MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF LUFKIN, TEXAS HELD ON THE 21ST DAY OF APRIL, 2009

On the 21st day of April, 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.	Mayor
Rose Faine Boyd	Mayor Pro-Tem
R. L. Kuykendall	Councilmember, Ward No. 1
Lynn Torres	Councilmember, Ward No. 3
Don Langston	Councilmember, Ward No. 4
Rufus Duncan	Councilmember, Ward No. 5
Phil Medford	Councilmember, Ward No. 6
Paul L. Parker	City Manager
Keith Wright	Asst. City Manager
Robert Flournoy	City Attorney
Renee Thompson	City Secretary
Rodney Ivy	Human Resource Director
Larry Brazil	Police Chief
Scott Marcotte	Asst. Police Chief
Duane Freeman	Interim Fire Chief
Doug Wood	Finance Director
Dorothy Wilson	Planning Director
Steve Floyd	Public Works Director
Don Hannabas	Parks & Recreation Director
Barbara Thompson	Main Street Director
Dale Allred	Inspection Services Director
Chuck Walker	Public Utilities Director

being present, when the following business was transacted:

1. The meeting was opened with prayer by Assistant City Manager Keith Wright.

2. Mayor Jack Gorden welcomed visitors present.

3. **APPROVAL OF MINUTES**

Minutes of the Regular Meeting of April 7, 2009, were approved as corrected 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 OF THE CITY COUNCIL OF THE CITY OF LUFKIN, TEXAS – APPROVED - RESTRICTING SMOKING IN CITY OF LUFKIN PARKS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH**

Mayor Jack Gorden stated that the next item for consideration was the Second Reading of an Ordinance of the City Council of the City of Lufkin, Texas restricting smoking in City of Lufkin Parks; providing a severability clause; and providing an effective date and repealing all Ordinances in conflict herewith.

City Manager Paul Parker stated that this was the Second Reading and actually the third time the Ordinance had been before the Lufkin City Council. City Manager Parker added that the Ordinance was to prohibit smoking in the City of Lufkin Parks and that he would answer any questions that the Council had regarding the Ordinance.

Mayor Gorden asked for questions or comments from the Council.

Councilmember Lynn Torres moved to approve the Second Reading of the Ordinance of the City Council of the City of Lufkin, Texas restricting smoking in City of Lufkin Parks; providing a severability clause; and providing an effective date and repealing all Ordinances in conflict herewith. Councilmember Rose Faine Boyd seconded the motion. A unanimous affirmative vote was recorded.

Mayor Gorden then thanked the ladies and gentlemen with the Coalition for bringing the important issue to the City Council and assisting in getting it taken care of.

5. **SECOND READING OF AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE 2001 COMPREHENSIVE PLAN OF THE CITY OF LUFKIN, TEXAS – APPROVED - BY CHANGING THE ZONING ON LAND DESCRIBED AS LOT 2, BLOCK 1, OF THE GDSV-ETBR SUBDIVISION FROM A ZONING CLASSIFICATION OF "LOCAL BUSINESS" TO A "COMMERCIAL" ZONING DISTRICT**

Mayor Jack Gorden stated that the next item for consideration was a Public Hearing and the Second Reading of an Ordinance amending the Zoning Ordinance of the 2001 Comprehensive Plan of the City of Lufkin, Texas by changing the zoning on land described as Lot 2, Block 1, of the GDSV-ETBR Subdivision from a zoning classification of "Local Business" to a "Commercial" Zoning District.

City Manager Paul Parker stated that both the Planning Staff and the Planning and Zoning Commission recommended approval of the proposed Zone Change from "Local Business" to "Commercial" and to change the Land use Map to "Commercial" for the property.

Mayor Gorden opened the Public Hearing 5:10 p.m. and asked anyone who wished to speak on the item to please step forward. Mayor Gorden stated that public comments would be restricted to three (3) minutes and requested that anyone who wished to speak to not be repetitive but only cover new ground. There appearing to be no one who wished to speak, Mayor Gorden closed the Public Hearing at 5:12 p.m.

Mayor Gorden asked for questions or comments from the Council.

Councilmember Don Langston moved to approve the Second Reading of the Ordinance amending the Zoning Ordinance of the 2001 Comprehensive Plan of the City of Lufkin, Texas by changing the zoning on land described as Lot 2, Block 1, of the GDSV-ETBR Subdivision from a zoning classification of "Local Business" to a "Commercial" Zoning District. Councilmember R. L. Kuykendall seconded the motion. A unanimous affirmative vote was recorded.

