

**MINUTES OF THE  
REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS  
August 22, 2007**

A regular meeting of the City Council of the City of Tyler, Texas, was held Wednesday, August 22, 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 (**absent**)  
Donald Sanders  
Ralph Caraway  
Steve Smith  
Charles Alworth

City Manager: Bob Turner  
Deputy City Manager: Mark McDaniel  
City Attorney: Gary Landers  
Deputy City Attorney: Steve Kean  
Assistant City Attorney: Deborah Pullam  
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 Librarian: Chris Albertson  
City Police Chief: Gary Swindle  
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 Caraway.

Sara Khalifa was introduced as Mayor for the day.

Councilman Smith made the motion to approve the minutes for the July 25, 2007 and the August 8, 2007 City Council meetings; seconded by Councilman Alworth; motion carried 6-0; approved as presented.

**ZONING**

**Z-1 APPLICATION Z06-07-055B LANCE DUNTON AND CAREY CRIST**

**Request that the City Council consider a request to change the zoning from “R-1A” Single-Family Residential District to “PMF” Planned Multi-Family Residential District with final site development plan approval on Lot 28 of NCB 836N of the City of Tyler Subdivision as recorded in Volume 217, Page 408 of the Deed Records of Smith County, Texas, one lot totaling approximately .993 acres located southwest of the intersection of**

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**Loblolly Lane and Old Noonday Road, on the north side of Old Noonday Road (3409 Old Noonday Road). (Ord. No. 0-2007-95 )**

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

**Z-2 APPLICATION Z07-07-076B CAREY WOODS**

**Request that the City Council consider a request to change the zoning from “R-1A” Single Family Residential District to “C-2” General Commercial District on a portion of Lot 15A of NCB 937 of the Willow Run Addition as recorded in Document Number R00021667 of the Plat Records of Smith County, Texas, a portion of the lot totaling approximately 0.08 acres located one lot north of the northeast intersection of Golden Road and East 5th Street (2316 East 5th Street). (Ord. No. 0-2007-96 )**

Mayor Pro Tem Simons made the motion to approve with the screening of any outside storage so that the neighboring houses would not be subject to seeing what the applicant is doing behind his building; seconded by Councilman Sanders; motion carried 6-0; approved as presented.

**Z-3 APPLICATION S07-07-073A MARLIN BEAL**

**Request that the City Council consider a request for a Special Use Permit to allow for an in-home day care for up to 12 children on Lot 15 of NCB 661A of the Butler College Subdivision as recorded in Book 5567, Page 21 of the Deed Records of Smith County, Texas, one lot totaling approximately 7,280 square feet located four lots north of the northeast intersection of S. Lyons Avenue and W. 2nd St. (1310 S. Lyons Avenue). This property is currently zoned “R-1B” Single Family Residential District. (Ord. No. 0-2007-96 )**

**Hester Sparks, 1315 S. Lyons Ave** – Spoke in favor of the application

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

**Z-4 APPLICATION S08-07-084A ST. FRANCIS EPISCOPAL CHURCH**

**Request that the City Council consider a request for the renewal of a Special Use Permit (S05-04-044) to allow for two temporary buildings for the operation of church offices on Lot 1A of NCB 885C of the Green Acres Subdivision, as recorded in Volume 2, Page 240 of the Plat Records of Smith County, Texas, one lot totaling approximately 2.9 acres of land located at the southeast intersection of DeCharles Street and Jan Avenue (3232 Jan Avenue). (Ord. No. 0-2007-96 )**

**Mayor Seeber** – Stated that he would not support anything over a 1 year extension.

**Councilman Alworth** – Stated that it was stated before that the three year extension was the last extension.

**Councilman Smith** – Stated that the applicant has had enough time to complete the project and a year from now he would not be in favor of any more extensions.

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Councilman Alworth made the motion to approve subject to them submitting an architectural plan and for no more than a one year extension; seconded by Councilman Smith; motion carried 6-0.

**Z-5 APPLICATION Z07-07-077B CITY OF TYLER ON BEHALF OF NUMEROUS CITIZENS – PHASE ONE-E**

**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 142A of NCB 661B of the Butler College Subdivision (1117 South Academy Street). (Ord. No. 0-2007-97)**

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

**Z-6 APPLICATION Z08-07-087A STEVEN C. ROOSTH**

**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 approval on approximately 2.048 acres of an 8.2294 acre tract known as Tax Lot 14 of NCB 1450 in the Benjamin Fry Survey, A-356 and the Robert Tombs Survey, A-987, located one lot north of the northeast intersection of East Heritage Drive and South Broadway Avenue (7524 South Broadway Avenue). (Ord. No. 0-2007-98)**

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

**Z-7 APPLICATION Z08-07-085A W. SHERRILL LITTLE**

**Request that the City Council consider changing the zoning from “R-1A” Single Family Residential District to “RPO” Restricted Professional Office District on Lot 13 of NCB 1013-N of the Robert E. Lee Subdivision, one lot totaling approximately 0.43 acres located two lots east of the northeast intersection of South Broadway Avenue and Robert E. Lee Drive (202 Robert E. Lee). (Ord. No. 0-2007-99)**

Councilman Alworth made the motion to approve subject to at least a 6 foot screening fence on perimeter; seconded by Councilman Caraway; motion carried 6-0.

