

**MINUTES OF THE
REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
January 9, 2008**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, January 9, 2008 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
Business Service Manager: ReNissa Wade
Development Services Engineer: Michael Wilson
Director of Neighborhood Services: Brenda Johnson
Chief Financial Officer: Daniel Crawford
Chief Information Officer: Benny Yazdanpanahi
City Police Chief: Gary Swindle
Director of Parks and Recreation: John Webb
Director of Planning and Zoning: Barbara Holly
Director of Solid Waste: Dan Brotton
Manager/Water Utilities Business Office: Joan Roberson
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

Karen L. Ward

October 27, 1987 to December 31, 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. We are pleased to present Karen with a Certificate of Retirement for her many years of service with the City of Tyler.

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Arthur W. Allen

June 3, 2002 to December 31, 2007

Arthur W. Allen went to work for the City of Tyler on June 3, 2002 as a Housing Projects Coordinator in the Neighborhood Services Department. On December 31, 2002 his title was changed to Accountant. We are pleased to present Art with a Certificate of Retirement for his years of service with the City of Tyler.

25 years

Wanda Baldwin

December 13, 1982 to December 13, 2007

Wanda Baldwin went to work for the City of Tyler on December 13, 1982 as Secretary in the Purchasing Department. On September 1, 1990 she transferred to D.E.A. Task Force Secretary in the Police Department, the position she now holds. We are pleased to present Wanda with a 25 year service pin for her many years of service with the City of Tyler.

These employees represent over 50 years of service with the City of Tyler.

ZONING

Z-1



APPLICATION C11-07-001B MANUEL MENDEZ

Request that the City Council consider a request to close a portion of a public street (Carlyle Avenue) beginning at the intersection of East Gentry Parkway and Carlyle Avenue for approximately 123 feet south terminating at the intersection of East Valentine Street. The west side of the right-of-way is adjacent to Lot 999 of NCB 223 and the east side of the right-of-way is adjacent to Lot 1D of NCB 229. *Ord. No. 0-2008-1*

Councilman Smith made the motion; seconded by Councilman Moran; motion carried 7-0; approved as presented.

Z-2

APPLICATION S11-07-011B DAVID WEAVER

Request that the City Council consider a request for a Special Use Permit to allow for a drive-thru window for a Subway Restaurant for an indefinite period on Lot 1 of NCB 1548 of the Grande Place Subdivision as recorded in Cabinet B, Slide 341C of the Plat Records of Smith County, Texas, one lot totaling approximately 1.46 acres located on a portion of the lot at the southeast intersection of Grande Boulevard and Old Jacksonville Highway (2330 West Grande Boulevard). The property is currently zoned "C-1" Light Commercial District. *Ord. No. 0-2008-2*

Councilman Smith made the motion; seconded by Councilman Sanders; motion carried 7-0; approved as presented.

Z-3

APPLICATION S11-07-012B MANUEL MENDEZ

Request that the City Council consider a request for a Special Use Permit to allow for a drive-thru window for an El Pollo Restaurant for an indefinite period on Lot 1D of NCB 229 of the Pabst North Addition as recorded in Cabinet D, Slide 218A

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Of the Plat Records of Smith County, Texas., one lot totaling approximately 0.391 acres located at the southeast intersection of East Gentry Parkway and Carlyle Avenue (614 East Valentine Street). The property is currently zoned “M-1” Light Industrial District. *Ord. No. 0-2008-3*

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

Z-4

APPLICATION Z09-07-098B MANZIEL FAMILY RENTAL PARTNERSHIP Request that the City Council consider a request to change the zoning from “M-2” General Industrial District to “C-2” General Commercial District on Lot 3A of NCB 74 of the John Durst Subdivision, one lot totaling approximately 0.216 acres located one lot southwest of the intersection Beckham Avenue and Noble Street (501 South Beckham Avenue). *Ord. No. 0-2008-4*

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

Z-5

APPLICATION Z11-07-002A BOB HERD Request that the City Council consider a request to change the zoning from “RPO” Restricted and Professional Office District to “C-1” Light Commercial District on lot 23C; “R-1A” Single Family Residential District and “RPO” Restricted and Professional Office District to “C-1” Light Commercial District on lot 71; “R-1A” Single Family Residential District to “RPO” Restricted and Professional Office District on approximately 2.708 acres of lot 24; and “R-1A” Single Family Residential District to “POD” Planned Office Development District with final site plan approval on approximately 10.63 acres of lot 24, all located within NCB 899H of the City of Tyler Subdivision: three lots totaling approximately 25.61 acres located one lot north of the northeast intersection of Woodland Hills Drive and Old Jacksonville Road. *Ord. No. 0-2008-5*

Councilman Smith made the motion; seconded by Councilman Sanders; motion carried 7-0; approved as presented.

