

**MINUTES OF THE
REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
May 28, 2008**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, May 28, 2008 at 9:00 a.m. in the Council Chamber, City Hall, Tyler, Texas, with the following present:

Mayor: Barbara Bass
Mayor Pro Tem: Chris Simons
Council Members: Nathaniel Moran
Donald Sanders
Ralph Caraway
Steve Smith
Charles Alworth (Absent)

City Manager: Bob Turner
City Manager Designate: Mark McDaniel
City Attorney: Gary Landers
Assistant City Attorney: Karen Stead
Airport Manager: Davis Dickson
Budget/Human Resources Director: ReNissa Wade
Development Services Engineer: Michael Wilson
Chief Financial Officer: Daniel Crawford
Chief Information Officer: Benny Yazdanpanahi
City Engineer: Carter Delleney
City Fire Chief: Neal Franklin
City Police Chief: Gary Swindle
Communications Director: Susan Guthrie
Director of Planning and Zoning: Barbara Holly
Director of Solid Waste: Dan Brotton
Manager of Water Quality and Production: Mitch Marable
Director of Utilities & Public Works: Greg Morgan
City Clerk: Cassandra Brager

INVOCATION

The Invocation was given by Councilmember Caraway.

AWARDS

A-1 Request that the City Council consider designating Mr. Thomas Booker Butler as a Half Mile of History recipient.

Director of Planning & Zoning, Barbara Holly - Stated that the Half Mile of History is a cultural and historic landmark program paying tribute to people, places and events that have contributed to the City of Tyler and/or Smith County. The Half Mile of History is a permanent, outdoor walk-around loop that covers an approximate one-half mile stretch of sidewalk surrounding the square in the heart of downtown Tyler. People, places and events chosen for the Half Mile of History will be honored with a commemorative plaque placed in the sidewalk.

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One of the responsibilities of the Tyler Historical Preservation Board is to recommend people, places and events to be included in the Half Mile of History Preservation Program. On May 7, 2008, the Tyler Historical Preservation Board unanimously approved the recommendation of Thomas Butler Booker for inclusion in the Half Mile of History Preservation Program. A brief narrative follows.

Thomas Booker Butler was born January 14, 1867, in the Starrville community of Smith County, Texas, the son of Sallie F. Holt and James Wiley Butler. Mr. Butler attended Tyler public schools after the family moved to town and was later a student at Tyler Academy. After leaving school, he worked as a deputy sheriff under his father. He later turned to the legal profession and without college training, he prepared and was admitted to the bar in 1887 and formed a partnership with H.B. Marsh and N.W. Finley.

Mr. Butler was appointed Smith County judge in 1894. In 1902 he was appointed to fill the unexpired term as judge of the 7th Judicial District Court in Smith County. In 1910, Judge Butler acquired the Tyler Courier-Times, Tyler's longtime afternoon newspaper. Under the leadership of Judge Butler, the Courier-Times set an early pattern of community leadership. During the first four years of his ownership, the newspaper led a successful campaign to construct a modern streetcar system with seven miles of track and was highly instrumental in the abolition of the old ward system of city government. It was replaced in 1915 by the city manager form of government, making Tyler the fifth city in the state with this new form of municipal administration. Ownership of the newspaper remains in the Butler family. It is now in its 98th year of family ownership.

Judge Butler, a Tyler attorney and respected business man, has been described as a "many-sided man" who was active in banking, business, church, legal endeavors, and newspaper publishing. His contributions to the City of Tyler and Smith County are truly commendable.

Councilman Caraway made the motion; seconded by Mayor Pro Tem Simons; motion carried 6-0; approved as presented.

ZONING

Z-1 APPLICATION Z03-08-038B 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 43 and 44 of NCB 65 of the Wimberley Douglas Subdivision, two lots totaling approximately 0.29 acres located at the southwest intersection of North Beverly Avenue and East Locust Street (715 and 725 East Locust Street). (O-2008-68)

Councilman Smith made the motion; seconded by Councilman Moran; motion carried 6-0; approved as presented.

Z-2 APPLICATION Z04-08-052B H. CARROLL LEE



Request that the City Council consider a request to change the zoning from "R-1A" Single Family Residential District to "C-1" Light Commercial District on Lot 13E of NCB 1245 of the Tyler Corners Addition, one lot totaling approximately 12.046 acres located

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two lots west of the northwest intersection of Hwy. 64 and Loop 323 (3809 Hwy. 64 W). (O-2008-69)

Councilman Caraway made the motion; seconded by Mayor Pro Tem Simons; motion carried 6-0; approved as presented.



Z-3 APPLICATION Z05-08-054A HABITAT FOR HUMANITY

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 10 – 13 of NCB 637A, 4 lots totaling approximately 0.707 acres located four lots south of the southwest intersection of Duncan Street and Angeline Avenue. (O-2008-70)

Councilman Moran made the motion; seconded by Councilman Sanders; motion carried 6-0; approved as presented.



