

**MINUTES OF THE REGULAR CALLED MEETING OF
THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
July 12, 2023**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, July 12, 2023 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:	Brad Curtis
Councilmembers:	Stuart Hene
	Shirley McKellar
	Broderick McGee
	James Wynne
	Lloyd Nichols
City Manager:	Edward Broussard
Deputy City Manager:	Stephanie Franklin
City Attorney:	Deborah G. Pullum
Deputy City Attorney:	Steve Kean
Senior Asst. City Attorney:	April Earley
Airport Manager:	Stephen Thompson
Planning Director:	Kyle Kingma
Chief Information Officer:	Benny Yazdanpanahi
Community Development Manager:	Larry Everett
City Librarian:	Ashley Taylor
City Engineer:	Darin Jennings
Traffic Engineer:	Cameron Williams
Director of Solid Waste, Transit:	Leroy Sparrow
City Clerk:	Cassandra Brager

INVOCATION

The Invocation was given by Mayor Warren.

MINUTES

Motion by Councilmember Wynne to approve the June 14, 2023 minutes; seconded by Councilmember McGee; motion carried 7 - 0 & approved as presented.

ORDINANCE

- O-1 Request that the City Council consider adoption of an Ordinance approving appointments to the Board of Directors of the Tax Increment Reinvestment Zone No. 4 (TIRZ No. 4). (O-2023-57)**

Kyle Kingma, Planning Director- Stated that the first item is an adjustment to the terms of the Tax Increment Reinvestment Zone Board Number 4 appointment. Back in May, the listing of the representatives on the Board were updated, but today we're going to update the terms. And so, position one which is the Mayor, which is appointed annually. The other terms are for two years and odd number positions One through Nine are being updated to expire in 2025.

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Motion by Councilmember McGee; seconded by Mayor Pro Tem Curtis; motion carried 7 - 0 & approved as presented.

- O-2 Request that the City Council consider adoption of an ordinance amending Tyler City Code Chapter 17, by adding, modifying, or removing speed limits for the East Erwin Street, FM 2767, Loop 323, North Church Avenue, Old Bullard Road, Palace Avenue, Pleasant Retreat Road, Skidmore Lane, South Vine Avenue, State Highway 155, US 271, and W Cumberland Road. (O-2023-58)**

Motion by Councilmember Hene; seconded by Councilmember McGee; motion carried 7 - 0 & approved as presented.

- O-3 Request that the City Council consider adoption of an ordinance amending Tyler City Code Chapter 17, by modifying or removing school speed zones for Andy Woods Elementary, Boulter Middle School, Caldwell Elementary, Clarkston Elementary, Cumberland Academy, Griffin Elementary, Hubbard Middle School, Jack Elementary School, Moore Middle School, Ramey Elementary, Rice Elementary, Tyler Legacy High School, and UT Tyler University Academy. (O-2023-59)**

Motion by Mayor Pro Tem Curtis; seconded by Councilmember McKellar; motion carried 7 - 0 & approved as presented.

- O-4 Request that the City Council consider adoption of an Ordinance amending provisions in Tyler City Code Chapter 15, Franchises by amending Article VI. Rights-of-Way Use and Construction, including above ground facilities. (O-2023-60)**

Darin Jennings, City Engineer – Stated at the last City Council meeting he came with an Ordinance revision for right-of-way use and construction and City Council gave some direction for revisions and additions. So, Engineering, Legal, and I.T. went literally line by line. Today, we will go over some things like what was included in the previous version, highlights, and then what the proposed revisions we are wanting your approval for. Basically, a permit is required. We had one utility contractor company say we don't have to have a permit. Yes, you do. We have to know you're here. They have the right to be in there, but we have the right to regulate them in there. So, we just had to set them on the right path shall we say? Small permit fees had to be established that will help recover at least just a little bit of our administrative costs. We have the revocation--suspension of a permit. Now, that's only going to happen when there's a breach of the Terms and Conditions of the permit or the right-of-way user has a history of violation of City Ordinances, standards, or egregious safety violations. The responsibility of the permit holder is basically they must keep the construction site clean and free of litter and no truck vehicles on the streets. That would just tear up our asphalt streets quite a bit. Also, we included a one-year warranty in there. They have to have a one- year warranty and they have to come within 14 days after we notify them to make repairs during that one- year warranty. They must submit a Barricade Plan and Traffic Control Plan if they do plan on shutting down a lane of traffic. Those are just some of the previously things approved last time. I want to get into proposed revisions. We did do some grammar, formatting, table of contents, and added some definitions. Some standard changes there, but we also did facility abandonment and removal.

