

**MINUTES OF THE
REGULAR CALLED MEETING OF THE CITY COUNCIL OF
THE CITY OF TYLER, TEXAS
January 23, 2008**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, January 23, 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
Assistant City Attorney: Deborah Pullam
Business Service Manager: ReNissa Wade
Development Services Engineer: Michael Wilson
Chief Financial Officer: Daniel Crawford
City Fire Chief: Neal Franklin
City Librarian: Chris Albertson
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
Director of Utilities & Public Works: Greg Morgan
Traffic Engineer: Kirk Houser
City Clerk: Cassandra Brager

INVOCATION

The Invocation was given by Councilmember Moran.

1. Minutes

- a. November 1, 2007
- b. November 14, 2007
- c. November 28, 2007
- d. December 12, 2007
- e. January 9, 2008

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

ZONING

Z-1

APPLICATION A09-07-005B JOHNNIE STEWART

Request that the City Council consider a request to annex certain sparsely populated and owner requested territory constituting approximately 13.1 acres of land out of the Thomas Price Survey, A-794 and the Don Thomas Quevado Seven League Grant, A-18, as described by a metes and bounds description, located on the west side of Old Jacksonville Highway, at the southwest intersection of County Road 164 and Old Jacksonville Road (7525 Old Jacksonville Highway). Also, consider establishing original zoning of "PCD" Planned Commercial District with final site plan approval and "C-1" Light Commercial District.

Also, consider establishing:

- A. The new boundary of the City Limits.
- B. The new boundary of the Extraterritorial Jurisdiction.
- C. The new boundary of the City Council Districts.
- D. The Land Use Guide to reflect commercial land use.
- E. Original zoning of 4.72 acres of "PCD" Planned Commercial District with final site plan approval and 8.37 acres of "C-1" Light Commercial District. (Ord. 0-2008-11)

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

Z-2

APPLICATION A12-07-002B WILLIAM PILLSBURY

Request that the City Council consider a request to annex certain sparsely populated and owner requested territory constituting approximately 30.29 acres of land out of the William Keyes Survey, A-526, as described by a metes and bounds description, located one lot south of the southwest intersection of County Road 219 and County Road 272. Also, consider establishing original zoning of "PCD" Planned Commercial District with final site development approval, "PCD" Planned Commercial District without final site plan approval and "PUR" without final site development approval.

Also consider establishing:

- A. The new boundary of the City Limits.
- B. The new boundary of the Extraterritorial Jurisdiction.
- C. The new boundary of the City Council Districts
- D. The Land Use Guide to reflect mixed use center land use.
- E. Original zoning of 30.29 acres of "PCD" Planned Commercial with final site plan approval located in the southeast portion of the annexed area, "PCD" Planned Commercial without final site plan approval located in the north portion of the annexed area and "PUR" Planned Residential without final site plan located in the southwest portion of the annexed area. (Ord. 0-2008-12)

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

Z-3

APPLICATION Z12-07-020B WILLIAM PILLSBURY

Request that the City Council consider a request to change the zoning from “PUR” Planned Unit Residential District to “PCD” Planned Commercial District with final site plan approval on approximately 5.810 acres of land being a portion of Lot 7 of NCB 1445 located approximately 2,000 feet northwest of the intersection of University Boulevard and County Road 272, and to change the zoning from “R-1A” Single Family Residential District to “PCD” Planned Commercial District without final site plan approval on 0.576 acres of land being a portion of Lot 3 of NCB 1444 located approximately 1,500 feet west of the intersection of the proposed McDonald Road extension and County Road 272. **(Ord. 0-2008-13)**

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

Z-4

APPLICATION Z11-07-006B CALVARY BAPTIST CHURCH

Request that the City Council consider a request to change the zoning from “AG” Agricultural District to “RPO” Restricted Professional Office District on a portion of Lot 1 of NCB 1554A as recorded in Cabinet D, Page 8A of the Plat Records of Smith County, Texas, a portion of the lot totaling approximately 2.46 acres of land located approximately 650 feet north of the northeast intersection of Hollywest Drive and Old Jacksonville Highway (6704 Old Jacksonville Highway). **(Ord. 0-2008-14)**

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

Z-5

APPLICATION Z12-07-014A DOLLIE DOWELL

Request that the City Council consider a request to change the zoning from “R-1A” Single Family Residential District to “AR” Adaptive Reuse District on Lot 5 of NCB 1013M of the Robert E. Lee Subdivision as recorded in Volume 5, Page 118 of the Deed Records of Smith County, Texas., one lot totaling approximately 10,228 square feet located four lots east of the northeast intersection of Broadway Avenue and Barbee Drive (136 Barbee Drive). **(Ord. 0-2008-15)**

Larry Meckley, 401 Sutherland – Spoke in opposition of zoning.

