

**MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY
OF LUFKIN, TEXAS HELD ON THE 20TH DAY OF MARCH, 2012**

On the 20th day of March, 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
Scott Marcotte	Police Chief
Gerald Williamson	Assistant Police Chief
Ted Lovett	Fire Chief
Belinda Southern	Finance Director
Rodney Ivy	Human Resources Director
Dorothy Wilson	Planning Director
Steve Floyd	Public Works 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 Bro. Walter Futch, Trinity Baptist Church.
2. Mayor Jack Gorden welcomed visitors present.
3. **APPROVAL OF MINUTES**

Minutes of the Regular Meeting of March 6th, 2012 were approved on a motion by Councilmember Lynn Torres and seconded by Councilmember Robert Shankle. A unanimous affirmative vote was recorded.

OLD BUSINESS:

4. **PUBLIC HEARING AND SECOND READING OF AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF LUFKIN, TEXAS, BY CHANGING THE ZONING DESIGNATION OF A CERTAIN TRACT OF LAND WITHIN THE CORPORATE LIMITS OF THE CITY OF LUFKIN, TEXAS DESCRIBED AS LOTS 1-16 OF BLOCK 4 OF THE HERTY SUBDIVISION AND LOTS 9-11 OF BLOCK 3 OF THE HERTY SUBDIVISION AND MORE COMMONLY KNOWN AS THE 3400 BLOCK OF PAUL AVENUE, 3400 BLOCK OF EDWARDS STREET AND 3501, 3503, 3505 EDWARDS STREET FROM "RESIDENTIAL SMALL SINGLE FAMILY DWELLING" DISTRICT TO "COMMERCIAL" AND CHANGING THE 2001 COMPREHENSIVE PLAN FUTURE LAND USE MAP TO "RETAIL" AND AUTHORIZING THE CITY PLANNER TO MAKE SUCH CHANGES ON THE OFFICIAL MAP – APPROVED.**

Mayor Jack Gorden stated that the next item on the agenda was to conduct a Public Hearing and consider on Second Reading an Ordinance amending the Zoning Ordinance of the City of Lufkin, Texas, by changing the zoning designation of a certain tract of land within the corporate limits of the City of Lufkin, Texas described as Lots 1-16 of Block 4 of the Herty Subdivision and Lots 9-11 of Block 3 of the Herty Subdivision and more commonly known as the 3400 block of Paul Avenue, 3400 block of Edwards Street and 3501, 3503, 3505 Edwards Street from "Residential Small Single Family Dwelling" district to "Commercial"

and changing the 2001 Comprehensive Plan Future Land Use Map to "Retail" and authorizing the City Planner to make such changes on the Official Map.

City Manager Paul Parker stated this was the third time this item had been presented to the City Council for their consideration and this item was approved during the last meeting on First Reading. City Manager Parker continued that the request was approved only with restricted access to Edwards and Lowe Street, which was the main concern of the surrounding neighbors. City Manager Parker furthered that with the restriction of access, Staff recommended approval.

Mayor Gorden opened the Public Hearing at 5:15 p.m. and asked anyone who wished to speak to please step forward. There being no one who wished to speak, Mayor Gorden closed the Public Hearing at 5:16 p.m. and asked for comments or questions from the Council.

Councilmember Lynn Torres moved to approve the Second Reading of an Ordinance amending the Zoning Ordinance of the City of Lufkin, Texas, by changing the zoning designation of a certain tract of land within the corporate limits of the City of Lufkin, Texas described as Lots 1-16 of Block 4 of the Herty Subdivision and Lots 9-11 of Block 3 of the Herty Subdivision and more commonly known as the 3400 block of Paul Avenue, 3400 block of Edwards Street and 3501, 3503, 3505 Edwards Street from "Residential Small Single Family Dwelling" district to "Commercial" and changing the 2001 Comprehensive Plan Future Land Use Map to "Retail" and authorizing the City Planner to make such changes on the Official Map. Councilmember Robert Shankle seconded the motion. A unanimous vote was recorded.

