

**MINUTES OF THE
REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
APRIL 14, 2010**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, April 14, 2010 at 9:00 a.m. in the Council Chamber, City Hall, Tyler, Texas, with the following present:

Mayor:	Barbara Bass
Mayor Pro Tem:	Donald Sanders
Councilmembers:	Charles Alworth Chris Simons Ralph Caraway Sam Mezayek Mark Whatley
City Manager:	Mark McDaniel
Asst. City Manager:	Scott Wall
City Attorney:	Gary C. Landers
Airport Manager:	Davis Dickson
Human Resources Director:	ReNissa Wade
Development Services Engineer:	Michael Wilson
City Engineer:	Carter Delleney
City Fire Chief:	Neal Franklin
City Police Chief:	Gary Swindle
Communications Director:	Susan Guthrie
Director of Parks and Recreation:	Stephanie Rollings
Director of Planning and Zoning:	Barbara Holly
Director of Solid Waste:	Dan Brotton
Manager of Water Quality and Production:	Jimmie Johnson
Director of Utilities & Public Works:	Greg Morgan
City Clerk:	Cassandra Brager

INVOCATION

The Invocation was given by Councilmember Caraway.

Motion by Councilman Caraway to approve the March 24, 2010 minutes; seconded by Councilman Mezayek; motion carried 7 - 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 178 years of service with the City of Tyler.

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Retirees - Service Awards

Date of Hire	First Name	Last Name	Title	Department	Years of Service
03/01/1982	Tom O.	Mooney	Fire District Chief IV	Fire	28
12/05/1988	Linda G.	McDonald	PS Communications Supervisor	Police	21

Service Awards

Date of Hire	First Name	Last Name	Title	Department	Years of Service
03/12/1990	Paula D.	Riggle	Assistant Police Chief III	Police	20
03/12/1990	Barbara L.	Stuart	Police Officer X	Police	20
03/12/1990	C. Derreck	Wagoner	Police Lieutenant III	Police	20
03/21/1990	Alejandro	Delgado	Crew Leader	Streets	20
03/26/1990	Davis E.	Dickson	Director of Transit/Airport Manager	Airport	20
03/25/1985	Mike W.	Goode	Police Officer X	Police	25
03/29/1985	Royce E.	Jordan, Jr.	Police Officer X	Police	25

A-2 New Hires Recognitions

New Employees

The following employees were hired by the City of Tyler during on March 22, 2010. We would like to take this opportunity to welcome these new employees.

First Name	Last Name	Title	Department
Verna Frances	Parker	PS Telecommunicator	Police
Mary Kathy	Brooks	PS Telecommunicator	Police

A-3 Blue Print Award

Request that the City Council consider recognizing a City employee as the Blueprint Blue Ribbon Award winner for April 2010, for placing the highest premium on responsiveness to citizens' needs.

Mayor Bass presented Jimmie Frater with the Blueprint Blue Ribbon Award for April 2010, for placing the highest premium on responsiveness to citizens' needs.

ZONING

Z-1 APPLICATION Z03-10-018 HOOPER TYLER PROPERTIES

Request that the City Council consider approving the final site plan amendment on property zoned "PCD" located on Lots 12-B, 12-C and 12-D of NCB 999F of the Peyton

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McKnight Subdivision, located at the southwest corner of the intersection of Timberwilde Driver and Old Bullard Road (419 Timberwilde Drive).

Barbara Holly, Director of Planning & Zoning – Stated that the applicant is requesting to revise the approved site plan to add an additional 9,500 square feet of commercial retail space on property called out as Lot 12-D at the northwest corner of the shopping center. The land is not yet platted in this configuration, but for ease of discussion, we will refer to this area as Lot 12-D. Staff recommends approval of the updated site plan amendment subject to the following changes being made, all of which have been agreed to by developer:

1. Include a note stating that no windows or doors will be installed on the west elevation unless mandated by the building code.
2. Provide a continuous screen of shrubs and trees, a (minimum five gallons in size to create at least a five feet screen within two years) placed adjacent to the parking area facing the bank on Lot 12-B, and all parking areas that may face residential property.
3. Relocate dumpsters to the south property line of lot 12-B or behind Cole and Company where the concrete pad exists. Hours of pick-up are restricted to after 9:00 AM
4. Eliminate the freestanding sign proposed off of Timberwilde Drive and utilize existing freestanding sign located off of Old Bullard. Note: Must enter into a Joint Use Sign Agreement.
5. Include the limitation on hours of operation note on lot 12-B and no access note from Timberwilde on lot 12-C. Note for 12-B: No business activity after 9 p.m. note for lot 12-C: No access to the development from Timberwilde Drive.
6. Accurately reflect the setbacks on the site plan and remove conflicting site plan notes on setback.
7. Identify existing monument sign on lot 12-B.
8. Clarify which buffer yard type will be used on the western boundary of Lot 12-D.
9. By a site plan note, exclude the following uses from Lot 12-D only: Pet Shop (w/Outdoor Pens), Veterinary Clinic (w/Outdoor Pens), Pawn Shop, Cabinet/Woodwork Shop (Repair Only), Contractor's Shop/Storage Yard, All eating establishments except for take-out dining, Private Club, Concert Facility, Country Club, Dance Hall, Nightclub, Disco, Monument Sales lot, Lawn/Garden Shop (W/Outdoor Display), Skating Rink (Indoor and Outdoor), Pool Hall, Game Room, All Vehicle & Equipment Sales, Rental & Service, Hauling and Storage Facility, Warehouse & Distribution Center, Recycling Center
10. Remove all pavement from the 30' buffer behind Tax Lot 2A.
11. Provide a “hammerhead” turnaround for fire apparatus to access area 12-D behind Price's home.

Charles Bowker, 501 Timberwilde – Stated that he has lived at this residence since 1987 and what concerns him is that there were no discussions on drainage. He stated that the residents need help and protection and asked that City Council deny the request and have the problems fixed.

Mark Lankford, 709 Dorchester – Showed a taping of a previous Planning & Zoning meeting. Mr. Lankford stated that he would like to see the promises that have been made and asked City Council to have a drainage study and traffic study to see how this is going to address District 1 concerns and also Tyler 21 goals. In closing Mr. Lankford asked that this be denied or at a minimum tabled until those items could be addressed.

Leslie Day, 641 Timberwilde Dr – Stated that there are two problems: 1. Water-not only what's on the street, but also what is behind the building that he built. The water is either going

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into the swimming pool or in the Price's house. 2. Traffic – by putting more retail in this area is only going to create more traffic.

Sam Price, 510 Timberwilde Dr. – Stated that all this is new to him and wasn't sure how many parking spaces would be needed for a 9,500 square facility but believes Mr. Hooper has enough in the front of his building to where he does not have to have a parking lot on the North side of his building. If parking is permitted on Timberwilde on the neighborhood streets, then they are going to have parking in the neighborhood and they do not need that. Mr. Price asked City Council to get the water issues taken care of before approving any site plans.

Marvin Mayer, 4814 Hallye Lane – Stated his first concern was traffic from an egress off of the property onto Timberwilde. With any more retail of any type, if they are going to be successful, they are going to have other cars coming in and that's going to add to the congestion all around the area. Another concern is people cutting through Timberwilde to get out of the area.

Julie Edwards-Weaver, 421 Timberwilde Dr – Stated that her home is directly across the street from the commercial property. Some of you might believe that this developer has made enough concessions from the previous site plan. "Yes" he has made concessions, like moving the building back in line with the Price's home, removed the request from Timberwilde and changed the parking arrangements. All of these concessions have not helped her home one bit. The Prices home just to the West has a landscape buffer and screening wall, but they have mentioned that they do not want the wall so give the wall to the Weaver's and block the development out of their residential area. Mrs. Weaver asked that they make the front of her home a no parking zone and remove the sign. Mrs. Weaver asked that City Council deny this request.

Ronald Weaver, 421 Timberwilde Dr. – Mr. Weaver showed photos of mulch and flooding in his yard. Mr. Weaver asked City Council to delay the request and make them fix the drainage.

John Gabriel – When called said he had nothing new to add.

Robert Means, Leasing agent – Stated that the most recent site plan may not have reached the City Council so if City Council would like to table this item until the next meeting given the changes that have been made to the site plan would be okay.

Councilman Alworth – Stated that the site plan can be adjusted and solved but the drainage issued cannot be solved.

Councilman Mezayek – Asked Mr. Ballard what was the process to the study?

Brian Ballard, 3815 Old Bullard Rd –Ballard Broughton - Stated that part of their civil design the City of Tyler does not require a separate drainage study.

Councilman Simons- Stated that prior to development there was no water coming into the road. After development we have water exceeding the box culvert capacity. If we are already having existing problems and we are adding more pavement, we will compound the problem.