**Z-8 APPLICATION C03-07-002B CITY OF TYLER (MARTHA STREET)**

**Request that the City Council consider a request to close a portion of an unimproved public alley, beginning 151 feet north of the intersection of Bradshaw Drive and Martha Street, extending east 860 feet, then south 151 feet to terminate into Martha Street. The south side of the right-of-way is adjacent to Lots 1 – 13 of NCB 687L of the Bradshaw Heights Addition. The north side of the right-of-way is adjacent to Lots 14 – 25 of NCB 687L of Shady Oaks Addition. The east side of the right-of-way is adjacent to Lots 4D and 5 of NCB 1208. (Ord. No. 0-2007-100)**

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

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**Z-9 APPLICATION C07-07-007B CRS PROPERTIES LLC**

**Request that the City Council consider a request to close a portion of an unimproved Kensington Drive right-of-way located one lot east of the southeast intersection of Paluxy Drive and Kensington Drive and extending approximately 375 feet east. The north side of the right-of-way is adjacent to Lot 33C of NCB 1092. The south side of the right-of-way is adjacent to Lot 35Q of NCB 1092.**

Kelly Clay – Spoke in favor of the project.

Bob Breedlove - Stated that the topography in this area is very difficult.

Councilman Smith made the motion to deny the appeal and come back with something better; seconded by Councilman Caraway; motion denied 6-0.

**ORDINANCES**

**O-1 Request that the City Council consider adopting an ordinance amending Tyler City Code Chapter 7 relating to tagging, notice and enforcement procedures for substandard structures and demolition, and amending Tyler City Code Chapter 10 to clarify demolition and rehabilitation procedures related to historic structures and receive a presentation regarding the same. (Ord. No. 0-2007-101)**

Deputy City Attorney, Steve Kean – Gave a brief presentation amending Tyler City Code Chapter 7 relating to tagging, notice and enforcement procedures for substandard structures and demolition, and amending Tyler City Code Chapter 10 to clarify demolition and rehabilitation procedures related to historic structures.

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

**PRESENTATIONS**

**P-1 Request that the City Council receive a presentation from Neighborhood Services Staff regarding the City’s Neighborhood Empowerment Works (NEW) 2007 Spring Program.**

Deputy City Manager, Mark McDaniel – Gave a report (powerpoint presentation) on the 3<sup>rd</sup> project regarding the City’s Neighborhood Empowerment Works 2007 Spring Program in Councilman Simons district.

**P-2 Request that the City Council consider hearing a presentation from the Historic Preservation Board about the recognition of Tyler City Hall as a historically significant property by the National Register of Historic Places.**

Virginia Shull, Chairman of the Historic Preservation Board – Presented the City Council with a plaque designating Tyler City Hall as a historically significant property. Mrs. Shull also stated that The National Park Service listed Tyler City Hall in the National Register of Historic Places on March 7, 2007. As the nation’s official list of historically significant

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properties, National Register listing denotes that Tyler City Hall is especially worthy of preservation. Tyler City Hall joins 2,700 other properties in Texas with this designation.

Tyler City Hall was built in 1938 incorporating the exterior design of 1930's-era government building architecture and a mix of Art Deco massing with Classical Revival style detailing. The architectural plans for the building were drawn by T. Shirley Simons, Sr. a prominent Tyler architect and the Tyler contracting firm of A.M. Campbell & Company erected the building. The interior of the building has retained its original interior plaster walls, terrazzo flooring, marble wainscoting and decorative aluminum balustrade. The architectural and historic integrity has been retained to a very high degree.

