

MINUTES OF THE  
REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS  
December 12, 2007

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, December 12, 2007 at 9:00 a.m. in the Council Chamber, City Hall, Tyler, Texas, with the following present:

|  |                  |
|--|------------------|
| Mayor:                                   | Joey Seeber      |
| Mayor Pro Tem:                           | Chris Simons     |
| Council Members:                         | Nathaniel Moran  |
|  | Donald Sanders   |
|  | Ralph Caraway    |
|  | Steve Smith      |
|  | Charles Alworth  |
| City Manager:                            | Bob Turner       |
| Deputy City Manager:                     | Mark McDaniel    |
| City Attorney:                           | Gary Landers     |
| Deputy City Attorney:                    | Steve Kean       |
| Assistant City Attorney:                 | Karen Stead      |
| Business Service Manager:                | ReNissa Wade     |
| Development Services Engineer:           | Michael Wilson   |
| Director of Neighborhood Services:       | Brenda Johnson   |
| Capital /City Projects Coordinator:      | Bill Ward        |
| Chief Financial Officer:                 | Daniel Crawford  |
| City Fire Chief:                         | Neal Franklin    |
| City Police Chief:                       | Gary Swindle     |
| Communications Director:                 | Susan Guthrie    |
| Director of Parks and Recreation:        | John Webb        |
| Director of Planning and Zoning:         | Barbara Holly    |
| Director of Solid Waste:                 | Dan Brotton      |
| Housing Service Manager:                 | Andy Davis       |
| Internal Auditor:                        | Keidric Trimble  |
| Manager of Water Quality and Production: | Mitch Marable    |
| Director of Utilities & Public Works:    | Greg Morgan      |
| Traffic Engineer:                        | Kirk Houser      |
| City Clerk:                              | Cassandra Brager |

### **INVOCATION**

The Invocation was given by Councilman Caraway.

### **AWARDS**

#### **A-1 Retiree**

#### **John H. Brown**

**September 23, 1985 to November 30, 2007**

John H. Brown went to work for the City of Tyler on September 23, 1985 as a Police Officer in the Police Department. On January 24, 1997 he was promoted to Police Sergeant. We are pleased to present John with a Certificate of Retirement for his many years of service with the City of Tyler.

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25 years

**Gary M. Swindle**

**November 1, 1982 to November 1, 2007**

Gary Swindle went to work for the City of Tyler on November 1, 1982 as a Police Officer in the Police Department. On September 24, 1990 he was promoted to Police Sergeant; on February 8, 1993 he was promoted to Police Lieutenant; on October 10, 1995 he was promoted to Police Captain; on April 18, 1999 he was named Deputy Police Chief and on January 24, 2000 he was promoted to Police Chief, the position he now holds. We are pleased to present Gary with a 25 year service pin for his many years of service with the City of Tyler.

20 years

**Kenneth O. Scheid**

**November 16, 1987 to November 16, 2007**

Kenneth O. Scheid went to work for the City of Tyler on November 16, 1987 as a Firefighter in the Fire Department. On May 23, 1996 he was promoted to Fire Driver/Engineer. He was promoted to Fire Captain on January 2, 2005, the position he now holds. We are pleased to present Kenneth with a 20 year service pin for his many years of service with the City of Tyler.

**Steve R. Countryman**

**November 16, 1987 to November 16, 2007**

Steve R. Countryman went to work for the City of Tyler on November 16, 1987 as a Firefighter in the Fire Department. On December 13, 1998 he was promoted to Fire Driver/Engineer. On July 20, 2003 he was promoted to Fire Captain, the position he now holds. We are pleased to present Steve with a 20 year service pin for his many years of service with the City of Tyler.

**Kelly R. Shirley**

**November 16, 1987 to November 16, 2007**

Kelly R. Shirley went to work for the City of Tyler on November 16, 1987 as a Firefighter in the Fire Department. On March 17, 2002 he was promoted to Fire Driver/Engineer. Kelly was promoted to Fire Captain on July 2, 2006, the position he now holds. We are pleased to present Kelly with a 20 year service pin for his many years of service with the City of Tyler.

