



CITY OF TYLER CITY COUNCIL COMMUNICATION

Agenda Number: O-1

Date: February 8, 2006

Subject: Request that the City Council consider adopting an Ordinance amending Tyler City Code Chapter 8, "Parks", Article I., "In General", by excluding from Parks Board advisory authority over LeGrand Grounds recreation area; adding references in Chapter 8 to regulations in City Code Chapter 16 governing LeGrand Grounds; amending Tyler City Code Chapter 8, "Parks", Article V., "Fees" by adding references to regulations in City Code Chapter 16 for rates and charges for LeGrand Grounds recreation area; and also amending Tyler City Code Chapter 16, "Solid Waste", Article I., "Solid Waste Disposal Regulations" by increasing the size of the board; adding advisory authority for LeGrand Grounds to the duties of the Keep Tyler Beautiful Board; adding specific regulations for the operation and maintenance of LeGrand Grounds recreation area, adding references in Chapter 16 to regulations in City Code Chapter 8 applicable to LeGrand Grounds.

Page: 1 of 2

Item Reference: Tyler City Code Chapter 8; City Code Chapter 16.

The Tyler City Code Chapter 8, Article I., "In General", contains regulations governing parks and recreation areas. Section 8-1 provides for the advisory capacity of the Parks Board with regard to the operation and maintenance of all the public parks and recreation areas, and Section 8-4 contains a provision regarding the applicability of Chapter 8 to certain parks and recreation areas. The proposed amendment excludes the LeGrand Grounds recreation area from the Parks Board advisory authority, adds a reference in Section 8-4 to Chapter 16 as the governing authority for LeGrand Grounds recreation area, and adds new section 8-82 providing a reference to the regulations in Chapter 16 for rates and charges for LeGrand Grounds recreation area.

The City Solid Waste Ordinance, in City Code Section 16-27, establishes the Keep Tyler Beautiful Board and provides the purposes and duties of the Board. The proposed amendment increases the Keep Tyler Beautiful Board size from 9 to 11 members, adds advisory authority for LeGrand Grounds recreation area to the duties of the Keep Tyler Beautiful Board, and renumbers current Section 16-18 as Section 16-23. Additionally, City Code Chapter 8, Parks, Article II., "Prohibited Acts", and Article III., "Concessions" contain specific rules and regulations for the protection against certain acts, the operation of concessions, and the conduct of special events in public parks and recreation areas. These rules and regulations would similarly benefit the operation and maintenance of the LeGrand Grounds recreation area, therefore the proposed amendment also adds new sections 16-18 through 16-22 to regulate the operation and maintenance of the LeGrand Grounds recreation area and makes Chapter 8, Articles II and III applicable to the LeGrand Grounds recreation area.

REVIEW BY KEEP TYLER BEAUTIFUL BOARD

City Code Section 16-17 states that the Keep Tyler Beautiful Board is created to assist the City Council in implementing a Citywide program for litter and solid waste reduction and neighborhood beautification, and shall make recommendations regarding measures it deems necessary to implement, maintain, and accomplish the objectives of the Keep America Beautiful, Incorporated, system. On January 17, 2006, the Keep Tyler Beautiful Board reviewed and recommended approval of the proposed ordinance.

REVIEW BY PARKS BOARD

City Code Section 8-1.b. provides that the Parks Board acts in an advisory capacity with regard to the operation and maintenance of all of the public parks belonging to the City, and shall make recommendations to the City Manager and City Council with reference to the operation and maintenance of public parks in the City and for extension of park areas. On January 23, 2006 the Parks Board reviewed and recommended approval of the proposed ordinance.

RECOMMENDATION:

It is recommended that the City Council adopt the attached ordinance amending Tyler City Code Chapter 8, "Parks", by excluding from Parks Boards advisory authority the oversight of the LeGrand Grounds, and adding references in Chapter 8 to the governing regulations for LeGrand Grounds in Chapter 16; and also amending Tyler City Code Chapter 16, "Solid Waste Disposal Regulations", by increasing the board size; adding advisory authority for LeGrand Grounds to the duties of the Keep Tyler Beautiful Board; adding specific regulations for the operation and maintenance of LeGrand Grounds recreation area, and adding references in Chapter 16 to the regulations in Chapter 8 applicable to LeGrand Grounds.

