

**MINUTES OF THE  
REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS  
July 25, 2007**

A regular meeting of the City Council of the City of Tyler, Texas, was held Wednesday, July 25, 2007 at 9:00 a.m. in the Council Chamber, City Hall, Tyler, Texas, with the following present:

Mayor: Joey Seeber  
Mayor Pro Tem: Chris Simons  
Council Members: Nathaniel Moran  
Donald Sanders  
Ralph Caraway  
Steve Smith **(absent)**  
Charles Alworth

City Manager: Bob Turner  
Deputy City Manager: Mark McDaniel  
City Attorney: Gary Landers  
Assistant City Attorney: Deborah Pullam  
Business Service Manager: ReNissa Wade  
Development Services Engineer: Michael Wilson  
Director of Neighborhood Services: Brenda Johnson  
Capital /City Projects Coordinator: Bill Ward  
Chief Financial Officer: Daniel Crawford  
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 Planning and Zoning: Barbara Holly  
Manager of Water Quality and Production: Mitch Marable  
Manager/Water Utilities Business Office: Joan Roberson  
Director of Utilities & Public Works: Greg Morgan  
Traffic Engineer: Kirk Houser  
City Clerk: Cassandra Brager

**INVOCATION**

The Invocation was given by Councilmember Moran.

Mayor for the day is Hayes Daugherty

Councilman Moran made the motion to approve the minutes for the July 11, 2007 City Council meeting; seconded by Councilman Sanders; motion carried 6-0; approved as presented.

**ZONING**

**Z-1 APPLICATION Z07-07-066A STOREHOUSE COGIC MINISTRY**

**Request that the City Council consider a request to change the zoning from “R-1A” Single-Family Residential District to “C-1” Light Commercial District on Lots 9 and 10 of NCB 835J, and Lot 1 of NCB 835K of the Toby Walton Subdivision, recorded in Book 4993, Page 19 of the Deed Records of Smith County, Texas, three lots totaling approximately 3.61 acres. Lots 9 and 10 are located south of the intersection of Old Noonday Road and Frankston Highway, on the east side of Frankston Highway (2704 and**

July 25, 2007

2720 Frankston Highway) Lot 1 is located east of the intersection of Walton Road and Frankston Highway, on the north side of Walton Road (1707 Walton Road). (Ord. 0-2007-81)

Councilman Moran made the motion; seconded by Mayor Pro Tem Simons; motion carried 6-0; approved as presented.

**Z-2 APPLICATION S07-07-074A BARROW-SHAVER RESOURCES**

Request that the City Council consider a request for a Special Use Permit to allow for a trailer to be used as a temporary human resource hiring office for one year on a portion of Lots 19A and 19B of NCB 6310 of the J. Swinney Subdivision located at the intersection of East Erwin Street and Palmer Avenue (1707 East Erwin Street). The property is currently zoned "M-1" Light Industrial District. (Ord. 0-2007-81)

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

**Z-3 APPLICATION S06-07-059B GARDENIA LEIVA**

Request that the City Council consider a request for a Special Use Permit to allow for a one-chair beauty shop for a period of one year on Tax Lot 49 of NCB 182 of the Williams Subdivision as recorded in Volume 36, Page 24 of the Deed Records of Smith County, Texas, one lot totaling approximately 0.144 acres located one lot west of the southwest corner of Houston Street and Augusta Avenue, on the south side of Houston Street (614 West Houston Street). The property is currently zoned "R-3" Multi-Family Residential District. (Ord. 0-2007-81)

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

**Z-4 APPLICATION S06-07-058B TERRY DAVIS**

Request that the City Council consider a request for a Special Use Permit to allow for a drive-thru window for a Taco Bueno Restaurant for an indefinite period on Lot 25C of NCB 935 of the Willow Run Unit 5 Subdivision as recorded in Cabinet E, Slide 8B of the Deed Records of Smith County, Texas, one lot totaling approximately 0.949 acres located one lot north of the northwest corner of Loop 323 South Southeast and Fifth Street, on the west side of Loop 323 (1305 Loop 323 South Southeast). The property is currently zoned "C-2" General Commercial District. (Ord. 0-2007-81)

Councilman Alworth made the motion with the exception that the property will need to be cleaned within the week; seconded by Councilman Moran; motion carried 6-0; approved as presented.

