

**MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF
LUFKIN, TEXAS, HELD ON THE
3rd DAY OF OCTOBER 2000 AT 5:00 P. M.**

On the 3rd day of October 2000 the City Council of the City of Lufkin, Texas, convened in a regular meeting in the Council Chambers of City Hall with the following members thereof, to wit:

Louis Bronaugh	Mayor
R. L. Kuykendall	Mayor pro tem
Don Boyd	Councilmember, Ward No. 2
Lynn Torres	Councilmember, Ward No. 3
Bob Bowman	Councilmember, Ward No. 4
Jack Gorden, Jr.	Councilmember, Ward No. 5
Dennis Robertson	Councilmember, Ward No. 6
C. G. Maclin	City Manager
James Hager	Asst. City Manager/Finance
Atha Stokes Martin	City Secretary
Bob Flournoy	City Attorney
Keith Wright	City Engineer
Kenneth Williams	Director of Public Works

Being present when the following business was transacted.

1. Rev. Simon Purvis, Pastor, Word of Life Teaching Center opened meeting with prayer.
2. Mayor Bronaugh welcomed visitors present. Councilmember Torres stated that there was a good representation of students from Mrs. Herrington's Government Class present tonight. Councilmember Torres stated that these students are about a week and a half away from completing their graduation courses for their senior year.

3. APPROVAL OF MINUTES

Motion was made by Councilmember Don Boyd and seconded by Councilmember Dennis Robertson that the minutes of the Regular Meeting of September 19, 2000 be approved as presented. A unanimous affirmative vote was recorded.

**4. ORDINANCE – DENIED – FIRST READING - ZONE CHANGE – RESIDENTIAL
LARGE TO COMMERCIAL – TRACTS 60 & 61 – J. L. QUINALTY SURVEY –
ATKINSON DRIVE AND HEMLOCK ROAD - ROBERT A. MASSINGILL**

Mayor Bronaugh stated that the next item for consideration was the request of Robert A. Massingill to change the zoning from "Residential Large" to "Commercial" on approximately 8.85 acres of land described as Tracts 60 & 61 of the J. L. Quinalty Survey (Abstract No. 40) and located at the southwest corner of Atkinson Drive and Hemlock Road.

City Manager Maclin stated that included in the Council packet is the memorandum of explanation from the Planning Department. Mr. Maclin stated that due to a conflict with the Comprehensive Plan, the Planning & Zoning Commission by unanimous vote, recommends the Zone Change request be denied, therefore, it would require six affirmative votes by the City Council to overturn the recommendation of the Planning & Zoning Commission.

Mr. Massingill stated that his family has owned the 8.85 acres for quite some time at the corner of Hemlock and Atkinson. Mr. Massingill stated that he is requesting that the zoning designation of "Residential Large" be changed to "Commercial" to prepare it to sell to become a productive piece of property in the City of Lufkin, which it is not at this time.

In response to question by Councilmember Robertson, Mr. Massingill stated that he would accept a zoning designation lesser than Commercial. Mr. Massingill stated that

if a developer purchased the land it could possibly be turned into a residential development. Mr. Massingill stated that Maddux Lumber is across the street and Diesel Diagnostic is to the west and recently Elliott Electric and Century Paper have built down the street. Mr. Massingill stated that there is a thin strip of residential next to this property.

In response to question by Councilmember Gorden, Mr. Abraham stated that there is certainly the possibility with the new consultants that because of the incursion of some non-residential uses in this area it is more likely to evolve over time into a more non-residential area. Mr. Abraham stated that looking at the surrounding development around it and the street patterns it appears that this is quite appropriate to remain residential and to be developed as such. Mr. Abraham stated that if the consultant recommends non-residential usage he would venture to say it would be very limited such as the RPO, but the Planning Department's recommendation was until such time as the Comprehensive Plan is changed that anything that is non-residential in nature would be inconsistent with the Comprehensive Plan.