5. **SECOND READING OF AN ORDINANCE PROVIDING FOR THE TERMS AND CONDITIONS OF ABANDONMENT, VACATION AND CLOSURE OF A CERTAIN TRACT OR PARCEL OF LAND BEING 0.278 ACRE, MORE OR LESS LYING AND SITUATED IN LUFKIN, ANGELINA COUNTY, OUT OF THE J.L. QUINALTY SURVEY, ABSTRACT NO. 40 OF THE REAL PROPERTY RECORDS OF THE CITY OF LUFKIN AND HEREINAFTER DESCRIBED AS BEING A TWENTY-ONE FOOT (21') ALLEY LOCATED ON THE WEST SIDE OF GARRETT'S ADDITION; AND PROVIDING FOR THE CITY MANAGER TO CONVEY BY QUIT CLAIM ALL OF THE CITY'S INTEREST IN SAID ALLEY TO AN ABUTTING PROPERTY OWNER – APPROVED.**

Mayor Jack Gorden stated that the next item for consideration was the Second Reading of an Ordinance providing for the terms and conditions of abandonment, vacation and closure of a certain tract or parcel of land being 0.278 acre, more or less lying and situated in Lufkin, Angelina County, out of the J.L. Quinalty Survey, Abstract No. 40 of the real property records of the City of Lufkin and hereinafter described as being a twenty-one foot (21') alley located on the west side of Garrett's Addition; and providing for the City Manager to convey by Quit Claim all of the City's interest in said alley to an abutting property owner.

City Manager Paul Parker stated this property was the alley that was currently used by the Lufkin Independent School District for ingress and egress to Garrett Elementary. City Manager Parker stated that the closure and conveyance of the alley to the School District was necessary due to the renovations to the Garrett Elementary campus. City Manager Parker continued that the adjoining property owners would still retain access to their property through the abandoned alley. City Manager Parker furthered that the City would be conveying a small portion of land at Kit McConnico to the School District at a future Council meeting and the School District was providing the City with a number of light standards for the softball field in lieu of the alley and land conveyance. Councilmember Lynn Torres stated that the land conveyance was actually at Morris Frank Park, not Kit McConnico.

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

Councilmember Don Langston moved to approve the Second Reading of an Ordinance providing for the terms and conditions of abandonment, vacation and closure of a certain tract or parcel of land being 0.278 acre, more or less lying and situated in Lufkin, Angelina County, out of the J.L. Quinalty Survey, Abstract No. 40 of the real property records of the City of Lufkin and hereinafter described as being a twenty-one foot (21') alley located on the west side of Garrett's Addition; and providing for the City Manager to convey by Quit Claim all of the City's interest in said alley to an abutting property owner. Councilmember Rufus Duncan seconded the motion. A unanimous vote was recorded.

NEW BUSINESS:

6. **ACCEPTANCE OF A GRANT THROUGH THE 2008 CDBG SUPPLEMENTAL DISASTER RECOVERY PROGRAM HURRICANE IKE ROUND 2 PHASE 1 FUNDING IN THE AMOUNT OF SEVEN HUNDRED NINETY-FOUR THOUSAND ONE HUNDRED DOLLARS (\$794,100); A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF LUFKIN, TEXAS APPOINTING THE MAYOR, CITY MANAGER AND CITY SECRETARY AS THE AUTHORIZED SIGNATORIES FOR PAYMENT REQUESTS TO THE TEXAS GENERAL LAND OFFICE IN REGARD TO HURRICANE IKE ROUND 2, PHASE 1 GRANT FUNDING AND A RESOLUTION AUTHORIZING AN AMENDMENT TO THE 2011/2012 OPERATING BUDGET (BUDGET AMENDMENT NO. 19), PROVIDING FOR THE SUPPLEMENTAL APPROPRIATION OF FUNDS IN THE GENERAL FUND CONSTRUCTION FUND; AND PROVIDING AN EFFECTIVE DATE – APPROVED.**

Mayor Jack Gorden stated the next item for consideration was to consider acceptance of a grant through the 2008 CDBG Supplemental Disaster Recovery Program Hurricane Ike Round 2 Phase 1 funding in the amount of seven hundred ninety-four thousand one hundred dollars (\$794,100); approval of a Resolution by the City Council of the City of Lufkin, Texas appointing the Mayor, City Manager and City Secretary as the authorized signatories for payment requests to the Texas General Land Office in regard to Hurricane Ike Round 2, Phase 1 Grant Funding and approval of a Resolution authorizing an Amendment to the 2011/2012 Operating Budget (Budget Amendment No. 19), providing for the supplemental appropriation of funds in the General Fund Construction Fund; and providing an effective date.

