

**MINUTES OF THE  
REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS  
SEPTEMBER 23, 2009**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, September 23, 2009 at 9:00 a.m. in the Council Chamber, City Hall, Tyler, Texas, with the following present:

Mayor: Barbara Bass  
Mayor Pro Tem: Donald Sanders  
Councilmembers: Charles Alworth  
Chris Simons  
Ralph Caraway (absent)  
Sam Mezayek  
Mark Whatley

City Manager: Mark McDaniel  
City Attorney: Gary Landers  
Deputy City Attorney: Steve Kean  
Assistant City Attorney: Karen Stead  
Airport Manager: Davis Dickson  
Human Resources Director: ReNissa Wade  
Development Services Engineer: Michael Wilson  
Director of Neighborhood Services: Brenda Johnson  
Chief Financial Officer: Daniel Crawford  
Chief Information Officer: Benny Yazdanpanahi  
City Engineer: Carter Delleney  
City Fire Chief: Neal Franklin  
City Librarian: Chris Albertson  
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  
City Clerk: Cassandra Brager

**INVOCATION**

The Invocation was given by Councilmember Simons.

**ZONING**

**Z-1 APPLICATION Z07-09-040 DAVID CARRAZCO**

**Request that the City Council consider changing the zoning from “R-1B”, Single Family Residential District to “R-1D”, Single Family Detached and Attached Residential District on Lot 8C of NCB 243, one lot totaling approximately 0.175 acres located northwest of the intersection of Clayton Avenue and Houston Street (521 S. Clayton Avenue). (O-2009- 93)**

Motion by Councilman Simons; seconded by Councilman Mezayek; motion carried 5 - 0 & approved as presented.



**Z-2 APPLICATION Z09-09-047 TRACY FULLER**  
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 1 of NCB 498, one lot totaling approximately 0.24 acres located at the northwest intersection of North Bois D’Arc Avenue and West Mims Street (303 West Mims Street). **(O-2009-94)**

Motion by Mayor Pro Tem Sanders; seconded by Councilman Alworth; motion carried 5 - 0 & approved as presented.

**Z-3 APPLICATION Z09-09-049 JOEY MORRIS**  
Request that the City Council consider changing the zoning from “R-MF”, Multi-Family Residential District to “AR”, Adaptive Reuse District on Lot 6 of NCB 170, one lot totaling approximately 0.18 acres located west of the southwest intersection of South Bois D’Arc Avenue and West Houston Street (302 West Houston Street). **(O-2009-95)**

Motion by Councilman Mezayek; seconded by Mayor Pro Tem Sanders; motion carried 5 - 0 & approved as presented.

**Z-4 APPLICATION Z09-09-051 LINDA MILLER (3227 OLD JACKSONVILLE HIGHWAY)**  
Request that the City Council consider changing the zoning from “C-1”, Light Commercial District to “C-2”, General Commercial District on Lot 8A of NCB 867, one lot totaling approximately 0.47 acres located northeast of the intersection of Robertson Avenue and Old Jacksonville Highway (3227 Old Jacksonville Highway). **(O-2009-96)**

Motion by Mayor Pro Tem Sanders; seconded by Councilman Mezayek; motion carried 5 - 0 & approved as presented.

**Z-5 APPLICATION Z09-09-052 WALTER NORTHCUTT**  
Request that the City Council consider a site plan amendment for property zoned “PCD” Planned Commercial Development District, on Lot 1A of NCB 1559, one lot totaling approximately 4.13 acres located southeast of the intersection of Rieck Road and Broadway Avenue (5510 S Broadway). **(O-2009-97)**

Motion by Councilman Alworth seconded by Councilman Mezayek; motion carried 5 - 0 & approved as presented.

**Z-6 APPLICATION Z09-09-054 GEORGIA SMITH**  
Request that the City Council consider changing the zoning from “PUR”, Planned Unit Residential District to “R-1B”, Single-Family Residential District on Lot 16B of NCB 773F, one lot totaling approximately 9.084 acres located northeast of the intersection of Luberta Street and West 34th Street (1025 W 34th Street). **(O-2009-98)**

Motion by Mayor Pro Tem Sanders; seconded by Councilman Alworth; motion carried 5 - 0 & approved as presented.

