

**MINUTES OF THE
REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
April 24, 2013**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, April 24, 2013 at 9:00 a.m. in the City Council Chambers, 2nd floor of City Hall, Tyler, Texas, with the following present:

Mayor:	Barbara Bass
Mayor Pro Tem:	Mark Whatley
Councilmembers:	Martin Heines
	Darryl Bowdre (Absent)
	Sam Mezayek
	Ralph Caraway

City Manager:	Mark McDaniel
Asst. City Manager:	Susan Guthrie
City Attorney:	Gary C. Landers
Deputy City Attorney:	Steve Kean
Development Services Engineer:	Michael Wilson
Chief Information Officer:	Benny Yazdanpanahi
City Engineer:	Carter Delleney
City Fire Chief:	Tim Johnson
Director of Parks and Recreation:	Stephanie Rollings
MPO Executive Director/Transit Director:	Barbara Holly
City Planner:	Heather Nick
Managing Director for Utilities/Public Works and Utilities:	Greg Morgan
Street Department Manager:	Robin Smart
Traffic Engineer:	Peter Eng
City Clerk:	Cassandra Brager

INVOCATION

The Invocation was given by Councilmember Caraway.

MINUTES

Motion by Councilmember Mezayek to approve the April 10, 2013 minutes; seconded by Councilmember Caraway; motion carried 5 - 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 **110-years** of service with the City of Tyler.

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Service Awards

DATE OF HIRE:	FIRST NAME:	LAST NAME:	POSITION:	DEPARTMENT:	YEARS OF SERVICE:
4/5/1993	Jason	Seeton	Police Officer X	Police	20
4/5/1993	Wayne	Thomas	Police Officer X	Police	20
4/12/1993	James	Appleton	Plant Mechanic II/Water	Water Plant	20
4/26/1993	Lloyd	Clark	Residential Equipment Operator	Solid Waste	20
4/5/1983	Robin	Smart	Street Operations Manager	Street	30

ZONING

Z-1 Z04-13-022 DARRELL NUNN (2521, 6706, 6732, 6738, 6744, 6750, 6758, 6766 & 6850 AMBER CIRCLE)

Request that the City Council consider approving a zone change from "PUR", Planned Unit Residential District to "PMF", Planned Multi-Family District with final site plan. (O-2013-31)

Motion by Mayor Pro Tem Whatley; seconded by Councilmember Mezayek; motion carried 5 - 0 & approved as presented.

Z-2 Z04-13-024 HOOPER TYLER PROPERTIES (4803 OLD BULLARD ROAD)

Request that the City Council consider approving a site plan amendment for property zoned "PCD", Planned Commercial Development District. (O-2013-32)

Melinda Weedon, 4710 Richmond Rd. – Stated that this business is actually threatening their personal space and home. No way do shrubs, bushes and a rod iron fence take care of noise into a neighborhood. Mrs. Weedon asked that City Council to apply the same standard to this phase as with Phase 3 with the 8 foot sound abatement wall along the back side of 12-C and along Timberwilde.

Sam Price, 510 Timberwilde Dr. – Stated that for 6 years he has had this intrusion of his privacy from Café Tazzo. Mr. Price asked that the wall be put up along the east side of his back yard and down Timberwilde all the way down Bullard Road before any construction or building changes are done to this existing building.

Ronald Weaver, 421 Timberwilde Dr. – Gave time to Ryan Gardner

Ryan Gardner, 310 Savoy Street Bullard, TX. – Stated that what he would like the City Council to consider is the purpose of this board and it is to protect the character of an established residential neighborhood. Mr. Gardner stated the reason he was here was because what they have is a cheap fence with some shrubbery versus a serious fence that will cost money. Deny the motion, unless you accept the motion and make a solid 8 foot sound abating wall with shrubbery and greenery on the outside.

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Stephenie Roberts, 9520 Richmond Rd. – Stated that her biggest concern and frustration is that they keep coming back to City Council. Mrs. Roberts stated that they have been surrounded by professional offices all the way around their neighborhood and have not been here to fight those issues because they have been worked out, but this property continues to be an issue and a problem.

Mark Priestner, 3815 Old Bullard Rd. – Stated that this is not a change in zoning. What they are looking at or would like to do with this site plan is restrict it to C-1 uses which is the neighborhood commercial. A suggestion of one of the Planning & Zoning Commissioners was to add a fence along Timberwilde and add shrubbery so that it helps protect the neighbors from the parking and direct traffic. One of the comments that was brought up, that was agreed upon, was that if there is an issue with parking on Timberwilde that we put a fence along there and that will help alleviate some of that indirect pedestrian traffic to the commercial area. This footprint is not changing at all and what we are doing is decreasing some of the concrete that is out there. If you look at the outdoor patio that they are talking about, they have placed it on the southeast corner so that that building is a noise abatement buffer between the residential areas and where the patio is located. This is primarily going to be a retail center, small boutique retail users utilizing the center. If a restaurant user comes in, that is going to take up all of the parking and all of the building so it will eliminate all the retail aspect to it. This is truly a commercial property and will continue to be so.

