

**MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY
OF LUFKIN, TEXAS HELD ON THE 3rd DAY OF APRIL, 2012**

On the 3rd day of April, 2012, 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
Don Langston	Mayor Pro-Tem
Victor Travis	Councilmember, Ward No. 1
Robert Shankle	Councilmember, Ward No. 2
Lynn Torres	Councilmember, Ward No. 3
Rufus Duncan	Councilmember, Ward No. 5
Sarah Murray	Councilmember, Ward No. 6
Paul L. Parker	City Manager
Keith Wright	Deputy City Manager
Bruce Green	City Attorney
Kara Atwood	City Secretary
Gerald Williamson	Assistant Police Chief
Ted Lovett	Fire Chief
Duane Freeman	Assistant Fire Chief
Belinda Southern	Finance Director
Rodney Ivy	Human Resources Director
Jim Wehmeier	Economic Development Director
Dorothy Wilson	Planning Director
Steve Floyd	Public Works Director
Mike Akridge	Parks & Recreation Director
Chuck Walker	City Engineer
Barbara Thompson	Main Street Director
Dale Allred	Inspection Services Director

being present when the following business was transacted.

1. The meeting was opened with prayer by Reverend Jeff Murrell, Glad Tidings Assembly of God.
2. Mayor Jack Gorden welcomed visitors present.
3. **APPROVAL OF MINUTES**

Minutes of the Regular Meeting of March 20th, 2012 were approved on a motion by Councilmember Lynn Torres and seconded by Councilmember Sarah Murray. A unanimous affirmative vote was recorded.

4. **CEREMONY PROMOTING LUFKIN FIREFIGHTERS JEFFERY BARKER AND JUSTIN MURRAY TO THE RANK OF LIEUTENANT AND ADMINISTER THE OATH OF OFFICE TO FIREFIGHTERS MATTHEW FULLER, TRENTON WAGNON, JERROD JONES AND JEREMY CUBA. (HONORABLE JACK GORDEN, MAYOR)**

Mayor Jack Gorden stated that the next item of business was the promotion of several Lufkin Firefighters along with the administration of the Oath of Office to new Firefighters joining the Department.

Mayor Gorden asked that Lufkin Firefighters Jeffery Barker and Justin Murray approach the podium as well as Firefighters Matthew Fuller, Trenton Wagnon and Jeremy Cuba. Mayor Gorden stated Firefighter Jerrod Jones was unable to attend. Mayor Gorden then promoted Jeffery Barker and Justin Murray to the rank of Lieutenant within the Fire Department and administered the Oath of Office to Matthew Fuller, Trenton Wagnon and Jeremy Cuba. Mayor Gorden also commended the Firefighters and Lufkin Fire Department for the excellent service the Department provides to the community.

OLD BUSINESS:

5. SECOND READING OF AN ORDINANCE ESTABLISHING THE CITY MARSHAL'S OFFICE AS A DEPARTMENT OF THE CITY OF LUFKIN, TEXAS, AND PROVIDING FOR AN EFFECTIVE DATE – APPROVED.

Mayor Gorden stated that the next item on the agenda for consideration was the Second Reading of an Ordinance establishing the City Marshal's Office as a Department of the City of Lufkin, Texas, and providing for an effective date.

City Manager Paul Parker stated that this Ordinance simply created a City Marshal's Office as a Department within the City of Lufkin. City Manager Parker furthered that this was in order to allow the City Marshal and the City Warrant Officer to be commissioned through the Texas Commission on Law Enforcement Standards and Education (TCLEOSE). City Manager Parker concluded that Staff recommended approval of this Ordinance.

Councilmember Lynn Torres moved to approve the Second Reading of an Ordinance establishing the City Marshal's Office as a Department of the City of Lufkin, Texas and providing an effective date. Councilmember Robert Shankle seconded the motion and a unanimous vote was recorded.

6. SECOND READING OF AN ORDINANCE OF THE CITY OF LUFKIN, TEXAS, PROHIBITING SOLICITATION OF OCCUPANTS OF VEHICLES IN ROADWAYS, PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY, DECLARING A PENALTY AND PROVIDING FOR AN EFFECTIVE DATE – APPROVED.

Mayor Jack Gorden stated that the next item on the agenda was the Second Reading of an Ordinance of the City of Lufkin, Texas, prohibiting solicitation of occupants of vehicles in roadways, providing for repeal of conflicting ordinances; providing for severability, declaring a penalty and providing for an effective date.

City Manager Paul Parker stated this Ordinance was simply an attempt to provide better protection for the driving public and the pedestrians in the roadway. City Manager Parker stated this Ordinance does address the issue without violating the First Amendment rights of those soliciting.

Mayor Gorden then asked for questions or motions from the Council.

