or contemplated litigation involving Liberty Utilities Corp v. PUC and City of Tyler;
2. Pending or contemplated litigation involving Lamar Advantage Outdoor Company v. 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 10:38 a.m. with no action taken.

ADJOURNMENT

Motion by Councilmember Whatley to adjourn the meeting at 10:38 a.m.; seconded by Councilmember Nix; motion carried 7 - 0 & meeting adjourned.



MARTIN HEINES, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:



CASSANDRA BRAGER, CITY CLERK

