

**MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY  
OF LUFKIN, TEXAS HELD ON THE 19<sup>th</sup> DAY OF DECEMBER, 2006**

On the 19<sup>th</sup> day of December, 2006, 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:

Jack Gorden, Jr.	Mayor
Rose Faine Boyd	Mayor Pro-Tem
R. L. Kuykendall	Councilmember, Ward No. 1
Lynn Torres	Councilmember, Ward No. 3
Don Langston	Councilmember, Ward No. 4
Rufus Duncan, Jr.	Councilmember, Ward No. 5
Phil Medford	Councilmember, Ward No. 6
Paul L. Parker	City Manager
Renee Thompson	City Secretary
Robert Flournoy	City Attorney
Vance Hendrix	Asst. City Attorney
Keith Wright	Asst. City Manager
David Koonce	Human Resource Director
Larry Brazil	Police Chief
Scott Marcotte	Asst. Police Chief
Pete Prewitt	Fire Chief
Barbara Thompson	Main Street Director
Dorothy Wilson	Planning Director
Jim Wehmeier	Economic Development Director
Scott Rayburn	City Planner
Randy Innerarity	Fleet Services Director
Bobby Cranford	Fuller Springs Volunteer Fire Department
Mike Parker	
J. C. Havard	
Dave Crawford	

being present when the following business was transacted:

1. The meeting was opened with prayer by Rev. Mike Hunter of First Christian Church.
2. Mayor Jack Gorden welcomed visitors present and wished all citizens a Merry Christmas.
3. **APPROVAL OF MINUTES**

Minutes of the Regular Meeting on December 5th, 2006 were approved on a motion by Councilmember Rose Faine Boyd, and seconded by Councilmember Lynn Torres. A unanimous affirmative vote was recorded.

**OLD BUSINESS:**

4. **SECOND READING OF AN ORDINANCE AMENDING THE FUTURE LAND  
USE PLAN OF THE 2001 COMPREHENSIVE PLAN OF THE CITY OF LUFKIN,  
TEXAS, - APPROVED - BEING ORDINANCE NO. 3549, TO INCORPORATE  
"AGRICULTURAL" REFERENCES REPEALING CONFLICTING  
PROVISIONS; AND PROVIDING AN EFFECTIVE DATE**

Mayor Jack Gorden stated that the next six (6) items on the agenda for consideration all included a public hearing. Mayor Gorden then stated that all of the public hearings could be conducted at one (1) time, with a vote to follow on each item, if it pleased Council. Council agreed and Mayor Gorden opened the Public Hearing for items (4) four through (10) ten at 5:10 p.m. and requested that anyone wishing to speak on these items to please come forward.

With no one wishing to speak, Mayor Gorden closed the public hearing at 5:11 p.m.

Mayor Gorden then requested comments from City Manager Paul Parker.

City Manager Parker stated that the next six (6) items on the agenda were all in regard to the zoning of the recently annexed areas. City Manager Parker then stated that the issue had been heard numerous times in the previous meetings, and if there were no specific issues or questions from Council, that City of Lufkin staff recommended approval of all six (6) items.

Councilmember Don Langston asked Mayor Gorden if the Council could make a motion encompassing all six (6) items at one time.

Mayor Gorden responded that if City Attorney Bob Flournoy had no issue with that procedure, then that could be done.

City Attorney Flournoy stated that item four (4) should be voted on separately, and then items five (5) through ten (10) could be voted on collectively.

Councilmember Don Langston moved to approve item four (4) as proposed; Councilmember R.L. Kuykendall seconded the motion. A unanimous affirmative vote was recorded.

5. SECOND READING OF AN ORDINANCE AMENDING THE ZONING ORDINANCE AND THE COMPREHENSIVE PLAN 2001 OF THE CITY OF LUFKIN, TEXAS - APPROVED - BY ESTABLISHING ZONING AND FUTURE LAND USE PLAN DESIGNATIONS FOR LAND DESCRIBED AS AREA "G-7" AND ANNEXED BY ORDINANCE NUMBER 3914 AND AUTHORIZING THE CITY PLANNER TO MAKE SUCH CHANGES ON THE OFFICIAL MAPS
6. SECOND READING OF AN ORDINANCE AMENDING THE ZONING ORDINANCE AND THE COMPREHENSIVE PLAN 2001 OF THE CITY OF LUFKIN, TEXAS - APPROVED - BY ESTABLISHING ZONING AND FUTURE LAND USE PLAN DESIGNATIONS FOR LAND DESCRIBED AS AREA "G-6" AND ANNEXED BY ORDINANCE NUMBER 3915 AND AUTHORIZING THE CITY PLANNER TO MAKE SUCH CHANGES ON THE OFFICIAL MAPS
7. SECOND READING OF AN ORDINANCE AMENDING THE ZONING ORDINANCE AND THE COMPREHENSIVE PLAN 2001 OF THE CITY OF LUFKIN, TEXAS - APPROVED - BY ESTABLISHING ZONING AND FUTURE LAND USE PLAN DESIGNATIONS FOR LAND DESCRIBED AS AREA "G-5" AND ANNEXED BY ORDINANCE NUMBER 3916 AND AUTHORIZING THE CITY PLANNER TO MAKE SUCH CHANGES ON THE OFFICIAL MAPS
8. SECOND READING OF AN ORDINANCE AMENDING THE ZONING ORDINANCE AND THE COMPREHENSIVE PLAN 2001 OF THE CITY OF LUFKIN, TEXAS - APPROVED - BY ESTABLISHING ZONING AND FUTURE LAND USE PLAN DESIGNATIONS FOR LAND DESCRIBED AS AREA "G-4" AND ANNEXED BY ORDINANCE NUMBER 3917 AND AUTHORIZING THE CITY PLANNER TO MAKE SUCH CHANGES ON THE OFFICIAL MAPS
9. SECOND READING OF AN ORDINANCE AMENDING THE ZONING ORDINANCE AND THE COMPREHENSIVE PLAN 2001 OF THE CITY OF LUFKIN, TEXAS - APPROVED - BY ESTABLISHING ZONING AND FUTURE LAND USE PLAN DESIGNATIONS FOR LAND DESCRIBED AS AREA "G-3" AND ANNEXED BY ORDINANCE NUMBER 3918 AND AUTHORIZING THE CITY PLANNER TO MAKE SUCH CHANGES ON THE OFFICIAL MAPS