**Mayor Pro Tem Simons** – Stated that it was an honor to receive the plaque.

## **PUBLIC HEARINGS**

**H-1 Request that the City Council conduct a public hearing on the proposed fiscal year 2007-2008 Budget and on the proposed property tax rate of \$.199000 per \$100 of taxable property value.**

**Larry Meckley** - Spoke against the budget.

## **RESOLUTIONS**

**R-1 Request that the City Council consider adopting a Resolution authorizing eminent domain proceedings for the acquisition of right of way on land owned by Mezayek Building Limited, a general partnership for the construction of the Grande Boulevard East Extension Phase 2B. (Res. No. R-2007-27)**

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

**R-2 Request that the City Council consider adopting a Resolution initiating annexation proceedings, authorizing a service plan, and setting the dates, times and places for public hearings on the proposed annexation of approximately 34.23 acres located to the south of the existing City limits and west of the Cascades Development, referred to as Briarwood Estates. (Res. No. R-2007-26)**

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

## **MISCELLANEOUS**

**M-1 Request that the City Council consider authorizing the City Manager to award Work Order No. 2 with Wisenbaker, Fix and Associates in an amount not to exceed \$485,130.60 for engineering services for environmental assessments and runway improvements at**

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**Tyler Pounds Regional Airport, and recommending that the Half Cent Sales Tax Board authorize the 5 percent local share in the amount of \$24,256.53. ©**

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

**M-2 Request that the City Council consider authorizing the Water Utilities and Solid Waste departments to enter into a payment collection agreement with Fidelity Express a division of GSC Enterprises, Incorporated. ©**

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

**M-3 Request that the City Council consider authorizing the City Manager to execute a lease agreement renewal with the Tyler Ski Club for limited skiing on Lake Bellwood. ©**

Councilman Sanders made the motion; seconded by Councilman Smith; 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 the City Council consider authorizing the City Manager to award a 4-year leasing contract to Xerox, for a WorkCentre 7132 Multifunction device for printing, copying and scanning services for the Planning and Zoning Department.**

**C-A-2 Request that the City Council consider ratifying staff action authorizing payment to Boren – Scott Title Company in the amount of \$26,805.68 for acquisition of right-of-way for Grande Boulevard Phase 2.**

**C-A-3 Request that the City Council consider approving the reconciliation change order and releasing final payment and retainage for the Glenhaven Drive Drainage Improvements to Reynolds & Kay Limited in the amount of \$36,978.15.**

**C-A-4 Request that the City Council consider authorizing Emergency Expenditures for Pump Repair to C & P Pump Service, Incorporated of Grand Prairie, Texas in the Amount of \$16,690.00.**

**C-A-5 Request that the City Council consider approving the purchase of thirteen (13) pneumatic filter valve actuators for the Golden Road Water Treatment Plant from Power Automation in the amount of \$20,312.50.**

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**C-A-6 Request that the City Council consider authorizing the City Manager to purchase an irrigation system, sod and a retaining wall as part of Phase III improvements to the Noble E. Young Skate Park.**

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

## **APPOINTMENTS TO BOARDS**

**B-1 Request that the City Council consider appointments or reappointments to various City Boards.**

### **AIRPORT ADVISORY BOARD**

Councilman Smith made the motion; seconded by Mayor Pro Tem Simons; motion carried 6-0 to reappoint the following board members:

**Stephenie Roberts  
Robert H. "Robbie" Campbell III  
James A. Brettell**

Councilman Smith made the motion; seconded by Mayor Pro Tem Simons; motion carried 6-0 to appoint the following board member:

**Dwight Parsley**

Councilman Smith made the motion; seconded by Councilman Alworth; motion carried 6-0 to reappoint **Robert Campbell** as chairman.

### **BOARD OF ADJUSTMENT**

Councilman Alworth made the motion; seconded by Councilman Caraway; motion carried 6-0 to reappoint the following Board Member:

**Harvey A. Pickhard**

Councilman Alworth made the motion; seconded by Councilman Caraway; motion carried 6-0 to appoint the following Board Member:

**Doyle Simmons**

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

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Mayor Pro Tem Simons made the motion; seconded by Councilman Alworth; motion carried 6-0 to reappoint the following Board Members:

**Rhamy L. Morrison  
Ernest C. Phillips  
Buford E. Collier  
Robert Y. Brown, Jr.  
Brian Phillips  
Timothy R. Hunt**

Mayor Pro Tem Simons made the motion; seconded by Councilman Alworth; motion carried 6-0 to reappoint **Robert Brown Jr.** as Chairman.

Councilman Alworth made the motion to move alternate members to regular members; seconded by Mayor Pro Tem Simons; motion carried 6-0.

