

**MINUTES OF THE  
REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS  
September 26, 2007**

A regular meeting of the City Council of the City of Tyler, Texas, was held Wednesday, September 26, 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  
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  
Business Service Manager: ReNissa Wade  
Development Services Engineer: Michael Wilson  
Chief Financial Officer: Daniel Crawford  
Chief Information Officer: Benny Yazdanpanahi  
City Police Chief: Gary Swindle  
Director of Parks and Recreation: John Webb  
Director of Planning and Zoning: Barbara Holly  
Director of Solid Waste: Dan Brotton  
Internal Auditor: Keidric Trimble  
Manager of Water Quality and Production: Mitch Marable  
Manager/Water Utilities Business Office: Joan Roberson  
Director of Utilities & Public Works: Greg Morgan  
Human Resource Manager: Rose Ray  
Traffic Engineer: Kirk Houser  
City Clerk: Cassandra Brager

**INVOCATION**

The Invocation was given by Councilman Caraway.

Councilman Alworth made the motion to approve the minutes for the September 12, 2007 City Council meeting; seconded by Councilman Smith; motion carried 7-0; approved as presented.

**PRESENTATIONS**

**P-1 Request that the City Council receive a presentation regarding the Environmental Services Department Code Enforcement Proactive Plan.**

**Dan Brotton, Director of Solid Waste** – Gave a brief presentation on the Environmental Services Department Code Enforcement Task Force.

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**P-2 Request that the City Council receive a presentation from the Firefighter Combat Challenge Team. (*Depart November 3 for World Championship in Las Vegas*)**

**Mayor Seeber** – Stated that on August 31, 2007 through September 1, 2007, the Tyler Fire Department Combat Challenge Team organized and competed in the second Regional Firefighter Combat Challenge Competition held in Tyler, Texas, on the northwest corner of the Tyler Square Mall. The Combat Challenge was a great success.

Combat Challenge Team Member, Firefighter Brent Hail, was instrumental in organizing and bringing the Combat Challenge Regional Event to Tyler.

**Brent Hail** – Thanked the City Council for their support and participation given through this process. (Presented City Council with t-shirts.)

## **PUBLIC HEARING**

**H-1**

### **APPLICATION A07-07-002B BRIARWOOD ESTATES**

**Request that the City Council consider a request for annexation for territory lying adjacent to and contiguous to the present boundary limits of the City of Tyler for approximately 34.23 acres of land contained in Lot 1, Block 1; Lots 1-16, Block 2; Lots 1-22, Block 3; Lots 15-28, Block 4; Lot 1, Block 8 and Lots 1-5, Block 9 of the Final Plat of Briarwood Estates Unit 1 Subdivision as recorded in Cabinet B, Slide 260B of the Plat Records of Smith County, Texas; Tract 12A of the L. Ashcraft Survey, Abstract Number 48; Lot 1 of the Hayes Addition as recorded in Cabinet B, Slide 322D of the Plat Records of Smith County, Texas; 1.65 acres of land out of the Tobias Coulter Survey, Abstract Number 199 as recorded in Volume 3720, Page 687 of the Deed Records of Smith County, Texas; 0.629 acres of land out of the Tobias Coulter Survey, Abstract Number 199 as recorded in Volume 7682, Page 940 of the Deed Records of Smith County, Texas; 3.36 acres of land out of the Tobias Coulter Survey, Abstract Number 199 as recorded in Document Number 2006-R0007639 of the Deed Records of Smith County, Texas and 3.11 acres of land out of the L.H. Ashcraft Survey, Abstract Number 48 as recorded in the Deed Records of Smith County, Texas located north of the intersection of Scenic Drive and Spur Road 364. (**Councilman Alworth and Councilman Caraway will not be present for the October 3<sup>rd</sup> meeting.**)**

Councilman Sanders made the motion to call a special called meeting on October 3, 2007 at 11:00 a.m. for a State law required hearing; seconded by Councilman Alworth; motion carried 7-0.

