

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

A regular meeting of the City Council of the City of Tyler, Texas, was held Wednesday, March 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  
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 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  
Internal Auditor: Keidric Trimble  
Director of Utilities & Public Works: Greg Morgan  
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 28, 2007 and the March 7, 2007 City Council meetings; seconded by Councilman Choice; motion carried 7-0; approved as presented.

**HEARING**

**H-1 Request that the City Council conduct a public hearing and approve an ordinance establishing water service rates and tariffs for Southern Utilities Company applicable to citizens of the City of Tyler. (Ord. No. 0-2007-26)**

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**Director of Utilities & Public Works, Greg Morgan** – Stated that on December 31, 2006, Southern Utilities Company 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 that customers be provided sixty (60) days notice prior to implementing a rate increase. Southern Utilities Company promptly re-issued notification on January 30, 2007 with an effective date of April 2, 2007, which complies with the Texas Water Code requirements.

Since December 31<sup>st</sup>, the City of Tyler received seven (7) letters of protest, of which five (5) came from property owners located in the Irish Meadows Subdivision. However, on March 14, 2007 the 228 Southern Utilities Company customers in the Irish Meadows Subdivision were transferred to the Tyler Water Utilities system and are no longer affected by the proposed rate increase.

On March 7, 2007, the City Council held a Public Hearing to receive public input regarding the proposed rate increase. Mr. Michael Farrell, General Manager and Mr. Mike Smith, Comptroller represented Southern Utilities Company. No one spoke in opposition to the increase.

Today it is requested that City Council hold a public hearing to receive public comment regarding the Rate/Tariff Change Application and approve the ordinance establishing a rate for Southern Utilities Company customers applicable to City of Tyler customers within the jurisdiction of the City of Tyler.

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

## **PRESENTATION**

### **P-1 Request that the City Council consider approving the Comprehensive Annual Financial Report for the fiscal year ending on September 30, 2006, as presented by Prothro, Wilhelmi & Company, P.C.**

**Walter Wilhelmi** – Stated that the audit firm of Prothro, Wilhelmi, & Company, P.C., has completed the annual examination of the City of Tyler’s combined financial statements for the fiscal year ending on September 30, 2006. This audit examination was made in accordance with generally accepted auditing standards and included tests of the accounting records and other auditing procedures as considered necessary. In regards to the internal controls over financial reporting and the various grants the external auditor did not find any material weaknesses and will issue an “unqualified opinion”. An “unqualified opinion” (sometimes referred to as a “clean opinion”) is extremely important to our citizens and to individuals holding City of Tyler issued bonds.

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

## **ZONING**

### **Z-1 APPLICATION Z02-07-005A FREEMAN FAMILY TRUST**

**Request that the City Council consider a request to change the zoning from “R-1A” Single-Family Residential District and “PUR” Planned Unit Residential District to “RPO” Restricted Professional and Office District and “PMF” Planned Multi-Family District on Lot 14 of NCB 1013I and Lots 1 through 33 of NCB 1561A of the Providence Park Addition located south and west of the intersection of New Copeland Road and Waterford Court (5661 Copeland Road).**

**Cyndie Frost, 5601 Regents Row** - Stated that on behalf of the homeowners she was here today to voice her disagreement with the proposed zoning change on Application Z02-07-005A Freeman Family Trust.

This application is about the bulldozing of 6.5 acres of beautiful hardwood and pine trees for the purpose of building a facility that does not belong in this neighborhood. It would be inappropriate to build a 48,000 square foot 24/7 commercial facility with all-night security lighting for 86 parking spaces, behind, next to, and across from single-family homes.

As the City Council knows, vehicle traffic is already a problem in this area. There have been four major accidents at Rieck and Regents Row, one resulting in a fatality. The brick wall on the east side of Copeland (just north of Rieck) is destroyed every few months due to traffic accidents. With the proposed addition of this facility and others at a later date at the front of the property under consideration, the number of vehicle parking spaces will be over 100 and the concomitant traffic down Copeland and Rieck will be even greater than it is now. Further, they suspect another traffic signal would be necessary to control the ingress to and egress from the proposed facility due to the heavy traffic and the topography to the south, which provides a poor line of sight and a speed limit of 45 MPH.

Approval of this application will have a significant adverse effect on their property values and infringe on their property rights of privacy and quiet enjoyment. Upon entering the cul-de-sac of Regents Row, one will no longer see a greenbelt of beautiful trees, but rather a large commercial building with bright security lights turned on after darkness casting an illuminating glow all night, every night.

