

**MINUTES OF THE
REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
February 28, 2007**

A regular meeting of the City Council of the City of Tyler, Texas, was held Wednesday, February 28, 2007 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
Chief Financial Officer: Daniel Crawford
Chief Information Officer: Benny Yazdanpanahi
City Fire Chief: Neal Franklin
City Police Chief: Gary Swindle
Communications/Media Services Coordinator: Laura Krantz
Director of Planning and Zoning: Barbara Holly
Fleet Administrator: Russ Jackson
Traffic Engineer: Kirk Houser
Tyler Transit: Leon Alder
City Clerk: Cassandra Brager

INVOCATION

The Invocation was given by Councilmember Choice.

Councilman Alworth made the motion to approve the minutes for the February 14, 2007 City Council meeting; seconded by Councilman Choice; motion carried 7-0; approved as presented.

AWARDS

- A-1 Request that the City Council consider accepting, from the Government Finance Officers Association of the United States and Canada, the “Certificate of Achievement for Excellence in Financial Reporting” award for its Comprehensive Annual Financial Report for the period ending September 30, 2005.**

Deputy City Manager and Mayor Seeber – Presented the Administrative/Accounting Department with a “Certificate of Achievement for Excellence in Financial Reporting” award for its Comprehensive Annual Financial Report for the period ending September 30, 2005.

PRESENTATION

P-1 Request that the City Council receive a presentation from the Planning and Zoning Department regarding a proposed city wide, voluntary rezoning of R-2 properties to R-1B and consider approving the process and schedule.

Director of Planning & Zoning, Barbara Holly – Gave a brief presentation of the proposed city wide, voluntary rezoning of R-2 properties to R-1B and stated that last fall, Councilman Sanders asked that the City sponsor a zone change for the R-2 area within his council district. This area is generally bounded by Loop 323 on the north and west, 2nd Street to the south and Lyndon Ave to the east. The current zoning is “R-2” Two-Family Residential District; yet most of the actual structures are single family homes.

This inconsistency with the “R-2” Two-Family zoning district, as it relates to cumulative zoning, is an outgrowth of comprehensive review of the Zoning Ordinance that occurred over 18 months during 1996 through 1997. By August 1997, the Planning and Zoning Commission had held 25 meetings and 4 public hearings. The City Council held 2 public hearings, in late 1997, to receive public input on the review of the ordinance. At the ordinance adoption effective January 1, 1998, the City Council allowed for a six month period for citizens to submit an appeal or file an application to the City Council at no fee if any citizens felt the change adversely affected them. From that time forward, city staff has received routine rezoning requests from property owners throughout the north and west areas of the city for single family zoning. Through the Tyler 21 efforts that began in the summer of 2006, staff looked for a more comprehensive solution.

With the current zoning regulations, the R-2 district allows duplexes -- not single family homes. Single family homes can not be built, remodeled or refinanced on those lots; therefore, in conjunction with Councilman Sanders and as an outgrowth of Tyler 21, staff supports an organized rezoning of those properties that are zoned “R-2” Two-Family District to “R-1B” Single Family Residential District. There will be no cost to the property owners and only those owners who voluntarily request a zone change will be affected.

Due to the massiveness of this effort (approximately 4,409 properties), staff recommends separating this program into six phases. The first phase would begin now in the Butler College area and finish with phase six located, approximately within the boundaries of McMurrey Street and Commerce Street, in the first quarter of 2008. With fees waived, approximately \$1 million would be left in the neighborhoods for redevelopment.

Councilman Sanders – Stated that after discussing this issue with the legal department, Planning & Zoning staff, and the citizens of that area, this is in the best interest of the citizens and the City to rezone this property back to R-1B single family structure.

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

ZONING

Z-1 APPLICATION C01-07-001B THE MOST REV. ALVARO CORRADA DEL RIO, S.J.
Request that the City Council consider a request for the closure of three hundred twenty-eighty (328) feet of unimproved right-of-way located 1,020± feet east of the intersection of Loop 323 ESE and New Copeland Road. The east side of the right-of-way is adjacent to Lot 1 of NCB 1033A. The west side of the right-of way is adjacent to Lot 2A of NCB 1310. (Ord. No. 0-2007-14)

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

Z-2 APPLICATION Z02-07-004A JUAN GONZALEZ
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 3 of NCB 209 of the Sunshine Addition, one lot totaling approximately .156 acres located at the northwest corner of the intersection of Summerkamp Street and Reed Alley (511 Summerkamp St.). (Ord. No. 0-2007-15)

Councilman Alworth made the motion; seconded by Councilman Sanders; motion carried 7-0; approved but waive \$300.00 rezoning fee.

