

**MINUTES OF THE REGULAR CALLED MEETING OF
THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
December 13, 2023**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, December 13, 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
Asst. City Manager:	Heather Nick
City Attorney:	Deborah G. Pullum
Senior Asst. City Attorney:	Alesha Buckner
Director of Organizational Development:	Regina Y. Moss
Interim Main Street Director:	Amber Rojas
Planning Director:	Kyle Kingma
Chief Information Officer:	Benny Yazdanpanahi
City Fire Chief:	David Coble
Police Chief:	Jimmy Toler
City Engineer:	Darin Jennings
Director of Utilities:	Kate Dietz
Director of Solid Waste, Transit:	Leroy Sparrow
Transit Manager:	Russ Jackson
Project Engineer:	Jacob Yanker
Manager, Water Business Office:	Tiffany Dunkley
City Clerk:	Cassandra Brager

INVOCATION

The Invocation was given by Councilmember McKellar.

MINUTES

Motion by Councilmember Wynne to approve the October 25, 2023 minutes; seconded by Mayor Pro Tem Curtis; motion carried 7 - 0 & approved as presented.

AWARDS

Request that the City Council consider recognizing the following employees for their years of service and commitment to the City of Tyler. They represent 130 years of service with the City of Tyler.

**Gary King, Police Officer XIV, 30 years of service
Justin Kuehn, Police Officer XIV, 30 years of service**

December 13, 2023

Jimmy Toler, Police Chief, 30 years of service
Dorothy Sanders, Parks, Clerk, 20 years of service
Nicole Johnson, Municipal Court Administrator, 20 years of service

ZONING

Z-1

ZA23-003 UNIFIED DEVELOPMENT CODE (BIANNUAL REVIEW)

Request that the City Council consider adoption of an ordinance amending the Unified Development Code in Tyler City Code Chapter 10 by classifying new land uses, amending use regulations related to tobacco/vape/smoke stores, auto/motorcycle repair, tire sales, self-storage facilities and bail bonds, and by revising and adding definitions. (O-2023-115)

Marty Crawford, TISD 1319 Earl Campbell Pkwy – Stated that this was something that they were dealing with within the schools and this is a good start to making sure that we have a focus in our community on this burgeoning issue.

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

Z-2

Z23-035 VEREIT OFC TYLER TX LLC (3355 EARL CAMPBELL PARKWAY)

Request that the City Council consider adoption of an Ordinance approving a zone change from "M-1", Light Industrial District to "C-2", General Commercial District. (O-2023-116)

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

Z-3

C23-006 TYLER ER REALTY LLC (UNIMPROVED PORTIONS OF COMMERCIAL DRIVE AND REPUBLIC DRIVE)

Request that the City Council consider adoption of an Ordinance approving the closure of unimproved portions of Commercial Drive and Republic Drive. (O-2023-117)

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

Z-4

Z23-034 SEC INVESTMENTS LLC (3314 AND 3316 TROUP HIGHWAY)

Request that the City Council consider adoption of an Ordinance approving a zone change from "PMXD-1", Planned Mixed-Use District 1 to "C-1", Light Commercial District. (O-2023-118)

Matt Schaefer, PO Box 6982, Tyler, Texas – Stated that the underlying assumption of this zoning request is that there will be a new business located at this property. I represent Tiffany Bust and is the operator of the Roost Restaurant that's in business there now. She's been in the restaurant business for 16 years, but this is her first year as a restaurant owner and operator. It is Tiffany's position that she has the legal right to maintain her lease for the next few years, and so we just want to convey to the council that there is obviously a dispute between the landlord and tenant here as to the nature of the lease. However, they are trying to work that out

December 13, 2023

informally at this time, but again, the underlying assumption of this zoning request is that there's going to be a new business, and the underlying assumption of the business that is there now is that their business will continue. We just want to bring that information to the Council for your consideration. Perhaps a pause in this process might be worthy of consideration.

Councilmember Curtis – Asked if the Council voted to change the zoning to C-1, would it affect the existing restaurant at all?

Planning Director, Kyle Kingma – Stated, “No.”

Sam Ivy, 10582 CR 246, Tyler, Texas and Matthew Marshall, 1600 Brandywine Dr, Tyler, Texas were present just for questions.