## PRESENTATIONS



- P-1** Request that the City Council consider an application to designate Tyler City Hall located at 212 Bonner, Tyler, Texas as a historic landmark to be placed on the Tyler Register of Historic Places.

Motion by Councilman Simons; seconded by Councilman Alworth; motion carried 5 - 0 & approved as presented.

- P-2** Request that the City Council consider receiving a presentation on funding options for the Water and Sewer System capital improvements program that was initiated in February of 2008 with the issuance of \$5,150,000 out of an anticipated \$25,000,000 in revenue bonds and consider providing general guidance to staff regarding authorization to proceed with the second phase of obtaining CIP funding.

City Manager, Mark McDaniel – Stated that on February 23, 2008, the City of Tyler issued \$5,150,000 in revenue bonds to pay for the engineering and design of new water and sewer lines that had been indentified as part of the Tyler 21 Master Plan and the Water and Sewer System Master Plan. It was anticipated that the City would issue about an additional \$20,000,000 in revenue bonds over the next two years for combined construction proceeds to fund prospective projects.

Motion by Councilman Alworth to continue to use revenue bonds; seconded by Councilman Mezayek; motion carried 5 - 0 & approved as presented.

## RESOLUTION

- R-1** Request that the City Council consider adopting a Resolution approving the issuance of Tyler Health Facilities Development Corporation Bonds to finance and refinance certain projects for Mother Frances Hospital Regional Healthcare Center. **(R-2009-28)**

Motion by Councilman Alworth seconded by Mayor Pro Tem Sanders; motion carried 5 - 0 & approved as presented.

## ORDINANCE



- O-1** Request that the City Council consider adopting an Ordinance amending the Unified Development Code in City Code Chapter 10 by revising Historical Preservation Board membership requirements, granting the Historical Preservation Board final authority to approve landmarks and certain Certificates of Appropriateness, and amending the notice requirements for issuance of Certificates of Appropriateness and Certificates of Demolition. **(O-2009-99)**

Motion by Councilman Simons; seconded by Mayor Pro Tem Sanders; motion carried 5 - 0 & approved as presented.

September 23, 2009

- O-2 Request that the City Council consider adopting an Ordinance amending the Unified Development Code in City Code Chapter 10 by revising the regulations restricting Electronic Message Center placement, allowing an Electronic Message Center to face single family zoned property when the sign is for an institutional use. (O-2009-100)**

Motion by Councilman Alworth seconded by Councilman Mezayek; motion carried 5 - 0 & approved as presented.

- O-3 Request that the City Council consider adopting the proposed fiscal year 2009-2010 property tax rate Ordinance, and the fiscal year 2009-2010 annual budgets as originally proposed including approving outside agency contracts and amending the fiscal year 2008-2009 annual budget.**

Motion by Councilman Alworth to approve the tax rate; seconded by Councilman Mezayek; motion carried 5 - 0 & approved as presented. (O-2009-101)

Motion by Mayor Pro Tem Sanders; to approve the 2009-2010 annual budget; seconded by Councilman Alworth; motion carried 5 - 0 & approved as presented. (O-2009-102)

Motion by Councilman Alworth to approve amending the budget for the fiscal year 2008-2009 annual budget; seconded by Mayor Pro Tem Sanders; motion carried 5 - 0 & approved as presented.

- O-4 Request that the City Council consider adopting an Ordinance amending miscellaneous fees in Tyler City Code Chapters 2, 4, 6, 8, 12, 16 and 19. (O-2009-103)**

**Randa Conner, Jet Center of Tyler** – Stated that the Jet Center has not had an increase in flowage fees in 23 years and today it is being recommended that it be raised a penny. Since September 11<sup>th</sup> our aviation community and worldwide has been hit hard. The operating expenses have increased tremendously and everything that is added to the bottom line to the fuel cost has to pass off to the customers. Now that fuel prices for aviation are becoming so competitive people are shopping for fuel and will bypass Tyler. The dealers that fuel is purchased from get it at a certain rate and they pass it on to us. We have no lead way so we have to add our price up and that's what it is, no room for adjustment. Ms. Conner asked the City Council to take this into consideration and not raise the cost at this time. They would be very grateful because we are having a hard time.

