

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

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, August 27, 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
City Manager:	Bob Turner
City Manager Designate:	Mark McDaniel
City Attorney:	Gary Landers
Deputy City Attorney:	Steve Kean
Assistant City Attorney:	Karen Stead
Airport Manager:	Davis Dickson
Budget/Human Resources Director:	ReNissa Wade
Development Services Engineer:	Michael Wilson
Director of Neighborhood Services:	Brenda Johnson
Chief Financial Officer:	Daniel Crawford
City Engineer:	Carter Delleney
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
Internal Auditor:	Keidric Trimble
Director of Utilities & Public Works:	Greg Morgan
Traffic Engineer:	Kirk Houser
City Clerk:	Cassandra Brager

## **INVOCATION**

The Invocation was given by Councilmember Caraway.

Mayor Bass introduced Dwight Fennell, President for Texas College.

## **AWARDS**

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

Mayor Bass stated for placing the highest premium on responsiveness to citizen's needs and for his organizational mindset for proactive and innovation which exemplifies the core values of the Blueprint it is recommended that the City Council recognize Tommy Little as the August 2008 recipient of the Blueprint Blue Ribbon Award.

**ZONING**

**Z-1 APPLICATION Z07-08-072B JOSE AND ELOISA MIRANDA**

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 6 and 9 of NCB 772, two lots totaling approximately 0.38 acres located at the southeast intersection of Grand Avenue and West 31<sup>st</sup> Street (2923 Grand Avenue and 830 West 31<sup>st</sup> Street). (O-2008-95)

Motion by Councilman Caraway; seconded by Councilman Smith; motion carried 7 - 0 & approved as presented.

**Z-2 APPLICATION Z07-08-073B BROADWAY DEVELOPMENT “A” No 2, LTD**

Request that the City Council consider a request for approval of a final site plan on property zoned “PCD”, Planned Commercial Development District on Tract 1, totaling approximately 2.75 acres located at the northeast intersection of U.S. Highway 69 and Loop 49. (O-2008-96)

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

**Z-3 APPLICATION Z07-08-075B STEVEN ROOSTH**

Request that the City Council consider a request to change the zoning from “C-1”, Light Commercial District and “RPO”, Restricted Professional Office District to “PCD”, Planned Commercial Development District with final site development plan approval on a portion of Lot 3 of NCB 1450A, a portion of one lot totaling approximately 2.18 acres located two lots north of the northeast intersection of East Heritage Drive and South Broadway Avenue (7524 South Broadway Avenue). (O-2008-97)

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

**Z-4 APPLICATION Z08-08-076A JOHN O’SULLIVAN**



Request that the City Council consider a request to change the zoning from “M-1” Light Industrial District to “DBAC”, Downtown Business, Arts and Culture District on Lots 5B and 5C of NCB 18, two lots totaling approximately 1.44 acres located at the southwest intersection of South Center Avenue and East Erwin Street (325 East Erwin Street and 105 South Center Avenue). (O-2008-98)

Motion by Councilman Smith; seconded by Mayor Pro Tem Alworth; motion carried 7 - 0 & approved as presented.

**Z-5 APPLICATION Z08-08-077A GREATER TYLER ASSOCIATION OF REALTORS**

Request that the City Council consider a request to approve the final site plan on property zoned “POD” Planned Office Development District on a portion of Lot 1 of NCB 1090, a portion of one lot totaling approximately 4.18 acres located one lot north of

**the northeast intersection of Loop 323 SSE and Roanoke Lane (2759 McDonald Road). (O-2008-99)**

Motion by Councilman Moran; seconded by Mayor Pro Tem Alworth; motion carried 7 - 0 & approved as presented.

**Z-6 APPLICATION Z08-08-078A BOB HERD**

**Request that the City Council consider a request to approve a site plan amendment on property zoned "POD", Planned Office Development District on a portion of Lot 24 of NCB 899H, one lot totaling approximately 10.63 acres located approximately 948 feet east of Old Jacksonville Highway and north of the northeast intersection of Woodland Hills Drive and Old Jacksonville Highway (3550 Old Jacksonville Highway). The applicant is requesting approval of a site plan amendment to increase access to Old Jacksonville Highway. (O-2008-100)**

Motion by Mayor Pro Tem Alworth; seconded by Councilman Smith; motion carried 7 - 0 & approved as presented.

