

**MINUTES OF THE SPECIAL CALLED MEETING OF THE CITY COUNCIL OF
THE CITY OF LUFKIN, TEXAS HELD ON THE 14th DAY OF OCTOBER, 2008**

On the 14th day of October, 2008, the City Council of the City of Lufkin, Texas convened in a Special Called Meeting in the Council Chambers of City Hall with the following members, thereof to wit:

Jack Gorden, Jr.
Rose Faine Boyd
R. L. Kuykendall
Lynn Torres
Don Langston
Rufus Duncan
Paul L. Parker
Keith Wright
Renee Thompson
Bob Flournoy
Doug Wood
Chuck Walker
Barbara Thompson
Dorothy Wilson
Dale Allred
Julie Miles

Mayor
Mayor Pro Tem
Councilmember, Ward No. 1
Councilmember, Ward No. 3
Councilmember, Ward No. 4
Councilmember, Ward No. 5
City Manager
Assistant City Manager
City Secretary
City Attorney
Finance Director
City Engineer
Main Street Director
Planning Director
Inspection Services Director
Planning Office Assistant

being present, when the following business was transacted:

1. The meeting was opened with prayer by City Attorney Bob Flournoy.
2. Mayor Jack Gorden welcomed visitors present. Mayor Gorden stated that over the last few years the City Council had discussed the Ordinances that were to be presented. Mayor Gorden added that there had also been some interaction with some of the citizens of Lufkin concerning the Ordinances. Mayor Gorden commended the City Staff for bringing the Ordinances to the Council for consideration and stated that the Council would take no action but would review the Ordinances. Mayor Gorden proposed that the Council see where they could get in a couple of hours and if the discussion was not completed, another meeting would be set to finalize the Ordinances.

NEW BUSINESS:

3. DISCUSS PROPOSED HISTORIC PRESERVATION ORDINANCE

Mayor Jack Gorden stated that the next item for consideration was a discussion regarding the proposed Historic Preservation Ordinance.

City Manager Parker stated that there was no time table for the Ordinances and that the amount of time spent on the Ordinances would be left to the discretion of the City Council. City Manager Parker added that if the Council decided to go forth with any of the Ordinances, they would be amendments to the Zoning Ordinance which meant the Ordinances would have to be sent to the Planning and Zoning Commission to be reviewed and have Public Hearings prior to returning to the City Council for adoption.

City Manager Parker stated that Staff would move at the pace desired by the Council because there was a lot of information and interpretation used in forming the criteria for the Ordinances. City Manager Parker added that Staff spent a lot of time debating and discussing the pros and cons of certain elements of each Ordinance. City Manager Parker stated that the Ordinances were “working drafts”, requiring the Mayor and Council’s input. City Manager Parker added that Staff was looking for the Council’s direction in modifying the requests. City Manager Parker stated that Planning Director Dorothy Wilson had been the lead in working on the Ordinances along with Public Utilities Director Chuck Walker,

Inspection Services Director Dale Allred, Main Street Director Barbara Thompson, City Arborist Rachel Emrick, Assistant City Manager Keith Wright, and himself.

City Planner Dorothy Wilson stated that the easiest way to go through the Ordinances was to go over the broad categories and then whenever anyone had questions they could stop her and discuss the question or subject in more detail. Ms. Wilson stated the first page had the standard language of the Ordinance with page two (2) having the general purpose and description. Ms. Wilson stated that the focus of the Historic Preservation Ordinance was to preserve the downtown area of the City. Ms. Wilson added that the Ordinance would set guidelines of how new additions to buildings would take place and how new structures would be handled. Ms. Wilson stated that in the first section discussed the creation of a historic district overlay zoning classification and creation of a historic preservation commission which would be a seven (7) member committee appointed by the Council that would oversee the issuance of the certificates of appropriateness.

Assistant City Manager Keith Wright pointed out that this was a model Ordinance from the State and was modeled after that Ordinance. Assistant City Manager Wright added that as most of the historic ordinances followed the same model.

Ms. Wilson stated that the section pointed out that the City had a procedure for designation of districts and landmarks. Ms. Wilson added that there was also a procedure for addressing appeals of economic hardship, where an applicant believed that they could not afford to do anything with a building and the building did not have any economic value. Ms. Wilson stated that there was also a method for addressing demolition by neglect and penalties related to application in the ordinance. Ms. Wilson pointed out that if the City were to adopt the Ordinance, each area that it was applied to would have to be adopted separately because the zoning overlay would have to be applied. Ms. Wilson added that this would be another step in the process, just like a zone change. Councilmember Don Langston asked Ms. Wilson to repeat that. Ms. Wilson stated that this was a historic district overlay and was the zoned district itself, just like the wording that was in the commercial zone or residential large zone. Ms. Wilson stated that the City would have to go in and designate some areas where it would apply. Ms. Wilson added that Staff had looked at and referred to the downtown area where all of the new "ISTEA" money streets were done. Ms. Wilson stated that the City would need to do the Ordinance if the Council were to adopt the zone. City Manager Parker stated that instead of the Ordinance just applying to the existing "downtown zone", it would be an overlay that may or may not include all of the area. City Manager Parker furthered that the area expanded out that would normally not be thought of as "historic preservation". City Manager Parker added that the new overlay would be what the Council saw fit as the area where the historic overlay would apply to. Mayor Gorden asked if it would be a separate issue. City Manager Parker stated that it would and if the Council went forth with the Historic Preservation Ordinance, Staff would bring back a proposed area. City Manager Parker added that in the preliminary conversations, Staff looked at an area where the street improvement program was. Mayor Gorden asked if it could later be expanded to other neighborhoods. City Manager Parker stated that it could and would work like a zoning ordinance and would go through the same processes.

Councilmember Don Langston asked who would enforce the Ordinance. Ms. Wilson stated that it would go through the regular Code Enforcement Procedures. Ms. Wilson added that City Manager Parker had tentatively indicated that the Historic Preservation Officer would be herself. Ms. Wilson stated that the Historic Preservation Officer would be responsible for coordinating with the Historic Preservation Commission and actually doing the paperwork and insuring that the issued were followed up. Ms. Wilson added that the "stop work" order would be the real hammer and would go back to Inspection Services Director Dale Allred and the Code Enforcement area. Councilmember Langston stated that if it made economic sense to the owner of the property, then he would be in favor of it but a person could look around at some of the properties and wonder if the City would encourage them to tear them down just to avoid it. Councilmember Langston stated that as everyone had seen in the past, one could take a lot of the downtown properties preserve them, but the cost was unreasonable. Councilmember Langston asked if the City could force those to be preserved. Mayor Gorden stated that he was glad that Councilmember Langston brought this up because after reviewing the Ordinance, one of his main issues was he was not seeing where the City was encouraging the preservation to any degree, rather than letting the buildings fall down

from neglect. Mayor Gorden added that the building almost had to be demolished. Mayor Gorden stated that Staff discussed committees and that the demolition process had to be verified and that there were all kinds of checks and balances. Mayor Gorden added that the Central Business District had special meaning for all of the people of Lufkin and wanted to know if there was something in the Ordinance related to it. Ms. Wilson stated that there were three (3) areas that addressed that subject. Ms. Wilson added that she would go through them briefly and hopefully answer the question. Ms. Wilson stated that page four (4), under item g, highlighted what the commission should be doing. Ms. Wilson added that the process relied on how active the commission was and that this relied on who was appointed to the commission. Ms. Wilson stated that if the commission chose to, they could go after grants, do surveys, get training through the Texas Historical Commission, and set up a funding source. Ms. Wilson stated that State Law 315.006 provided for a funding mechanism whenever there were violations of the Ordinance and for the use of those funds for other buildings and their preservation. Ms. Wilson added that public awareness to support this was also included in this. Mayor Gorden asked if there were Ordinances that would assist in taking care of leaking roofs and things of that nature. Ms. Wilson stated that this was only for the exterior of buildings and not the interior. Ms. Wilson added that those would go back into the area of dangerous buildings or within the ICC's code for unsafe structures. Mayor Gorden stated that if something could have been done to the structure that Councilmember Langston was referring to it would have been good. Assistant City Manager Wright stated that it could have been covered under "demolition by neglect". Assistant City Manager Wright added that they are not allowed to agree to "demolition by neglect". Councilmember Langston asked how one could disallow a building that was falling down because of neglect. Assistant City Manager Wright stated that one would have to take action against the owner to improve the building. Councilmember Langston asked what the penalty would be. Ms. Wilson stated that ultimately the person could lose the building and it could go to an entity that would take care of it or had the means to provide for it. Ms. Wilson added that this went back to the commission, who would have to provide or find funding sources and that the Council would have to fund some upfront money in order to make the project work. Ms. Wilson stated that the Council would have to give incentives.

