

**MINUTES OF THE  
REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS  
October 13, 2010**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, October 13, 2010 at 9:00 a.m. in the Council Chamber, City Hall, Tyler, Texas, with the following present:

Mayor: Barbara Bass  
Mayor Pro Tem: Ralph Caraway  
Councilmembers: Martin Heines  
Donald Sanders  
Mark Whatley  
Sam Mezayek  
Jason Wright (**absent**)

City Manager: Mark McDaniel  
Asst. City Manager: Scott Wall  
City Attorney: Gary C. Landers  
Human Resources Director: ReNissa Wade  
Development Services Engineer: Michael Wilson  
Chief Financial Officer: Daniel Crawford  
City Engineer: Carter Delleney  
City Fire Chief: Neal Franklin  
City Police Chief: Gary Swindle  
Communications Director: Susan Guthrie  
Director of Planning and Zoning: Barbara Holly  
Director of Solid Waste: Dan Brotton  
Director of Utilities & Public Works: Greg Morgan  
City Clerk: Cassandra Brager

**INVOCATION**

The Invocation was given by Mayor Pro Tem Caraway.

Motion by Mayor Pro Tem Caraway to approve the minutes for the September 22, 2010 minutes; seconded by Councilmember Mezayek; motion carried 6 - 0 & approved as presented.

**EMPLOYEE AWARDS – RECOGNITIONS, SERVICE**

**A-1 Service Awards**

We would like to recognize the following employees for their years of service and commitment to the City of Tyler. At this important milestone, we express our sincere appreciation for your dedication and for the special contribution you make to our organization. These employees represent over **40-years** of service with the City of Tyler.

**Service Awards**

<b>DATE OF HIRE:</b>	<b>FIRST NAME:</b>	<b>LAST NAME:</b>	<b>POSITION:</b>	<b>DEPARTMENT:</b>	<b>YEARS OF SERVICE:</b>
10/01/1990	Ted	Hernandez	Groundskeeper	Parks	20
10/04/1990	Destry	Walsworth	Police Sergeant IV	Police	20

October 13, 2010

**A-2 New Hires Recognitions**

The following employees were hired by the City of Tyler during the months of September and October 2010. We would like to take this opportunity to welcome these new employees.

FIRST NAME:	LAST NAME:	POSITION:	DEPARTMENT:
Gregory Dale	Harry	Police Recruit	Police
Emily	Womack	PST I	Police
Thomas	Brown	Building Services Technician	Engineering
Timothy	Hutson	Police Recruit	Police
Salvador	Tizcareno	Police Recruit	Police

- A-3 Request that the City Council consider recognizing Tyler Police Officer Matt Leigeber for providing emergency assistance in response to the recent fire that occurred October 6, 2010 at the Hudson Apartments on Shiloh Road.**

**ORDINANCE**

- O-1 Request that the City Council consider adoption of an Ordinance approving appointments to the Tax Increment Reinvestment Zone No. 2 (TIRZ#2) and the Tax Increment Reinvestment Zone No. 3 (TIRZ#3) Boards of Directors. (O-2010-100)**

Motion by Councilmember Heines to appoint the Tax Increment Reinvestment Zone No. 2 (TIRZ#2) and the Tax Increment Reinvestment Zone No. 3 (TIRZ#3) Boards of Directors; seconded by Councilmember Mezayek; motion carried 6 - 0 & approved as presented.

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**RECESS FOR TAX INCREMENT REINVESTMENT ZONE#2 and #3 (TIRZ)  
BOARD MEETINGS**

-see Tax Increment Reinvestment Zone (TIRZ) Board Meetings Agenda Posting

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TIRZ #2 & TIRZ #3 Board Chair/Mayor Barbara Bass called the joint meeting of TIRZ #2 and TIRZ #3 Boards to order:

TIRZ #2

Motion by Councilmember/TIRZ Board member Heines to appoint County Commissioner/TIRZ Board member JoAnn Hampton as Vice Chair; seconded by Councilmember/TIRZ Board member Whatley; motion carried 6-0 & approved as presented.