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We had 30 days in there to remove power poles and things like that are a safety hazard or just City marring like having two poles right next to each other. We did give them 60 days after talking with Oncor saying that's a more reasonable time frame for them. For relocation, that's item number 15-277, relocation of facilities. When we have our C.I.P. project, we notify them that we need them to move, they have 60 days to move their facilities outside of the right-of-way into the new right-of-way, outside of our pavement. Certain underground requirements, 15-283, for safe and accessible path. Basically, what this is anything they put in the right-of-way cannot interfere with pedestrian safety, the pathway. It cannot interfere with vehicular traffic, meaning triangular site distance for the vehicular path, and one of the directions we were given is underground versus above ground. Now, certain things can go underground. The pedestals which have caused a lot of heartburn. Those can go underground. The markers that are called matchsticks. Those are I.D. marks. They'll take the cone off and they will tie to it and that tells them there's a high electrical charge there and that tells them where their line is in there, but they can be moved underground. The cabinets and the transformers cannot be below ground. Those are similar in size to our traffic control box cabinets. Those cannot be moved underground, but those are either outside the right-of-way or located in the right-of-way to not interfere with future extensions including Master Street Plan with widening and all that. In talking with Oncor, they have little handheld boxes kind of like those pedestals, but those are two feet outside of our right-of-way on private property, so we would not be regulating those. Mayor Warren- Asked if anyone have to get with you guys about these above ground cabinets so that they don't go into a residential neighborhood in front of a house?

Darin Jennings, City Engineer- Stated these are typically located at corners and major intersections.

Edward Broussard, City Manager- Asked the Mayor, "are you asking about the above ground pedestal type stuff or the active cabinets, which one?"

Mayor Warren- Stated the bottom left picture which is the active cabinet.

Darin Jennings, City Engineer – Stated in this regulation, active cabinet means it has a light emitter in there which creates the light for the fiber where the passive cabinet does not. Those are typically not in residential. They could be at the edge of residential.

Edward Broussard, City Manager – Asked if those two are outside of the right-of-way? Is that right, Darin, you said on the active cabinets?

Darin Jennings, City Engineer – Stated that the active cabinets may or may not, but they will not be having issue with right-of-way or distance or vehicular or pedestrian traffic. Next, we have repairing utilities. If they damage a utility, it requires them to tell us within one hour. They've been good about that for the most part, but it's required now. It is in the Ordinance, and they must repair it within 24 hours. Restoration of the right-of-way must be in original or better condition which includes the right-of-way, City owned easements, or even pathways to City owned easements. So, sometimes they have to cross private property to get into an easement because of backyards or whatever, so we included the pathway to an easement in there. They must restore that. And then, just wireless network nodes. It's a little

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bit different more like a scanner system or operation of water utilities or other type of utilities. We have similar requirements for those also that we included in there.

Mayor Warren – Stated he does not have any questions. But, based on what all has transpired over the last six months or longer, this is very much needed, and we have not had anything with teeth to enforce some of the actions of some folks and I think this is something we need to do to protect the citizens and it's probably long overdue.

Councilmember Wynne – Asked two questions. How are you going to get the information to the contractors that are working in our easement? That's question one and then two. Due to the change in the ordinance, is that going to require the above ground pedestals to change to underground hand holes?

Darin Jennings, City Engineer – Stated anywhere that has above ground facilities, if they go in there and work on it or anything like that, we do not require them to go below. If it's existing above ground, it will stay existing above ground. Only new stuff does this cover. We will be notifying contractors about the Ordinance.

