

## CITY OF TYLER CITY COUNCIL COMMUNICATION

**Agenda Number:** O-5

**Date:** February 27, 2008

**Subject:** Request that the City Council consider the adoption of an ordinance to create a Tax Increment Reinvestment Zone Number 2 (TIRZ Number 2) on a 382 acre parcel of land located in Downtown Tyler and in the general area bounded by Beckham on the east, Gentry on the north, Palace on the west, and Front Street on the south.

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### **Background:**

Since November, 2007, the City has proceeded through the required steps to create a new Tax Increment Financing District or Tax Increment Reinvestment Zone (TIRZ Number 2) in Downtown Tyler. To date, the City has presented a complete proposal, issued notices and presented plans to other taxing jurisdictions, and conducted a public hearing. Accordingly, the City Council may now create TIRZ Number 2 by ordinance.

The attached ordinance provides for the creation of TIRZ Number 2 by formally designating the zone, establishing a board of directors, term, tax increment base, and tax increment fund.

The ordinance proposes a board of nine or ten members, including seven appointed by the Mayor and confirmed by the City Council. Up to three additional positions may be appointed by the other taxing jurisdictions if all three participate. It is the intent that the Mayor would serve as chair and appoint all Councilmembers to the remaining six seats held by the City. Should the Council decide to also create a redevelopment authority as part of this project in March, then this board will also serve as the same board for the redevelopment authority.

In the event of favorable adoption of the creating ordinance, remaining items to be completed in March and April before full creation of the TIRZ include:

- City Council appoints all board members by separate ordinance.
- Meeting of the TIRZ board is held to approve 1) project plan and reinvestment zone financing plan, 2) resolution requesting the City consent to the creation of a local government corporation, and 3) interlocal agreements with other taxing entities.

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- City Council approval of project plan, resolution authorizing the creation of the local government corporation, and interlocal agreements. (Once approved by the City Council, these agreements would be forwarded to Smith County and the Tyler Junior College for placement on their respective agendas.)
- Articles and by-laws filed with Secretary of State.
- Redevelopment authority board meets to approve tri-party agreement (assumes the Secretary of State issued the certification of incorporation).
- City Council approves tri-party agreement (City-TIRZ-Redevelopment Authority).

**RECOMMENDATION:**

It is recommended that the City Council adopt an ordinance to create a Tax Increment Reinvestment Zone Number 2 (TIRZ Number 2) on a 382 acre parcel of land located in Downtown Tyler and in the general area bounded by Beckham on the east, Gentry on the north, Palace on the west, and Front Street on the south.

**Drafted/Recommended By:**  
**Department Leader Mark McDaniel, Deputy City Manager**

**Edited/Submitted By:**  
**City Manager**

**ORDINANCE NO. 0-2008-38**

**AN ORDINANCE DESIGNATING A CONTIGUOUS GEOGRAPHIC AREA WITHIN CITY OF TYLER AS REINVESTMENT ZONE NUMBER TWO, CITY OF TYLER, TEXAS, FOR TAX INCREMENT FINANCING PURPOSES PURSUANT TO CHAPTER 311 OF THE TEXAS TAX CODE; CREATING A BOARD OF DIRECTORS FOR SUCH ZONE; CONTAINING FINDINGS AND PROVISIONS RELATED TO THE FOREGOING SUBJECT; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.**

**WHEREAS**, pursuant to Chapter 311 of the Texas Tax Code, the City may designate a contiguous geographic area within the City as a reinvestment zone if the area satisfies the requirements of certain sections of Chapter 311 of the Texas Tax Code; and

**WHEREAS**, the City has prepared a preliminary reinvestment zone financing plan, which provides that City of Tyler City ad valorem taxes are to be deposited into the tax increment fund, and that taxes of other taxing units may be utilized in the financing of the proposed zone; and

**WHEREAS**, the City provided written notice of the public hearing on the creation of the proposed zone, complying with the requirements of Chapter 311, Texas Tax Code, to the governing body of all taxing units levying taxes on property in the proposed zone; and

**WHEREAS**, a notice of the public hearing on the creation of the proposed zone was published on February 1, 2008, in the Tyler Morning Telegraph, a newspaper of general circulation in the City; and

**WHEREAS**, at the public hearing on February 13, 2008, interested persons were allowed to speak for or against the creation of the proposed zone, its boundaries, or the concept of tax increment financing; and owners of property in the proposed zone were given a reasonable opportunity to protest the inclusion of their property in the proposed zone; and

**WHEREAS**, evidence was received and presented at the public hearing in favor of the creation of the proposed zone under the provisions of Chapter 311, Texas Tax Code; and

