

**MINUTES OF THE REGULAR CALLED MEETING OF
THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
October 23, 2024**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, October 23, 2024 at 9:00 a.m. in the City Council Chambers, 2nd floor of City Hall, Tyler, Texas, with the following present:

Mayor:	Don Warren
Mayor Pro Tem:	Stuart Hene
Councilmembers:	Brad Curtis Shirley McKellar Petra Hawkins James Wynne Lloyd Nichols
City Manager:	Edward Broussard
Deputy City Manager:	Stephanie Franklin
Asst. City Manager:	Heather Nick
City Attorney:	Deborah G. Pullum
Senior Asst. City Attorney:	Alesha Buckner
Director of Organizational Development:	Regina Y. Moss
Airport Manager:	Stephen Thompson
Main Street Director:	Amber Varona
Planning Director:	Kyle Kingma
Chief Financial Officer:	Keidric Trimble
Chief Information Officer:	Benny Yazdanpanahi
City Fire Chief:	David Coble
City Librarian:	Ashley Taylor
Compliance Engineer:	Paul Neuhaus
Police Chief:	Jimmy Toler
City Engineer:	Darin Jennings
Director of Utilities:	Kate Dietz
Director of Parks & Recreation:	Leanne Robinette
Director of Solid Waste, Transit:	Leroy Sparrow
Senior Management Analyst:	Blake Cathey
City Clerk:	Cassandra Brager

INVOCATION

The Invocation was given by Councilmember McKellar.

AWARDS

A-1 Request that the City Council consider recognizing the following employees for their years of service and commitment to the City of Tyler. They represent 100 years of service with the City of Tyler.

Mamie Johnson, Custodian, 30 years of service
Brenda Choy, Circulation Supervisor, 25 years of service
Keidric Trimble, Chief Financial Officer, 25 years of service
Stephanie Franklin, Deputy Manager, 20 years of service

Mayor Warren – Stated, so you're saying you own the part that's right in the middle?

Casey Hymer– Stated, that's right. Yeah. It wasn't red on the previous site plan.

Councilmember Hene Asked if Casey had reached out to the co-owner and tried to work out future parking or reach an agreement.

Casey Hymer – Stated that we have met multiple times over the last 2 years.

Councilmember Hene- Asked, what about recently?

Casey Hymer- Stated we have not recently.

Councilmember McKellar- Asked, have you agreed to any of this in the past during your meetings?

Casey Hymer- Stated repeatedly that as long as there's parking, consistent with the rest of the development. But if you're familiar, it's, you know, everything around Fresh. All the parking is for everyone. The shared uses off-site. And so, it's in that common area. And this site plan doesn't have that consistency with everything else. And so that's our only concern and objection. We're not in agreement with this site plan.

Councilmember Hene: Asked, if y'all were able to reach an agreement on shared access and shared parking, would you then be in favor of what's proposed?

Casey Hymer – Stated, “Yes.”

Mayor Warren – Asked if any other questions for Mr. Hymers before I call up Mr. Priestner?

Mark Priestner , 1121 East Southeast Loop 323 Stated that as Kyle pointed out, this is a reduction from what was originally approved. What was originally approved included the drive through the center as part of the gated, you know, parking for the development. Mr. Hymers is, they are part owners. It's owned jointly by Trek Resources and, Drake. JP Davis is the other owner. He owns all the rest of the right of way other than this section. So even though Casey is opposing this, JP is in favor of it. So, really, the calculation in the protest is a joint ownership of that access easement. So, when we went in and redeveloped the site plan, it was because we couldn't come to an agreement on closing that off. So, we left it open and left the additional parking. It's open for full access and the gates come off of that. So, it's going back to the original on how that thing was laid out originally. Because of the reduction in the number of units, there is still plenty of parking. This whole area has shared parking, and it's parked in the aggregate. And there's plenty of parking all the way around. So, we felt that this is a good use. You know, the intention was always to have some kind of higher density residential in there, something that's complimentary for the Copper Ridge unit 1, and trying to get it in there, but still meet all of the intensity of the original PCD. Since we laid out the original, this is keeping in, with the entire Fresh area development plan.