**10. SECOND READING OF AN ORDINANCE AMENDING THE ZONING ORDINANCE AND THE COMPREHENSIVE PLAN 2001 OF THE CITY OF LUFKIN, TEXAS - APPROVED - BY ESTABLISHING ZONING AND FUTURE LAND USE PLAN DESIGNATIONS FOR LAND DESCRIBED AS AREA "B" AND ANNEXED BY ORDINANCE NUMBER 3919 AND AUTHORIZING THE CITY PLANNER TO MAKE SUCH CHANGES ON THE OFFICIAL MAPS**

The Public Hearing requirement being previously met on items (5) five through (10) ten, and there being no questions or comments on these items, Mayor Gorden entertained a motion from Council on items five (5) through ten (10).

Councilmember Rufus Duncan moved to approve; Councilmember Don Langston seconded the motion. A unanimous affirmative vote was recorded for items five (5) through ten (10).

**11. SECOND READING OF AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF LUFKIN, TEXAS, - APPROVED - BY GRANTING A "SPECIAL USE" PERMIT FOR A RESTAURANT WITH A PRIVATE CLUB WITHIN A "COMMERCIAL" ZONING DISTRICT ON CERTAIN TRACTS OR PARCELS OF LAND WITHIN THE CORPORATE LIMITS OF THE CITY OF LUFKIN, TEXAS, DESCRIBED AS PART OF TRACT 7 OF THE MCKINNEY AND WILLIAMS SURVEY, ABSTRACT NO. 463, AND AUTHORIZING THE CITY PLANNER TO MAKE SUCH CHANGES ON THE OFFICIAL MAP**

Mayor Jack Gorden stated that the next item for consideration was to conduct a Public Hearing and consider on Second Reading an Ordinance amending the Zoning Ordinance of the City of Lufkin, Texas, by granting a "Special Use" Permit for a Restaurant with a Private Club within a "Commercial" Zoning District on certain tracts or parcels of land within the corporate limits of the City of Lufkin, Texas, described as part of Tract 7 of the McKinney and Williams Survey, Abstract No. 463, and authorizing the City Planner to make such changes on the Official Map.

Mayor Gorden opened the public hearing at 5:15 p.m. and requested comments from City Manager Paul Parker.

City Manager Paul Parker stated that the item was a request by the Tokyo Japanese Restaurant for a license to be able to sell alcohol. This area was previously occupied by "Jason's Deli", and most recently "Heartland Hams". City Manager Parker stated that the request had been approved by the Planning Commission and was recommended for approval.

Mayor Gorden then requested that anyone wishing to speak on the item should come forward.

There being no one wishing to speak on this item, Mayor Gorden closed the Public Hearing at 5:16 p.m. and requested comments or motions from Council

Councilmember Phil Medford moved to approve the Ordinance amending the Zoning Ordinance of the City of Lufkin, Texas, by granting a "Special Use" Permit for a Restaurant with a Private Club within a "Commercial" Zoning District on certain tracts or parcels of land within the corporate limits of the City of Lufkin, Texas, described as part of Tract 7 of the McKinney and Williams Survey, Abstract No. 463, and authorizing the City Planner to make such changes on the Official Map. Councilmember Rose Faine Boyd seconded the motion. A unanimous affirmative vote was recorded.

**TABLED BUSINESS:**

**12. REQUEST FROM THE FULLER SPRINGS VOLUNTEER FIRE DEPARTMENT TO ALLOW THE FIRE DISTRICT TO INCLUDE THE ETJ - TABLED - TO THE LUFKIN CITY LIMITS BOUNDARY**

Mayor Jack Gorden stated that next item for consideration was the request from the Fuller Springs Volunteer Fire Department to allow the fire district to include the ETJ to the Lufkin city limits boundary.

Mayor Gorden stated that he hoped that Council had the opportunity to study the documentation in relation to this item. Mayor Gorden also stated that City Attorney Bob Flournoy did not foresee any issue with passing this item should the Council decide to.

Mayor Gorden stated that after studying this issue, he was reluctant to do anything that interfered with the City of Lufkin's ETJ (extra territorial jurisdiction). Mayor Gorden then requested comments from City Manager Paul Parker and City Attorney Flournoy

City Manager Paul Parker stated that this was a request from the Fuller Springs Volunteer Fire Department to create a fire district with taxing authority, with a maximum allowed tax of (10) ten cents, and this district would have to be voted in by residents living in the district.

City Manager Parker stated the Fire Department would like to include area inside the City of Lufkin's ETJ, and this required Council approval. City Manager Parker stated that this issue was tabled due to the concern that any debt incurred by this proposed fire district could be passed on to the City of Lufkin, should the area be annexed in the future. City Manager Parker stated that per City Attorney Flournoy, there was some potential liability for debt, depending on how the debt was incurred. City Manager Parker then requested comments from City Attorney Flournoy in regard to this item.