**Z-5 APPLICATION S06-07-060B BROOKSHIRE GROCERY STORE**

Request that the City Council consider a request for a Special Use Permit to allow for a drive-thru window for a Starbucks Coffee Shop for an indefinite period on a portion of Lot 20C of NCB 1261 of the Northwest Landing Subdivision as recorded in Book 6126, Page 107 of the deed records of Smith County, a portion of one lot totaling approximately 0.4158 acres located at the northeast corner of Loop 323 NNW and Highway 64, on the

July 25, 2007

east side of Loop 323 (113 Loop 323 NNW). The property is currently zoned “C-2” General Commercial District. (Ord. 0-2007-81)

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

**Z-6 APPLICATION Z06-07-056B LAWRENCE ANDERSON**

**Request that the City Council consider a request to change the zoning from “POD” Planned Office District and “RPO” Restricted Professional Office District to “PCD” Planned Commercial Development with final site development plan on Lot 1A of NCB 1441, together with Lots 1, 2, and 4 of NCB 1539W of The Woods Plaza, Unit 1 Subdivision as recorded in Cabinet D, Slide 328A of the Deed Records of Smith County. This site is approximately 13.47 acres located southeast of the intersection of University Drive and Lazy Creek Drive, on the east side of Lazy Creek Drive (3504 Lazy Creek Drive, and 3215 and 3225 University Boulevard). (Ord. 0-2007-82)**

Citizens that spoke in favor of the application  
Kim Tomio  
Bill Booziotis, Architect  
Larry Hartley

**Mayor Seeber** - Stated that in the past the City Council has received a more detailed depiction of what will go on the property but on this one they are not being presented with the details. Have the standards been set forth and the commitments that they have made sufficient for approval? Usually the City Council has preliminary approval with a final approval later with a different level of detail.

**Barbara Holly, Director of Planning & Zoning** – Stated that this is what is actually happening here but normally you would just do the zoning and not have any type of sight plan to attach with it, but that’s not what they are offering particularly because of the neighbors’ concerns. This is the preliminary approval and what this does is change the zoning to PCD, if City Council so choose, with particular design perimeter that would limit the building areas, and it would limit it to those locations as shown on the site plan. The applicants will have to come back to the Planning Commission & City Council when they have their final site plan and then that final site plan will comply with these requirements.

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

**Z-7 APPLICATION Z07-07-071A TYLER CHURCH OF GOD**

**Request that the City Council consider a request to change the zoning from “R-1A” Single Family Residential District to “RPO” Restricted Professional Office District on Lot 1 of NCB 1549 of the City of Tyler Subdivision, as recorded in Book 4769, Page 277 of the Deed Records of Smith County, Texas, one lot totaling approximately 2.204 acres located one lot south of the intersection of New Copeland Rd. and Chadwick Place, on the east side of New Copeland Road (6094 New Copeland Road). (Ord. 0-2007-83)**

July 25, 2007

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

**Z-8 APPLICATION Z07-07-070A RZ PROPERTIES**

Request that the City Council consider a request to change the zoning from “R-1B” Single-Family Residential District and “C-1” Light Commercial District to “RPO” Restricted Professional Office District on Lots 1, 3 and 19 of NCB 360 of the Gaston 1<sup>st</sup> Addition as recorded in Book 7332, Page 363 of the Deed Records of Smith County, Texas, three lots totaling approximately 29,713 square feet located southwest of the intersection of Gaston Avenue and N. Glenwood Boulevard, on the west side of Gaston Avenue (805 and 837 North Glenwood Boulevard and 808 North Gaston Avenue). (Ord. 0-2007-84)

Councilman Sanders made the motion; seconded by Mayor Pro Tem Simons; motion carried 6-0; approved as presented.

**Z-9 APPLICATION Z06-07-065B LE’KENDRAE D. MASS**

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 a portion of Lot 1 of NCB 97 of the City of Tyler Plat as recorded in Book 6609, Page 320 of the Deed Records of Smith County, Texas, a portion of one lot totaling approximately 7,303 square feet located at the southeast intersection of Liberty Avenue and Wilson Street (612 Border Avenue). (Ord. 0-2007-85)

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

**Z-10 APPLICATION Z07-07-067A SOUTH TYLER PROPERTY DEVELOPMENT**

Request that the City Council consider a request to change the zoning from “C-1” Light Commercial District to “PCD” Planned Commercial District with final site development plan on Lot 5A of NCB 1563 of the Donnybrook South Addition, Unit 1 Subdivision, as recorded in Book 7460, Page 587 of the Deed Records of Smith County, Texas, one lot totaling approximately 1.21 acres located three lots south of the intersection of Rieck Road and Donnybrook Avenue, on the west side of Donnybrook Avenue (5305 South Donnybrook Avenue). (Ord. 0-2007-86)