Ms. Wilson stated that there would not be people willingly put money into the downtown until the Council did something along the lines of the Ordinance that says the City was going to preserve the structures. Ms. Wilson added that if the City allowed one (1) building in the downtown area to be torn down due to someone not wanting to put money into preserving it, then the building owner next door had no incentive to preserve his building. Ms. Wilson used the example of Mar Teres, where the owner put a lot of money into the preservation and the properties nearby were not doing the same thing, and the owner loses the incentive to continue investing in their property because there is no standard for force others to bring theirs to some par. Mayor Gorden stated that was one (1) of the ones which came to mind. Mayor Gorden added that he continued to hear about one (1) of the adjoining buildings that leaked so badly that it affected the owner of Mar Teres' building. Mayor Gorden stated that there was an absentee owner who probably cares less and if the City considered going to the trouble of passing the detailed Ordinance, there should be more to enforce it. Councilmember Langston stated that the best way to preserve was to give someone additional tools and incentives, rather than not incentivizing someone to purchase a property downtown. Councilmember Langston stated that as a builder, the buildings were not designed to last as long as people position them to last. Councilmember Langston added that a fifty (50) year life on a building was exceptional. Councilmember Langston stated that in order to maintain a building in a tenable state was going to require a great deal of expense that couldn't be determined without deep investigation. Councilmember Langston stated that one could not know what was going to be required to make a building tenable by looking at the exterior and if the City wanted those buildings used and vibrant, then the City needed to find an incentive to buy and own the downtown buildings. Assistant City Manager Wright stated that Ms. Wilson had mentioned that to do this, the City would have to develop some type of grant program. Assistant City Manager Wright added that the City would have to encourage the improvement of the façade in those buildings to maintain them. Assistant City Manager Wright stated that there were other cities that did this, such as the City of Bryan. Assistant City Manager Wright stated that those cities provided grants and that the Historical Commission would be the one to review the grants and determine the amount and which buildings were appropriate. Assistant City Manager Wright added that the City of Lufkin would have to "upfront" some funds in order to encourage that in the downtown area and in

order to comply with the Ordinance. Ms. Wilson stated that if the standard was not set, then the other buildings would not be preserved. Mayor Gorden stated that he agreed with Councilmember Langston, but that his view was the City of Lufkin only had one (1) downtown and it called for incentives to improve and some form of disincentive if people, by their own volition, did not take advantage of the incentives. Mayor Gorden added that the "Central Business District" was so important to the Lufkin community, that it would take extraordinary measures that wouldn't apply to other areas of the City. Mayor Gorden stated that there were communities around the country that were building brand new downtown areas to look like what Lufkin already had and needed to be preserved. Councilmember Langston stated that Lufkin needed some means of historic preservation, but to incentivize people from buying properties, because of a regulation would not be productive. Councilmember Langston added that it was great for the initial owners but anyone wanting to buy in a historical district looks at it with a critical eye. Councilmember Langston stated that Nacogdoches was a case in point. Councilmember Langston added that Inspection Services Director Dale Allred came from Nacogdoches, and understood the implications of trying to create new uses out of old structures. Councilmember Langston stated that it got expensive in a hurry and that the Nacogdoches community had done an admirable job of trying to promote traffic in those areas. Councilmember Langston added that it was an entire program and may be one (1) step, but that his problem was that this should not be the only step. Mayor Gorden stated that he agreed with Councilmember Langston and that somehow the preservation had to include an enhanced perception of value so that the private market forces did come into play. Mayor Gorden stated that Lufkin, as a City, could not just go and do it all, but should consider doing part of it. Mayor Gorden added that the things that would enhance the perceived value were needed. Ms. Wilson stated that currently the City was providing a disincentive for people to go to the downtown area because there was the assumption in the business community that it was a historic preservation area and that there were requirements. Ms. Wilson added that people were a little tentative to develop in that area because they might have to comply with things. Ms. Wilson stated that people were staying away based on the perception, and that there was a disincentive not to have the Historic Preservation District, because if someone did work on their building and the person next to them didn't, then the person who did the work lost business, because other developers weren't coming to the area. Ms. Wilson stated that there was a disincentive for staying there, and without the Historic Preservation District there was no starting base for giving people a minimum standard for the area. Ms. Wilson added it was just as important for the City to building standard as a weed standard. Ms. Wilson stated that a person should be able to go downtown and look at the buildings and see something presentable for the community and that this was the starting point for it and that the commission would need to come up with an education program and really promote funding and preservation, if that was what the City Council was looking for. Councilmember Langston stated that he agreed with Ms. Wilson, but that his point was that this didn't go far enough to get where the Council envisioned the downtown area need to be. Councilmember Langston added that in order for the Council to get that far, the City needed to enlist the local banking community to give reduced rate loans. Councilmember Langston stated that his real concern was the City did not want this to be a failure, but the Council needed to be cognizant of the fact that if the downtown area was going to attract businesses, then the downtown area had to attract traffic to those businesses to make them viable. Councilmember Langston added that a nice façade was a beginning but was not a cheap beginning. Councilmember Langston stated that he was sure that Ms. Wilson and Main Street Director Barbara Thompson had walked the downtown area and possibly seen some of the old pictures of the structures as they used to be before people came in and put "anything" up to cover the deterioration of those fronts. Councilmember Langston stated that when "those" were taken off, one would find why they were covered up. Councilmember Langston added that it took a lot of money to restore those buildings, so the Council had to make this onerous, and watch the downtown area close up, or find ways to assist the building owners to bring it back to what it was. Councilmember Langston stated that there was a combination or dual responsibility for it. Councilmember Langston added that the City could penalize people all day long, and not accomplish anything but maybe a few dollars in the coffers. Councilmember Langston stated that the City had to find a way to help the area become vibrant again. Mayor Gorden asked if this could be addressed by enhancing the sections that were related to the Historical Commission. Mayor Gorden explained that instead of leaving everything totally up them, could the Council give them more direction. Mayor Gorden asked Ms. Wilson how she saw the Council addressing the issue. Ms. Wilson stated that the City needed to do what Councilmember Langston said.

Ms. Wilson added that the City needed to start with the minimum basis. Ms. Wilson stated that she believed the Ordinance, set on the national standard, and was recommended by the Texas Historic Preservation Commission, had worked in numerous cities throughout Texas. Ms. Wilson added that empowering the seven (7) member Commission who were active in preservation or had an interest in the historic value of the downtown area was the starting point. Ms. Wilson stated that if the City of Lufkin did not adopt it, then the City would not become eligible for any of the federal or state grants. Assistant City Manager Keith Wright stated that the City could put some type of incentive package, such as waiving all City fees, providing grant resources, or working for low interest loans, etc. to assist in making the endeavor successful. Mayor Gorden asked if Ms. Wilson and Assistant City Manager Wright were saying that this, or some form of this, would have to be in place, in order to get the grants. Ms. Wilson agreed that this was correct. Ms. Wilson stated that she had talked with the Historic Preservation Commission's people in Austin several times about this and that they had talked about using toward using downtown Lufkin as one of the models for preserving downtown. Ms. Wilson added that Lufkin could not even go in that direction until Lufkin had a landmark area or district. Ms. Wilson stated that currently, the City of Lufkin had nothing and that anyone could go downtown and demolish any building that they wanted. Ms. Wilson added that this was below the standard in most cities. Ms. Wilson stated that she came from a jurisdiction that went from an area that looked much worse than Lufkin, to an area which was a tourist destination and a very successful tourist destination. Ms. Wilson added that this took a very involved community and a commission of people who were interested in seeing it evolve, along with a lot of commitment in dollars. Ms. Wilson stated that she thought the City had to start with the Historical Commission and that page four (4) was very comprehensive. Ms. Wilson stated that the City would have to make recommendations for employment of professional consultants, prepare specific design guidelines for review, identify the cases of neglect, and receive review and make recommendations to the Council on grant applications funded by the City of Lufkin. Ms. Wilson stated that as soon as the Council was willing to step up and put in a minimum standard and put funding behind the plan, then the Council would see more people doing the same. Mayor Gorden stated that it was hard to beat a group of dedicated private citizens interested in enhancing anything. Mayor Gorden added that from that standpoint he thought Ms. Wilson was totally on the right track. Mayor Gorden stated that he did not quite understand the grant application process and the need for having this in place, but could see what Ms. Wilson was saying.

