

**MINUTES OF THE
REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
October 22, 2008**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, October 22, 2008 at 10:00 a.m. in the Council Chamber, City Hall, Tyler, Texas, with the following present:

| | |
|---------------------------------------|------------------|
| Mayor: | Barbara Bass |
| Mayor Pro Tem: | Charles Alworth |
| Council Members: | Nathaniel Moran |
| | Donald Sanders |
| | Ralph Caraway |
| | Steve Smith |
| | Chris Simons |
| City Manager: | Bob Turner |
| City Manager Designate: | Mark McDaniel |
| City Attorney: | Gary Landers |
| Deputy City Attorney: | Steve Kean |
| Budget/Human Resources Director: | ReNissa Wade |
| Chief Financial Officer: | Daniel Crawford |
| City Engineer: | Carter Delleney |
| City Police Chief: | Gary Swindle |
| Communications Director: | Susan Guthrie |
| 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 |

The Invocation was given by Councilmember Caraway.

Mayor Bass read a Proclamation proclaiming November 3, 2008 as Stephen F. Austin Day

Awards

A-1 Service Awards

20 Years

David Espinosa

August 11, 1988 to August 11, 2008

David Espinosa went to work for the City of Tyler on August 11, 1988 as a Laborer in the Utilities – Waste Collection Department and promoted to Equipment Operator III on June 25, 1999 in the Water Distribution Department and Utility Construction Supervisor in the Water Distribution Department on April 7, 1995. He currently holds the position of Crew Leader in the Water Distribution Department. We are pleased to present David with a 20 year service pin for his many years of service with the City of Tyler.

Joe Vickery

August 11, 1988 to August 11, 2008

Joe Vickery went to work for the City of Tyler on August 11, 1988 as a Laborer in the Utilities – Waste Collection Department, and promoted to Utilities Maintenance Repairer on April 24, 1989. He currently holds the position of Senior Utilities Repairer in the Water Distribution Department. We are pleased to present Joe with a 20 year service pin for his many years of Service with the City of Tyler.

ZONING

Z-1 APPLICATION Z09-08-095B SMOKY MOUNTAIN CONDOS

Request that the City Council consider a zone change from “R-1B”, Single-Family Residential District to “PMF”, Planned Multifamily Residential District on an approximate 16.184 acre tract of land out of the Thomas Price Survey, A-794, located two lots north of the northeast intersection of Balsam Gap Lane and Blue Mountain Boulevard (1701 Balsam Gap Lane). **(O-2008-133)**

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

Z-2 APPLICATION Z09-08-096B SOUTHBEND CREEK



Request that the City Council consider a zone change from “R-2”, Two-Family Residential District and “AG”, Agricultural District to “R-1D”, Single-Family Detached and Attached District on Lot 15 of NCB 1100C and a 0.574 acre tract of land out of the Benjamin Fry Survey, totaling approximately 1.345 acres located eight lots south of the southeast intersection of McClenny Drive and Garrett Drive. **(O-2008-134)**

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

Z-3 APPLICATION S10-08-098A ARP STATE BANK



Request that the City Council consider a Initial Special Use Permit on Lot 3C of NCB 1554B of the Weaver Crossing Subdivision, one lot totaling approximately 2.28 acres of land located at the southeast intersection of Old Jacksonville Highway and Rice Road (5212 Old Jacksonville Highway). The property is currently zoned “C-1”, Light Commercial District. **(O-2008-135)**

Motion by Councilman Smith with an initial one year approval only and the bank has been warned; seconded by Mayor Pro Tem Alworth; motion carried 7 - 0 & approved as presented.

