

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF LUFKIN, TEXAS HELD ON THE 24th DAY OF MARCH, 2009

On the 24th day of March, 2009, 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.
Rose Faine Boyd
R. L. Kuykendall
Lynn Torres
Don Langston
Rufus Duncan
Phil Medford
Paul L. Parker
Renee Thompson
Bob Flournoy
Larry Brazil
Doug Wood
Rodney Ivy
Don Hannabas
Chuck Walker
Dale Allred
Barbara Thompson

Mayor
Mayor Pro Tem
Councilmember, Ward No. 1
Councilmember, Ward No. 3
Councilmember, Ward No. 4
Councilmember, Ward No. 5
Councilmember, Ward No. 6
City Manager
City Secretary
City Attorney
Police Chief
Finance Director
Human Resource Director
Parks & Recreation Director
Public Utilities Director
Inspection Services Director
Main Street Director

being present, and

Keith Wright

Assistant City Manager

being absent, 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.

APPROVAL OF MINUTES

3. Minutes of the Regular Meeting of February 24, 2009, and March 3, 2009, were approved on a motion by Councilmember Rose Faine Boyd, and seconded by Councilmember Lynn Torres. A unanimous affirmative vote was recorded.

OLD BUSINESS:

4. **SECOND READING OF AN ORDINANCE AMENDING ORDINANCE 3519 OF THE CITY COUNCIL OF THE CITY OF LUFKIN, TEXAS - APPROVED - AS ADOPTED MAY 15, 2001, NOMINATING AN AREA AS AN ENTERPRISE ZONE PURSUANT TO THE TEXAS ENTERPRISE ZONE ACT (TEXAS GOVERNMENT CODE, CHAPTER 2303) AND REPEALING ANY PRIOR PROVISIONS CONTRARY TO THIS AMENDMENT; PROVIDING FOR INCENTIVES; DESIGNATING AN AUTHORIZED REPRESENTATIVE TO ACT IN ALL MATTERS PERTAINING TO THE NOMINATION AND DESIGNATION OF THE AREA DESCRIBED HEREIN AS AN ENTERPRISE ZONE AND REINVESTMENT AREA (TEXAS TAX CODE, CHAPTER 312); AND FURTHER DESIGNATING A LIAISON TO ACT ON ALL MATTERS PERTAINING TO THE ENTERPRISE ZONE ACT ONCE DESIGNATED BY THE TEXAS DEPARTMENT OF ECONOMIC DEVELOPMENT**

Mayor Jack Gorden stated that the next item for consideration was the Second Reading of an Ordinance amending Ordinance 3519 of the City Council of the City of Lufkin, Texas as adopted May 15, 2001, nominating an area as an Enterprise Zone pursuant to the Texas Enterprise Zone Act (Texas Government Code, Chapter 2303) and repealing any prior provisions contrary to this Amendment; providing for incentives; designating an authorized representative to act in all matters pertaining to the nomination and designation of the area described herein as an Enterprise Zone and Reinvestment Zone (Texas Tax Code, Chapter 312); and further designating a liaison to act on all matters pertaining to the Enterprise Zone Act once designated by the Texas Department of Economic Development.

City Manager Paul Parker stated that to stimulate growth on Kurth Drive, the City Council asked Staff to look at incentive programs to enhance the area. City Manager Parker explained that the Council had an incentive package that would allow incentives that were very similar to those in the “Main Street”, or the Downtown area of Lufkin. City Manager Parker added that the incentives would be applied to development adjacent to Kurth Drive. City Manager Parker stated that Staff recommended that Council approve the Ordinance.

Mayor Gorden asked for questions or comments from the Council.

Councilmember Rose Faine Boyd moved to approve the Second Reading of the Ordinance amending Ordinance 3519 of the City Council of the City of Lufkin, Texas as adopted May 15, 2001, nominating an area as an Enterprise Zone pursuant to the Texas Enterprise Zone Act (Texas Government Code, Chapter 2303) and repealing any prior provisions contrary to this Amendment; providing for incentives; designating an authorized representative to act in all matters pertaining to the nomination and designation of the area described herein as an Enterprise Zone and Reinvestment Zone (Texas Tax Code, Chapter 312); and further designating a liaison to act on all matters pertaining to the Enterprise Zone Act once designated by the Texas Department of Economic Development. Councilmember R. L. Kuykendall seconded the motion. A unanimous affirmative vote was recorded.

NEW BUSINESS:

5. CERTIFICATION FROM CITY SECRETARY CANCELING PART OF THE MUNICIPAL ELECTION SCHEDULED FOR MAY 9, 2009 TO ELECT A MAYOR AND CITY COUNCIL MEMBER FOR WARD NUMBER FOUR (4) AND FIRST READING OF THE ORDINANCE DECLARING UNOPPOSED CANDIDATES IN THE MAY 9, 2009 GENERAL ELECTION, ELECTED TO OFFICE; - APPROVED - CANCELING THE ELECTION; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

Mayor Jack Gorden stated that the next item for consideration was Certification from City Secretary canceling part of the Municipal Election scheduled for May 9, 2009 to elect a Mayor and City Council Member for Ward Number Four (4) and First Reading of the Ordinance declaring unopposed candidates in the May 9, 2009 General Election, elected to office; canceling the election; providing a severability clause; and providing an effective date.