City Manager Parker stated that Ms. Wilson was also talking about federal and state type grants. City Manager Parker stated that if the City was going to do this then the City would have to have incentives that the City was willing to put funding into. City Manager Parker stated that Assistant City Manager Wright mentioned the City of Bryan was very lucrative and gave up to fifty thousand dollars (\$50,000) per building for roof and façade work. City Manager Parker added that Bryan's downtown was really coming back, but they had to do it over several years and had to do it on a first come, first served basis. City Manager Parker stated that this was only because they couldn't afford to do every building every year. City Manager Parker stated that he thought there was going to be a cost factor if the City of Lufkin was going to do this and was where the Staff was coming from. City Manager Parker added that if the City of Lufkin wanted to do the Ordinance, without some kind of incentive, the City would not make it. Mayor Gorden stated that he would pose the question to the Council, that there would be a cost factor if the City did not do some form of this.

Councilmember Lynn Torres asked if the Council was more concerned with the way that the Council thought downtown should look and to preserve it and revive it where it would look like old buildings or was the Council in love with the bricks and mortar in buildings such as the one (1) next to Maricela's. Councilmember Torres added that if she were a buyer and wanted to purchase that building, unless the City incentive her a lot, it would be much more cost effective to be able to get rid of the failing rocks and mortar and build a comparable new historical look for a much cheaper price. Councilmember Torres asked if the City Council wanted the actual bricks and mortar or did they want people to come in and rebuild by a template that looked like an "old fashioned" downtown. Councilmember Torres stated that if she wanted to open a business it would be cheaper to follow a template and build a building that looked "old fashioned" and still have all of the amenities to be a viable business for twenty (20) to thirty (30) years down the road, than to restore the original structure. Mayor Gorden stated that he would think it would depend on each situation. Mayor Gorden stated

that he understood what Councilmember Torres was saying, but there needed to be flexibility depending on the situation. Ms. Wilson stated that without any standard in place, there were people who would put something in that was garish or incongruent with the downtown. Ms. Wilson added that she was not trying to point fingers but that there were a couple of buildings that had just been redone that took away from the entire block. Ms. Wilson stated that if the City just designated one (1) block or several blocks, just having some minimum standard, would state that if you come into this area you would see the historic buildings that had been there. Ms. Wilson added that the City was not going out to build a historic town but a person could come to see the original buildings preserved. Ms. Wilson stated that would at least give some people the motivation that if they wanted to be in a historical building the people around them would have to stay within the guidelines. Mayor Gorden stated that when it came right down to it, there was not that much still down there. Mayor Gorden added that if you went down First Street and Lufkin Avenue was basically all there was. Ms. Wilson stated that the Staff assigned one hundred (100) addresses. Ms. Wilson stated that all of the new buildings and old buildings came to ninety-nine (99) or based on some different partitioning the number came to one hundred one (101) addresses for the entire ISTE/A area. Ms. Wilson stated that a lot of those buildings didn't need anything. Ms. Wilson added that the Perry Building would stay as the Perry Building. Ms. Wilson added that good or bad some of the others would stay the same. Assistant City Manager Wright suggested that Ms. Wilson explain the different ways the buildings were rated, based on their age and how that impacted the Ordinance. Ms. Wilson stated that one (1) of the things that Staff looked at was, what building were significant. Ms. Wilson added that based on the history and the books that she read on the history of downtown, it seemed that 1939 was a good "cutting point". Ms. Wilson explained that there were numerous fires in the late 1880's and 1890's that took out a lot of the wood structures and the very old buildings. Ms. Wilson stated that Staff looked at the buildings from the late 1890's to 1939 because 1939 began a different type of architecture. Ms. Wilson stated that those buildings were listed in the appendix "A" and "B" in the handout. Ms. Wilson stated that Appendix "A" listed two (2) buildings that were significant. Ms. Wilson added that they were built after 1939 and up to 1958. Ms. Wilson stated that Appendix "B" were built before 1939. Ms. Wilson stated that when looking at the list, only those that said "contributing" next to them or "significant" were those that Staff thought added relevance for historic preservation based on their age, appearance, and what was currently there. Ms. Wilson stated that of those buildings, one would have to go back further to verify their actual date or look for corner stones or property records. Ms. Wilson stated that from 1890 to 1958 there were maybe fifty (50) buildings overall that this would apply to. Ms. Wilson recommended that the City not just look at those buildings but also look at which blocks had the majority of buildings contributing significant and designate that block so that there would be a continuous area of buildings and not a "hodge podge".

Councilmember Rose Faine Boyd asked which blocks were being referred to. Assistant City Manager Wright stated that from Bynum Street over to Frank and from Fourth Street over to Angelina. Councilmember Rufus Boyd asked what the two (2) significant ones were. Ms. Wilson stated that she could not remember offhand, and would have to look them up again. Ms. Wilson added that the majority were contributing buildings and were the ones from 1938 or newer. Ms. Wilson stated that the Perry Building would be on the "significant" list. Councilmember Torres asked if they would be the Courthouse and the Perry Building. Ms. Wilson stated that the Courthouse would not be, because it was missed by a year and the Ordinance would not apply to any governmental structures. Councilmember Langston stated that he would like to see a total package and that the Council had talked about wanting to preserve the downtown area. Councilmember Langston added that the Council realized that grants would be necessary from any source available and the Council also knew the City of Lufkin would have to expend some money or extend a fund of some type to encourage the aesthetic change that was wanted for the downtown area and that the building code would also have to be addressed. Councilmember Langston stated that to him it was a total package and was all or none. Councilmember Langston added that he did not see creating penalties without creating incentives but would like to see Staff continue to work on the other elements to make it successful. Mayor Gorden asked if this could be done by additional verbiage in commission. Ms. Wilson stated one of the duties of the Historic Preservation Officer would be to assist in pursuing grants. Ms. Wilson added that the City did not have anything built in for City expenditures but could and that she would have to sit down and put some thought into the building code issue. Ms. Wilson stated that she had talked with Dale Allred and that

the City did adopt the existing building codes for older buildings, so that the newer standard did not have to be used, and that a lot of the builders were not aware of that. Councilmember Langston stated that he was a builder and was not aware of that. Councilmember Langston added that the Council had to determine what kind of funds it wanted to provide for incentives, grants, or assistance in applying for grants. Councilmember Langston stated that perhaps the Preservation Commission could make the recommendation and it could be set up in the future. Mayor Gorden asked if perhaps the Preservation Commission and the Staff could come back with a recommendation. Assistant City Manager Wright stated that the Staff could set up an "Incentive Section" in the Ordinance and go ahead and waive the City fees. Assistant City Manager Wright added that Staff could go ahead and set up the procedure for the grant and that each year the grant would have to be budgeted for and could set up the maximum amount that would be allowed. Assistant City Manager Wright explained that whatever amount was budgeted each year would determine how many grants could be provided. Assistant City Manager Wright stated that the amount could be renewed each budget cycle. Assistant City Manager Wright added that there could be some outline set up in the "Incentive Section" of the Ordinance. City Manager Parker added that would also be dependent on availability of funds. Councilmember Langston stated that his thought was the Staff could give the City the opportunity through Tax Incremental Financing (TIF) to make sales tax dollars, specific to that area, available. Councilmember Langston stated that he assumed that was the intent of that statute. Councilmember Langston added that perhaps the City could do the calculations and would encourage retail growth and could also help toward revitalizing downtown.

Councilmember Torres asked what would happen about ADA when someone purchased a building in the downtown area. Assistant City Manager Wright stated that they would have to comply with ADA. Councilmember Langston asked what about the second floor of the building and the ADA standards. Ms. Wilson stated that the existing Building Code made provisions for elevators and the fire/chimney staircases that went down the middle of those big buildings. Ms. Wilson added that it did take into consideration that the buildings shouldn't be completely overhauled. Ms. Wilson stated that the other code that also needed to be looked at downtown was the Building Maintenance Code, so that people did have the requirements.

