

**MINUTES OF THE
REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
November 21, 2006**

A regular meeting of the City Council of the City of Tyler, Texas, was held Wednesday, November 21, 2006 at 9:00 a.m. in the Council Chamber, City Hall, Tyler, Texas, with the following present:

Mayor: Joey Seeber
Mayor Pro Tem: Steve Smith
Council Members: Nathaniel Moran
Donald Sanders
Derrick Choice
Chris Simons
Charles Alworth

City Manager: Bob Turner
Deputy City Manager: Mark McDaniel
City Attorney: Gary Landers
Deputy City Attorney: Steve Kean
Airport Manager: Davis Dickson
Business Service Manager: 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: Dan Peden
City Police Chief: Gary Swindle
Communications/Media Services Coordinator: Laura Krantz
Director of Parks and Recreation: John Webb
Director of Planning and Zoning: Barbara Holly
Director of Solid Waste: Dan Brotton
Operations Manager: Greg Morgan
Traffic Engineer: Kirk Houser
City Clerk: Cassandra Brager

INVOCATION

The Invocation was given by Mayor Pro Tem Smith.

AWARDS

A-1 Recognize Keep Tyler Beautiful “2006 Beauty and the Business” Beautification Award Winners.

Each year the Keep Tyler Beautiful Board honors local businesses for their beautification efforts with the “Beauty and the Business” awards. For Fall 2006, Keep Tyler Beautiful honors the following businesses for their commitment to landscape beautification:

- DeHaven Eye Clinic
- Reuland Orthodontics
- Atria Willow Park Senior Living

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- Dermatology Associates of Tyler
- Rose Valley Apartment Complex
- Roberts and Roberts Law Firm
- Edward Jones--Vicki Sorrell
- Tyler Cancer Center
- Tyler Independent School District for Ramey Elementary School and Bell Elementary
- Global Communications Academy
- Parkview Garden Townhomes
- Johnny Carino's Italian Restaurant
- People's Missionary Baptist Church

ZONING

Z-1 APPLICATION Z10-06-108B KYLE DAVIS

Request that the City Council consider a request to change the zoning from "R-2" Two-Family Residential District (Duplex) to "R-1A" Single-Family Residential District on Lot 11B of NCB 1100C, one (1) lot totaling 1.45± acres located 680.48± feet south of the intersection of Garrett Drive and McClenney Drive, fronting 90± feet along the west side of Garrett Drive with a maximum depth of 283.57± feet (8331 Garrett Drive). (Ord. No. 0-2006-95)

Councilman Moran made the motion; seconded by Mayor Pro Tem Smith; motion carried 7-0; approved as presented.

Z-2 APPLICATION S10-06-110B JUDI M. ROWLEY

Request that the City Council consider a request for the renewal of a Special Use Permit (S09-03-058) to allow for the continued operation of a bed and breakfast while residing in the home for a period of five (5) years on Lot 19 of NCB 82, one lot totaling .40± acres located at the southwest corner of the intersection of Bryan Street and Chilton Avenue, fronting 150.40± feet along the south side of Bryan Street and fronting 116.26± feet along the west side of Chilton Avenue (505 Chilton Avenue). The property is currently zoned "AR" Adaptive Reuse District. (Ord. No. 0-2006-95)

Councilman Alworth made the motion; seconded by Councilman Choice; motion carried 7-0; approved as presented.

Z-3 APPLICATION Z11-06-111A BLAS MURILLO

Request that the City Council consider a request to change the zoning from "R-2" Two-Family Residential District (Duplex) to "R-1B" Single-Family Residential District on Lots 65 and 66 of NCB 857, two (2) lots totaling .32± acres located 391.40± feet north of the intersection of Jackson Street and Crosby Street, fronting 102± feet along the west side of Crosby Street with a maximum depth of 136.05± feet (845 and 849 Crosby Street). (Ord. No. 0-2006-95)

Councilman Sanders made the motion; seconded by Councilman Simons; motion carried 7-0; approved as presented.