We strongly believe this zoning change request was pushed through Planning and Zoning before we as homeowners could determine what Mr. Parker and Starr Construction were trying to do.

Some of the homeowners in the neighborhood did in fact meet with Mr. Parker regarding his intentions with the project. We were not in favor of a zoning change and the construction of a major commercial business that would operate 24/7. However, as a neighborly gesture, we graciously agreed to the zoning change request if Mr. Parker would leave a sufficient greenbelt of the trees to shield the project from our view. In addition, we suggested Mr. Parker consider repositioning or modifying his structure and the parking lot to protect the greenbelt of trees. He would not agree to any modifications, but did agree to mark the property where the trees would remain, hoping to gain our approval. Unfortunately, Mr. Parker did not notify us that the property was marked until after the deadline for protest had passed. Again, on March 26, we met with Mr. Parker and walked the property line to determine what would not be bulldozed.

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We showed him that since our properties sit 20 feet higher than his, even a fence and hedges would not make a difference. Mr. Parker finally stated that all of the large trees that protect our view to his proposed development would be destroyed. This became the “deal killer” for us as homeowners.

We have the following questions:

1) How does this proposed zoning change fit in with the purpose and goals of “**Tyler 21**”? We will not be able to maintain the quality of place-this place that we all take pleasure in and value.

2) Will this change conform to the **Comprehensive Plan**? PMF is unprecedented in this area. Further, this designation is not appropriate for a fully commercial building. This council should enforce its own codes and apply them appropriately or doesn't it make them meaningless?

3) Is this considered a “spot zone”? According to the Planning & Zoning rules, a spot zone is illegal. It defines a “spot zone” as an arbitrary departure from the Comprehensive Plan. The power to amend cannot be arbitrarily exercised. It cannot be exercised merely because someone wants it done. Amendments can be exercised when the public good demands and requires it be done. When the adjoining landowners buy their land, they have a right to rely upon the classification that existed at the time the purchase was made. How is the public good served in this zoning case?

4) If another nursing and rehabilitation center is needed in the community, why is it not proposed in closer proximity to the three major medical centers in the area?

5) If this zoning change passes and Mr. Parker decides for whatever reason to abandon this project, can he or some other developer put apartments on this tract of land?

6) Has P&Z and the City Council considered the impact of more traffic?

7) Has consideration been given to the adverse impact this will have on adjacent homeowners?

8) Why has there been no environmental impact study? Is that not required in an area that borders a 100-year floodway easement?

9) If approved, may we expect a significant lowering of our property taxes due to a reduction of appraised values of our homes?

We understand and agree that your duty as elected public servants is to always act in the best interests of the community, and to govern with undivided loyalty to all of Tyler's citizens. It

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would be nothing more than a pleasant formality to pass this zoning request if it did not harm and financially damage a group of Tyler's tax-paying citizens. Unfortunately, what we have here is one group of private citizens trying to benefit at the expense of another group of private citizens. Based on the reasons just stated, we believe it would be ill advised and counterproductive to allow this zoning change to pass. Further, we believe we are obligated to state firmly but respectfully that if this zoning change passes, the matter will not be over for us. We will not stand on the sidelines and allow our home values to be negatively impacted, nor will we allow infringement on our rights to privacy and the quiet enjoyment of our property. If necessary, we are prepared to exercise any and all legal remedies available to us by law.

**Mayor Pro Tem Smith** – Asked what did the homeowners determine would be a sufficient greenbelt?

**Cyndie Frost, 5601 Regents Row** – Stated the developer could actually redesign this building and leave as much as 160 feet of greenbelt from their back property line to where his development starts.

**Mayor Seeber** – Asked how much greenbelt would there be if the homes were built as platted now?

**Cyndie Frost, 5601 Regents Row** – Stated that would be determined based on the developers idea of what was right. There is a number of gorgeous trees that if a developer were to do it right, single trees could be left to make it look like the neighborhood looks. Commercial properties around it have left beautiful trees.