Z-3 APPLICATION Z02-07-006A MITCHELL COLLINS
Request to change the zoning from “M-1” Light Industrial District to “RPO” Restricted Professional and Office District on Lot 2, Block 58 of the Original Town of Tyler, one lot totaling approximately .978 acres located at the southwest corner of the intersection of Broadway Avenue and Goodman Street. The application is requesting a zoning change in order to construct a law office. (Ord. No. 0-2007-15)

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

Z-4 APPLICATION S02-07-008A RUDY’S RESTAURANT AND COUNTRY STORE
Request that the City Council consider a request for a Special Use Permit to allow for a drive-thru window for an indefinite period on Lot 3Y of NCB 852U in the Tyler Industrial Park Subdivision, one lot totaling 1.407 +/- acres located at the northeast corner of the intersection of Loop 323 SSW and Robertson Road. The property is currently zoned “C-1” Light Commercial District. (Ord. No. 0-2007-15)

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

Z-5 APPLICATION Z02-07-002B CONNIE OVERSHOWN
Request to change the zoning from “R-2” Two-Family Residential District to “R-1B” Single-Family Residential District on Lot 11, NCB 445 of the Oak Grove Subdivision, one lot totaling approximately .22 acres located at the northeast corner of the intersection of

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Grand Avenue and Vance Street (1709 Grand Avenue). The application is requesting a zoning change to allow for the construction of a single-family home. (Ord. No. 0-2007-16)

Councilman Alworth made the motion; seconded by Councilman Sanders; motion carried 7-0; approved but waive \$300.00 rezoning fee.

Z-6 APPLICATION Z01-07-003B GANDOLPH PROPERTIES LLC

Request to change the zoning from “M-1” Light Industrial District to “C-1” Light Commercial District on Lot 9 of NCB 1550B, one (1) lot totaling approximately 0.657 acres located at the northwest corner of the intersection of Old Jacksonville Hwy. and Capital Drive (1809 Capital Drive). (Ord. No. 0-2007-17)

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

Z-7 APPLICATION Z11-06-122B C&L INVESTMENTS

Request that the City Council consider a request to change the zoning from “M-1” Light Industrial District and “M-2” General Industrial District to “C-1” Light Commercial District on a 2.603 acre tract, all that certain tract or parcel of land situated in the J.Y. Jones Survey, Abstract 509, and the F.D. Bodenheimer Survey, Abstract 95, Smith County, Texas, being a part of New City Block 671 in the City of Tyler, located at the intersection of Nutbush Street (extended) and Gentry Parkway, approximately 236.06± feet south of Martin Luther King Junior Boulevard. This property fronts 256.19± feet along the east side of Gentry Parkway with a maximum depth of 452.10± feet. (Ord. No. 0-2007-18)

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

Z-8 APPLICATION Z02-07-007A LOSTON TAYLOR

Request that the City Council consider a request for final site development plan approval for Zoning Application Z10-06-093A on Lot 12 of NCB 744, one lot totaling approximately .93 acres located approximately 967 feet east of the intersection of SSW Loop 323 and Chandler Highway (3409 Chandler Highway). This property fronts 128± feet along the north side of Chandler Highway with a maximum depth of 319± feet (3409 Chandler Highway). (Ord. No. 0-2007-19)

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

Z-9 APPLICATION Z02-07-010A DAVIS THORNTON Request that the City Council consider a request to change the zoning from “AG” Agricultural District to 43.88 acres of “R-1B” Single- Family Residential District, 34.30 acres of “R-TH” Townhouse Residential District, and 52.34 acres of “C-1” Light Commercial District on a 130.52 acre portion of Tract 1 in the T. Price Survey A-794 and Tracts 20 and 20.2 in the M University Survey A-624 located approximately 2,300 feet south and west of the intersection of Grande Boulevard and Old Jacksonville Highway.

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(Ord. No. 0-2007-20)

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

Z-10 APPLICATION Z02-07-011A 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 on a 15.72+/- acre tract situated in the Thomas Price Survey, Abstract 794, Smith County Texas, and being more particularly described by Exhibit “A” attached to the ordinance thereof. This property is located at the end of Three Lakes Parkway, east of Old Jacksonville Highway and due south of Dueling Oaks extended at the southeast corner of the Oak Hollow subdivision. *(Ord. No. 0-2007-21)*

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

Z-11 APPLICATION Z12-06-131A STONEGATE HOMEOWNERS ASSN.

Request that the City Council consider a request to adopt an ordinance approving a final site development plan amendment (Z05-01-013) on Lot 13 of NCB 1544-P, one lot totaling approximately 1.16 acres located on Stonegate Valley Drive (1945 Stonegate Valley Drive). The property is currently zoned “PUR” Planned Unit Residential Development District. *(Ord. No. 0-2007-22)*

Bob Breedlove, 1321 S. Broadway - Stated that he had met with 2 of the 3 property owners and has been able to come to an agreement with 2 of the 3 affected owners. Mr. Williams in lot 34 was one of the property owners he met with and Stonegate has agreed to maintain a 25 foot greenbelt and to add some evergreen trees to the greenbelt. An agreement has been reached with the owner of lot 37, but no agreement has been reached with the property owner of lot 38.