6. **SECOND READING OF AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED TERRITORY TO THE CITY OF LUFKIN, TEXAS, - APPROVED - AND EXTENDING THE BOUNDARIES OF SAID CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN THE CITY LIMITS, AND GRANTING TO SAID TERRITORY AND TO ALL FUTURE INHABITANTS OF SAID PROPERTY ALL OF THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID FUTURE INHABITANTS BY ALL OF THE ACTS AND ORDINANCES OF THE SAID CITY**

Mayor Jack Gorden stated that the next item for consideration was the Public Hearing and Second Reading of an Ordinance annexing the hereinafter described territory to the City of Lufkin, Texas, and extending the boundaries of said City so as to include said hereinafter described property within the city limits, and granting to said territory and to all future inhabitants of said property all of the rights and privileges of other citizens and binding said future inhabitants by all of the acts and Ordinances of the said City.

City Manager Paul Parker stated that the item was a Second Reading on annexation of 10.6 acres. City Manager Parker added that there were three (3) property owners requesting the annexation. City Manager Parker stated that the businesses on the property were a daycare, a private club and an automotive establishment. City Manager Parker stated that the applicants were requesting the annexation with the primary reason being the extension of municipal services, primarily sewer service. City Manager Parker added that there was a detailed discussion of the annexation at the last Council Meeting and both the Planning Staff and the Planning and Zoning Commission recommended that the City Council approve the request.

Mayor Gorden opened the Public Hearing 5:14 p.m. and asked anyone who wished to speak on the item to please step forward. Speaking concerning the annexation were:

John Moore – Manager King's Row Mobile Home Park – Mr. Moore withdrew his objection to the annexation, but gave some concerns with drainage.

Keith Wright – Assistant City Manager addressed the concerns of Mr. John Moore and explained that issues could only be addressed from the annexation forward. Mr. Wright stated that he would answer any questions that the City Council had concerning the drainage map.

Councilmember Lynn Torres stated that the map showed that the water was coming from a multitude of places.

Mayor Gorden closed the Public Hearing at 5:22 p.m.

Mayor Gorden asked for questions or comments from the Council.

Councilmember Rufus Duncan moved to approve the Second Reading of the Ordinance annexing the hereinafter described territory to the City of Lufkin, Texas, and extending the boundaries of said City so as to include said hereinafter described property within the city limits, and granting to said territory and to all future inhabitants of said property all of the rights and privileges of other citizens and binding said future inhabitants by all of the acts and Ordinances of the said City. Councilmember R. L. Kuykendall seconded the motion. A unanimous affirmative vote was recorded.

NEW BUSINESS:

7. **FIRST READING OF AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE 2001 COMPREHENSIVE PLAN OF THE CITY OF LUFKIN, TEXAS, - DENIED - BY CHANGING THE ZONING ON LAND DESCRIBED AS BLOCK 49, LOT 3.2, PART OF LOT 3 OF THE CITY OF LUFKIN SURVEY, OTHERWISE KNOWN AS 406 OAK STREET FROM A ZONING CLASSIFICATION OF "RESIDENTIAL MEDIUM SINGLE FAMILY DWELLING" TO A "COMMERCIAL" ZONING DISTRICT**

Mayor Jack Gorden stated that the next item for consideration was a Public Hearing and First Reading of an Ordinance amending the Zoning Ordinance of the 2001 Comprehensive Plan of the City of Lufkin, Texas, by changing the zoning on land described as Block 49, Lot 3.2, part of Lot 3 of the City of Lufkin Survey, otherwise known as 406 Oak Street from a zoning classification of "Residential Medium Single Family Dwelling" to a "Commercial" Zoning District.