**Z-7 APPLICATION N08-08-001A LAKEWOOD DRIVE STREET NAME CHANGE**

**Request that the City Council consider a request for a street name change of Lakewood Drive to Pointe North Drive for the eastern portion of Lakewood Drive commencing from the southeast intersection of Mineola Highway, extending across Loop 323 WNW and terminating at the northwest intersection of Country Road. This area encompasses Lots 4A, 5 and 6 of NCB 1203; Lot 1 of NCB 1206; Lot 1C of NCB 1200; Lot 1 of NCB 1207; Lots 1 and 2 of NCB 1205 and Lot 3B of NCB 1207A. (O-2008-101)**

Motion by Mayor Pro Tem Alworth; seconded by Councilman Caraway; motion carried 7 - 0 & approved as presented.

**Z-8 APPLICATION Z08-08-085B RAYMOND JOHNSON**



**Request that the City Council consider a request to change the zoning from "R-MF", Multi-Family Residential District to "C-1", Light Commercial District on Lot 2D of NCB 1546E, one lot totaling approximately 6.109 acres located one lot west of the southwest intersection of Broadway Avenue and Heritage Drive. The applicant is requesting a zoning change in order to construct a Gold's Gym work out facility. (O-2008-102)**

Motion by Councilman Smith; seconded by Councilman Moran; motion carried 7 - 0 & approved as presented.

**PRESENTATIONS**



**P-1 Request that the City Council considering receiving a presentation on the status of the Half Cent prioritization project and an update regarding the Five Year Half Cent Capital Improvement Program (CIP). No action taken**



**P-2 Request that the City Council consider designating Tyler Woman's Building as a Half Mile of History recipient.**



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

**P-3 Request that the City Council consider designating Wood T. Brookshire as a Half Mile of History recipient.**

Motion by Councilman Smith; seconded by Councilman Simons; motion carried 7 - 0 & approved as presented.



**P-4 Request that the City Council receive a presentation from Neighborhood Services Staff regarding the City's Neighborhood Empowerment Works (NEW) 2008 Spring Program. Pulled from the agenda.**

**HEARINGS**

**H-1 Request that the City Council consider conducting a public hearing on the proposed fiscal year 2008-2009 Budget and on the proposed property tax rate of \$0.204000 per \$100 of taxable property value. (Open public hearing, 1 speaker, then closed public hearing)**

**City Manager, Bob Turner** – Stated that this is just the first public hearing for the proposed fiscal year 2008-2009 budget.

**Larry Meckley, 401 Sutherland Dr.** – Stated that this budget does not meet the plans stated by the Tyler 21 Comprehensive Plan.

**RESOLUTION**

**R-1 Request that the City Council consider adopting a Resolution ratifying submission of an application for Federal Aviation Administration (FAA) Grant Funds in the amount of \$279,684.00 for Design Services for the Runway 4/22 Runway Safety Area (RSA) Project at Tyler Pounds Regional Airport. This Resolution also accepts any grant amendments to increase the grant funding levels, and authorizes the City's match payment not to exceed 5 percent for proposed grant projects. (R-2008-18)**

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

**ORDINANCE**

**O-1 Request that the City Council consider adopting an ordinance amending City Code Chapter 17, by decreasing the speed limit from 55 mph to 50 mph on a portion of South Broadway Avenue from Cumberland Road north to Heritage Drive. (O-2008-103)**

Motion by Mayor Pro Tem Alworth; seconded by Councilman Smith; motion carried 7 - 0 & approved as presented.

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- O-2 Request that the City Council consider an Ordinance approving a negotiated resolution between the Atmos Cities Steering Committee and ATMOS ENERGY CORPORATION, MID-TEX DIVISION ("atmos MID-TEX" or "the company") regarding the company's rate review mechanism filing in all cities exercising original jurisdiction; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement and finding the rates to be set by the attached tariffs to be just and reasonable; and approving Atmos' proof of revenues. (O-2008-104)**

Motion by Mayor Pro Tem Alworth; seconded by Councilman Moran; motion carried 7 - 0 & approved as presented.

- O-3 Request that the City Council consider adopting an ordinance amending Tyler City Code Chapter 7 by amending the membership requirements of the Neighborhood Revitalization Board. (O-2008-105)**

**City Manager, Bob Turner** – Stated that the duties and membership requirements for the Neighborhood Revitalization Board are currently set forth in City Code Section 7-68. Section 7-68 currently lists a number of professional categories for membership, but also provides that the City Council may fill the remaining membership if it is not possible to fill the membership in all of the categories.