Motion was made by Councilmember Dennis Robertson and seconded by Councilmember R. L. Kuykendall that Ordinance to change the zoning from "Residential Large" to "Commercial" on approximately 8.85 acres of land described as Tracts 60 & 61 out of the J. L. Quinalty Survey (Abstract No. 40) and located at the southwest corner of Atkinson Drive and Hemlock Road as requested by Robert A. Massingill be denied. A unanimous affirmative vote was recorded.

5. AMBULANCE APPLICATION – DENIED – GOLDSTAR AMBULANCE – DAVID HEARNE

Mayor Bronaugh stated that the next item for consideration was the request of David Hearne on behalf of GoldStar Ambulance Service for an ambulance application.

City Manager Maclin stated that included in the Council packet is a letter from Mr. Hearne on behalf of GoldStar Ambulance along with the requirements of the City's Ordinance. Mr. Maclin stated that staff had included in the packet for review purposes a copy of Ordinance No. 2716, which is the Ordinance that empowers the City Council to require and grant or deny licenses to transfer or ambulance services within the City limits. Mr. Maclin stated that also included in this packet is a couple of letters from one hospital and one nursing home in support of the request for the license.

Mr. Hearne stated that he was present this afternoon to represent the GoldStar Emergency Medical Services, Inc., a corporation which has been doing business in the East Texas area, though not in Angelina County or Lufkin, as GoldStar EMS. Mr. Hearne stated that the application was actually filed last fall and at that time it was reviewed and he, along with some people from GoldStar met with Mr. Flournoy and Mr. Maclin and discussed the possibility of their obtaining this certificate. Mr. Hearne stated that he is asking that their application be granted and that they have a permit for private ambulance license for non-emergency transfers and also would be available for emergency transfers in the event that current providers were full and did not have enough units to respond. Mr. Hearne stated that back in May of 1999 Memorial Medical System, doing business as Champion EMS, contracted with the City to actually purchase the ambulances and the other equipment necessary to provide non-emergency transfer service. Mr. Hearne stated that at that time there was also another provider in town, Gaddy's. Mr. Hearne stated that not too long after Memorial purchased the non-emergency transfer they also purchased some equipment from Gaddy's. Mr. Hearne stated that Gaddy's is no longer providing non-emergency transfer service. Mr. Hearne stated that he wanted to say at the outset that his clients recognized that the City has the authority to determine who can and who cannot provide ambulance service within the City and they are not disputing that. Mr. Hearne stated that they understand that the City determines that it is in the best interest of the public that the public convenience and necessity is served, and that is what he would try to speak to this afternoon.

Mr. Hearne stated that the reason he is present tonight is because they believe in a competitive, free market system, and that any time there is only one provider that the lack of competition sometimes is likely to cause prices to be higher than they would be

otherwise. Mr. Hearne stated that sometimes it causes efficiency not to be as good as it could be if there were other competitive forces in the market. Mr. Hearne stated that while they know and understand coming in that that cannot be the sole criteria the City uses to base their determination as to whether they are entitled to this permit or not, they think that it certainly is a factor. Mr. Hearne stated that he also wanted to say at the outset that they are not here to tell Council that Memorial or Champion is not doing a good job, but are here to say that there are factors that indicate that there is a need for additional service.