City Manager Paul Parker stated that the City recently received funding through the CDBG Supplemental Disaster Recovery Program through the Hurricane Ike Round 2 Phase 1 Grant funding and the grant would be used for street reconstruction, drainage improvements and the construction of new sidewalks in the area of the Pinewood Park Apartments. City Manager Parker continued that all improvements would be completed on public property, not on private land. City Manager Parker concluded that Staff recommended approval of the acceptance of the grant, the Resolution that designated signatories and the Resolution that approved Budget Amendment No. 19.

Mayor Gorden asked for comments, questions or motions from the Council.

Councilmember Lynn Torres moved to accept a grant through the 2008 CDBG Supplemental Disaster Recovery Program Hurricane Ike Round 2 Phase 1 funding in the amount of seven hundred ninety-four thousand one hundred dollars (\$794,100); approval of a Resolution by the City Council of the City of Lufkin, Texas appointing the Mayor, City Manager and City Secretary as the authorized signatories for payment requests to the Texas General Land Office in regard to Hurricane Ike Round 2, Phase 1 Grant Funding and approval of a Resolution authorizing an Amendment to the 2011/2012 Operating Budget (Budget Amendment No. 19), providing for the supplemental appropriation of funds in the General Fund Construction Fund; and providing an effective date. Councilmember Robert Shankle seconded the motion. A unanimous vote was recorded.

7. **A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF LUFKIN, TEXAS APPOINTING ELECTION JUDGES, JUDGE OF THE ABSENTEE BALLOT BOARD AND EARLY VOTING JUDGE FOR THE CITY OF LUFKIN REGULAR MUNICIPAL ELECTION OF MAY 12, 2012; AND PROVIDING AN EFFECTIVE DATE – APPROVED.**

Mayor Jack Gorden stated that the next item on the agenda was the consideration of a Resolution by the City Council of the City of Lufkin, Texas appointing Election Judges, Judge of the Absentee Ballot Board and Early Voting Judge for the City of Lufkin Regular Municipal Election of May 12, 2012; and providing an effective date.

City Manager Paul Parker stated this Resolution simply appointed Election Judges, Judge of the Absentee Ballot Board and the Early Voting Judge for the May 12, 2012 Election. City Manager Parker continued that the Election Judge for Ward 1 would be Archie Cornish, the Judge for Ward 2 would be LaFrancis Kelley, the Judge for Ward 3 would be David Hammack, the Judge for Ward 4 would be Janice Tucker, the Judge for Ward 5 would be C.A. Smith and the Judge for Ward 6 would be Mary Casper. City Manager Parker furthered

that LaFrancis Kelley would serve as the Early Voting Judge and Vickey Booker would serve as the Judge of the Absentee Ballot Board.

Councilmember Don Langston moved to approve a Resolution by the City Council of the City of Lufkin, Texas appointing Election Judges, Judge of the Absentee Ballot Board and Early Voting Judge for the City of Lufkin Regular Municipal Election of May 12, 2012; and providing an effective date. Councilmember Sarah Murray seconded the motion. A unanimous vote was recorded.

8. FIRST 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 Jack Gorden stated that the next item for consideration was the First 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 the Warrant Officers for the City are actually sworn peace officers and in the past have been under the supervision of the Police Chief, however they have not been Civil Service or Police Department employees. City Manager Parker continued that technically the Warrant Officers either have to be employees of the Police Department or a Department of their own to be commissioned by the Texas Commission on Law Enforcement Standards and Education (TCLEOSE). City Manager Parker stated this Ordinance simply created a City Marshal's Department within the City and that Warrant Officer Brian Smith would become the Director of the department. City Manager Parker furthered that this would allow them to obtain their own commission through the Texas Commission on Law Enforcement Standards and Education (TCLEOSE) without becoming part of the Police Department or Civil Service Employees. City Manager Parker stated that Municipal Judge April Earley would oversee the Department.