Mayor Warren- Asked any questions?

Councilmember Hene- Asked if we were to give y'all 30 days to work out the disagreement with that shared area, would that change anything with the other two tracks?

Mark Priestner – Stated, “I don't think so.” But what I wanna point out is that shared area is just an access easement. It's an easement that includes drive and parking. So, what's shown in there is exactly what's written in that access easement. So, it's already in keeping exactly with what was proposed there in the beginning.

Mayor Warren – Stated So, you're saying there is an easement on that section?

Mark Priestner – Stated because it's private, this is one of those that were done in private ways. And if you look at the property you can see the property depth that's kinda down to the south. It comes up and across and then comes out that section. And they had an easement on it for access and parking, and that's what is shown on the property.

Councilmember Hene- Asked if the number of spots change?

Mark Priestner – Stated, “Yeah, There's nothing on it right now. It's not built at all.

Councilmember Hene – Stated, so the number of assigned parking spaces changed?

Mark Priestner- Stated there are no assigned parking spots through there. It's all open. So, the parking would come as the uses come. So, depending on what was originally on that corner, we were looking or thinking of a 3 or 4-story office building, which would have required more parking. So, it was kinda set up in a way to be sort of flexible depending on what those final uses are. But under this one, we have a lot less parking demand because of what they end up as the final uses.

Mayor Warren – Asked who signed the easement?

Mark Priestner -Stated, Trek has the original. When Drake bought the building, that you can see, this one right here, they took over half ownership of those access easements, but they were already in place prior to them purchasing.

Councilmember Hene: I would like to give Casey an opportunity to if he has any response to the easement. There's still, I think, some question about what's out there.

Casey Hymer- Stated, so the easement's not the issue. The current site plan that has been passed around is highlighted. There's parking on the current site plan, which is consistent with the remainder of the development, and the new site plan does not have that parking there. And so, our concern is that all these buildings, they don't self park on their own site. All that there's a gym there. The Brookshire's Wildlife Museum is going in there, and so we rely on all that shared parking. There's some vacant retail space that if that ever gets leased up, parking is gonna be extremely tight. And so, taking away those spots along that shared drive aisle, we feel like it's gonna be a problem for the remainder of the owners in there. So, it's not the access through that. We're very aware that when we, you know, bought half this property,

undivided interest, that's an access easement. But the intention was for there to be parking all along the shared access for the use of everyone.

Councilmember Wynne - Asked Casey, how many total spots would be eliminated?

Casey Hymer – Stated whatever there should be, where I was pointing a mouse that's on a highlighted copy. I don't know how many spots that was, twenty. But, essentially, they're not there now, but there's also no buildings there. And so, adding building and traffic and users and then not adding the spots that would have been there if there'd been an office building or a retail building, is the concern.

Mayor Warren - Any other questions for Casey?

Casey Hymer – Stated the number of spots is not going down. Like, you'll ask them if it was going down. It's not going down if there are no buildings there. But it would be going down from what's currently approved, the current approved site plan.

Councilmember Nichols - So, then what I'm seeing is in the common area, by eliminating those public spots, we've now moved them inside this development. It's gated, so we've removed the parking because with this current development plan, all the parking places are now behind the gate.

Casey Hymer - Stated well, there there's no gate there. So, instead of there being parking all the way along the common area, even out to Highlands Drive, they only added 11 spots, which was to get them to their code. So, they're required to get 42 garage spots, and then they put I think it's eleven spots outside of their gates on the shared access. What we're asking for is for them to continue the parking that is in place for all the other buildings along the shared access.

Mayor Warren – Asked, so who owns the property where the parking spots are located?

Casey Hymer – Stated the common area...

Mark Priestner - Real quick. This, part through this section...Is not owned by the common area. That is the property line goes to the center. That's not covered by the easement. This section, we have provided for the ability to add that back in. So that section along there is part of that easement, and those can be added back in. This part is not part of the easement, and there is no easement on that for parking. And that is only the center line with properties that are directly out. So, it is not part of the dispensary between Trek and Drake.