Inspection Services Director Dale Allred stated that there seemed to be some interest about the ADA requirements. Mr. Allred stated that with the adoption of an Ordinance of this nature, ADA actually had provisions for historic buildings. Mr. Allred added that there was some space where one did not have to fully comply. Mr. Allred stated that by the adoption of an Ordinance such as this, it opened up an avenue to be able to take some things that did not have to be fully complied with, and apply them to downtown. Mr. Allred stated that the existing Building Code had been adopted by the City of Lufkin some time ago and that you could do with an existing building as you liked as long as you stayed with the existing building as it was built. Mr. Allred added that this was as long as one did not make it "less safe". Councilmember Langston asked about the elevators. Mr. Allred stated that elevators would be one of those things that under the provision of a historic building, the owner could make an application to the State and be granted an exception. Councilmember Langston stated that it was an application process that would require an exception or a denial. Mr. Allred stated that the application would go to the State and would not be a City obligation to review. Mayor Gorden asked about the involvement of the Planning and Zoning Commission. Mayor Gorden if it were possible to do it in a manner where the City did not have three quarter majority rule apply. City Manager Parker stated that it did not apply to this because that was only applicable in zonings where there was a protest factor. Ms. Wilson stated that their main role would be designation of buildings and landmark areas and that the appeals process was to the City Council. Mayor Gorden asked Ms. Wilson if there were any other points on the Ordinance that were pertinent. Ms. Wilson stated that they had basically hit the highlights.

City Manager Parker asked to skip to page sixteen (16), on the item about demolition by neglect, and asked Ms. Wilson to highlight about the penalty stage in regards to continuing to neglect a building. Ms. Wilson stated that the six (6) things pointed out in that section were the types of deterioration that would include demolition by neglect. Ms. Wilson stated that they were exterior issues with the last item being a sort of "catch all" of it would create a hazardous condition which could lead to the claim that demolition was necessary for the

public safety. Ms. Wilson explained that basically if they were to hear about a condition that was considered demolition by neglect, the Historic Preservation Officer would be responsible to meet with the owner to take a look at the property as far as issues and concerns on safety. Ms. Wilson added that this would include the other ex-officio member, the Inspections Services Building Official. Ms. Wilson stated that they would look at what would be needed for repairs on the structure, stabilization, and resources available for financing the repairs and how long it would take. Ms. Wilson stated that this had to be in a written report that would be sent fifteen (15) days after a site visit and be sent to the owner and the Historic Preservation Commission. Ms. Wilson added that the Historic Preservation Commission would then hold a Public Hearing within thirty (30) days to hear the points of the owner and to make a determination whether it was neglect. Ms. Wilson stated that if the Historic Preservation Commission determined that it was a demolition by neglect case then there would be a period for curing that and the owner would have to comply and would have to get their Certificate of Appropriateness. Ms. Wilson stated that the Certificate of Appropriateness would be the work that would be done so that it would still comply with the Historic Preservation criteria. Ms. Wilson stated that "Appendix D" was the Secretary of Interior's Standards and was adopted by basically every jurisdiction and were not onerous standards. Ms. Wilson added that there would also have to be a "Local Standard" adopted of design guidelines. Mayor Gorden stated that he had heard firsthand where people had elected to make an investment downtown, and then there was an adjoining building deteriorating and the City did not have a mechanism to preserve and safe keep their investment. Councilmember Torres asked how to grandfather that in and were the buildings that were deteriorating to a point on the contributing list. Councilmember Torres added that there were about fifty (50) that were deemed as contributing buildings but were still viable and could be saved. Councilmember Torres asked how you would grandfather years of neglect into sudden compliance. Ms. Wilson stated that she didn't put anything in the Ordinance to grandfather those types of buildings. Ms. Wilson stated that she did not know what could be done and what she thought should be done would be for the City to obtain the structure through the power of Eminent Domain and does what was necessary if it were a situation that would cause actual peril. Councilmember Torres stated that she agreed the City had to start somewhere and that she had her building picked out, her business, her loft apartment where she could walk to work, and that she loved downtown but the City had not had much success with the building near the Pines Theater. Councilmember Torres added that the City had told that owner that he had to do "x, y and z" and none of it had been done. Mayor Gorden stated that the City didn't have the proper tools. Councilmember Duncan stated that on page eighteen (18) under "Penalties", it sounded like if the owner ignored the City then they could be sued. City Manager Parker stated that they could be taken to court and there could be a fine of up to one thousand dollars (\$1,000) per day. Councilmember Torres stated that the City had been reluctant to push it to that with one (1) of the owner's downtown. Mayor Gorden agreed that Councilmember Torres was correct and that maybe the Council had not been that committed. Councilmember Torres added that perhaps the Council thought that the owner would do the right thing but there were all kinds of cases like that and that she wanted it to be stringent enough to not discourage people who were already in the downtown area but to make it have enough teeth, and for the Council to be willing to go and say it was time to pay the piper or the City would pursue their means. Ms. Wilson stated that putting that in the hearing process that the Historic Preservation Commission had, and allowing that body of seven (7) individuals who had an interest in the downtown, gave more teeth to it than just saying one (1) City employee didn't like you. Mayor Gorden stated that even though the Council did not seek extra work, the appeal process would come down to a judgment rather than be so "cut and dried". Councilmember Boyd asked if the Council was saying that the Historic Preservation Commission would supersede the Code Enforcement Officer. Ms. Wilson stated that the Code Enforcement Officer would still enforce for the Historic Preservation but that there were different standards for some of the things that Code Enforcement did with the building code compared to this outline. Ms. Wilson stated that this would go by the Department of Interior standards and what was issued in the design guidelines that would need to be adopted. Ms. Wilson added that Code Enforcement went by the theory that dangerous buildings needed to be demolished.

City Attorney Bob Flournoy stated that he had some experience with the City of Nacogdoches' enforcement of their Ordinance like this and that two (2) things were talked about in the Ordinances concerning a way to get things done. Mr. Flournoy added that one (1) was an incentive and from the City's enforcement standpoint or the standpoint of the

property owner, it was not nearly as serious a problem when discussing an incentive as it was when discussing a penalty. Mr. Flournoy stated that the thing that concerned him was it was by nature rather nebulous and it was hard to set a standard. Mr. Flournoy added that courts overturn laws all of the time because the standards were too vague or the person did not know exactly what to expect. Mr. Flournoy stated that as was in this particular Ordinance, there was a Certificate of Appropriateness, that was a judgment call by someone that said it was appropriate. Mr. Flournoy stated that someone else might think it not appropriate and that his admonition was the City needed to be certain that there were standards that anyone could look at and determine if they bought the property that they could or could not do this. Mr. Flournoy stated that in Nacogdoches, Commercial Bank had an old dilapidated building on their lot, and it wasn't feasible to redo the building so they decided to tear it down and build something else that looked like the rest of their building. Mr. Flournoy added that when Commercial Bank applied for their Certificate of Appropriateness, they were immediately sued by another party that had an apartment in the downtown area. Mr. Flournoy stated that the lawsuit went on for years. Mr. Flournoy stated that his point was in looking at that, Commercial Bank did not know what the rules were before they began. Mayor Gorden suggested that there was no way that all of that could be spelled out and that the general intent was to improve downtown and the judgment of those citizens with the process to appeal to the Council if they didn't agree, and the law was repleat with ongoing lawsuits that supposedly had Ordinances to take care of those standards. Councilmember Langston stated that all that could be said was the vagueness of appropriateness as a term would encourage a fight. Councilmember Langston added that he had seen it and that the point was the Council needed to go into it with their eyes wide open and that the City would probably draw some lawsuits and that was a strong possibility whenever there was this kind of change of direction. Councilmember Langston added that there would be some unhappy people and that there were probably more lawyers downtown that any location in the City. Assistant City Manager Wright stated that this had been fought several times in court and was not something that was new. Councilmember Langston stated that it was not the Ordinance, but was always the interpretation and the abuse of interpretation. Councilmember Langston added that everyone could have the best intentions, but could upset someone who did not have the best of intentions. Mayor Gorden stated that as a body, if the Council could enact some form of the Ordinance, it would be all that the Council could try to do. Mr. Flournoy stated that this was what he was talking about. Mr. Flournoy added that the way that the Ordinance could be interpreted was what the City had to be clear about as best it could. Mr. Flournoy stated that in every law there were certain parameters and that he was not suggesting that the City not do this, but was saying that the City needed to be as specific as possible, even perhaps to the extent of doing a survey of all of the buildings and the condition that they were in at the time. Mayor Gorden stated that this was prescribed in the Ordinance. Ms. Wilson added that the standards were also spelled out as one of the requirements that would be done by the Historic Preservation Commission. Ms. Wilson agreed that Nacogdoches did a very poor job of describing the standards. Ms. Wilson stated that the Commission needed to people who were appointed that would be willing to take that step. Councilmember Langston stated that this was a point of any Ordinance that the Council passed or any regulation that was passed. Councilmember Langston explained that they were subject to the staff available at that time and their particular bias toward their job. Councilmember Langston stated that there were Building Inspectors in the past that over-interpreted the code because they didn't like the code and used the "catch all phrase" that was "according to the building official". Councilmember Langston stated that there would be abuses and that this Ordinance was new and would probably attract more while the City was trying to "settle into" situations that were good for everyone. Councilmember Langston added that the Council understood the need for the Ordinance and that he also understood it would attract a lot of dissention initially, just as any major change did. Councilmember Langston stated that the Council had better have their I's dotted and their T's crossed when they go forward with it. Mayor Gorden stated that he totally agreed. Mayor Gorden asked if the Council agreed to ask Ms. Wilson to deal with the section on the incentives and be more specific and enhance it somehow. Ms. Wilson asked, if on the Tax Increment Financing, the Council wanted to add incentives from the City, investigate the tax incentive, financing options for the commission, look at the building code as far as the maintenance of the building code, and more information or more use of the existing building code, and find out what grants this would make the City eligible for, and what the City expenditure would need to be to actually implement the Ordinance. Councilmember Langston stated that he thought it would be very helpful, for the community as a whole, that the City send someone out with