Brian Ballard, 3815 Old Bullard Rd –Ballard Broughton - The Development Services Department has asked that we analyze the existing system upstream at the Timberwilde

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crossing. Mr. Ballard stated that the channel filled up in a heavy rain, the 8x4 functioned like it should have, and the improvements that were designed adequately will function. In addition

to the 8x4 culverts we always try to prevent any damage to the clients property and the adjacent property in case of a larger than normal occurrence such as a blockage in the channel.

Councilman Alworth – Asked where will the head of the continuation of the box culvert be placed?

Brian Ballard, 3815 Old Bullard Rd –Ballard Broughton – Stated that the head will go up as we go upstream but the elevation will not exceed the requirements of the City drainage standards which are top of the curve.

Councilman Alworth – Asked what were the results of the letter that was dated October 21 of 2008 which talked about a drainage study by Lisa Crossman?

Greg Morgan, Director of Utilities & Public Works – Stated the purpose of that letter was we had attended a neighborhood meeting regarding this development and there were some concerns about drainage along an area between Leisure Lane and Richmond. This is a section where there is an old rock wall but there is not a drainage easement. It appears there may have been an alley or a drain there at some time because it has trees and brush grown up in it. As a result of the complaints and concerns about the drainage in that area we chose to do a partnership with the neighborhood, which we have done in numerous places throughout the city on other situations particularly where the City does not have an easement and technically has no responsibility for the drainage in those locations. We partnered with the property owners to implement improvements. The letter that you are referring to was our first effort to develop participation and we received no response or positive participation back from a majority of the neighborhood so that did not proceed any further than that letter.

Councilman Whatley – Stated that the overriding issue is the drainage and City Council does not want drainage to be an issue for Harley or for the neighbors so by doing an area wide study on the 65 acres what will we know that we don't know now?

Brian Ballard, 3815 Old Bullard Rd –Ballard Broughton – Stated that this could identify any problems upstream, and could identify any other problems in the drainage area.

Councilman Alworth – Stated that there is an issue of water standing in the back of the Price residence. How is that going to be addressed?

Brian Ballard, 3815 Old Bullard Rd –Ballard Broughton – Stated that he was made aware of that issue earlier this week and one of the things he had talked about in the construction of the next building is there will be a drain system located in the rear of the building to avoid any standing water back behind the building and possibly to collect any down spouts and pipe those underground.

Darrell Hamilton – When called, he said that everything had already been said.

Stephanie Roberts -- When called she also said that everything had already been said, although she had not received the letter about City resident partnership about drainage.

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Melinda Weedon, 4710 Richmond Rd. - Stated that she has heard several times that she has received a letter requesting to go into partnership with the City of Tyler on how to fix the drainage behind their home but she has never received the letter. How are the residents responsible for taking care of drainage that used to flow, that now doesn't, because of a development further downstream. Ms. Weedon wanted City Council to make sure that the full drainage analysis study is done before anything is built.

Councilman Mezayek – Stated that he had met with a lot of the homeowners and the Engineers and both sides have been very amicable. The Developers have moved the building a couple of times trying to accommodate homeowners. This is a site plan zoning and there are too many variables of unknown at this point. This site plan was done at the eleventh hour before a lot of the homeowners had a chance to look at it and evaluate it.

Councilman Alworth – Stated that he has heard a series of issues of back yard drainage. Unfortunately our city codes do not talk about drainage before site plan is approved. We only talk about drainage after the site plan is approved and before it is allowed to be built. We have talked about a Fire Department turn around, landscaping on Timberwilde, the wall along Mr. Price's yard, and request from citizens to put a wall on Timberwilde. We can solve a development issue but we cannot solve a drainage issue.

Councilman Simons – Stated that this is too dense and too intrusive into the neighborhood. This lot is better suited for an RPO.

Motion by Councilman Mezayek to return item Z-1 to Planning and Zoning for more review on all issues; seconded by Councilman Alworth; motion carried 7 - 0 & approved as presented.



Z-2

APPLICATION A04-10-001 CHAMBLEE

Request that the City Council consider adopting an ordinance annexing sparsely populated and owner requested territory constituting approximately 0.52 acres of land contained in the Henry Mickleborough Survey, A-651, Smith County, Texas, located at the southeast intersection of US Highway 69 N and County Road 493. (O-2010-27)

Also consider establishing:

- A. The new boundary of the City Limits;**
- B. The new boundary of the Extraterritorial Jurisdiction;**
- C. The new boundary of the City Council District Number 3;**
- D. The creation of the Agricultural future land use designation and the amendment to the Land Use Guide to reflect a Agricultural Land Use; and**
- E. Original zoning of 0.52 acres of "AG", Agricultural District.**

Motion by Councilman Caraway; seconded by Councilman Mezayek; motion carried 7 - 0 & approved as presented.