## **ZONING**

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- Z-1**      **APPLICATION Z09-07-090A TIM C. MADDOX**  
Request that the City Council consider a request to change the zoning from “R-2” Two Family Residential District to “AR” Adaptive Reuse District on Lot 13 of NCB 174 of the Yarbrough Subdivision, one lot totaling approximately 0.44 acres located at the northeast corner of South Chilton Avenue and West Phillips Street (712 South Chilton Avenue). *(Ord. 0-2007-104)*
- Councilman Alworth made the motion; seconded by Councilman Sanders; motion carried 7-0; approved as presented.
- Z-2**      **APPLICATION Z09-07-091A SANTOS GARCIA**  
Request that the City Council consider a request to change the zoning from “M-1” Light Industrial District to “RPO” Restricted Professional Office District on Lot 17B of NCB 62 of the City of Tyler Subdivision as recorded in Book 7813, Page 265 of the Deed Records of Smith County, Texas, one lot totaling approximately 0.21 acres located one lot east of the northeast intersection of East Line Street and North Beckham Avenue, on the north side of East Line Street (618 East Line Street). *(Ord. 0-2007-105)*
- Councilman Smith made the motion; seconded by Mayor Pro Tem Simons; motion carried 7-0; approved as presented.
- Z-3**      **APPLICATION S09-07-094A CAMELA AND SHAUNDRICK WILLIAMS**  
Request that the City Council consider a request for a Special Use Permit on Lot 11 of NCB 868 of the Green Acres Subdivision, one lot totaling approximately 0.412 acres located at the northwest intersection of South Cameron Avenue and Henson Avenue (2601 South Cameron). The property is currently zoned “R-1A” Single-Family Residential District. *(Ord. 0-2007-105)*
- Councilman Alworth made the motion; seconded by Councilman Moran; motion carried 7-0; approved as presented.
- Z-4**      **APPLICATION S09-07-095A DELEK REFINERY**  
Request that the City Council consider a request for a Special Use Permit on Lots 28D, NCB675 of the City of Tyler Subdivision located at the southeast intersection of East Commerce Street and McMurrey Drive (425 McMurrey Drive). The property is currently zoned “M-1” Light Industrial District and “C-2” General Commercial District. *(Ord. 0-2007-105)*
- Councilman Alworth made the motion; seconded by Councilman Sanders; motion carried 7-0; approved as presented.
- Z-5**      **APPLICATION Z08-07-088B CITY OF TYLER ON BEHALF OF NUMEROUS CITIZENS – PHASE THREE-A**

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**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 nine lots:**

**Lot 14 of NCB 269A of the Belmont Subdivision (422 East Rix);**

**Lots 1, 13A and 14 of NCB 660A of the Talley Heights Subdivision (1403 South Robertson Avenue);**

**Lot 12 of NCB 171 of the Yarbrough Subdivision (609 South Bois d’Arc);**

**Lots 5 and 6 of NCB 261A of the Rowland Place Subdivision (112 Rowland Place);**

**Lot 6A of NCB 318 of the Dobbs Subdivision (825 South Kennedy) and**

**Lot 17 of NCB 259A of the Mrs. Douglas Subdivision (527 East Charnwood)**

**(Ord. 0-2007-106)**

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

**Z-6 APPLICATION Z09-07-093A CITY OF TYLER ON BEHALF OF NUMEROUS CITIZENS – PHASE FIVE-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 Lot 10 of NCB 683 of the Yarbrough Subdivision (811 West 27<sup>th</sup> Street). (Ord. 0-2007-107)**

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

**Z-7 APPLICATION Z08-07-089B GRUBB HOLDINGS LP NUMBER ONE**

**Request that the City Council consider a request to change the zoning from “R-3” Multi-Family Residential District to “RPO” Restricted Professional Office District on Lot 74 of NCB 678 of the City of Tyler Subdivision as recorded in Book 7887, Page 909 of the Deed Records of Smith County, Texas, one lot totaling approximately 0.447 acres located at the southeast intersection of Baxter Avenue and Doctors Drive (820 Baxter). (Ord. 0-2007-108)**

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

**ORDINANCES**

**O-1 Request that the City Council consider adopting the proposed Fiscal Year 2007-2008 property tax rate ordinance and the Fiscal Year 2007-2008 annual budget(s) including outside agency contracts, amending the 2006-2007 budget, and amending City Code Chapter 16 relating to Solid Waste fees. (Ord. 0-2007-109) – Tax Rate) (Ord. 0-2007-110 – Budget) (Ord. 0-2007-111 – Amend Code Chapter 18)**

**Daniel Crawford, Chief Financial Officer** – Gave a brief presentation and asked City Council to approve the ordinance adopting the proposed Fiscal Year 2007-2008 budget and approve the ordinance adopting the Fiscal Year 2007-2008 budget(s) plus related outside agency contracts, adopt the ordinance setting the property tax rates for the

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General and Debt Service Funds, and adopt the ordinance amending fees for the Solid Waste Department.