Mr. Hearne stated that he would like to respond to an article that was in the newspaper yesterday. Mr. Hearne stated that one of the comments made by Bobby Hobbs who was the investigator for the City was that all of their information was complete but that the City needed to take note of the fact that there had been some administrative violations against GoldStar EMS. Mr. Hearne stated that GoldStar EMS has been in business since 1998. Mr. Hearne stated that he wanted to speak directly to the administrative violations that were noted in Mr. Hobb's letter and also were noted in the newspaper last night. Mr. Hearne stated that there have been to date four administrative violations that GoldStar EMS has been cited for, one of those involved a change of ownership, which exceeded 10% for that violation and GoldStar, was fined \$1,000 and paid the fine. Mr. Hearne stated that the reason the fine was assessed is that GoldStar failed to notify the Texas Department of Health of that change of ownership in excess of 10%. Mr. Hearne stated that there also was another citation in which one of the units they had was inspected and there was a Miller blade that was not included in the ambulance and they were also fined \$1,000 for that, and the fine has been paid. Mr. Hearne stated that the third violation was when they failed to notify the Texas Department of Health of a change in their medical director. Mr. Hearne stated that those three violations have all been in the past three years. Mr. Hearne stated that recently they found that they had an employee who was not certified. Based on that, the Texas Department of Health fined GoldStar \$5,000 and placed them on probation for a period of one year. Mr. Hearne stated that since this person was able to do this, GoldStar has tightened its own guidelines and it is less likely that this could happen again in the future. Mr. Hearne stated that he wanted to point out for all four of these violations is that none of them involved a complaint arising out of the type of service they provided to their customers. Mr. Hearne stated that what they do deal with are clearly administrative failures to notify.

Mr. Hearne stated that the second thing that was noted in the newspaper article had to do with the date of the letters that they produced. Mr. Hearne stated that both of the letters were both dated in 1999. Mr. Hearne stated that they came from Don McBride at Woodland Heights Hospital and Parkwood Place. Mr. Hearne stated that he had received a letter today dated October 3, 2000 from Cindi Sowell, Chief of Nursing of Parkwood Place, saying basically what the other letter said. Mr. Hearne stated that his client has talked directly with Mr. McBride and their position has not changed. Mr. Hearne stated that he had just received a letter from Mike Davis, Administrator from Southland Health Care Center, which basically says the same thing.

Mr. Hearne stated that at this time he would like to introduce Rod Carroll, Chief Financial Officer of GoldStar EMS. Mr. Carroll stated that GoldStar was founded in 1998 in Jefferson County. Mr. Carroll stated that GoldStar operates the 911 system in Pt. Arthur, Groves, Pt. Neches, and Nederland in the their south district, and operates the 911 system in Shelby County, Jasper County, and Tyler County. Mr. Carroll stated that they also provide non-emergency transport as well as emergency transport to the City of Beaumont and is the primary rollover for Beaumont. Mr. Carroll stated that basically they operate 27 advanced life support ambulances with MICU capabilities, and employ 153 employees at the present time.

Mr. Carroll explained the reason for the fine administered to GoldStar in regard to the employee who was not certified, and assured Council that controls are now in place to ensure that this will not happen again.

In response to question by Councilmember Robertson, Mr. Carroll stated that they have received applications from quite a few residents of Lufkin and Angelina County and presently employ residents of Lufkin and Angelina County in the other cities where they provide service.