Councilmember Don Langston moved to approve the Second Reading of an Ordinance of the City of Lufkin, Texas, prohibiting solicitation of occupants of vehicles in roadways, providing for repeal of conflicting ordinances; providing for severability, declaring a penalty and providing for an effective date. Councilmember Sarah Murray seconded the motion and a unanimous vote was recorded.

NEW BUSINESS:

7. RESOLUTION AUTHORIZING AN AMENDMENT TO THE 2011/2012 OPERATING BUDGET (BUDGET AMENDMENT NO. 20), PROVIDING FOR THE SUPPLEMENTAL APPROPRIATION OF FUNDS IN THE GENERAL FUND; AND PROVIDING AN EFFECTIVE DATE – APPROVED.

Mayor Jack Gorden stated that the next item for consideration was a Resolution authorizing an amendment to the 2011/2012 Operating Budget (Budget Amendment No. 20), providing for the supplemental appropriation of funds in the General Fund; and providing an effective date.

City Manager Paul Parker stated that last year City Council approved the purchase of new Bunker Gear for the Fire Department through a five (5) year lease purchase agreement with Government Capital. City Manager Parker continued that the City Finance Department was under the assumption that Government Capital would make payment directly to Nafeco, the provider of the gear. City Manager Parker furthered that the payment was made to the City instead of Nafeco, and this Budget Amendment simply appropriated the funding so that payment could be made to Nafeco for the gear.

Mayor Gorden then asked for questions or comments from the Council.

Councilmember Rufus Duncan moved to approve a Resolution authorizing an amendment to the 2011/2012 Operating Budget (Budget Amendment No. 20), providing for the supplemental appropriation of funds in the General Fund; and providing an effective date. Councilmember Robert Shankle seconded the motion. A unanimous vote was recorded.

8. PUBLIC HEARING AND FIRST READING OF AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF LUFKIN, TEXAS, BY GRANTING A SPECIAL USE PERMIT FOR A TELECOMMUNICATION TOWER AT 712 AND 714 KURTH DRIVE – APPROVED.

Mayor Jack Gorden stated that the next item on the agenda was to conduct a Public Hearing and Consider on First Reading an Ordinance amending the Zoning Ordinance of the City of Lufkin, Texas, by granting a Special Use Permit for a Telecommunication Tower at 712 and 714 Kurth Drive.

City Manager Paul Parker stated that the applicant, Mr. Tracy Wooden, had proposed to construct a one hundred sixty foot (160') monopole tower with related equipment to enhance telecommunication services. City Manager Parker stated that the general character of the area was business, residential and government uses such as parks and schools. City Manager Parker continued that the area had a "Local Business" zoning designation. City Manager Parker furthered that the applicant had initially applied for a more typical tower design; however, after research and discussions with residents, the design was modified to the monopole tower. City Manager Parker stated that the Planning and Zoning Commission previously held a Public Hearing regarding the request and several individuals spoke in opposition to the request. City Manager Parker continued that after a lengthy discussion, the Planning and Zoning Commission voted to unanimously approve the request. City Manager Parker then asked City Attorney Bruce Green to comment on the item.

City Attorney Green stated that he would explain the difference between this request and other Special Use Permits that come before the City Council. City Attorney Green continued that the Federal Communications Act of 1996 determined that local governments may limit these types of activities; however, they may not limit wireless telecommunication for the following reasons: local government may not unreasonably discriminate among providers of functionally equivalent services; local government may not prohibit the provision of personal wireless services to existing remote users; local government must act on any request within a reasonable amount of time; should local government deny a request, it must do so in writing with substantial evidence and local government may not deny a request on the basis of environmental effects. City Attorney Green furthered that concerns regarding aesthetics or property values do not constitute substantial evidence to deny a request for placement of a telecommunication tower. City Attorney Green stated that Council needed to consider the determinations of the Federal Communications Act when approving or denying a request of this nature.

Mayor Gorden opened the Public Hearing at 5:29 p.m. and asked anyone who wished to speak to please step forward. Ms. Guessippina Bonner, President of the Lufkin Branch of the NAACP spoke against the request. Ms. Bonner stated that a number of the residents this would affect were not present at the meeting due the perception that it would not make a difference in the Council's decision. Ms. Bonner stated that several open meetings had been held and no one in the area of the proposed location was in favor of the tower, only those who stood to benefit from the tower were in favor of its placement. Ms. Bonner continued that the residents were not in opposition of the tower, only the location of the tower. Ms. Bonner furthered that many suggestions had been made for different locations, but Verizon did not consider those locations. Ms. Bonner thanked City Attorney Green for providing the information regarding the legal aspect of the issue. Ms. Bonner then questioned who would assume liability of the tower when Verizon no longer used it, who would be responsible for the upkeep of the tower should Verizon no longer exist and who would assume liability of the tower should it come into a state of disrepair or fall on someone's residence as a result of a storm. Ms. Bonner continued that if Verizon was allowed to place this tower, other companies would be allowed to place towers as well. Ms. Bonner stated that the reason for the tower was to aid the School District and did not oppose the reasoning; however, she and other residents were opposed to the method taken in the placement of the tower.