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

**Z-11 APPLICATION Z07-07-069A TYLER JUNIOR COLLEGE**

Request that City Council consider a request to change the zoning from “R-2” Two-Family Residential District to “ED” Educational District on Lots 54, 55 and 63 of NCB 678 of the City of Tyler Plat, three lots totaling approximately 0.498 acres located three lots north of the northeast intersection of East Fifth Street and Baxter Avenue (1337, 1339, and 1415 Baxter). (Ord. 0-2007-87)

July 25, 2007

Mayor Pro Tem Simons made the motion; seconded by Councilman Moran; motion carried 6-0; approved as presented.

**Z-12 APPLICATION Z06-07-064B CITY OF TYLER ON BEHALF OF NUMEROUS CITIZENS – PHASE ONE-D**

**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 for Lot 39C of NCB 856 of the City of Tyler Subdivision (833 South Lyons Avenue). (Ord. 0-2007-88)**

Councilman Sanders made the motion; seconded by Mayor Pro Tem Simons; motion carried 6-0; approved as presented.

**Z-13 APPLICATION Z06-07-057B CITY OF TYLER ON BEHALF OF NUMEROUS CITIZENS – PHASE TWO-A**

**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 for the following five lots:**

**Lots 12 and 14 of NCB 648 of the Herndon Subdivision (316 and 320 South Boon Avenue);**

**Lot 5 of NCB 649 of the Herndon Subdivision (317 Boon Avenue);**

**Lot 19 of NCB 666C of the Herndon Subdivision (434 South Hill Avenue); and**

**Lot 31 of NCB 666B of the Herndon Subdivision (435 South Hill Avenue). (Ord. 0-2007-89)**

Councilman Sanders made the motion; seconded by Mayor Pro Tem Simons; motion carried 6-0; approved as presented.

**Z-14 APPLICATION Z07-07-81B CITY OF TYLER ON BEHALF OF NUMEROUS CITIZENS – PHASE THREE**

**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 for the following 81 lots generally bounded by Houston Street on the north, Sneed Avenue and Oakland Avenue to the East, 3<sup>rd</sup> Street to the south and Vine Avenue to the west for the following 81 lots:**

**Lots 2A, 12, 16 and 33 NCB 305 of the A.H. Kipp Subdivision (614 West Dobbs Street, 607 Lindsay Lane, 919 and 925 South Robertson);**

**Lots 10A, 12A, 19 and 20 of NCB 275 of the Belmont Subdivision (911 and 913 South Donnybrook and 910 Fannin Avenue);**

**Lot 8 of NCB 275A of the Belmont Subdivision (932 South Donnybrook Avenue);**

**Lot 11A of NCB 269A of the Belmont Subdivision (417 East Dodge Street);**

**Lots 5, 17 and 22 of NCB 269B of the Belmont Subdivision (1024 South Donnybrook Avenue, 420 Lake Street and 409 East Rix Street);**

**Lots 19 and 25 of NCB 262A of the Butler and Fitzgerald Subdivision (735 South Donnybrook Avenue and 221 East Wells Street);**