a camera and take a picture of the addresses cited, or have some type of census of what the Council expected, or some direction for the commission. Councilmember Langston added that Councilmember Torres brought up a valid point that when you went by a building that had an existing façade on it and then you go for a permit to remodel, and then it really didn't need the original historic aesthetic look of what it was, and then you tell the owner that they had to take off the façade and that it was unexpected. Councilmember Langston stated that the City had to be very specific with this and that City Attorney Flourney stated that one (1) of the failings of Nacogdoches was that they weren't very specific. Councilmember Langston added that when taking this confined of an area and trying to define it back to its originality, then the City had better be able to offer that to people who were coming in to purchase the buildings. Ms. Wilson stated that she wanted to follow that up with one (1) thing that she may not have made clear. Ms. Wilson explained that this was only triggered by somebody doing something on the exterior. Ms. Wilson stated that if a building was purchased and the owner wanted to leave it the way it was, then nothing was triggered. Councilmember Langston asked if negligence and allowing deterioration was in the Ordinance. Ms. Wilson stated that those were in the Ordinance.

City Manager Parker asked if there were any other specific questions from the Council. City Manager Parker added that the Staff would make revisions and bring the Ordinance back to the Council at a later date.

4. DISCUSS PROPOSED OFFICE DISTRICT ZONE ORDINANCE

Mayor Jack Gorden stated that the next item for consideration was to discuss the proposed Office District Zone Ordinance, which was another issue that the Council had hit upon at times that might help the community to move forward.

Ms. Wilson stated that perhaps this Ordinance would be a little less controversial. Ms. Wilson stated the Ordinance would help a lot with the office situation. Ms. Wilson stated that there was the "Restricted Professional Office" that required an acre and had a lot of uses in it because of the large one (1) acre size. Ms. Wilson stated that the Ordinance would reduce the size that this would create the "Office District" and reduce the area needed for it, and reduce the intensity of the uses and limit some of the things in that "Office District" that were allowed in other "Commercial" areas. Ms. Wilson stated that Staff was looking at a minimum size of six thousand (6000) square feet and that size was picked because it matched up with "Residential Large" and "Residential Medium" and that lots that were on the fringe of those neighborhoods could be used by this. Ms. Wilson added that by "Subway", some of the commercial buildings in that area, would be similar to what she was talking about. Ms. Wilson stated that the district was one (1) that she recommended using along arterial streets or streets that were busy with higher traffic where you didn't want to have a residence but also didn't want to have the "high intensity" commercial use. Ms. Wilson stated that this was spelled out under the "Purpose" on page one (1) and two (2) about the best places to use it. Ms. Wilson stated that the Ordinance would also allow for use in areas that were transitioning from the purely "Residential" into a "Commercial" area. Ms. Wilson stated that the other part of the change from "Residential Professional Office" was this one would have fewer uses that were allowed under the secondary uses. Ms. Wilson explained that secondary uses could only be fifty percent (50%) of the structure, from the primary use. Ms. Wilson stated that there could be a primary use and a secondary use, but the secondary use could only be half of what the primary use was. Ms. Wilson stated that there were no "Special Use" permits in this section. Ms. Wilson added that "Special Use" permits were the ones brought to the Council because they were a little more intense and were heavier level than the regular zoning in that district and they also were things that needed public review and Public Hearing such as nightclubs and private clubs and businesses that could be controversial. Ms. Wilson stated that this would keep this from impacting the neighborhood. Ms. Wilson stated that on page two (2) the section A told what the allowed uses were. Ms. Wilson they were basically professional businesses, Public Park or playground, and secondary uses would be the uses that would support the primary uses. Ms. Wilson stated that one could go for a variance or appeal a decision of the Planning Director. Ms. Wilson added that sizing on the lot was standard; building coverage could be no greater than fifty percent (50%) of the site, so that it still would not be a heavy impact on the neighborhood. Ms. Wilson stated that on page three (3) the setbacks were fairly standard and were twenty feet (20') on the street and ten feet (10') on the rear, and fifteen feet (15') on the sides. Ms. Wilson stated that you

would be a little bit further away but would not be all of the way as you would when you have a "Commercial" on the same street as a "Residential". Ms. Wilson stated that the next significant thing was on the bottom of page three (3) and would require landscaping in the "Office District". Ms. Wilson stated that currently the City had a very lax landscaping standard. Ms. Wilson explained that there was not much required. Ms. Wilson added that this would put a ten foot (10') buffer on any side of the property that there was a residential use up against it. Ms. Wilson added that the buffer preference would be to maintain the existing vegetation or must have one (1) tree every twenty feet (20') and the trees had to be a minimum of three inch (3") caliper. Ms. Wilson stated that the requirement would also be one (1) tree for every five thousand (5000) square feet. Ms. Wilson added that this wasn't much when the lot would probably be six thousand (6000) square feet. Ms. Wilson stated that on page four (4) she spelled out the screening requirements and that the six foot (6') fence dividing the two (2) uses and that every now and then there was someone in the neighborhood that said they didn't want a fence between them and the neighbor. Ms. Wilson explained that one (1) that came to mind was the Temple Foundation. Ms. Wilson stated that they actually owned some of the properties around them and didn't want a heavy fence between their Foundation and their other properties, so submitting a letter stating their preference could get that waived. Ms. Wilson stated that signage was the other issue. Ms. Wilson added that currently the City did not have any sign standards in the other districts. Ms. Wilson stated that the RPO had it, but none of the other districts had it other than you could not put the sign in the right-of-way and it had to be set back from the street so that it did not overhang. Ms. Wilson stated that the new standards for signage would only allow for a monument and wall signs and that those were defined at the end of the Ordinance on page seven (7). Ms. Wilson added that they would allow for pylon and wouldn't allow for temporary signs such as the flashing arrow signs or the banners or streamers or balloons. Ms. Wilson stated that the whole idea was if a person was going to have the office, you didn't want it to impact the neighborhood around it. Ms. Wilson stated that she went extensively into the list under section 8 of what was not allowed. Ms. Wilson stated that there could be no directly or indirectly illuminated signs would be permitted within fifty feet (50') of a single-family or duplex zoning district boundary line. Ms. Wilson stated that the monument signs and wall signs placement and sizing was described on the next page. Ms. Wilson stated that impact mitigation was something that the City had not done in any of the other ordinances, but was important because the City did not have standard site plans, but had just general requirements that a site plan must be submitted. Ms. Wilson stated that this would address this specific type of zoning and its impact on the neighborhood. Ms. Wilson stated that vehicles would be required to be routed on the site so that there would not be headlights going into adjacent residences. Ms. Wilson added that if you did not have the headlights then you would probably not have the noise, because the car would have to be some distance away from the property line. Ms. Wilson added that a drainage plan would be required to the degree that there would have to be a plan demonstrating that there would not be a concentration of water going from their site onto an adjacent site. Ms. Wilson stated that Engineering only required a drainage study for fourteen thousand (14,000) square feet or greater of developed area. Ms. Wilson added that this would augment that requirement with having anything in the "Office District" required to have some plan approved by the City Engineer. Ms. Wilson stated that no building would be greater than three thousand (3000) square feet and service and storage areas would be included in that size. Ms. Wilson stated that no outdoor sales of merchandise or products and no storage of merchandise outside. Ms. Wilson added that also no vehicles that were greater than a regular car size. Ms. Wilson explained that heavy equipment could not be parked there. Councilmember Langston stated that he was thinking of a particular area where he built an office that was thirty-five hundred (3500) square feet and was very unobtrusive in the neighborhood but required one (1) acre of land. Councilmember Langston asked why three thousand (3000) square feet was decided on and that he thought that was a little strenuous. Councilmember Langston added that you could not back out onto an arterial street, so parking design would necessitate more usage of land. Councilmember Langston stated that the land itself should be the concern and that you couldn't probably build a three thousand (3000) foot office on six thousand (6000) feet. Councilmember Langston it would be closer to fifteen or eighteen hundred (1500-1800) feet, by the time everything else was designed to conform, so why would the City set a maximum square footage for an office. Ms. Wilson stated that what Councilmember Langston said, probably covered it. Ms. Wilson explained that there were so many other requirements, particularly the parking, that you probably could not put much more in there. City Manager Parker asked Ms. Wilson about the existing offices and would the Ordinance also limit this to

