

**MINUTES OF THE
REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
December 13, 2006**

A regular meeting of the City Council of the City of Tyler, Texas, was held Wednesday, December 13, 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
Capital /City Projects Coordinator:	Bill Ward
Chief Financial Officer:	Daniel Crawford
City Engineer:	Dan Peden
City Fire Chief:	Neal Franklin
City Librarian:	Chris Albertson
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
Manager of Water Quality and Production:	Mitch Marable
Operations Manager:	Greg Morgan
Traffic Engineer:	Kirk Houser
Tyler Transit:	Norman Schneck
City Clerk:	Cassandra Brager

INVOCATION

The Invocation was given by Councilmember Choice.

Councilman Simons made the motion to approve the minutes for the July 26, 2006, August 9, 2006, August 23, 2006 and the September 13, 2006 City Council meetings; seconded by Councilman Choice; motion carried 7-0; approved as presented.

AWARDS

A-1 Employee Service Awards

December 13, 2006

Retirees

Tonya L. Grimes

June 9, 1981 to October 31, 2006

Tonya L. Grimes went to work for the City of Tyler on June 9, 1981 as a V.O.E. Records Clerk in the Police Department. Her title was reclassified to Police Records Clerk on September 27, 1988 and Data Management Specialist on July 20, 1995. We are pleased to present Tonya with a Certificate of Retirement for her years of service with the City of Tyler.

Louis J. Sylvie

November 1, 1993 to November 30, 2006

Louis J. Sylvie went to work for the City of Tyler on November 1, 1993 as a Plant Operator in the Waste Treatment Department. We are pleased to present Louis with a Certificate of Retirement for his years of service with the City of Tyler.

These employees represent over 38 years of service with the City of Tyler.

A-2 The following employees were hired by the City of Tyler during the month of November 2006.

We would like to take this opportunity to welcome these new employees.

Andrew Trexler	IT Specialist I	Information Technology
Kevin Beasley	Police Recruit	Police
Bernadette Spitz	Planner	Planning and Zoning
Lenard McGaha	Laborer	Solid Waste-Environmental
James Yanker	Accountant	Administrative Services
Angela Choy	GIS Planner/Developer	Planning and Zoning
Timothy Norris	Parks Maintenance Supervisor	Parks
Lourdes Ortega	Laborer	Parks

RESOLUTIONS

R-1 Request that the City Council consider the adoption of a Resolution approving financing for the All Saints Episcopal School for a new athletic center and track/field complex and acknowledging the public hearing held on December 8, 2006. **R-2006-26**

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

R-2 Request that the City Council consider adopting a Resolution authorizing eminent domain proceedings for the acquisition of right of way land against 2.70 acres of land at the bend of Copeland Road in Tyler, Texas for the construction of the Grande Boulevard East Extension Phase 2. **R-2006-27 (not able to come to an agreement for the value of the property.)**

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

December 13, 2006

- R-3 Request that the City Council consider adopting a Resolution authorizing eminent domain proceedings for the acquisition of right of way land against 721 Hampton Hill in Tyler, Texas for the construction of the Grande Boulevard East Extension Phase 2. R-2006-28 (not able to come to an agreement for the value of the property.)**

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

- R-4 Request that the City Council consider adopting a Resolution authorizing eminent domain proceedings for the acquisition of right of way land against 625 Hampton Hill Drive in Tyler, Texas for the construction of the Grande Boulevard East Extension Phase 2. R-2006-29 (not able to come to an agreement for the value of the property.)**

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

- R-5 Request that the City Council consider adopting a Resolution authorizing eminent domain proceedings for the acquisition of right of way land against 6283 New Copeland Road in Tyler, Texas for the construction of the Grande Boulevard East Extension Phase 2. R-2006-30 & authorize settlement for \$400,000.00**

Councilman Alworth made the motion to authorize eminent domain proceedings only if City is not able to consummate the transaction amount of \$400,000.00; seconded by Councilman Moran; motion carried 7-0; approved as presented.

- R-6 Request that the City Council consider adopting a Resolution authorizing eminent domain proceedings for the acquisition of right of way land against 6301 New Copeland Road in Tyler, Texas for the construction of the Grande Boulevard East Extension Phase 2. R-2006-31 & authorize settlement for \$157,000.00**

Dolores Strickland, 6301 Copeland Rd. – Stated that they had come to an agreement with the City and they are satisfied at this point but felt it is kind of degrading to have to beg to be paid for something that you own. Mrs. Strickland felt like more than fair market value should be considered because you cannot replace your home now at that price.

Councilman Alworth made the motion to approve the settlement of \$157,000.00; seconded by Councilman Choice; motion carried 7-0; approved as presented.

