

**MINUTES OF THE  
REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS  
February 27, 2008**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, February 27, 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  
Airport Manager: Davis Dickson  
Business Service Manager: ReNissa Wade  
Development Services Engineer: Michael Wilson  
Capital /City Projects Coordinator: Bill Ward  
Chief Financial Officer: Daniel Crawford  
Chief Information Officer: Benny Yazdanpanahi  
City Fire Chief: Neal Franklin  
City Police Chief: Gary Swindle  
Communications Director: Susan Guthrie  
Director of Parks and Recreation: John Webb  
Director of Solid Waste: Dan Brotton  
Housing Service Manager: Andy Davis  
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 Councilmember Caraway.

**AWARDS**

**A-1 Request that the City Council consider recognizing a City employee as the Blueprint Blue Ribbon Award winner for February 2008, for placing the highest premium on responsiveness to customer needs.**

Mayor Seeber recognized Mitch Marable as the Blueprint Blue Ribbon Award winner for February 2008.

**ZONING**

**Z-1**



**APPLICATION A09-07-005B BELLWOOD LAKE & LOOP 323, LLLP**

Request that the City Council consider a request to annex certain sparsely populated and owner requested territory constituting approximately 90.356 acres of land out of the George Myers Survey, A-643, as described by a metes and bounds description, located approximately 750 feet south of Highway 31, east of County Road 1138 and north of Lake Bellwood. Also, request that the City Council consider establishing original zoning for “PCD” Planned Commercial District without final site plan approval of 90.356 acres.

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 uses
- E. Original zoning of “PCD” Planned Commercial District without final site plan approval for 90.356 acres. *(Ord. 0-2008-20)*

**Kyle Gibson** – Gave a brief presentation concerning Bellwood Lake. This zoning request is part of a larger development that comprises approximately 550 acres of land generally located in the northwest quadrant area of the City of Tyler. The land uses surrounding the 90 acre tract are light industrial to the north, to the south and east are the remaining portions of the development, and to the west are vacant or residential tracts outside the city limits.

The proposed plan for the property is to create a master planned community focused on mixed use residential with complementary office and retail. The applicant is proposing approximately 272 acres of mixed use, 180 acres of single family residential, and 90.356 acres of open space. The mixed use residential component is a combination of condominiums, town homes and apartments. The mixed use commercial component is a combination of restaurants, retail space, a recreation center and office/medical space. Of the 180 acres of single family, there are proposed single family detached, single family attached and zero lot line homes. The 90.356 acres of open space is a minimum of 15% of the property and shall be reserved as open space, parks or conservation areas. There is a project trail system proposed in addition to the regional trail system located in the area.

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

**Z-2**



**APPLICATION Z01-08-026B BELLWOOD LAKE AND LOOP 323 LLLP**

Request that the City Council consider a request to change the zoning from “C-1” Light Commercial District, “C-4” High Rise Commercial District, “R-1A” Single Family Residential District, “R-3” Multi-Family Residential District, “R-TH” Townhouse Residential District, and “RPO” Restricted Professional Office District to “PCD” Planned Commercial District without final site plan approval on approximately 453.28 acres of land out of the George Myers Survey, A-643, J.M. Edwards Survey, A-113, A. Sanchez Survey, A-116, T. Buckley Survey, A-73 and

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S.A. & M.G. Railroad Company Survey, A-966, located west of Loop 323 SSW, south of the St. Louis and Southwestern Railroad and Highway 31 and east and north of Lake Bellwood. **(Ord. 0-2008-21)**

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

**Z-3**



**APPLICATION Z01-08-022B CITY OF TYLER ON BEHALF OF NUMEROUS CITIZENS –PHASE 4-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 on Lot 11 of NCB 212B of the Drake Subdivision located southwest of the intersection of Queen Street and North Bois d’Arc Avenue (323 Summerkamp Street). **(Ord. 0-2008-22)****