City Manager Paul Parker stated that the Ordinance and Certification were to cancel the portion of the election that was concerning the positions of Mayor and Councilmember Ward Number Four (4). City Manager Parker added that Mayor Jack Gorden and Councilmember Don Langston were both running unopposed, and the date for write-in candidates had passed, so the City of Lufkin could cancel the election for those positions. City Manager Parker stated that the City of Lufkin would have an election for the position of Councilmember Ward Number Two (2), presently being held by Councilmember Rose Faine Boyd. City Manager Parker stated that Staff recommended that Council adopt the Ordinance and Certification canceling the election, and declaring the unopposed candidates for Mayor and Councilmember Ward Number Four (4) in the May 9, 2009 General Election, elected to office.

Mayor Gorden asked for questions or comments from the Council.

Councilmember Rufus Duncan moved to approve the Certification from City Secretary canceling part of the Municipal Election scheduled for May 9, 2009 to elect a Mayor and City Council Member for Ward Number Four (4) and First Reading of the Ordinance declaring the unopposed candidates in the May 9, 2009 General Election, elected to office; canceling the election; providing a severability clause; and providing an effective date. Councilmember R. L. Kuykendall seconded the motion. A unanimous affirmative vote was recorded.

6. ABATEMENT OF THE INTEREST AND PENALTY PORTION OF THE UNPAID TAXES – APPROVED - OF PILGRIM'S PRIDE CORPORATION

Mayor Jack Gorden stated that the next item for consideration was the abatement of the interest and penalty portion of the unpaid taxes of Pilgrim's Pride Corporation.

City Manager Paul Parker stated that John Manuel, with Linebarger, Goggan, Blair and Sampson L.L.P. was present in the audience. City Manager Parker explained that Mr. Manuel was the tax attorney for the City of Lufkin. City Manager Parker added that included in the Council packets was a request from Pilgrim's Pride that was somewhat vague. City Manager Parker stated that the County had considered the request and had tabled the action until all of the entities could receive additional information and possibly come to the same position in the matter. City Manager Parker explained that the request was made not only to Angelina County, but was also made to Nacogdoches County and Titus County. City Manager Parker then asked Mr. Manuel to bring everyone up to date and to explain where the City of Lufkin stood, concerning the request from Pilgrim's Pride.

John Manuel, attorney with Linebarger, Goggan, Blair and Sampson L.L.P., stated that they were the law firm that collected the delinquent property taxes for all taxing entities in Angelina County, with the City of Lufkin being one (1) of them. Mr. Manuel added that Midget Sherman, Tax Assessor Collector, received a letter dated March 4, 2009, from Pilgrim's Pride, signed by Philip Spear, approximately two (2) weeks ago. Mr. Manuel stated that the letter was "bare bones", and that there were a lot of details that had to be filled in, concluded and ironed out before the attorneys at Linebarger, Goggan, Blair and Sampson L.L.P. could make any recommendations. Mr. Manuel explained that Pilgrim's Pride went into bankruptcy on December 1, 2008, and were now attempting to put together their plan, have it confirmed, and emerge from bankruptcy in the plan. Mr. Manuel stated that the basics of the letter from Pilgrim's Pride was to the base property taxes, and that they were offering sixty-five percent (65%) to taxing entities who wished to take the deal. Mr. Manuel added to keep in mind that they were not discussing any penalty or interest under the tax code in the letter. Mr. Manuel stated that after the sixty-five percent (65%), there was nothing concrete. Mr. Manuel explained that under the tax code, if taxes were not paid by February 1 of the year following the year that the taxes were assessed, penalties and interest were applied. Mr. Manuel added that Pilgrim's Pride had filed for bankruptcy prior to that time; therefore there was no late date, because the bankruptcy code was vague as whether the penalties and interest would apply. Mr. Manuel stated that this area had not been tested by the courts. Mr. Manuel explained that Pilgrim's Pride was asking to only pay sixty-five percent (65%), with no interest, and were vague on when and how they would pay the thirty-five percent (35%), and silent regarding any interest on that amount. Mr. Manuel stated that Linebarger, Goggan, Blair and Sampson L.L.P.'s position was if everything else was ironed out, the sixty-five percent (65%) might not be a bad deal for several entities, but there were many things that needed to be discussed before that happened. Mr. Manuel added that one (1) thing was the remaining thirty-five percent (35%). Mr. Manuel stated that there was interest under the bankruptcy code at twelve percent (12%) a year. Mr. Manuel added that on behalf of the clients there should be interest applied on that part. Mr. Manuel stated that without waving the interest on the sixty-five percent (65%), this was something that could be discussed later. Mr. Manuel stated that one (1) reason that the City had to focus on this and allow some negotiations, was the Texas Constitution, Section Three (3), Article Fifty-five (55) said that the City could not waive taxes. Mr. Manuel added that Pilgrim's Pride was only talking about the sixty-five percent (65%) of the taxes, with the thirty-five percent (35%) to be negotiated. Mr. Manuel explained that any amount of payment under one hundred percent (100%) might be misconstrued as violation of the Texas Constitution. Mr. Manuel stated that there was also some discussion about Pilgrim Pride's penalties, of which