The total proposed property tax rate of \$.199000 per \$100 valuation is less than the total current property tax rate of \$.223657. The proposed property tax rate is divided into the following two parts:

- \$.002316 for the debt service fund (debt)
- \$.196684 for the general fund (maintenance and operations)
- \$.199000 total proposed property tax rate

The third ordinance recommends amendments to Code Chapter 16 relating to Solid Waste. These amendments clarify language referring to receptacles and increase the street use fees paid by all Solid Waste haulers from 4 percent to 5 percent effective November 1, 2007. Other amendments remove outdated and no longer needed wording and increase pack out service to be effective January 1, 2008.

The fiscal year 2007-2008 budget(s) as previously filed by the City Manager be amended as follows:

- a. Include funding for two additional Solid Waste automated collection vehicles by increasing the Solid Waste Capital expense account 562-0752-752-2604 from \$0 to \$370,000.
- b. Include use of funds designated for the Oak Grove Park project by increasing the General Capital Projects miscellaneous income account 102-0000-361-5701 from \$0 to \$49,500, and the Park Improvements expense account 102-0450-451-2403 from \$421,580 to \$471,080.
- c. Include use of funds designated for the 2006 Justice Assistance Grants by increasing the associated revenue and expense accounts 101-0000-371-6042 and 101-0310-421-0696 from \$0 to \$48,000.
- d. Include use of funds designated for the 2007 Justice Assistance Grants by increasing the associated revenue and expense accounts 101-0000-371-6048 and 101-0310-421-0698 from \$0 to \$32,000.
- e. Include funding for Faulkner Park paving and drainage work by increasing the General Capital Projects expense account 102-0450-451-2403 from \$421,580 to \$516,357.

The fiscal year 2006-2007 budget(s) are amended as follows:

- a. The General Fund expenses will be amended as follows to represent changes in expected costs.

Account Number	Account Name	Current Budget	Change	Revised Budget
101-0140-415-0492	Retained Legal Services	35,000	64,000	99,000
101-0730-438-8286	Transfer to Transit	230,000	147,750	377,750
101-0000-331-5421	Collection Fees	100	196,644	196,744
101-0860-471-0464	Collection Costs	0	196,744	196,744

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GF Unreserved Balance	824,903	(211,850)	613,053
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- b. The Technology Fund expenses will be amended as follows to represent changes in expected costs.

Account Number	Account Name	Current Budget	Change	Revised Budget
671-0150-416-2737	Miscellaneous Equipment	-	62,600	62,600
	Tech Unreserved Balance	333,177	(62,600)	270,577

- c. The Employee Health Benefits Fund revenue and expenses will be amended to reflect the creation of a separate Retiree Health Benefits Fund. Activity will be transferred to reflect appropriate activity in each fund.

Account Number	Account Name	Current Budget	Change	Revised Budget
661-0000-341-5531	Interest Distribution	300,000	(135,612)	164,388
761-0000-341-5531	Interest Distribution	-	135,612	135,612
661-0000-361-5731	City Health Prem Retiree	1,870,548	(1,870,548)	-
761-0000-361-5731	City Health Prem Retiree	-	1,870,548	1,870,548
661-0000-361-5736	Retiree Health Premium	404,470	(404,470)	-
761-0000-361-5736	Retiree Health Premium	-	404,470	404,470
661-0000-361-5745	Retiree Dental Premium	49,353	(49,353)	-
761-0000-361-5745	Retiree Dental Premium	-	49,353	49,353
661-0000-361-5747	Medicare Retiree Rx	124,701	(124,701)	-
761-0000-361-5747	Medicare Retiree Rx	-	124,701	124,701
661-0180-419-8761	Transfer to Retiree Fund	-	1,338,115	1,338,115
761-0000-399-9661	Transfer fm Employee Fund	-	1,338,115	1,338,115
661-0180-419-0207	Life Insurance	220,000	(49,500)	170,500
761-0180-419-0207	Life Insurance	-	49,500	49,500
661-0180-419-0408	Special Services	45,000	(16,800)	28,200
761-0180-419-0408	Special Services	-	16,800	16,800
661-0180-419-0437	Medicare Rx Card	482,724	(482,724)	-
761-0180-419-0437	Medicare Rx Card	-	482,724	482,724
661-0180-419-0438	Medicare Supplement	650,367	(650,367)	-
761-0180-419-0438	Medicare Supplement	-	650,367	650,367
661-0180-419-0440	Health Claims	4,200,000	(951,924)	3,248,076
761-0180-419-0440	Health Claims	-	951,924	951,924
661-0180-419-0441	Rx Claims	1,209,227	(255,000)	954,227
761-0180-419-0441	Rx Claims	-	255,000	255,000
661-0180-419-0442	Dental Admin Fees	30,000	(5,040)	24,960
761-0180-419-0442	Dental Admin Fees	-	5,040	5,040
661-0180-419-0443	Dental Claims	521,166	(113,000)	408,166
761-0180-419-0443	Dental Claims	-	113,000	113,000
661-0180-419-0484	Health Admin Fees	280,000	(52,632)	227,368
761-0180-419-0484	Health Admin Fees	-	52,632	52,632
661-0180-419-0485	Health Stop Loss Policy	500,000	(81,000)	419,000
761-0180-419-0485	Health Stop Loss Policy	-	81,000	81,000