Casey Hymer – Stated and there's existing parking where he was just highlighting that is in part of their property line. And I know y'all don't get into the ECR, but the ECR is basically that shared parking for everyone to use. And so, this site plan shows that going away and then not adding those. So again, the current site plan we were fine with because the parking was there. This one we're not.

Councilmember Hene – Stated that in his personal opinion this is something that both developers need to work out and if it's up to him he would say table it for 30 days, maybe a short amount of time to get them, where they can sit down together and talk.

Sherri Caton, Caton Property Group, 2931 Elkton Trail, Tyler, Texa – Stated, “We did add future parking, but we will go ahead and improve it with you guys’ approval that we will put the parking back in as shown on this site plan. We will add that parking back in. That parking is not there right now. But we will add that parking in, in order to get this passed today. And also, I’m going to make note that the easement at the drive-thru is not gated. So, it’s open to anyone who wants to come through there. And that parking is also open to anyone in the whole entire Fresh Oak Hills development to park there anytime they want. Of course, that was added for our guest parking needed requirements but I don’t know how often a guest parking will actually be utilized. So of course, that is open to anyone in the whole entire development. So, we’ve actually added eleven parking spaces there for the development to use and we are agreeable to go ahead and take away future parking and go ahead and add that parking right there. So that’s really the only thing I can think of.

Councilmember Hawkins – Stated she would make a motion to table this again in 30 days?

Mayor Warren – Stated, yes but not my preference. We just need to calm down, 30 days and if somebody will make that motion.

Councilmember Hene - So, I'll make the motion.

Councilmember Hawkins- I seconded.

Mayor Warren -We got a motion by Hene, seconded by Hawkins to table this for 30 days. Y'all get together and see if you can figure this out.

City Manager, Edward Broussard – Stated because of the way that the calendar is working out, if we can be able to get this back to y'all before the 30 days. The next council meeting is in November and then we have one meeting in December. So we'll see if it can be resolved and brought back to you for your November meeting.

Kyle Kingma, Director of Planning - Okay. Should the tabling request to be to the next meeting?

Mayor Warren -So, we need to modify the motion probably.

Councilmember Hene – Stated, the revised motion is to table this until the next Council meeting in November, which is fewer than 30 days.

Councilmember Hawkins- Second.

Motion by Mayor Pro Tem Hene to table the item until the next City Council meeting; seconded by Councilmember Hawkins; motion carried 7 - 0 & approved as presented.

approving a zone change from 'R-1B', Single-Family Residential District to 'M-1', Light Industrial District. The applicant is appealing the denial by the Planning and Zoning Commission. **(O-2024-94)**

Ralph Brown, 4296, County Road 427, 75708

Councilmember Wynne – Asked Mr. Brown, have you reached out to the resident that was concerned about what your plans were for the property?

Ralph Brown – Stated, “No, I did not.”

Councilmember Wynne – Asked Mr. Brown if he had identified what he was going to do with the property?

Ralph Brown – Stated, yes, we actually do a lot of business with the business across the street, ST Fastening. And we build machines for them. So, it really is just a light industrial. We have a machine shop, and having them across the street would definitely help us. And, we'd like to expand business and maybe hire a few more people, you know, using them across the street. It just opened up and it'd be a great opportunity for us.

Councilmember Curtis – Asked if he will be building on both properties 6 and 7.

Ralph Brown – Stated right now, we're just using the one side. And then the other side, the further house, that's, a gravel and body shop. So, I'm not sure. I think they live on the property. I went and spoke with them, and they're like, we have no problem. I'm not sure if they returned a letter.

Councilmember Curtis – Asked if Mr. Brown would be building all on lot 6.

Ralph Brown – Stated, “yes, that's the larger property.”

Councilmember Wynne – Asked if Mr. Brown understood all the setbacks?

Ralph Brown – Stated, “yes.”

Motion by Councilmember Wynne; seconded by Councilmember McKellar; motion carried 7 - 0 & approved as presented.

MISCELLANEOUS

M-1 Request that the City Council consider authorizing the City Manager to execute a Capital Improvement Project (CIP) construction contract with Reynolds and Kay, LTD for the Keaton Drainage Improvement project, Bid No. 24-014, for \$4,429,876.60.