Mayor Pro Tem Curtis – Stated, first of all, good job doing all this. I appreciate you coming back and making these changes. We've set the default now, surface-mounted junction boxes. If somebody for some reason saw them out there in their yard and said no, I don't want that big surface-mounted square in my yard like you said somebody had mentioned. I do want the pedestal that is still an option. They could get that done, couldn't they?

Darin Jennings, City Engineer – Stated that they can do that because it's cheaper to route a pedestal in there and the vendor would rather do that.

Mayor Pro Tem Curtis – Stated that he wanted to make that clear that you don't have to have the surface mount.

Darin Jennings, City Engineer – Stated that you can give them that option if you'd rather have the little bitty tower rather than the two by three box.

Tom Trimble, Oncor-Electric Delivery Region Manager, 1300 South Southeast Loop 323, Tyler, Texas, 75701. Stated we got a franchise with the City, and we signed our franchise two or three years ago, so that's set-in place. A lot of this is covered under our franchise. We've had a great working relationship with the City, the Council, Darin's office, and everybody here. We're fully onboard to help in any way that we can. We've looked at a couple of things and we're going to work with Darin to make sure this goes smoothly on our side as well because some of this stuff helps us out. It allows us after storms to get some stuff cleaned up. What we're more worried about than anything just like you all are, is making sure the City of Tyler is well-represented by Oncor because people drive around and they look at things and if we have two poles sitting in a location, we want to get that cleaned up as well. We're going to work with him on a few other things and we talked extensively yesterday about some of the issues. It's a good Program.

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Councilmember Nichols – Stated, I think if we had the definition of partner with the City of Tyler, we would put his picture next to it. As far as our city partners go, Tom, you do a great job thanks.

Motion by Mayor Pro Tem Curtis; 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) contract with Striping Technology, LP. for the Traffic Signal Installations – Various Locations (new traffic signal at Grande Boulevard and Old Noonday Road, reconstruction of traffic signal at W. Gentry Parkway and W. Martin Luther King Jr. Boulevard) project, \$1,057,847.80, Bid No. 23-023.**

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

- M-2 Request that the City Council consider approving the allocation of funding in the amount of \$754,440 in Community Development Block Grant Funds (CDBG) and \$389,456 in HOME Grant Program funds from the U. S. Department of Housing and Urban Development (HUD) for the fiscal year beginning October 1, 2023 through September 30, 2024. These funds may be used to support projects that assist low-to moderate-income citizens, remove slum and blight, and or for urgent needs (disaster relief).**

Larry Everett, Community Development Manager – Gave a brief update on the allocation of funding in the amount of \$754,440 in Community Development Block Grant Funds (CDBG) and \$389,456 in HOME Grant Program funds from the U. S. Department of Housing and Urban Development (HUD) for the fiscal year beginning October 1, 2023, through September 30, 2024. These funds may be used to support projects that assist low-to moderate-income citizens, remove slum and blight, and or for urgent needs (disaster relief).

Motion by Councilmember McKellar; seconded by Councilmember Wynne; 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 approve the purchase of (13) thirteen offsite fuel tanks from Mansfield Service Partners in the amount of \$107,121.60.**

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- C-A-2 Request that the City Council consider authorizing the City Manager to purchase five (5) rotary mowers for Street and Lake Tyler Departments in the amount of \$23,537.50.
- C-A-3 Request that the City Council consider authorizing the City Manager to purchase a tractor for the Parks Department from Lowe Tractor for \$30,682.29 Buyboard Contract 611-20.
- C-A-4 Request that the City Council consider authorizing the City Manager, on behalf of the Tyler Police Department, to seek grant funding from the Department of Justice through the FY 2023 Edward Byrne Memorial Justice Assistance Grant (JAG) in the amount not to exceed \$38,000.00 to purchase law enforcement equipment. (R-2023-35)

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

CITY MANAGER'S REPORT

Mayor and Council, before I begin the report, I do want to talk about O-4 which is the Right-of-Way Use and Construction Ordinance. I want to make sure that we didn't mislead you. A question was asked if people can request the pedestals instead of the flat concrete base and I think we answered as an affirmative. The Ordinance doesn't actually allow for requests for which format you want in front of your house. For consistency's sake, for the Ordinance, we're requiring just the flat concrete pad from here on out throughout the city, so I wanted to give you all the option if there were any amendments or any affirmative changes you wanted to make to that?