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Z-4 APPLICATION Z11-06-114A SALIE & JUAN PRIETO

Request that the City Council consider a request to change the zoning from “C-2” General Commercial District to “R-1B” Single-Family Residential District on Lot 13 of NCB 1200, one (1) lot totaling .29± acres located 228.34± feet east of the intersection of Jordan Street and Gentry Parkway, fronting 100± feet along the south side of Jordan Street with a maximum depth of 126.73± feet (304 Jordan Street). (Ord. No. 0-2006-95)

Councilman Alworth made the motion; seconded by Councilman Sanders; motion carried 7-0; approved as presented.

Z-5 APPLICATION Z11-06-115A CITY OF TYLER (126 GASTON AVENUE)

Request that the City Council consider a request to change the zoning from “R-3” Multi-Family Residential District to “R-1B” Single-Family Residential District on Lot 1 of NCB 367B, one lot totaling .27± acres located at the southwest corner of the intersection of Gray Street and North Gaston Avenue, fronting 50± feet along the west side of North Gaston Avenue and fronting 150± feet along the south side of Gray Street. (Ord. No. 0-2006-95)

Councilman Sanders made the motion; seconded by Councilman Alworth; motion carried 7-0; approved as presented.

Z-6 APPLICATION Z11-06-116A CITY OF TYLER (1326 PAUL ST.)

Request that the City Council consider a request to change the zoning from “R-3” Multi-Family Residential District to “R-1B” Single-Family Residential District on Lot 7 of NCB 357, one lot totaling .14± acres located 300± feet east of the intersection of Paul Street and North Gaston Avenue, fronting 50± feet along the south side of Paul Street with a maximum depth of 130± feet. (Ord. No. 0-2006-95)

Councilman Sanders made the motion; seconded by Councilman Alworth; motion carried 7-0; approved as presented.

Z-7 APPLICATION Z11-06-117A CITY OF TYLER (1302 PAUL ST.)

Request that the City Council consider a request to change the zoning from “R-3” Multi-Family Residential District to “R-1B” Single-Family Residential District on Lot 13 of NCB 357, one lot totaling .17± acres located at the southwest corner of the intersection of Paul Street and North Confederate Avenue, fronting 50± feet along the south side of Paul Street with a maximum depth of 130± feet. (Ord. No. 0-2006-95)

Councilman Sanders made the motion; seconded by Councilman Alworth; motion carried 7-0; approved as presented.

Z-8 APPLICATION Z11-06-118A CITY OF TYLER (1220 PAUL ST.)

Request that the City Council consider a request to change the zoning from “R-3” Multi-Family Residential District to “R-1B” Single-Family Residential District on Lot 5 of NCB 357, one lot totaling .19± acres located at the southeast corner of the intersection of Paul Street and North Confederate Avenue, fronting 50± feet along the south side of Paul Street, with a maximum depth of 140± feet. (Ord. No. 0-2006-95)

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Councilman Sanders made the motion; seconded by Councilman Alworth; motion carried 7-0; approved as presented.

Z-9 APPLICATION Z11-06-119A CITY OF TYLER (1408 PAUL ST.)

Request that the City Council consider a request to change the zoning from “R-3” Multi-Family Residential District to “R-1B” Single-Family Residential District on Lot 4 of NCB 357, one lot totaling .14± acres located 150± feet east of the intersection of Paul Street and North Gaston Avenue, fronting 50± feet along the south side of Paul Street with a maximum depth of 130± feet. (Ord. No. 0-2006-95)

Councilman Sanders made the motion; seconded by Councilman Sanders; motion carried 7-0; approved as presented.

Z-10 APPLICATION Z11-06-120A CITY OF TYLER (314 GASTON AVENUE)

Request that the City Council consider a request to change the zoning from “R-3” Multi-Family Residential District to “R-1B” Single-Family Residential District on Lot 5 of NCB 366, one lot totaling .27± acres located west of the intersection of Paul Street and North Gaston Avenue, fronting 80± feet along the west side of North Gaston Avenue with a maximum depth of 150± feet. (Ord. No. 0-2006-95)

Councilman Sanders made the motion; seconded by Councilman Alworth; motion carried 7-0; approved as presented.

Z-11 APPLICATION Z11-06-121A CITY OF TYLER (706 QUEEN ST.)