The greenbelt will be the responsibility of the homeowners at some point but for the time Mr. Breedlove stated he would be the one to make sure the greenbelt stays as it is.

Councilman Moran – Stated that he wanted to applaud the Stonegate Association for meeting with the property owners and going through great length to compromise and make sure the property owners are protected.

Councilman Moran made the motion; seconded by Councilman Alworth; motion carried 7-0; approved to remove from table.

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

ORDINANCES

- O-1 Request that the City Council consider authorizing the City Manager to expend up to \$125,000 for signal and pavement improvements associated with Trane Corporation new capital investment and job creation, and adopting an Ordinance to amend the Fiscal Year 2006-2007 annual budget to provide funding for said purpose. (Ord. No. 0-2007-23)**

Mayor Seeber – Stated that Trane Corporation will be investing approximately \$4 million for a new testing laboratory at their facility. This project will have a direct impact on the creation of 160 new jobs inside Tyler City Limits by the close of 2009. As an incentive for this new investment, the City of Tyler has been asked to provide monetary support for a traffic light and for acceleration/deceleration lanes on Highway 110 which are needed to accommodate the new testing laboratory. The total amount estimated for the project is \$250,000. The City is willing to provide up to \$125,000 to support this expected expansion.

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

- O-2 Request that the City Council consider authorizing the City Manager to execute a contract with Emergency Communications Network, Inc. to provide CodeRED® emergency telephone calling system services at a cost of \$30,000 per year, and adopting an Ordinance to amend the Fiscal Year 2006-2007 annual budget to provide funding for said purpose. © (Ord. No. 0-2007-24)**

Deputy City Manager, Mark McDaniel – Stated that The CodeRED™ Emergency Telephone Calling System is an extremely high-speed telephone communication service available for emergency notifications. CodeRED™ employs a one-of-a-kind Internet mapping capability for geographic targeting of calls, coupled with a high speed telephone calling system capable of delivering customized pre-recorded emergency messages directly to homes and businesses at the rate of up to 60,000 calls per hour. CodeRED™ subscribers control their emergency broadcasts from anywhere in the world via a secure Internet Portal. CodeRED™ offers an unprecedented level of security, performance, and ease-of-use for government agencies, communities, and businesses.

CodeRED® is a service of Emergency Communications Network, Inc (ECN). ECN is a Florida-based organization that specializes in providing high-speed emergency communication services to governmental agencies, businesses, and private individuals.

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

- O-3 Request that the City Council consider adopting an ordinance amending Tyler City Code Chapter 6 to adopt the 2006 International Fire Code with amendments. (Ord. No. 0-2007-25)**

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

MISCELLANEOUS

M-1 Request that the City Council consider approving the appointment of Dr. Jonathan MacClements, M.D., as the Health Authority for the Northeast Texas Public Health District, for a two-year term effective February 1, 2007 through January 31, 2009.

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

M-2 Request that the City Council consider authorizing the City Manager to execute a New Fixed Base Operator (FBO) Lease of Airport Lease Tract 7 at Tyler Pounds Regional Airport with JW Jet Corp, LTD dba Jet Center of Tyler and allowing Jet Center a variance to construct a hangar less than 10,000 square feet as allowed in the lease. ©

J. W. Rogers – Stated that he wanted to place some T-hangars at the Airport as opposed to the large open hangar. Mr. Rogers stated that this was not the greatest investment but wanted to provide services.

Mayor Seeber – Asked Mr. Rogers how many T-hangars did he plan on building at first?

J. W. Rogers – Stated four at first and then an additional four.

Councilman Moran – Stated there were some questions at the last City Council meeting about a portion of the property that you currently own on the other side and whether the T-hangars could be built over there.

J. W. Rogers – Stated that it was economically unfeasible to cover the north parcel and put T-hangars out there. He is hoping down the road someone will come in and want to put a large paint hangar or a maintenance hangar to take up the space.

Councilman Alworth – Stated that he appreciated what Mr. Rogers was doing because the area he wants to build in was the old Tyler Aero area. In the past there was a very nice set of hangars that were taken down but now that area is an eye sore.

Clint Abbott – Mr. Abbott stated that his reasons for not awarding Jet Center an additional lease are (taken from handout Mr. Abbott had handed to Council):

1. Jet Center already has one of the two large areas on the airport that are ready for development.
 - A. Jet Center already has an area that has sat idle for approximately 21 years.
 - B. An additional lease is not required for Jet Center to build additional hangars they can start tomorrow on the land they currently have leased.
 - C. The unimproved area on Jet Center's lease is perfectly suitable to build hangars on and is right next to the most commonly used runway.