**Councilman Simons** – There may be other airports that may have a different rate, why is it that they can sell fuel for less than what you can sell fuel?

**Randa Conner, Jet Center of Tyler** – Stated that their runway was 7200 ft so some airports are limited to what kind of aircraft can come in and go out. You see different areas with different prices because it has to do with the brand, the runway and the facilities.

**Stephanie Roberts, 4512 Richmond Road** – Stated that she would like to reemphasize that after a lengthy discussion, the Airport Advisory Board did unanimously vote not to approve a rate increase at this time. After listening to the operators they felt like the funds generated

verses the loss in fuel sells they are already seeing were not going to justify what it was going to cost them in lost sales.

**Randy Johnson, 912 Jeffery** – Asked that City Council reconsider raising the fuel flowage fee out at the Airport because of the extra expenses.

Motion by Councilman Simons; seconded by Councilman Alworth; motion carried 5 - 0 & approved as presented.

## **MISCELLANEOUS**



**M-1** Request that the City Council consider ratifying staff action authorizing an agreement with Aquatic Management Services in the amount not to exceed \$177,175 for the treatment of 189 acres of hydrilla in various locations around Lake Tyler East. ©

Motion by Councilman Mezayek; seconded by Councilman Simons; motion carried 5 - 0 & approved as presented.

**M-2** Request that the City Council consider authorizing the City Manager to execute a Multiple Use Agreement, including a permanent easement and a temporary right-of-way use, with East Texas Medical Center (ETMC) for the construction and use of a pedestrian overpass over Hospital Drive. ©

Motion by Councilman Simons; seconded by Councilman Alworth; motion carried 5 - 0 & approved as presented.

## **CONSENT**

**(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 authorizing the City Manager to extend the banking services contract with Southside Bank through December 31, 2010. ©

**C-A-2** Request that the City Council consider an extension of the annual contract for Liquid Aluminum Sulfate Bid No. 08-049 awarded September 24, 2008. ©

**C-A-3** Request that the City Council consider authorizing the City Manager to execute the replat of Lots 19 and 20 in the Eastside Subdivision No. 5 at Lake Tyler. ©

**C-A-4** 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 \$62,763.54 for the 2008 Runway Visibility Zone (RVZ) Clearing Project at Tyler Pounds Regional Airport. ©



**C-A-5** Request that the City Council consider ratifying staff action authorizing amendments 2 through 6 in the amount of \$87,500 to the engineering services contract to Elledge Engineering for the North Tyler Water and Sewer Improvements project. ©

**C-A-6** Request that the City Council consider authorizing the City Manager to execute a Consent to Assign the Exco Resources, Incorporated surface use agreements and easements on City of Tyler property, at Lake Tyler and Lake Tyler East, to Encore Operating, L.P. ©

Motion by Mayor Pro Tem Sanders; seconded by Councilman Alworth; motion carried 5 - 0 & approved as presented.

### **BOARD APPOINTMENTS**

**B-1** Request that the City Council consider making new appointments and reappointments to the following City Boards:

#### **AIRPORT ADVISORY BOARD**

Councilman Alworth made the motion; seconded by Mayor Pro Tem Sanders; motion carried 5-0 to reappoint the following board members:

**Dwight Parsley**  
**Stephenie Roberts**

Councilman Alworth made the motion; seconded by Mayor Pro Tem Sanders; motion carried 5-0 to appoint the following board members:

**Dr. Mark Miller**  
**Billy Frank Davis Jr.**

Councilman Mezayek made the motion; seconded by Councilman Alworth; motion carried 5-0 to appoint **Dwight Parsley** as chairman.