Z-6

APPLICATION Z11-07-007B LIVING ALTERNATIVES, INC. Request that the City Council consider a request to change the zoning from “R-1B” Single Family Residential District to “RPO” Restricted Professional Office District on Lot 9 of NCB 678G of the Ridgecrest Addition as recorded in Book 3534, Page 13 of the Deed Records of Smith County, Texas, one lot totaling approximately 0.24 acres located one lot west of the southwest intersection of Baxter Avenue and Devine Street (1009 Baxter Avenue). *Ord. No. 0-2008-6*

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

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Z-7



APPLICATION Z11-07-009B and Z12-07-016A CITY OF TYLER ON BEHALF OF NUMEROUS CITIZENS – PHASES FOUR – D, FOUR – E AND FIVE – C. Request that the City Council consider a request to change the zoning from “R-2” Two-Family Residential District to “R-1B” Single-Family Residential District for the following five lots:

Lot 140 of NCB 669I of the Crescent Heights Gardens Subdivision (1313 West Cochran Street);

Lots 154, 156 and 157 of NCB 669J of the Crescent Heights Subdivision (1409, 1413 and 1419 North Confederate) and

Lot 118 of NCB 762 of the College Park Subdivision (3024 Carter Boulevard).

Ord. No. 0-2008-7)

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

ORDINANCES

O-1

Request that the City Council consider adopting an ordinance amending Tyler City Code Chapter 10 to re-adopt a tax abatement program for historic buildings and structures. *Ord. No. 0-2008-8)*

Barbara Holly, Director of Planning & Zoning – Stated that it is recommended that the City Council adopt an ordinance amending Tyler City Code Chapter 10 to re-adopt a tax abatement program for historic buildings and structures and extend the sunset review to five years.

Councilman Alworth made the motion; seconded by Councilman Caraway; motion carried 7-0; approved as presented.

O-2

Request that the City Council consider adopting an Ordinance amending City Code Chapter 3 relating to the classified Fire Civil Service positions for Fiscal Year 2007-2008. *Ord. No. 0-2008-9)*

Councilman Alworth made the motion; seconded by Councilman Moran; motion carried 7-0; approved as presented.

O-3

Request that the City Council consider approving an interlocal agreement with North East Texas Public Health District (NETPHD), an amendment to the cooperative agreement with NETPHD and adopting an ordinance amending the Fiscal Year 2007-2008 Budget to provide additional funding to the NETPHD due to rising operating costs and to authorize the City Manager to execute new contracts for basic health and animal control services provided by NETPHD. ©©

Ord. No. 0-2008-10)

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Bob Turner, City Manager – Stated that it is recommended that City Council approve an interlocal agreement with NETPHD (Health District), an amendment to the cooperative agreement with NETPHD and adopt an ordinance amending the Fiscal Year 2007-2008 Budget to provide additional funding to the NETPHD due to rising operating costs and to authorize the City Manager to execute new contracts for basic health and animal control services provided by NETPHD.

Councilman Moran made the motion; seconded by Councilman Sanders; motion carried 7-0; approved as presented.

MISCELLANEOUS

M-1

TYLER 21

Request that the City Council accept delivery of the final adopted version of the Tyler 21 Comprehensive Plan and incorporation of the Tyler 21 Vision into the Tyler Blueprint. ©

Bob Turner, City Manager – Stated that on November 14, 2007 City Council approved the final change to the Tyler 21 Comprehensive Plan. It is significant to mention that a little over 10 years ago the city adopted a document that was served as a guidepost for the “best practices” in local government. The Blueprint continues to represent an organizational culture committed to competitive contractual service delivery. Based on the extensive level of public participation and community leadership involved in the process of developing Tyler 21, it is appropriate to incorporate the Tyler 21 process into the Blueprint. It is recommended that a tenth tenant be added to the blueprint which reads: “Pursue the Tyler 21 vision to become nationally known for a commitment to community, a robust business environment and the beauty of public places.”