**Randy J. Davis**

**November 16, 1987 to November 16, 2007**

Randy J. Davis went to work for the City of Tyler on November 16, 1987 as a Firefighter in the Fire Department. On December 13, 1998 he was promoted to Fire Driver/Engineer. On June 8, 2003 he was promoted to Captain, the position he now holds. We are pleased to present Randy with a 20 year service pin for his many years of service with the City of Tyler.

**W. Dee Davis**

**November 16, 1987 to November 16, 2007**

W. Dee Davis went to work for the City of Tyler on November 16, 1987 as a Firefighter in the Fire Department. On January 8, 1997 he was promoted to Fire Driver/Engineer. On January 6, 2002 he was promoted to Captain, the position he now holds. We are pleased to present Dee with a 20 year service pin for his many years of service with the City of Tyler.

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**Ben E. Dews**

**November 19, 1987 to November 19, 2007**

Ben E. Dews went to work for the City of Tyler on November 19, 1987 as a Code Enforcement Officer in the Community Development Department. He was promoted to Rehab Projects Specialist on October 24, 1997 and Code Enforcement/Housing Inspector on September 9, 2002, the position he now holds. We are pleased to present Ben with a 20 year service pin for his many years of service with the City of Tyler.

**Karen L. Ward**

**October 27, 1987 to October 27, 2007**

Karen L. Ward went to work for the City of Tyler on October 27, 1987 as a Police Communications Operator in the Police Department. On March 12, 1990 she was transferred to Police Officer, the position she now holds. We are pleased to present Karen with a 20 year service pin for her many years of service with the City of Tyler.

These employees represent over 187 years of service with the City of Tyler.

**A-2 New Employees**

The following employees were hired by the City of Tyler during the month of November 2007.

We would like to take this opportunity to welcome these new employees.

|                          |                                |                        |
|--------------------------|--------------------------------|------------------------|
| <b>Johnathan Vickers</b> | <b>Laborer</b>                 | <b>Parks</b>           |
| <b>Karen Stead</b>       | <b>Assistant City Attorney</b> | <b>Legal</b>           |
| <b>John Hunts</b>        | <b>Plant Operator II</b>       | <b>Waste Treatment</b> |
| <b>Ayinde Foluke</b>     | <b>Plant Operator I</b>        | <b>Water Plant</b>     |
| <b>Jimmy Vega</b>        | <b>Laborer</b>                 | <b>Parks</b>           |

**A-3 Request that the City Council consider accepting, from the Government Finance Officers Association of the United States and Canada, the “Certificate of Achievement for Excellence in Financial Reporting” award for its Comprehensive Annual Financial Report for the period ending September 30, 2006.**

Mayor Seeber presented Daniel Crawford with the “Certificate of Achievement for Excellence in Financial Reporting” award for its Comprehensive Annual Financial Report for the period ending September 30, 2006.

**A-4 Request that the City Council recognize Rose Ellis for earning the “Certified Government Finance Officer” designation.**

Mayor Seeber presented Rose Ellis with an award for earning the “Certified Government Finance Officer” designation from the Government Finance Officers Association of Texas.

**ORDINANCES**

**O-1 Request that the City Council consider adopting an ordinance amending the Fiscal Year 2007-2008 Budget to provide funding for the Golden Road restroom project that was not completed by 9-30-2007 as anticipated and to authorize the City Manager to execute a contract with Heartbeat Construction, Incorporated with alternate No. 1 for the construction of new American with Disabilities Act (ADA) and Texas Accessibility Standards (TAS) compliant restrooms and a ADA/TAS compliant ramp at Golden Road Park. (0-2007-141)**

Councilman Moran made the motion with special thanks to John Webb, his staff, and people involved; seconded by Councilman Alworth; motion carried 7-0; accepted as presented.