Z-4 APPLICATION A10-08-007A NORTH CHASE DEVELOPMENT, LLC



Request that the City Council consider annexing certain sparsely populated and owner requested territory constituting approximately 8.276 acres of land being a portion of Tract 1D out of the E. Bodenheimer Survey, A-094, as described by a metes and bounds description, located one lot southeast of the intersection of North Broadway Avenue and West 32nd Street; and

- A. Establish the new boundary of the City Limits;
- B. Establish the new boundary of the Extraterritorial Jurisdiction;
- C. Establish the new boundary of the City Council District # 3;

October 22, 2008

- D. Implement the Land Use Guide to reflect Single-Family Medium/Low Density; and**
- E. Establish original zoning of “R-1D”, Single-Family Detached and Attached District for 8.276 acres. (O-2008-136)**

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

- Z-5 APPLICATION Z09-08-097B NORTHCHASE DEVELOPMENT, LLC**
Request that the City Council consider a zone change from “AG”, Agricultural District to “R-1D”, Single-Family Detached and Attached District on Tract 1C and a portion of Tract 1B out of the E. Bodenheimer Survey, A-094, totaling approximately 8.329 acres located one lot south of the intersection of North Broadway Avenue and West 32nd Street. (O-2008-137)



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

PRESENTATIONS

- P-1 Request that the City Council consider designating Shirley Simons, Sr. as a Half Mile of History recipient.**



Barbara Holly, Director of Planning & Zoning – Stated that Shirley Simons, Sr., a distinguished graduate of the Rice University School of Architecture in 1919, practiced in Houston and Lufkin upon graduation. In 1928, he relocated his family and office to Tyler, Texas. In Tyler, his architectural practice prospered and Shirley was actively involved in its day-to-day operation until his death in 1963. He was one of the earliest architects to be licensed under the 1936 registration law for architects in the State of Texas. Mr. Simons practiced for 45 years with great scope and variety to his work, and he used various design styles such as Tudor, Classical Revival and Moderne. His accomplishments included private residences, public schools, university buildings, hospitals, churches, and municipal buildings, as well as commercial, institutional and industrial projects that span across Texas.

Mr. Simons has left a distinguished legacy to the City of Tyler with the many architecturally distinguished buildings that he designed. The list of projects is lengthy, and some of the more outstanding projects located in Tyler are City Hall, the Woman’s Building, the original United States Post Office/Courthouse and the major remodel in 1942 of Marvin United Methodist Church. These buildings are major accomplishments of Mr. Simon’s excellent work and subsequently have been awarded either a National Registry of Historic Places or a Tyler Landmark Register of Historic Places designation.

His work as the principal architect for numerous other projects across the state include the Houston Museum of Art, the Austin Daily Tribune building, the Student Health Center at the University of Texas in Austin and the expansion at the campus of Stephen F. Austin University.

October 22, 2008

In addition to his professional accomplishments, Mr. Simons was active in both civic and church affairs in both Lufkin and Tyler. Shirley Simons truly enhanced the built, vertical landscape of not only Tyler but many other cities throughout Texas, and is most deserving of the Half Mile of History recognition.

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

HEARINGS



H-1 Request that the City Council conduct a public hearing and consider adopting an ordinance renewing the designation of Reinvestment Zone Number 8 - CB&I for Commercial/Industrial Tax Abatement. (O-2008-138)

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



H-2 Request that the City Council conduct a public hearing on the creation of Tax Increment Reinvestment Zone (TIRZ) No. 3 on a 491.56 acre parcel of land located in the North End of Tyler and in the general area bounded by Broadway on the east, North Loop 323 on the north, the UP Rail line on the west, and Martin Luther King, Jr. Blvd on the south. This also includes some commercial west of the UP Rail line.

RESOLUTION



R-1 Request that the City Council consider adopting a resolution approving the establishment of City of Tyler, Texas Guidelines and Criteria for granting section 380 business incentives. Pulled from agenda

R-2 Request that the City Council consider adopting a resolution finding that ONCOR Electric Company's requested increases to its electric transmission and distribution rates and charges within the City should be denied and finding that the City's reasonable rate case expenses shall be reimbursed by the Company. (R-2008-22)

Gary Landers, City Attorney – Stated that Oncor Electric Delivery Company ("Oncor" or "the Company") filed an application on or about June 27, 2008 with cities retaining original jurisdiction seeking to increase system-wide transmission and distribution rates by \$275 million. (Until last year, Oncor was known as TXU Electric Delivery Company.) The Company asks the City to approve a 17.6% increase in residential rates, a 9.1% increase in commercial rates, and a 5.8% increase in street lighting rates. According to Oncor, annual rates would increase by approximately \$60 for an average residential customer. Oncor's request has been assigned Public Utility Commission Docket No. 35717.