Mr. Hearne stated that he wanted to speak briefly to the issue of convenience and necessity, and basically it is up to Council to determine what that means. Mr. Hearne stated that there are some things that point to the need for an additional service in the City and one being regionally when Memorial obtained the non-emergency transfer business there was another provider who is no longer here. Mr. Hearne stated that the fact that there were two at the time the Council determined to sell the business to Memorial is an indication that there may be a need for an additional service. Mr. Hearne stated that since that time Gaddy's has gone out of business. Mr. Hearne stated that one of the things he wanted Council to consider is how adding additional units available for non-emergency transfer but also for emergency transfer in the event of inordinate needs can do anything but benefit the City and make it able to provide more services and not be restricted. Mr. Hearne stated that they are also aware of a couple of instances, one in particular, that occurred earlier this year where not only Lufkin on an emergency call but also Champion had all of its units tied up and there was no one to respond to a stroke victim. Mr. Hearne stated that ultimately the City did respond with an auxiliary unit. Mr. Hearne stated that it is likely there were other times that this same thing occurred. Mr. Hearne stated that by allowing an additional provider you make that scenario less likely. Mr. Hearne stated that another instance is where a technician was not as knowledgeable of the Medicare requirements as he should have been and transfer was delayed for a period of time while a signature was required that really wasn't required by law. Mr. Hearne stated that the reason he thinks that may indicate the need for additional service has to do with competition, because if another provider is here they will be required to be more efficient, more educated in order to compete. Mr. Hearne stated that this could only serve the public convenience, whether it goes to the necessity issue or not. Mr. Hearne stated that in the letter based on the rates they saw in Beaumont where there are six ambulance providers, the normal cost for a non-emergency transfer is \$350 plus \$7 a mile. Mr. Hearne stated that here the figures they received indicated that the cost is \$400 plus \$7.75 a mile for a normal non-emergency transfer. Mr. Hearne stated that he thought there might be some other rates that apply to individual carriers. Mr. Hearne stated that in their situation the ones where they know they have to meet competition they also provide a special rate for people who have a regular need for transfers that is \$250 plus \$5 a mile. Mr. Hearne stated that they are asking that the permit be granted because there are factors that indicate there is a need for another carrier. Mr. Hearne stated that in addition, as they understand the response time on non-emergency calls are probably a little bit long. Mr. Hearne stated that this indicates that there is a need for the service so that those response times can be shortened. Mr. Hearne stated that the response time as suggested by the American Heart Association is 20 minutes on non-emergency calls. Mr. Hearne stated that the real question he is asking Council to consider is what exactly it is that they have to lose by allowing another provider to come in. Mr. Hearne stated that it seems to him that it will always benefit the public to have more services available than less in terms of requiring efficiency, in terms of possibly making the prices come down. Mr. Hearne stated that in addition to that, if the City allows another service, they decrease the likelihood that the City will face the situation where there are not enough units to respond. Mr. Hearne stated that he was not sure what the down side was in allowing another provider into the City to be able to make the non-emergency transfer and emergency transfer when that is necessary. Mr. Hearne stated that the American Heart Association says that in response to a heart attack or stroke, you need to be there within eight minutes if you can. Mr. Hearne stated that if you can lower that to seven minutes it is better than eight, even if eight is within the guidelines. Mr. Hearne stated that what they are asking the City Council to do is to allow the competitive forces to have the effects they can using the other factors which may indicate that there is a need for another service to issue that permit to them.

City Manager Maclin stated that included in the Council packet is a letter from Richard Davis who is the training EMS Chief of the Fire Department and he provides an overview of the information as required by Ordinance in the application process. Richard Davis stated that he found the application to be complete and everything that was required was there. Mr. Maclin stated that the other issue the staff needs to address is has the Lufkin Fire Department received any complaints that they have on file in regards to the operation of Champion EMS Service. Mr. Davis stated that there have been no complaints in regard to response time or the need for additional service. Chief Pruitt stated that they have never been required to back up Champion EMS, but

they have on a number of occasions backed the Lufkin Fire Department ambulance service. Chief Pruitt stated that the Lufkin Fire Department had the same agreement with Gaddy's and it worked well.

