

**MINUTES OF THE
REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
March 7, 2007**

A regular meeting of the City Council of the City of Tyler, Texas, was held Wednesday, March 7, 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 (**absent**)
Chris Simons
Charles Alworth

City Manager: Bob Turner
Deputy City Manager: Mark McDaniel
City Attorney: Gary Landers
Deputy City Attorney: Steve Kean
Business Service Manager: ReNissa Wade
Development Services Engineer: Michael Wilson
Capital /City Projects Coordinator: Bill Ward
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 Parks and Recreation: John Webb
Director of Solid Waste: Dan Brotton
Director of Utilities & Public Works: Greg Morgan
Traffic Engineer: Kirk Houser
City Clerk: Cassandra Brager

INVOCATION

The Invocation was given by Mayor Pro Tem Smith.

AWARDS

A-1 Employee Service Awards

Retiree

Rogelio Vargas

August 17, 1992 to February 28, 2007

Rogelio Vargas went to work for the City of Tyler on August 17, 1992 as a Laborer in the Water Utilities Department at Lake Tyler. On March 19, 2000, he was promoted to Equipment Operator. We are pleased to present Rogelio with a Certificate of Retirement for his years of service with the City of Tyler.

This employee represents over 14 years of service with the City of Tyler.

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HEARING

H-1 Request that the City Council consider holding a Public Hearing to receive public input regarding a proposed Southern Utilities Company rate increase.

Director of Utilities & Public Works, Greg Morgan – Stated that on December 31, 2006, Southern Utilities Company (Southern Utilities) filed a Rate/Tariff Change Application with the City of Tyler, Texas. The City of Tyler City Council has original jurisdiction over the Southern Utilities Company rates as they pertain to approximately 300 customers within the City of Tyler city limits.

On January 23, 2007 the application was administratively suspended due to failure to comply with the Texas Water Code § 13.187(a), which requires a sixty (60) day notice to customers prior to implementing a rate increase. Southern Utilities promptly re-issued notification on January 30, 2007 with an effective date of April 2, 2007, which complies with the Texas Water Code requirements.

RESOLUTION

~~**R-1** Request that the City Council consider approving a Resolution calling an Election for May 12, 2007, to fill the offices of Tyler City Council Members for Single Member District Numbers 1, 3, and 5 on the Tyler City Council and calling for a joint election with the Tyler Independent School District.~~

R-1 (Amended) Request that the City Council consider approving a Resolution calling an Election for May 12, 2007, to fill the offices of Tyler City Council Members for Single Member District Nos. 1, 3, and 5 on the Tyler City Council and calling for a joint election with Smith County and Tyler Independent School District. (Res. R-2007-7)

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

R-2 Request that the City Council receive a presentation from the Keep Tyler Beautiful Board about their recent recognition from Keep America Beautiful, receive a presentation from MHS Planning and Design of Tyler about the LeGrand Gardens Master Plan and adopt a resolution accepting the LeGrand Gardens Master Plan. (Res. R-2007-8)

Kristi Boyett – Stated that the Keep Tyler Beautiful Board received a Keep America Beautiful President's Circle Recognition Award for their beautification, litter reduction and waste management efforts during 2006.

Deputy City Manager, Mark McDaniel – Stated that the City Council last year approved a City ordinance to grant advisory authority over the grounds of Goodman Museum to the Keep Tyler Beautiful Board. Deputy City Manager stated that the plans for this project are bold, ambitious, and very visional. Funding is anticipated to come from private donations as well as grants and any other opportunities that the board might be able to find for funding with help from the staff.

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Oliver Windham (landscape architect) - Gave a brief presentation concerning the LeGrand Master Plan. Mr. Windham stated that in August 2006, Keep Tyler Beautiful was named the advisory board for the LeGrand Gardens, the grounds surrounding the Goodman Museum at 624 N. Broadway Ave. The board hired MHS Planning and Design to create a Master Plan that includes four phases.

Phase I includes the creation of a specialty garden near the boulder area and construction of a carriage house that would act as a chapel for weddings or a meeting room for up to 100 people. The first phase would also include construction of a restroom building along with lighting, utilities, signage, site furnishings, small gardens, walkways and a small water feature.

Phase II calls for the construction of a demonstration barn, a kitchen garden with a small water feature, a glass house for small meetings and events, and the beginning of the northern entry drive, walkway and construction of a 30-space parking lot.

Phase III includes the building of an admissions office and gift shop, a granite walkway around the property, a 58-space parking lot, removal of the existing entry road in the center of the property and creation of a new entry road on the north side of the property.

Phase IV calls for a gazebo bandstand and special events area, the conversion of the existing parking lot into a central plaza with a large water feature, a gazebo near the glass house and additional specialty gardens.

The grand total cost estimate is \$4,651,950 plus the market price of land acquisition, which will be funded privately over several years.

Any portion of any phase is subject to the availability of funding and success of fund raising efforts. This is a long term master plan and it may be that only some portions are actually completed in the next 10 to 20 years.

The implementation of any part of the LeGrand Gardens Master Plan would contribute to the revitalization of north Tyler, contribute to the effort of making downtown an arts district and would serve as a favorite place for family picnics, weddings, meetings, school field trips, festivals, concerts and photo opportunities.