ORDINANCE

O-1 Request that the City Council consider adopting an Ordinance canceling the Mayor At Large, District Two, and District Four Election scheduled for May 8, 2010, and declaring the unopposed candidate for the Mayor At Large, District Two, and District Four elected to office. (O-2010-28)

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Motion by Councilman Whatley; seconded by Mayor Pro Tem Sanders; motion carried 7 - 0 & approved as presented.

MISCELLANEOUS



TYLER 2

M-1 Request that the City Council consider authorizing the City Manager to award a contract, in the amount of \$140,000, to Apex Geoscience Incorporated to perform construction materials testing and inspection for the Earl Campbell Parkway roadway project. ©

Motion by Mayor Pro Tem Sanders; seconded by Councilman Alworth; motion carried 7 - 0 & approved as presented.

M-2 Request that the City Council consider approving the reconciliation change order and releasing final retainage to Reynolds and Kay, Limited for the Grande Boulevard Phase 2B – Paluxy Drive to Troup Highway project. ©

Motion by Councilman Alworth seconded by Councilman Mezayek; motion carried 7 - 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 authorizing the City Manager to extend Bid No. 06-018, for one year (April 12, 2010 thru April 11, 2011) to accomplish herbicide treatment of 25.98 miles of Tyler Roadside right-of-ways and approximately 6.105 miles of drainage ditches, within the City of Tyler, to Edko, LLC (formerly SprayMax, Incorporated of Tyler, Texas) for the amount of \$44,100. ©

C-A-2 Request that the City Council consider authorizing the City Manager execute the replat of Lots 25 and 26 in the Peninsula Subdivision at Lake Tyler.

C-A-3 Request that the City Council authorize the City Manager to purchase one frontload cab and chassis from East Texas Mack Sales through the HGAC purchasing

C-A-4 cooperative and one frontload body from McNeilus Truck and Manufacturing through the Buy Board purchasing cooperative, and accept the 30-month estimated buy-back agreement for this vehicle from East Texas Mack Sales and confirm the sell-back of frontload unit 757 to East Texas Mack Sales.

C-A-5 Request that the City Council consider declaring certain City of Tyler vehicles and miscellaneous vehicle parts as surplus and authorize for auction.

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C-A-6 Request the City Council consider adopting a resolution authorizing the Police Department to participate with other law enforcement agencies in the submission of a grant request from The Texas Automobile Burglary & Theft Prevention Authority and to include authorizing the City Manager to enter into a cooperative working agreement regarding the same. (R-2010-7)

C-A-7 Request that the City Council consider authorizing the City Manager to execute an Interlocal Agreement with Smith County regarding utilization of grant funds provided by the Texas Automobile Burglary and Theft Prevention Authority (ABTPA) relating to fleet management services for the East Texas Auto Theft Task Force. ©

C-A-8 Request that the City Council consider repealing Resolution R-2009-26 and adopting a new Resolution agreeing to the sale of a certain tract of land located at 315 Thigpen within the City of Tyler city limits and owned by taxing entities including the City of Tyler. (R-2010-8)

C-A-9 Request that the City Council consider authorizing the City Manager to purchase one International 7400 Crew Cab Utility Service Truck and Power Unit.

C-A-10 Request that the City Council consider authorizing the City Manager to execute a contract with Butler Architectural Group for architectural services for City Hall limited renovations. ©

C-A-11 Request the City Council authorize the City Manager to execute an agreement with EnerNOC, Inc., for management services of the demand response program. ©

Motion by Councilman Alworth seconded by Mayor Pro Tem Sanders; motion carried 7 - 0 & approved as presented.

CITY MANAGER'S REPORT
CIP Report update

RECESS FOR EXECUTIVE SESSION – No session

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

-under section 551.087 “Economic Development” deliberation regarding the following:

Possible offer of financial or other incentive to a prospect and to consider financial and other information about that prospect/project with which the City is conducting economic development negotiations that could lead to a partnership in Tyler

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ADJOURNMENT

Motion by Councilman Caraway; seconded by Councilman Mezayek; motion carried 7 - 0 & approved as presented.

Barbara Bass
BARBARA BASS, MAYOR OF
THE CITY OF TYLER, TEXAS

A T T E S T:

Cassandra Brager
CASSANDRA BRAGER, CITY CLERK