City Attorney Flournoy stated the statute that authorized the creation of the emergency services district for fire purposes, also provided that if the district was created in the ETJ, and the area was annexed, that the City shall immediately pay all or a portion of the district's debt or bonded indebtedness. City Attorney Flournoy stated that he had met with individuals from the fire department, and had been assured that the district would not incur any debt, that the fire department would incur the debt. City Attorney Flournoy stated that if that were the case then the City of Lufkin would not have to assume that obligation. City Attorney Flournoy stated that the intent of creating a fire district was to fund the fire department with taxes collected by the fire district. City Attorney also stated that the City did not have any assurance that the fire district would not incur debt in the future. City Attorney Flournoy stated that the fire department would be willing to assure the City that the fire district would not incur any debt and that the City would need to have a written agreement with the fire district that no debt would be incurred by the fire district. City Attorney Flournoy stated that should the fire district incur debt, they would be in violation of the agreement, and this would constitute fraud, but he would not expect that the fire district would do so.

Councilmember Don Langston stated that there were (2) two possibilities in relation to the item. Councilmember Langston explained that the fire district could incur debt with board approval and secondly, that in the future the fire district could incur more debt with a voter approved election. Councilmember Langston stated that should that happen, the City of Lufkin would be required to assume this debt should the area be annexed.

City Attorney Flournoy then confirmed that was correct, and that the state statute required that should the City annex the area of the fire district, that the City shall pay any and all debt created by the fire district.

Councilmember Phil Medford asked City Attorney Flournoy if voters in that district have to vote over fifty percent (50%) to create the district.

City Attorney Flournoy confirmed that was correct.

Mayor Jack Gorden stated that part of his position was the unknown factor and the question of where this might leave the City of Lufkin in the future concerning the ETJ, and that the ETJ was something that City needed to watch closely.

Councilmember Langston stated that he knew in the future that the City of Lufkin would be looking to annex more areas, and that bonded indebtedness could be a long term obligation, which would certainly be an issue should the City decide to annex the area. Councilmember Langston added that he did not like the idea of possibly creating a future liability for the City but he did recognize the need of the fire department to have a means to raise funds. Councilmember Langston then questioned whether any stipulations relating to debt could be included in the election.

City Attorney Flournoy stated that if the election was held, the fire district would have the authority to create debt. City Attorney Flournoy also stated that even if the City did not consent, that there was a way for the creation of the fire district to move forward; however, it was much more difficult to do so.

Mayor Gorden asked that if the fire district should move forward without the consent of the City, would the district area include the ETJ.

City Attorney Flournoy stated, that yes it could include the ETJ, even without the consent of the City.

Mayor Gorden then questioned why the district was asking for the City's consent if they could move forward without it.

City Attorney Flournoy stated that it was just a more difficult process that included waiting periods, etc. if the City did not approve.

Bobby Cranford with the Fuller Springs Volunteer Fire Department came forward to speak and stated that if the City denied their request, that the fire department could petition the issue to a vote. Mr. Cranford added that if approved by voters, they could then move forward with the creation of the district; however, the department would prefer to have the approval of the City. Mr. Cranford explained that the district could create debt, but did not intend to. Mr. Cranford added that if any debt should be incurred, it would be done in order to procure equipment, vehicles, etc. and that should the City annex the district, the City would also acquire whatever equipment had been bought along with the incurred debt.

Mayor Gorden then asked Mr. Cranford for clarification on the issue of whether the election would have to be held if the City approved the department's request.

Mr. Cranford responded by stating that whether or not the City approved the request, the fire department would still have to obtain the signatures on the petition to call for the election as well as have voter approval. Mr. Cranford stated that should the City not approve the request, the fire department would have to obtain a petition that requested inclusion with signatures from fifty percent (50%) of the voters from the area within the ETJ to move forward; but that the fire department did not wish to pursue that route.

Mayor Gorden stated that he did wish the fire department well in their ventures, but preferred that the City not approve the request.

Mr. Cranford requested that Council keep in mind that the Fuller Springs Volunteer Fire Department was doing everything they could to provide fire protection, and to do so cost a substantial amount of money.

Mayor Gorden responded by extending his appreciation for the Volunteer Fire Departments efforts.

Mayor Gorden then requested comments from Council.

Mr. David Crawford came forward to speak on behalf of the Fire Department. Mr. Crawford stated that the model of ESD (emergency services district) that the fire department was attempting to create was patterned after ninety-nine percent (99%) of the Emergency Services District in the State of Texas, where as the fire department incurred the debt but the ESD provided the funding for the department. Mr. Crawford then stated that this was beneficial to both parties, and that the City of Lufkin did not want to have to incur the expense to provide fire protection to these areas. Mr. Crawford also stated that a tax payer in these areas did not want to hear that the City of Lufkin could not provide service to their area and this was a tough situation.

Mayor Gorden stated that the City of Lufkin regularly provided assistance to Volunteer Fire Departments in areas of Angelina County.

City Attorney Bob Flournoy questioned whether or not there were any other fire districts in this area.

Mr. Cranford responded that yes there were; and that those fire districts worked well; even up to the city limits of the neighboring city.

Mr. Crawford stated that there were also two (2) proposed districts in Nacogdoches county, and that both extended up to the city limits, and that the City of Nacogdoches had approved both requests.