three thousand (3000) feet. Ms. Wilson stated that the "Neighborhood Retail" had the limit and that there had been so much confusion about this. Councilmember Langston stated that he was aware that the City had a lot of land that backed up to residential areas, but there was also a lot of land where offices would be well utilized, that backed up to other zones, yet the City was totally restricting them as though all of them would be in a residential setting. Councilmember Langston explained that this was where he was struggling and if the City was lucky there would be people that would need five, six, or seven thousand (5000-7000) square foot offices instead of three thousand (3000) square foot offices. Ms. Wilson stated that the Ordinance was based on what she had heard in the past from people when doing things in the "Neighborhood Retail" where three thousand (3000) was the limit. Ms. Wilson added that the City did not get much input of bigger from people but that it might be much better to look at five thousand (5000) feet. Councilmember Langston asked if rather than zeroing on that one (1) restriction, could the City not let the other requirements of the code dictate what was possible to be built and then let the neighborhood understand that this was possible to be built and let them make their decision on that basis. Councilmember Langston added that he was looking at a seven (7) acre site that could have had a Veteran's Administration Clinic on it, that was forty-five thousand (45,000) square feet that backed up to residential neighborhoods. Councilmember Langston stated that it would have met the size restriction for an RPO and would have been a huge development with residences behind it. Councilmember Langston stated that this would be more offensive to him. Councilmember Langston added that if the City was going to limit this, then the City had better keep the RPO, because there would be instances where the City would want to use the RPO instead of this. Mayor Gorden stated that he assumed the City would. Councilmember Langston stated that this was just for under one (1) acre size lot. Councilmember Langston added that the Council should look at the size restriction very carefully and thought that three thousand (3000) was really small. Ms. Wilson stated that she really didn't have a problem with going over that, but her concern was how large did you let it be in this district, because if someone had the acre parcel and wanted to use this district, and wanted to build a huge building on it, then there would be huge impacts. Ms. Wilson stated that the idea was to keep limits to smaller buildings that fit into the neighborhoods. Ms. Wilson added that the three thousand (3000) square foot building next to a house that was twenty-eight hundred square feet would fit into the max of the structures. Councilmember Langston stated that this did get some specific areas but was a little too restrictive, because he could think of a number of areas where it would be. Ms. Wilson asked Councilmember Langston what he recommended would suit better in the area. Councilmember Langston stated that the site plan needed to determine the size and then if they were zone change applications, the neighborhood would tell the City whether they like the idea of a four thousand (4000) square foot office or a three thousand (3000) square foot office. Councilmember Langston added that it was awfully restrictive from a standpoint of going out and looking for a piece of land and buying it and then discovering that you could only build a three thousand (3000) square foot building. Assistant City Manager Wright stated that there would obviously be some type of limit based on based on the size of the lot. Councilmember Langston stated that this was what he was saying, that by the time adequate parking was designed, design the parking lot so that you did not back directly into the street, create your landscape buffer, and the setbacks that were required, a lot of property would be eaten up and was about as much protection as you could get whether the office was four thousand (4000) or three thousand (3000) square feet. Councilmember Langston stated that to him it was another one thousand (1000) square feet of office on a large enough lot. Mayor Gorden stated that didn't it make sense to make some correlation with the size of the lot. Ms. Wilson stated that maybe you could build on fifty percent (50%) of the lot and then leave out the number of square feet and then if you had the larger lot you could build a larger structure. City Manager Parker added that you would also have to look at the height. Ms. Wilson stated that it was forty-two (42) feet, which was what the limit was for the residences. City Manager Parker stated that with the fifty percent (50%) of the lot covered and the height covered, it would pretty well limit the maximum. City Manager Parker suggested removing the maximum square footage. Mayor Gorden agreed that it would be better. Ms. Wilson stated that covered that Ordinance. City Manager Parker asked the Council if they would like to send this to the Planning and Zoning Commission. Councilmember Langston stated that he would like to see this Ordinance go quickly. Councilmember Langston added that it had been deterrent to office construction in the City. City Manager Parker stated that Staff would send the Ordinance on to the Planning and Zoning Commission.

Mayor Gorden suggested that the Council and Staff take a ten (10) minute break and then return to work on the Landscape Ordinance.

5. DISCUSS PROPOSED LANDSCAPE ORDINANCE

Mayor Jack Gorden stated that the next item for consideration was to discuss the proposed Landscape Ordinance.

Planning Director Dorothy Wilson asked the Council to go to page six (6) of the Landscape Ordinance, which was the landscape area requirements. Ms. Wilson stated that the minimum required area of landscaping was ten percent (10%) of the total lot area. Ms. Wilson added that the minimum area of landscaping in a manufacturing zone was five percent (5%) of the total lot area. Councilmember Langston inquired if this was a change from the current landscaping requirements for the City. Ms. Wilson stated that the City would repeal the current Landscape Ordinance and replace it with this Ordinance. Councilmember Langston asked what the changes would be. Ms. Wilson stated that currently all that the City required was trees based on the size of the site. Ms. Wilson added that different categories had requirements of different numbers of trees. Ms. Wilson stated that basically the Ordinance stated that anything less than one (1) acre required three (3) trees. Mayor Gorden asked if there was any description according to the size of trees required. Ms. Wilson stated that the new Ordinance required landscaping on ten percent (10%) of the lot. Mayor Gorden asked about the required size of the trees. Ms. Wilson stated the current Ordinance had a minimum of three inch (3") caliper and that there was currently no size requirement. Ms. Wilson stated that currently the most common question was how many trees were they required to have for the size of the site and the building being put on the lot. Ms. Wilson stated that based on that, they would bulldoze the lot except for one (1) large caliper tree, which would equal the credits for the six (6) or so trees they would need. Councilmember Langston stated that he knew that the City currently had a Landscape Ordinance and that he was not familiar with all of it, but was trying to do a comparison of the current Ordinance to the newly proposed Ordinance. Ms. Wilson stated that on the current Ordinance you would take the size of the site that was being covered and subtract that out and with whatever was left over, there was four (4) categories, and generally was forty thousand (40,000) and below and then anything above that was large sites. Councilmember Langston stated that this was just defining the minimum square footage of landscaped area and asked if that was what the City was trying to accomplish. Ms. Wilson stated that the difference would be that the City would no longer subtract the building and the paved area and would look at the entire lot and then ten percent (10%) of the lot size had to be landscaped. Ms. Wilson added that within that, there needed to be one (1) tree for every five hundred (500) square feet and one (1) shrub for every two hundred (200) square feet. Ms. Wilson added that this was the general idea of the Ordinance. Councilmember Duncan stated that it was more significant in that it required irrigation, and landscaped islands in the parking lots, and added that currently the City didn't even really have a Landscape Ordinance. Councilmember Duncan stated that the proposed Landscape Ordinance looked rather comprehensive. Councilmember Duncan added that the City basically was going from having nothing to having something that people would truly have to budget in their construction projects. Councilmember Langston stated that he would love to see an example of how this would affect a site plan. Councilmember Langston added that he wanted to see how the current Ordinance versus the proposed Ordinance would look on any site plan, such as Home Depot or Wal-Mart. Councilmember Langston stated that the City of Lufkin needed to be competitive with other cities and that the Council was "all for" creating a nicer environment, but also did not want to be onerous to the point that development was discouraged. Mayor Gorden stated that this was a good point, but that he believed that along those lines you could go to other communities and see where Wal-Mart and other entities, because there was a local initiative to make it look better, were happy to do it. Councilmember Langston agreed that was a great example, but that his company was looking at a project in a town south of Austin, Texas, and it would be literally impossible to construct a usable facility in that town, because of the Landscape Ordinance. Councilmember Langston added that was the reason that they had no construction in that area, for quite some time. Councilmember Langston stated that this was the other extreme, but that he was more concerned about the person who wanted to build a three thousand (3000) square foot office and meet the other criteria necessary for the three thousand (3000) square foot office. Councilmember Langston stated that he wanted to make sure that it didn't shut out the small businesses and the local concern more than the national concern. Assistant City Manager