**CONVENTION AND VISITOR BOARD**

Councilman Alworth made the motion; seconded by Mayor Pro Tem Simons; motion carried 6-0 to appoint the following Board Member:

**Jennifer Myles Cobbins**

**DISABILITY ISSUES REVIEW BOARD**

Councilman Alworth made the motion; seconded by Councilman Caraway; motion carried 6-0 to appoint the following Board Members:

**Charles S. Carver  
Sherea Merrick**

**TYLER HEALTH FACILITIES DEVELOPMENT CORPORATION BOARD OF DIRECTORS**

Councilman Caraway made the motion; seconded by Councilman Sanders; motion carried 6-0 to reappoint the following Board Members:

**R. Daniel King  
Melvin B. Lovelady  
A.W. "Whit" Riter III**

**TYLER HISTORICAL PRESERVATION BOARD**

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Mayor Pro Tem Simons made the motion; seconded by Councilman Sanders; motion carried 6-0 to reappoint the following Board Members:

**Dorothy J. Franks**  
**Scott Fitzgerald**

Mayor Pro Tem Simons made the motion; seconded by Councilman Sanders; motion carried 6-0 to appoint the following Board Members:

**Mike Patterson**  
**Kristopher Jason Jennings**

Councilman Alworth made the motion; seconded by Mayor Pro Tem Simons; motion carried 6-0 to appoint **Mike Patterson** as Chairman.

**INDUSTRIAL DEVELOPMENT CORPORATION**

Councilman Alworth made the motion; seconded by Councilman Caraway; motion carried 6-0 to appoint the following Board Member:

**Karl H. PankKratz**

Councilman Alworth made the motion; seconded by Councilman Caraway; motion carried 6-0 to appoint **Steve Manley** as Chairman.

**TYLER PUBLIC LIBRARY BOARD**

Councilman Caraway made the motion; seconded by Councilman Alworth; motion carried 6-0 to reappoint the following Board Members:

**Brenda J. Conley-Hillmon**  
**W. Merrell Greenwell**  
**William Bryan Campbell**  
**Sharon Gullett**

**KEEP TYLER BEAUTIFUL BOARD**

Councilman Alworth made the motion; seconded by Councilman Smith; motion carried 6-0 to reappoint the following Board Members:

**Shelley K. Mathis**  
**Marjorie A. Mustard**  
**Susan Lucido**  
**Tony Hernandez**

Councilman Alworth made the motion; seconded by Councilman Smith; motion carried 6-0 to appoint **Marjorie Mustard** as Chairman.

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**NEIGHBORHOOD REVITALIZATION BOARD**

Councilman Caraway made the motion; seconded by Councilman Smith; motion carried 6-0 to appoint the following Board Member:

**Cheryl Simpson**

**PARK BOARD**

Councilman Alworth made the motion; seconded by Councilman Sanders; motion carried 6-0 to reappoint the following Board Member:

**Mary Gammell**

Councilman Alworth made the motion; seconded by Councilman Sanders; motion carried 6-0 to appoint the following Board Members:

**Sunny Davidson**  
**Sue Clark**  
**Brenda J. Conley-Hillmon**

Councilman Smith made the motion; seconded by Councilman Caraway; motion carried 6-0 to appoint **Mary Gammell** as chairman.

**PLANNING & ZONING BOARD**

Councilman Smith made the motion; seconded by Councilman Alworth; motion carried 6-0 to reappoint the following Board Members:

**Bret A. Berry**  
**R. C. Bobby Curtis**  
**Mark Whatley**

Councilman Smith made the motion; seconded by Councilman Alworth; motion carried 6-0 to appoint the following Board Member:

**Aubrey D. Sharpe**

Councilman Alworth made the motion; seconded by Councilman Caraway; motion carried 6-0 to reappoint **Bobby Curtis** as chairman.

**NORTHEAST TEXAS PUBLIC HEALTH DISTRICT BOARD**

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Councilman Sanders made the motion; seconded by Councilman Caraway; motion carried 6-0 to appoint the following Board Member:

**R. Daniel King**

**TRAFFIC SAFETY BOARD**

Councilman Smith made the motion; seconded by Councilman Sanders; motion carried 6-0 to reappoint the following Board Members:

**George A. Willingham  
Keith Pyron**

Councilman Smith made the motion; seconded by Councilman Sanders; motion carried 6-0 to appoint the following Board Member:

**Donn Rust**

**TYLER ONE HALF CENT SALES TAX CORP BOARD OF DIRECTORS**

Councilman Alworth made the motion; seconded by Councilman Sanders; motion carried 6-0 to appoint the following Board Members:

**Christopher Jones  
Jim Clark  
Craig Murphy**

**CITY MANAGER'S REPORT**

1. *Faulkner Park sprayground Opening Friday 8/24/07 @ 10:00*
2. *Fire Combat Challenge in August*
3. *Next Ice Cream Social 8/30/07 at Municipal Court*

**RECESS FOR EXECUTIVE SESSION PLANNED - *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 following:

1. **Pending or Contemplated Litigation Involving Cascades and/or Western Rim Developments**

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

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**ADJOURNMENT**

Councilman Smith made the motion to adjourn the meeting at 11:08 a.m.; seconded by Councilman Caraway; 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**