

**MINUTES OF THE  
REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS  
MAY 27, 2009**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, May 27, 2009 at 9:00 a.m. in the Council Chamber, City Hall, Tyler, Texas, with the following present:

Mayor: Barbara Bass  
Mayor Pro Tem: Nathaniel Moran  
Councilmembers: Charles Alworth  
Chris Simons  
Ralph Caraway  
Sam Mezayek  
Donald Sanders

City Manager: Mark McDaniel  
City Manager Emeritus: Bob Turner  
City Attorney: Gary Landers  
Deputy City Attorney: Steve Kean  
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  
Director of Planning and Zoning: Barbara Holly  
Director of Solid Waste: Dan Brotton  
Internal Auditor: Keidric Trimble  
Director of Utilities & Public Works: Greg Morgan  
Interim Traffic Engineer: Justin Smith  
City Clerk: Cassandra Brager

**INVOCATION**

The Invocation was given by Councilmember Caraway.

**ZONING**



**Z-1**

**APPLICATION A05-09-002 ALL SAINTS EPISCOPAL SCHOOL**

**Request that the City Council consider annexing certain sparsely populated and owner requested territory constituting approximately 115 acres of land contained in part of the George Myers Survey, A-643, J.M. Edwards Survey, A-1113, and S.A. & M.G. Railroad Company Survey, A-963, Smith County, Texas.**

**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 Institutional Land Use.**
- E. Original zoning of 115 acres of "INT", Institutional District. (O-2009- 56)**

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

**Z-2**

**APPLICATION Z04-09-020 ROBERT LLOYD**

**Request that the City Council consider a zoning change from “R-1B”, Single-Family Residential District to “PXR”, Planned Mixed Residential with Final Site Plan Approval on Lot 2 of NCB 273E, one lot totaling approximately 0.30 acres of land located at the southwest intersection of 4<sup>th</sup> Street and South Wall Avenue (1703 South Wall Avenue).**

**Mary Endres, 1610 S. Wall** – Spoke in opposition of the zoning change for the reason of conformity and density. Mrs. Endres stated that the change from “R-1B”, Single-Family Residential District to “PXR”, Planned Mixed Residential would be detrimental to the neighborhood.

**Linda Ridder-Historic Tyler** – Stated that this property serves as a gateway to Tyler’s Historic neighborhood and any structure that is built there will have an impact on the historic integrity of the existing areas designated as National Historic Districts. The best use of this property would be to provide attractive green space. If a structure is to be erected on the site then the Council is urged not to approve a zoning change that would allow for anything other than a single detached resident, and that the rules of infield would apply when building.

**Ellen Musselman, 700 S. Broadway** – Stated that as a board member of Historic Tyler she does oppose this zoning change. The best use of this property would be for a park.

**Councilman Simons** – Stated that the property did not look to scale, not in keep with the neighborhood, and the lot is irregular and too small for what the owner is trying to achieve.

**Councilman Mezayek** – Asked the residents if they had a problem with the density or the attached homes?

**Mary Endres, 1610 S. Wall** - Stated that it was both. The owner needs to conform his building plans and set back requirements to the present zoning requirements. R-1-B has certain set back requirements and he may or may not be able to put two houses on that lot because of its irregular shape and that’s our concern.

Motion by Councilman Simons; seconded by Councilman Alworth; motion carried 7 - 0 & denied as presented.

**Z-3**

**APPLICATION Z05-09-024 STASHA GOMINAK**

**Request that the City Council consider changing the zoning from “R-MF”, Multi-Family Residential District to “R-1B”, Single-Family Residential District on Lot 8 of NCB 175, one lot totaling approximately 8,468 square feet, located at the southwest intersection of South College Street and West Charnwood Avenue (625 South College Avenue).**

**(O-2009-57)**

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

- Z-4 APPLICATION Z05-09-025 CATARINO CORONADO**  
Request that the City Council consider changing the zoning from “R-MF”, Multi-Family Residential District to “R-1B”, Single-Family Residential District on Lot 6 of NCB 358A, one lot totaling approximately 13,463 square feet, located two lots west of the northwest intersection of West Paul Street and North Confederate Avenue (1309 West Paul Street).  
**(O-2009-58)**