Mr. Cranford stated that one of the questions from the previous meeting was the concern of double taxing of citizens, and reiterated that it would not occur.

Mayor Gorden stated that again he appreciated the fire department's efforts; however, he felt that the City of Lufkin needed to be very careful with the ETJ area.

Mayor Gorden then entertained a motion from Council.

Councilmember Phil Medford stated that this issue had been tabled once previously, but he felt that the item needed further research before a decision could be made and would like to have information from fire districts that had already been created to see how they functioned.

Councilmember Phil Medford moved to table the issue; Councilmember R. L. Kuykendall seconded the motion. A unanimous vote was recorded to table this issue.

Mayor Gorden stated that this item would be placed on the agenda for the January 2<sup>nd</sup> meeting.

#### **NEW BUSINESS:**

#### **13. ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES NEAR PUBLIC SCHOOLS, PRIVATE SCHOOLS, DAYCARE CENTERS AND CHILD CARE FACILITIES, CHURCHES AND HOSPITALS; - APPROVED - REPEALING ALL INCONSISTENT ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mayor Jack Gorden stated that next item for consideration was the First Reading of an Ordinance regulating the sale of alcoholic beverages near Public Schools, Private Schools, Daycare Centers and Child Care Facilities, Churches and Hospitals; repealing all inconsistent Ordinances; and providing for an effective date.

Mayor Gorden stated that he wanted to express his thanks to everyone who had voiced their opinion on this issue and that the City of Lufkin had tried to remain neutral in the issue.

Mayor Gorden stated that the item presented for Council's consideration was the product of much research and thought.

Mayor Gorden then requested comments from City Manager Paul Parker.

City Manager Parker stated that the ordinance for consideration would prohibit the sale of alcohol within three hundred (300) feet, door – to – door, from any public or private school, daycare facility, hospital or church and that the Ordinance was consistent with the City of Lufkin's Special Use Ordinance that had been in place for several years in regard to restaurants and clubs.

City Manager Parker stated that City of Lufkin staff recommended this Ordinance for Council's consideration.

Mayor Gorden then requested comments from Council.

Councilmember Rufus Duncan moved to approve the Ordinance regulating the sale of alcoholic beverages near Public Schools, Private Schools, Daycare Centers and Child Care Facilities, Churches and Hospitals; repealing all inconsistent Ordinances; and providing for an effective date. Councilmember Phil Medford seconded the motion.

The following vote was recorded:

**Aye:** Council Members Rufus Duncan, Don Langston, Phil Medford and Mayor Gorden.

**Nay:** Council Members Lynn Torres, R. L. Kuykendall, and Rose Faine Boyd

The motion carried with (4) four affirmative votes.

**14. FIRST READING AN ORDINANCE AMENDING THE ZONING ORDINANCE AND THE FUTURE LAND USE PLAN OF THE 2001 COMPREHENSIVE PLAN OF THE CITY OF LUFKIN, TEXAS, - DENIED - BY CHANGING THE ZONING AND FUTURE LAND USE PLAN DESIGNATION ON APPROXIMATELY .39 ACRES OF LAND DESCRIBED AS TRACT 46 OF THE MCKINNEY AND WILLIAMS SURVEY, ABSTRACT 469 TO A "RESIDENTIAL MEDIUM" ZONING DISTRICT AND THE FUTURE LAND USE PLAN OF THE 2001 COMPREHENSIVE PLAN TO THE CLASSIFICATION OF "LOW DENSITY RESIDENTIAL"**

Mayor Jack Gorden stated that next item for consideration was to conduct a Public Hearing and consider on First Reading an Ordinance amending the Zoning Ordinance and the Future Land Use Plan of the 2001 Comprehensive Plan of the City of Lufkin, Texas, by changing the Zoning and Future Land Use Plan designation on approximately .39 acres of land described as Tract 46 of the McKinney and Williams Survey, Abstract 469 to a "Residential Medium" Zoning District and the Future Land Use Plan of the 2001 Comprehensive Plan to the classification of "Low Density Residential".

Mayor Gorden then requested comments from City Manager Paul Parker.

City Manager Parker stated that a petition had been distributed to Council that was delivered to the City earlier and the petition increased the property in protest to over (42) forty-two percent, and that due to this, six (6) out of seven (7) council votes would be required for approval.

City Manager Parker explained that currently the property zone was "Residential Large" and that the property owner was proposing to divide the property into two (2) parcels to accommodate a second residence on the property. City Manager Parker stated that initially Planning and Zoning staff had recommended that the request be denied; however, the Planning and Zoning Commission approved the request with a five (5) to two (2) vote in favor of approval. City Manager Parker added that prior to the Planning and Zoning Commission Meeting there was only twenty percent (20%) of the surrounding property owners in protest; but now that number had increased to forty-two percent (42%).

Mayor Gorden then opened the Public Hearing at 5:45 p.m., and requested that anyone wishing to speak on this issue to please come forward.

Mr. J. C. Havard approached the podium and stated that his neighbors and family were concerned about the requested zone change, and from looking at the City map, there were no residential medium zones in the entire area and did not wish to set a precedent with this zone change. Mr. Havard stated that this corner was a hub in the community and the only convenience store in this area and that the owners were requesting permission to build a home that can be as small as eight hundred fifty (850) square feet if this zone change was approved on a smaller lot than it was zoned for now. Mr. Havard also stated that construction of this small house would become an eyesore and detract from development of the adjacent subdivisions. Mr. Havard stated that over the years zoning standards had been reduced in the City of Lufkin, and that now the request had been made to lower the standards once more. Mr. Havard stated that with the completed Whitehouse Drive Expansion, he and his neighbors were considering forming a neighborhood association to work more closely with the City of Lufkin to help in cleaning up the community. Mr. Havard also stated he and his neighbors did not wish to see the area downgraded with this zone change and their wish was to let the City know that they wanted to see improvement in the area, and asked that the Council deny the requested zone change.