Z-4 APPLICATION Z05-08-055A GILBERT VALDEZ

Request that the City Council consider a request to change the zoning from “C-2” General Commercial District to “R-1B” Single-Family Residential District on Lots 39 and 40 of NCB 730 of the Country Club Subdivision, two lots totaling approximately 6,200 square feet located two lots south of the southeast intersection of Willowbrook Avenue and W. Erwin Street (114 Willowbrook Avenue). (O-2008-71)

Mayor Pro Tem Simons made the motion; seconded by Councilman Caraway; motion carried 6-0; approved as presented.



Z-5 APPLICATION Z05-08-056A LUIS LEANDRO

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 Lots 18 and 19 of NCB 388 of the Edgefield Subdivision, two lots totaling approximately 12,000 square feet, located five lots west of the northwest intersection of Tenneha Avenue and West Queen Street (807 West Queen Street). (O-2008-72)

Councilman Caraway made the motion; seconded by Councilman Sanders; motion carried 6-0; approved as presented.



Z-6 APPLICATION Z05-08-057A SMITH REYNOLDS

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 37 of NCB 671, one lot totaling approximately 2.3 acres located one lot north of the northeast intersection of Duncan Street and East Gentry Parkway (2415 East Gentry Parkway). (O-2008-73)

Councilman Moran made the motion; seconded by Councilman Caraway; motion carried 6-0; approved as presented.



Z-7 APPLICATION Z05-08-058A POLLARD-HEINES INTEREST

Request that the City Council consider a request to change the zoning from “C-2” General Commercial District to “C-1” Light Commercial District on Lot 5H of NCB 658 in the Pollard Subdivision, one lot totaling approximately 37,533 square feet located at

the southwest intersection of Fifth Street and South Beckham Avenue (1721 South Beckham Avenue). (O-2008-74)

Mayor Pro Tem Simons made the motion; seconded by Councilman Sanders; motion carried 6-0; approved as presented.

Z-8 APPLICATION C05-08-007A ROBERT PELTIER

Request that the City Council consider a request to close the following unimproved thoroughfares: Sabine Street, extending east for approximately 800 feet from Watson Street, terminating at Loop 323; Oak Street, extending north for approximately 1,050 feet from the southeast corner of Lot 148 of NCB 837B; Louis Street, extending south for approximately 1,200 feet from Loop 323 to the southern property line of Lot 148 of NCB 837B; Fannin Street, extending south for approximately 1,200 feet from Loop 323 to the southern property line of Lot 148 of NCB 837B; Neches Street extending east for approximately 1,300 feet from Watson Street to the east property line of Lot 148 of NCB 837B; an alley extending east from the northwest property line of Lot 148 of NCB 837B for approximately 412 feet to the northeast property line of Lot 148 of NCB 837B; and an alley, extending south from Loop 323 for approximately 300 feet to the east property line of Lot 10A of NCB 836X. (O-2008-75) complete plat within 6 months

Councilman Sanders made the motion; seconded by Councilman Moran; motion carried 6-0; approved as presented.

MISCELLANEOUS

M-1 Request that the City Council consider authorizing the City Manager to issue Final Acceptance, execute Reconciliation Change Order, and release the final retainage payment totaling \$2,192.45 for Drainage Repairs at 820 Pinkerton Tyler Bid No. 08-008. ©

Mayor Pro Tem Simons made the motion; seconded by Councilman Smith; motion carried 6-0; approved as presented.

M-2 Request that the City Council consider authorizing the City Manager to execute Supplemental Agreement No. 1 to the Airport Traffic Control Tower Lease between the City of Tyler and the Federal Aviation Administration. ©

Councilman Moran made the motion; seconded by Councilman Caraway; motion carried 6-0; approved as presented.

M-3 Request that the City Council authorize the City Manager to purchase restrooms for thirteen City Parks through the Texas Building and Procurement Commission in the amount of \$1,013,288.90.

Councilman Smith made the motion; seconded by Councilman Sanders; motion carried 6-0; approved as presented.

- M-4 Request that the City Council consider authorizing the City Manager to execute Work Order No. 4 for engineering services with Wisenbaker, Fix and Associates for Phase III of the New Perimeter Road design at Tyler Pounds Regional Airport in an amount not to exceed \$16,000.00, and for the Half Cent Sales Tax Board to consider funding the maximum local obligation of \$800.00 for the Perimeter Road design. ©**

Mayor Pro Tem Simons made the motion; seconded by Councilman Caraway; motion carried 6-0; approved as presented.