City Manager Paul Parker stated that Ms. Futch requested a Zone Change from "Residential Medium Single Family Dwelling" to "Commercial" zoning classification on the property commonly known as 406 Oak Street near Culverhouse and Williams Streets. City Manager Parker stated that the properties to the north of the subject property were zoned as "Residential Medium Single Family Dwellings" and "Light Manufacturing". City Manager Parker added that the property to the south and east were also "Residential Medium Single Family Dwelling", while properties to the west were zoned "Light Manufacturing". City Manager Parker stated that if approved, the "Commercial" zoning was a lesser zone than the "Light Manufacturing" adjacent to the lot, and though it was not a spot zone, with

"Commercial" in the area, the new zone would be lower intensity than the neighboring lot which was zoned "Light Manufacturing". City Manager Parker added that however, if approved, the "Commercial" zone was higher than the "Residential Medium Single Family Dwelling", also adjacent to the lot. City Manager Parker explained that it wasn't common to have a residential lot adjacent to a lot zoned "Industrial", although it wasn't unheard of. City Manager Parker stated that the Lufkin Comprehensive Plan and Future Land Use Map recommended "Low Density Residential" uses for the property and the surrounding area. City Manager Parker added that the property area would be a continuation of the enlargement of industrial and commercial areas and a decline of residential use in the area. City Manager Parker added that several area residents spoke in opposition of the zone change before the Planning and Zoning Commission. City Manager Parker stated that the Planning and Zoning Commission, after considerable deliberation, unanimously recommended denial of the zone change request. City Manager Parker explained that by Ordinance of the City, a denial of a zone change request by the Planning and Zoning Commission would require a "super majority" vote of the City Council to approve. City Manager Parker added that meant that six (6) out of the seven (7) Council Members would have to vote in favor of the zone change request for it to be approved. City Manager Parker stated that he would be happy to answer any questions the Council had concerning the Planning and Zoning Commission Meeting or the request for the zone change.

Mayor Gorden opened the Public Hearing 5:25 p.m. and asked anyone who wished to speak on the item to please step forward. There appearing to be no one who wished to speak, Mayor Gorden closed the Public Hearing at 5:26 p.m.

Mayor Gorden asked for questions or comments from the Council and Staff.

Planning Director Dorothy Wilson stated that she had initially recommended approval for the zone change for the property because there had been no response from the neighborhood surrounding the property. Ms. Wilson stated that it was a situation where either way the zone change could occur. Ms. Wilson added that based on the recommendations and comments that were received at the Planning and Zoning Commission Meeting, she wanted to amend her recommendation and recommend that the zone change not be approved. Ms. Wilson stated that there were approximately ten (10) people who spoke at the Planning and Zoning Commission Meeting. Ms. Wilson added that since the meeting she had also received phone calls from people in the neighborhood who wanted the see the area stay residential and that she supported the idea.

Councilmember Don Langston asked Ms. Wilson to explain where the "Light Manufacturing" zone was on the map. Ms. Wilson stated that it was the large yard where the Futch family had been storing signs. Ms. Wilson added that the property was located on the west side or the left side of the map. Councilmember Langston then asked Ms. Wilson if she didn't think that "Commercial" would be a better zone for the area than "Light Manufacturing" for a residential neighborhood. Ms. Wilson stated that the "Commercial" zoning was a "spot zone" and some things that could be done in a "Commercial" zone, next to that area where there were still a lot of vacant lots, was not a good direction to go. Ms. Wilson added that she would prefer to have a buffer in between all of the zones, but that there were so many established homes in the area. Ms. Wilson stated that the property already had a house on it and that Ms. Futch indicated that it could and would be repaired. Ms. Wilson stated that she would rather see something that was already in place and could be used within the zone that it was currently in. Ms. Wilson added that it came to the attention of the City because of a complaint in the neighborhood about someone storing materials there of a commercial or manufacturing style. Ms. Wilson stated that the person felt that this wasn't appropriate because it was a house. Councilmember Langston asked Ms. Wilson if she was referring to the subject property. Ms. Wilson stated that she was referring to the subject property. Councilmember Langston stated that the property owners could build a light manufacturing plant on lots 10 and 11. Ms. Wilson agreed.

Councilmember Lynn Torres moved to deny the First Reading of the Ordinance amending the Zoning Ordinance of the 2001 Comprehensive Plan of the City of Lufkin, Texas, by changing the zoning on land described as Block 49, Lot 3.2, part of Lot 3 of the City of Lufkin Survey, otherwise known as 406 Oak Street from a zoning classification of

"Residential Medium Single Family Dwelling" to a "Commercial" Zoning District. Councilmember Rose Faine Boyd seconded the motion. The following vote was recorded:

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

Nay: Council Member Don Langston

The motion carried with six (6) affirmative votes.

8. RESOLUTION AMENDING RESOLUTION #4129 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 amending Resolution #4129 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 when the Council adopted the Resolution creating the Lufkin Convention and Tourism Board, language was included that stated that the board appointees must be residents of the City of Lufkin. City Manager Parker continued that the intent of the Council was to involve business owners or managers of hotels or tourist industries in the City of Lufkin, and numerous owners and managers did not reside in the City. City Manager Parker furthered that this amendment would simply add language to allow these individuals to be on the Board.