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

Z-5

Z23-033 NTET INVESTMENTS LLC (221 SOUTH THOMPSON AVENUE)

Request that the City Council consider adoption of an Ordinance approving a zone change from “RPO”, Restricted Professional Office District to “DBAC”, Downtown Business, Arts and Culture District. (O-2023-119)

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

Z-6

Z23-032 CARTAGENA FRANKLIN R & NANCY M (325 WEST WILSON STREET)

Request that the City Council consider adoption of an Ordinance approving a zone change from “R-MF”, Multi-Family Residential District to “R-2”, Two-Family Residential District.

(O-2023-120)

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

RESOLUTION

R-1

Request that the City Council consider adoption of a Resolution authorizing the City Manager's application for and acceptance of East Texas Council of Government Local Matching Funds in the amount of \$150,000 to assist with the Transit Department's operating cost. This Resolution also accepts any amendments to increase the funding levels and reduce the local match requirements. (R-2023-47)

David Cleveland, 3800 Stone Rd. Kilgore, Texas – Stated that from the East Texas Council of Governments perspective, this makes an awful lot of sense, and we appreciate the partnership with the City of Tyler and look forward to future collaborations like this. This is year one, and we hope to be back here next year.

December 13, 2023

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

ORDINANCE

O-1 Request that the City Council consider adopting an Ordinance amending the Fiscal Year 2023-2024 Budget to provide funding to complete various construction projects, motor vehicle purchases, and other purchases not completed by September 30, 2023, as anticipated. (O-2023-121)

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

MISCELLANEOUS

M-1 Request that the City Council review and consider accepting the Revenue and Expenditure Report for the period ending Sept 30, 2023.

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

M-2 Request that the City Council consider authorizing the City Manager to execute a construction contract with Paragon Construction for the construction of the Tyler Water Utilities Service Center Remodel project in the amount of \$616,132.00 and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt. (R-2023-48)

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

M-3 Request that the City Council consider authorizing the City Manager to execute a construction contract with Capps-Capco Construction for the construction of the Charleston Lift Station Rehabilitation project in the amount of \$621,033.00 and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt. (R-2023-49)

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

M-4 Request that the City Council consider authorizing the City Manager to execute all necessary documents and contract/s to accomplish water meter replacement project with Core and Main of Tyler, TX, in the amount of \$3,450,000 for the purchase of Neptune water meters, register units, and accessories during Fiscal Year 2023-2024 as needed and to furnish material and labor for replacing existing water meters that have been identified for replacement with the Neptune T10 and associated infrastructure, HGAC Contract number 20-00808.

December 13, 2023

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

M-5 Request that the City Council consider awarding the Medical and Pharmacy Stop-Loss contract to Berkley for the calendar year starting January 1, 2024.

Lance Pendley, McGriff Insurance Services – Gave a brief update on the Medical and Pharmacy Stop-Loss.

Motion by Councilmember Nichols; 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 approving the 2023 Certified Property Tax Roll.

C-A-2 Request that the City Council consider approving the requested landfill gate rate increase of \$4 per ton, which changes the rate from \$34 per ton to \$38 per ton.

C-A-3 Request that the City Council consider authorizing the City Manager to purchase a Sunset Promaster Conversion Low Floor Ram 3500 Van for the Transit Department from ABC Bus Inc., through the State of Georgia Contract for \$180,744.86.

C-A-4 Request that the City Council consider reviewing and accepting the Investment Report for the quarter ending September 30, 2023.

C-A-5 Request that the City Council consider authorizing the City Manager to ratify an expenditure in the amount of \$132,692.90 for the Mandated Annual Water Quality Assessment Fee to the Texas Commission on Environmental Quality.

C-A-6 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-7 Request that the City Council consider authorizing the City Manager to execute a contract extension with USIC Locating Services, LLC for locating and marking water, sewer, and stormwater underground facilities in a new contract amount not to exceed \$500,000, Buyboard Contract Number 632-20.

C-A-8 Request that the City Council consider authorizing the City Manager to release a sanitary sewer easement, in which the sewer line has been abandoned, from Copper Creek Addition Lot 11-A.