attorney fees was a part. Mr. Manuel added that Pilgrim's Pride had not addressed that. Mr. Manuel stated that Linebarger, Goggan, Blair and Sampson L.L.P.'s representative was also urging the entities to think about the sixty-five percent (65%) portion of the taxes and to not let any strings be attached to this percentage as to how the entities would apply the sixty-five percent (65%) payment. Mr. Manuel stated that the law firm's urging was to apply the entire amount to personal property accounts first and if anything was left over it would be applied to the real property account. Mr. Manuel explained that the real property was not going to move. Mr. Manuel added that if Pilgrim's Pride failed in their plan or defaulted, the City would still have unpaid totals on the real property account, and then the City could allow Linebarger, Goggan, Blair and Sampson L.L.P. to attach liens through foreclosures. Mr. Manuel stated that then the business personal property was paid for. Mr. Manuel explained that if this were done the other way around the personal property accounts could go away and then the City may not get it back. Mr. Manuel stated that another point to be discussed was that Pilgrim's Pride still had within their plan the right to bring valuation protests before a Federal Judge. Mr. Manuel stated that it did little good to make a deal and then Pilgrim's Pride still be allowed to protest it and have it reduced. Mr. Manuel stated that a bargaining point was if the City entered into the deal, then Pilgrim's Pride should waive any protests on valuation. Mr. Manuel stated that there was still a lot going on with Pilgrim Pride's request, and that Pilgrim Pride's bankruptcy was still new. Mr. Manuel added that Pilgrim's Pride did not have a plan in place yet, and it was conceivable that the earliest that Pilgrim's Pride could have a plan in place and making payments would be the summer of 2009. Mr. Manuel stated that it was really more likely that it would be in the late fall or early winter of 2009, and could even stretch out until 2010. Mr. Manuel stated that Linebarger, Goggan, Blair and Sampson L.L.P. was urging the entities to allow their firm, on the City's behalf, to discuss the issues with Pilgrim's Pride and act as the City's negotiator. Mr. Manuel added that the firm was not concluding any deals, and explained that each entity would have to make its own conclusion. Mr. Manuel stated that the Tax Assessor Collector Midget Sherman collected the taxes for the City and that she did not have that authority either. Mr. Manuel added that each entity would have to approve their decisions. Mr. Manuel stated that there was always strength in numbers, and if everyone stood together in their negotiating posture, and could find out exactly what Pilgrim's Pride was offering, then there was a better chance for the City to have something to vote on in an informed manner for the citizens that were represented by the City Council.

Mayor Gorden stated that it seemed that neither the City of Lufkin, nor Pilgrim's Pride, had authority to do anything without the bankruptcy judge saying it would be allowed. Mr. Manuel stated that Pilgrim's Pride did have their motion in front of a judge, and it was approved and gave them permission to make the payments. Mr. Manuel explained that each one (1) would have to be brought back for approval. Mr. Manuel added that the City was high on the list regarding who was paid first, concerning bankruptcy. Mr. Manuel stated that other entities may not like that they are behind the City of Lufkin, and that there were many entities that had to have a voice in this decision. Mr. Manuel added that the entire situation with Pilgrim's Pride was still in very early stages and was undefined, and there needed to be a lot more work on the issue before anything happened. Mr. Manuel stated that Linebarger, Goggan, Blair and Sampson L.L.P. were urging the clients to not sign anything that agreed to take the deal. Mr. Manuel added that the firm had a full bankruptcy department that was very experienced, and requested the City of Lufkin to copy the firm's bankruptcy department in any communication with Pilgrim's Pride, and that they would take the lead, if the Council so desired. Mayor Gorden stated that the City wanted Linebarger, Goggan, Blair and Sampson L.L.P. to take the lead, and asked for comments or questions from the City Council. Mayor Gorden added that the good news was that Pilgrim's Pride was still operating in Lufkin. Mayor Gorden stated that it appeared that the prospects were good that Pilgrim's Pride would continue on. Mayor Gorden stated that the answer was for Mr. Manuel and the firm to negotiate with Pilgrim's Pride, and then come back to the City with a recommendation.

Councilmember Langston stated that the backup information only had a rendition of the personal property, and asked about the valuation of real estate. City Manager Parker stated that all that was sent to the City was the information on the personal property, but the negotiations would include both personal property and real estate.

City Manager Parker stated that if the City did have a compromise, the penalty and interest might be waived on the sixty-five percent (65%). City Manager Parker added that even if the penalty was waived on the remaining thirty-five percent (35%), the City would maintain the interest on it. City Manager Parker explained that this was because the City did not know how long it would take to obtain that thirty-five percent (35%).

Mr. Manuel stated that under Texas Law the penalty and interest could not be waived, unless Pilgrim's Pride went through the administrative appeal process to the Appraisal Review Board, and that had not occurred in this case. Mr. Manuel stated that State laws did have to be acknowledged in a bankruptcy that was applicable to the particular debtor. Mr. Manuel added that he did not think that waiving the penalty or interest was on the table, but there may be negotiations on that. Mr. Manuel stated that their firm urged nobody to give up the sixty-five percent (65%) that was on the table, and that the entities should leave that on the table for the firm to have more cards to play. Mr. Manuel stated that if the entities did waive the penalty and interest on the sixty-five percent (65%), it might not come out to amount to much, but the entities needed to be sure to "toe the line" on the thirty-five percent (35%) that would be paid out over time. Mr. Manuel stated that he did speak with Mr. Spear, the gentleman who authored the letter in the Council's packets, and could get no answers. Mr. Manuel stated that Mr. Spear did not know or wasn't telling him, but that it gave the City Council an idea of what stage the process was in. Mr. Manuel explained that this was the initial stages of opening the dialogue about how the bankruptcy of Pilgrim's Pride would be resolved.