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



- Z-5 APPLICATION Z05-09-027 EDWARD WALLACE (2813 CARTER BOULEVARD)**  
Request that the City Council consider a zoning change from “C-1”, Light Commercial District to “R-1D”, Single-Family Detached and Attached Residential District on Lot 231 of NCB 770, located three lots south of the southeast intersection of West 30<sup>th</sup> Street and Carter Boulevard (2813 Carter Boulevard). **(O-2009-59)**

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



- Z-6 APPLICATION Z05-09-033 EDWARD WALLACE (1617 N. Gaston Avenue)**  
Request that the City Council consider a zoning change from “R-1B”, Single-Family Residential District to “R-1D”, Single-Family Detached and Attached District on Lot 16 of NCB 551, one lot totaling approximately 7,147 square feet, located at the southeast intersection of North Gaston Avenue and West Vance Street (1617 N. Gaston Avenue). **(O-2009-60)**

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



- Z-7 APPLICATION Z05-09-028 TYLER INDEPENDENT SCHOOL DISTRICT**  
Request that the City Council consider changing the zoning from “R-MF”, Multi-Family Residential District, “M-2”, General Industrial District and “R-1A”, Single-Family Residential District to “INT”, Institutional District on Lot 10A of NCB 910 and Lot 23 of NCB 745, two lots totaling approximately 14.44 acres of land located four lots east of the southeast intersection of Loop 323 SSW and Chandler Highway (3450 Chandler Highway). **(O-2009-61)**

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



- Z-8 APPLICATION Z05-09-029 APOLONIO MOLINA**  
Request that the City Council consider changing the zoning from “C-1”, Light Commercial District to “PMF”, Planned Multi-Family Residential District with Final Site Plan Approval on Lot 35 of NCB 210, one lot totaling approximately 4,650



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square feet, located two lots north of the northeast intersection of Gentry Parkway and Border Avenue (1007 Border Avenue). (O-2009- 62)

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

**Z-9**

**APPLICATION Z05-09-030 BARRY ROBINSON**

Request that the City Council consider changing the zoning from “R-2”, Two-Family Residential District to “R-1B”, Single-Family Residential District on Lot 8 of NCB 632, one lot totaling approximately 8,756 square feet, located five lots east of the southeast intersection of East Elm Street and Palmer Avenue (1727 East Elm Street). (O-2009-63)

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

**Z-10**

**APPLICATION Z05-09-031 FIRST ASSEMBLY OF GOD**

Request that the City Council consider approving a zoning change from “R-1A”, Single-Family Residential District to “C-1”, Light Commercial District on proposed Lot 7-A of NCB 1544, Texas Bank Addition, located at the southwest intersection of Shiloh Road and Rhones Quarter Road (5101 Rhones Quarter Road). (O-2009- 64)

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



**Z-11**

**APPLICATION Z05-09-032 MARIA GARCIA**

Request that the City Council consider approving a zoning change from “C-2”, General Commercial District to “DBAC”, Downtown Business, Arts, and Culture District on Lot 4 of NCB 104, located four lots east of the southeast intersection of Valentine Street and Pabst Avenue (415 Valentine Street). (O-2009- 65)

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

**Z-12**

**APPLICATION Z05-09-034 WSW 155, LLC**

Request that the City Council consider approving a zoning change from “C-2”, General Commercial District to “PCD”, Planned Commercial District with Final Site Plan Approval on Lots 1-5 of NCB 836-U located at the northeast intersection of Loop 323 WSW and Old Noonday Road (2701 Loop 323 WSW). (O-2009-66)

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

**PRESENTATIONS**



**P-1**

Request that the City Council consider designating Henry Miller Morgan as a Half Mile of History recipient.

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

**P-2 Request that the City Council consider designating Judge Sam Lindsey as a Half Mile of History recipient.**

Motion by Councilman Alworth; seconded by Councilman Mezayek; motion carried 7 - 0 & approved as presented.