Request that the City Council consider a request to change the zoning from “R-2” Two-Family Residential District to “R-1B” Single-Family Residential District on Lot 14A of NCB 206, one lot totaling .27± acres located 220± feet east of the intersection of Queen Street and Cannon Court, fronting 50± feet along the south side of Queen Street with a maximum depth of 255± feet. (Ord. No. 0-2006-95)

Councilman Sanders made the motion; seconded by Councilman Alworth; motion carried 7-0; approved as presented.

Z-12 APPLICATION Z10-06-097A S & T DEVELOPMENT

Request that the City Council consider a request to change the zoning from “R-1A” Single-Family Residential District to “PUR” Planned Unit Residential District with final site plan approval on a 12.03± acre portion of an 81.61± acre tract, Tract 2 in the T. Price Survey A-794. The subject property is located 320.21± feet west of the intersection of Three Lakes Parkway and Oak Alley. This property extends to a point 1201.13± feet south from Oak Alley and continues west 840.15± feet. (Ord. No. 0-2006-96)

Mayor Pro Tem Smith made the motion; seconded by Councilman Simons; motion carried 7-0; approved as presented.

Z-13 APPLICATION Z10-06-098A MATTHEW HILES

Request that the City Council consider a request to adopt an ordinance approving a final site development plan amendment for Annexation Application A10-06-004A and Zoning Application Z01-06-009 on Tracts 5C, 6, 10, 12, 19, 20, 23, and 23B of the McKinney & Williams Survey, A-727 and S.A. & M.G.R.R. Survey, A-963, eight (8) tracts totaling 80± acres located at the end of Pine Terrace and Putting Lane in the Briarwood Estates Unit 1, extending 900± feet west from Pine Terrace and extending north 1,800± feet, then east 630± feet, and then 1,125± feet south and southeast to join with the west property line of The Stretford at The Cascades. Also, consider establishing “PUR” Planned Unit Residential District zoning. (Ord. No. 0-2006-97)

Bobby Garmon, 11258 Putting Lane – Stated that his concern was the temporary road to come into the neighborhood and at this time there are cement trucks coming into the neighborhood at 3:00 to 4:00 o’clock in the morning.

Steve Thornton – Stated that Cascades did construct a temporary path through the golf course so that the construction trucks and the cement trucks could access the majority of this development. There is one remote area that the crew cannot get to on that temporary path because it is not a hard surface at this time.

Nathan Hollis, 11495 Scenic Dr. – Stated that the neighbors have met with the people with Cascades and it was agreed on November 5 on the issues that we were divided on. It was agreed to build a rod iron fence with plants provided and build a retaining wall to the same quality of the ones at the Cascades.

Ron Stafford, 4122 Briarwood Rd. – Stated that he was here to seek relief on a different complaint, the Cascades. Mr. Stafford stated that the root of the problem is the callus arrogance of the owners of the Cascades. Cascades expressed interest in buying my property and it was their policy to pay appraised value and not a penny more. I was warned that they would never let me stay on their golf course and that if I did not sale to them they would seek other measures.

Ethel Bowie, 11359 Lamb Dr. – Stated that Cascades had agreed on putting up a retaining wall but wanted to know if a greenbelt could be established so that the residents of the townhomes could not look into her back yard.

Councilman Moran made the motion; seconded by Councilman Sanders; motion carried 7-0; approved as presented.

RESOLUTIONS

R-1 Request that the City Council consider adopting a Resolution agreeing to the sale of certain tracts of land located within the City of Tyler city limits and owned by taxing entities including the City of Tyler. (Res. No. 0-2006-25)

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Councilman Simons made the motion; seconded by Councilman Alworth; motion carried 7-0; approved as presented.

ORDINANCES

Mayor Left

- O-1** Request that the City Council consider adopting an Ordinance amending Tyler City Code Chapter 10, "Planning and Zoning", Article III, "Development", Division D, "Flooding and Flood Damage Prevention"; providing a severability clause; providing a penalty clause; and establishing an effective date. **(Ord. No. 0-2006-98)**

Councilman Alworth made the motion; seconded by Councilman Simons; motion carried 6-0; approved as presented.