**WHEREAS**, no owner of real property in the proposed zone protested the inclusion of their property in the proposed zone; and

**WHEREAS**, the City has provided all information, and made all presentations, given all notices and done all other things required by Chapter 311, Texas Tax Code, or other law as a condition to the creation of the proposed zone; and

**WHEREAS**, the total appraised value of taxable real property in the proposed zone and all other tax increment reinvestment zones previously created by the City is \$388,232,170; and

**WHEREAS**, the total appraised value of taxable real property taxable by Smith County, in which the proposed zone is located, is approximately \$301,652,370; and

**WHEREAS**, the total appraised value of real property taxable by the Tyler Independent School District, in which the proposed zone is located, is \$301,652,370; and

**WHEREAS**, the total appraised value of real property taxable by the Tyler Junior College District, in which the proposed zone is located, is \$301,652,370; and

**WHEREAS**, the total area within the proposed zone is approximately 382 acres, excluding property that is publicly owned;

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

**PART 1: Findings.**

(a) That the facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct and are adopted as part of this Ordinance for all purposes.

(b) That the City Council further finds and declares that the proposed improvements in the zone will significantly enhance the value of all the taxable real property in the proposed zone and will be of general benefit to the City.

(c) That the City Council further finds and declares that the proposed zone meets the criteria and requirements of Section 311.005 of the Texas Tax Code because the proposed zone contains areas whose conditions substantially impair and arrest the sound growth of the City.

(d) That the City Council, pursuant to the requirements of Chapter 311, Texas Tax Code, further finds and declares:

(1) That the proposed zone is a contiguous geographic area located wholly within the corporate limits of the City of Tyler;

(2) That the total appraised value of taxable real property in the proposed zone does not exceed fifteen percent of the total appraised value of taxable real property in the City and in the industrial districts created by the City;

(3) That the proposed zone does not contain more than fifteen percent of the total appraised value of real property taxable by Smith County, the Tyler Independent School District, and the Tyler Junior College; and

- (4) That the development or redevelopment of the property in the proposed zone will not occur solely through private investment in the reasonably foreseeable future.

**PART 2: Designation of the Zone**

That the City, acting under the provisions of Chapter 311, Texas Tax Code, including Section 311.005(a), does hereby designate as a reinvestment zone, and create and designate a reinvestment zone over, the area described in Exhibit "A" and depicted in the map attached hereto as Exhibit "B" to promote the redevelopment of the area. The reinvestment zone shall hereafter be named for identification as Reinvestment Zone Number Two, City of Tyler, Texas, (the "Zone"). The City Council specifically declares that the Zone is designated pursuant to Section 311.005(a)(1) and (2) of the Texas Tax Code.

**PART 3. Board of Directors**

That there is hereby created a Board of Directors for the Zone, which shall consist of nine (9) members. Positions One through Seven on the Board of Directors shall be reserved for the City. Positions Eight and Nine shall be reserved for other taxing units levying taxes within the Zone, each of whom may appoint one director. Any taxing unit that appoints a director shall be assigned a Board position number in the order the City receives the appointment. Failure of a taxing unit to appoint a director by May 30, 2008, shall be deemed a waiver of the right to appoint a director, and the City shall be entitled to appoint persons to the position, which shall be filled as provided below. If more than two taxing units levying taxes within the Zone appoint a director, the number of directors on the Board of Directors shall be increased by one for each taxing unit above two that appoints a director to the board; provided, that the maximum number of directors shall not exceed fifteen(15).

The Mayor is hereby authorized to nominate and appoint, subject to City Council approval, the directors to Positions One through Seven of the Board of Directors, any position unfilled on February 27, 2008, and any City position created by the appointment of a director by more than two taxing units levying taxes within the Zone, subject to the consent and approval of the City Council.

The directors appointed to odd-numbered positions shall be appointed for two year terms, beginning on the effective date of this Ordinance, while the directors appointed to even-numbered positions shall be appointed to a one year term, beginning on the effective date of this Ordinance. All subsequent appointments shall be for two-year terms. The member of the Board of Directors appointed to Position One is hereby designated to serve as the chair of the Board of Directors for a one-year term beginning on the effective date of this Ordinance. Thereafter the Mayor shall annually nominate and appoint, subject to City Council approval, a member to serve as chair for a term of one year beginning on the anniversary of the effective date of this Ordinance. The City Council authorizes the Board of Directors to elect from its members a vice-chairman and such other officers as the Board of Directors sees fit.