October 13, 2010

TIRZ #2 is the downtown TIRZ that was created recently. The capture for the first year was \$53,693. It has been significantly smaller for this upcoming year. The 2009 tax year was the first year that the zone began to accrue incremental revenue. The total taxable value of the zone was \$103,516,342 leading to a captured appraised value of \$3,805,026. This increase generated \$53,693 in revenue for TIRZ#2. Sales Tax revenue actually decreased to \$789,718 for a (\$262,048), which means the TIRZ did not collect any revenue from sales tax for the 2009 tax year.

### TIRZ #3

TIRZ #3 is the Northchase area on N. Broadway. The capture for that particular TIRZ was \$347. The reason it has not been significant is because that is more of a green field site and the development is just now occurring so we would anticipate more capture as development continues in that area. Right now there is no plan for use of these funds, beyond just in general and it is all pay as you go, not any issuance of debt at this time.

Motion by Councilmember/TIRZ #2/TIRZ #3 board member Heines; to accept the annual reports of the Tax Increment Reinvestment Zone #2 and #3; seconded by Councilmember/TIRZ #2/TIRZ #3 Board member Mezayek; motion carried 6 - 0 & approved as presented.

Motion to adjourn TIRZ #2 & TIRZ #3 Board meetings by Councilmember/TIRZ #2/TIRZ #3 board member Heines; seconded by Councilmember/TIRZ #2/TIRZ #3 Board member Mezayek; motion carried 6 - 0 & approved as presented, meeting adjourned.

## **RECONVENE OCTOBER 13, 2010, CITY COUNCIL MEETING**

- O-2 Request that the City Council consider adopting an Ordinance amending Chapter 3, "Personnel/Civil Service", Article III., "Civil Service for Firefighters and Police Officers", Division 2, "Classification Plan" and Division 3, "Other Compensation". (O-2010- 101)**

Motion by Mayor Pro Tem Caraway; seconded by Councilmember Sanders; motion carried 6 - 0 & approved as presented.

## **ZONING**

- Z-1 APPLICATION Z10-10-073 EVERETT HOLLEY (3351 CASCADES COURT)  
Request that the City Council consider approving a "PMF", Planned Multi-Family District site plan amendment on Lot 18 of NCB 1800, one lot totaling approximately 1.02 acres of land located north of the intersection of Briarwood Drive and Cascades Court (3351 Cascades Court). (O-2010-102)**

Quincy Beavers, Jr., 3351 Cascades Court, Tom Velnosky, 19277 Hwy 110 N., and Everett Holly (owner), 3351 Cascade Court were citizens that came and spoke in favor of the site plan amendment.

Motion by Councilmember Sanders; seconded by Councilmember Mezayek; motion carried 6 - 0 & approved as presented.

**Z-2 APPLICATION C09-10-013 ROBERT LANGLEY (LAKEWOOD DRIVE)**  
**Request that the City Council consider closing a portion of right-of-way known as Lakewood Drive between Mineola Highway and Club Lake Drive.**

**Rob Langley, 3330 Mineola Hwy 69 N** – Stated that he met with board member Mr. Licea so he could look at the property and he agreed with Mr. Langley that there were two decisions that had been made:

1. The road to go through but the creek would be too expensive to make the road with the creek there, and
2. The land lock, this would not be land lock as the 69 COPS LLC has plenty of access. They have Hwy 69 access and five square miles of road frontage that go into their property.

**Mayor Pro Tem Caraway** – Stated that he lives in this neighborhood and they need the third access point especially with the medians that have come up on the Loop. We have a right way out and as far as looking at some of the ways the emergency vehicles get in I understand why Planning & Zoning denied it. This neighborhood is eventually going to need the City to address this access out and we need that third point.

Motion by Mayor Pro Tem Caraway; seconded by Councilmember Whatley; motion carried 6 - 0 & to support Planning & Zoning and deny the closing.