**Lot 8A of NCB 168 of the Charnwood Addition (202 East Charnwood Street);**

July 25, 2007

Lots 2A and 11 of NCB 166 of the City of Tyler Plat (400 and 412 East Charnwood Street);  
Lot 23 of NCB 259 of the City of Tyler Plat (418 East Wells Street);  
Lots 4, 5 and 19 of NCB 304 of the Dobbs Subdivision (820 South Kennedy and 622 West Rusk);  
Lot 7 of NCB 318 of the Dobbs Subdivision (831 South Kennedy);  
Lots 6, 16, 17 and 18 of NCB 275B of the Eltife Subdivision (220 Rix Street and 1113 South Donnybrook Avenue);  
Lots 9, 11, 12, 17B, 23 and 24 of NCB 262B of the Jim Negem Subdivision (825 and 835 South Donnybrook Avenue and 306 and 308 East Dobbs Street);  
Lots 1 and 11A of NCB 314B of the Jim Negem Subdivision (1201 South Robertson Avenue and 1202 Augusta Avenue);  
Lot 3 of NCB 314D of the Jim Negem Subdivision (1215 South Kennedy);  
Lot 3F of NCB 171 of the Lewis Place Subdivision (324 West Houston Street);  
Lot 32, 41 and 59 of NCB 274 of the R.J. Ford Subdivision (213 East Ford and 214 and 226 East 1<sup>st</sup> Street);  
Lots 14, 20 and 26 of NCB 165 of the Ramsour Subdivision (504, 512 and 604 East Charnwood Avenue);  
Lots 1, 2 and 6 of NCB 313 of the Robertson Homestead Subdivision (1103, 1105 and 1123 South Robertson Avenue);  
Lot 5 of NCB 311 of the Robertson Homestead Subdivision (700 Lindsey Lane);  
Lots 7, 65, 66B and 66C of NCB 261A of the Rowland Place Subdivision (700 and 714 South Broadway and 114 Rowland Place);  
Lots 16, 17A, 40, 58, 67 and 68 of NCB 261B of the Rowland Place Subdivision (107, 127, 137, 143 and 145 Rowland Place and 806 South Broadway);  
Lot 38A and 39B of NCB 261C of the Rowland Place Subdivision (206 and 208 East Dobbs Street);  
Lots 2 and 12A of NCB 660A of the Talley Heights Subdivision (1409 South Robertson Avenue and 612 West 2<sup>nd</sup> Street);  
Lot 1, 18 and 19 of NCB 660C of the Talley Heights Subdivision (1425 Augusta, 700 and 706 West 2<sup>nd</sup> Street);  
Lot 5 of NCB 660D of the Talley Heights Subdivision (704 West 3<sup>rd</sup> Street);  
Lots 15 of NCB 660E of the Talley Heights Subdivision (812 West 2<sup>nd</sup> Street);  
Lots 26, 30 and 32 of NCB 264 of the Victory Drive Subdivision (502 and 528 Victory Drive and 509 East Wells Street);  
Lots 7 and 11 of NCB 314C of the William Grimes Subdivision (701 West 2<sup>nd</sup> Street and 1314 South Augusta Street);  
Lots 17A and 26 of NCB 303 of the Williams Subdivision (813 South Robertson and 523 West Dobbs Street);  
Lots 8 and 9 of NCB 169 of the Yarbrough Subdivision (610 and 612 South College Avenue);  
Lots 11, 17 and 18 of NCB 174 of the Yarbrough Subdivision (701 Bois d'Arc, 626 South Chilton and 402 West Charnwood) and  
Lots 10, 13, and 15 of NCB 171 of the Yarbrough Subdivision (603 and 615 Bois d'Arc, 414 West Houston Street). (Ord. 0-2007-90)

Councilman Sanders made the motion; seconded by Mayor Pro Tem Simons; motion carried 6-0; approved as presented.

July 25, 2007

**Z-15 APPLICATION Z07-07-072A CITY OF TYLER ON BEHALF OF NUMEROUS CITIZENS – PHASE FOUR-A**

**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 for the following three lots:**

**Lots 6A and 6B of NCB 447 of the Oak Grove Subdivision (1011 West Nutbush Street) and Lot 34 of NCB 433 of the Sol Katz Subdivision (504 West Vance Street). (Ord. 0-2007-91)**

Councilman Sanders made the motion; seconded by Mayor Pro Tem Simons; motion carried 6-0; approved as presented.

**RESOLUTIONS**

**R-1 Request that the City Council consider adopting a resolution authorizing eminent domain proceedings for the acquisition of right-of-way land against Oncor Electric Delivery Company for the construction of the Grande Boulevard East Extension Phase 2. (Res. R-2007-23)**

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

**R-2 Request that the City Council consider adopting a Resolution agreeing to the sale of certain tracts of land located within the City of Tyler city limits and owned by taxing entities including the City of Tyler. (Res. R-2007-24)**

Mayor Pro Tem Simons made the motion; seconded by Councilman Sanders; motion carried 6-0; approved as presented.

**ORDINANCES**

**O-1 Request that the City Council consider approving an ordinance adopting the Fiscal Year 2007-2008 Community Development Block Grant (CDBG) and HOME Programs. (Ord. 0-2007-92)**

**Judy Whitaker, Andrews Center** – Asked for approval on recommendation made.

**Cindy Grace, Andrew Center** – Thanked City Council for considering recommendation.

**Reed Hunsdorfer, Tyler Aids Services** – Stated that the Tyler Aids Services was awarded two grants last year and asked that City Council approve the recommendations this year.