The Board of Directors shall make recommendations to the City Council concerning the administration of the Zone. The Board of Directors shall prepare or cause to be prepared and adopt a project plan and a reinvestment zone financing plan for the Zone as described in Section 311.011, Texas Tax Code, and shall submit such plans to the City Council for its approval. The City hereby delegates to the Board of Directors all powers necessary to prepare and implement the project plan and reinvestment zone financing plan, subject to approval by the City Council, including the power to employ any consultants or enter into any reimbursement agreements payable solely from the Tax Increment Fund established pursuant to Section 7 of this Ordinance, that may be reasonably necessary or convenient to assist the Board of Directors in the preparation of the project plan and reinvestment zone financing plan and in the issuance of tax increment obligations.

**PART 4.     Duration of the Zone**

That the Zone shall take effect on January 1, 2009, for the deposit of tax increments into the Tax Increment Fund established pursuant to Section 7 of this Ordinance, and termination of the operation of the Zone shall occur on December 31, 2038, or at an earlier time designated by subsequent ordinance, or at such time, subsequent to the issuance of tax increment bonds, if any, that all project costs, tax increment bonds, notes and other obligations of the Zone, and the interest thereon, have been paid in full.

**PART 5.     Tax Increment Base**

That the Tax Increment Base of the City or any other taxing unit participating in the Zone for the Zone is the total appraised value of all real property taxable by the City or other taxing unit participating in the Zone and located in the Zone, and the sales tax base in the zone as defined by Section 311.0123 (b) of the Tax Code, determined as of January 1, 2008, the year in which the Zone was designated as a reinvestment zone (the "Tax Increment Base").

**PART 6.     Tax Increment Fund**

That there is hereby created and established a Tax Increment Fund for the Zone which may be divided into subaccounts as authorized by subsequent ordinances. All Tax Increments, including sales tax increments, as defined below, shall be deposited in the Tax Increment Fund. The Tax Increment Fund and any subaccount shall be maintained at the depository bank of the City and shall be secured in the manner prescribed by law for funds of Texas cities. The annual Tax Increment shall equal the property taxes levied by the City and any other taxing unit participating in the Zone for that year on the captured appraised value, as defined by Chapter 311 of the Texas Tax Code, of real property located in Zone that is taxable by the City or any other taxing unit participating in the Zone, less any amounts that are to be allocated from the Tax Increment pursuant to Chapter 311 of the Texas Tax Code. All revenues from the sale of any tax increment bonds, notes or other obligations hereafter issued for the benefit of the Zone by the City, if any; revenues from the sale of property acquired as part of the project plan and reinvestment zone financing plan, if any; and other revenues to be used in the Zone shall be deposited into the Tax Increment Fund. Prior to the termination of the Zone, money shall be disbursed from the Tax Increment Fund only to pay project costs, as defined by the Texas Tax Code, for the Zone, to satisfy the claims of holders of tax increments bonds or notes issued for the Zone, or to pay obligations incurred pursuant to agreements entered into to implement the project plan and reinvestment zone financing plan and achieve their purpose pursuant to Section

311.010(b) of the Texas Tax Code. The city shall also deposit in the fund all incremental sales taxes as defined by Section 311.0123(b).

**PART 7. Severability**

If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person to set circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining provisions of this Ordinance or their application to other persons or set of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or regulations connected herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any portion hereof, and all provisions of this Ordinance are declared severable for that purpose.

**PART 8. Open Meetings**

It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of the meeting of the City Council at which this Ordinance was adopted was posted at a place convenient and readily accessible at all times to the general public at the City Hall of the City for the Time required by law preceding its meeting, as required by the Open Meetings Law, Texas Government Code, ch. 551, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter hereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

**PART 9. Notices**

The contents of the notice of the public hearing, which hearing was held before the City Council on February 27, 2008, and the publication of said notice, are hereby ratified, and confirmed.

**PASSED AND ADOPTED** this 27<sup>th</sup> day of February, 2008

**APPROVED** this 27<sup>th</sup> day of February, 2008.

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JOSEPH O. SEEBER, MAYOR  
CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