Councilmember Don Langston stated that this was absolutely the earliest stages of the process for Pilgrim's Pride. Councilmember Langston explained that Pilgrim's Pride filed a late protest with the Appraisal District on rendition. Councilmember Langston added that Pilgrim's Pride had to work through the process, and that it appeared that Pilgrim's Pride was trying to cover bases and get as much on the table as they could. Mr. Manuel stated that he believed that Pilgrim's Pride filed a 25.25 D motion, which was a one-third (1/3) over appraisal protest. Mr. Manuel added that he believed it was the only motion allowed, given the timeline and when Pilgrim's Pride filed it. Mr. Manuel stated that it was his opinion that Pilgrim's Pride was posturing. Mr. Manuel added that Pilgrim's Pride would have to go to a Federal Judge in bankruptcy and prove their case of one-third (1/3) over appraisal, yet his understanding was the values that were set on the accounts that they were protesting were very much in line with what they had been historically for many years. Mr. Manuel stated that if Pilgrim's Pride wasn't one-third (1/3) over appraised for five (5) previous years, they would have a hard time with an evidentiary burden in front of a Federal Judge. Mr. Manuel added that Pilgrim's Pride would have a hard time convincing a Federal Judge and that the Federal Judge may not even listen to the argument. Mr. Manuel stated that he really didn't give a lot of credence to the motion that Pilgrim's Pride had filed, as he understood it at that point.

Mayor Gorden thanked Mr. Manuel and asked him to get back with the City of Lufkin, as he could. Mr. Manuel stated that he would stay in communication with City Manager Paul Parker.

City Manager Parker stated that no action would be needed since Mr. Manuel represented the City of Lufkin, as its attorney on the taxing authority.

7. DONATION FROM GEORGIA PACIFIC TO THE LUFKIN FIRE DEPARTMENT IN THE AMOUNT OF \$6000, AND A RESOLUTION AUTHORIZING AN AMENDMENT TO THE 2008/2009 OPERATING BUDGET (BUDGET AMENDMENT NO. 15), - APPROVED - PROVIDING FOR THE SUPPLEMENTAL APPROPRIATION OF FUNDS IN THE GENERAL FUND; AND PROVIDING AN EFFECTIVE DATE

Mayor Jack Gorden stated that the next item for consideration was a donation from Georgia Pacific to the Lufkin Fire Department in the amount of \$6000, and a Resolution authorizing an amendment to the 2008/2009 Operating Budget (Budget Amendment No. 15), providing for the supplemental appropriation of funds in the General Fund; and providing an effective date.

City Manager Paul Parker stated that the City of Lufkin had annually been able to receive a donation from Georgia Pacific. City Manager Parker added that this year the donation was in the amount of six thousand dollars (\$6,000). City Manager Parker stated that the Fire Department was requesting that the City accept the six thousand dollars (\$6,000), with three thousand dollars (\$3,000) to be placed in their account for supplies, and the remaining three thousand dollars (\$3,000) to be used to purchase equipment.

Mayor Gorden asked for questions or comments from the Council.

Councilmember Don Langston moved to approve the donation from Georgia Pacific to the Lufkin Fire Department in the amount of \$6000, and a Resolution authorizing an amendment to the 2008/2009 Operating Budget (Budget Amendment No. 15), providing for the supplemental appropriation of funds in the General Fund; and providing an effective date. Councilmember R. L. Kuykendall seconded the motion. A unanimous affirmative vote was recorded.

8. APPLICATION FOR THE 2009 FIRE ACT GRANT – APPROVED - FOR THE FIRE DEPARTMENT

Mayor Jack Gorden stated that the next item for consideration was to authorize the application for the 2009 Fire Act Grant for the Fire Department

City Manager Paul Parker stated that the City of Lufkin had been successful with the Fire Act Grant in the past. City Manager Parker added that the Fire Department was once again coming to the Council for authorization before they applied, because there was a ten percent (10%) match for the grant. City Manager Parker stated that the request was for one hundred sixty-seven thousand five hundred dollars (\$167,500), which if approved, the City Staff would have to return to Council for a Budget Amendment for sixteen thousand seven hundred fifty dollars (\$16,750). City Manager Parker stated that the grant would be used primarily for equipment and gear that would bring the City of Lufkin in compliance with NFPA 1851 standard. City Manager Parker stated that included in the equipment was a large commercial grade washer/extractor, dryer, and a hydrostatic testing machine to clean, maintain, and test equipment and gear. City Manager Parker stated that Staff recommended that Council authorize the Fire Department to apply for the 2009 Fire Act Grant.

Councilmember Langston asked if there would be any need for changes in infrastructure to utilize the new equipment. City Manager Parker stated that the equipment would be utilized in the existing bunker areas in the fire departments, as they currently stand.

Councilmember Rose Faine Boyd moved to approve authorizing the application for the 2009 Fire Act Grant for the Fire Department. Councilmember R. L. Kuykendall seconded the motion. A unanimous affirmative vote was recorded.

9. RESOLUTION CREATING THE LUFKIN CONVENTION AND TOURISM BUREAU BOARD. - APPROVED - ESTABLISHING MEMBERS AND TERMS, POWERS AND DUTIES, AND ESTABLISHING AN EFFECTIVE DATE

Mayor Jack Gorden stated that the next item for consideration was a Resolution creating the Lufkin Convention and Tourism Bureau Board, establishing members and terms, powers and duties, and establishing an effective date.