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

Z-6

APPLICATION Z12-07-17B CITY OF TYLER ON BEHALF OF NUMEROUS CITIZENS –PHASES 3–B, 4-F, AND 1-G

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 10 lots:

Lots 116A, 116B and 116C of NCB 665B of the Crescent Heights Subdivision (1117, 1125 and 1201 Connally Street);



Lot 44 of NCB 665B of the Jno Broughton Subdivision (632 South Englewood Avenue); Lot 22 of NCB 275B of the Eltife Subdivision (1020 South Fannin) and Lot 144 of NCB 669 of the Crescent Heights Garden Subdivision (1411 North Englewood Avenue). (Ord. 0-2008-16)

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

Z-7



APPLICATION Z11-07-003A ROBINWOOD DEVELOPMENT

Request that the City Council consider a request to change the zoning from “R-1A” Single Family Residential District to “POD” Planned Office District without site plan approval on a portion of Tax Lot 1 of NCB 1090 of the City of Tyler Subdivision, an approximate 4.813 acre tract located one lot north of the northeast intersection of Loop 323 SSE and Roanoke Lane. (Ord. 0-2008-17)

Glynn Stanley, 2816 Roanoke Lane – Stated that he would like to see the property stay as a wooded area but if they had to have something there they would like to have a site plan and have everything in writing from the people that wish to develop because once we leave here and you approve, there is no guarantee of anything that is promised to us.

Mayor Seeber – Stated that while that site plan does not exist today it would only be approved with conditions and the site plan would have to come to this Council with opportunity for input from anybody before anything could be done.

Ann Mitchell, 2828 Roanoke – Stated that she has several concerns and one of them is the traffic issue, how this will affect the property value, and the environmental issue. Mrs. Mitchell also asked if they would have the greenbelt behind their property, and what kind of fence would go behind the property. These are just some of the questions the residents of that area have.

William Pillsbury, 724 WSW Loop 323- Stated that the intent of this property is an office for the Board of Realtors. Most of the time there are about 8 employees there and what they are looking at is having a training center and a couple of times a month there could be at least 60-70 people that would come in for training.

Councilman Moran made the motion; seconded by Mayor Pro Tem Simons; motion carried 7-0; approved subject to final approval of the site plan.

Z-8



APPLICATION Z12-07-015A MICHAEL WERNER

Request that the City Council consider a request to approve a final site development plan on property zoned “PUR” Planned Unit Residential District on approximately 33.5 acres of land located in the Crossing Subdivision located on the west side of Old Jacksonville Highway, south of the southwest intersection of Three Lakes Parkway and Old Jacksonville Highway. (Ord. 0-2008-18)

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

RESOLUTIONS

R-1



Request that the City Council consider adopting a Resolution to participate in the design and construction of the Gentry Parkway Beautification and Pedestrian Safety Improvement Project and consider authorizing the City Manager to execute a Local Project Advanced Funding Agreement with the Texas Department of Transportation and authorize a payment of \$59,103.00 to the Texas Department of Transportation for administration costs. (Res. R-2008-1)

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

R-2



Request that the City Council consider approving the request by the Texas Department of Transportation (TxDOT) to pass a Resolution to participate in the design and construction of the Gentry and Hillsboro Safe Routes to School Project and authorizing the City Manger to execute a Local Project Advanced Funding Agreement with the Texas Department of Transportation. (Res. R-2008-2)

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

MISCELLANEOUS

M-1

Request that the City Council consider receiving a rebate check in the amount of \$1,266.33 for the City's participation in the Local Government Purchasing Cooperative.

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

M-2



Request that the City Council ratify staff action for payment to Landmark Title in the amount of \$20,604.14 for acquisition of right-of-way for Lake Placid Road.

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

M-3



Request that the City Council consider ratifying staff action authorizing payment to Elledge Engineering in the amount of \$822.00 for acquisition of right-of-way for Lake Placid Road.

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

M-4



Request that the City Council consider ratifying staff action authorizing payment to WhiteShaver in the amount of \$8,851.00 for acquisition of right-of-way for New Sunnybrook Drive.

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

M-5



Request that the City Council consider authorizing the City Manager to amend the Professional Services agreement, with Schaumburg and Polk, Incorporated, for the design of Grande Boulevard, Phase 2, expanding the scope of services and increasing the fee by \$90,775 for a total contract amount of \$2,016,420. ©

W. A. Taylor, 1422 Jeb Stuart Dr.- Stated that the study for this drainage project will be coming right through his property and he has an opening of about 29 feet behind his property. He has asked that an underground drainage be built through his property so that he could continue to have use of his property.