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

**Z-4**



**APPLICATION Z02-08-030A CITY OF TYLER ON BEHALF OF NUMEROUS CITIZENS –PHASE SIX**

**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 32 lots generally bounded by Commerce Street to the north, East Erwin Street to the west, Idel Street to the south and Palmer Avenue to the east: Lots 14A and 16A of NCB 249A of the City of Tyler Subdivision (329 South Fleishel Avenue); Lot 17 of NCB 137 of the Wimberley Douglas Subdivision (318 North Fuller Avenue); Lot 8 of NCB 1427 of the Greenwood Park Subdivision (1312 Old Omen Road); Lot 3 of NCB 531 of the City of Tyler Subdivision (127 South Horace Avenue); Lot 12 of NCB 139 of the Wimberley Douglas Subdivision (521 North Clayton Avenue); Lot 3 of NCB 159 of the James Dickey Subdivision (236 South Beverly Avenue); Lot 5 of NCB 251B of the City of Tyler Subdivision (435 Crestway Drive); Lot 3A of NCB 68 of the City of Tyler Subdivision (714 East Earle Street); Lot 1 of NCB 620 of the Earle Subdivision (131 South Palmer Avenue); Lot 10 of NCB 252 of the Barner Subdivision (502 South Saunders Avenue); Lot 12 of NCB 251B of the City of Tyler Subdivision (508 South Fleishel Avenue); Lot 20 of NCB 677A of the Audrey Campbell Subdivision (1120 Idel Street); Lots 19, 20 and 21 of NCB 142 of the Wimberley Douglas Subdivision (1517 and 1525 East Line Street); Lots 7A and 8A of NCB 66 of the City of Tyler Subdivision (127 and 133 South Beverly Street); Lot 13 of NCB 251B of the City of Tyler Subdivision (509 Crestway Drive); Lot 19 of NCB 238 of the East Tyler Subdivision (303 South Mahon Avenue); Lot 31 of NCB 241 of the Hunt-Wells Subdivision (426 South Baxter Avenue); Lots 3A and 13A of NCB 249A of the City of Tyler Subdivision (1030**

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East Front Street);  
Lot 5A of NCB 243 of the Hunt-Wells Subdivision (1300 East Houston Street);  
Lot 5 of NCB 154 of the Pirtle Hill Subdivision (203 South Saunders Avenue);  
Lot 25A of NCB 234 of the East Tyler Subdivision (311 South Palmer Avenue);  
Lot 3 of NCB 620 of the Earle Subdivision (1615 East Elm Street);  
Lot 4 of NCB 537 of the Earle Subdivision (1429 East Elm Street);  
Lot 19 of NCB 253 of the Barner Subdivision (5212 South Fleishel Avenue);  
Lot 7 of NCB 251B of the City of Tyler Subdivision (437 Crestway Drive);  
Lot 6 of NCB 144 of the Wimberley Douglas Subdivision (211 North John Street)  
and  
Lot 11 of NCB 128 of the Wimberley Douglas Subdivision (205 North George  
Avenue). (Ord. 0-2008-23)

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

**Z-5**

**APPLICATION Z01-08-023B ED THOMPSON**

Request that the City Council consider a request to change the zoning from “R-1B” Single Family Residential District to “C-1” Light Commercial District on an approximate 8,600 square foot portion of Lot 96 of NCB 669M of the Patterson Heights Subdivision located at the southwest intersection of Meadow Lane and East Gentry Parkway (1012 Meadow Lane). (Ord. 0-2008-24)

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

**Z-6**

**APPLICATION S02-08-031A STEVE HELM**

Request that the City Council consider a request for a Special Use Permit on Lot 12A of NCB 690 of the Lake Park Heights Subdivision, one lot totaling approximately 0.96 acres located approximately 175 feet west of the northwest intersection of Gentry Parkway and Lawton Drive (2611 Gentry Parkway). The property is currently zoned “C-1” Light Commercial District. (Ord. 0-2008-25)

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

**Z-7**

**APPLICATION Z01-08-027B MELISSA DINGLE**

Request that the City Council consider a request to change the zoning from “RPO” Restricted Professional Office District to “R-1A” Single-Family Residential District on Lot 12 of NCB 1032 of the Green Acres Subdivision, located at the northeast intersection of Loop 323 ESE and Easy Street (1510 Loop 323 ESE). (Ord. 0-2008-26)

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

**Z-8 APPLICATION Z01-08-024B APOLONIO MOLINA**  
Request that the City Council consider a request to change the zoning from “M-1” Light Industrial District to “R-1B” Single-Family Residential District on Lots 8, 9 and 10 of NCB 342 of the Herndon Subdivision located one lot east of the northeast intersection of South Englewood Avenue and West Elm Street (1313, 1317 and 1321 West Elm Street-see Map 1); Lot 20 of NCB 35 of the Hill and Davenport Subdivision, located at the southeast intersection of East Oakwood Street and North Center Avenue (417 East Oakwood Street-see Map 2) and Lots 26 and 37 of NCB 63 of the City of Tyler Plat, located at the southwest intersection of East Line Street and North Beverly Avenue (310 and 324 North Beverly Avenue, respectively-see Map 3). *(Ord. 0-2008-27)*