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

Councilmember Robert Shankle moved to approve the First 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. Councilmember Sarah Murray seconded the motion and a unanimous vote was recorded.

9. FIRST 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 the next item for consideration was the First 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 that the Ordinance under consideration by the City of Lufkin City Council was the result of an increase in solicitation by individuals from occupants of vehicles in traffic on the public streets of the City, which threatened the safety and welfare of occupants of vehicles and pedestrians alike.

City Manager Parker continued that both commercial and charitable solicitations were forms of expressive conduct or communicative activity protected by the First Amendment to the United States Constitution and this meant generally that those who engaged in commercial or charitable solicitation were legally entitled to do so in places that were traditionally open to people who wished to engage in communicative activity, like public parks, sidewalks and streets. City Manager Parker furthered that this Ordinance had been written in a manner that would not violate solicitors First Amendment Rights. City Manager Parker continued that even though solicitors were protected by the First Amendment, they were not guaranteed the right to communicate one's views at all times and places or in any manner that may be desired. City Manager Parker stated that the activities of solicitors, like those of others protected by the First Amendment, were subject to reasonable time, place, and manner restrictions. City Manager Parker furthered that in order for a time, place or manner restriction to be valid under the First Amendment, it must be justified without reference to

the content of the regulated speech, it must serve a significant governmental interest, and it must leave open ample alternative channels for communication of the information. City Manager Parker continued that the Ordinance under consideration by the City Council was not intended to impermissibly limit an individual's First Amendment rights; rather it aimed to achieve the legitimate governmental interest in protecting public safety and the orderly movement of vehicular traffic by imposing certain time, place, and manner restrictions on solicitation and associated conduct in certain limited circumstances, while leaving open ample alternative avenues of communication.

City Manager Parker stated that the proposed Ordinance restrictions were limited in scope and simply prohibited a person from attempting to solicit contributions, or accepting contributions, from occupants of vehicles in a roadway. City Manager Parker continued that a speech restriction was content-neutral if it was "justified without reference to the content of the regulated speech." City Manager Parker furthered that the proposed Ordinance met the requirement of content neutrality because its restrictions made no reference to the content of communicative activity, nor did it regulate the solicitation of only certain types of individuals or organizations and was aimed at solicitation that occurred in a certain place and manner without reference to its content. City Manager Parker continued that it was a well settled principle that cities had a substantial interest in assuring safe and convenient circulation on their streets and the control of travel on the streets was a clear example of a significant governmental interest. City Manager Parker stated that the proposed City Ordinance was intended only to impose restrictions in furtherance of that interest and was carefully designed and drafted to promote the public safety and convenience in the interest of all, while, at the same time, would not interfere with the exercise of First Amendment rights any more than was necessary to achieve the safety and convenience of those who used City streets and highways. City Manager Parker stated that this Ordinance had been drafted very carefully by City Attorney Bruce Green, who had done a tremendous amount of research to protect the First Amendment rights of individuals and protect the traveling public. City Manager Parker stated that the Ordinance under consideration was content neutral and ensured the City's substantial governmental interest of assuring public safety and convenience on City roadways. City Manager Parker stated that the Ordinance was narrowly tailored to serve the City's significant governmental interest and it left open ample alternative channels for solicitation in public places around the City and was consistent with the requirements of the First Amendment to the U.S. Constitution. City Manager Parker concluded that Staff recommended approval of the Ordinance on First Reading and asked City Attorney Green if he had any further comments. City Attorney Green stated that the Ordinance in no way inhibited the rights of people to solicit in other areas around the City and that the Ordinance was directed at one concern, which was to ensure safety in the public roadways. Councilmember Sarah Murray asked who would enforce this Ordinance. City Manager Parker stated that the Lufkin Police Department would enforce this Ordinance. Councilmember Murray questioned whether those who violated the Ordinance would have to pay a monetary fine. City Manager Parker stated that after ample warning, violators would be cited and fined accordingly and that this only prohibited solicitations from the roadway. Councilmember Murray questioned whether the median was the only place the solicitors could not be. City Attorney Green stated that the Ordinance specified that solicitation was prohibited in the roadway, which included any portion of the highway that was improved, designed or ordinarily used for vehicular traffic and this included the median, shoulder and areas designated for travel by bicycles or pedestrians. Mayor Gorden stated that Council should move forward with the Ordinance. Councilmember Victor Travis asked if this Ordinance would affect students holding car washes on private property. City Manager Parker stated no, as long as they were on private property that would be allowed. Councilmember Don Langston stated that he did not feel that the Ordinance was punitive in nature or aimed at specific persons, that the Ordinance was purely aimed at protecting public safety and moved to approve on First Reading 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 Lynn Torres seconded the motion and a unanimous vote was recorded. Mayor Gorden asked that Staff report back to Council regarding the enforcement of the Ordinance in ninety (90) days.