Mayor Gorden stated that it was the intent of the Council to make this Board conducive to assist in the Tourist industry and this language would accomplish this.

Mayor Gorden asked for questions or comments from the Council.

Councilmember Rose Faine Boyd moved to approve the Resolution amending Resolution #4129 creating the Lufkin Convention and Tourism Bureau Board, establishing members and terms, powers and duties, and establishing an effective date. Councilmember Don Langston seconded the motion. A unanimous affirmative vote was recorded.

9. APPROPRIATION OF FUNDS TO COMPLETE THE PARKS MASTER PLAN AND A RESOLUTION AUTHORIZING AN AMENDMENT TO THE 2008/2009 OPERATING BUDGET (BUDGET AMENDMENT NO. 20), - 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 the appropriation of funds to complete the Parks Master Plan and a Resolution authorizing an amendment to the 2008/2009 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 Council had recently compiled a listing of Capital Improvement Projects and that one comment derived from Council was that the City lacked a plan for future improvements in the Parks system. City Manager Parker furthered that Council requested Staff develop a Master Plan for the Parks system. City Manager Parker added that Staff had compiled a scope of services and this request for proposal was submitted to fourteen (14) firms. City Manager Parker stated that a review committee was established of Keith Wright, Dorothy Wilson, Mike Akridge, Don Hannabas and Barry Cox to review the applications and this group chose four (4) firms that were best suited to make proposals for the Master Plan. City Manager Parker continued that at the conclusion of the interview process, the committee unanimously recommended MHS Planning and Design from Tyler, Texas, whose principal is Mr. Mark Spencer, who has extensive experience in park design. City Manager Parker continued that Mr. Spencer was well connected with grant contacts and had completed numerous projects in the East Texas area. City Manager Parker stated that the proposal to complete the project was fifty-one thousand dollars ($51,000) plus travel and reproduction costs and a detailed description of the scope of work was included in the packet. City Manager Parker furthered that Staff recommended Council approve a Budget Amendment authorizing fifty-four thousand dollars ($54,000), which will cover all costs necessary for the development of a Parks Master Plan.

Mayor Gorden asked for questions or comments from the Council and inquired as to how long the project would take to complete. Assistant City Manager Keith Wright stated that MHS had stated that it would take approximately six (6) months to complete. Mayor Gorden questioned whether there was an allowance for public input during the process. City Manager Parker stated that public hearings would be held and meetings would also be conducted by the Parks and Recreation Department. Mayor Gorden asked whether this would be the first Parks Master Plan completed by the City. City Manager Parker responded that a Master Plan had been completed in the nineties (90's), but that it was not as comprehensive as this plan would be. Assistant City Manager Wright stated that this plan was not only for the Parks system, but also for the Recreation system as well. Mayor Gorden stated that public use of the Parks system had evolved over the years. City Manager Parker stated that Parks were moving more in a natural direction, and that a shift was occurring in the use of the Parks as the population makeup changed. City Manager Parker also stated that this plan would address the lack of parks in southern areas of the City.

Councilmember Rose Faine Boyd moved to approve funding to complete the Parks Master Plan and a Resolution authorizing an amendment to the 2008/2009 Operating Budget (Budget Amendment No. 20), 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.

10. SELECTION OF A GRANT CONSULTANT AND ENGINEER/ARCHITECT FOR THE CDBG 2008 SUPPLEMENTAL DISASTER RECOVERY FUND - APPROVED.

Mayor Jack Gorden stated that the next item for consideration was the selection of a Grant Consultant and Engineer/Architect for the CDBG 2008 Supplemental Disaster Recovery Fund.

City Manager Paul Parker stated that the City and County were jointly working on the shelter situation, and to accomplish this, the same engineer and grant consulting firm must be used by both entities. City Manager Parker furthered that Staff recommended that Council approve the use of Goodwin-Lasiter, Inc., for the architectural and engineering work, and Raymond K. Vann and Associates as the grant consultant. City Manager Parker continued that both firms had been pre-approved by the Office of Rural Community Affairs (ORCA), and selected by Angelina County as well. City Manager Parker recommended that Council approve the use of these firms for development of scopes of work and projects for the CDBG Ike Disaster Recovery Grant Appropriations.