C-A-9 Request that the City Council consider authorizing the City Manager to purchase additional safety equipment for the already approved Sunset Promaster 3500 Conversion Low Floor Vans for Transit Department from ABC Bus, Inc., through the State of Georgia Contract for an additional \$5,234.00 for a total purchase price of \$350,489.72.

C-A-10 Request that the City Council consider authorizing funds for Change Order No. 1 to the construction contract with True Roads Construction, LLC., for the Numerous Drainage Improvements Project in the amount of \$85,186.00.

C-A-11 Request that the City Council consider authorizing the City Manager to cancel the purchase of three (3) out of the four (4) Arboc Buses for the Transit Department from Creative Bus Sales/Mobile 1.

C-A-12 Request that the City Council consider authorizing the City Manager to purchase two (2) Frontrunner ProMaster buses for the Transit Department from ABC Bus, Inc., for \$433,938.00 through the Georgia DOAS contract 99999-SPD-SPD0000212-0010.

C-A-13 Request that the City Council consider authorizing the City Manager to approve the partial release of the sewer easement on 3135 Cascade Court that has been verified as no longer needed after construction of a new line.

C-A-14 Request that the City Council consider authorizing the City Manager to ratify Change Order No. 1 with Hartbeat Construction for additional work as part of the Repair of Inlet Boxes - 2023 project, increasing the total amount by \$34,544.22.

C-A-15 Request that the City Council consider authorizing the City Manager to approve the Amendment #2 to Via Mobility, LLC, RFP 21-008, to add Micro Transit software and in person training. The additional cost will pay for three (3) vehicles to operate Micro Transit software in the amount of \$14,400.00 and the in-person training in the amount of \$7,500.00, for an added annual cost of \$21,900.00 for the first year.

C-A-16 Request that the City Council consider authorizing the City Manager to execute the one (1) year lease with The Braun Corporation for 81,276 square feet of the Airport Drive North Parking Lot from December 15, 2023 to December 14, 2024 at Tyler Pounds Regional Airport.

C-A-17 Request that the City Council consider authorizing the City Manager to execute the Work Order #3 to KSA Engineers, Inc., to provide engineering services for the Passenger Boarding Bridge Study for a total cost of \$33,254.00 at Tyler Pounds Regional Airport.

C-A-18 Request that the City Council consider authorizing the City Manager to purchase (1) one 72" mower to replace unit 15529 for the Parks Department from Turf and Supply Maintenance through Sourcewell contract #070821-ATZ with the option to purchase additional units as they become available under the same Sourcewell contract.

December 13, 2023

C-A-19 Request that the City Council consider adopting a Resolution authorizing the Tyler Police Department to participate with other law enforcement agencies in the submission of a grant request from the Texas Motor Vehicle Crime Prevention Authority (MVCRA) for the thirtieth year of funding to participate in the East Texas Auto Theft Task Force and authorize the City Manager to enter into a working agreement regarding the same. (R-2023-50)

C-A-20 Request that the City Council consider approving a re-plat of Lot 4A in the Peninsula North Subdivision, located on Lake Tyler.

C-A-21 Request that the City Council consider authorizing the City Manager to execute Change Order No. 1 to the construction contract with True Roads Construction, LLC., for the Numerous Drainage Improvements Project in the amount of \$85,186.00.

C-A-22 Request that the City Council consider authorizing the City Manager to execute a contract with Morton Enterprise for the construction of the 2024 Asphalt Crack Seal Project in the amount of \$491,119.00.

C-A-23 Request that the City Council consider ratifying a payment to STI in the amount of \$69,855 for the replacement of a 55' signal pole damaged by a motor vehicle accident on 11/18/23.

C-A-24 Request that the City Council consider authorizing the purchase of 42 sets of turnout gear in the amount of \$137,340.00 for the Tyler Fire Department.

C-A-25 Request that the City Council consider authorizing the City Manager to execute an agreement with Cequel Communications dba Optimum Business (formerly Suddenlink Communications) for fiber optic connectivity.