Mr. Michael Parker approached the podium in representation of the proponent of the zone change and stated that he certainly understood the protesting citizens' comments; he wished to address the issues behind the proposed zone change. Mr. Parker stated that this property was annexed with the Fuller Springs Annexation, and that current placement of residences left a large vacant lot in the area. Mr. Parker stated that the precedent of retail in the area had already been set at the corner of Bartmess and Chestnut, and the future land use of the area was already set as "Retail", and the future land use of "Residential Medium" was more restrictive. Mr. Parker stated that the "Residential Medium" Zoning would also lessen traffic and that the property owner stated in his zone change request that he would build a larger home. Mr. Parker stated he was aware that there were some concerns as to whether the home would be rental property, but that there was a need for rental property and there were already rental homes in the area. Mr. Parker understood why the majority of the property owners were in opposition of the zone change; however, the future land use of "Residential Medium" would be much better than "Retail". Mr. Parker then requested comments from Council.

Councilmember Langston asked Mr. Parker what the frontage and depth of the property was on Bartmess Drive. Mr. Parker responded by stating that the frontage was one hundred forty-five (145) feet of frontage and that the depth was one hundred four (104) feet, and would allow for ample size lots. Mr. Parker stated that the problem with obtaining the needed square footage was the lack of depth in the property.

Mayor Gorden thanked Mr. Parker for his comments and requested for any others wishing to speak to come forward.

Mr. Jerry Shaw came forward and stated that he had a large home in the area and was aware of the property, and managed the property for the owner for several years. Mr. Shaw stated that the property owner did not currently maintain the property and was concerned as to the quality of the construction of what might be built on the property. Mr. Shaw also requested that Council deny the zone change request.

There not being anyone else wishing to speak on the issue, Mayor Gorden closed the public hearing at 5:56 p.m. and requested comments and/or motions from Council. Mayor Gorden stated that Council generally tried to adhere to the wishes of the neighborhoods affected by the different issues as much as possible, and would remind Council that six (6) of seven (7) votes were needed for approval.

Councilmember Torres asked that Dorothy Wilson, Planning Director state the Planning Department's position on the issue.

Dorothy Wilson, Planning Director, stated that it was the position of the Planning Department that the zone change request took too much from the property just to fit in to



the category. Ms. Wilson added that as Mr. Parker stated earlier, there were properties that were grandfathered when the properties were annexed, but the idea was not to continue to do so if at all possible and the Planning Department was aware of the large opposition to the request, even if the opposition was not in writing.

Mr. Michael Parker stated that it would have been easier for the property owner to ask for the zone change to "Neighborhood Retail", since that was the future land use of the property.

Mayor Gorden entertained a motion from Council.

Councilmember Langston stated that Mr. Michael Parker had made a valid point, but the change was going against the general character of the neighborhood.

Councilmember Don Langston moved to deny the Ordinance amending the Zoning Ordinance and the Future Land Use Plan of the 2001 Comprehensive Plan of the City of Lufkin, Texas, by changing the Zoning and Future Land Use Plan designation on approximately .39 acres of land described as Tract 46 of the McKinney and Williams Survey, Abstract 469 to a "Residential Medium" Zoning District and the Future Land Use Plan of the 2001 Comprehensive Plan to the classification of "Low Density Residential". Councilmember Rose Faine Boyd seconded the motion.

The following vote was recorded:

**Aye:** Council Members Rose Faine Boyd, R.L. Kuykendall, Rufus Duncan, Don Langston, Phil Medford and Mayor Gorden.

**Nay:** Council Member Phil Medford

The motion was denied with (6) six affirmative votes.

**15. FIRST READING OF AN ORDINANCE AMENDING THE ZONING ORDINANCE AND THE FUTURE LAND USE PLAN OF THE 2001 COMPREHENSIVE PLAN OF THE CITY OF LUFKIN, TEXAS, - TABLED - BY CHANGING THE ZONING AND FUTURE LAND USE PLAN DESIGNATION ON APPROXIMATELY 1.43 ACRES OF LAND DESCRIBED AS HURRICANE CREEK REGIONAL DETENTION POND #4, BLOCK 1, LOTS 2 AND 3 TO A "LOCAL BUSINESS" ZONING DISTRICT AND THE FUTURE LAND USE PLAN OF THE 2001 COMPREHENSIVE PLAN TO THE CLASSIFICATION OF "RETAIL".**

Mayor Jack Gorden stated that the next item for consideration was a Public Hearing and First Reading of an Ordinance amending the Zoning Ordinance and the Future Land Use Plan of the 2001 Comprehensive Plan of the City of Lufkin, Texas, by changing the Zoning and Future Land Use Plan designation on approximately 1.43 acres of land described as Hurricane Creek Regional Detention Pond #4, Block 1, Lots 2 and 3 to a "Local Business" Zoning District and the Future Land Use Plan of the 2001 Comprehensive Plan to the classification of "Retail".

Mayor Gorden opened the Public Hearing at 6:04 p.m.

Mayor Gorden then requested comments from City Manager Paul Parker.