**Z-3 REMOVAL OF LANDMARK STATUS (JUDGE THE FLORIST - 1215 South Broadway)**  
**Request that the City Council conduct a hearing and consider a removal of the Landmark located at 1215 S. Broadway, Tyler, Texas, from the Tyler Historic Landmark Register.**

Motion by Councilmember Heines; seconded by Councilmember Whatley; motion carried 6 - 0 & approved as presented.

**MISCELLANEOUS**



**M-1 Request that the City Council consider authorizing the City Manager to accept grant funding through the Community Oriented Policing Services (COPS) Hiring Program for four (4) police officer positions to enhance the community policing and crime prevention efforts of the police department.**

**Police Chief Gary Swindle** – Stated that on April 8, 2009, the City Council authorized the City Manager to make an application to the office of Community Oriented Policing Services (COPS) for grant funding for four (4) additional police officers. The grant would provide 100 percent of the entry level officer salary and eligible fringe benefits for three (3) years. The grant would allow the police department to expand and enhance its existing community policing and crime prevention efforts. On September 30, 2010, the City was notified that \$853,988 was awarded for additional police officers under the COPS Hiring program.

October 13, 2010

The additional officer positions will give the police department the ability to expand its Community Response Officer (CRO) crime prevention program. The additional officers will enable the police department to reduce the current geographical responsibilities of each CRO which will allow the department to be more responsive to the needs of the citizens and to more effectively resolve problems occurring in the community. The police department will be responsible for funding any ineligible benefit associated with these positions for the three (3) year life of the grant. The estimated maximum cost for these four officers to the City in the first year of the grant would be \$28,152 and the maximum costs for years two and three would be \$62,448 and \$71,504, respectively. At the conclusion of the grant period the police department is required to retain these positions and to fully fund them within the department's budget.

**Ernie Clark, 4205 Stonebrook Lane** – Stated that he was here today representing Grassroots of America “We The People”, to officially ask City Council to accept the Community Oriented Policing Services (COPS) hiring program for four police officer positions to enhance the community and crime-prevention efforts of our Police Department.

He knows Chief Swindle would make good use of these positions in offering protection for our citizens, but that is not the question he is proposing today. The question is: It is our understanding that you must fully fund these police positions at the end of 3 or 4 years, which is estimated to cost approximately \$180,000 the first year. Yes, you can receive this grant to fund these 4 officer positions during the first year for \$28,000. That sounds like a good deal, but under the current economic conditions we are facing in our community today, can the City absorb the 4 police officers and their benefits, their training, their equipment, plus the possibility of another police vehicle, with the scarcity of funding-without increasing property taxes?

You must remember that the funding of the Police officers minus the \$28,000 you will put up, is also being potentially paid by the citizens of our community through the Federal taxation system. The Federal government is going further into debt to make this program available to our citizens. Somewhere, sometime, each governmental entity must learn to stand on its own and not depend on Federal or State assistance for its existence.

The City is in excellent financial position compared to many cities in our state and country, and let's keep it that way. Let's not continue to follow the carrots that are being dangled in front of us that may jeopardize our good financial position in the next several years if the economic condition does not show greater improvement than it has in the past 12 months.

**Councilman Heines** – Asked Mr. Clark if he could tell him right now if the City does not accept the money and sends it back that the Federal Government would put this on the national debt and not send it to anybody else.

**Ernie Clark** – Stated that, “No, he does not know that and he would assume some other City would receive what you don't get”.

**Councilman Mezayek** – Stated that the Local Government is not so subsidized by the Federal Government so we are not so dependent on grants that we can't operate without them.

October 13, 2010

**Councilman Whatley** – Asked Chief Swindle after the three year terms the funds go away and wanted to know what is the typical turn over in traditions as far as people retiring in the Police Department?