This resolution denies the Company's requested rate increase and requires that the Company's current rates be maintained for all customers within the City.

October 22, 2008

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

- R-3 Request that the City Council consider adopting a Resolution authorizing the filing of an application with the East Texas Council of Governments for a Regional Solid Waste Grant, and authorizing the City Manager to take all actions needed to receive and expend grant funds. (R-2008-23)**

Mark McDaniel, City Manager Designate – Stated that if approved by the City Council, the Code Enforcement Department would apply for funding to purchase two high quality surveillance cameras to be used to catch illegal dumpers. This application would qualify for funding under the local enforcement category.

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 65 m.p.h. to 55 m.p.h. on a portion of US 271 near SH 155 and a portion of US 271 near Loop 323 Spur. (O-2008-139)**

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



- O-2 Request that the City Council consider adopting an ordinance amending the Unified Development Code in Tyler City Code Chapter 10 by adding regulations related to the establishment of Historic District Overlays. Pulled from agenda**

MISCELLANEOUS



- M-1 Request that the City Council consider a resolution creating a Neighborhood Empowerment Zone (NEZ) Pilot Program. Also request that City Council adopt the boundaries, guidelines and incentives that accompany the NEZ pilot.**

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

- M-2 Request that the City Council consider authorizing the City Manager to award a contract, in the amount of \$358,076.00, to Heartbeat Construction, for the construction of drainage improvements to West Mud Creek Tributary C-2, at Fair Lane. ©**

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



M-3 Request that the City Council consider ratifying of a \$50,000 donation from the Spangenberg Family Foundation for park playground equipment at Fun Forest Park.

Motion by Councilman Sanders; seconded by Councilman Caraway; 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).

C-A-1 Request that City Council consider approving payments for property appraisal services to the Smith County Appraisal District for fiscal year beginning October 1, 2008.

C-A-2 Request that the City Council consider approving the reconciliation change order and releasing final retainage for the 2008 Asphalt Overlay Program to Reynolds & Kay, Ltd. in the amount of \$33,689.85. ©

C-A-3 Request that the City Council consider adopting a Resolution agreeing to the sale of Lot 24, Block 96 (608 Liberty) located within the City of Tyler city limits and owned by taxing entities including the City of Tyler. (R-2008-24)

C-A-4 Request that the City Council consider adopting a Resolution agreeing to the sale of Lot 16A, NCB 440 (1701 Palace) located within the City of Tyler city limits and owned by taxing entities including the City of Tyler. (R-2008-25)

C-A-5 Request that the City Council consider authorizing the City Manager to execute a lease agreement renewal with the Tyler Ski Club for limited skiing on Lake Bellwood. ©

C-A-6 Request that the City Council consider adopting a Resolution ratifying execution of grant Agreement Amendment No. 2 with the Texas Department of Transportation (TxDOT) extending the termination date from October 31, 2008 to August 31, 2009 for Public Transportation Development Credits in the amount of 118,500 for use by the Tyler Transit System. (R-2008- 26)

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

CITY MANAGER'S REPORT

- 1. Bulky item pick up in final stages**
- 2. Fuel surcharge going down**
- 3. Mayor – Thanked Kirk Houser and wished him well on his new endeavors.**

October 22, 2008

RECESS FOR EXECUTIVE SESSION – City Council convened into Executive Session at 9:40 am.

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

-under Section 551.072 “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

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

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

pending or contemplated litigation involving various claims against the City

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 10:00 am with no action taken.

ADJOURNMENT

Motion by Mayor Pro Tem Alworth to adjourn the meeting at 10:00 am; seconded by Councilman Caraway; meeting adjourned 7-0.

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

A T T E S T:

CASSANDRA BRAGER, CITY CLERK