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

**Z-9 APPLICATION Z01-08-025B APOLONIO MOLINA**  
Request that the City Council consider a request to change the zoning from “M-1” Light Industrial District to “R-2” Two-Family Residential District on Lots 3 and 6 of NCB 35 of the Hill and Davenport Subdivision. Lot 3 is located two lots east of the southeast intersection of North Center Avenue and East Oakwood Street. Lot 6 is located at the northeast intersection of North Center Avenue and East Line Street (425 East Oakwood Street and 356 E. Line Street). *(Ord. 0-2008-28)*

**Apolonio Molina** – Stated that he just wanted to build a home for a family.

Councilman Moran made the motion to approve the applicant request on his appeal from the denial; seconded by Councilman Alworth; motion carried 7-0; approved as presented.

**Z-10 APPLICATION Z02-08-029A EAST TEXAS CHRISTIAN ACADEMY**  
Request that the City Council consider a request to change the zoning from “AG” Agricultural to “ED” Educational District on approximately 20.114 acres of land known as Lot 1 of NCB 1118 of the E.T.C.A Addition, located approximately 2,200 feet west of the northwest intersection of Roy Road and Rhones Quarter Road (Roy Road. *(Ord. 0-2008-29)*

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

**Z-11 APPLICATION Z12-07-019B ASAMBLEA CRISTIANA LA GLORIA DE DIOS**  
Request that the City Council consider a request to change the zoning from “R-3” Multi-Family Residential District to “R-1B” Single Family Residential District on approximately .51 acres of land known as Lots 60 and 61 of NCB 675A of the Swinney Addition located one lot west of the northwest intersection of South Porter Avenue and East Lawrence Street (1816 and 1822 East Lawrence Street). *(Ord. 0-2008-30)*

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

**Z-12**

**APPLICATION C01-08-002B GREGORIO & SONIA GARCIA**

**Request that the City Council consider a request to close an alley, beginning at the intersection of West Wilson Street and extending north for approximately 170 feet. The east side of the right-of-way alley is adjacent to Lot 8 of NCB 200. The west side of the right-of-way alley is adjacent to Lot 7 of NCB 200. (Ord. 0-2008-31)**

**Director of Planning & Zoning, Barbara Holly**- Stated that the abandonment will be contingent upon two conditions and they are that they re-plat the property within six (6) months to incorporate the alley into their land and if there are any utilities running in the area they retain a utility easement.

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

**Z-13**

**APPLICATION Z01-08-028B HOOPER TYLER PROPERTIES**

**Request that the City Council consider a request to amend the existing site plan on property zoned "PCD" located on Lot 12B of NCB 999F of the Peyton McKnight Subdivision, located approximately 600 feet north and west of the intersection of Old Bullard Road and Rice Road (4815 Old Bullard Road). (Ord. 0-2008-32)**

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

**PRESENTATIONS**



**P-1 Request that the City Council receive a presentation from Neighborhood Services Staff regarding the City's Neighborhood Empowerment Works (NEW) 2007 Fall Program. (received)**

**Housing Service Manager, Andy Davis** – Gave a brief update regarding the City's Neighborhood Empowerment Works 2007 Fall Program.

**PUBLIC HEARINGS**

**H-1**

**Request that the City Council consider conducting a public hearing and consider adopting an Ordinance amending Tyler City Code Chapter 4 relating to a juvenile curfew. (Ord. 0-2008-33)**

Councilman Alworth 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 calling an Election for May 10, 2008, to fill the offices of Mayor and Tyler City Council Members for Single Member District Nos. 2, 4, and 6 on the Tyler City Council and calling for a joint election with the Tyler Independent School District and Tyler Junior College. **(Res. R-2008-4)**

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

**ORDINANCES**

**O-1** Request that the City Council consider adopting an Ordinance approving the Settlement Agreement dated January 9, 2008, between the Atmos Cities Steering Committee and ATMOS ENERGY CORPORATION, MID-TEX DIVISION and adopting tariffs that reflect rate adjustments consistent with the Settlement Agreement. **(Ord. 0-2008-34)**

**Assistant City Attorney, Deborah Pullam** – Stated that the purpose of the Ordinance is to endorse the Settlement Agreement between ACSC and Atmos regarding the Company's Statement of Intent to increase rates and to approve tariffs that implement the terms of the Settlement Agreement. Approval of the Ordinance will result in a \$10 million increase in Atmos' revenues. This is an 80 percent reduction of the \$52 million increase requested by Atmos in its Statement of Intent. In addition, the tariffs approved by the Ordinance will replace the current piecemeal ratemaking GRIP surcharge system with an expedited rate review process that ensures that cities can review all components of future Company rate change requests. The Settlement Agreement also resolves all outstanding issues between ACSC and Atmos, including six appeals currently pending in Texas courts.