Drafted/Recommended By:

Department Leader



John Webb, Parks and Recreation Director



Key/Department Leader

Dan Brotton, Solid Waste

Edited/Submitted By:

City Manager

ORDINANCE NO. 0-2006-17

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS AMENDING TYLER CITY CODE CHAPTER 8, "PARKS", ARTICLE I., "IN GENERAL", BY EXCLUDING FROM PARKS BOARD ADVISORY AUTHORITY OVER LEGRAND GROUNDS RECREATION AREA; ADDING REFERENCES IN CHAPTER 8 TO REGULATIONS IN CITY CODE CHAPTER 16 GOVERNING LEGRAND GROUNDS; AMENDING TYLER CITY CODE CHAPTER 8, "PARKS", ARTICLE V., "FEES", BY ADDING REFERENCES TO REGULATIONS IN CITY CODE CHAPTER 16 FOR RATES AND CHARGES FOR LEGRAND GROUNDS RECREATION AREA; AMENDING TYLER CITY CODE CHAPTER 16, "SOLID WASTE", ARTICLE I., "SOLID WASTE DISPOSAL REGULATIONS", BY INCREASING THE SIZE OF THE KEEP TYLER BEAUTIFUL BOARD; ADDING ADVISORY AUTHORITY FOR LEGRAND GROUNDS TO THE DUTIES OF THE KEEP TYLER BEAUTIFUL BOARD; ADDING SPECIFIC REGULATIONS FOR THE OPERATION AND MAINTENANCE OF LEGRAND GROUNDS RECREATION AREA; ADDING REFERENCES IN CHAPTER 16 TO REGULATIONS IN CITY CODE CHAPTER 8 APPLICABLE TO LEGRAND GROUNDS; PROVIDING A SEVERABILITY CLAUSE; ESTABLISHING A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety and welfare of citizens; and

WHEREAS, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is for the good government, peace, or order of the municipality; and

WHEREAS, Texas Local Government Code Section 51.001(2) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

WHEREAS, Tyler City Code Section 16-17 states that the Keep Tyler Beautiful Board is created to assist the City Council in implementing a Citywide program for litter and solid waste reduction, and neighborhood beautification, and shall make recommendations regarding measures it deems necessary to implement, maintain, and accomplish the objectives of the Keep America Beautiful, Inc., system; and

WHEREAS, Tyler City Code Section 8-1 provides that the Tyler Parks Board shall make recommendations to the City Manager and City Council with reference to the operation and maintenance of public parks in the City and for extension of park areas, and

WHEREAS, it is important to add specific regulations related to the advisory oversight, expansion, improvement, operation, and maintenance of LeGrand Grounds recreation area to City Code Chapter 16; and

WHEREAS, it is important to amend the parks regulations in City Code Chapter 8 to provide specific reference to the governing authority for LeGrand Grounds in City Code Chapter 16; and

WHEREAS, on January 17, 2006, the Keep Tyler Beautiful Board considered this ordinance and voted to **recommend** approval; and

WHEREAS, on January 23, 2006, the Tyler Parks Board considered this ordinance and voted to **recommend** approval.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:

PART 1: That Chapter 8, “Parks,” Article I, “In General,” Section 8-1, “Parks Board – Created; membership; responsibility,” of the Tyler City Code is hereby amended as follows:

a. No changes. . .

b. The Board acts in an advisory capacity with regard to the operation and maintenance of all the public parks and cemeteries belonging to the City, except LeGrand Grounds recreational area for which Chapter 16 governs such advisory capacity. The Parks Board shall make recommendations to the City Manager and City Council with reference to the operation and maintenance of public parks in the City, and for extension of park areas and acquisition of new park sites. (0-2006-17, 2/8/06)

PART 2: That Chapter 8, “Parks,” Article I, “In General,” Section 8-4 “Applicability of Chapter,” of the Tyler City Code is hereby amended as follows:

Sec. 8-4. Applicability of Chapter.

This Chapter applies to parks and recreation areas within or outside the City that are owned and operated by the City and that are administered by the Parks and Recreation Department. However, the LeGrand Grounds recreation area is governed by Chapter 16, and City parks and recreation areas adjacent to Lake Tyler, Lake Tyler East and Lake Bellwood Reservoir Area, are exclusively governed by Chapter 19. (0-2006-17, 2/8/06)

PART 3: That Chapter 8, “Parks,” Article V, “Fees,” of the Tyler City Code is hereby amended by adding a new Section 8-82 to read as follows:

Sec. 8-82. LeGrand Grounds recreation area.

The rates and charges for the use of the LeGrand Grounds and its facilities are governed by Chapter 16, Section 16-21, Fees. (0-2006-17, 2/8/06)

PART 4: That Tyler City Code Chapter 16, “Solid Waste Disposal Regulations”, Article I., “Solid Waste Disposal Regulations”, Section 16-17, “Keep Tyler Beautiful Board” is hereby amended as follows:

Sec. 16-17. Keep Tyler Beautiful Board.

a. Purpose. The Keep Tyler Beautiful Board consisting of eleven (11) members is hereby created for the purpose of assisting the City Council in implementing a Citywide program for the reduction of litter, the beautification of each neighborhood and the community as a whole that results in litter and solid waste reduction. A staff coordinator from Solid Waste shall act as staff liaison for Keep Tyler Beautiful. The Solid Waste Department may budget funds to support activities performed by the coordinator on behalf of the Board.

b. Duties. The duties of the Board are:

Subsections 1. through .4. No changes...