- M-5 Request that the City Council consider authorizing the City Manager to execute the renewal of an Off-Site Car Rental Permit for Southwest-Tex Leasing Company, Incorporated d/b/a Advantage Rent-A-Car at Tyler Pounds Regional Airport. ©**

Councilman Smith made the motion; seconded by Councilman Sanders; motion carried 6-0; approved as presented.

- M-6 Request that the City Council consider authorizing the City Manager to issue Final Acceptance for and execute the Reconciliation Change Order reducing the total contract amount by \$5,295.25 for the Passenger Boarding Bridge Project at Tyler Pounds Regional Airport. ©**

Mayor Pro Tem Simons made the motion; seconded by Councilman Caraway; motion carried 6-0; 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 award a contract in the amount of \$18,119.00 to The Construction Management Company (TCM) to remodel the large conference room in the Tyler Development Center.**
- C-A-2 Request that the City Council consider ratifying staff action for payment to Landmark Title Company in the amount of \$6,864.89 for acquisition of right-of-way for Lake Placid Road.**
- C-A-3 Request that the City Council consider authorizing the expenditure of funds to provide necessary dirt work and concrete foundation for the new police department classroom to be built at the gun range located on the Public Drive next to the Smith County Low Risk Jail to England Contractors of Tyler, Texas in the amount of \$10,714.**
- C-A-4 Request that the City Council consider authorizing the expenditure of funds to install all plumbing for the new Police Department classroom to be built at the gun**

range located on the Public Drive next to the Smith County Low Risk Jail, and the selected vendor be McCoys Plumbing of Tyler, Texas at a cost of \$9,500.

- C-A-5** Request that the City Council consider authorizing the City Manager to award the construction contract for the Irish Meadows Drainage Improvements to the low bidder, Reynolds and Kay, Limited in the amount of \$204,534.45.
- C-A-6** Request that the City Council consider authorizing the City Manager to execute the renewal of an Agricultural Lease with Mr. Charlie Rand for a 41.5-acre tract of land at Tyler Pounds Regional Airport.
- C-A-7** Request that the City Council consider authorizing the City Manager to purchase one (1) Burro compactor from Pembina Valley Containers Limited for \$45,000 and one (1) 2008 GMC cab and chassis from Rush Truck Centers of Texas through the BuyBoard Purchasing Cooperative for \$36,535.
- C-A-8** Request that the City Council consider authorizing the City Manager to execute a lease agreement with MetroPCS Texas LLC for the installation and maintenance of a telecommunications antenna system on the City of Tyler Elevated Water Storage Tank located at 5112 Troup Hwy.
- C-A-9** Request the City Council to consider authorizing the purchase of One (1) Return Activated Sludge Pump Impeller from Smith Pump Company, Waco, Texas for \$15,736.40.
- C-A-10** Request that the City Council consider authorizing the City Manager to purchase one Ford F-250 from the low bidder Kilgore Ford, of Kilgore, Texas for the amount of \$15,887.14.
- C-A-11** Request that the City Council consider awarding the contract for the 2008 Slurry Seal Program, to the low bidder - East Texas Paving, in the amount of \$143,773.25.
- C-A-12** Request that the City Council consider awarding the contract for the 2008 Asphalt Overlay Program, to the low bidder – Reynolds and Kay, Limited in the base bid amount of \$819,700.00.
- C-A-13** Request that the City Council consider ratifying the City Manager action to make application for, accept, and enter into an agreement with the Texas Department of Transportation for a grant in the amount of \$7,979 to enforce seat belt usage and child safety seat usage during the Memorial Day weekend.
- C-A-14** Request that City Council consider authorizing the payment of \$13,000 to the Children are a Gift Foundation of Tyler, Texas, in matching funds for improvements to Children's Park in Tyler.

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Councilman Moran made the motion to approve the entire consent agenda; seconded by Mayor Pro Tem Simons; motion carried 6-0; approved as presented.

APPOINTMENTS TO BOARDS

B-1 Request that the City Council consider making an appointment to the Keep Tyler Beautiful Board.

KEEP TYLER BEAUTIFUL BOARD

Councilman Smith made the motion; seconded by Councilman Sanders; motion carried 6-0 to appoint the following Board Member:

Vickie Rowe

CITY MANAGER'S REPORT

1. Solid Waste offer curbside recycle, went from 985 to 2,400

RECESS FOR EXECUTIVE SESSION - City council convened into executive session at 9:35 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:

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

Implementation of new Smoking Ordinance

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 10:08 a.m. with no action taken

ADJOURNMENT

Councilman Caraway made the motion to adjourn the meeting at 10:09 a.m.; seconded by Councilman Smith; motion carried 6-0; meeting adjourned.

**BARBARA BASS, MAYOR OF
THE CITY OF TYLER, TEXAS**

A T T E S T:

CASSANDRA BRAGER, CITY CLERK