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2. If an additional lease were granted to Jet Center:
 - A. YOU would be rewarding Jet Center for non development of their current lease.
 - B. YOU in essence would be “blessing” Jet Centers non development of a lease tract.
 - C. YOU would be making yourselves a party to limiting competition on the airport.
 - D. YOU would delay improvements on the idle area Jet Center has because Jet Center would then have two options as to where improvements were to be located.

3. How the Citizens of Tyler benefit by not awarding Jet Center an additional lease.
 - A. It would allow for additional possible airport competition, which is good for Tyler.
 - B. There would be the possibility that a new tenant would sell fuel at a reduced price, which could enhance the chances of general aviation growth in Tyler.
 - C. It would leave options open in terms of adding an easement to allow planes to enter the taxi ways at a more central location. This could enhance future Northwest land improvements.
 - D. If Jet Center were to build hangars on the area they already have and an additional tenant were to lease the currently vacant tract and build, then tax revenues would increase.

4. Elementary Common Sense:
 - A. YOU don’t reward nonperformance.
 - B. YOU don’t restrict competition.
 - C. When Jet Center’s lease tract was awarded it was implied that the tract would be fully developed.
 - D. YOU don’t provide an additional lease to Jet Center until they fully develop the limited resources they have already been entrusted with.

J. W. Rogers – Stated that the lease was up and available to whoever wanted to come and take it. Mr. Rogers challenged any other company to come in and make a living selling fuel in Tyler Texas. In other places things are subsidized and it is a very hard business to try and sell fuel.

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

M-3 Request that the City Council consider authorizing the City Manager to amend the Non-Consent Towing contracts with Absolute Wrecker, Crow Towing, Campbell’s Towing and Recovery, Hi-Way Towing, and Liberty Services, Incorporated, by revising the storage and notification fees. ©

Councilman Moran made the motion; seconded by Councilman Alworth; 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).

- C-A-1 Request that the City Council consider authorizing the City Manager to purchase Radio Equipment, from Motorola in the total amount of \$49,659.49 for use by the Tyler Fire and Police Departments.**
- C-A-2 Request that the City Council consider authorizing the City Manager to purchase one Ford F-150 Extended Cab Truck, one Ford Ranger Extend Cab Truck, and one Ford F-250 Truck from the low bidder Tyler Ford, of Tyler, Texas for the amount of \$47,280.92.**
- C-A-3 Request that the City Council consider authorizing the City Manager to purchase one Dodge 2500 Truck with a Utility Bed from the low bidder Allen Samuels Dodge, of Tyler, Texas in the amount of \$20,711.27.**
- C-A-4 Request that City Council consider reviewing and authorizing bidding for the 2007 Curb and Gutter Repair Program.**
- C-A-5 Request that the City Council consider authorizing the City Manager to make final payment in the amount of \$21,638.13 to Wilkins Contracting, Incorporated and approve the reconciliation change order for the Hargis Industries Sanitary Sewer Project.**
- C-A-6 Request that the City Council consider authorizing the City Manager to execute an “Amendment to Easement” to an existing sanitary sewer easement located in the John C. Tompkins Survey, Abstract 991, Smith County, Texas.**
- C-A-7 Request that the City Council consider ratifying staff action in authorizing a request from Tyler Junior College, for a Public Right-of-Way Easement, for the installation of chilled/heated water pipelines within the right-of-way at S. Palmer Avenue and along S. Blackwell Avenue.**
- C-A-8 Request that the City Council consider authorizing the City Manager to purchase sixteen (16) sets of Firefighter Protective Bunker Gear, from the Sole Source Provider in District Provider – Casco Industries, Incorporated, in the total amount of \$19,469.00.**
- C-A-9 Request that the City Council consider authorizing the City Manager to purchase one (1) TYMCO Street Sweeper through the Buy Board Cooperative, TYMCO International, LTD, of Waco Texas in the amount of \$127,210.50.**

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

CITY MANAGER’S REPORT

1. Noble Young Skate Park now reopened.
2. Multi-Jurisdictional (150) Warrant round up begin Saturday

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 551.071 “Litigation” deliberation regarding the Wideman v. City of Tyler, et al

Litigation is, by its nature, an on-going process, and questions may arise as to trial tactics, which need to be explained to the City Council. Upon occasion, the City Council may need information from the City Attorney as to the status of the pending or contemplated litigation subjects listed above

Councilman Alworth made the motion to approve \$6,000.00 settlement; seconded by Councilman Moran; motion carried 7-0; approved as presented.

ADJOURNMENT

Councilman Simons made the motion to adjourn the meeting at 10:25 a.m.; seconded by Councilman Alworth; 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