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CITY SECRETARY

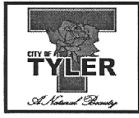
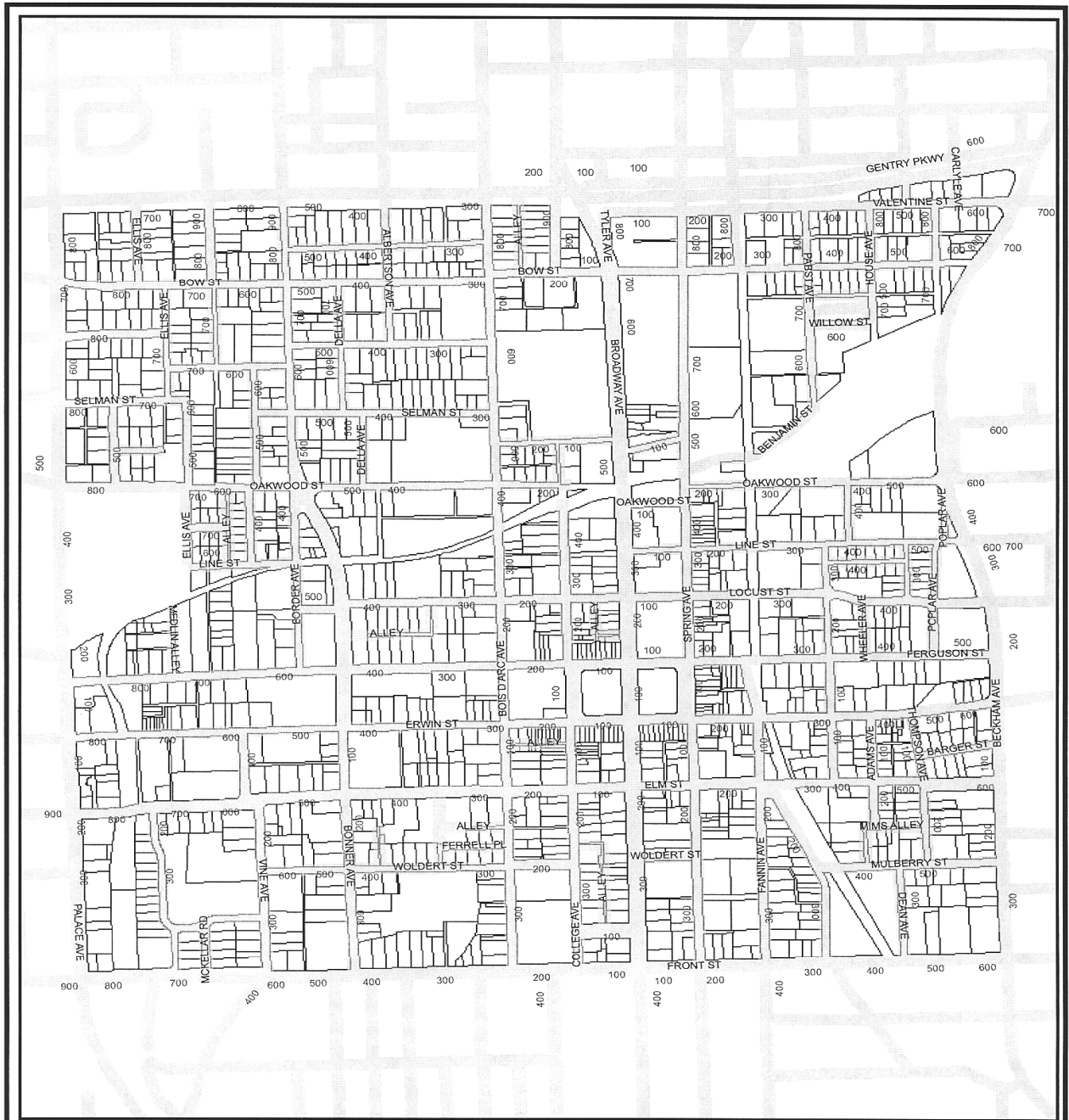
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CITY ATTORNEY

**EXHIBIT "A" TO ORDINANCE 0-2008-38**

**The area within the boundaries of the tax increment reinvestment zone includes all of a 382 acre parcel of land located in the general area bounded by Beckham on the east, Gentry on the north, Palace on the west, and Front Street on the south, including right-of-way for these respective boundary streets.**

EXHIBIT "B" TO ORDINANCE 0-2008-38



Current Information: GIS Department  
 Date: February 15, 2008  
 Source: Aerial Imagery, Assessor's Database, Tyler, TX, 75702  
 THIS MAP WAS PREPARED BY THE CITY OF TYLER AND MAY BE REVISED WITHOUT NOTIFICATION TO ANY USER.  
 ALTHOUGH THIS MAP IS BASED ON THE LATEST INFORMATION AVAILABLE TO THE CITY OF TYLER, NO WARRANTY, GUARANTEE, OR REPRESENTATION IS MADE BY THE CITY OF TYLER AS TO THE ABSOLUTE CORRECTNESS OR SUFFICIENCY OF ANY REPRESENTATION CONTAINED IN THIS MAP. THE USER IS ENCOURAGED TO CHECK WITH THE CITY TO VERIFY THAT THE MAP BEING USED IS THE LATEST, MOST CURRENT ONE AVAILABLE.  
 (936) 524-1227

- Streets
- Parcels with address ranges



1 inch equals 700 feet

City of Tyler  
**EXHIBIT B**