Councilman Alworth made the motion to adopt the budget with the amendments, the tax rate and the new fees; seconded by Mayor Pro Tem Simons; motion carried 7-0; approved as presented.

**Larry Meckley – Spoke in opposition of the budget.**

**MISCELLANEOUS**

- M-1 Request City Council consider authorizing the City Manager to sign a Public Right-of-Way License Agreement with Richard S. Eltife, granting a temporary use license for using reserve parking spaces on West Erwin Street to aid in the drop off of vehicles for valet parking.**

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

*Steve Smith left*

- M-2 Request that the City Council consider extension of contracts resulting from Proposal Number 03-070 for Medical, Dental, Prescription Drug, Short Term Disability and Internal Revenue Service Section 125 Cafeteria Plan Administration Services for City Employees and Retirees through December 31, 2012. ©**

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

- M-3 Request that the City Council consider renewing the Property and Casualty Insurance contracts and claims administration contract for the City of Tyler for fiscal year 2007-2008 as the first of two 1-year renewal options authorized last year in 2006. ©©**

**Angela Barron, Risk Analyst** -Gave a brief presentation on the Property and Casualty Insurance.

Councilman Alworth 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 execute a Reimbursement Agreement with SUNOCO Pipeline L.P. for the modification of an existing 12-in pipeline in association with the proposed Old Omen Road project. ©**

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

- M-5 Request that the City Council consider ratifying City Manager action executing a Letter of Agreement between the City of Tyler and RPN Properties II, L.L.C. associated with right-of-way negotiations for the Old Omen Road project. ©**

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

- M-6 Request that the City Council consider ratifying City Manager action executing a Letter of Agreement between the City of Tyler and Marcus A. Carroll and Patti**

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**Jane Carroll associated with right-of-way negotiations for the Old Omen Road project. ©**

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

**M-7 Request that the City Council consider approving reconciliation change order number 1 and releasing the final payment and retainage for the 2007 Curb and Gutter Repairs Project, Storm Water Utilities Project No. 07-02-748-0817, to J. C. Johnson Construction in the amount of \$20,795.00. ©**

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

**M-8 Request that the City Council review and consider approving the attached Smith County 9-1-1 District Budget for the Fiscal Year beginning October 1, 2007 and ending September 30, 2008.**

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

**M-9 Request that the City Council consider designating The Sydney and Goldie Bradford House, located at 2015 South College, Tyler, Texas, as a Tyler Historic Landmark.**

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

**M-10 Request that the City Council authorize payment to Insituform Technologies, Incorporated in the amount of \$138,744.00 to make emergency repairs to the 48 inch corrugated metal pipe (CMP) crossing Martin Luther King, Junior Boulevard, as well as the 36 inch – 40 inch reinforced concrete pipe (RCP) under 2217 South Chilton Avenue.**

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

**M-11 Request that the City Council consider authorizing the City Manager to accept an Urban Forestry Partnership Grant from the Texas Forest Service in the amount of \$10,000. ©**