**Eddie Fritcher – 5610 Regent Row** – Stated that he lives outside the 200 feet that is required for the protest level, but there were several homeowners within his subdivision or cul-de-sac that are in firm standing with the Frosts and the Lehmans. Mr. Fritcher stated that he attended two meetings with the developer, Mr. Parker. The first meeting was on a Tuesday evening, which was one week prior to the P & Z Commission meeting. At that meeting Mr. Parker laid out his proposal and he also stated that he would be willing to put a surveyor tape down so the homeowners could physically see the greenbelt that he was proposing. Mr. Parker did that on Friday evening and subsequently the homeowners went over on Saturday and physically measured the distances and he was 33 feet off of the property corner. The property owners gathered together and put their concerns together for the P & Z Commission and they subsequently did approve his application and it was a 4-1 vote because the Chairman did dissent. The P & Z Commission also requested that Mr. Parker do 65 foot from the property corner and also meet with the homeowners again. The meeting between the homeowners and Mr. Parker took place two and a half weeks after the P & Z meeting. The homeowners feel like there has been a timetable issue here as far as being able to develop a proper relationship between the developer and the homeowners that are involved. This will drastically have an effect on their property values not only economically but also the quality of life that they are used to living.

**Mayor Seeber** – Asked Mr. Fritcher if he was aware that the property was already platted for 33 lots and if the facility that is proposed today would be worse than 33 lots being filled with structures and built closer to their lots and subdivisions?

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**Eddie Fritcher – 5610 Regent Row** - Stated, “Yes, because the facility will be 24/7 but there is not 24/7 lighting there.

**Mayor Seeber** - Stated that if he lived where Mr. Fritcher lived he would be thinking what is this facility going to be, compared to what is there right now, that is a big difference. What City Council is called upon to do or say is, “what would this be, compared to what has already been approved.” What the City Council is choosing between is the subdivision that’s already approved that will increase the traffic, will take some trees down, will increase the lighting, and will have people back behind your property or the proposal that’s before us now. Mayor Seeber stated he does not see that greater difference between the two.

**Eddie Fritcher – 5610 Regent Row** – Stated that he understood what the Mayor was saying but that’s not to say the homeowners that are currently there could not reasonably talk to the developer and hopefully propose a different type of development. Mr. Fritcher also stated that although its platted multi - family doesn’t mean it has to be that many lots, the developer could redesign his lots.

**Mayor Pro Tem Smith** – Asked the develop if he could for any reason develop further to the north and get the same development, and then move a little bit further from the property line.

**Larry Parker** – Stated because of state regulations and the fact that this is a healthcare facility they have to comply with a lot of specific regulations concerning the internal layout of the building. There are restrictions such as how far a resident unit can be from a nursing station and that prohibits them from moving to the north because they would not be able to meet the internal space requirements of the building.

**Councilman Moran** – Asked if Mr. Parker had agreed to the down shielding of the lights?

**Larry Parker** – Stated, “Yes, he had agreed to do that.”

**Councilman Simons** – Asked Mr. Parker if he could address the issue about the corner property line and the 65 feet from the stake versus the creek bed.

**Larry Parker** – Stated the plat as shown was originally stated as a 50 to 55 foot greenbelt, so the surveyor went out and staked about 50-55 feet from the southern property and that was where the stakes were placed. The ribbons were placed in that area because there was not a tree at every exact 50 foot marker so the markers were genuinely placed between 50-55 feet from the southern property. Mr. Parker stated that he was not sure where the neighbors were coming up with their measurements because there was actually a survey made.

**Mayor Seeber** – Stated that as he looks at this he sees a greenbelt that’s being talked about that may not be a greenbelt because there may not be trees there that could shield much lighting. Mayor Seeber stated he can see a development that could happen today that will take much of those trees out, but he understand the concerns of the residents and they feel they may not have had enough time to visit with Mr. Parker, so it may be a good idea if City Council did not take action on this today and give Mr. Parker and the residents more time to discuss some issues that they may be having.

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**Mayor Pro Tem Smith** – Stated that what Mr. Parker is proposing is not unreasonable and the neighbors need to realize that they will have to work with the developer to come up with something that can be palatable to everybody. Mayor Pro Tem Smith also stated that he would like to see City staff work with the developers and the neighbors to make sure that nothing could be reconfigured to perhaps move some of the development further north or some other kind of creative way to do something different.

**Councilman Alworth** – Stated that he understood what the citizens are going through but he also looks at this and see that if that is developed as residential and knowing how residential property is developed in this town, the guy starts with the bulldozer at the south end and just takes it all down and then goes back in and build houses, so those trees will disappear no matter what happens. The City has to make sure that the style of Tyler Texas is protected under the Tyler 21 plan.