Over the years, it has been difficult to fill the membership requirements in all of the listed categories. City Code Section 7-68 already provides that the City Council may fill membership positions when the listed categories cannot be filled. However, it is recommended that the Neighborhood Revitalization Board membership requirements in City Code Section 7-68 be amended so that the listed membership categories are specifically listed as “discretionary” categories. Section 7-68 is also clarified to state that the City Council retains the right to select any person with an interest in serving to be a member of the Board.

Motion by Councilman Moran; seconded by Mayor Pro Tem Alworth; motion carried 7 - 0 & approved as presented.

- O-4 Request that the City Council consider an ordinance amending Chapter 1, General Provisions”, Article III, “Boards” of the Code of Ordinances of the City of Tyler removing references to board no longer in existence and lowering the number of members of the Disability Issues Review Board. (O-2008-106) Mayor will ask Councilman Moran to Chair a Lake Tyler round table/informal group to meet and talk about issues.**

**City Manager, Bob Turner** – Stated that Certain sections of Chapter 1, “General Provisions”, Article III., “Boards” are outdated and need to be either amended or deleted; and

The Shackelford Creek Annexation Board was created in 1998 to assist citizen and City communication during the annexation transition of that property and was to have a term of two years only. This term expired in 2000.

The Lake Tyler Advisory Board was created in 2004 to act in an advisory capacity and to provide a vehicle for citizen communication with and assistance to the City departments and

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the City Council to facilitate recreational, residential, and mineral production uses of Lake Tyler and was to have a term of three years only. This term expired in 2007.

The Disability Issues Review Board currently is authorized to have no more than twenty-four members. Over time, the usual number that the City Council has tried to appoint has been lowered to nine. In order for the board to be able to meet regularly with a quorum the number of board members is now recommended to be set at seven.

The Convention and Visitors Bureau Board was established by virtue of a contract with the Chamber of Commerce to assist the City and Chamber of Commerce in attracting more visitors and conventioners to Tyler; to provide oversight and direction to the Chamber of Commerce and City of Tyler in those activities related to tourism and conventions; and to make recommendations to Chamber of Commerce and City regarding annual budgets, advertising marketing plans, and services provided by the Chamber of Commerce. There is now a new contract with the Chamber of Commerce that replaces the need for this Board.

Motion by Councilman Smith; seconded by Councilman Sanders; motion carried 7 - 0 & approved as presented.

- O-5 Request that the City Council consider adopting an ordinance amending Chapter 2, “Finance and Taxation”, Article I., “In General”, relating to the threshold dollar amount at which the City of Tyler is required to engage in competitive bidding and increasing the amount of the City Manager’s spending authority; increasing the amount of donations the City Manager can accept; and increasing the amount for which the City Manager can settle claims. (O-2008-107)**

**City Attorney, Gary Landers** – Stated that Tyler City Charter Section 31 requires that all City contracts calling for or requiring the expenditure or payment of three thousand dollars (\$3,000.00) or more must first be submitted for competitive bids. However, Texas Local Government Code Section 252.002 authorizes the governing body of a municipality to elect to have Texas Local Government Code Chapter 252 supersede the charter requirements relating to competitive bidding and purchasing. The Texas Legislature has amended Texas Local Government Code Section 252.021 relating to competitive bidding by increasing the dollar amount for municipal expenditures requiring competitive bidding to more than fifty thousand dollars (\$50,000.00).

The Tyler City Council has previously elected to have the requirements of Texas Local Government Code Chapter 252 supersede the Tyler City Charter requirements on competitive bidding by adopting City Code Section 2-6 to require sealed bidding for expenditures of \$15,000 or more. This amendment raises that amount to \$50,000.00 with the result that expenditures less than \$50,000 are covered by City Policy requiring telephone or other price comparisons.

Motion by Mayor Pro Tem Alworth; seconded by Councilman Sanders; motion carried 7 - 0 & approved as presented.

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- O-6** Request that the City Council consider adopting an ordinance amending City Code Chapter 1, “General Provisions”, Article III., “Boards”, updating provisions relating to City Boards. (O-2008-108) option 1, subject to amending 1 meeting in 6 months to have illness, extenuating circumstances, give consideration.