Wright stated that Staff could get one (1) of the landscape plans that had been submitted and go back and put the criteria on it, to see what it does. Councilmember Langston stated that maybe a smaller application should be looked at. Councilmember Langston added that Mayor Gorden's point was well taken, and that Wal-Mart would be in Lufkin regardless of the restrictions. Councilmember Langston added that Wal-Mart built a retention pond across the street at the old facility that wasn't even required. Ms. Wilson stated that the one (1) that Councilmember Langston gave Staff in the "Office District" would require one (1) or maybe two (2) trees and three (3) shrubs. Councilmember Langston stated that they would probably get credit if the ten (10) foot buffer already had trees in it. Ms. Wilson stated that there would also have to be vegetation and a buffer along the street side. Councilmember Langston stated that the percent of landscaped area was mainly what they were talking about. Councilmember Duncan stated that he was in favor of this as a long-term measure of improvement to the looks of the City, but there was a lot of cost involved. Councilmember Duncan added that whenever irrigation was included, there were quite a few businesses that didn't irrigate their lawns and this Ordinance did not completely require irrigation, but that the Ordinance should not be lightly considered. Councilmember Langston stated that the Council needed to look at a comparison or an application on site to see what the impact would be. Councilmember Langston added that the other point was more and more cities were saying use "drought resistant" plants and that they were not going to sell irrigation water. Councilmember Langston stated that he realized that the Lufkin area was blessed to have a lot of water compared to other areas, but if the City was going to encourage responsibility, then maybe the plan should be reconsidered from an irrigation standpoint. Mayor Gorden stated that could be an option, and if the Council did not want to include the irrigation, Staff could work to find a way to amend the Ordinance. City Manager Parker stated that part of the problem of not requiring irrigation, would be that you would have to do away with islands in the parking lots, because they wouldn't survive without irrigation. City Manager Parker stated that the problem was more than just having irrigation or not having irrigation. City Manager Parker added that it was where the property was located. Mayor Gorden asked if a smaller sized building would generally not have islands. City Manager Parker stated that the islands would be required only after fifty (50) parking spaces on the plan and that smaller development wouldn't have islands. City Manager Parker added that usually the islands came in when to businesses such as Wal-Mart, Home Depot, Sam's, Lowe's and other larger businesses. City Manager Parker stated that Home Depot had quite a few islands, as he recalled correctly. Mayor Gorden stated that Sam's did a really nice job that was not required by the City. Ms. Wilson stated that Sam's originally submitted a plan that was a flat building with no change in elevation or design, and a plain one (1) color finish on it, and no trees at all in their parking lot. Ms. Wilson stated that she sat down with their architect and went through three (3) revisions to get the building that was built in Lufkin. Ms. Wilson added that Sam's was more than happy to do that by changing the elevation, put a parking and seating area, and a covered area for cars to pull under on the side, along with a little bit of decorative embellishment and the parking islands. Ms. Wilson stated that it was not a matter of them not want to do this, but that they all had a minimum of five (5) or six (6) templates that they send out for review, but it was just a matter of having some minimum standards that they could go back to the company and say that this city says we have to use our nicer model. Councilmember Langston added that this also makes the architect more money. Mayor Gorden stated that he had no problem at all trying to cater to smaller businesses, having a minimum that businesses had to adhere to, and also throwing in the drought tolerant native plants in the plan. Ms. Wilson stated that the requirements in Section eleven (11) (c) could be beefed up some. Ms. Wilson stated that the Ordinance currently stated that landscaped areas using drought resistant plants and installation techniques, including areas planted with native grasses, wildflowers, and trees may use a temporary above ground system and were required to provide irrigation for the first three (3) growing seasons. Ms. Wilson added that she could elaborate on the area about requiring irrigation for the first three (3) growing seasons. Ms. Wilson stated that she could spell out that this did not have to be an underground irrigation system. Councilmember Duncan asked if the City could get some kind of mechanism lined up with local developers to get their "buy in". Ms. Wilson stated that the City could do that by hosting a community meeting or a Public Hearing. Mayor Gorden stated that this would be a good idea. Councilmember Langston stated that it would be a good idea on all three (3) Ordinances that had been discussed. Mayor Gorden stated that chances were that the larger ones might not be done by local developers. Councilmember Langston agreed that was true and that Lufkin really only had a couple of developers in town. Mayor Gorden stated that certainly the City needed to sell the

ideas and that the reason that it was being reviewed was for the “greater good”. Mayor Gorden stated that hopefully, it would help those developers in the long run, as the community grew and attracted more development.

Ms. Wilson stated that on page eight (8) of the on the Landscape Ordinance, the landscaped area that was ten percent (10%) of the lot, exempting areas that were floodplain or undisturbed areas, twenty percent (20%) of the landscaping had to be in the street yard, which was the back of the plane of the main building, going toward the street. Councilmember Duncan stated that whenever Ms. Wilson talked about the floodplain being excluded, he wasn't sure what was meant. Councilmember Duncan stated that the floodplain could be the five hundred (500) or one hundred (100), and there was a floodway. Ms. Wilson stated that it wasn't defined, but to her it was the floodplain that was on the zoning map. Councilmember Duncan stated that there were different types and that the Ordinance needed to be specific. Ms. Wilson stated that twenty percent (20%) of the landscaping has to be in the street yard, and along the street there would have to be a ten foot (10') wide landscaped area, so there would be greenery along the street. Ms. Wilson stated that on that area, there needed to be one (1) tree every forty feet (40') for whatever number of trees the lot was required to have. Ms. Wilson stated that this was one (1) tree for every five hundred (500) square feet and one (1) shrub for every two hundred (200) square feet.

Ms. Wilson stated that on the island landscaping and the parking lot area, there were landscape islands required in all parking lots in excess of fifty (50) parking spaces. Ms. Wilson added that a landscape island was required to be placed every thirty feet (30') and at both ends of each row of thirty (30) or more parking spaces. Ms. Wilson stated that a landscape island must be at least fifty (50) square feet, and have a minimum dimension of five feet (5'); and must include at least one (1) tree. Ms. Wilson stated that the remaining area of the landscape island must contain live landscaping material, including shrubs, turf or planted groundcover, none of which may exceed, at maturity, three feet (3') in height measured from the grade of the island's lowest point. Ms. Wilson stated that on the parking lots, the screening requirements were fairly standard. Ms. Wilson added that the fence must be a minimum of six feet (6'), obscuring the view of the business between property that was zoned or used residentially. Ms. Wilson stated that the Ordinance added in a shrubbery screening option, where shrubs would have to be a minimum of two (2) gallon in size and grow to a minimum of three feet (3') tall within two (2) years. Ms. Wilson added that would be determined by a horticulturist.