Mayor Pro Tem Smith made the motion to table until the next meeting on April 11, 2007; seconded by Councilman Alworth with the addition that he could be involved along with city staff; motion carried 7-0; tabled as presented.

**MAYOR LEFT**

**Z-2 APPLICATION Z02-07-013B DYNAMIC PROPERTIES**

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 Lots 56A, 56B, and 999 of NCB 665B of the J.P. Broughton Addition (Volume 350, Page 235 D.R.S.C.T.), three lots totaling approximately .215 acres located on the northwest corner of the intersection of Grove Street and Confederate Avenue, on the north side of the Grove Street (641 S. Confederate Avenue and 1311 Grove Street). **(Ord. No. 0-2007-27)**

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

**Z-3 APPLICATION Z03-07-15A JORGE LOPEZ**

Request that the City Council consider a request to change the zoning from “RPO” Restricted Professional and Office District to “R-1A” Single-Family Residential District on Lots 1A and 1B of NCB 413 in the Boren Addition (Volume 4163, Page 173), two lots totaling 1.8± acres located at the southwest corner of the intersection of Vance Street and North Bois d’ Arc Avenue (1604 North Bois d’ Arc). **(Ord. No. 0-2007-28)**

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

**MAYOR RETURN**

**Z-4 APPLICATION Z02-07-014B WHEELER 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 development plan approval on nine lots totaling approximately 40.38 acres located west of Brighton Creek Circle in the William Keys Survey, Abstract No. 526 and the William McAdams Survey, Abstract No. 654, being more completely described in Exhibit “A”. **(Ord. No. 0-2007-29)**

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**Chuck Williams, 3889 Brighton Creek Circle** – Stated that he was not against the zoning change but his only concern is that the only access road coming into the property for construction is next to his house and this will probably cause problems for his family and his immediate neighbors. Mr. Williams stated that he wishes the developer would look around and find another access road coming onto the property.

**Ken Wheeler, Sr.** – Stated that there was not another route to come onto the property unless they took down more trees. Mr. Wheeler stated that the street extension is just very short and what will take place is not that significant.

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

**Z-5 APPLICATION Z03-07-016A VICKIE AND JOE LUDOVICO**  
**Request that the City Council consider a request to change the zoning from “RPO” Restricted Professional and Office District to “AR” Adaptive Re-Use District on Lot 1C of NCB 409 in the Boren Addition (Volume 33, Page 184), one lot totaling .58± acres located one lot north and west of the intersection of West Cochran Street and North Bois d’ Arc Avenue (1320 North Bois d’ Arc). (Ord. No. 0-2007-30)**

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

**Z-6 APPLICATION S03-07-018A MILKA & LORENZA HERNANDEZ**  
**Request that the City Council consider a request for a Special Use Permit to allow for a one-chair beauty shop in an existing building located behind the residence for a period of one year on Lot 12 of NCB 514 in the Fairfield Addition, one lot totaling approximately .251 acres located north and east of the intersection of Hillsboro Street and Winona Avenue, on the east side of Winona Avenue (1521 N. Winona Avenue). (Ord. No. 0-2007-30)**

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

**Z-7 APPLICATION Z11-06-123B PEDRO GARCIA (Ord. No. 0-2007-31)**  
**Request that the City Council consider a request to change the zoning from “R-3” Multi-Family Residential District to “C-1” Light Commercial District on Lot 75A of NCB 383B of the Hicks Foundry Addition (Volume 106, Page 106 D.R.S.C.T.), part of the John Lollar Survey, A-565, one lot totaling approximately .12 acres located north of the intersection of Palace Avenue and Selman Street, on the west side of Palace Avenue (622 N. Palace Avenue).**

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

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## **RESOLUTIONS**

- R-1 Request that the City Council consider adopting a Resolution expressing support for the Community Development Block Grant (CDBG) Program during National Community Development Week and thanking those individuals involved in this program for continuing valuable efforts toward improving the lives and living conditions of lower income neighborhoods in Tyler and across the United States. (Res No. R-2007-9)**

**City Manager, Bob Turner** – Stated that the week of April 9-12, 2007, has been designated as National Community Development Week. The City of Tyler is a participant in the Community Development Block Grant (CDBG) program, which funds a myriad of social service, economic development, and housing programs in this community.

In communities throughout the nation, thirty-three years of Community Development Block Grant program funding has developed a strong network of relationships between local governments, residents, and the many non-profit agencies that provide services to neighborhoods.

