

FILED FOR RECORD: 11 - 11 - 1977 at 11:00 o'clock P.M.
DULY RECORDED: 11 - 11 - 1977 at 11:00 o'clock P.M.
INSTRUMENT NO. _____ GRACE ROYSTER, TYLER CO. CLK.
BY: James Fowler DEPUTY

TYLER COUNTY COMMISSIONER'S COURT
REGULAR MEETING
APRIL 11, 1977
10:00A.M.

VOL 3 PG. 660

The regular meeting of the Commissioner's Court met on Monday, April 11, 1977 at 10:00A.M. The meeting was opened with a prayer and all members present.

Commissioner Riley made a motion to approve the Resolution in H.U.D., Section 8 Housing Assistance Programs on a Regional basis. See attached Resolution. Commissioner Fowler seconded this motion. All voted yes and none no.

Commissioner Jordan made a motion to Approve the expense for 2 Employees from the Tax-Assessor and Collector's Office to attend a Conference in Corpus Christi May 8 thru May 11. Commissioner Lowe seconded this motion. All voted yes and none no.

Commissioner Riley made a motion to table Mr. E.M. Chandler's request for accepting a County Road, until a easement was presented to the Court. Comm. Lowe seconded this motion. All voted yes and none no.

Commissioner Jordan made a motion to table the discussion of hiring an Ass't. District Attorney, (Tyler Counties Part) until 1:30 P.M. today. Comm. Lowe seconded this motion. All voted yes and none no.

Commissioner Riley made a motion to approve the Treasurer's monthly report. Comm. Lowe seconded this motion. All voted yes and none no.

Commissioner Riley gave a report on the Airport Zoning Committee.

The following Resolution was adopted on a motion made by Comm. Riley and seconded by Comm. Jordan; (Resolved that Tyler County Commissioner's Court and County Judge be authorized to execute all necessary Instruments to effect the granting of a Right Of Way, for Pipeline purposes across description attached, to Louisiana Land and Exploration Company, as per agreement and map attached hereto, and made a part hereof for all intents and purposes). County Treasurer to have the authority to deposit check for \$3,521.66 in the Airport Maintenance Fund. All voted yes and none no.

Commissioner Jordan made a motion to approve the report of County Extension Service. Commissioner Lowe seconded this motion. All voted yes and none no.

Commissioner Fowler made a motion to approve Bills for payment by Auditors Office. This was seconded by Comm. Jordan. All voted yes and none no. Per Attached.

Commissioner Jordan made a motion to reject all Bids on Desks, and Comm. Lowe seconded the motion. All voted yes and none no.

Since there were no Bids on Garbage Equipment Comm. Fowler made a motion to try to sell the Equipment otherwise. Comm. Riley seconded this motion. All voted yes and none no.

Commissioner Riley made a motion to instruct all who use the Courthouse Ground for Booths during Dogwood Festival Time, to clear their Garbage when leaving the Courthouse Lawn. This includes permission for Band Boosters to use Courthouse Square for Concerts-July 6, 1977. Comm Lowe seconded this motion. All voted yes and none no.

AN AIRPORT ZONING ORDER

NO _____ Vol 3 Pg 689-A

AN ORDER REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY, IN THE VICINITY OF THE Tyler County AIRPORT BY CREATING AIRPORT APPROACH ZONES, TRANSITION ZONES, HORIZONTAL ZONE AND CONICAL ZONES, AND ESTABLISHING THE BOUNDARIES THEREOF, PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES DEFINING CERTAIN TERMS USED HEREIN, REFERRING TO THE Tyler County AIRPORT ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDER, PROVIDING FOR ENFORCEMENT, ESTABLISHING A BOARD OF APPEALS AND IMPOSING PENALTIES.

This order is adopted pursuant to the authority conferred by Chapter 391, Acts of Regular Session, 50th Legislature, State of Texas 1947, as amended and specified by Articles 46e-3, Revised Statutes of Texas

It is hereby found that an airport hazard endangers the lives and property of users of the Tyler County Airport and of occupants of land in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking-off and maneuvering of aircraft, thus tending to destroy or impair the utility of Tyler County Airport and the public investment therein. Accordingly, it is declared: (1) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by the Tyler County Airport; (2) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and; (3) that the prevention of these hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

BE IT ORDERED BY THE COMMISSIONER'S COURT Tyler COUNTY, AT THE COURTHOUSE IN THE CITY OF Woodville, TEXAS.

Section 1. Short Title. This Order shall be known and may be cited as "Tyler County County Airport Zoning Order."