Ms. Wilson stated that in Section Nine (9), she discussed the phased development and how it could be done for properties being developed in several phases. Ms. Wilson added that the section covered what was required as far as design, so that that the City could tell the difference between the phased and future areas. Ms. Wilson stated that on floodways, trees, shrubs and groundcover may be applied to the landscaping requirements. Ms. Wilson stated that on the undisturbed areas, the areas could also be used to count toward the landscape requirements. Ms. Wilson added that area would be subtracted from the total lot areas, so if there was a one (1) acre parcel and five thousand (5000) square feet of it was undisturbed area, the ten percent (10%) would be calculated on the thirty-eight thousand five hundred sixty (38,560).

Ms. Wilson stated that on the Section ten (10), which was tree preservation and care, the requirements were fairly standard. Ms. Wilson stated that the last two (2) parts that she wanted to cover were the nonconforming uses and where this was triggered. Ms. Wilson stated that she thought the City should start with twenty-five percent (25%), because it had been used in other Ordinances and would be a common, expected standard. Ms. Wilson stated that land that was annexed that hadn't been developed would have to comply, when it was developed, and land that was already in use, and was annexed, wouldn't have to develop, as it would have nonconforming status.

Mayor Gorden then asked for comments. Councilmember Langston stated that the Ordinance was not onerous, and if it would allow the planting of Johnson grass and not require sprinklers, how could the City be more lenient than that. Councilmember Langston stated that he was concerned about eliminating the tree of Lufkin, which was the crepe myrtle. Councilmember Langston added that sometime back there was quite a campaign to find a “Lufkin Tree”. Mayor Gorden asked Ms. Wilson to help the Council understand this.

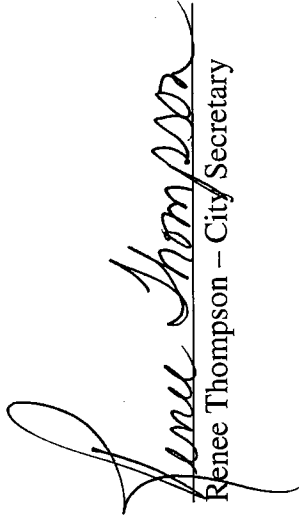
Ms. Wilson stated that according to the City Arborist and some of the State publications on the model ordinances on landscaping, the crepe myrtle wasn't a tree. Ms. Wilson added that Bradford Pear trees weren't good for general growth and community whenever utilities were close by, so it was put into the Ordinance that these could not be counted or planted as tree credits. Mayor Gorden stated that he agreed with that on the Bradford Pear tree, but not the crepe myrtle. Mayor Gorden added that the City had invested a lot of effort, in making the crepe myrtle a community tree and that to him it was kind of historic. Mayor Gorden stated that he didn't know if the crepe myrtle was native to the area or not, but people had been planting them for two hundred (200) years in the Lufkin area. Ms. Wilson stated that if the crepe myrtle was not cropped, it could be a nice tree or shrub or whatever it was categorized as, but the problem was they were often cropped and made the site look poor. Mayor Gorden stated that he would be for "non cropping", but would hate to see the City exclude that after the City's predecessors had promoted it. Councilmember Langston stated that there were hundreds (100's) of them around the area. Ms. Wilson stated that they would leave Bradford Pear, but would take out crepe myrtle. Ms. Wilson added that since the Ordinance had been written, Chinese Tallow had been brought up. The Council agreed that the Chinese Tallow should also be on the "no" list. Councilmember Langston stated that he could appreciate item one (1) under the section entitled "Planting Requirements", about the weather conditions not being suitable for planting, and with Ms. Wilson's approval, and prior to a Certificate of Occupancy, the irrevocable letter of credit would be assigned to the City, but a temporary Credit of Occupancy could be obtained now that stipulated what had to be done before a permanent one could be issued, and it was reviewed periodically. Councilmember Langston added that he didn't know why that wouldn't work instead of dealing with another instrument. Ms. Wilson asked if most contractors released the company that hired them, based on a temporary Credit of Occupancy. Councilmember Langston stated that ninety percent (90%) of contractors didn't do the landscaping because it was an owner furnished item. Councilmember Langston added that they didn't want the contractor getting a mark up for overseeing it and the contractor didn't want to replace a shrub in a year. City Manager Parker stated that the reason that Staff had it the other way was Staff was under the impression that the contractor's payment might be held due to landscaping not being put in and it could be determined that the contractor had not finished the job. Mayor Gorden asked for an alternative way to deal with it. Councilmember Langston stated that the temporary Certificate of Occupancy was in place and that he had this instance happen, where the owner couldn't get the landscaping completed, but needed to occupy the building. Councilmember Langston stated that the City had been very accommodating with the temporary certificate.

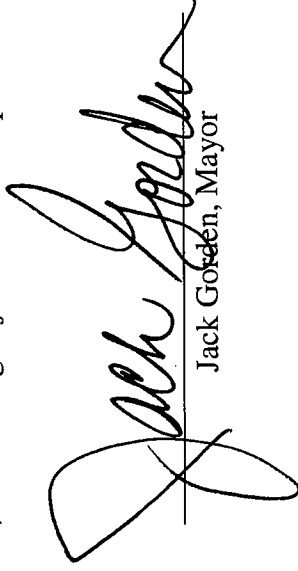
Mayor Gorden asked for other comments or questions from the Council. Councilmember Langston stated that he just thought there was a lot of verbiage and would have to study it more to be comfortable. Mayor Gorden stated that he would not want the Ordinance to be too onerous, but the City needed to start somewhere and this looked like a pretty good start. Mayor Gorden added that this was true, especially if the City gave special consideration to smaller businesses and have some type of mechanism that would include some flexibility. Mayor Gorden stated that if Staff could deal with some of the issues previously mentioned and that Council would reconsider it, once it had been redone. Councilmember Langston stated that he thought that Councilmember Duncan had a great idea, which was if the Staff and Council could identify some of the community that would be impacted by the Ordinance, and go over it with them at a predetermined meeting date and location. Mayor Gorden agreed that would be a good idea. Councilmember Langston stated that the reason he brought this up was years ago the City had designed the Zoning Ordinance and some of the setbacks and there was some nice graphic descriptions, which could be looked at and could actually site an example. Councilmember Langston added that it would be a good visual tool use. Mayor Gorden then suggested that the Council end the current meeting. Councilmember Duncan stated that he wanted to make a suggestion, and in Section number five (5), he really felt strongly that the City needed to begin enforcing the indiscriminate clearing of property and that there had to be some teeth in the Ordinance when dealing with clearing. Assistant City Manager Wright stated that all that would have to be put in the Ordinance would be that the City would not allow a permit until the TCEQ requirements were complied with, and provided proof of that Certificate of Permit from TCEQ, and that would handle it. City Manager Parker stated that many times the clearing occurred and there was no permit. Assistant City Manager Wright stated that the City would have to require the permit prior to clearing. Assistant City Manager Wright added that the other thing the City would have to do was give the Code Enforcement the ability to enforce the TCEQ standard,

if it were not complied with. Mayor Gorden stated that one (1) facet would go light years ahead of where the City currently was. Councilmember Langston stated that this was probably one (1) of the single largest abused requirements by the construction developing industry and had a major impact on silt and other factors. Assistant City Manager Wright stated that there was a requirement to have a Storm Water Management Plan when effecting the one (1) acre of land, which took in all of the best management practices for preventing the siltation of the creek. Assistant City Manager Wright added that there was a requirement to submit this to TCEQ and get a permit, but what happened was a lot of times the information was submitted to TCEQ, but then the management practices were not followed through on. Mayor Gorden stated that the one (1) issue would put the City way down the road and where ever it needed to be incorporated, would be great.

Mayor Gorden asked for other comments. Mayor Gorden then asked when the Council should consider discussing the other two (2) items that were on the agenda. Mayor Gorden suggested that the Council meet again on Tuesday, October 21, 2008, at 12:00 noon.

6. There being no further business for consideration, the meeting adjourned at 2:48 p.m.


Renee Thompson – City Secretary


Jack Gorden, Mayor