Motion by Councilmember Curtis; seconded by Councilmember McKellar; 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 cancelling the regularly scheduled City Council meetings of November 27, 2024, and December 25, 2024.
- C-A-2** Request that the City Council consider authorizing the City Manager to award multiple vendors for the Annual Price Agreement for Automotive and Equipment parts per bid 23-092.
- C-A-3** Request that the City Council consider authorizing the City Manager to award Action Cleaning of Tyler as the primary vendor for wash bay chemicals and repairs, and AAA Sanitation as primary vendor to clean the grit traps.
- C-A-4** Request that the City Council consider authorizing the City Manager to award Hydraulic Power as the primary vendor for hydraulic services.
- C-A-5** Request that the City Council consider authorizing the City Manager to renew multiple vendors for the Annual Price Agreement for various categories of automotive and truck services and repairs per bid 23-093.
- C-A-6** Request that the City Council consider authorizing the City Manager to purchase one (1) new International dump truck designed to haul sludge waste from Holt Truck through Sourcewell contract #060920-nvs for \$252,110.73.
- C-A-7** Request that the City Council consider authorizing the City Manager to purchase the City vehicles and equipment identified from the lowest bidders.
- C-A-8** Request that the City Council consider authorizing the City Manager to sign a contract with Otis Elevator to repair and update the (2) two elevators at the Fair Plaza Garage.
- C-A-9** Request that the City Council consider authorizing the City Manager to add Addendum 3 adding the Water Service Center to the Downtown Janitorial Contract with Office Pride Janitorial.
- C-A-10** Request that the City Council consider authorizing the City Manager to award a contract in the amount of \$54,875.00 to Blue Moon Roofing for the Carnegie Building Historic Gutter Replacement Project.
- C-A-11** Request that the City Council consider authorizing the City Manager to execute a Capital Improvement Project (CIP) construction contract with Reynolds and Kay, LTD for the Storm Main Replacement project, Bid No. 24-041, for \$364,781.00.
- C-A-12** Request that the City Council consider approving a Reconciliation Change order in the amount of \$206,919.59 approving final payment and releasing retainage in the amount of \$57,065.45 to Reynolds and Kay, LTD, for the 2023 Street Reconstruction Project.
- C-A-13** Request that the City Council consider authorizing the City Manager to execute the Funding Amendment for FY 2024-25 to the Northeast Texas Public Health District Cooperative Agreement.

C-A-14 Request that the City Council consider authorizing the City Manager to revise the funding source for the already approved 2024 Water Meter Replacement Program to be fully funded by American Rescue Plan Act of 2021 (ARPA), in the amount of \$3,450,000.

C-A-15 Request that the City Council consider authorizing the City Manager to execute Contract Change Order No. 1 - Final Reconciliatory with KSA Engineers, Inc. and Reynolds & Kay, LTD. to decrease the total contract price amount by \$155,837.34 and increase the completion time by 128 calendar days for the 2022 Taxiway Alpha Rehabilitation Project at Tyler Pounds Regional Airport.

C-A-16 Request that the City Council consider authorizing the City Manager to approve the Co-op and Sole Source Purchasing list whereby the City of Tyler can take full advantage of purchasing any and all items available through the cooperative.

C-A-17 Request that the City Council consider authorizing the City Manager to execute a construction contract in the amount of \$53,930.00 with Advanced Water Well Technologies for the Well Camera Survey Project.

C-A-18 Request that the City Council consider authorizing the City Manager to execute the annual Interlocal Agreement with the Northeast Texas Public Health District (NETHealth) for City support services to the District for FY 2024-25.

C-A-19 Request that the City Council consider authorizing the City Manager to approve Change Order #1 with Propipe, LLC, that will increase the contract amount by \$296,000.00 for Group 7 Cleaning and Closed Circuit Television (CCTV), Bid 23-043.

Motion by Councilmember Curtis; seconded by Councilmember Wynne; motion carried 7 - 0 & approved as presented.