City Manager Parker stated that this was a request for a zone change on a piece of property commonly known as 1503 Tulane Drive and that the applicant wished to improve the value of the property by the zone change. City Manager Parker added that both the Planning and Zoning Commission and Planning and Zoning Staff recommended approval.

Mayor Gorden requested that anyone wishing to speak on the issue to please come forward. There appearing to be no one wishing to speak, Mayor Gorden closed the public hearing at 6:05 p.m.

Mayor Gorden then requested comments and/or motions from the Council and stated there was no opposition to the zone change from the neighboring property owners.

Councilmember Langston said that he was surprised that there was no opposition. Councilmember Phil Medford stated that historically zone change requests to approve property value had not been approved; not that he was opposed, but the use of the property should be the reason for a zone change.

Councilmember Don Langston stated that there were numerous occasions to show that a zone change did not necessarily mean more property value.

Councilmember Rufus Duncan stated that this change would increase the retail growth in that area and he knew there were issues in the past with this area.

Councilmember Lynn Torres stated that with the dental office and dance academy in that location that the precedent for local business zoning in that area had been set.

Mayor Gorden stated that traffic was increasing in the area daily.

Councilmember Lynn Torres moved to approve the zone change; Phil Medford seconded the motion.

The following vote was recorded:

**Aye:** Council Members Rose Faine Boyd, Phil Medford, Rufus Duncan, Don Langston, Phil Medford and Mayor Gorden.

**Nay:** Council Member R.L. Kuykendall

The motion was approved with (6) six affirmative votes.

**16. AGREEMENT WITH TRAFFIPAX – TABLED - FOR THE PROVISION OF PHOTO ENFORCEMENT SERVICES**

Mayor Jack Gorden stated that the next item for consideration was an Agreement with Traffipax for the provision of Photo Enforcement Services.

Mayor Gorden requested comments from City Manager Paul Parker.

City Manager Parker stated that earlier in the year the State Legislation had changed to allow for photo enforcement of traffic violations, and that after that change he had requested the Police department to conduct a study in the feasibility of using this method in the City, as well as research firms to implement the program.

“Traffipax” was found to be the firm best suited to implement this program.

City Manager Parker added that “Traffipax” had given a presentation at a previous Council meeting, and following the presentation, Council requested that the item be placed on the agenda for consideration. City Manager Parker stated that the recommendation from the Police Department was to enter into an Agreement with “Traffipax” for this service. City Manager Parker stated that if this was done, “Traffipax” would be responsible for all installation of equipment. City Manager Parker then asked Police Chief Larry Brazil to comment on this issue.

Chief Brazil stated that “Traffipax” was a well established company founded in Germany. Chief Brazil stated that currently it took the efforts of two (2) officers to patrol an intersection, due to the fact that the officer must be able to testify that the light was actually red, and a violation had occurred and that this system would allow that manpower to be directed elsewhere.

Councilmember Don Langston asked whether or not the system could detect if the violation was due to a malfunction of the light system; so that citizens would not be unduly penalized.

Chief Brazil replied that each violation would have to be reviewed by a police officer prior to being issued.

Councilmember Rufus Duncan stated that there were reports that these "red light systems" caused more accidents than they actually prevented.

Councilmember Rose Faine Boyd asked if "Traffipax" had any information on those reports. Chief Brazil replied that they did not.

Councilmember Duncan stated that there were cities that had been studying this issue, but he had not been able to locate the information.

Councilmember R.L. Kuykendall asked if maybe the accidents were caused more by the drivers than the photo enforcement systems.

Councilmember Langston stated he could certainly see the benefit of this system as long as there was a clear means of determining whether or not the violation actually occurred.

Councilmember Boyd confirmed with Chief Brazil that there was indeed a significant problem with citizens running red lights in the City.

Chief Brazil stated that there was, especially at Pershing and Loop 287, and at the intersection of Chestnut Street and Timberland Drive.

Councilmember Lynn Torres stated that there was indeed a problem at the intersection of Chestnut Street and Timberland Drive, but that the problem stemmed from the length of the light.

City Manager Parker stated that TX DOT (Texas Department of Transportation), controlled the synchronization of the lights; not the City of Lufkin.

Mayor Gorden asked for questions or comments from the Council.

Councilmember Duncan stated he favored the use of the photo enforcement; but he was hesitant to proceed without the correct information to determine if this would really increase the safety at red lights.

Councilmember Phil Medford asked what the length of the contract with "Traffipax" would be.

City Manager Parker responded that the contract would be for five (5) years.

Councilmember Medford stated that he would like to have the opportunity for further research before obligating the City to a five (5) year contract.

City Manager Parker stated that there was no urgency in proceeding; that tabling the issue would not be a problem.

Mayor Gorden stated that it would be a good idea to table the issue until all questions were answered and the issue was sufficiently researched.

Further discussion among Council members ensued.

Councilmember Rufus Duncan moved to table the Agreement with Traffipax for the provision of Photo Enforcement Services. Councilmember R.L. Kuykendall seconded the motion.

The following vote was recorded:

**Aye:** Council Members Rose Faine Boyd, Phil Medford, Rufus Duncan, R. L. Kuykendall, Phil Medford and Mayor Gorden.

**Nay:** Council Member Don Langston

The motion to table this issue was approved with (6) six affirmative votes.