Scott Skelton, attorney for the Zelesky Law Firm, stated that he would be speaking on behalf of Memorial Medical Systems of East Texas and on behalf of Champion EMS. Mr. Skelton stated that as the Council is well aware it entered into a contract with Memorial several years ago to sell the non-emergency portion of the ambulance service to Memorial and then Memorial formed with two other hospitals, and Champion. Mr. Skelton stated that Good Shepherd, Trinity Mother Francis, and Memorial Medical Center of East Texas own Champion. Mr. Skelton stated that there is an important thing in the contract that this Council approved that was signed by Mr. Maclin and that is paragraphs 3,4, 6, 10 and 11. Mr. Skelton stated that one of the things is that Memorial agreed, through Champion, to operate the transfer services and maintain a level of service in all regards equal but not less to that provided by the City. Mr. Skelton stated that the very next paragraph says basically "if Memorial or Champion fails to do that then the City can notify them and within 30 days they can take the system back over." Mr. Skelton stated that in the time that this contract was signed and the time that Champion has run the service there has never been a time that the City has put Champion or Memorial or any other entity associated with Memorial on notice that there was any problem whatsoever. Mr. Skelton stated that the next thing that is important is that the City from time to time throughout the term of this agreement may make written request of Memorial to provide a full report of the services being provided hereunder adequate for the City to evaluate the quality of the service provided. Mr. Skelton stated that if the City thought under any circumstances that the citizens were not being provided for then they would have the ability to get a report and make a determination based upon facts rather than any antidotal stories that were told. Mr. Skelton stated that the City, in signing this contract and selling the services to Memorial for a rather substantial sum of money, agreed not to operate a transfer service and the City also agreed not to grant any additional ambulance transfer permits for the operation of a transfer service in the City of Lufkin so long as Memorial maintained the appropriate quality of service. Mr. Skelton stated that once again, there have been no complaints. Mr. Skelton stated that the City being diligent under this contract and protecting the citizens of the City would have done something if they thought there was a need. Mr. Skelton stated that Chief Pruitt has stated that there have been no complaints that he is aware of and Gary Whatley, CEO of Memorial Hospital, and Boyd Dickens who operate Champion here in Lufkin know of no complaints concerning the quality of care or the response times. Mr. Skelton stated that it was his understanding that the Chief went so far as to request information from some of the health care providers in the City to make that determination. Mr. Skelton stated that Chief Pruitt brought out an interesting point that he would reiterate and that is that Champion has never had to be backed up by the City, but because the City was responding to the needs of the citizens Champion has provided emergency services and has backed up the City on occasion.

Mr. Skelton stated that Champion has four ambulances stationed in Lufkin with one in reserve. Mr. Skelton stated that these units are mobile intensive care units and are the highest units that can be rated with the State; in other words, they have the most and best equipment and cost in excess of \$130,000 per unit. Mr. Skelton stated that on average Champion responds to 9.1 calls a day, divided by four, each unit makes two runs per day. Mr. Skelton stated that you could determine for yourself what the public convenience and necessity is. Mr. Skelton stated that there really is no need for additional services. Mr. Skelton stated that Champion has units in Livingston, Nacogdoches, San Augustine, Hemphill and they are all under the control of Boyd Dickens, and if there was a massive emergency they could be here.

Mr. Skelton stated that in regard to rates, Champions rates have not gone up in the 24 months they have been in business. Mr. Skelton stated that you can set any rate you want but ultimately who will set the rate is Medicare, Medicaid and rates is really a non-factor in competition. Mr. Skelton stated that the Government and insurance companies run the health care industry and tell you what you can charge and you can't get any more from the citizens. Mr. Skelton stated that effectively a rate argument with regard to competition is a non-argument. Mr. Skelton stated that he knew that someone in direct competition with Memorial wrote one of the letters in support of

GoldStar. Mr. Skelton stated that in regard to response times, we are talking about non-emergency transfers and that is very important because most non-emergency transfers are scheduled.

Mr. Skelton stated that he would point the Council to the contract and to the fact that there have been no complaints. Mr. Skelton stated that Champion feels that it is providing excellent service and the application from GoldStar ought to be denied.

In response to question by Councilmember Robertson, Mr. Skelton stated that if a non-emergency patient is scheduled and you get an emergency call, you go to the emergency call and the non-emergency call will have to wait. In response to question by Councilmember Robertson, Mr. Skelton stated that in paragraph 6 of the contract that was executed May 14, 1999 (executed by Mr. Maclin on behalf of the City), with Council approval and by Mr. Whatley it says: The City agrees that it will not operate a transfer service in the City of Lufkin nor grant additional ambulance transfer permits for the operation of a transfer service in the City of Lufkin as long as Memorial maintains the appropriate quality of service for the citizens of the City and the City agrees.....(and goes on to talk about other matters.)