City Manager Paul Parker stated that the City Council was aware that there was a Council Committee that had been reviewing this board for quite some time. City Manager Parker added that at the last Council Meeting the City Council held a Work Session, to discuss the details of a possible creation of a Tourist Committee that would be a nine (9) member committee appointed by the City Council, with eight (8) members appointed for two (2) year staggered terms. City Manager Parker explained that the board members would have the ability to be reappointed once, and then after four (4) years the members would have to rotate off of the board for a minimum of one (1) year, before they would be eligible for reappointment. City Manager Parker stated that the ninth (9th) member, or one (1) member of the Board, would be a City Council Member slot. City Manager Parker added that the Council Member's position on the Board would not have term limits.

City Manager Parker stated that the main function of the Tourism Board would be an organization whose sole purpose would be to promote tourism in Lufkin and Angelina County. City Manager Parker stated that the Tax Resolution would be the initial step in the creation of this entity, if the City Council approved. City Manager Parker added that the Resolution would be followed by a contract, and the next item would be to solicit for a Director. City Manager Parker stated that Staff would then come back to the City Council for solicitation of names. City Manager Parker explained that names could be submitted by the Chamber of Commerce, hotels, motels, and other organizations for appointment to the initial Tourist Board. City Manager Parker stated that the Tourist Board, with assistance of the Staff, would hire the Director, and then the Director would hire any subsequent staff. City Manager Parker stated that Staff recommended that Council approve the Resolution.

Mayor Gorden asked for questions or comments from the Council. Mayor Gorden stated that as it was discussed in the workshop, the sole reason for establishing the organization was to put Lufkin and Angelina County on the map and to promote tourism for both.

Councilmember Langston stated that he visualized the organization as another entity that would add to what Lufkin already had in place. Councilmember Langston thanked Councilmember Rose Faine Boyd for her work on that committee, and that Councilmember Boyd and Councilmember Rufus Duncan both spent time working on the committee, and that the end result was a positive step in the right direction.

Mayor Gorden also thanked Councilmember Boyd, Councilmember Duncan, and Councilmember Langston for spending many months working on tourism, a tourism organization and board, and the overall creation of the entire entity.

Councilmember Don Langston moved to approve the Resolution creating the Lufkin Convention and Tourism Bureau Board, establishing members and terms, powers and duties, and establishing an effective date. Councilmember R. L. Kuykendall seconded the motion. A unanimous affirmative vote was recorded.

10. FORMAT AND CONTENT OF THE LUFKIN CONVENTION AND TOURISM BUREAU – APPROVED - PROFESSIONAL SERVICES CONTRACT

Mayor Jack Gorden stated that the next item for consideration was the format and content of the Lufkin Convention and Tourism Bureau Professional Services Contract.

City Manager Paul Parker stated that this was a contract that would be executed once the Tourism Board was in place. City Manager Parker added that the contract spelled out a lot of the governing actions and responsibilities of the Board. City Manager Parker stated that the contract would also put forty-two percent (42%) of Hotel/Motel Tax Revenue aside for the Board. City Manager Parker explained that Staff would return with a Budget Amendment at a later date, because the City was midway through the budget cycle and had only put twenty-nine percent (29%) aside for the Tourism Bureau. City Manager Parker added that Staff would also return to the Council with an executed copy of the contract, once it was formulated. City Manager Parker stated that Staff recommended that the Council approve the format and content of the Lufkin Convention and Tourism Bureau Professional Services Contract.

Councilmember Don Langston stated that the document was the heart of soul of what the City Council was trying to accomplish. Councilmember Langston added that the contract gave the City the accountability that the Council needed for the tax dollars. Councilmember Langston stated that the contract also gave the people on the Board that would have the most to gain. Councilmember Langston stated that as a reminder, the tax dollars that would be used for the Tourism Bureau were paid by people from out of town and out of the area that stay in hotels and motels in Lufkin, and not cost the citizens of Lufkin anything.

Mayor Gorden asked for questions or comments from the Council.

Councilmember Rose Faine Boyd moved to approve the format and content of the Lufkin Convention and Tourism Bureau Professional Services Contract. Councilmember Lynn Torres seconded the motion. A unanimous affirmative vote was recorded.

11. CITY MANAGER'S REPORT

Mayor Jack Gorden stated that the next item for consideration was a report from City Manager Paul Parker.

City Manager Paul Parker stated that there was good news in the Financial Report. City Manager Parker added that the good news was that the City of Lufkin was still having a very good year from a financial standpoint. City Manager Parker explained that the City was meeting its budget goals and that sales tax had been very positive. City Manager Parker stated that the sales tax figures ran two (2) months in arrears. City Manager Parker added that the City had not seen the effects of the closing of Citiation and some of the lay-offs at Lufkin Industries, but overall were still above budget on that area, and remained cautiously optimistic about the remainder of the year as far as sales tax. City Manager Parker stated that as the Council knew, sales tax was a major portion of the City's revenues. City Manager Parker pointed out that the City had collected ninety-two percent (92%) of the ad valorem tax, which was normal. City Manager Parker explained that the City received a high portion of the tax early in the year, and the remaining tax came in slow and in small amounts. City Manager Parker stated that the remainder of the Revenue Report was outlined in the Council Packet, and that the revenue was in good shape, as the City was five months into the fiscal year.

City Manager Parker stated that the expenditures were very much in line throughout the departments. City Manager Parker added that the Water and Sewer Report showed that water and sewer revenues were running slightly below average, but was always indicative of the weather and the amount of rainfall that Lufkin received in the summer months. City Manager Parker added that most of the revenue from water and sewer was affected by the summer weather. City Manager Parker stated that there was also a decrease in the industrial area, and this was due to several factors. City Manager Parker explained that the Loggins Meat Company, that had taken over the Eckrich Meats facility, had not opened, and Pilgrim's Pride had cut some of their lines, due to manpower shortage. City Manager Parker added that the City would probably run short in some of those areas, but overall the area was in relatively good shape.