**17. ORDINANCE OF THE CITY OF LUFKIN, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF LUFKIN - TABLED - BY AMENDING TITLE VII ("TRAFFIC CODE") TO ADD A NEW CHAPTER 76 TO BE ENTITLED, "AUTOMATED TRAFFIC SIGNAL ENFORCEMENT", ESTABLISHING CIVIL ENFORCEMENT AND LIABILITY FOR TRAFFIC LIGHT INFRACTIONS; ESTABLISHING PROCEDURES FOR CIVIL ADJUDICATIONS OF VIOLATIONS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

Mayor Jack Gorden stated that the next item on the agenda, an ordinance for the Traffipax system was not an issue due to the previous item being tabled.

Councilmember Lynn Torres moved to table the Ordinance of the City of Lufkin, Texas, amending the Code of Ordinances of the City of Lufkin by amending Title VII ("Traffic Code") to add a new Chapter 76 to be entitled, "Automated Traffic Signal Enforcement", establishing civil enforcement and liability for traffic light infractions; establishing procedures for Civil Adjudications of Violations; providing a severability clause; and providing an effective date. Councilmember Rose Faine Boyd seconded the motion. A unanimous affirmative vote to table this issue was recorded.

**18. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LUFKIN, TEXAS, - APPROVED - DECLARING A PUBLIC NEED AND THE NECESSITY FOR ACQUIRING BY CONDEMNATION REAL PROPERTY FOR THE CONSTRUCTION OF WATERLINES FROM LUFKIN TO SAM RAYBURN LAKE; AND ORDERING THE CONDEMNATION OF SAID PROPERTY TO PROCEED**

Mayor Gorden stated the next item for consideration was a Resolution of the City Council of the City of Lufkin, Texas, declaring a public need and the necessity for acquiring by condemnation real property for the construction of waterlines from Lufkin to Sam Rayburn Lake; and ordering the condemnation of said property to proceed.

Mayor Gorden requested comments from City Manager Paul Parker, who in turn requested that Assistant City Manager Keith Wright address this issue.

Assistant City Manager Wright stated that this was a continuation to secure easements for the future water line of the City of Lufkin and that several years ago Council approved to move forward with purchasing right-of-way and property for the Water Plant. Assistant City Manager Wright also stated that some opposition was encountered during acquiring the property; and this item addressed that opposition and provided a means for acquiring the property, despite the opposition.

Mayor Gorden asked whether or not there was true opposition or was it a monetary difference in the price of the property

Assistant City Manager Wright stated that due to the unrealistic price requested of the property; he felt that it was opposition.

Councilmember Don Langston asked how many feet of right-of-way were being acquired, and which entities were involved.

Assistant City Manager Wright stated that the right-of-way was forty (40) feet wide and twenty-seven (27) miles in length and that the opposition was in less than one-half (1/2)

mile of property and that the City of Lufkin had settled with most property owners. Assistant City Manager Wright stated the majority of the property was owned by the Forest Service and timber companies.

City Attorney Bob Flourney stated that the property in question was approximately seven-thousand (7,000) feet in length, comprised of several tracts of land owned by Smyrna Limited Partnership.

Mayor Gorden stated that no one preferred to condemn property for public need, but if there were a time to do so, it was now.

Mayor Gorden then requested comments and/or motions from Council.

Councilmember Rose Faine Boyd moved to approve the Resolution of the City Council of the City of Lufkin, Texas, declaring a public need and the necessity for acquiring by condemnation real property for the construction of waterlines from Lufkin to Sam Rayburn Lake; and ordering the condemnation of said property to proceed. Councilmember Don Langston seconded the motion. A unanimous affirmative vote was recorded.

**19. RESOLUTION AUTHORIZING AN AMENDMENT TO THE 2006/2007 OPERATING BUDGET (BUDGET AMENDMENT NO. 5), - APPROVED - PROVIDING FOR THE SUPPLEMENTAL APPROPRIATION OF FUNDS IN THE HOTEL/MOTEL TAX AND WATER/WASTEWATER FUNDS; AND PROVIDING AN EFFECTIVE DATE.**

Mayor Jack Gorden stated that the next item for consideration was a Resolution authorizing an Amendment to the 2006/2007 Operating Budget (Budget Amendment No. 5), providing for the supplemental appropriation of funds in the Hotel/Motel Tax and Water/Wastewater Funds; and providing an effective date.

Mayor Gorden asked for comments from City Manager Parker.

City Manager Parker stated that this item and the following two (2) items were in relation to a grant application for disaster funds due to Hurricane Rita.

City Manager Parker explained that the City of Lufkin had received a grant in the amount of four-hundred eighty-five thousand dollars (\$485,000) for additional water wells and that the next two (2) items on the agenda, if approved, would pay for the engineering services and the grant administration services for this grant. City Manager Parker added that this item was simply to amend the budget to accept the grant money in the amount of four-hundred eighty-five thousand dollars (\$485,000).

Mayor Gorden stated that the grant money was the City of Lufkin's part of the nineteen million dollars (\$19,000,000) in disaster recovery funds allotted for the Hurricane Rita event and that the bulk of those funds had been disbursed to the Jasper/Newton area.

Councilmember Langston confirmed that these funds had been allocated to the City of Lufkin.

Assistant City Manager Wright confirmed that the City did have a signed contract in relation to the funds.

Mayor Gorden stated that these funds would definitely be put to good use.

Mayor Gorden then requested comments and/or a motion from Council.

Councilmember Rose Faine Boyd moved to approve the Resolution authorizing an Amendment to the 2006/2007 Operating Budget (Budget Amendment No. 5), providing for the supplemental appropriation of funds in the Hotel/Motel Tax and Water/Wastewater Funds; and providing an effective date. Councilmember R.L. Kuykendall seconded the motion.

City Attorney Bob Flournoy stated that since items nineteen (19), twenty (20) and twenty-one (21) were all in relation to the same issue, they could be voted on at once.