It is recommended that the City Council adopt the Resolution that identifies the benefit and effectiveness of the Community Development Block Grant (CDBG) program and provide notification to the federal government in support of the CDBG program.

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

- R-2 Request that the City Council consider adopting a resolution approving the City of Tyler's participation in the Texas Department of Information Resources' purchasing program for telecommunications products and services; and authorizing the City Manager or designee to execute any and all related documents with AT&T, Cisco Systems Capital, Key Government Finance, Incorporated, and KeyBank National Association, for the IP Telephony system to update the City of Tyler's phone system. (Res. No. R-2007-10)**

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

## **ORDINANCES**

- O-1 Request that the City Council consider adopting an ordinance amending Tyler City Code Chapter 4 to clarify firearms and concealed handgun regulations, and directing City staff to develop and install appropriate signage. (Ord. No. 0-2007-32)**

**Deputy City Attorney, Steve Kean** – Stated that this is an amendment to an existing City of Tyler ordinance. The City of Tyler currently has firearm regulations already existing in Chapter 4 of our code. Some areas where the City is actually prohibited from regulating firearms, in other areas it is discretionary and this particular ordinance keeps those discretionary areas where the City of Tyler has previously adopted regulations. This particular ordinance is addressing three major areas:

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1. Regulating firearms on city premises.
2. Prohibiting concealed handguns at a meeting of a governmental entity.
3. Prohibition on firearms at political rallies, parades and official political meetings.

**Sean Healy, 100 E. Ferguson**, - Spoke in favor of the ordinance amending Tyler City Code Chapter 4 to clarify firearms and concealed handgun regulations. The only negative thing is that it is as restrictive as it could possibly be. The general philosophy here is if there is a way to prohibit people from having guns then Tyler is going to do it. From a philosophical stand point he does not like that.

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

## **MISCELLANEOUS**

**M-1 Request that the City Council consider authorizing the City Manager to award a contract, in the amount of \$269,437.45, to A. E. Shull and Company for the construction for the Christian Heritage School Sanitary Sewer Improvements project and authorize a transfer of funds, in the amount of \$269,437.45 from the Tyler Water Utilities unappropriated fund balance. ©**

**Greg Morgan, Director of Utilities & Public Works** – Stated on November 8, 2006 the City Council authorized Tyler Water Utilities to participate in a developer reimbursement project with Christian Heritage School for the construction of a sanitary sewer line which will serve the Christian Heritage School and the east side of Tyler Pounds Regional Airport. The project was advertised in accordance with the City of Tyler sealed bidding procedures, because City participation will exceed 25 percent (approved at 40 percent) of the total project cost.

Two bids were received on December 19, 2006, ranging from a low bid of \$269,437.45, as submitted by A. E. Shull and Company, to a high bid of \$290,186.51, as submitted by Reynolds & Kay, LTD.

According to the Tyler City Code of Ordinances Chapter 19-11, the Tyler Water Utilities portion of this project totals \$107,774.98, the remaining \$161,662.47 is the responsibility of Christian Heritage School. At this time, Christian Heritage School has only raised \$100,000 for the project. However, because of the advantage to the City of Tyler Water Utilities of opening the east side of Tyler Pounds Regional Airport to additional development, it is recommended that Tyler Water Utilities be authorized to proceed with the project and establish a payment plan for the remaining \$61,662.47 from Christian Heritage School to be reimbursed to Tyler Water Utilities over a period of one (1) year.

As mentioned in the November 8, 2006 City Council presentation, this is an off budget project which will require a budget amendment by ordinance to transfer funds from the Tyler Water Utilities unappropriated fund balance in the amount of \$269,437.45.

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Councilman Moran made the motion; seconded by Councilman Simons; motion carried 7-0; approved as presented (the budget amendment ordinance was prepared after meeting). O-2007-33

- M-2 Request that the City Council consider ratifying staff action issuing Change Order Number 1, in the amount of \$22,000, to the South Broadway Intersection Improvements Schematic Design contract and authorizing the City Manager to execute a South Broadway Corridor Intersection Improvements Final Design contract in the amount \$321,760 with Freese & Nichols, Incorporated. ©**

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

- M-3 Request that the City Council consider approving a professional services contract with Alliance Transportation Group, Incorporated, of Austin, Texas in the amount of \$99,528.00 to develop demographic and employment inputs for travel demand forecasts for the Tyler Metropolitan Planning Organization. ©**