- O-2** Request that the City Council consider a request to adopt an Ordinance that would change the name of a section of East Lake Street to Tennis Court. The affected portion will include a section of East Lake Street beginning at the intersection of South Palmer Avenue and East Lake Street, extending 323.83± feet east, and stopping at the intersection of East Lake Street and Blackwell Avenue, which is adjacent to Lot 27A of Block 678D (1101 Blackwell Avenue). **(Ord. No. 0-2006-99)**

Councilman Simons made the motion; seconded by Councilman Choice; motion carried 6-0; approved as presented.

MISCELLANEOUS

- M-1** Request that the City Council consider authorizing the City Manager to execute an agreement and issue payment in the amount of \$650,000.00 to TXU Electric Delivery Company for utility adjustments associated with the Grande Boulevard, Phase 2 project.



Councilman Alworth made the motion; seconded by Councilman Moran; motion carried 6-0; approved as presented.

- M-2** Request that the City Council consider authorizing the City Manager to accept a donation in the amount of \$5,000.00 from an anonymous donor, to the TREES Committee, a subcommittee of the City's Parks Board, to purchase trees to be planted at Faulkner Park.

Councilman Alworth made the motion; seconded by Councilman Simons; motion carried 6-0; approved as presented.

- M-3** Request that the City Council consider award of contracts for the rehabilitation of two (2) structures in the Owner-Occupied Housing Rehabilitation Program. 

Councilman Sanders made the motion; seconded by Councilman Moran; motion carried 6-0; approved as presented.

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- M-4 Request that the City Council consider amending the policy guideline and consider authorizing the City Manager to issue the attached policy guidelines and statement for funding perspective Public Service Activities recipients of HOME and Community Development Block Grant (CDBG) Program funds.**

Councilman Sanders made the motion; seconded by Councilman Alworth; motion carried 6-0; approved as presented.

- M-5 Request that the City Council consider authorizing various payments for eligible acquisition and relocation costs to former Alpha One Property tenant resident for eligible acquisition moving and relocation assistance provided in accordance with HUD Acquisition and Relocation Regulations and authorizes the City Manger to execute the Release of Claim.**

Brenda Johnson, Director of Neighborhood Services - Stated that in June of 1996, the City of Tyler was approached by a developer regarding funding for a new housing development in an area located off of North Palace Avenue. The developers were seeking assistance through the Community Development Block Grant Program (CDBG).

After several years, the developers did acquire the property and did relocate the tenants living in those units. The majority of the acquisition costs were paid by the State of Texas with bond money; however, the tenants were not adequately reimbursed for their moving expenses. After the tenants were relocated, the Neighborhood Services Department was notified by the U. S. Department of Housing and Urban Development that the City would be required to pay any unpaid acquisition costs and eligible relocation costs incurred during this process.

These will be paid directly to the original property sellers and the tenants, not to the developer.

The remaining tenant has been located and all documentation has been completed, and is now ready for payment. Payment due the remaining tenant is \$19,660 and will be disbursed in two (2) separate payments.

Councilman Alworth made the motion; seconded by Councilman Moran; motion carried 6-0; approved as presented.

- M-6 Request that the City Council consider an appeal of Planning and Zoning Commission approval of a variance to the City Code escrow requirements for public improvements along Cotten Road related to the final plat for Kara Lynn, Unit 2. The plat for Kara Lynn, Unit 2 relates to a thirty-two (32) lot subdivision containing 3.5± acres located 170± feet north of the intersection of Cotten Road and Pollan Street, fronting 261± feet along the west side of Cotten Road, and fronting 711± feet along the north and south sides of the proposed Kara Lynn Place in the A.R. Clark Survey, A-280. The property is located in Zone 2 of the City of Tyler extraterritorial jurisdiction. *6:0 to deny variance, appeal granted, requirements to be enforced***

Bob Breedlove – Stated that the 28 thousand dollars number is the amount of money that has already been escrowed on Greenbriar Road. Mr. Breedlove stated that the construction on

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Cotten Rd. is no where near that amount of money. Mr. Breedlove stated that there would not be any driveways onto Cotten Rd.; they will all go out to the new street which will be curbed and guttered. One thing that affects the functionality of the bar ditch street is when you have a lot of driveways on it.