Larry Meckley – Stated that this is a wonderful plan if properly used.

Councilman Alworth made the motion to accept Tyler 21 Plan approved in November 2007 and amend Blueprint to include Tyler 21 reference; seconded by Councilman Moran; motion carried 7-0.

M-2

TYLER 21

Request that the City Council consider authorizing the City Manager to execute an addendum to the Goody Clancy professional services contract to cover the costs of additional services performed and remaining in the development of Tyler 21 and a new Unified Development Code, and consider adopting an Ordinance amending the Fiscal Year 2007-2008 General Capital Projects budget to fully fund these additional costs. ©

Mark McDaniel, Deputy City Manager – Stated that this item provides for execution of an addendum to a contract with Goody Clancy for professional services to develop the Tyler 21 Comprehensive Plan and produce a new Unified Development Code. An addendum is required as a result of the extensive additional scope, meetings and services performed than originally contemplated for both projects.

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The additional work performed is detailed in the contract; there was a total of 1,480 additional hours worked. In summary, it includes 21 additional steering committee/working group meetings, 19 additional interviews, 11 additional group meetings, additional related graphics and trips, as well as a complete new chapter.

The original contract for services totaled \$705,400. While an additional \$277,440.89 is requested for work performed and remaining after November 30, 2007, Staff has negotiated a reduction in this additional cost, bringing the total additional amount to \$182,020. This amount includes 100% of additional actual costs for reimbursables, but only half the cost of additional consulting hours.

A total of \$100,000 was originally budgeted to cover costs anticipated to be incurred in the current fiscal year. An additional estimated \$95,000 is required to cover all costs noted above (as some minor expenses have already been incurred in FY2007-08 that are primarily associated with the final town hall meeting at the University of Texas at Tyler and the open houses).

It is recommended that the City Council authorize the City Manager to execute an addendum to the Goody Clancy professional services contract in the amount of \$182,020 and adopt an Ordinance amending the Fiscal Year 2007-2008 General Capital Projects budget to fully fund these additional costs.

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

Larry Meckley, 401 Sutherland – Spoke in opposition to paying Goody Clancy any more money.

M-3

Request that the City Council consider ratifying staff action to approve a request from Kraker & Martin Energy, LLC. for a Public Right-of-Way Easement, for the purpose of installing, operating and maintaining a pipeline to transport natural gas and associated hydrocarbons. ©

Councilman Alworth made the motion; seconded by Mayor Pro Tem Simons; motion carried 6-0-1; approved as presented. **Councilman Moran abstain**

M-4



Request that the City Council consider authorizing the City Manager to approve a request from Tyler Iron & Metal Company for a Public Right-of-Way Use Agreement, for the purpose of installing and maintaining a solid fence screen and improvements within the dedicated public streets, right-of-way of Texas College Road, located in Tyler, Texas. ©

Councilman Caraway made the motion; seconded by Councilman Alworth; motion carried 7-0; approved as presented.

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M-5 Request that the City Council consider awarding the contract for emergency drainage repairs at 820 Pinkerton, Bid No. 08-008, to Hartbeat Construction, in the amount of \$42,706.00. ©

Councilman Moran made the motion; seconded by Councilman Caraway; motion carried 7-0; approved as presented.

M-6



Request that the City Council consider ratifying staff action for payment to Boren – Scott Title Company in the amount of \$160,965.48 for acquisition of right-of-way for Grande Boulevard Phase 2.

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

M-7



Request that the City Council consider authorizing the City Manager to approve Change Order No. 4 to the Grande Blvd. Extension Phase 2A – Sutherland Drive to Paluxy Drive project in the amount of \$60,975.45. ©

Councilman Alworth made the motion; seconded by Councilman Moran; motion carried 7-0; approved as presented.