**Chief Swindle** - Stated that generally it's about 8 to 10 a year.

**Councilman Wright** – Was not present at the meeting but City Manager, Mark McDaniel read the opposition statement below into the record:

[1. By accepting this grant we are using temporary funds to fix a permanent staffing issue. By accepting these funds the City of Tyler will be required to keep the newly hired officers for a period of one year after the grant dollars have been exhausted. My concern is the future funding of this additional headcount. We seem to be either making the assumption tax revenue will be at a high enough rate to fund these positions in three years or we are conceding we are willing to raise the tax rate to meet the new head count should our revenues not be at an optimal level. This seems eerily similar to the tactic the state took in balancing the state budget with stimulus dollars. It's a short term fix to a long term solution. I strongly advise against the city adopting such budgetary practices.

2. I think this action "muddies" the budget. If we need these added officers my suggestion would be to have added these officers to our budget and made whatever provisions necessary to accommodate their hiring.]

Motion by Councilmember Heines to accept grant funding; seconded by Councilmember Sanders; motion carried 6 - 0 & approved as presented.

**M-2 Request that the City Council consider authorizing the City Manager to award an engineering services contract, in the amount of \$29,750, to The Brannon Corporation for engineering services for the Timberwilde Drainage Study. ©**

Motion by Councilmember Heines; seconded by Councilmember Mezayek; motion carried 6 - 0 & approved as presented.

**M-3 Request that the City Council consider changing the regular City Council Meeting date of November 24 to November 17, 2010, and cancel the December 22, 2010 City Council meeting.**

Motion by Mayor Pro Tem Caraway; seconded by Councilman Heines; motion carried 6 - 0 & approved as presented..

## **CONSENT**

**(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 approving a Reconciliation Change Order and releasing final retainage in the amount of \$4,580 to J.C. Johnson Construction for the Briarwood Road Box Culvert Repairs. ©**

- C-A-2** Request that the City Council consider an extension of the annual contract for Liquid Aluminum Sulfate Bid No. 08 awarded September 22, 2009. ©
- C-A-3** Request that the City Council consider authorizing the City Manager to purchase two frontload cabs and chassis from East Texas Mack Sales through the HGAC purchasing cooperative and two frontload bodies from McNeilus Truck and Manufacturing through the BuyBoard purchasing cooperative, and accept the 36-month estimated buy-back agreement for these vehicles from East Texas Mack Sales and confirm the sell-back of frontload units 08758 and 08759 to East Texas Mack Sales.
- C-A-4** Request that the City Council consider authorizing the City Manager to enter into a contract with Pump Masters, Incorporated of Texas for the purpose of removing and disposing of 38 hydraulic pits and five wash pits. ©
- C-A-5** Request that the City Council consider authorizing the City Manager to award an engineering services contract, in the amount of \$28,000, to Johnson & Pace Incorporated for survey and design services for channel improvements at 2011 Rickety Lane. ©

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

### **CITY MANAGER'S REPORT**

1. Monthly CIP report
2. Congratulations to staff for last weekend-Festival and Marathon
3. Mayor mentioned Earl Campbell Parkway and the excitement over construction

**RECESS FOR EXECUTIVE SESSION** - City Council convened into Executive Session at 9:50 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", deliberation regarding the following:

Discuss the purchase, exchange, lease or value of real property, the public discussion of which would have a detrimental effect on the negotiating position of the City, related to the development of municipal facilities

-under section 551.071 "Litigation" deliberation regarding the following:

Pending or contemplated litigation involving Centerpoint Gas Company

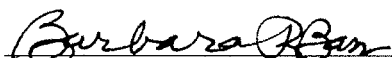
Litigation is, by its nature, an on-going process, and questions may arise as to trial tactics, which need to be explained to the City Council. Upon occasion, the City Council may need information from the City Attorney as to the status of the pending or contemplated litigation subjects listed above

October 13, 2010

City Council reconvened from Executive Session at 10:18 am with no action taken.

**ADJOURNMENT**

Motion by Mayor Pro Tem Caraway to adjourn the meeting; seconded by Councilman Sanders; motion carried 6 - 0 & meeting adjourned at 10:18 am.

  
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BARBARA BASS, MAYOR OF  
THE CITY OF TYLER, TEXAS

ATTEST:

  
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CASSANDRA BRAGER, CITY CLERK