Mr. Michael Parker spoke for the request on behalf of the applicant and stated that maps had been disseminated showing the need for the tower to improve service. Mr. Parker continued that the other locations proposed would not provide the best coverage for the area. Mr. Parker furthered that he understood Ms. Bonner's statements, but there were only four (4)

residents in the buffer zone that submitted documents in opposition of the request. Mr. Parker continued that he had attended the meetings and the issue was over the location and that Verizon felt that this was the best location.

There being no one further who wished to speak, Mayor Gorden closed the Public Hearing at 5:37 p.m.

Mayor Gorden then asked for questions or comments from the Council. Councilmember Victor Travis stated that as Ms. Bonner stated, there really was not a choice to deny the request. Councilmember Sarah Murray questioned whether the City did have a choice. City Attorney Green stated that the City Council did have the choice, but must make the determination based on substantial evidence, such as not meeting the Zoning Ordinance. City Attorney Green continued that the Communications Act limited the reasons that Council could deny the request. Councilmember Lynn Torres stated that a vast number of school children attend the school in the area, and that now and in the future, wireless devices would be the way that children received their textbooks. Councilmember Torres continued that it was imperative for the education of the children that there is ample wireless service in the area. Councilmember Torres stated that the positive side of the issue was that there were three (3) schools that would be served by the tower and would need access to continue to educate the students.

Councilmember Lynn Torres moved to approve on First Reading an Ordinance amending the Zoning Ordinance of the City of Lufkin, Texas, by granting a Special Use Permit for a Telecommunication Tower at 712 and 714 Kurth Drive. Councilmember Don Langston seconded the motion. Mayor Jack Gorden and Councilmembers Lynn Torres, Don Langston, Rufus Duncan and Robert Shankle voted to approve the Ordinance on First Reading and Councilmembers Sarah Murray and Victor Travis voted to deny the Ordinance. The motion passed on a five (5) to two (2) vote.

Mayor Gorden commended Ms. Bonner on her efforts to voice the concerns of the residents.

City Manager Parker stated that he wished to recognize the thank you letter from Bishop Shankle to the City for their support during his recent illness. City Manager Parker also recognized the Parks and Recreation Department and Street Department for their efforts to make the recent Opening Day of Youth Baseball and Softball such a success. Mayor Gorden stated there was a wonderful turnout and commended the Staff for their efforts in spite of the weather.

Mayor Jack Gorden recessed the regular session at 5:40 p.m.

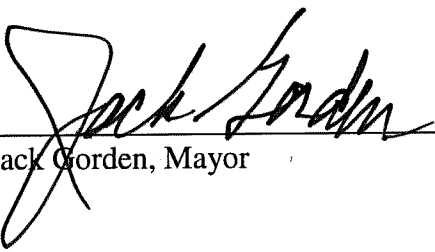
9. **EXECUTIVE SESSION:** In accordance with the Texas Government Code Section 551.071 (2) Consultation with City Attorney on any Regular Session Agenda item requiring confidential, attorney/client advices necessitated by the deliberation or discussion of said items (as needed), and real estate, demolition of buildings, or appointments to boards and personnel may be discussed.

Mayor Jack Gorden reconvened the regular session at 6:32 p.m.

10. **DISCUSSION OF ITEMS OF COMMUNITY INTEREST, INCLUDING EXPRESSIONS OF THANKS, CONGRATULATIONS OR CONDOLENCE; INFORMATION REGARDING HOLIDAY SCHEDULES; HONORARY RECOGNITIONS OF CITY OFFICIALS, EMPLOYEES OR OTHER CITIZENS; REMINDERS ABOUT UPCOMING EVENTS SPONSORED BY THE CITY OR OTHER ENTITY THAT IS SCHEDULED TO BE ATTENDED BY CITY OFFICIALS OR EMPLOYEES; AND ANNOUNCEMENTS INVOLVING IMMINENT THREATS TO THE PUBLIC HEALTH AND SAFETY OF THE CITY.**

City Manager Paul Parker highlighted some of the upcoming events on the calendar including the Expo Party, the Annual Hoedown and Summerfest. City Manager Parker also reminded staff of the Budget Retreat scheduled for May 17, 2012.

11. There being no further business for consideration, the meeting adjourned at 6:35 p.m.



Jack Gorden, Mayor



Kara Atwood, City Secretary