5. to act in an advisory capacity and make recommendations to the City Manager and City Council regarding the operation and maintenance of the LeGrand Grounds recreation area, including but not limited to all existing and future improvements and structures located thereon and surrounding the Goodman Museum grounds, but excluding the existing structure designated as the Goodman Museum.

6. to make recommendations to the City Manager and City Council regarding the provision of entertainment and recreation in the LeGrand Grounds recreation area.

7. to make recommendations to the City Manager and City Council concerning extension and improvement of the LeGrand Grounds recreation area.

c. Sunset review. Before the third anniversary of the date of adoption of this section, the City Manager shall review the advisory capacity of the Board regarding the operation and maintenance of the LeGrand Grounds recreation area established herein. Following such review, the City Manager shall make a recommendation to the City Council regarding whether to continue, modify, or repeal such advisory capacity regarding LeGrand Grounds.

d. By-laws; Subcommittees.

The Board shall adopt by-laws addressing time and place for regular meetings; the establishment of subcommittees; procedures for transacting business during meetings, and other matters.

The board shall appoint subcommittees as it deems necessary to accomplish the objectives of the board and the Keep America Beautiful, Inc., system. Said subcommittee members shall serve at the pleasure of the Board.

e. Finance. The City may appropriate annual funds for the Board to use in fulfilling its objectives, and the Board may accept cash contributions for the same purpose. These funds shall be deposited within the Solid Waste Fund in a separate

general ledger account to show the receipts and disbursements of the board. (Ord. No. 0-97-53, 11/5/97) (0-2006-17, 2/8/06)

PART 5: That Tyler City Code Chapter 16, “Solid Waste Disposal Regulations”, Article I, “Solid Waste Disposal Regulations”, is hereby amended by re-numbering current Section 16-18 as new Section 16-23 with no other changes, and adopting new Sections 16-18 through 16-22 to read as follows:

Sec. 16-18. Specific Regulations for LeGrand Grounds recreation area.

The Keep Tyler Beautiful Board may formulate and recommend to the City Council the adoption of rules and regulations for the protection of the public health, safety, and welfare, the conduct of special events, and the operation of concessions for the LeGrand Grounds recreation area. The LeGrand Grounds recreation area is hereby defined as the City-owned land and grounds surrounding the Goodman Museum at 627 N. Broadway, Tyler, Texas.

a. The Board shall consult with the Director with respect to the formulation and content of such rules and regulations.

b. Rules and regulations for LeGrand Grounds recreation area formulated hereunder shall be:

1. Reviewed and approved both as to form and content by the City Attorney and City Manager or designees; and

2. Presented to the City Council for approval and adoption.

3. Rules and regulations adopted with reference to LeGrand Grounds recreation area shall be conspicuously posted within the park. Any person convicted of violating such rules is guilty of a Class "C" misdemeanor and shall be punished as provided in section 1-4. (0-2006-17, 2/8/06)

Sec. 16-19. LeGrand Grounds - Applicability of Other City Requirements.

a. City Code Chapter 8, Parks, Article II, Prohibited Acts shall apply to any activity or event on or in the LeGrand Grounds recreation area.

b. City Code Chapter 8, Parks, Article III, Concessions, Sections 8-42 through 8-59 shall apply to the operation of concessions and the conduct of special events in the LeGrand Grounds recreation area. (0-2006-17, 2/8/06)

Sec. 16-20. LeGrand Grounds recreation area closed during certain hours.

a. LeGrand Grounds recreation area shall be closed to the public between the hours of 5:01 p.m. and 8:00 a.m., and it is unlawful to enter or remain upon the LeGrand Grounds recreation area during hours when the said recreation area is closed.

b. This section does not apply during times when activities sponsored or sanctioned by the City Parks Department are in progress nor for thirty minutes after the conclusion of such activities. (0-2006-17, 2/8/06)

Sec. 16-21. Fees.

The rates and charges for the use of the LeGrand Grounds and facilities are as provided in this section. All such rates and charges shall be paid in advance (the rates for the use of the Goodman Museum and its facilities are governed by Chapter 8, Article V, Fees, Section 8-75, Goodman Museum). All payments provided for in this section shall be made to the Parks Department. (0-2006-17, 2/8/06)

Sec. 16-22. Special event permit fee; park pavilions and restrooms.

The fee for a special event permit shall be twenty-five dollars (\$25.00). A fee of fifty dollars (\$50.00) shall be charged for rental of pavilions and restrooms. All payments provided for in this section shall be made to the Parks Department. (0-2006-17, 2/8/06)

PART 6: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 7: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall become effective upon its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be February 10, 2006.

PASSED AND APPROVED this 8th day of February, A. D., 2006.

JOSEPH O. SEEBER, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

CITY ATTORNEY