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

**O-2** Request that the City Council consider adopting an ordinance authorizing the issuance of the City of Tyler, Texas Water and Sewer System Revenue Bonds, Series 2008 in the amount of about \$5,150,000; pledging the net revenues of the City's Water and Sewer System to the payment of the principal and interest on these bonds; and enacting provisions incident and related to the issuance, payment, security and delivery of these bonds, including the approval and execution of a purchase contract, a paying agent/registrar agreement, an arbitrage rebate compliance agreement and the approval and distribution of an **Official Statement**. **(Ord. 0-2008-35)**



**Steven Adams, First Southwest Company and Deputy City Manager, Mark McDaniel** – Gave a brief presentation on the results of the bond sale for the City of Tyler Water and Sewer System Revenue Bonds, Series 2008.

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

- O-3** Request that the City Council consider adopting the attached ordinance amending City Code Chapter 17, modifying the extents of an existing school speed zone for Peete Elementary School along Bellwood Road and Connally Street and adding a school speed zone with a speed limit of 20 mph along Grove Street, Hurt Avenue and Peach Avenue. (Ord. 0-2008-36)

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

- O-4** Request that the City Council consider adopting an Ordinance amending City Code Chapter 2 relating to the City's Investment Policy and amending City Code Chapter 3 establishing the Lindsey Police and Firefighters' Fund Board. (Ord. 0-2008-37)

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

-  **O-5** Request that the City Council consider the adoption of an ordinance to create a Tax Increment Reinvestment Zone Number 2 (TIRZ Number 2) on a 382 acre parcel of land located in Downtown Tyler and in the general area bounded by Beckham on the east, Gentry on the north, Palace on the west, and Front Street on the south. (Ord. 0-2008-38)

Larry Meckley, 401 Sutherland – Spoke against project and asked City Council to table item O-5 and draw up new boundaries to legally meet the requirements for property in the proposed zone.

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

## MISCELLANEOUS

- M-1** Request that the City Council consider authorizing the City Manager to execute a new Commercial Airline Lease agreement with Colgan Air, Incorporated, at Tyler Pounds Regional Airport. ©

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

- M-2** Request that the City Council consider authorizing the City Manager to award a new Airport Terminal Food Vending Service Contract at Tyler Pounds Regional Airport to Custom Food Group, LP. ©

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

**M-3**



**Request that the City Council consider approval of a Certificate of Appropriateness for the proposed alteration of a historic landmark known as the Roy G. Robertson Farmhouse, located at 204 Lindsey Lane, Tyler, Texas, by James and Marisa Nichols.**

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

**M-4**



**Request that the City Council consider designating The Pleasant Hill Missionary Baptist Church, located at 502 North Horace Avenue, Tyler, Texas, as a Tyler Historic Landmark.**

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

**M-5**

**Request that the City Council consider authorizing the City Manager to ratify a Professional Services Contract with Educational Consulting Services to administer Case Management Services for the Disaster Housing Assistance Program. ©**

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

**M-6**

**Request that the City Council consider authorizing the City Manager to award the construction contract for the Community Development Block Grant Curb and Gutter Improvements to the Proyecto Rosalinda Area, to the low bidder, Reynolds & Kay, in the amount of \$70,834.50. ©**

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

**M-7**



**Request that the City Council accept donations valued at \$40,000 and authorize the City Manager to execute a contract with TheRetailCoach™ for development of retail recruitment and development strategies. (and spend up to \$20,000) ©**

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

**M-8**

**Request that the City Council consider authorizing the City Manager to execute an Interlocal Election Contract with Smith County to perform certain joint election services for City Council Election to be held May 10, 2008, as part of joint election with Tyler Independent School District and Tyler Junior College. ©**

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

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M-9



**Request that the City Council consider accepting a donation in the amount of \$90,000 through the East Texas Communities Foundation for restrooms and a pavilion at Faulkner Park.**

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

M-10



**Request that the City Council consider approving an Engineering Services Contract with Kimley-Horn and Associates, Incorporated in the amount of \$145,000.00 for the design of an Adaptive Control Traffic Signal System for West Loop 323. ©**

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

M-11



**Request that the City Council consider authorizing the City Manager to execute a contract with Freese and Nichols, Incorporated to develop and prioritize a capital improvement program planning document and database. ©**

**Kevin Johnson, Freese and Nichols** – Gave a brief presentation of the development and prioritizing of a capital improvement program planning document and database.