Councilmember Curtis – Stated that the vendor had to get approval from the City to change it.

Edward Broussard, City Manager - Stated, yes. If, for whatever reason, the vendor cannot put it in below ground, they do have to come to us and show why and such and then, thus, the Engineering Department --does need to give approval for that. So, if you all are okay with that then I'll move on to talk about all the good things.

Councilmember Nichols – Asked if they are flush mount, it's not just concrete. They're fiberglass also, aren't they or are they just concrete, the flush mount?

Darin Jennings, City Engineer – Stated they are concrete.

Edward Broussard, City Manager –

I. I want to thank you all for your work on the Air Show that was held at the Tyler Pounds Field back on June 30. That was an incredible night and quite a bit of work went into that. Camp V, of course, does incredible work in getting that put together for our community. Of course, Steven Thompson, our Airport Manager out there, does incredible work. Parks and Streets jumped in to help with some different work. Legal and Risk, you know the amount of work they do behind the scenes and all the contracts and agreements to get this to where it is something that is enjoyable for the community, but you are protected and that is an incredible amount of time, sweat, and energy they put into that. And, of course, Police and Fire were there. Councilman Nichols, thank you for your work on that one and your predecessor Bob Westbrook. I know a lot of Council Members that once they get off, they disappear for a

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while. They go back and try to recover--make some money because of all the time they lost from their jobs while on Council.

2. A couple of days later, we had our annual Fourth of July Celebration at Lindsey Park. It was, once again, a heavily attended event. We had a variety of vendors and food trucks present along with a fun outdoor game area and DJ Moore. A special thank you to the Parks Staff who helped work and put on the event and also a thanks to our Police Department, Fire, and Solid Waste for making the event so successful. And then, also, a special thank you extended as well to our Transit Department. They moved more than 590 riders to be able to attend that by providing a free shuttle service for citizens. Without them, many people probably wouldn't have been able to attend the event since we still hit our capacity for parking. We thank Transit for putting in effort in helping make memories for our community.
3. Then, it is summer. The Little League State Tournament is coming up and we received a special thank you I wanted to share with you all from the Rose City West Little League about the work going on out there with Roy Lockhart and his crews. "Les Campbell wrote: The fields are in better shape than they have been in years thanks to the efforts of Roy and his team. The edges look great. The worn areas have been replaced with sod, DG or turf and look really good. Roy sent me the results of a light and scoreboard audit he performed over the weekend and had reported all scoreboards work and over 85% of bulbs are operable on all fields being utilized. I want to give a shout out to Roy and his team because we all know that it's been hotter than heck around here. These guys knocked it out of the park. And so, we're glad about our partnership that we have with our leagues and the work that they do and also very grateful for Roy Lockhart, his Parks team that's out there, and all the different Park Staff that are making sure that our community is able to enjoy the summer.

Councilmember Curtis - I think we're all aware of what an excellent City Staff our City Manager has assembled here, but I did learn this morning of a special award that our City Clerk won which was City Clerk of the Year from the Northeast Texas Chapter Area.

Councilmember McKellar - Mr. City Manager, I also wanted to make mention of the P.O.W. that was there the night before on June 30. He spent eight years as a P.O.W. in Vietnam and then, came back and continued his career up to 30 years and he was our special guest during the reception, so I wanted to make mention of him. He's right down the street from Van Zandt County.

Councilmember Wynne - For those who don't know, Mr. Mayor, happy birthday yesterday.

ADJOURNMENT

Motion by Councilmember McKellar to adjourn the meeting at 9:54 am; seconded by Councilmember McGee; motion carried 7 - 0 & meeting adjourned.



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

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ATTEST:


CASSANDRA BRAGER, CITY CLERK