Councilman Alworth made the motion provided that the situation on Mr. Taylor's property be looked into and accommodated; seconded by Councilman Moran; motion carried 7-0; approved as presented.

M-6



Request that the City Council authorize the City Manager to execute a Notice of Intent and submit the Tyler "Texas Pollutant Discharge Elimination System Stormwater Management Plan" to the Texas Commission on Environmental Quality. ©

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

M-7



Request that the City Council consider authorizing the City Manager to execute a professional services agreement with R.W. Beck, in the amount of \$48,500, for the 2008 Water and Sanitary Sewer Rate Study. ©

Derrell Cline, R. W. Beck – Gave a brief presentation regarding the Cost of Service & Rate Design Study.

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

M-8

Request that the City Council consider approving the expenditure of \$12,240 for web-based information services provided by Tutor.com through the Northeast Texas Library System.

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

M-9 Request that the City Council consider authorizing the City Manager to accept an in-kind donation of field and turf work at Faulkner Park by Rose Capital West Little League of Tyler valued at \$12,000.

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

M-10 Request that the City Council consider authorizing the City Manager to accept an additional donation in the amount of \$5,000 from Libertas American, Incorporated of Tyler for the City's Holiday in the Park.

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

M-11 Request that the City Council consider authorizing the City Manager to accept a donation from Wal-Mart Supercenter located on Troup Highway in Tyler in the amount of \$10,000 for exercise equipment along Rose Rudman Trail.

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

M-12 Request that the City Council consider authorizing the City Manager to purchase Global Positioning System equipment in the amount of \$11,836.95 from the sole source provider, Western Data Systems of Southlake, Texas.



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

M-13 Request that the City Council consider authorizing the City Manager to award Bid Number 08-002 for construction of segments I and II of the South Tyler Pedestrian and Bike Trail to Reynolds and Kay, Ltd in the amount of \$3,077,327.62 and consider authorizing payment to the Texas Department of Transportation for construction administration in the amount of \$14,739.00. ©



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

M-14 Request that the City Council consider adopting a resolution providing for the redemption of all remaining City of Tyler General Obligation bonds and resolving other matters related to these obligations. (Res. R-2008-3)



Mayor Seeber - Stated that March 1, 2008 the City will have zero general obligation bond debt.

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

- M-15** Request that the City Council consider authorizing the City Manager to execute Amendment No. 1 to Work Order No. 9 for engineering-related services with Wisenbaker, Fix and Associates for professional services relating to passenger boarding bridges and airfield pavement evaluation at Tyler Pounds Regional Airport in an amount not to exceed \$8,300.00. ©

Councilman Alworth made the motion; seconded by Councilman Sanders; 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) Four-door Sedan from the low bidder Caldwell Country Chevrolet, of Caldwell, Texas in the amount of \$15,556.00.
- C-A-2** Request that the City Council consider authorizing the City Manager to purchase one (1) Chevy Two Ton Crew Cab Flatbed Truck from the low bidder Caldwell Country Chevrolet, of Caldwell, Texas in the amount of \$35,698.00.
- C-A-3** Request that the City Council authorize the City Manager to purchase four (4) frontload cab and chassis from Dallas Mack Sales Incorporated through the HGAC purchasing cooperative and four (4) frontload bodies from McNeilus Truck and Manufacturing through the BuyBoard purchasing cooperative, and accept the 30-month estimated buy-back agreement for these vehicles from Dallas Mack and confirm the sell-back of frontload units 751, 752, 753 and 754 to Dallas Mack.
- C-A-4** Request that the City Council ratify the purchase of one (1), 35-cubic-yard, self-contained compactor unit for solid waste management.

Councilman Caraway made the motion to approve the entire consent agenda; seconded by Councilman Smith; motion carried 7-0; approved as presented.

CITY MANAGER'S REPORT

1. *Solid Waste Spring Clean-up – Feb. 25 – Mar. 7, 2008*
2. *Mayor – statement that no open discussion for citizen comment unless it is on the agenda.*

RECESS FOR EXECUTIVE SESSION - City council convened into executive session at 10:44 am

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

January 23, 2008

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

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

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

No final action taken.

City council reconvened from executive session at 10:55 am with no action taken.

ADJOURNMENT

Councilman Alworth made the motion to adjourn the meeting at 10:55 a.m.; seconded by Councilman Smith; motion carried 6-0; meeting adjourned.

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

A T T E S T:

CASSANDRA BRAGER, CITY CLERK