10. AWARD OF BID FOR THE CARROL AVENUE CULVERT REPLACEMENT PROJECT TO COX CONTRACTORS IN THE AMOUNT OF ONE HUNDRED THIRTY-SIX THOUSAND FOUR HUNDRED SEVENTY DOLLARS (\$136,470) – APPROVED.

Mayor Jack Gorden stated that the next agenda item was to consider an award of bid for the Carrol Avenue Culvert Replacement Project to Cox Contractors in the amount of one hundred thirty-six thousand four hundred seventy dollars (\$136,470).

City Manager Paul Parker stated this project was originally budgeted at one hundred ninety-eight thousand five hundred thirty dollars (\$198,530) and was the replacement of the box culverts, headwalls and wing walls on Carrol Avenue. City Manager Parker continued that four (4) bids were received on the project and the apparent low bidder had performed work for the City in the past; however, due to his previous poor performance, Staff contacted the low bidder to discuss different options to ensure no issues with job performance would occur. City Manager Parker furthered that after the discussion with the apparent low bidder, L.C. Jordan and Son, Mr. Jordan asked that his bid be withdrawn. City Manager Parker stated that Staff recommended the second low bid be awarded in the amount of one hundred thirty-six thousand four hundred seventy dollars (\$136,470) to Cox Contractors. City Manager Parker stated this project would act as match for the Texas Department of Transportation replacement of the bridge at Moccasin Creek.

Mayor Gorden asked for comments or questions from the Council.

Councilmember Lynn Torres moved to approve the award of bid for the Carrol Avenue Culvert Replacement Project to Cox Contractors in the amount of one hundred thirty-six thousand four hundred seventy dollars (\$136,470). Councilmember Robert Shankle seconded the motion. A unanimous vote was recorded.

11. CITY MANAGER REPORT

Mayor Gorden stated that the next item for discussion was the City Manager's Report. City Manager Paul Parker discussed the financial report and highlighted two areas were under review by Staff; ambulance fee revenue and municipal court fine and forfeiture revenue. City Manager Parker stated that all expenditures were in line and Staff would continue to monitor the cost of fuel. City Manager Parker reviewed the Project Status Report and asked Council for any comments or questions. Councilmember Rufus Duncan questioned the expenditures on the Columbine Storm Sewer Project. Deputy City Manager Keith Wright stated that it was actually two projects, thus the reason for the project to be over budget. City Engineer Chuck Walker stated that this project was completed in multiple phases.

- 12. 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 stated it was not necessary for Council to recess into Executive Session and moved to the next agenda item.

13. 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.

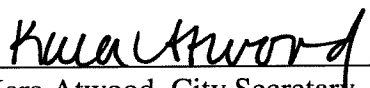
Mayor Jack Gorden stated that the next item on the agenda was the discussion of items of community interest, including expressions of thanks, congratulations or condolence; information regarding holiday schedules; honorary recognitions of City officials, employees or other citizens; reminders about upcoming 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 Parker stated that the Council had the calendar in front of them and highlighted upcoming meetings and events including the DETCOG meeting, LCVB Board Meeting, Firemen's Pension Board and the opening ceremonies for Lufkin Youth Baseball and Softball. City Manager Parker also noted the dates for the Downtown Hoedown and Summerfest.

14. There being no further business for consideration, the meeting adjourned at 5:49 p.m.



Jack Gorden, Mayor



Kara Atwood, City Secretary