CITY MANAGER'S REPORT

1. Our Tyler Sister Cities collected \$1300 in donations to be transferred to Jelenia Gora, Poland, which is one of our main Sister Cities that we have to support the relief efforts for the victim of the flooding that the city experienced in September. So, the Sister Cities Board of Directors voted to remove the donation link from the website and transfer the collected funds. And so, Tyler has been Sister Cities with Jelenia Gora since 1993 and the relationship continues to be strong today.
2. And we had all the Library staff over here earlier, but I want to kind of brag on them a little bit. Tyler Public Library has partnered with our Animal Control Department to help with the shelter's current needs. Jammer Smith reached out to, who works over at the Library, reached out to Animal Control to understand their needs for blankets and went to work. They put out a press release and established a process for intake over at the Library. The Library has 2 bins in front of the checkout desk for blanket donations, which has been seen a great response from patrons after only a few days.
3. Another item of note that the Council has taken action on and it's kind of, an EPA mandate that we have, has been on our water service line inventory. So, on October 16th, a week ago, Tyler Water Utilities completed and submitted the water service line inventory as required by the EPA. The inventory identified 142, which is 0.37% lead lines, 3843, which is 9.91% galvanized lines that may require replacement, and then 4,390, which is about 11.32% lines of unknown materials that will require further investigations. So, customers with lead service lines, galvanized steel lines, or service lines of unknown material will be notified by mail by Friday, November 15th. This week, we're also going to release a press release, an interactive map in English and Spanish, and set up media interviews on this topic. We also want to thank Jeremy Priest and Holly Wall with the GIS for their hard work and for quickly putting together their interactive map. We also have a big thank you to the Water Service Center employees themselves for manually investigating the majority of these lines and going out there. Without their effort, we would not be able to have met that deadline.
4. And then finally, I just want to note that VISIT Tyler announced last week, and we are thoroughly part of this that, Tyler is the 3rd tourism friendly city certified community for the State of Texas. Governor Abbott's office, notified us of that. And I'm very proud of the work that VISIT Tyler is doing. I know our downtown, our Main Street staff are here today. And also, you know, our park staff, and so many others do such an incredible job of making this a tourist destination for Texas. And so, we're glad that the state records recognize that. Many of the cities are putting together information to get that forward. And the fact that we were able to be the 3rd one designated, speaks highly of our community.

EXECUTIVE SESSION – City Council convened into executive session at 9:54 am

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

Executive Session Item -1) Under Tex. Gov't Code Section 551.071, 'Litigation', to deliberate pending or contemplated litigation or settlement offer involving: Jason Hall v. City of Tyler lawsuit; Cause No. 23-0270-C.

Executive Session Item – 2) Under Tex. Gov't Code Section 551.071, 'Litigation', to deliberate pending or contemplated litigation or settlement offer involving: Liberty Utilities Corp. (Tall Timbers Sewer) and Liberty Utilities Corp. (Woodmark Sewer) v. City of Tyler and Rose City Municipal Utility District, Civil Action No. 1:19-cv-00857. 5311197

Litigation is, by its nature, an ongoing process, and questions may arise as to trial tactics, or settlement offers 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 and or settlement offers related to the litigation matters listed above.

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

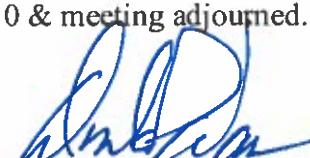
City Council reconvened from executive session at 10:45 am with the following action taken in Open Session.

Motion by Mayor Pro Tem Hene to approve the settlement offer involving: Jason Hall v. City of Tyler lawsuit; Cause No. 23-0270-C in the amount of \$80,000.00; seconded by Councilmember McKellar; motion carried 7 - 0 & approved as presented.

Motion by Mayor Pro Tem Hene to approve the settlement agreement between the City of Tyler and Liberty Utilities also known as Tall Timbers and Woodmark Sewer; seconded by Councilmember McKellar; motion carried 7 - 0 & approved as presented.

ADJOURNMENT

Motion by Councilmember McKellar to adjourn the meeting at 10:46 am; seconded by Councilmember Wynne; motion carried 7 - 0 & meeting adjourned.



DONALD P. WARREN, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:



CASSANDRA BRAGER, CITY CLERK