Councilman Simons – Stated that this project is kind of tough because if you put the curb and gutter in today and it doesn't get developed for 10 to 15 years then the curb and gutter would have to be torn out to get it to drain and will eventually deteriorate to a point.

Mayor Pro Tem Smith – Stated that the ordinances are in place for a reason unless there is a very strong reason not to abide by them.

Michael Wilson, Development Services Engineer – Stated that it would be his recommendation that the escrow would be included because of not knowing how the grain would be and he also asked if they could demonstrate in the plans a way that would possibly fit in with future reconstruction of the street.

Councilman Moran made the motion to deny variance; seconded by Councilman Choice; motion carried 6-0; denied as presented.

M-7 Request that the City Council consider designating J.C. Martin Hall, the President's House, Gus F. Taylor Gymnasium and the D.R. Glass Library, located on the Texas College Campus at 2404 N. Grand Avenue, as Tyler Historic Landmarks.

Councilman Choice made the motion; seconded by Councilman Sanders; motion carried 6-0; approved as presented.

M-8 Request that the City Council consider authorizing the City Manager to allow expenditure of previously approved grant funding in the amount of \$44,770.00, for the purchase of the Routematch Web Portal computer software and related support services, to improve information sharing with citizens using Tyler Transit.

Councilman Choice made the motion; seconded by Councilman Moran; motion carried 6-0; approved as presented.

CONSENT AGENDA

(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 pay Plains Pipeline, L.P. to remove an abandoned pipeline for Grande Boulevard, Phase 2 in the amount of \$10,900.00.

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- C-A-2 Request that the City Council consider authorizing the City Manager to purchase one Ford F-150 Crew Cab Truck from the low bidder Kilgore Ford, of Kilgore, Texas in the amount of \$20,591.90.
- C-A-3 Request that the City Council consider releasing final retainage for the 2623 S. Chilton Bagwall project to Taylor Retaining Wall Systems in the amount of \$1,248.98.
- C-A-4 Request that the City Council consider Ratifying the Emergency Purchase of 57 hand-held Radios and 18 Mobile Radios in an amount totaling \$161,574.39 from the sole source provider - Motorola.
- C-A-5 Request that the City Council authorize the City Manager to execute a contract modification with MHS Planning and Design to perform additional design services for the Tyler Hike and Bike Trail Extension at a cost not to exceed \$17,775.00. ©
- C-A-6 Request that the City Council consider authorizing the City Manager to enter into a contract with ABM Janitorial Services for the provision of janitorial services in the Police Department at an annual cost of \$38,471.04. ©
- C-A-7 Request that City Council consider authorizing the purchase of Blauer police uniforms from Nardis, Incorporated in the amount of \$22,305.
- C-A-8 Request that the City Council consider authorizing approval the Reconciliation Change Order and release of final retainage in the amount of \$17,214.60 for Drainage Improvements to Willow Creek Tributary W-6 to Hartbeat Construction. ©

Councilman Choice made the motion to approve the entire consent agenda; seconded by Councilman Alworth; motion carried 6-0; approved as presented.

CITY MANAGER'S REPORT

- 1. Christmas lighting next Thursday, November 30, 2006 on Square after parade.***
- 2. Budget books now available, appreciation for staff and CC work on budget.***
- 3. New Logo Tyler 21 & SERVE building on Blueprint.***
- 4. Sanders – NEW program in his district – appreciation.***

RECESS FOR EXECUTIVE SESSION - NONE

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" to discuss the sale or acquisition of real property, the public discussion of which would have a detrimental effect on the negotiating position of the City related to development of Grande East extension project and also under section 551.071 "litigation" relating to

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pending or contemplated litigation related to the acquisition of right of way for the Grande East extension project.

ADJOURNMENT

Councilman Moran made the motion to adjourn the meeting at 10:24 a.m.; seconded by Councilman Choice; motion carried 6-0; meeting adjourned.

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

A T T E S T:

CASSANDRA BRAGER, CITY CLERK