### **BOARD OF ADJUSTMENT**

Councilman Alworth made the motion; seconded by Councilman Simons; motion carried 5-0 to reappoint the following board member:

**Kara Camp**

Councilman Alworth made the motion; seconded by Councilman Simons; motion carried 5-0 to appoint the following board members:

**Mitch Henderson**  
**Travis Booher**

September 23, 2009

Councilman Alworth made the motion; seconded by Mayor Pro Tem Sanders; motion carried 5-0 to appoint **Kara Camp** as chairman.

**CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS**

Councilman Mezayek made the motion; seconded by Councilman Alworth; motion carried 5-0 to reappoint the following board members:

**Timothy Hunt**  
**Thomas Moneta**  
**Rhamy Morrison**  
**Ernest Phillips**  
**John Nix**

Councilman Mezayek made the motion; seconded by Councilman Alworth; motion carried 5-0 to appoint **John Nix** as chairman.

**DISABILITY ISSUES REVIEW BOARD**

Councilman Mezayek made the motion; seconded by Councilman Simons; motion carried 5-0 to appoint the following board members:

**Tammy Cowart**  
**David Gary**  
**Michelle Boyd**

Councilman Alworth made the motion; seconded by Councilman Mezayek; motion carried 5-0 to appoint **Judd Quarles** as chairman.

**HEALTH FACILITIES DEVELOPMENT CORPORATION BOARD OF DIRECTORS**

Councilman Simons made the motion; seconded by Councilman Mezayek; motion carried 5-0 to reappoint the following board members:

**R. Daniel King**  
**Cheryl Simpson**  
**Melvin Lovelady**  
**A. W. "Whit" Riter III**  
**W. Ford Keitzer**

**HISTORICAL PRESERVATION BOARD**

Councilman Simons made the motion; seconded by Councilman Mezayek; motion carried 5-0 to reappoint the following board members:

**Dorothy Franks**  
**Mike Patterson**

**September 23, 2009**

Councilman Simons made the motion; seconded by Councilman Mezayek; motion carried 5-0 to appoint the following board member:

**John Musselman**

Councilman Alworth made the motion; seconded by Councilman Mezayek; motion carried 5-0 to appoint **Mike Patterson** as chairman.

**INDUSTRIAL DEVELOPMENT CORPORATION**

Councilman Mezayek made the motion; seconded by Councilman Alworth; motion carried 5-0 to appoint the following board members:

**Stuart Meisenheimer  
Mary Fischer  
Robert Crain  
James Goodwin, Sr.  
John Tindel  
Gregory Adcock**

**LIBRARY BOARD**

Councilman Simons made the motion; seconded by Councilman Mezayek; motion carried 5-0 to reappoint the following board members:

**W. Bryan Campbell  
Sharon Gullett  
Brenda Conley-Hillmon**

Councilman Simons made the motion; seconded by Councilman Mezayek; motion carried 5-0 to appoint the following board member:

**Ruth “Casey” Fisher**

Councilman Simons made the motion; seconded by Councilman Mezayek; motion carried 5-0 to appoint **W. Bryan Campbell** as chairman.

**NEIGHBORHOOD REVITALIZATION BOARD**

Councilman Alworth made the motion; seconded by Councilman Simons; motion carried 5-0 to reappoint the following board member:

**Cheryl Simpson**

Councilman Alworth made the motion; seconded by Councilman Simons; motion carried 5-0 to appoint the following board member:

**Robert “Robbie” Campbell III**

September 23, 2009

**NORTHEAST TEXAS PUBLIC HEALTH DISTRICT**

Mayor Pro Tem Sanders made the motion; seconded by Councilman Alworth; motion carried 5-0 to reappoint the following board member:

**Otis Webster**

**CITY MANAGER'S REPORT**

1. Grande opening reset to 1:30 pm on 9-30-09 due to rain
2. CIP reports handed out
3. Children are a Gift Foundation, 5<sup>th</sup> anniversary of Children's Park, appreciated plaque given to City.
4. Mayor added---City Council Members out attending events in Community; transparency continues to be important

**RECESS FOR EXECUTIVE SESSION**

No Executive Session

**ADJOURNMENT**

Motion by Councilman Mezayek; seconded by Councilman Alworth; motion carried 5-0 & meeting adjourned at 10:45 am.

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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**