M-8

Request that the City Council consider ratifying staff action engaging E.L.S. Surveyors to perform a boundary survey of the Tyler Water Utilities Bellwood Lake property for \$37,903. ©

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

M-9



Request that the City Council consider ratifying staff action authorizing payment to Dixon Services in the amount of \$12,000.00 for acquisition of right-of-way, from University of Texas at Tyler, for Old Omen Road. ©

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

M-10



Request that the City Council Consider designating The Chilton-Taylor House, located at 727 South Chilton Avenue, Tyler, Texas, as a Tyler Historic Landmark.

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

M-11

Request that the City Council consider authorizing the City Manager to accept a donation in the amount of \$5,000 from Libertas American, Incorporated of Tyler for the City's Holiday in the Park.

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

M-12



Request that the City Council consider approving the Reconciliation Change Order and releasing final retainage in the amount of \$16,345.00 to Durable Specialties, Incorporated for the Adaptive Signal Control System. ©

Kirk Houser, Traffic Engineer – Gave an update on the adaptive control system.

Councilman Alworth made the motion; seconded by Councilman Moran; motion carried 7-0; approved as presented.

M-13

Request that the City Council consider renewing the Contract between the City of Tyler and the Tyler ½ Cent Sales Tax Corporation for implementation, administration and the carrying out the duties of an executive director in administering Board projects and managing and administering such projects of the Board. ©

Mayor Pro Tem Simons made the motion; seconded by Councilman Smith; motion carried 7-0; approved 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

- C-A-1** Request that the City Council consider authorizing the City Manager to purchase one (1) Ford F-550 Bucket Truck from the Buy Board Cooperative dealer Planet Ford 6, of Houston, Texas in the amount of \$68,434.00.
- C-A-2** Request that the City Council consider authorizing the City Manager to purchase two John Deere Model 624J Loaders for a purchase price of \$134,067.00 each, with a one year Buy-Back option of \$129,687.00 per vehicle.
- C-A-3** Request that the City Council consider authorizing the City Manager to utilize the Buy Board Cooperative for various categories of automotive and truck tires for the Fiscal Year 2007/2008.
- C-A-4** Request that the City Council consider authorizing the City Manager to utilize the First Choice Cooperative for various categories of automotive and truck services and for the purchase of various automotive and truck parts for the Fiscal Year 2007/2008.

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- C-A-5** Request that the City Council consider authorizing the City Manager to purchase one (1) John Deere Pro-Gator 2030A from the HGAC dealer Austin Turf and Tractor, of Farmers Branch, Texas in the amount of \$18,146.00.
- C-A-6** Request that the City Council consider authorizing the City Manager to purchase \$10,167.45 worth of pistol ammunition from Precision Delta Corporation under State Term Contract No. 680-A1.
- C-A-7** Request that the City Council authorize the purchase of 577 Firefighter Uniform Pants from the low bidder – Tyler Uniform, in the amount of \$22,581.00.

Mayor Pro Tem Simons made the motion to accept the entire consent agenda; seconded by Councilman Alworth; motion carried 7-0; approved as presented.

BOARD APPOINTMENTS

- B-1** Request that the City Council consider making appointments to various City Boards.

BOARD OF ADJUSTMENT

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

Mary Hamlin – Regular Member
Martin Davis – Alternate member

CITY MANAGER’S REPORT

- 1. Sanders – in favor of Tyler 21, great job, aware it will take time to implement.**

RECESS FOR EXECUTIVE SESSION - City council convened into executive session at 10:24 am

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

-under section 551.074 “Personnel matters” deliberation regarding the following:

Consider the evaluation and compensation of the City Manager

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

Pending or contemplated litigation involving Cascades and/or Western Rim developments

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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 11:38 am

After executive session, Council reconvened in open session, Mayor announced that all Councilmember's had given the City Manager an Evaluation of "very good" & "outstanding" and then Councilman Alworth made the motion; seconded by Councilman Caraway to increase City Manager's salary to \$165,000; authorize the Performance payments of \$10,000.00 for December 2006 and \$10,000.00 for December 2007, and begin paying the 7% TMRS employee contribution & pay City Manager's health insurance employee premiums of \$240.00, & amend contract accordingly; motion carried 7-0.

No action taken on litigation item.

ADJOURNMENT

Mayor Pro Tem Simons made the motion to adjourn the meeting at 11:40 a.m.; seconded by Councilman Moran; motion carried 7-0; meeting adjourned.

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

A T T E S T:

**_____
CASSANDRA BRAGER, CITY CLERK**