City Manager Parker stated that Solid Waste was right on target. City Manager Parker added that those revenues would increase slightly during the summer months, due to commercial usage.

City Manager Parker stated that the Hotel/Motel Tax Fund was running ahead of schedule. City Manager Parker explained that this fund reported quarterly, and was slightly ahead by the end of the first quarter.

City Manager Parker stated that the Recreation Fund, and the remainder of the funds, were in the Council packets and could be viewed at the Council's leisure. City Manager Parker added that he would answer any questions the Council had concerning the reports.

City Manager Parker stated that he had placed a handout on the Council's desks. City Manager Parker explained that the handout was an email regarding the Employee's Health Fund. City Manager Parker stated that the Health Fund appeared to doing better during the current year than it had been in the past. City Manager Parker added that everyone was aware of how that could change quickly, as the City had several bad experiences during the past few years. City Manager Parker stated that the good news was that there was approximately one million two hundred thousand dollars (\$1,200,000) left in the fund for the remainder of the year, and that the expenditures had customarily been approximately one million one hundred thousand dollars (\$1,100,000) for half of the fiscal year. City Manager Parker added that some of the expenses in this fund did roll in heavier in the second half of the year, but this was still some good news at this time. City Manager Parker stated that the members of the Health Insurance Fund Committee watched that fund closely, and would still

consider ways to keep the fund as healthy as they could. City Manager Parker then asked if there were any questions from the Council concerning the Financial Report. There was none.

City Manager Parker stated that on the Project Status Report, the City was finalizing a lot of projects, and asked City Engineer and Public Utilities Director Chuck Walker to update the City Council on the projects, and also update the Council regarding Highway 59 South Construction Project.

City Engineer and Public Utilities Director Chuck Walker stated that the Highway 59 South Construction Project was moving along, and that the last report he received was the project was running approximately eight (8) months ahead of schedule, due to the weather. Mr. Walker explained that there had not been much rain during the winter months, and had minimal days missed due to bad weather. Mr. Walker added that if the rain stayed away, TxDOT (Texas Department of Transportation) hoped to stay approximately six (6) months ahead of schedule. Mr. Walker stated that work was currently being done on the bridge at Tulane and Loop 287. Mr. Walker added that whenever the Tulane Bridge was installed it would not be opened, due to the work that was still to be done on Loop 287. Mr. Walker stated that whenever the turn lanes were completed they would be available for use. City Manager Parker stated that the City of Lufkin was providing police officers to work peak hours, to assist with traffic in the construction areas. City Manager Parker added that the traffic was very congested during peak hours.

Mr. Walker stated that the Crown Colony Project was complete, and was waiting on the final paperwork from Mark Mann, with Schaumburg and Polk, Inc.

City Manager Parker stated that the biggest project to highlight to the Council was that the City of Lufkin had been able to close on the Kurth Lake Water Project. City Manager Parker added that this had set the City of Lufkin in a very envious position among many other cities in the State of Texas. City Manager Parker stated that it gave the City of Lufkin the ability to provide a large amount of industrial prospect raw water, which was unique because usually cities could only furnish treated water, and then the industries often had to take the treatment out of the water for their own usage. City Manager Parker stated that this gave the City of Lufkin a competitive advantage amongst many cities when competing for industry, and added that the Mayor and Council did a tremendous job for the citizens of Lufkin. City Manager Parker explained that the City would be able to absorb the cost in the rate structure with a minimum impact, compared to the cost of bringing water from Sam Rayburn Lake without another user at the time. City Manager Parker stated that the endeavor spoke volumes, and that years from now the City of Lufkin would still be reaping the benefits from the approximate thirty to thirty-one million (30,000,000 - 31,000,000) gallons of water that had been secured by the City Council for the citizens of Lufkin. City Manager Parker added that when compared to the seventeen million (17,000,000) gallons of water that the City of Lufkin presently had, it was tremendous. City Manager Parker stated that this was not even counting the twenty-five million (25,000,000) gallons that the City of Lufkin still had available from Sam Rayburn Lake. City Manager Parker added that very few cities had five (5) times their capacity, or five (5) times their existing usage. City Manager Parker stated that the City of Lufkin was in a great position, and that it took several years but the Mayor and City Council did an excellent job to lead the City through the process to make the purchase.

Mayor Gorden stated that City Manager Parker did a lot of the work toward the endeavor, and thanked City Manager Parker for his diligence.

Councilmember Don Langston stated that he was very impressed by the knowledge of the City Staff and City Manager. Councilmember Langston added that whenever there were questions that couldn't be answered or concerns, the Staff had the background to locate an expert for advice. Councilmember Langston stated that ninety-five percent (95%) of the expertise came from City Staff, and that the City of Lufkin was lucky to have such a strong staff.

12. Mayor Jack Gorden recessed the Regular Session at 5:40 p.m. to enter into Executive Session.

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 advice 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 6:17 p.m.

WORK SESSION:

13. DISCUSSION REGARDING THE SMOKE FREE PARKS ORDINANCE

Mayor Jack Gorden stated that the next item for consideration was to discuss the Smoke Free Parks Ordinance.