City Attorney Flournoy stated that the City of Ft. Worth had gone through a lawsuit wherein they had a single provider and the evidence that was presented in that case showed that more was not necessarily better and the Court upheld a single provider of service. Mr. Flournoy stated that the Court said it would be more efficient to have one as opposed to others as long as they were providing adequate service. Mr. Flournoy stated that he drafted the City's contract along those lines and the primary concern was to make certain that the level of service the City was providing would be maintained at all times and if it was provided then they would have the right to continue to be the provider for the City. Mr. Flournoy stated that it was determined that as long as the City could maintain oversight of the service that we would have better service with the one, we knew them and knew the equipment that we had transferred to them was good and of course, we had Chief Pruitt and his EMT overseeing it. Mr. Flournoy stated that if it were the case where more is better we wouldn't have a requirement of public necessity, so obviously there is some reason why we would require that. Mr. Flournoy stated that we must be certain that we understand that they only provide non-emergency service – if it is emergency service it goes back to the City. Mr. Flournoy stated that response time is not much of a factor when you're not talking about an emergency.

In response to question by Councilmember Robertson if the City would be in breach of contract to award another service, Mr. Flournoy stated that that would simply mean that there was not a necessity for another service and if it was not we would also be in breach of the contract. Mr. Maclin stated that when we go back to the experience and the history the City of Lufkin had as an EMS transport provider, we and Gaddy's both provided EMS transport service, and you would think that there was two then and it would be feasible to have two in the future but the problem was the City was not in the business for profit (we were in it for not for profit). Mr. Maclin stated that he understood that GoldStar is a privately owned company and they are in the business to make a profit. Mr. Maclin stated that his opinion in observing and seeing what Gaddy's brought in each month and exactly what the City of Lufkin brought in each month, there wasn't enough business for two entities to make a profit and we proved that, statistically speaking. Mr. Maclin stated that you have to look at the situation of how many businesses can Lufkin support and still make a profit to where if we had two and neither one of them made a profit and we lost both of them, we would have to get back in the transport business and that is not the desire of the City of Lufkin's City Manager, or Fire Chief. Mr. Maclin stated that it is important to gauge what the market will bear in a community this size.

Councilmember Boyd stated that at one time the City had two taxi cab companies and a third company was granted an application based on the premise if they didn't make it they could leave, and they didn't make it and left. Mr. Boyd stated that he feels the same way about the ambulance service. Mr. Maclin stated that Council does not have an obligation by State law to provide taxicab service and the Council does have an obligation by State law to provide EMS service.

City Manager Maclin stated that what caused the City to get in the transport business was the fact that the need wasn't being met back in the early '90's. Mr. Maclin stated that the hospital administrators and doctors came to the City and stated that they needed some relief because they were not getting the transport service they needed. Mr. Maclin stated that there is some responsibility when the medical community comes to the City and says these needs are not being met. Councilmember Boyd stated that one time we say competition is good and the next time we say it isn't. Mr. Maclin stated that we have to go with what best meets the needs of the citizens to provide a dependable service that has longevity as opposed to fragmenting a market where no one in the profit business can make a profit and therefore sustain their existence. Councilmember Boyd asked if it was up to us to determine who can make a profit or who cannot make a profit? Mr. Maclin stated that it is for us to determine who is licensed because we have an Ordinance that says that is the responsibility of the City Council.

City Manager Maclin stated that if we had complaints we would exercise to a greater extent the reporting requirements as per the Contract.

City Attorney Flournoy stated that basically what we did is we went to Champion and said we are hiring you to provide this service to be certain that the service is going to be provided and sold that service to them and therefore we expect them to provide the same kind of service and that is why the Contract is written as tight as it is. Mr. Flournoy stated that we treated it as though we were still doing it; we felt that kind of responsibility.