**P-3 Request that the City Council consider designating Texas College as a Half Mile of History recipient.**

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

**RESOLUTION**

**R-1 Request that the City Council consider adopting a Resolution ratifying submission of an application for Federal Aviation Administration (FAA) Grant Funds and accepting a grant totaling \$4,910,534.00 for construction administration services and construction costs for the 2009 Runway 17/35 Overlay Project at Tyler Pounds Regional Airport. This Resolution also authorizes acceptance of any grant amendments to increase the grant funding levels. (R-2009-15)**

Motion by Councilman Alworth; seconded by Councilman Mezayek; motion carried 7 - 0 & approved as presented.

**R-2 Request that the City Council consider adopting a Resolution authorizing the conveyance of City-owned real property located at 1220 W. Paul Street, and award bids for reconstruction of single-family dwelling units at 1220 W. Paul and 630 S. Englewood to Roger's Construction in the amounts of \$76,610.00 and \$81,110.00, respectively, and 1213 W. Connally to Anderco Group in the amount of \$90,499.00. (R-2009-16)**

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

**ORDINANCE**

**O-1 Request that the City Council consider conducting a public hearing to obtain citizen comment and consider adopting an Ordinance to amend the Community Development Block Grant (CDBG) Program 2008 Annual Plan and approve the programming of funds. (O-2009-67)**

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

**MISCELLANEOUS**



**M-1 Request that the City Council consider authorizing the City Manager to execute a contract with Fitzpatrick Butler Architects, Inc. for architectural services associated with the renovation of Liberty Hall at 103 and 105 East Erwin. ©**

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

**M-2 Request that the City Council consider awarding a contract for asbestos abatement prior to demolition for the Tyler Downtown Redevelopment (West) properties to Air Quality Associates, Incorporated in the amount of \$46,775.00, and consider approving an Ordinance to appropriate funds for said expenditure. (O-2009-68)©**

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



**M-3 Request that the City Council consider authorizing the City Manager to award the 2009 Runway 17/35 Overlay Project at Tyler Pounds Regional Airport to R. K. Hall Construction in an amount not to exceed \$4,655,515.54. ©**

Motion by Councilman Alworth; seconded by Councilman Mezayek; motion carried 7 - 0 & approved as presented.

**M-4 Request that the City Council consider authorizing the City Manager to execute Work Order No. 9 for engineering services with Wisenbaker, Fix and Associates for construction administration services for the 2009 Runway 17/35 Overlay Project at Tyler Pounds Regional Airport in an amount not to exceed \$255,018.00. ©**

Motion by Councilman Alworth; seconded by Councilman Mezayek; motion carried 7 - 0 & approved as presented.

**M-5 Request that the City Council consider authorizing the City Manager to award the construction contract for the 2009 Asphalt Overlay Program, to the low bidder, Reynolds & Kay, Ltd., in the amount of \$783,920.00, which includes a Base Bid in the amount of \$706,780.00 and an Alternate Additive Bid in the amount of \$77,140.00. ©**

Motion by Councilman Simons; seconded by Councilman Alworth; 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 2009 Slurry Seal Program Base Bid, to the low bidder, Morton Enterprise, in the amount of \$116,919.50.**

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

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**M-7 Request that the City Council authorize the City Manager to purchase two frontload cab and chassis from East Texas Mack Sales through the HGAC purchasing cooperative and two 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 East Texas Mack Sales and confirm the sell-back of frontload units 755 and 756 to East Texas Mack Sales.**

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

**M-8 Request that the City Council consider authorizing the City Manager to enter into a three year lease for the CycleVision Video System for sixteen motorcycles in the amount of \$42,876.48 annually and to purchase an IBM server to store the video for the amount of \$10,369.00. ©**

Motion by Councilman Alworth; seconded by Councilman Mezayek; motion carried 7 - 0 & approved as presented.