Mayor Pro Tem Whatley – Asked if consideration for a sound abating fence was given for 12-C?

Mark Priestner, 3815 Old Bullard Rd. – Stated, yes, but 12-C already had a site plan approved. The reason that there was one put on 12-D was because no site plan had ever been approved on it. If you added a solid wall all the way down you cannot close off total visibility.

Robert Means – Stated that he would like there to be no fence at all without a tenant requesting a fence or bringing into the potential future use. Mr. Means feels like they have given following the Planning & Zoning meeting where we didn't have it up for air recommended approval 6-1 and we did not want to get into a situation where we continue to re-deal and every concession we make starts the ballgame over.

Mayor Bass – Asked what was the expected use of the facility?

Robert Means – Stated the use will be a combination of restaurant and retail use.

Mayor Pro Tem Whatley – Asked what is the proposed use for 12-D?

Robert Means – Stated that they have potential medical users, potential office space users, and in fact 12-D use might decrease in intensity based on who they have on 12-C because they wanted to have a multi-use development where there may be a dentist or surgical user that could actually decrease the intensity of use on 12-D.

Councilmember Heines – Asked if they were anticipating a drive thru situation?

Robert Means – Stated, 'absolutely not.'

PRESENTATIONS

P-1 Request that the City Council consider receiving a presentation regarding the Tyler Independent School District (TISD) Bond 2013 Election, May 11, 2013.

Gary Mooring, Superintendent of Tyler ISD-Gave a presentation on the Tyler ISD 2013 Bond.

P-2 Request that the City Council consider receiving a presentation from the Traffic Engineering department on the proposed pavement reconfiguration of Rice/Shiloh Road, and provide direction regarding the suggested design/approach.

Peter Eng, Traffic Engineer – Stated that the goal of the Traffic Engineering department is to provide the safe and efficient movement of traffic throughout the city. Rice/Shiloh Road is a four lane street which is unable to expand to five lanes for the addition of a left turn lane due to a lack of right-of-way and the unfeasibility to purchase additional right-of-way. Procurement of additional right-of-way would also create a hardship for existing businesses and residents. To alleviate congestion and safety issues, the Traffic Engineering department has developed a specialized striping system to allow the inclusion of a turning lane while remaining within the existing curb line.

PUBLIC HEARINGS

H-1 Request that the City Council conduct a public hearing and consider adopting an Ordinance renewing the designation of City of Tyler Reinvestment Zone No. 9/Sealtite at 2310 East Commerce Street, Tyler, Texas, and an Ordinance renewing the designation of City of Tyler Reinvestment Zone No. 10/Hargis at 6357 Reynolds Road, Tyler, Texas. (O-2013-33) (O-2013-34)

Motion by Councilmember Caraway; seconded by Mayor Pro Tem Whatley; motion carried 5 - 0 & approved as presented.

MISCELLANEOUS

M-1 Request that the City Council grant preliminary approval of a site and selection of an owner investor for a hotel conference center. (Mayor Pro Tem Whatley abstain)

Mark McDaniel, City Manager – Stated that on January 9, 2013 the Tyler City Council voted unanimously to enter into a professional services contract with Garfield Traub Development, L.L.C. to act as program managers to assist the City with bringing a new hotel conference center to Tyler. The contract calls for the firm to assist with pre-development activities, document negotiations, design of the facility and construction.

In accordance with their scope of services, Garfield Traub has identified a potential investor for the hotel. This investor has indicated a preferred site to locate the project.

Motion by Mayor Pro Tem Whatley to approve the application subject to including a 8 foot sound abatement wall with greenery on outside to extend on north side of 12-A East, similar to what was required for Lot 12-D, and as more specifically described below; seconded by Councilmember Mezayek; motion carried 5 - 0 & amended as presented. The specific wording of that prior requirement as brought forward to apply to this action and which is hereby made a part of the motion is as follows:

That the existing site development plan is hereby amended by approving the proposed site plan labeled as Exhibit "A" of the ordinance amending the prior site plan on the following described property zoned "PCD", Planned Commercial Development District, to wit:

Lot 12-A of NCB 999F, one lot totaling approximately 1.405 acres located at the southwest intersection of Timberwilde Drive and Old Bullard Road (4803 Old Bullard Road), and in accordance with the site plan attached hereto as Exhibit "A", and subject to the following conditions:

1. That a wall similar to the wall approved for Lot 12D of NCB 999F in Ordinance No. 0-2010-51 adopted on June 9, 2010, shall be constructed along the northern side of Lot 12-A of NCB 999F. Lot 12-C is located on Lot 12-A, and is shown on the Site Plan attached hereto as Exhibit "A".
2. That said wall shall be a 8 feet high masonry wall which shall extend easterly from the westernmost edge of Lot 12-A of NCB 999F and along the Timberwilde Drive right-of-way in the area shown as a decorative fence on the map shown in the approved Site Plan for Lot 12-A of NCB 999F, 450 Timberwilde Drive, said masonry wall terminating at the easternmost point as shown in Exhibit "A". The easternmost point of termination of the masonry wall is opposite to the easternmost property line of the residential lot across Timberwilde Drive immediately to the north of Lot 12-A. Said 8 feet high masonry wall shall allow sufficient setback (maximum five feet wide) to provide for evergreen plantings to occur on the residential side of the wall on its northern leg along Timberwilde Drive. Said 8 feet high masonry wall shall serve as a noise abatement mechanism that isolates the adjoining neighborhood from this commercial development. Said 8 feet high masonry wall shall provide for adequate drainage at its base.
3. All uses allowed by right in the C-1 Light Commercial District shall be allowed on Lot 12-A of NCB 999F (shown as Lot 12-C on the Site Plan attached hereto as Exhibit "A").