Gary Whatley, CEO of Memorial Medical Center of East Texas, stated that the three owners are all health systems in Longview, Tyler and Lufkin and have been doing the transfer business in the East Texas area for quite a while. Mr. Whatley stated that just like the Lufkin area has put its faith in Memorial for them to do this job in Lufkin it has also done the same thing in San Augustine, Hemphill and Livingston communities. Mr. Whatley stated that to his knowledge there have not been any complaints and he was asking Council to deny this application.

Michael Davis, Administrator, Southland Health Care, stated that his duty was to provide for the health and welfare of the residents of Southland. Mr. Davis stated that he would have a question about the fee for transfer service. Mr. Davis stated that he had heard one figure of \$400 plus mileage and one of \$250 plus mileage. Mr. Davis stated that how this effects the people he serves could be a situation where they call for an ambulance service to take someone to the hospital, the Dr. sees them, and they don't meet the Medicare requirements whereby Medicare would reimburse Champion EMS or GoldStar for the trip. Mr. Davis stated that if they don't meet these requirements it is his understanding and has been his experience that if this is a private pay resident they are charged for that return trip to the nursing facility. Mr. Davis stated that most of these individuals are on a fixed income. Mr. Davis stated that he would like to know if another service is granted are they going to charge \$400 plus mileage or will it be \$250 plus mileage for this type situation. Mr. Davis stated that \$150 doesn't sound like much but it is when you are on a fixed income. Mr. Davis stated that maybe Champion EMS in some situations could do \$250 plus mileage, and maybe there is another alternative service such as a van service. Mr. Davis stated that GoldStar has approached him offering a van transfer service whereby you don't need the sophistication and trained individuals that normally accompany an ambulance service. Mr. Davis stated that his question is would there be a \$150 difference.

Mr. Hearne asked Mr. Flournoy if the contract with Memorial is an open-ended contract and the City has the right to terminate it if Memorial doesn't meet the standard. Mr. Flournoy stated that is correct. Mr. Flournoy stated that you could have a situation too under this contract where they are not meeting all of it and the City could determine that we don't want to take it back over and we are not going to require them to put on more ambulances and thereby there be a need for someone else. Mr. Hearne asked if he was correct in understanding that Memorial could terminate this contract at any point. Mr. Flournoy stated that that might be correct. Mr. Hearne stated that if that is the case then he doesn't know that by not allowing another provider you are guaranteeing you are going to have somebody here to provide services. Mr. Hearne stated that at the time Memorial obtained its permit there was another permit outstanding and there could

be an argument made that it would not take an additional permit in order to allow for a second provider at this time for non-emergency services. Mr. Flournoy stated that it is his recollection that negotiations were going on with Gaddy's and had already been acquired by Memorial.

Councilmember Kuykendall asked what the advantage would be for GoldStar to provide non-emergency transfer service in the City other than business. Mr. Carroll stated that they operate a van service in Pt. Arthur and Beaumont as a compliment to their ambulance service and they are primarily an ambulance service. Mr. Carroll stated that without the ambulance service it was not a want on GoldStar's part to come into the Lufkin market to provide just a van service. Councilmember Kuykendall stated that from what Council has heard today does Mr. Carroll feel that there is something not happening in Lufkin that GoldStar could do. Mr. Carroll said, "No sir, what they came for was an ambulance permit, and if they were to get an ambulance permit to operate within the City of Lufkin, they would look at bringing in van service as well if the market showed there was a need." Mr. Carroll stated that a lot of times people are taken to the hospital in an ambulance and there is no need for a return trip back to the nursing home in an ambulance, but would rather be taken by van back to the nursing home facility. Mr. Carroll stated that it would be economically difficult to operate just a van service within the City.

Mr. Whatley stated that to address the nursing home issue, the hospital (Memorial) does have a wheel chair van that is available for transport during business hours during the day for anybody that needs transport around Lufkin for EMS availability. Mr. Whatley stated that in addition the hospital (Memorial) has contracts with Southland Nursing Home and all the nursing homes to go to the nursing homes and do lab testing and provide x-rays in the nursing homes to keep from having to transport patients by ambulance to the hospitals to get those tests to try to hold down their costs. Mr. Whatley stated that he wanted to point out to Council that they (Memorial) do work with the nursing homes to try and keep down the costs as much as possible.