**Mayor Seeber** – Presented certificates to volunteers for their services.

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

**O-2 Request that the City Council consider adopting an Ordinance amending Tyler City Code Chapter 4 to state expressly that loud and raucous noises constitute public nuisances, and amending the regulations related to construction noise to allow an exception in some**

July 25, 2007

**circumstances for certain activities deemed necessary to meet the best practices of building construction. (Ord. 0-2007-93)**

Councilman Alworth made the motion with amendment to notify neighborhood, City Manager's Office, City Council and Information Services of construction; seconded by Councilman Moran; motion carried 6-0; approved as amended.

- O-3 Request that the City Council consider adopting an Ordinance amending the Electronic Message Center sign regulations in Tyler City Code Chapter 10 to specify minimum hold time, sign size allowance and restrict such signs from facing single family or historic districts and disallow such signs within historic districts. (Ord. 0-2007-94)**

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

### **MISCELLANEOUS**

- M-1 Request that the City Council consider reviewing and accepting the Revenue, Expenditure and Investment Report for the quarter ending June 30, 2007.**

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

- M-2 Request that the City Council consider awarding Bid Number 07-019 in the amount of \$311,700 to James W. White Electric, Incorporated, for the replacement of the Variable Frequency Drive unit located at the Westside Wastewater Treatment Plant.**

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

- M-3 Request that the City Council consider authorizing the City Manager to enter into a contract with Michael D. Barham Architects, Incorporated to prepare Plans and Specifications for the renovation of the old Regions Bank Building. ©**

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

- M-4 Request that the City Council consider authorizing the City Manager to enter into an Agreement with Dr. Barry W. Rath in order to provide Psychological Testing of Tyler Police Department Applicants. ©**

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

July 25, 2007

**M-5 Request that the City Council consider authorizing the City Manager to enter into an Agreement with Dr. Jerald Shore in order to provide Psychological Testing of Tyler Police Department Applicants. ©**

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

**M-6 Request that the City Council consider authorizing the City Manager to execute the Tax Trust Interlocal Agreement with Smith County, Tyler Independent School District, and Tyler Junior College to utilize tax foreclosed property in an affordable housing and neighborhood revitalization program. ©**

**Brenda Johnson, Director of Neighborhood Services** – Stated that for many years, the City of Tyler has been involved in identifying and addressing community needs for affordable housing, neighborhood revitalization, and the improvement or expansion of public services through varying projects involving federal housing programs, non-profits entities, and City initiatives. Earlier this year the Tax Assessor Collector, Mr. Gary Barber, and two attorneys with the law firms contracted to collect taxes for taxing entities in Smith County, Mr. Jim Lambeth of Linebargar, Goggans, Blair & Sampson, LLP and Mr. Tab Beall of Perdue, Brandon, Fielder, Collins & Mott, LLP, joined with City staff in developing a coordinated program that utilizes tax foreclosed properties to improve opportunities for affordable housing and neighborhood revitalization within the community. The proposed program will implement a strategic plan and coordinate efforts between the Tax Assessor/Collector-Smith County, Tyler Independent School District, Tyler Junior College and the City of Tyler to identify and utilize properties within the city limits for affordable housing, homeownership, neighborhood revitalization, return of properties to productive tax paying status, and/or public facilities improvements in declining or revitalized areas.

**Deborah Pullam, Assistant City Attorney**- Gave a brief presentation on how this program got started and showed some of the targeted areas.

Gary Barber, Jim Lambeth, & Tab Beall spoke in favor of the Interlocal agreement.

**City Councilman Alworth**– Stated that he wanted the citizens to know that this is only property located within the City of Tyler.

Councilman Caraway 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).**

July 25, 2007

- C-A-1** Request that the City Council consider authorizing the City Manager to enter into a contract with Motophoto and Portrait Studio to develop and print pictures for the Tyler Police Department at an estimated annual cost of \$3,000.
- C-A-2** Request that the City Council consider ratifying the award of quote for the 2006 Community Development Block Grant Sidewalk Project in the amount of \$19,440 to Johnson Construction.

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

**CITY MANAGER'S REPORT**

1. *Thoughts and prayers with Dan Brotton.*
2. *Cora Santos family in our prayers*

**NO EXECUTIVE SESSION PLANNED**

**ADJOURNMENT**

Councilman Caraway made the motion to adjourn the meeting at 10:42 a.m.; seconded by Councilman Sanders; motion carried 6-0; meeting adjourned.

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

**A T T E S T:**

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**CASSANDRA BRAGER, CITY CLERK**