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 approving an inter-local agreement with the North Central Texas Council of Governments for shared actuarial services related to the recent Texas Municipal Retirement System retirement plan funding assumption changes and authorizing the City Manager to execute the appropriate documents for these services. ©**

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 pistol ammunition from the low bidder, Precision Delta Corporation in the amount of \$11,670.**

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- C-A-2** 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.
- C-A-3** Request that the City Council consider authorizing the City Manager to purchase one undercover East Texas Auto Theft Task Force vehicle for a total purchase price of \$24,846.00.
- C-A-4** Request that the City Council consider authorizing the City Manager to purchase one John Deere Model 5325 Tractor for a total purchase price of \$22,700.25.
- C-A-5** Request that the City Council consider authorizing the City Manager to purchase various categories of McNeilus Truck Body Parts and Service from the Sole Source Vendor McNeilus Truck and Manufacturing for the Fiscal Year 2007/2008.
- C-A-6** Request that the City Council consider authorizing the City Manager to purchase two (2) Harmony Cells in the Robicon Variable Frequency Drive Units for the Lake Tyler Raw Water Pump Station from Electrotech Systems, Incorporated of Arlington, Texas in the amount of \$31,695.48.
- C-A-7** Request that the City Council consider authorizing the City Manager to award a contract, in the amount of \$20,705.74 to Knight Erosion Control, for drainage improvements at 521 Princeton Drive. (M13)
- C-A-8** Request that the City Council consider authorizing the City Manager to award a contract, in the amount of \$13,098.26, to Knight Erosion Control, for drainage improvements at 609 Purdue Drive.
- C-A-9** Request that the City Council consider authorizing the City Manager approve an expenditure in the amount of \$13,969.67 to Oncor Electric Delivery Company for the relocation of power poles and wire at the Golden Road Water Treatment Plant.

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

## **CITY MANAGER'S REPORT**

*1. Recognize newly assigned newspaper reporter Cindy Mollet*

**RECESS FOR EXECUTIVE SESSION-** City council convened into executive session at 11:18 am

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

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

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1. Pending or contemplated litigation involving Cascades and/or Western Rim developments;
2. Appeals to Courts and/or Texas Railroad Commission involving franchise utilities rates for electric and/or gas;
3. Two lawsuits appeals involving Grande East extension condemnations; City v. Martel and City v. R & J;
4. Clark v. City of Tyler et al;
5. Howells v. City of Tyler;
6. Smiths v. City of Tyler et al;
7. Toole v. City of Tyler

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

**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:**

Evaluation and review of leadership goals and staff organization

**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" deliberation regarding the following:**

Possible offer of financial or other incentive to a business prospect and to consider financial information about that prospect with which the City is conducting economic development negotiations that could lead to a development in Tyler

*Mayor announced that Bellwood resort is doing a development involving hotel and conference center on their property, extension of Sunnybrook, and managing a Recreation Area on City property and involving a section "380" hotel motel tax rebate to them. Final terms will be worked out and placed on a future agenda.*

*Personnel – City Manager Bob Turner announces intention to resign in July, 2009. Announces Mark McDaniel as City Manager Designate effective immediately with recommendation to make him City Manager effective 1/1/2009.*

*Moran moved to accept resignation and retirement effective July, 2009 and approved Mark McDaniel:*

*\$145,000 base annual salary*

*\$ 2,500 immediate Performance bonus*

*\$ 7,500 possible Performance bonus in December, 2008*

*Continue benefits including \$6,000 car allowance; increase deferred compensation to \$10,000 annually; and pursue negotiation with Mark with goal of finalizing new City Manager contract by 12/31/08.*

*Alworth second*

*Approved 7:0*

City council reconvened from executive session at 12:27 pm

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**ADJOURNMENT**

Councilman Sanders made the motion to adjourn the meeting at 12:42 p.m.; seconded by Mayor Pro Tem Simons; 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:**

\_\_\_\_\_  
**CASSANDRA BRAGER, CITY CLERK**