Section 2. Definitions. As used in this Order, unless the context otherwise requires:

- (1) AIRPORT - means Tyler County Airport.
- (2) AIRPORT ELEVATION - means the established elevation of the highest point on the usable landing area.
- (3) AIRPORT HAZARD - means any structure, tree or use of land which obstructs the airspace required for or is otherwise hazardous to the flight of aircraft in landing or taking-off at the airport.
- (4) AIRPORT REFERENCE POINT - means the point established as the approximate geographic center of the airport landing area and so designated.
- (5) BOARD OF ADJUSTMENT - means a board consisting of five (5) members appointed by the Tyler County Commissioners' Court as prescribed in the provisions of Chapter 391, Acts of the Regular Session, 50th Legislature, State of Texas, 1947, as amended and specified by Article 46e-10, Revised Statutes of Texas.
- (6) HEIGHT - for the purpose of determining the height limits in all zones set forth in this Order and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
- (7) LANDING AREA - means the surface area of the Airport used for the landing, taking-off or taxiing of aircraft.
- (8) NON-CONFORMING USE - means any structure, tree, or use of land which is lawfully in existence at the time the regulation is prescribed in the Order or an amendment thereto becomes effective and does not then meet the requirements of said regulation.

- or structure would extend above the height limits prescribed for such zone.
- (2) In the areas lying within the limits of the approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runways, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zone.
- (3) In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground except when such tree or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limits established by this Order except as set forth in Section 5.

(b) Existing Uses. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a non-conforming use, structure, or tree to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of this Order or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

(c) Non-conforming Uses Abandoned or Destroyed. Whenever the Tyler County Commissioner's Court determines that a non-conforming structure or tree has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

(d) Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property, not in accordance with the regulations prescribed in this Order, may apply to the Board of Adjustment for a variance from such regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this Order.

(e) Hazard Marking and Lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Order and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit ~~XXX~~ Tyler County at its own expense to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

Section 8. Enforcement. It shall be the duty of the Tyler County Judge to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Tyler County Clerk

upon a form furnished by him. Applications required by this Order to be submitted to the Tyler County Judge shall be promptly considered and granted or denied by him. Applications for action by the Board of Adjustment shall be forthwith transmitted by the Tyler County Judge.

Section 9. Board of Adjustment. (a) There is hereby created a Board of Adjustment to have and exercise the following powers: (1) to hear and decide appeals from any order requirement, decision, or determination made by the Tyler County Judge in the enforcement of this Order; (2) to hear and decide special exceptions to the terms of this Order upon which such Board of Adjustment under such regulations may be required to pass; (3) to hear and decide specific variances.

(b) The Board of Adjustment shall consist of five members appointed by the Tyler County Commissioners' Court

and each shall serve for a term of three (3) years and until his successor is duly appointed and qualified. Of the members first appointed one shall be appointed for a term of one (1) year, two for a term of two (2) years and two for a term of

three (3) years. Members shall be removable by the appointing authority for cause, upon written charges, after a public hearing.

(c) The Board of Adjustment shall adopt rules for its governance and procedure in harmony with the provisions of this Order. Meetings of the Board of Adjustment shall be held at the call of the Chairman and at such times as the Board of Adjustment may determine. The Chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Tyler County Clerk and shall be a public record.

(d) The Board of Adjustment shall make written findings of fact and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this Order.

(e) The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision or determination of the Tyler County Judge or to decide in favor of the applicant on any matter upon which it is required to pass under this Order, or to effect any variation in this Order.

Section 10. Appeals. (a) Any person aggrieved, or any taxpayer affected, by any decision of the Tyler County Judge made in his administration of this Order, if of the opinion that a decision of the Tyler County Commissioner's Court is an improper application of these regulations, may appeal to the Board of Adjustment.

(b) All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the Tyler County Commissioners Court a notice of appeal specifying the grounds thereof. The Tyler County Judge shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

(c) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Tyler County Judge certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Adjustment on notice to the agency from which the appeal is taken and on due cause shown.

(d) The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(e) The Board of Adjustment may in conformity with the provisions of this Order, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination, as may be appropriate under the circumstances.

Section 11. Judicial Review. Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to the Court of Record as provided in Section 11 of Chapter 391 of the Public Laws of the State of Texas, as amended, Article 36e-11 of the Revised Statutes of Texas.

Section 12. Penalties. Each violation of this Order or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and be punishable by a fine of not more than \$200.00 and each day a violation continues to exist shall constitute a separate offense.

Section 13. Conflicting Regulations. Where there exists a conflict between any of the regulations or limitations prescribed in this Order and any other regulation applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

Section 14. Severability. If any of the provisions of this Order or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Order which can be given effect without the invalid provision or application, and to this end the provisions of this Order are declared to be severable.

Section 15. Effective Date. WHEREAS, the immediate operation of the provisions of this Order is necessary for the preservation of the public health,

Vol 3 Pg 689-F

public safety and general welfare, and EMERGENCY is hereby declared to exist, and this Order shall be in full force and effect from and after its passage by the _____ Tyler _____ County Commissioner's Court and publication and posting as required by law. Adopted by the _____ Tyler _____ County Commissioner's Court this 29th day of April 1977.

[Signature]
County Judge

ATTEST:

[Signature]
County Clerk