**MISCELLANEOUS**

**M-1 Request that the City Council consider receiving a presentation regarding the Five Year Capital Improvement Program (CIP). (Received)**

**Bill Ward, Project Coordinator** – Stated that an amended program is necessary due to construction cost increases and changes in scope for some projects.

| Project                           | 10/1/2006<br>EOC | 9/17/2007<br>Revised<br>EOC | Bid        | Variance          |
|-----------------------------------|------------------|-----------------------------|------------|-------------------|
| Fire Station # 10 (#27)           | 2,000,000        |                             | 3,638,000  | 1,638,000         |
| Fire Station # 7 (#25)            |                  |                             |            |                   |
| Grande ROW & Utility relocation   | 4,820,000        |                             | 6,801,655  | 1,981,655         |
| Broadway Corridor                 | 0                |                             | 1,000,000  | 1,000,000         |
| Grande Construction Phase 1       | 12,000,000       |                             | 13,029,112 | 1,029,112         |
| Grande Construction Phase 2       | 12,000,000       |                             | 16,258,454 | 4,258,454         |
| New Sunnybrook add Old Noonday-SH |                  |                             |            |                   |
| 155 to Glenwood                   | 12,000,000       | 14,600,000                  |            | 2,600,000         |
| Old Omen- University to Shiloh    | 6,600,000        | 8,500,000                   |            | 1,900,000         |
| <b>TOTAL</b>                      |                  |                             |            | <b>14,407,221</b> |

**M-2 Request that the City Council consider authorizing a change order to the existing Tyler Water Utilities 3-Way Contract, No. 19-13-054-07, with Reynolds and Kay, Limited and Heritage Properties, Incorporated in the amount of \$75,782.60 for the emergency replacement of 998 linear feet of 12 inch waterline along Old Jacksonville Highway south Rice Road. ©**

Councilman Alworth made the motion; seconded by Councilman Smith; motion carried 7-0; accepted as presented.

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**M-3 Request that the City Council consider receiving patronage dividend refund check of \$54,088.09 from First Choice Cooperative. This refund is based on the City's purchasing volume on multiple commodity contracts.**

Councilman Alworth made the motion to accept refund check; seconded by Councilman Sanders; motion carried 7-0; accepted as presented.

**M-4 Request that the City Council consider authorizing the City Manager to approve the Final Payment in the amount of \$19,810.25 to Diamond Enterprise, Incorporated for the completion of Contract TYL-250, the Cleaning and Painting of the Trane/American Standard Company and Copeland Road Elevated Storage Tanks.**

Mayor Pro Tem Simons made the motion; seconded by Councilman Moran; motion carried 7-0; accepted as presented.

**M-5 Request that the City Council consider approving a professional services contract with Yvonne Newman Engineering, Incorporated in the amount not to exceed \$18,866.10 for the third year of a contract for the provision of a Traffic Data Collection program for the Tyler Area Metropolitan Planning Organization. ©**

Councilman Smith made the motion; seconded by Councilman Caraway; motion carried 7-0; accepted as presented.

**M-6 Request that the City Council consider ratifying the award of bids for the reconstruction of five (5) single family dwellings. ©**

Councilman Sanders made the motion; seconded by Councilman Caraway; motion carried 7-0; accepted as presented.

**M-7 Request that the City Council consider ratifying the award of bids for the rehabilitation of five (5) structures in the Owner-Occupied Housing Rehabilitation Program. ©**

Councilman Alworth made the motion; seconded by Councilman Sanders; motion carried 7-0; accepted as presented.

**(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).**

**CONSENT AGENDA**

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- C-A-1** Request that the City Council consider authorizing the City Manager to purchase two fully automated solid waste truck bodies from Heil of Texas through the BuyBoard Purchasing Cooperative for a total purchase price of \$164,278.40.
- C-A-2** Request that the City Council consider authorizing the City Manager to purchase one (1) John Deere 310J Backhoe from the Buy Board dealer Doggett Machinery Services, of Tyler, Texas in the amount of \$62,087.34.
- C-A-3** Request that the City Council consider authorizing the City Manager to purchase one (1) John Deere 650J Crawler Tractor from the Buy Board dealer Doggett Machinery Services, of Tyler, Texas in the amount of \$100,751.00.
- C-A-4** Request that the City Council consider authorizing the City Manager to purchase one (1) Extended Cab Half Ton Truck from the low bidder Kilgore Ford, of Kilgore, Texas in the amount of \$15,927.66 for the Solid Waste Commercial Department.
- C-A-5** Request that the City Council consider authorizing the City Manager to purchase one (1) Kubota L5240 Tractor and one (1) Kubota L5240 Tractor with an Auger from the low bidder Rose Country Tractor, of Tyler, Texas for a total amount of \$42,856.00.
- C-A-6** Request that the City Council consider authorizing the City Manager to purchase one (1) Kubota L5740 Tractor from the low bidder Normangee Tractor and Implement Company Incorporated, of Normangee, Texas for a total amount of \$22,965.00.
- C-A-7** Request that the City Council consider authorizing the City Manager to purchase one (1) Extended Cab Half Ton Truck from the low bidder Kilgore Ford, of Kilgore, Texas in the amount of \$15,927.66 for the Environmental Department.
- C-A-8** Request that the City Council consider authorizing the City Manager to purchase one (1) One Ton Crew Cab Truck, from the low bidder Kilgore Ford, of Kilgore, Texas for the amount of \$21,339.66.
- C-A-9** Request that the City Council consider approving the expenditure of \$96,455.00 for Mandated Water Quality Assessment Fee to the Texas Commission on Environmental Quality.
- C-A-10** Request that the City Council consider authorizing the expenditure of \$10,233.18 for Mandated Water System Fee to the Texas Commission on Environmental Quality.
- C-A-11** Request that the City Council consider authorizing the City Manager to purchase a Lagoon Chopper Pump and Control Panel for the Southside Wastewater Treatment Plant in the amount of \$17,796.00 from Newman Regency Group.

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Councilman Moran made the motion to approve the entire consent agenda; seconded by Councilman Alworth; motion carried 7-0; accepted as presented.

## **BOARD APPOINTMENTS**

- B-1** Request that the City Council approve the re-appointment of three members to the City of Tyler Reinvestment Zone Number 1 Tax Increment Financing Board for 2008, ratify service of the Chairman for 2007, and approve a Chairman for 2008.

## **REINVESTMENT ZONE BOARD**

Councilman Alworth made the motion; seconded by Councilman Smith; motion carried 7-0 to re-appoint the following board members:

**Eloyce Green  
Kathy Harry  
Ed Wallace**

Councilman Alworth made the motion; seconded by Councilman Smith; motion carried 7-0 to re-appoint Dean Cagle as Chairman.

## **CITY MANAGER'S REPORT**

1. *City Employees Christmas party/lunch at 11:00, Thursday, 12/13/07 at HCC.*
2. *Caraway – Thanks to City Manager, Housing, Brenda, Barbara for making his job easier and addressing issues and appreciate Dan Brotton in Code Enforcement.*
3. *C. Simons – Thanks to John Webb and Staff for Holiday in Park.*

**RECESS FOR EXECUTIVE SESSION** - City council convened into executive session at 9:45 a.m.

As allowed by the Texas Open Meetings Law, Chapter 551 of the Government Code, the City Council may consider the following:

-under section 551.087 "economic development negotiations" deliberation regarding the following:

1. Possible specific economic incentives and financial information concerning prospects

-under section 551.071 "Litigation" deliberation regarding the following:

2. Pending or contemplated litigation involving Cascades and/or Western Rim developments
3. Pending litigation involving acquisition of land for Grande extension East including Martel and R&J

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Litigation is, by its nature, an on-going process, and questions may arise as to trial tactics, which need to be explained to the City Council. Upon occasion, the City Council may need information from the City Attorney as to the status of the pending or contemplated litigation subjects listed above

City council reconvened from executive session at 11:33 a.m. with no action taken

**ADJOURNMENT**

Councilman Alworth made the motion to adjourn the meeting at 11:33 a.m.; seconded by Councilman Moran; motion carried 7-0; meeting adjourned.

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**JOSEPH O. SEEBER, MAYOR OF  
THE CITY OF TYLER, TEXAS**

**A T T E S T:**

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**CASSANDRA BRAGER, CITY CLERK**