ORDINANCES

- O-1 Request that the City Council consider approving an ordinance amending the City of Tyler Code Chapter 19, “Utilities”, Article III, “Water and Sewer Service”, Division “A”, “Water Service”, Section 19-37, “Installation of Check Valve or Back Siphonage Prevention Device” for compliance with the requirements of the Texas Commission on Environmental Quality. O-2006-100**

December 13, 2006

Greg Morgan, Operations Manager – Stated that in 1996 the Texas Commission on Environmental Quality (TCEQ), then known as the Texas Natural Resource Conservation Commission, mandated that public water systems implement a cross-connection control program to isolate connections between the potable water system and possible source of contamination.

That same year, the City of Tyler adopted an ordinance (Chapter 19-37) addressing backflow prevention assemblies and establishing a program requiring their installation on all new connections to the water system, however the program did not require retrofitting existing connections until plumbing permits were required for modification or repair.

As a result of a recent TCEQ inspection, Tyler Water Utilities is required to upgrade the cross-connection control program so that all commercial and industrial customers are brought into compliance with the cross-connection control program. This will be accomplished through Customer Service Inspections and installations of backflow prevention assemblies, if necessary.

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

Mayor left

O-2 Request that the City Council consider adopting an ordinance amending Tyler City Code Chapter 6 by adopting the 2006 International Building Code with amendments.

O-2006-101

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

Mayor return

O-3 Request that the City Council consider approving an ordinance modifying Chapter 2, “Finance and Taxation”, Article VI, “Claims”, Section 2-61, “Claims for Sanitary Sewer Stoppages” to increase Tyler Water Utilities participation in Sanitary Sewer Overflow in Premises claims from \$1,500 maximum to \$5,000 maximum. **O-2006-102**

Greg Morgan, Operations Manager – Stated that the Tyler Water Utilities operates over 510 miles of sanitary sewer collection system, with over 29,000 customer connections. Occasionally situations occur where blockages in the sanitary sewer collection system result in sewer backing up and overflowing into a building. These occurrences are documented and recorded as Overflow in Premises (OIP). As a result of improved maintenance procedures, the number of OIPs has reduced from a high of 60 per year to 38, last fiscal year.

The City of Tyler, as a governmental entity, has sovereign immunity barring suit against the City for OIPs, and such immunity is waived only if liability arises under the Texas Tort Claims Act. When an OIP happens, Tyler Water Utilities provides immediate assistance in removing sewage, via wetvac process, explains the Tyler Water Utilities policy and instructs the building owner to contact their insurance carrier. While the City has immunity and expressly denies liability in such OIPs, in 1995, a policy was adopted which authorized assisting customers with

December 13, 2006

their documented out of pocket expenses up to their insurance deductible or \$500, whichever was less. In 2003, the City participation was increased to the insurance deductible or \$1,500, whichever was less.

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

- O-4 Request that the City Council consider adopting an ordinance amending the Airport regulations in Tyler City Code Chapter 12 to add a specific reference to applicability of the International Building Code, and to add a specific reference to late fees for delinquent rentals associated with leases, permits and agreements. O-2006-103**

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

MISCELLANEOUS

- M-1 Request that the City Council consider authorizing the City Manager to contract with Ron Mabry & Associates Architects to design an office building at the Greenwood Farms Landfill for a cost of \$59,945. contract**

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

- M-2 Request that the City Council consider receiving patronage dividend refund check of \$56,009.02 from First Choice Cooperative. This refund is based on the City's purchasing volume on multiple commodity contracts. Accept**

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

- M-3 Request that the City Council consider authorizing the City Manager to advertise for bids for construction of Grande Boulevard from Sutherland Drive to Paluxy Drive and Copeland Road from Grande Boulevard to Rieck Road.**

Councilman Alworth made the motion; seconded by Councilman Sanders; motion carried 7-0; 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).

December 13, 2006

- C-A-1** Request that the City Council consider authorizing payment to Boren – Scott Title Company in the amount of \$170,956.51 for acquisition of right-of-way for Grande Boulevard Phase 2.
- C-A-2** Request that the City Council consider ratifying staff action for payment to Boren – Scott Title Company in the amount of \$29,558.86 for acquisition of right-of-way for Grande Boulevard Phase 2.
- C-A-3** Request that the City Council consider approving the reconciliation change order and releasing final retainage for the Drainage Improvements at Baylor Drive, Capital Improvement Project Number 05-08-748-2629, to JC Johnson Construction in the amount of \$9,206.41. **contract**
- C-A-4** Request that the City Council consider changing the regular City Council Meeting date of March 14, 2007 to March 7, 2007.
- C-A-5** Request that the City Council consider authorizing the City Manager to execute a contract amendment with Benchmark Design Group for design fees associated with an increased project scope as follows: to design intersection improvements at Loop 323 and Towne Park in the amount of \$12,500, to design a 30 space parking lot at Noble Young Park in the amount of \$5,000, and to cover unanticipated costs related to right-of-way acquisition services for the extension of Towne Park Drive from the current dead-end east to State Highway 155 in the amount of \$46,850. **contract**
- C-A-6** Request that the City Council consider authorizing the City Manager to execute a Change Order for the Phase II improvements at the Noble E. Young Skate Park in the amount of \$14,653.00. **contract**
- C-A-7** Request that the City Council consider approving the Subdivision of 4.568 acres on Lake Tyler East for the Development of East Shore Estates Unit 13.
- C-A-8** Request that the City Council consider expenditures in the amount of \$19,655 to Phoenix Pump Incorporated of Houston, Texas, for the refurbishment of Filter Pump Number 1 at the Westside Wastewater Treatment Plant.
- C-A-9** Request that the City Council consider authorizing the expenditure of \$10,233.18 for the annual 2007 Mandated Water System Fee to the Texas Commission On Environmental Quality.
- C-A-10** Request that the City Council consider authorizing the City Manager to enter into an agreement with Landscapes Unlimited LLC of Lincoln, Nebraska, for the Construction of Faulkner Park Playground/Sprayground, Parking Lot, which includes acceptance of the base bid, additive alternate number six and change order number one for a total price of \$372,706.00. Staff also requests that the City Council consider authorizing the acceptance of a \$100,000 donation from the East Texas