City Manager Paul Parker stated that on February 2, 2009, the Council had a presentation from the Lufkin Coalition requesting the City Council to consider a “smoke free” or “tobacco free” Ordinance for the parks in the City of Lufkin. City Manager Parker added that the request had already been before the Parks Board, and that the board had endorsed the concept. City Manager Parker furthered that the City Council had heard statements at the City Council Meeting on February 17, 2009, concerning the concept of a “smoke free” park. City Manager Parker stated that following that meeting the City Council had instructed the City Manager to draft an Ordinance for consideration by the City Council. City Manager Parker stated that during conversations with several of the Council Members, it was his understanding that the City Council was in favor of a “smoke free” Ordinance, but not a “tobacco free” Ordinance in the City of Lufkin parks. City Manager Parker stated that the Ordinance that was included in the Council packets addressed the Smoke Free Parks Ordinance. City Manager Parker stated that the Ordinance went into detail regarding the prohibition of smoking in City Parks.

City Manager Parker stated that the posted signs in the parks would state that smoking was strictly prohibited per City Ordinance, and would then give the Ordinance number, once it was adopted. City Manager Parker stated that the City of Lufkin Street Department would build the signs and place them in the City parks in conspicuous areas, with the consent of Parks and Recreation Director Don Hannabas. City Manager Parker stated that this was the essence of the Ordinance, and that he would be happy to answer any questions from the City Council concerning the Smoke Free Parks Ordinance for the City of Lufkin. City Manager Parker also asked for direction from the City Council regarding putting the Ordinance on the agenda at a future Council Meeting for a modification or for a vote.

Mayor Gorden reminded the Council that no action would be taken on any of the items in the Work Session that evening.

Councilmember Don Langston stated that the City Council had been discussing the “smoke free” concept for approximately three (3) years.

Councilmember Rose Faine Boyd asked who would be responsible for enforcing the Ordinance in the City parks. City Manager Parker stated that it was the hope that most of the enforcement would be voluntary by the citizens and visitors, due to the area being a “smoke free” zone. City Manager Parker added that police enforcement would obviously be used, if necessary. City Manager Parker explained that a citation would be given if an individual was defiant. City Manager Parker added that the major difficulty in enforcing the Ordinance would be that the individual would have to be observed before a citation could be written and enforced. City Manager Parker stated that in most cases people generally complied, once they realized there was a prohibition.

Councilmember Lynn Torres asked if the Azalea Trail was considered to be a park. City Manager Parker stated that the Azalea Trail was a park, and that the Ordinance would be enforced there.

Mayor Gorden stated that Staff should add the Ordinance to the next City Council Meeting, and thanked the ladies with the Coalition for bringing to the attention of the City Council.

14. DISCUSSION REGARDING THE RESTORATION OF THE LOCOMOTIVE AT ELLEN TROUT ZOO

Mayor Jack Gorden stated that the next item for consideration was to discuss the restoration of the locomotive at the Ellen Trout Zoo.

City Manager Parker stated that the City Council and Staff had previously discussed the train and 110 Engine located at Ellen Trout Zoo, and how to improve it now that the Administrative and Educational Facility had been completed. City Manager Parker added that the train was a focal point for the Zoo and its newly constructed building. City Manager Parker stated that for many years the City had explored the concept of having an interactive area such as the train located at the Zoo. City Manager Parker added that often when beginning a restoration project such as this, one could run into asbestos problems. City Manager Parker furthered that some of the problems were to the extent that there was asbestos seepage in the rusted areas in the boiler. City Manager Parker stated that this area could not be encapsulated, but would have to be removed. City Manager Parker explained that the removal, sandblasting, steel and carpentry work, details and graphics, and a metal canopy for protection came to a total cost of one hundred four thousand six hundred dollars (\$104,600). City Manager Parker added that Staff had taken estimates on the work and had received written estimates, although Staff considered the estimates to be on the high end of the scale, and may be able to be lowered. City Manager Parker stated that there had been a previous donation of ten thousand dollars (\$10,000) for the restoration of the train by Mr. Simon W. (Bubba) Henderson. City Manager Parker stated that if the City Council wanted to go forth with the restoration, Staff would return with a Budget Amendment for the funding. City Manager Parker stated that once the restoration on the train was completed, the goal was to have the train accessible to the public to enjoy.

Councilmember Don Langston stated that recalling the previous discussion of approximately one (1) year ago, he was contact by a person who was very familiar with old locomotives and their restoration. Councilmember Langston added that this person indicated that there were foundations that were dedicated to the preservation of old steam engines, and that this locomotive was one (1). Councilmember Langston stated that the person even knew the model number of the engine and all of the history behind it. Councilmember Langston stated that the City should pursue any opportunities available through foundations for contributions toward the restoration of the train located at Ellen Trout Zoo.

City Manager Parker agreed with Councilmember Langston and stated that he would contact the individual for information. City Manager Parker stated that if that proved to be unsuccessful, Staff would need to return to the Council for a Budget Amendment. City Manager Parker stated that Staff would go forth with the suggestions made by Councilmember Langston and work toward finding funding for the project.

Mayor Gorden asked if it would be reasonable to take approximately sixty (60) days to see where the City stood, and then return to the Council with a report. City Manager Parker agreed that was a reasonable amount of time, and that Staff could research the funding and the approximate amount of time it would take to obtain such funding. City Manager Parker explained that if Staff ran into a situation where there was no funding, or the time frame was two to three (2-3) years in the future, Staff would return to the City Council for direction. City Manager Parker pointed out that the locomotive would not deteriorate any more that it already had, so there was no urgency and would give the Staff time to look into making applications for funding.