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

- M-4 Request that the City Council consider authorizing the City Manager to enter into a contract for transit services for the elderly and individuals with disabilities with NDMJ, Ltd. in an amount not to exceed \$46,522. ©**

**ReNissa Wade, Business Service Manager** – Stated that since 1991, the City of Tyler has operated the Tyler Transit System with the assistance of grant funding from the Texas Department of Transportation (TxDOT) and the Federal Transit Administration (FTA). Federal Transit Administration (FTA) has approved federal funding for the purchase of services for transportation of elderly and individuals with disabilities through FTA 5310 funding which is a pass-through process to the Texas Department of Transportation (TxDOT). The initial grant award amount to the City of Tyler was \$40,000. The City was recently notified by the Texas Department of Transportation that additional funds were available and would be divided among the local entities. The amount of the additional award to the City of Tyler is \$6,522 bringing the total grant award amount for purchase of services to \$46,522. The grant is an 80 percent Federal and 20 percent local match grant. The City's match for this grant is \$11,630, and will be used for administrative costs incurred by the Tyler Transit System.

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

- M-5 Request that the City Council consider authorizing the City Manager to execute an Interlocal Election Contract with Smith County to perform certain joint election services for the City Council Election to be held May 12, 2007, as part of joint election with Tyler Independent School District and Smith County. ©**

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

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- M-6 Request that the City Council consider authorizing the City Manager to enter into a joint election agreement with Chapel Hill Independent School District for a shared polling location for the May 12, 2007 Election. ©**

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

- M-7 Request that the City Council consider authorizing the City Manager to accept a grant from the Texas Historical Commission in the amount of \$2,000 and execute the grant contract (TX-06-031). ©**

Councilman Alworth made the motion; seconded by Councilman Moran; 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 award a contract, to JC Johnson Construction for the 2007 Curb and Gutter Repairs Project in the amount of \$42,572.00.**
- C-A-2 Request that the City Council consider authorizing the City Manager to purchase two sets of portable bleachers and transport kits for the City of Tyler Parks Department through the BuyBoard Purchasing Cooperative in the amount of \$11,012.50.**
- C-A-3 Request that the City Council consider authorizing the City Manager to purchase additional BleaChairs for Phase II of the Bergfeld Park Amphitheater seating project from the sole source provider Seating Solutions of Hauppauge, New York, in the amount of \$49,935.00.**
- C-A-4 Request that the City Council consider authorizing the City Manager to extend Bid Number 06-018, for one year, April 12, 2007 thru April 11, 2008, to accomplish herbicide treatment of 25.98 miles of Tyler Roadside Rights-of-Ways and approximately 6.105 miles of drainage ditches, within the City of Tyler, to Spray Max Incorporated of Tyler, Texas.**
- C-A-5 Request that the City Council consider authorizing the City Manger to receive bids for the construction of the Skidmore Lane Water and Sanitary Sewer Improvement project.**

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- C-A-6** Request that the City Council consider authorizing the City Manager to execute an easement with TXU in association with the Interlocal Agreement and Lease with Tyler Independent school District covering Oak Grove Park and Douglas Elementary School.
- C-A-7** 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 \$22,594.00.
- C-A-8** Request that the City Council consider authorizing the City Manager to purchase three Chevrolet Police Package Tahoe's for a total purchase price of \$90,834.00.

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

## **APPOINTMENTS TO BOARDS**

- B-1** Request that the City Council consider making appointments to the Construction Board of Adjustment and Appeals.

## **CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS**

Councilman Alworth made the motion; seconded by Councilman Simons; motion carried 7-0 to appoint the following Board Members:

**Timothy Hunt**  
**Sam Mezayek**

## **CITY MANAGER'S REPORT**

1. *Municipal Court "Partners for Youth" in place, getting good reports from parents.*
2. *Annual Report in last Sunday newspaper, extra copies available.*
3. *Good Friday = holiday, Library closed Friday and Easter Sunday.*
4. *Solid Waste Container ordinance – new container removal program in place.*
5. *Brenda Johnson NEW begins in Simon's district.*

**RECESS FOR EXECUTIVE SESSION** - City council convened into executive session at 10:48 am

**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 recreational areas. *No action taken*

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City council reconvened from executive session at 10:59 am

**ADJOURNMENT**

Mayor Pro Tem Smith made the motion to adjourn the meeting at 10:59 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:**

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**CASSANDRA BRAGER, CITY CLERK**