The City took the initial step toward exploring the possibility of constructing a hotel conference center in 2011 when Senator Kevin Eltife and Representative Chuck Hopson sponsored and carried bills to amend the Texas Tax Code to allow for an additional two percent hotel occupancy tax to be collected within Tyler city limits. An enabling Ordinance was then passed by the City Council for this additional two percent to be used for the construction, expansion, maintenance or operation of convention center facilities, which may include a conference/convention center, multi-purpose facility, arena or related facility. Approximately \$600,000 annually is generated by this additional two percent.

Then, on November 9, 2011, the Tyler City Council voted to hire a consulting team to evaluate the feasibility of the facility. Garfield Traub Developments (and PKF Consulting USA as its subcontractor) was hired to conduct a market and feasibility study for two projects: a conference center and an arena.

The consultants found that Tyler is uniquely positioned to attract private investors for the construction and management of a full-service hotel conference center. Further, they went on to prioritize potential sites for the facility.

The hotel conference center would be a public-private partnership with an estimated 66 percent of the funding coming from private investment. Remaining funding would be public funds – and those would come from hotel tax revenue. The budget for the project will not be finalized until the design is complete and bids are obtained; however, it is estimated to be around \$50 million.

The proposed conference center hotel is anticipated to generate \$600,000 per year in new hotel occupancy tax income for the City, in addition to new sales tax revenue, property taxes and operating income. The hotel could provide up to 250 rooms and the conference center could offer 27,000 square feet of meeting space. More details and actual scope would depend upon the design that is yet to be accomplished. The City would reserve the right to approvals of private ownership, hotel brand, and professional services from architects/contractors, and project budgets should the project proceed after an estimated six-month period for pre-development work.

Most conferences would need significantly more hotel rooms than the 250 incorporated into the project. The overflow would utilize room inventory in the community, thus benefiting our existing hotels.

Tourism was identified as one of Tyler's chief opportunities for economic growth in the Industry Growth Initiative that was adopted in mid-2010. It is estimated that nearly 20,000 visits are lost each year because Tyler has not had the facilities to accommodate large conferences

Glenn Pedersen, President of Encore – Gave a brief overview of Encore and his background with the company.

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Steven Cottrell, 1945 WSW Loop 323 – Read a statement from the Tyler Lodging Association supporting the development of the convention center and convention hotel based on the model outline in the initial marketing assessment study.

Dilip Patel, 2828 W NW Loop 323 – Stated that he wanted to urge the City to plan that the whole city benefits and not just certain city limits.

Motion by Councilmember Mezayek; seconded by Councilmember Caraway; motion carried 4-0 -1 & approved as presented.

M-2 Request that the City Council consider ratifying staff action in the approval of Work Order No. 1 with Wisenbaker Fix and Associates in the amount of \$482,500 for the Lake Tyler Dam Repair project.©

Motion by Mayor Pro Tem Whatley; seconded by Councilmember Mezayek; motion carried 5 -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 adopting a Resolution authorizing continued participation with the ATMOS Cities Steering Committee and authorizing the payment of five cents per capita to the Atmos Cities Steering Committee to fund regulatory and related activities related to ATMOS Energy Corporation. (R-2013-14)

C-A-2 Request that the City Council consider authorizing the City Manager to enter into a letter agreement with James Plummer of Fulbright & Jaworski L.L.P. to represent the City of Tyler in connection with its efforts to cause a hotel and conference center to be built in Tyler and to ratify the prior July, 2012 agreement. ©

C-A-3 It is request that the City Council consider authorizing the City Manager to ratify previous contract and enter into another contract with Focused Advocacy for services during legislative sessions and interim sessions. ©

Motion by Mayor Pro Tem Whatley; seconded by Councilmember Mezayek; motion carried 5 -0 & approved as presented.

CITY MANAGER'S REPORT

No executive session

RECESS FOR EXECUTIVE SESSION

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

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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.

Any final action to be taken by the City Council will be taken in open session.

ADJOURNMENT

Motion by Councilmember Mezayek to adjourn the meeting at 10:43 am; seconded by Mayor Pro Tem Whatley; motion carried 5 - 0 & meeting adjourned.

Barbara Bass

**BARBARA BASS, MAYOR OF
THE CITY OF TYLER, TEXAS**

A T T E S T:

Cassandra Brager

CASSANDRA BRAGER, CITY CLERK