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

## **MISCELLANEOUS**

- M-1** Request that the City Council consider authorizing the City Manager to ward a contract, in the amount of \$131,994.00, to Crown Civil Construction, for the construction of concrete improvements contained in the 2008 Consolidated Concrete Improvements Project, Tyler Bid 08-041.©

Motion by Mayor Pro Tem Alworth; seconded by Councilman Smith; motion carried 7 - 0 & approved as presented.

- M-2** Request that the City Council consider authorizing the City Manager to alter the Faulkner Park Master Plan to include a proposed future girl’s fast pitch softball complex.

Motion by Mayor Pro Tem Alworth; seconded by Councilman Caraway; motion carried 7 - 0 & approved as presented.

- M-3** Request that the City Council consider authorizing the City Manager to proceed with the next step toward the creation of the North End Tax Increment Financing Zone (TIF/TIRZ) by issuing a 60 day notification letters to all other taxing jurisdictions as required by law.

Motion by Councilman Sanders; seconded by Councilman Caraway; motion carried 7 - 0 & approved as presented.

- M-4** Request that the City Council consider authorizing the City Manager to award an Oil and Gas Lease on three (3) land tracts totaling 151.815 surface acres located within the physical boundaries of Tyler Landfill.©

Motion by Mayor Pro Tem Alworth to table until the next meeting for legal opinion on mineral interest title; seconded by Councilman Moran; motion carried 7 - 0 & tabled until next meeting.

**(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).**

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- C-A-1** Request that the City Council consider authorizing the City Manager to execute a contract amendment with Wisenbaker Fix and Associates in the amount of \$9,920.00 for additional design services, for a new contract amount of \$75,620.00. ©
- C-A-2** Request that the City Council consider authorizing the City Manager to execute Amendment No. 2 with Capco Engineering Incorporation in the amount of \$8,138.71 for additional construction inspection services, for a new contract amount of \$32,138.71. ©
- C-A-3** Request that the City Council consider authorizing the City Manager to renew an agreement with the United States Department of Justice, Drug Enforcement Administration to provide for the Tyler Police Department's continued participation in the East Texas Drug Task Force. ©
- C-A-4** Request that the City Council consider authorizing the City Manager to issue Final Acceptance, execute Reconciliation Change Order, and release the Final Retainage payment in the amount of \$5,581.98 for 2007 Sidewalk Improvements to Proyecto Rosalinda Area Phase 2 Tyler Bid No. 08-020. ©
- C-A-5** Request that the City Council consider authorizing the City Manager to accept the bid from McKenzie Tile and Flooring in the amount of \$7,560.00 for new carpet on the first floor of City Hall.
- C-A-6** Request that the City Council consider authorizing the City Manager to approve payment to Southern Utilities Company, in the amount of \$20,304.23, for the relocation of an existing eight inch water line associated with the Old Omen Road project.

Motion by Mayor Pro Tem Alworth; seconded by Councilman Sanders; motion carried 7-0 & approved as presented.

### **CITY MANAGER'S REPORT**

1. Monday 9-1-08 is Labor Day holiday
2. Attention to filmmakers, City historic film contest 9-5-08 and screened on 9-13-08, 1-25 min on DVD.
3. Surplus vehicle sale on 9-9-08.
4. Municipal Court "Partners for Youth" Program is an entry for NLC award , winners November 2008 at NLC Conference
5. 9-5-08 Fire Combat Challenge in Tyler at Broadway Square Mall

**RECESS FOR EXECUTIVE SESSION** – City Council convened into Executive Session at 11:04 am.

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

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-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

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

Contemplated litigation involving various parties for non-compliance with City regulations related to grading permits and tree cutting.

-under Section 551.072 "Real Estate", deliberation regarding the following:

Discuss the purchase, exchange, lease or value of real property, the public discussion of which would have a detrimental effect on the negotiating position of the City, related to the development of municipal facilities and encouragement of private investment

**City Council reconvened from Executive Session at 11:32 am with no action taken.**

## **ADJOURNMENT**

Motion by Councilman Caraway to adjourn the meeting at 11:32 am; seconded by Councilman Moran; motion carried 7 - 0 & approved as presented.

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

**A T T E S T:**

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**CASSANDRA BRAGER, CITY CLERK**