15. DISCUSSION REGARDING THE RENOVATION OF THE RESTROOMS AT THE GIRL'S SOFTBALL FIELDS

Mayor Jack Gorden stated that the next item for consideration was to discuss the renovation at the restrooms at the Girl's Softball fields. Mayor Gorden added that this was a much needed facility and that the Council had also discussed this project in the past.

City Manager Paul Parker stated that for the last two (2) years, the Staff and Council had discussed the possibility of adding restrooms at Morris Frank Park for the ladies. City

Manager Parker added that the current facilities had two (2) toilets for the ladies and one (1) toilet and two (2) urinals for the men, at the Girl's Softball Fields. City Manager Parker stated that it was obvious that for the number of girls softball teams the facilities were too small. City Manager Parker stated that Angelina College was using the facilities until their fields were completed, and there was also a lot of usage for regular play. City Manager Parker explained that the Parks Director Don Hannabas and the Parks Department had recently renovated the existing restrooms by replacing fixtures, painting, and cleaning to make the area a lot more presentable. City Manager Parker added that however, the sheer size of the facilities and the amount of use did not meet the needs. City Manager Parker stated that the new proposed restrooms would be in addition to the existing facility. City Manager Parker added that the new facility would be approximately one thousand twenty-three (1023) square feet, with an estimated cost of one hundred forty thousand dollars (\$140,000). City Manager Parker stated that the facility would have six (6) stalls for the women, and three (3) stalls and three (3) urinals for the men. City Manager Parker stated that the sewer line was already in place, and was installed by the Water and Sewer employees last year in anticipation of work. City Manager Parker added that because of the need, Staff decided to go ahead and bring the project to the City Council for consideration. City Manager Parker stated that included in the Council packets were letters of support, along with additional information regarding the facilities. City Manager Parker stated that this was a project recommended to the City Council by the Parks Board, and that Mr. Hannabas had informed him that the facility had been planned since the 1997 Parks Master Plan. City Manager Parker stated that Staff recommended that the City Council authorize the Staff to bid the work, and appropriate the funds for the restrooms at the Girl's Softball Fields. Mayor Gorden commented that the City had certainly not rushed into this project. City Manager Parker pointed out that one of the previous problems was there was no sewer previously available in that area. City Manager Parker added that it was a major expense that City Staff had been able to do "in house" over the last year, in anticipation of facilities in the future.

Councilmember Rufus Duncan asked if the City's Engineering Staff was going to do the plans for the facility. City Manager Parker stated that the City's Engineering Staff had already completed the plans and were ready to go to bid if the Council authorized the project.

City Engineer and Public Utilities Director Chuck Walker stated that drawings were completed, and had been sent out to Timberline for a cost estimate. Mr. Walker stated that the plans had also been sent to a company called Aspen D C I. Mr. Walker added that Staff had contacted multiple contractors.

Mayor Gorden asked why a facility that was a little over a thousand (1000) square feet would cost so much. Councilmember Langston stated that he thought the price was cheap. Mr. Walker agreed that it was inexpensive.

Councilmember Langston stated that not having seen the plans, and knowing that the City had a Construction Committee, he wanted to make sure that the City got bids on a "touchless" system. Councilmember Langston added that this was really important in that environment. Mr. Walker stated that the "touchless" system was not included in the original bid, but would be easy to accomplish. City Manager Parker stated that it would be good to get copies of the plans to the Construction Committee. Mr. Walker stated that he would take care of getting the plans to the committee. City Manager Parker stated that if the City Council concurred, the Staff would put a Budget Amendment on the Council agenda to appropriate the funds, and then work through the Construction Committee to get the plans ready to go to bid.

Councilmember Rose Faine Boyd asked if the restrooms would be ADA (American with Disabilities Act) Accessible. City Manager Parker stated that the facilities met the ADA requirements.

Mayor Gorden stated that a lot of out of town visitors used the Girl's Softball fields, and even though the Council wanted to take care of the facilities for the citizens of Lufkin, it was good to keep in mind that the area was an attraction to Lufkin.

16. CALENDAR NOTATIONS FROM MAYOR, COUNCIL MEMBERS, AND CITY MANAGER

Mayor Gorden stated that the next item for consideration was the calendar notations from the Mayor, Council Members, and City Manager. City Manager Parker stated that he wanted to highlight the Retirement Celebration for Fire Chief Pete Prewitt on Tuesday, March 31, 2009, from 10:00 a.m. until 12:00 noon, at the Lufkin City Hall Atrium. City Manager Parker added that Chief Prewitt was ending his service to the City of Lufkin, and was moving out of state to be near his family, and stated that the City Staff wished Chief Prewitt the best for all he had done for the City of Lufkin through his service. City Manager Parker stated that if the Council's calendars permitted, it would be great if they could take time to honor Chief Prewitt on that date. City Manager Parker stated that immediately following the Chief's reception would be a 4B Economic Development Board Meeting, at the Lufkin City Hall, Room 102. City Manager Parker stated that the other meetings were on the Council's Calendar on their desks. Mayor Gorden reminded the Council that served on the DETCOG (Deep East Texas Council of Governments) Board that there was a board meeting on Thursday, March 26, 2009, in Cold Springs.

14. There being no further business for consideration, the meeting adjourned at 6:30 p.m.


Renee Thompson – City Secretary


Jack Gorden, Mayor