The Keep Tyler Beautiful Board is dedicated to finding support, partners and funds to implement the items set out in the four phases.

Mike Butler – Stated that this project will provide an exciting garden experience in the downtown area and represent a significant anchor and entry identifier on the northern limits of the central business district. It will serve as a venue for unique and educational events for local residents and visitors for many generations.

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

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MISCELLANEOUS

M-1 Request that the City Council consider authorizing the City Manager to approve a fee amendment, in the amount of \$9,525, to the Engineering Services Contract with Elledge Engineering Group for the redesign of Lake Placid Road, from State Highway 155 to Old Jacksonville Highway. ©

City Manager, Bob Turner – Stated that on January 25, 2006, City Council authorized an Engineering Services Contract, in the amount of \$393,000, with Elledge Engineering for the redesign of Lake Placid Road from State Highway 155 to the Old Jacksonville Highway. Included, as part of the total fee, was \$15,000 for the land appraisal associated with right-of-way acquisition. Recently, it was discovered that an error was made in the original contract and the appraisal fee should have been \$25,000. Phil Elledge, President of Elledge Engineering, has agreed to absorb the \$10,000 oversight.

The original subcontractor performing the land appraisals terminated work on the Lake Placid project prior to completing all of the appraisals, thus requiring hiring another subcontractor to complete the remaining appraisals. The original contractor was paid \$15,000 for work completed through his termination date. The additional cost, to the City, for the second subcontractor to complete the appraisals is \$9,525 making the actual cost to the City \$24,525 or \$475 less than the original contract.

Mayor Seeber – Asked if the appraiser was a subcontractor from Mr. Elledges contractor? Has this work been included in the \$393,000 fee? Mayor Seeber asked, because you are having problems with your subcontractor, you are coming to the city and asking us to now pay for that problem?

Phil Elledge – Stated that his cost ended up being more than the original appraiser's cost.

Mayor Pro Tem Smith – Stated that in the council communication that Elledge Engineering has agreed to absorb the \$10,000 oversight, but then it states that the City is reimbursing the \$10,000.

City Manager, Bob Turner – The appraiser fee should have been \$25,000, but the mistake was made by their engineering group. So there is a \$10,000 difference; had the mistake not been made the appraiser would have done the appraisal and it would have come within the \$25,000. The appraiser that was working for Elledge Engineering apparently left the contract in mid contract, but was only paid for the work he had done. That amount was \$15,000; and in order to complete the appraisers appraisals, that \$9,525 is the difference in the amount that is needed to complete the appraisals.

Councilman Moran – Stated that there were two problems. The first problem was that the original bid did not include enough for the appraisal fee, short \$10,000; and the second problem was that mid-way through stream, the first appraiser left the job and now the second appraiser has to pick up and finish the job.

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Phil Elledge – Stated that the difference between what should have been \$25,000 to \$15,000 was a clerical error on their part. The appraiser that started the project has been paid \$15,000, of which was in the budget. In order to move the project forward and bid out this summer, their firm decided to look for other appraisers and see what they would charge to finish the project. The appraiser that was contacted stated that his fee would actually be \$19,525, of which \$10,000 will be paid by Elledge Engineering.

Councilman Alworth made the motion; seconded by Councilman Sanders; motion carried 4-2; approved as presented. **Mayor Seeber and Councilman Moran opposed**

M-2 Request that the City Council consider approving the tax abatement agreement with the Trane Company and authorizing the City Manager to sign all documents necessary to implement the tax abatement agreement. ©

City Manager, Bob Turner – Stated that the division of the Trane Company, located in Tyler, manufactures residential central air conditioners, and heat pumps along with most of the component parts for these products, including the compressor. Tyler is the division headquarters for American Standard's residential systems group.

This proposal is for an investment of up to \$4 million in a new research and testing laboratory that would allow for some consolidation of testing for indoor products in Tyler. Trane currently has other testing facilities in Trenton, New Jersey and Fort Smith, Arkansas, in addition to outsourcing other testing.

Trane entered into a four year tax abatement agreement in 1993 for a \$5 million investment and 400 retained jobs that were successfully completed.

The Tyler Economic Development Council (TEDC) staff has worked with management on this project, as well as the signal light project, which was approved by the City Council on February 28, 2007. Trane intends to implement this project during the current year with most of the funds being spent during the first year of construction.

Councilman Moran made the motion; seconded by Councilman Alworth; 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 City Council consider authorizing the City Manager to approve payment to Landmark Title in the amount of \$39,609.05 for acquisition of right-of-way for Lake Placid Road.

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C-A-2 Request that the City Council consider authorizing the City Manager to approve payment, in the amount of \$320,000, to Atmos Energy for the relocation of a petroleum pipeline associated with the Grande Boulevard Phase 2 project.

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

CITY MANAGER’S REPORT

1. *Azalea Trails Arts & Crafts begin Sat & Sun, March 17 and 18.*
2. *Solid Waste conversion to automated pick up underway, complete by May to July; successful bulky item clean up, so much it is taking longer.*
3. *Training/Open Meetings today*
4. *Alworth – pack out service still will be available*

RECESS FOR EXECUTIVE SESSION

No Executive Session Planned

ADJOURNMENT

Councilman Alworth made the motion to adjourn the meeting at 9:55 a.m.; seconded by Councilman Moran; 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