**M-9 Request that the City Council considering authorizing the City Manager to purchase fiber optic cable for the Southwest Loop 323 subsystem in the amount of \$29,010.76.**

Motion by Councilman Alworth; 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).**

**C-A-1 Request that the City Council consider authorizing the City Manager to pursue and accept grant funding through the Bulletproof Vest Partnership Grant Act for body armor purchased by the City for the Police Department.**

**C-A-2 Request that the City Council consider authorizing the City Manager to extend Bid No. 06-018, for one year, April 12, 2009 thru April 11, 2010, to accomplish herbicide treatment of 25.98 miles of Tyler Roadside Rights-of-Way and approximately 6.105 miles of drainage ditches, within the City of Tyler, to Spray Max Incorporated of Tyler, Texas for the amount of \$44,100.**

**C-A-3 Request that the City Council consider authorizing the City Manager to approve Change Order No. 1 in the amount of \$2,150 to Contract No. 09-004 to Wall Enterprises for the construction of the Chamblee Rose Garden. ©**

**C-A-4 Request that the City Council consider authorizing the City Manager to execute a new Corporate Hangar/Operator Lease for Tract 12 at Tyler Pounds Regional Airport with Robyn M. Rogers. ©**

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

## **APPOINTMENTS TO BOARDS**

### **B-1 Request that the City Council consider approval of nominations to the Tyler One-Half Cent Sales Tax (Half Cent) Corporation Board from Districts 1, 3 and 5 Councilmembers.**

Motion by Councilman Alworth to approve Steve Mills, Ed Moore and Lori Ellis; seconded by Councilman Sanders; motion carried 7 - 0 & approved as presented.

District 1 – Steve Mills, District 3 – Ed Moore, District 5 – Lori Ellis

## **CITY MANAGER’S REPORT**

- 1. Agenda order, zoning items split between 1<sup>st</sup> & 2<sup>nd</sup> CC meetings, will begin in June 09.**
- 2. Special Called Election scheduled for Mayor Pro Tem Moran spot.**
- 3. Lake Tyler roundtable will soon meet & Mezayek will serve as new chair.**
- 4. Budget-down about 65 employees right now & soft freezes on some training & capital expenses.**

**Councilman Simons** – Stated that it has been a pleasure to work with Councilman Moran for the last 4 years and that he has always given great words of wisdom when he saw fit. Councilman Simons stated that he has been impressed with how Mayor Pro Tem Moran can analyze a situation that he is in sometimes, reflect on it and then give the right words to go in the right direction.

**Councilman Caraway** – Stated that Mayor Pro Tem Moran is a “Great Guy” and he reminds him of the “thinker” because when the City Council is talking he is thinking. Councilman Caraway stated that Mayor Pro Tem Moran has added so much to his life just by knowing him. Mayor Pro Tem Moran has been a pleasure to work with and he wishes his family the best.

**Councilman Alworth** – Stated that it has been fun to sit on the right and the left side of Mayor Pro Tem Moran and that he was not very good at saying goodbye’s but he would miss Mayor Pro Tem Moran. What he would miss is Mayor Pro Tem Moran quiet council that comes alone because he has a lot of things that are near and dear to his heart and Mayor Pro Tem Moran comes alone and says, “well let’s think about this.” Councilman Alworth wished Mayor Pro Tem Moran and his family all the very best and hoped in the near future when his son was doing better that he would come back to Tyler.

**Councilman Sanders** – Stated that it has been a pleasure to work with Mayor Pro Tem Moran and appreciate the expertise he has used here on the City Council. Mayor Pro Tem Moran and his son made it a pleasure to ride on the fire truck in the Christmas parade and he wished him and his family the best.

**Councilman Mezayek** – Stated that he looked forward to working with everyone on the City Council but when he was notified that Mayor Pro Tem Moran was leaving was really sad for him because he was looking forward to working with him. Councilman Mezayek stated that what Mayor Pro Tem Moran is doing by leaving his job, roots and friends for his son speaks miles of his character and he admires him for that.

**Mayor Bass** – Stated that she has enjoyed this last year and that Mayor Pro Tem Moran has brought a depth of wisdom to this Council that will be missed. Mayor Bass stated that she has the upmost respect for Mayor Pro Tem Moran and hope that she would see him in the future.

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**RECESS FOR EXECUTIVE SESSION** City Council convened into executive session at 10:19 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:

1. East Texas Digital Advertising & P Manziel v. City of Tyler et al

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 10:27 am with no action taken**

**ADJOURNMENT**

Motion by Mayor Pro Tem Moran to adjourn the meeting at 10:27 am; seconded by Councilman Mezayek; 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**