Councilmember Boyd stated that he was looking at some of the questions that have come up and asked if it was possible to table this item until there is better information on this item. Councilmember Boyd stated that there are several questions that have not been answered to his satisfaction.

Motion was made by Councilmember Don Boyd and seconded by Councilmember R. L. Kuykendall to table this item until more information is available.

City Attorney Flournoy stated that this is an open question and at any point anyone could come in and file an application. Mr. Flournoy stated that they could come back next month if they had something to show that it was a necessity. Mr. Flournoy stated that he was wondering if it was necessary to table this request when all they have to do is resubmit their application. Councilmember Robertson stated that a lot of people had come tonight to represent both sides of the request and to table it and move on to another day might be a disservice to those people.

Councilmember Boyd stated that he still had some questions about the cost to the elderly people and those questions haven't been answered. Councilmember Boyd stated that there is still a question in his mind about Mr. Flournoy stating that we couldn't get another service in here. Mr. Flournoy stated that that isn't exactly right, certainly there is an opportunity for someone to do that if the need exists, and is not being covered by Champion.

The following vote was recorded:

Aye: Councilmembers Boyd and Kuykendall

Nay: Councilmembers Torres, Gorden, Bowman, Robertson and Mayor Brionaugh

Motion failed for lack of four affirmative votes.

Motion was made by Councilmember Dennis Robertson and seconded by Councilmember Don Boyd that application by GoldStar Ambulance Service be approved as presented. The following vote was recorded:

Aye: Councilmembers Robertson, Boyd and Kuykendall
Nay: Councilmembers Torres, Gorden, Bowman and Mayor Bronaugh

Motion failed for lack of four affirmative votes.

City Attorney Flournoy stated that basically the real issue is do you determine when there is a public necessity and convenience. Mr. Flournoy stated that the application is obviously adequate. Mr. Flournoy stated that if there is any question about what the determination is, it is a single determination and that is whether there is a necessity.

6. EXECUTIVE SESSION

Mayor Bronaugh recessed Regular Session at 6:21 p. m. and entered into Executive Session. Regular Session reconvened at 6:39 p. m. and Mayor Bronaugh stated that Council had discussed attorney/clients matters and appointments to Commissions and Boards.

7. APPOINTMENT – APPROVED – TAXI CAB COMMITTEE – BENNIE MOYE

Motion was made by Councilmember Don Boyd and seconded by Councilmember R. L. Kuykendall that Bennie Moye be reappointed to the Taxi Cab Committee. A unanimous affirmative vote was recorded.

8. APPOINTMENTS – APPROVED – LUFKIN BOARD OF DEVELOPMENT – SALVADOR SOSA – MARILU JARAGUCHI

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Lynn Torres that Salvador Sosa be reappointed to the Lufkin Board of Development and that Marilu Jaraguchi be appointed to the Lufkin Board of Development. A unanimous affirmative vote was recorded.

9. CALENDAR NOTATIONS FROM THE MAYOR, COUNCILMEMBERS AND CITY MANAGER

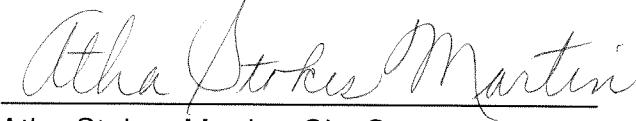
City Manager Maclin stated that Tommy Thompson would be the guest speaker at the First Friday luncheon.

City Manager Maclin reminded Councilmembers of the City Awards Banquet to be held on Tuesday, October 10th at 6:30 p.m. at the Civic Center.

10. There being no further business for consideration, meeting adjourned at 6:45 p.m.


Louis Bronaugh
Mayor

ATTEST:


Atha Stokes Martin - City Secretary