A unanimous affirmative vote was recorded for approval of items nineteen (19), twenty (20) and twenty-one (21).

**20. CONSIDER APPROVAL OF A PROPOSED CONTRACT WITH GOODWIN-LASITER, INC. FOR ENGINEERING DESIGN FOR THE PURCHASE AND INSTALLATION OF THREE (3) LARGE CAPACITY GENERATORS OF WHICH ONE WILL BE LOCATED AT THE LUFKIN PITSER GARRISON CIVIC CENTER AND TWO (2) AT THE CITY'S EXISTING WATER WELLS.**

Councilmember Rose Faine Boyd moved to approve the contract with Goodwin-Lasiter, Inc. for engineering design for the purchase and installation of three (3) large capacity generators of which one will be located at the Lufkin Pitser Garrison Civic Center and two (2) at the City's existing water wells. Councilmember R.L. Kuykendall seconded the motion. A unanimous affirmative vote was recorded.

**21. CONSIDER APPROVAL OF A PROPOSED CONTRACT WITH TRAYLOR AND ASSOCIATES, INC. FOR PROVIDING GRANT ADMINISTRATION AND DOCUMENTATION REQUIREMENTS RELATED TO THE PURCHASE AND INSTALLATION OF THREE (3) LARGE CAPACITY GENERATORS OF WHICH ONE WILL BE LOCATED AT THE LUFKIN PITSER GARRISON CIVIC CENTER AND TWO (2) AT THE CITY'S EXISTING WATER WELLS.**

Councilmember Rose Faine Boyd moved to approve the contract with Traylor and Associates, Inc. for providing grant administration and documentation requirements related to the purchase and installation of three (3) large capacity generators of which one will be located at the Lufkin Pitser Garrison Civic Center and two (2) at the City's existing water wells. Councilmember R.L. Kuykendall seconded the motion. A unanimous affirmative vote was recorded.

**22. RESOLUTION AUTHORIZING CITY MANAGER PAUL PARKER AS THE CITY OF LUFKIN'S REPRESENTATIVE - APPROVED - TO THE BUYBOARD.**

Mayor Jack Gorden stated that next item for consideration was a Resolution authorizing City Manager Paul Parker as the City of Lufkin's representative to the BuyBoard.

City Manager Paul Parker stated that the City of Lufkin purchased equipment through the BuyBoard, and that they required a recertification of the official representative of the City; and this item would accomplish that.

Mayor Gorden then entertained a motion from Council.

Councilmember Don Langston moved to approve a Resolution authorizing City Manager Paul Parker as the City of Lufkin's representative to the BuyBoard. Councilmember Lynn Torres seconded the motion. A unanimous affirmative vote was recorded.

**23. PURCHASE OF A 2007 CHEVROLET SILVERADO 2500 HD 2WD, EXTENDED CAB LIGHT DUTY RESCUE TRUCK - APPROVED - FOR THE FIRE DEPARTMENT**

Mayor Jack Gorden stated that next item for consideration was the purchase of a 2007 Chevrolet Silverado 2500 HD 2WD, extended cab light duty rescue truck for the Fire Department.

City Manager Parker stated that this was a light duty rescue truck for the Fire Department and was included in the Amortization Schedule Fund for the budget year and would be replacing the 1997 Ford rescue truck. City Manager Parker stated that the 2007 Chevrolet Chassis and body would be purchased through HGAC for a total of fifty-thousand two-hundred fifty dollars (\$50,250).

Fire Chief Pete Prewitt explained that the light duty rescue truck would respond in place of the heavy duty rescue truck when needed and would help preserve the life of the heavy duty rescue unit.

Mayor Gorden then entertained a motion from Council.

Councilmember Phil Medford moved to approve the purchase of a 2007 Chevrolet Silverado 2500 HD 2WD, extended cab light duty rescue truck for the Fire Department. Councilmember R. L. Kuykendall seconded the motion. A unanimous affirmative vote was recorded.

**24. CITY MANAGER'S REPORT:**

- A. Financial Status Report
- B. Projects Status Report

City Manager Parker stated that the financial report was in order and the project status report had no significant changes.

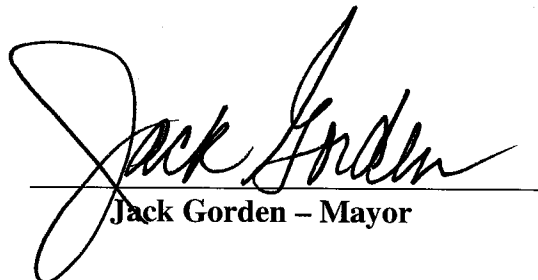
Mayor Gorden requested comments from Council; there were none.

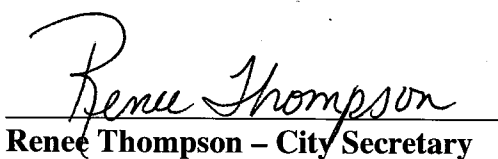
**25. Calendar notations from Mayor, Council Members, and City Manager.**

City Manager Parker reminded Council of Judge Joe Berry's retirement reception on Friday, December 22, 2006 from 10:00 am to 12:00 pm.

Mayor Gorden also reminded Council of the upcoming DETCOG meeting and the Downtown Gala.

**26. There being no further business for consideration, the meeting adjourned at 7:04 p.m.**

  
\_\_\_\_\_  
Jack Gorden – Mayor

  
\_\_\_\_\_  
Renee Thompson – City Secretary