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

**(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).**

**CONSENT AGENDA**

- C-A-1** Request that the City Council consider awarding bid number 07-050 to the low bidder, General Chemical Corporation of Parsippany, New Jersey for fiscal year 2007-2008 estimated requirements of Liquid Aluminum Sulfate.
- C-A-2** Request that the City Council consider awarding bid number 07-051 to the low bidder DPC Industries, of Longview, Texas for the estimated requirements of Anhydrous Ammonia.
- C-A-3** Request that the City Council consider awarding bid number 07-055 to the low bidder, DPC Industries, of Longview Texas for the estimated requirements of 150 lb. cylinders of Chlorine.
- C-A-4** Request that the City Council consider awarding bid number 07-053 to the low bidder DPC Industries of Longview, Texas for the estimated requirements of 1 ton cylinders of Chlorine.
- C-A-5** Request that the City Council consider awarding bid number 07-060 to the sole bidder, Altivia Corporation of Houston, Texas for the estimated requirements of Filter Aid Polymer.
- C-A-6** Request that the City Council consider awarding bid number 07-048 to the sole bidder meeting qualifications Pennco, Incorporated of San Felipe, Texas for the estimated requirements of Fluorosilicic Acid (Fluoride).
- C-A-7** Request that the City Council consider awarding bid number 07-059 to the sole bidder Altivia Corporation of Houston, Texas for the estimated requirements of Hydrogen Peroxide.
- C-A-8** Request that the City Council consider awarding bid number 07-049 to the low bidder, Austin White Lime Company of Austin, Texas for the estimated requirements of Pulverized Quicklime.
- C-A-9** Request that the City Council consider awarding bid number 07-058 to the sole bidder Premier Chemicals LLC of Austin, Texas for the estimated requirements of Magnesium Hydroxide.
- C-A-10** Request that the City Council consider awarding bid number 07-057 to Praxair Incorporated of Burr Ridge, Illinois for the estimated requirements of Liquid Oxygen.

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- C-A-11** Request that the City Council consider awarding bid number 07-054 to Polydyne, Incorporated of Riceboro, Georgia for the estimated requirements of Dewatering Polymer.
- C-A-12** Request that the City Council consider authorizing the purchase of Two (2) Return Activated Sludge Pump Impellers for the Westside Wastewater Treatment Plant from Smith Pump Company of Waco, Texas for \$30,090.
- C-A-13** Request that the City Council consider awarding bid number 07-052 to the low bidder FSTI Incorporated of Austin Texas for the estimated requirements of Sodium Hydroxide.
- C-A-14** Request that the City Council consider awarding bid number 07-056 to the low bidder DPC Industries of Longview, Texas for the estimated requirements of Sulfur Dioxide.
- C-A-15** Request that the City Council consider awarding bid number 07-062 for Asphalt and Street Materials to the sole bidder, Armor Materials of Tyler, Texas.
- C-A-16** Request that the City Council consider awarding bid number 07-064, for Ready Mix Concrete to the lowest bidder, Transit Mix of Tyler, Texas.
- C-A-17** Request that the City Council consider awarding bid number 07-063 for Sak-Crete Gravel Mix and Portland Cement to Sam R. Hill Lumber Company of Tyler, Texas.
- C-A-18** Request that the City Council consider awarding bid number 07-065 for Utility Cut Base Repair Material to the low bidder, J & S Sand & Gravel of Tyler, Texas.
- C-A-19** Request that the City Council consider authorizing the City Manager to apply for and accept first year funding for a Comprehensive Traffic Grant in the amount of \$85,153 from the Texas Department of Transportation.
- C-A-20** Request that the City Council consider authorizing the City Manager to award the purchase of office supplies for the Fiscal Year 2007-2008, from Office Depot of Grand Prairie, Texas, through the U.S. Communities contract.
- C-A-21** Request that the City Council consider authorizing the City Manager to award Bid Number 07-036 for Faulkner Park Paving and Drainage Improvements.
- C-A-22** Request that the City Council consider authorizing the City Manager to approve the purchase and installation of fencing, benches, and tables as a part of Phase III improvements to Noble E. Young Park (Skatepark).

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**C-A-23 Request that the City Council consider ratifying the purchase of one (1), 2-cubic-yard, stationary compactor unit from Kee Service Company in the amount of \$11,670.23.**

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

**CITY MANAGER’S REPORT**

- 1. *City Councilman Sanders birthday today*
- 2. *Tyler 21 meetings – Town Hall 10/1/07 – UTT 7-8:30*
- 3. *Tyler 21 meetings – Open Houses 10/2/07 at 5:30 – 7:30 at Glass Recreation Center, TABA and TJC*

**RECESS FOR EXECUTIVE SESSION** - City council convened into executive session at 10:27 am

As allowed by the Texas Open Meetings Law, Chapter 551 of the Government Code, the City Council may consider the following:

-under section 551.071 “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.

City council reconvened from executive session at 11:17 am with no action taken (Councilman Alworth absent)

**ADJOURNMENT**

Councilman Caraway made the motion to adjourn the meeting at 11:17 a.m.; seconded by Councilman Sanders; motion carried 5-0; 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**