December 13, 2006

Community Foundation and the expenditure of \$51,600 from the Half Cent Sales Tax Fund. **contract**

- C-A-11 Request that the City Council consider authorizing the City Manager to purchase lighting for the walking trail at Woldert Park (Glass Recreation Center) in the amount of \$20,715.00 from Anzak, Incorporated of Tyler.
- C-A-12 Request that the City Council consider ratifying a contract with Adams Consulting Engineers, Incorporated, for additional engineering services relating to the replacement of 16 downtown traffic signal controllers with a fee not to exceed \$21,120.00. **contract**
- C-A-13 Request that the City Council consider approving a contract with Bucher, Willis and Ratliff Corporation to provide temporary traffic engineering support services on an as needed basis with a fee not to exceed \$43,000.00.
- C-A-14 Request that the City Council consider authorizing the City Manager to lease eleven motorcycles from the sole bidder Lone Star Harley-Davidson, of Tyler, Texas in the amount of \$35,244.00.
- C-A-15 Request that the City Council consider authorizing the City Manager to purchase one John Deere Model 310G Backhoe for a total purchase price of \$60,914.00.
- C-A-16 Request that the City Council consider authorizing the City Manager to purchase one Kubota L2800 Tractor from Rose Country Tractor, of Tyler, Texas for a total purchase price of \$13,300.00.
- C-A-17 Request that the City Council consider authorizing the City Manager to purchase six 4-door sedans from the low bidder Caldwell Country Chevrolet, of Caldwell, Texas in the amount of \$96,948.00.
- C-A-18 Request that the City Council consider approving the adoption of the Texas Interoperability Channel Plan Memorandum of Understanding for the use of state-licensed frequencies for the purpose of coordination between emergency response agencies and resources. **contract**
- C-A-19 Request that the City Council consider authorizing the City Manager to purchase ninety electronic parking meters from J. J. MacKay Limited for \$16,000.00 as Phase III of the five year Parking Meter Replacement Program.
- C-A-20 Request that the City Council consider awarding security guard services at the Tyler Public Library for calendar year 2007 with renewal options to the low bidder, Knight-Hawk Security Services, Incorporated and authorizing the City Manager to enter into a contract for such services. **Contract**

December 13, 2006

C-A-21 Request that the City Council consider ratifying acceptance by the Tyler Public Library of \$5,482 in state aid through the Texas State Library and authorize the City Manager to sign all required assurances and contracts related to award and expenditure of these funds.

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

APPOINTMENTS TO BOARDS

B-1 Request that the City Council consider the reappointment of three members of the City of Tyler Reinvestment Zone Number 1 Tax Increment Financing Board.

City of Tyler Reinvestment Zone Number 1 Tax Increment Financing Board

Councilman Alworth made the motion; seconded by Councilman Choice; motion carried 7-0 to reappoint the following members:

**Dean Cagle - Chairman
Fred Carl
Billy Hibbs Jr.**

CITY MANAGER'S REPORT

- 1. Cotton Belt depot featured an ornament this year for Heart of Tyler fundraiser @ \$10.00**
- 2. Dec 27, 2006 City Council meeting cancelled**
- 3. Mayor—recognize John Webb & Parks employees for the Bergfeld snow event, lots of compliments**
- 4. City employee Christmas party (Dec 14) at 11:30**
- 5. Happy Holiday wishes to all City employees**
- 6. Sanders—thanks to Chief Franklin for Christmas parade ride on fire truck**

RECESS FOR EXECUTIVE SESSION **None held**

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

December 13, 2006

ADJOURNMENT

Councilman Alworth made the motion to adjourn the meeting at 9:43 a.m.; seconded by Councilman Sanders; motion carried 7-0; meeting adjourned.

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

A T T E S T:

CASSANDRA BRAGER, CITY CLERK