Mayor Gorden asked for questions or comments from the Council.

Councilmember Don Langston moved to approve the selection of a Grant Consultant and Engineer/Architect for the CDBG 2008 Supplemental Disaster Recovery Fund. Councilmember Rufus Duncan 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. Mayor Gorden continued that the Finance Committee had met earlier in the day and that the Chairman of that meeting Councilmember Don Langston, would update the Council. Councilmember Langston stated that Mr. Dick Long, from Valleyview Consulting, which is the City's financial consultant, informed the committee that City finances were still in good shape, even though interest rates were at a historical low. Councilmember Langston furthered that returns were averaging around 1.93 percent, and that Mr. Long stated this was above average for cities of our size and larger cities as well, and that the investment policy was working well. Councilmember Langston stated that discussions were conducted during the meeting as to the mix of the investments, but no action was taken. Councilmember Langston stated that Staff reported that the City was at ninety-one percent (91%) of the projected budgeted amount for this fiscal year, which is good news. Mayor Gorden thanked Councilmember Langston for his report and asked for questions or comments from the Council. City Manager Parker highlighted the ad valorem tax figures for the General Fund, and stated that Sales Tax revenue had increased by 1.4%, and that the overall future looked good, but Staff would remain guarded about future Sales Tax amounts due to the economy. City Manager Parker stated that Franchise Tax revenue appeared to be low, but that the City received that tax once a year, and that the electrical franchise tax would be received soon, and that would bring those figures up considerably. City Manager Parker stated that the overall financial condition of the City was good and there were no outstanding financial issues at the time. City Manager Parker continued that Water and Sewer revenues were down, which was due to the amount of rainfall, and the closing of industries, including Citation, which was a major water user. City Manager Parker stated that revenues would probably be down, but that was dependent on weather patterns and usage. City Manager Parker furthered that the Solid Waste fund was slightly down, but it was nothing to be concerned about, and that the rest of the funds were in good shape. City Manager Parker stated that the Health Insurance Fund was performing very well in regard to last year, but Staff remained cautious. City Manager Parker stated that a preliminary retreat was scheduled and Staff was currently working on their departmental budgets.

City Manager Paul Parker stated that as Council was aware, the annual Hoedown was cancelled due to a heavy rain event at the last minute, but that Main Street had purchased rain insurance.

Mayor Gorden asked for questions or comments from the Council

11. Mayor Jack Gorden recessed the Regular Session at 5:48 p.m. to enter into Executive Session.

<u>EXECUTIVE SESSION:</u> 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 7:29 p.m.

13. <u>CONDEMNATION AND DEMOLITION OF PROPERTIES</u>

Councilmember Lynn Torres moved to approve the condemnation and demolition of the properties at 620 Lining Street, 621 Lining Street, 503 North John Redditt, 906 Amey Street, 2203 Cairo Street, 901 Hoo Hoo Avenue and 1805 Keltys Street. Councilmember Torres stated there was a correction on the address of the structure at 503 North John Redditt and that a legal description needed to be inserted. Councilmember Phil Medford stated that the legal description of the property was 2.397 acres out of the S. Bynum Survey, Abstract 700, Angelina County. Councilmember Torres stated there was also a contingent placed on 1805 Keltys Street, pending the outcome of a potential tax sale, prior to the demolition order being issued. Councilmember Rose Faine Boyd seconded the motion. A unanimous affirmative vote was recorded.

14. <u>DISCUSS POSSIBLE DOWNTOWN TREE REPLACEMENT - TABLED</u>

Mayor Jack Gorden stated that the next item for consideration was to discuss possible Downtown tree replacement.

Councilmember Lynn Torres moved to table the discussion regarding Downtown tree replacement. Councilmember Don Langston seconded the motion. A unanimous affirmative vote was recorded.

14. 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 Council had the calendar in front of them and asked how many Council members would be attending the Expo Party so that City Secretary Renee Thompson could reserve the appropriate number of tables. City Secretary Renee Thompson stated the event would be held on May 13th, 2009 and asked that Council advise her by Wednesday morning. Mayor Gorden reminded Council that the City employee picnic would be held on May 2nd, at the Ellen Trout Zoo. City Manager Parker reminded Council of the Strategic Planning Meeting to be held on April 29th, 2009.

15. There being no further business for consideration, the meeting adjourned at 7:36 p.m.

Jack Gorden

Jack Gorden, Mayor

Renee Thompson

Renee Thompson – City Secretary