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

CITY MANAGER'S REPORT

1. I want to introduce our new Assistant Fire Chief Kelly Atkinson. He's been a member of the Tyler Fire Department for 27 years and interviewed for the position, went through a rigorous panel review, and they asked Kelly if he wanted the position, and he said yes. We're glad for that.
2. The next thing I want to address is yesterday we had our employee luncheon to celebrate the holidays and we talked about what a great year 2023 has been and I want to put that in perspective for the Council for the achievements you've had. You opened the new W.T. Brookshire Conference Center this year. The Cambridge Bend bid \$9 million on a major road and drainage improvement project that was multi-years, completed. The Downtown Master Plan and Implementation Schedule was agreed upon with the County. You will see construction in this upcoming calendar year. You've been able to do amazing public safety with Police and Fire, such as Tower 10. That brought in which continues our ability to keep that one I.S.O. rating. Then, the Police Department forces had amazing work and success. Recently, there was a cold case story you were able to pay attention or noticed, two rapes that

December 13, 2023

occurred in 2005. Through working with other law enforcement agencies, even though we're talking about something that was nearly 20 years ago, they were able to identify, finally, who the rapist was and arrest them. That was an incredible amount of dedication and continued diligence. That's the kind of stuff our Police Department provides every day. In the Parks Department, we had the revitalizations of P.T. Cole Park and Noble E. Young Park. Councilman McGee was quite successful in making sure his district was good. We just reopened Pollard Park this past weekend. Legacy Trail is the next phase of that which, again, is Councilman McGee's district. As far as starting construction on that one, which lengths all the way from 155 to Peete Elementary will just be an impressive trail addition to our system. The water and wastewater work, as you all know, is at every Council meeting you have. You are doing numerous improvements to our water and wastewater system all the way through. Solid Waste continues to provide exceptional service that is recognized by our citizens. Transit, of course, had some major discussions this year and partnerships have emerged there. I want to make sure we talk about the internal services from our Finance, Legal, I.T., Organization Development, and Communications Departments, the City Clerk, all these people are behind the scenes making sure all we provide for our citizens is understood and top rate and we're able to provide the resources needed with this call to serve excellence that we've continued to move forward with. This is something I want to say thank you for making this past year. It's such an incredible achievement, the work you do here twice a month helps make the direction forward so we're able to help our neighbors, our families, our loved ones have a better Tyler for tomorrow. Thank you, Council, for your work.

3. We have two new engines coming as well, with ceremonies right around the corner. There will be two of them back-to-back.

Councilmember McKellar - I want to say thank you also, and I have one question. When will the Glenwood water tower come down?

Kate Dietz, Director of Utilities – Stated that it would be in the next couple of years, but she was not sure and that she would get the answer and let Councilmember McKellar know.

4. Mayor Warren- Stated that this will be our only meeting for this month, so I'll say the same that Ed said. It's been an honor to serve with everybody in 2023. I look forward to 2024.

Thank you to all the Staff, and all the citizens out there. We appreciate you all.

EXECUTIVE SESSION-City Council convened into executive session at 10:24 am

The City Council may go into Executive Session regarding any item posted on the agenda as authorized by Title 5, Chapter 551 of the Texas Government Code. Notice is hereby given that the City Council may go into Executive Session in accordance with the following provisions of the Government Code:

Executive Session Item No. 1: Under Tex. Gov't Code Section 551.071 "Litigation", deliberation regarding the following:

Pending or contemplated litigation or settlement offer involving Leland Bradlee Construction, Inc. and Lexon Insurance 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.

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

December 13, 2023

City Council reconvened from executive session at 10:49 am with the following action:

Motion by Mayor Pro Tem Curtis to approve the settlement agreement with Leland Bradlee Construction Inc. and Lexon Insurance Company and authorize the City Manager to execute the proposed settlement agreement which, in essence, includes the penal sum of the original C.I.P. contract be reduced from \$1,297,694.50 down to \$1,182,063.50 and that the City pay Lexon on behalf of Leland Bradley, the sum of \$87,256.20 as full and final consideration on a project to resolve the dispute. Seconded by Councilmember Hene; motion carried 7 - 0 & approved.

ADJOURNMENT

Motion by Councilmember McKellar to adjourn the meeting at 10:50 am; seconded by Councilmember McGee; motion carried 7 - 0 & meeting adjourned.



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

ATTEST:

