MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF LUFKIN, TEXAS HELD ON THE 4th DAY OF NOVEMBER, 2008

On the 4th day of November, 2008, 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	Assistant City Manager
Renee Thompson	City Secretary
Bob Flournoy	City Attorney
Larry Brazil	Police Chief
Scott Marcotte	Asst. Police Chief
Pete Prewitt	Fire Chief
Doug Wood	Finance Director
Chuck Walker	City Engineer
Barbara Thompson	Main Street Director
Dale Allred	Inspection Services Director
Jim Wehmeier	Economic Development Director
Bill Cameron	City Webmaster

being present, when the following business was transacted:

1. The meeting was opened with prayer by Pastor Bob Klund, Believers Bible Church.

2. Mayor Jack Gorden welcomed visitors present. Councilmember Lynn Torres noted that there were two (2) members of the Leadership Lufkin Class in the audience. Mayor Jack Gorden welcomed them to the meeting.

3. **APPROVAL OF MINUTES**

   Minutes of the Regular Meeting of October 21, 2008, were approved on a motion by Councilmember Rose Faine Boyd, and seconded by Councilmember Lynn Torres. A unanimous affirmative vote was recorded.

NEW BUSINESS:

4. **DISCUSSION REGARDING HIGHWAY 59 NORTH**

   Mayor Jack Gorden stated that the next item for consideration was a discussion regarding Highway 59 North.

   City Manager Paul Parker stated that the City of Lufkin requested that TxDOT meet with the Mayor and Council regarding Highway 59 North, and added that Cheryl Flood was present representing TxDOT. City Manager Parker explained that there had been plans for several years for expansion and construction on Highway 59 North, but due to funding shortfalls with the State of Texas TxDOT was still in the planning stages, but had modified their plans since the last time the Council had viewed them. City Manager Parker stated that this was simply an information item for the Council and required no action. City Manager added the Cheryl Flood was there to inform and update the Council on the new proposed design and what the preliminary stages would be. Mayor Gorden then requested that Ms. Flood help the Council to understand what the changes were from the previous plan.

Cheryl Flood, with TxDOT, thanked the Council for the invitation and added that she was replacing David Collmorgan, Area Engineer, who had presented the original plans to the City Council approximately two (2) years earlier. Ms. Flood then made reference to an illustration of the original Phase I scope and stated that it was not the ultimate design, as that design would go all of the way to Highway 103 East. Ms. Flood added that proposed Phase I actually consisted of four (4) projects. Ms. Flood explained that the projects were the railroad bridge at Timberland, where there was an underpass, the UP railroad underpass on west side of Business 59, and the underpass on Highway 59 north of Loop 287. Ms. Flood added that there were three (3) different railroad grade separation projects. Ms. Flood stated that in March of 2006, TxDOT submitted this as a safety project. Ms. Flood explained that the safety project was the frontage roads, the bridge going northbound and southbound, and removing the cloverleaf. Ms. Flood stated that originally there would be a southbound bridge for two (2) lanes and a northbound bridge for two (2) lanes, with frontage roads from Business 59 (Timberland Drive) over to Moffett Drive. Ms. Flood added that the frontage roads would be "one way" roads. Ms. Flood stated that in December 2007, TxDOT was put "on hold", due to funding constraints to the consultant, and cut back their scope and put off right-of-way acquisition and most of the consultant work. Ms. Flood explained that before they were completely shut down, TxDOT requested the consultant come back in January and give them an update. Ms. Flood stated that the consultant came back with a fifty-nine million dollar ($59,000,000) project. Ms. Flood stated that TxDOT had twenty-one million seven hundred thousand dollars ($21,700,000) in safety money for the frontage roads and bridges to construct the interchange. Ms. Flood stated that TxDOT was relying on railroad bridge money for the other three (3) projects and in June 2008, TxDOT was advised that there was only twenty million dollars ($20,000,000) per year set aside for the next ten (10) years for the State for railroad grade separations. Ms. Flood added that together Lufkin's proposed projects came to twenty four million dollars ($24,000,000). Ms. Flood stated that if the projects were not funded, they would be selected as TxDOT obtained railroad agreements. Ms. Flood added that getting those agreements was a real challenge. Ms. Flood explained that TxDOT was working with the railroad companies. Ms. Flood stated that the projects were also subject to the rankings by the State. Ms. Flood explained that these projects were currently in the middle of the State rankings. Ms. Flood stated that the safety money had originally been given a deadline of August 2009, but whenever the funding was cut, TxDOT was given more time. Ms. Flood added that TxDOT was not told how much more time they would be given. Ms. Flood explained that TxDOT had twenty-one million seven hundred thousand dollars ($21,700,000), but in January when the consultant came and stated that it would cost over fifty-nine million dollars (+$59,000,000) to do the project, Ms. Flood told them that she did not have the remaining funding needed for the safety part of the project. Ms. Flood explained that the job would either have to be cancelled or would have to be scoped back. Ms. Flood stated that the consultants came back in May and had scoped the project back to the twenty-one million seven hundred thousand dollars ($21,700,000) available. Ms. Flood added that the railroad bridges were still not funded, but the consultants had been able to make the adjustments necessary to fund the safety parts of the project. Ms. Flood stated that TxDOT was proposing to utilize as much of the existing Loop as possible. Ms. Flood added that TxDOT would build the southbound bridge and the northbound bridge would basically stay as it was, but would be a larger and flatter curve than it currently is. Ms. Flood stated that the plan was to purchase the right-of-way, even though there currently was no funding available. Ms. Flood explained that the project had been scoped back to be able to stay within the twenty-one million seven hundred thousand dollars ($21,700,000) available for the project. Ms. Flood stated that some of the clover leaf would be removed, and that they were addressing the southbound traffic with a direct bridge. Ms. Flood added that the design would fit into the final originally proposed project. Ms. Flood stated that if TxDOT was unable to secure the railroad funds, TxDOT had looked at omitting the Timberland Drive underpass, but the overpass to the west would have to be funded in order to proceed with the design, because TxDOT tied into the overpass at Union Pacific.

City Manager Parker asked Ms. Flood if TxDOT would have to secure part of the funds for the bridge in order to make the scaled back version of the project work. Ms. Flood stated that this was correct. City Manager Parker asked if TxDOT was competing with the entire state for the twenty million dollars ($20,000,000) of funding. Ms. Flood agreed that this was also correct. Ms. Flood added that the one (1) bridge was estimated to be approximately sixteen million dollars ($16,000,000). City Manager Parker stated that TxDOT would then have to secure almost all of the State's funding for one (1) year. Ms. Flood agreed that was correct.

Mayor Jack Gorden asked Ms. Flood about the ten percent (10%) right-of-way cost that the City would have to fund. Ms. Flood stated that because TxDOT acquired the safety money, the City of Lufkin would not be required to pay for the right-of-way acquisitions on that part of the project. Ms. Flood added that the City of Lufkin would only be responsible for the utility adjustments. Ms. Flood stated that there was a small portion of the project that did not have safety money, and was estimated to cost approximately two hundred twelve thousand dollars ($212,000), and the City's part would be ten percent (10%) or approximately twenty-one thousand dollars ($21,000).

Ms. Flood stated that TxDOT had a right-of-way map, had done appraisals that would now have to be updated, purchased the "truck stop" as a hardship, and were hoping to acquire some of the other areas this past summer, but were unable to because of the lack of funding.

Mayor Gorden asked how the new plan would affect the "Industrial Development Property" that was owned by the City. Ms. Flood stated that David Collmorgan and Sam Skehot from TxDOT had discussed changing the area at Moffett with Assistant City Manager Keith Wright and Public Utilities Director Chuck Walker. Ms. Flood added that she did not know if TxDOT had incorporated this into their design. Mayor Gorden stated that the City would appreciate any consideration that TxDOT could give for that area. Ms. Flood stated that the access would not change, and that the only difference would be instead of having access to the proposed frontage roads, the property would have access to Loop 287. Ms. Flood explained that TxDOT would control the access in the deed. Ms. Flood added that she did not think that they were land locking anyone, but could not say for sure. Ms. Flood stated that if they landlocked anyone, there would be damages paid and the access would be shown in the deed. City Manager Parker stated that the property that the Mayor was referring to was in the next phase of the project and was further south. City Manager Parker added that he thought that property was in the "long term" planning. Ms. Flood confirmed that the property was in the "long term" planning. Assistant City Manager Wright stated that Staff had discussed with David Collmorgan about the possibility of the Moffett Road reconstruction, if the Council decided to fund the project in the Capital Improvement Program. Assistant City Manager Wright explained that Staff had discussed with Mr. Collmorgan about looking at the design under Phase I, to enable TxDOT to tie in to what the City wanted to do. Ms. Flood stated that with TxDOT's scope reduction they may have to reconsider some of the plans for the area. Assistant City Manager Wright stated that the frontage roads would have provided the City more opportunity for easier development along that stretch. Assistant City Manager Wright added that if Congress considered packages for infrastructure improvements, the City could possibly ask some of the Congressional leaders for some funding for the project. Assistant City Manager Wright stated that this would be the only option for the City, as the State did not have the funding, unless it came from another source. Mayor Gorden asked if the State would possibly put up some additional money, if the City had matching funds for the access roads. Ms. Flood stated that it would probably have to be district money and TxDOT had none.

Councilmember Don Langston stated that neither of TxDOT's designs appeared to address the Industrial Park issue. Ms. Flood stated that she thought that TxDOT had looked at access along the frontage road, because the proposed plan was to have frontage roads all of the way to Highway 103 East and to widen the bridge at Moffett. Ms. Flood added that the City was still looking at purchasing the land for the Industrial Park when TxDOT was completing the schematic, and that TxDOT had looked at access, but the City was currently looking at some other ideas, and that TxDOT would work with the City.

Ms. Flood stated that TxDOT's plan was to pursue funding, but the Federal budgets were pretty tight. Ms. Flood added that TxDOT was also hoping to receive additional bond authority during the next Legislative session. Ms. Flood stated that presently, TxDOT was hoping that funds would be released to allow them to proceed with the reduced scope.
Mayor Gorden asked if Ms. Flood could answer a few questions that were not related to the Highway 59 North Project. Ms. Flood stated that she would try to answer them. Mayor Gorden asked if there was a status on re-doing the intersection where FM 810 went under Loop 287, near Southwood Drive. Ms. Flood stated that TxDOT had a consultant study the

area approximately one (1) year ago. Ms. Flood explained that the consultants came up with several different ideas. Ms. Flood stated that at that time TxDOT was not "sold" on any of the ideas. Ms. Flood added that just as they had wrapped up the discussion, Harmony Hill had purchase the corner lot for their proposed school. Ms. Flood stated that TxDOT was aware that Whitehouse Drive was being extended, so they put the plans on hold and would look at the traffic numbers once Whitehouse Drive was completed and when Harmony Hill moved their school. Mayor Gorden stated that Harmony Hill had dropped that plan. Ms. Flood stated that she had not heard that, but that Mr. Collmorgan had told her that Assistant City Manager Wright's office was looking at submitting a request for TxDOT to study the area. Assistant City Manager Wright stated that he had talked to Herbert Bickley the day before and asked him about some type of temporary lighting similar to the lighting on Tulane. Assistant City Manager Wright explained that the lighting had helped the traffic flow, and added that City Staff was in the process of working with TxDOT on the issue. Ms. Flood stated that signals was one (1) of the alternatives being considered.

Mayor Gorden asked if TxDOT was involved with the bridge at Brentwood. Ms. Flood stated that she was involved in the design and managing the consultants. Mayor Gorden asked Ms. Flood for her assistance in making sure the bridge was completed by Thanksgiving.

Ms. Flood stated that she wished she had better news, and that once TxDOT found out that they were released to go ahead with Highway 59 North, they would move as fast as possible. Ms. Flood added that there was a bottleneck in that region, that there were accidents fairly regularly in the cloverleaf portion of the intersection, and that the plan was to lower the grade under the bridge that kept getting hit. Ms. Flood stated that if the City could come up with approximately forty million dollars ($40,000,000), everyone would be happy and the project would be completed.

Councilmember Langston asked if there would be access to utilize the property for development along the Loop 287 interchange with Highway 59 North, where the current properties were to the south. Ms. Flood stated that TxDOT was basically leaving the access as it currently was to the south, and that access was designated according to TxDOT's guidelines on the property to the north. Ms. Flood added that every property would have access, but the access would not be every fifty (50) to one hundred (100) feet. Councilmember Langston asked if the project would totally hinder the usage of the property for future development. Councilmember Langston added that it was hard to determine by the map, but appeared that it might work out okay. Ms. Flood stated that all of the existing drives on the south side would more than likely remain, and that TxDOT was providing access on the north side. Ms. Flood added that if and when TxDOT built frontage roads, the access would be moved to the frontage roads.

5. **RESOLUTION AUTHORIZING AN AMENDMENT TO THE 2008/2009 OPERATING BUDGET (BUDGET AMENDMENT NO. 3), - APPROVED - PROVIDING FOR THE SUPPLEMENTAL APPROPRIATION OF FUNDS IN THE GENERAL, ECONOMIC DEVELOPMENT AND WATER/SEWER FUNDS; AND PROVIDING AN EFFECTIVE DATE**

Mayor Jack Gorden stated that the next item for consideration was a Resolution authorizing an amendment to the 2008/2009 Operating Budget (Budget Amendment No. 3), providing for the supplemental appropriation of funds in the General, Economic Development and Water/Sewer Funds; and providing an effective date.

City Manager Paul Parker stated that at the end of each fiscal year the City had several projects that had not been completed and needed to be carried over to the new fiscal year. City Manager Parker added that the amount in the General Fund was probably the smallest amount that had been carried over in several years. City Manager Parker stated that there were a few areas that were highlighted in the Council's memo, and that one (1) area was the interest and debt service note for the TAC contract. City Manager Parker added that the Parks and Recreation Department was requesting to carry over seventeen thousand and fifty-one dollars ($17,051) to renovate the maintenance facility for the parks crew, once fleet maintenance moved out of the garage. City Manager Parker stated that the Ellen Trout Zoo budgeted for two (2) generators that were not purchased. City Manager Parker added that this was all of items to be "carried over" in the General Fund.

City Manager Parker stated that there was money left in the clearing and grubbing contract with Angelina Fuels, and also advertising funds in the Economic Development Fund.

City Manager Parker stated that the largest "carry over" was in the Water and Sewer Fund. City Manager Parker explained that most of the funds were for the I and I Study and the Water Rights Study.

City Manager Parker stated that the total amendments in all of the accounts was fifty-four thousand five hundred forty-one dollars ($54,541) in the General Fund, ninety-three thousand eight hundred ninety-one dollars ($93,891) in the Economic Development Fund, and four hundred eight thousand seven hundred fifty-eight dollars ($408,758) in the Water and Sewer Fund, for a total Budget Amendment of five hundred fifty-seven thousand seven hundred nineteen dollars ($557,719). City Manager Parker added that all of the projects were previously approved, but had not been completed by September 30, 2008. City Manager Parker stated that Staff recommended that Council approve Budget Amendment No. 3.

Councilmember Don Langston moved to approve the Resolution authorizing an amendment to the 2008/2009 Operating Budget (Budget Amendment No. 3), providing for the supplemental appropriation of funds in the General, Economic Development and Water/Sewer Funds; and providing an effective date. Councilmember Rose Faine Boyd seconded the motion. A unanimous affirmative vote was recorded.

6. **RESOLUTION AUTHORIZING AN AMENDMENT TO THE 2008/2009 OPERATING BUDGET (BUDGET AMENDMENT NO. 4), - APPROVED - PROVIDING FOR THE SUPPLEMENTAL APPROPRIATION OF FUNDS IN THE GENERAL FUND; AND PROVIDING AN EFFECTIVE DATE; AND ACCEPTING A GRANT FROM THE REGIONAL ADVISORY COUNCIL IN THE AMOUNT OF $10,365 TO PURCHASE GPS UNITS FOR AMBULANCES, ANSI APPROVED REFLECTIVE VESTS, PATIENT MOVING TARPS, AND AUDIO/VISUAL UPGRADES FOR THE TRAINING ROOM AT FIRE ADMINISTRATION**

Mayor Jack Gorden stated that the next item for consideration was a Resolution authorizing an amendment to the 2008/2009 Operating Budget (Budget Amendment No. 4), providing for the supplemental appropriation of funds in the General Fund; and providing an effective date; and accepting a grant from the Regional Advisory Council in the amount of ten thousand three hundred sixty-five dollars ($10,365) to purchase GPS units for ambulances, ANSI approved reflective vests, patient moving tarps, and Audio/Visual upgrades for the training room at Fire Administration.

City Manager Parker stated that the grant was from the Regional Advisory Council and required no matching funds. City Manager Parker added that Staff recommended that Council approve Budget Amendment No. 4 and the acceptance of the grant.

Councilmember Lynn Torres moved to approve the Resolution authorizing an amendment to the 2008/2009 Operating Budget (Budget Amendment No. 4), providing for the supplemental appropriation of funds in the General Fund; and providing an effective date; and accepting a grant from the Regional Advisory Council in the amount of ten thousand three hundred sixty-five dollars ($10,365) to purchase GPS units for ambulances, ANSI approved reflective vests, patient moving tarps, and Audio/Visual upgrades for the training room at Fire Administration. Councilmember Rose Faine Boyd seconded the motion. A unanimous affirmative vote was recorded.

7. **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LUFKIN, TEXAS, - APPROVED - RECOGNIZING THE LUFKIN POLICE ASSOCIATION AS THE SOLE BARGAINING AGENT FOR OFFICERS OF THE LUFKIN POLICE DEPARTMENT IN REGARD TO "MEET AND CONFER" REGULATIONS**

Mayor Jack Gorden stated that the next item for consideration was a Resolution of the City Council of the City of Lufkin, Texas, recognizing the Lufkin Police Association as the sole bargaining agent for officers of the Lufkin Police Department in regard to "Meet and Confer" regulations.

City Manager Parker stated that the City of Lufkin received a petition from a majority of the Police Officers of the Lufkin Police Department requesting the adoption of the "Meet and Confer" regulations. City Manager Parker added that the petition requested that the Lufkin Police Association be recognized as the bargaining agent for "Meet and Confer" regulations between the Lufkin Police Department and the City of Lufkin. City Manager Parker explained that on October 7, 2008, the petition was submitted to the City Council, and after much detailed discussion as to why the Police Association desired to have a formal "Meet and Confer" relationship when they currently have an "open door" relationship with the City Manager and Police Chief, the City Council deferred granting recognition to the Police Association, and ordered that a certified election be held to determine whether the Police Association should be recognized as the sole and exclusive bargaining agent for all Lufkin Police Officers, excluding the head of the agency and the exempt employees. City Manager Parker stated that on October 20th and 22nd, 2008, an election was held in which seventy-two (72) Lufkin Police Officers were eligible to vote, and fifty-six (56) cast votes. City Manager Parker added that of the fifty-six (56) votes that were cast, fifty-two (52) votes were cast in favor of the Lufkin Police Association representing the Lufkin Police Department, and four (4) votes were cast against. City Manager Parker explained that a clear majority of the officers voted in favor of the Lufkin Police Association being the representative for "Meet and Confer" legislation. City Manager Parker stated that since "Meet and Confer" regulations did not require the City to enter into or be bound by any written agreement or negotiations, Staff recommended that Council forego the public election and recognize the Lufkin Police Association as the sole bargaining agent for the Lufkin Police Department in regard to the "Meet and Confer" negotiations with the City of Lufkin. City Manager Parker added that Staff further recommended that the City Council designate the City Manager, and/or his appointed designee(s), to serve as the exclusive bargaining agent for the City of Lufkin in regards to the "Meet and Confer" regulations on issues related to wages, rates of pay, hours of work, working conditions, and other terms and conditions of employment of Police Officers employed by the City of Lufkin. City Manager Parker added that in essence, Staff was saying that they recommended that the Council go ahead and recognize "Meet and Confer" and not go with the option of a public vote. City Manager Parker stated that one of the concerns was if the Legislature put regulations on "Meet and Confer" that would hinder the relationship, either party could "opt out" with sufficient notice. City Manager Parker explained that if the item went to a public vote, then the chance to "opt out" was not possible unless both parties agreed.

Mayor Gorden asked how far in advance the notice to "opt out" would have to be given. City Manager Parker stated that a ninety (90) day notice would be required for either party.

City Manager Parker stated that Staff recommended that Council adopt the Resolution that would adopt the "Meet and Confer" regulations.

Councilmember Don Langston stated that he made his comments at the last Council Meeting, and that his thoughts had not changed regarding the need for "Meet and Confer". Councilmember Langston added that at the same time, he also thought that what the Council distrusted about "Meet and Confer" was what the Legislature could do to the City in the future. Councilmember Langston stated that if he understood it correctly, as this grew, which they always did, the City would still have the right to go to the public with an election. City Manager Parker stated that he understood that either party could give a ninety (90) day notice to "opt out", and then the vote could then go to the public. Councilmember Langston stated that if that was correct, the better of the two (2) options for the City of Lufkin would be to consent to "Meet and Confer", but thought that it was very important to monitor the State and how the issue was approached in the future. Councilmember Langston added that if the City of Lufkin was fortunate enough to understand what was being passed, and if the issue needed to be dealt with in the future, the City could deal with it.

Mayor Gorden requested that City Attorney Bob Flournoy go on record to say that what had been previously said was valid. City Attorney Bob Flournoy stated that what had been previously stated was true, and if the City of Lufkin consented to "Meet and Confer", the current Council would be the only one (1) who could "opt out" and say they wanted to go to an election. City Attorney Flournoy stated that the Council's option was a ninety (90) day notice.

Councilmember Lynn Torres asked about the sixteen (16) officers who did not vote in the certified election. Councilmember Torres inquired if the reason that these officers did not vote was the choice to exercise their right not to vote. City Manager Parker stated that Staff could not ask why they did not vote, but that some may have been on vacation, and that Staff did not know the reasons.

Councilmember Rose Faine Boyd asked if the City Council approved "Meet and Confer", would the Council have ninety (90) days to disapprove it. City Manager Parker stated that was not correct, and that if the Council approved "Meet and Confer" and at some point in the future wanted to get out of "Meet and Confer", the Council would have the option to give a ninety (90) day notice to "opt out". City Manager Parker added that the Lufkin Police Association had the same option and then the issue could go to a public vote. City Manager Parker stated that the City would probably only "opt out" if the Legislature put in something that was harmful to the City of Lufkin. City Manager Parker added that if the City felt that strongly about it, then the City could make its case to the public if it were to go to the public vote. Mayor Gorden asked if any other action would be needed if the Council passed the Resolution. City Manager Parker stated that there would be no other action needed, but added that the Resolution appointed the City Manager and his designees as the bargaining agent for the City of Lufkin in "Meet and Confer".

Councilmember Don Langston asked what it cost the officers to become members of the Lufkin Police Association, and if the City withheld the amount out of the officer's checks. City Manager Paul Parker stated that the Lufkin Police Association did have association dues, but was unsure of the amount, and added that the City of Lufkin did assist by holding the dues out of the officer's checks. City Manager Parker stated that the officers paid monthly dues, and that those who wish to join could select the dues as a payroll deduction. Councilmember Langston asked what would happen if the numbers were to fall below a majority on those joining the Association. City Manager Parker stated that there was no quota for officers belonging to the association, but the association could request the ninety (90) day "opt out", if they chose to do so.

Councilmember Lynn Torres commented that there was also the chance that the Legislature could choose to alter the "Meet and Confer" guidelines and could alter the ninety (90) "opt out". City Manager Parker and Councilmember Langston both stated that this was a risk that the City would have to take if they chose to pass the Resolution.

Councilmember Lynn Torres moved to approve the Resolution of the City Council of the City of Lufkin, Texas, recognizing the Lufkin Police Association as the sole bargaining agent for officers of the Lufkin Police Department in regard to "Meet and Confer" regulations. Councilmember Torres added that the City was formalizing something that had always worked very well by passing the Resolution and that sometimes formalizing things changed the relationship. Councilmember Torres stated that she hoped it would not change the communication between the Police Officers and the City of Lufkin. Councilmember Rufus Duncan seconded the motion. The following vote was recorded:

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

Nay: Councilmember Don Langston

The motion to deny carried with six (6) affirmative votes.

8. INVESTMENT POLICY – APPROVED - FOR THE CITY OF LUFKIN, TEXAS AND THE LUFKIN ECONOMIC DEVELOPMENT CORPORATION

Mayor Jack Gorden stated that the next item for consideration was the Investment Policy for the City of Lufkin, Texas and the Lufkin Economic Development Corporation. Mayor Gorden added that the Investment Committee met just before the last Council Meeting and discussed these items.

City Manager Parker stated that the only suggested change to the Investment Policy was a section had been added that stated: "A letter of credit of the United States or its agencies or instrumentalities issued to LUFKIN with a value equal to or greater than 102% of the deposits, less any amount insured by the FDIC, and with an expiration date greater than the anticipated term of the deposit is also acceptable to enhance eligible depository deposits." City Manager Parker added that the old policy stated the value to be one hundred percent (100%), and the new policy would be one hundred two percent (102%), because sometimes the fluctuation was slightly over one hundred percent (100%). City Manager Parker stated that the change would bring the City of Lufkin Investment Policy up to date on the way the City was now investing.

Mayor Gorden stated that it was standard across the industry to use the one hundred two percent (102%).

Councilmember Rufus Duncan moved to approve the Investment Policy for the City of Lufkin, Texas and the Lufkin Economic Development Corporation. Councilmember Rose Faine Boyd seconded the motion. A unanimous affirmative vote was recorded.

9. **CAPITAL IMPROVEMENT PROGRAM – APPROVED - FOR THE CITY OF LUFKIN, TEXAS**

Mayor Jack Gorden stated that the next item for consideration was the Capital Improvement Program for the City of Lufkin, Texas. Mayor Gorden stated that the Council reviewed the list at the last Council Meeting, and that the list was included in the Council's packets and that the Staff had done some minor tweaking, but the list was essentially the same as the Council had previously approved.

City Manager Parker stated that the Council had recently had numerous meetings where the Capital Improvement Program had been discussed and ranked. City Manager Parker added that Staff was requesting that the Council consider adopting "Attachment A", which included the General Fund and Water and Sewer Fund. City Manager Parker stated that the Capital Improvement Program ranking was just for planning purposes, and did not obligate the City to any funding. City Manager Parker added that the Council was aware that the one (1) area that Staff would have to bring back at the first of 2009 was in the sewer area where the City had some Texas Commission on Environmental Quality (TCEQ) mandates. City Manager Parker stated that in the General Fund there was nothing that the Council was required to act on in the near future. City Manager Parker stated that during the last discussions with the Council it was decided to wait to see how the economy would do in the future before proceeding. City Manager Parker added that the Council would look at the CIP again in 2009, and that Staff felt there might be opportunities for some portions of the list and some of the small projects. City Manager Parker stated that the Council was aware that there was twenty-five percent (25%) set aside for the General Fund, and that the City had funds in excess of the twenty-five percent (25%) for the last few years. City Manager Parker added that he thought there were opportunities for some smaller projects to be considered from the excess of the twenty-five percent (25%), as the Council worked to refine the list more. City Manager Parker stated that even though the City did not issue bonds in the next year or several months for General Funds, there was still some flexibility in some of the projects. City Manager Parker stated that some of the Council had expressed their desire for the City of Lufkin to not go forward with a bond and that the adoption of the CIP did not obligate the Council in any way. City Manager Parker added that the Council did the priority ranking to allow the City to begin working on initial engineering and refining the numbers. Mayor Gorden stated that adopting the CIP did not mean that the Council could not make changes at a later time. City Manager Parker stated that each year, whenever the City of Lufkin prepared its preliminary budget agenda would be a good time for the Council look over the projects, discuss the funding cycle, and determine how the City should proceed. City Manager Parker suggested that each year, regardless of where the City stood on the funding scheme, the Council look over the Capital Improvement Projects scheduling to know. when funding became available, where the priorities of the projects would be. City Manager Parker added that there were so many factors that could change the priority listing. City Manager Parker stated that this was just a planning guide and a guide that could assist the City in the future. City Manager Parker added that there were options to do some of the smaller projects with existing funding, to some scale. City Manager Parker stated that Staff recommended that Council adopt "Attachment A", which was the modification from the Council's ranking forms, based on anticipated spending.

Councilmember Langston asked if the City was looking at these projects as a more highlighted need. City Manager Parker confirmed that was true. City Manager Parker stated that the list would primarily be the seven (7) year Capital Improvement Projects. City Manager Parker added that number five (#5) on the list, which was the restroom renovation, would be removed because it was regular maintenance and should be included in the regular General Fund Budget. City Manager Parker stated that there would actually be twenty-nine (29) projects on the General Fund list on the first page of "Attachment A", and then the Water and Sewer Fund list on the second page. Councilmember Langston asked if the City was not going to do the remainder of the projects. City Manager Parker stated that the remainder of the projects would be put on a long range plan. City Manager Parker added that there were initially forty-one (41) projects, and that eleven (11) of the projects would fall off of the list. City Manager Parker reiterated that the Council could change the list each year, re-prioritize the projects at that time, and move items in and out of the list. Mayor Gorden asked the Staff to remind the Council each year of the eleven (11) projects that had been dropped off of the list. City Manager Parker stated that if the City did not do anything with bonds, the numbers would have to be refreshed each year. Councilmember Langston stated that it was his understanding that the design would be done "in house". Assistant City Manager Wright stated that this was true on most of the projects, but some of the projects, such as the Whitehouse Street extension, would require the City to go out for the design. City Manager Parker stated that the projects that were highlighted in yellow would be done "in house", using City crews. Assistant City Manager Wright stated that the projects that had design costs adjacent to them, were the projects that Staff preliminarily planned to contract the engineering on.

Councilmember Lynn Torres moved to approve the adoption of the Capital Improvement Program for the City of Lufkin, Texas. Councilmember Don Langston seconded the motion. A unanimous affirmative vote was recorded.

10. **DISCUSSION REGARDING THE STATUS OF THE KURTH MEMORIAL LIBRARY BOARD OF TRUSTEES APPOINTMENTS**

Mayor Jack Gorden stated that the next item for consideration was a discussion regarding the status of the Kurth Memorial Library Board of Trustees appointments.

City Manager Parker stated that the City Council had an in-depth discussion regarding the relationship between the Kurth Memorial Library Board of Trustees and the City of Lufkin, at the last City Council Meeting. City Manager Parker added that some of the concerns pertained to the City policy about not appointing members to boards who lived outside the City of Lufkin's city limits. City Manager Parker stated that the Kurth Memorial Library Board of Trustees' theory was that the library not only represented the citizens of the City of Lufkin, but also represented those people in the surrounding county. City Manager Parker explained that because of the shared funding, the Library Board requested that the Council modify the policy regarding residency. City Manager Parker stated that on the day after the last City Council Meeting, representatives from the City of Lufkin met with representatives from the Kurth Memorial Library. City Manager Parker stated that the City's representatives were Council Members Medford, Torres and Boyd. City Manager Parker added that at the last City Council Meeting the Council requested that Staff put the item on the Council agenda regarding the Library Board, once again. City Manager Parker stated that there was no action required. City Manager Parker added that the City Council had a copy of a letter from Ella Kegler, President of the Kurth Memorial Library Board of Trustees, that was a result of the joint meeting. City Manager Parker explained that the letter requested that the City Council consider modifying the policy concerning the residency of the Board members. City Manager Parker then suggested that the Council Members who were present at the recent joint meeting might have comments and/or further discussion.

Mayor Jack Gorden stated that he wanted to preface the discussion by letting the citizens know that this was a "working" Council. Mayor Gorden added that there was a committee of Council Members who worked on retirement plans for the City, a committee who dealt with all of the insurance equations and issues for the City, and a committee who dealt with construction in the City. Mayor Gorden stated that he was also appreciative of the Council Members who made up the committee that was working with the Library Board. Mayor Gorden then asked the "Library Committee" to update the Council concerning the joint meeting.

Councilmember Phil Medford stated that the two (2) groups reached an area of mutual respect and discussed a number of issues, other than just the list of nominees that had been recently submitted. Councilmember Medford added that the Council Committee suggested that the Library Board President Ella Kegler submit a request that the City reconsider the policy concerning residency, which she did. Councilmember Medford added that the Council Committee assured Ms. Kegler that they could not speak for the entire City Council, but felt that if the Library Board requested the Council reconsider, the Council would more than likely put the issue on a future meeting's agenda to take action on the request. Councilmember Medford added that perhaps the City Council could consider amending the residency policy, at least for the current year. Councilmember Medford stated that the Library Board Nominating Committee submitted their nominees for the Board and that the City had not previously advised them about the residency policy. Councilmember Medford explained that in an effort to move forward and open the lines of communication in general, the Council Committee suggested the Library Committee make the request, and felt that the City Council would consider approving amending the residency policy for the Library Board, at least for the current year, to allow the Board Members to be installed in January 2009 and then hold the election of their new officers. Councilmember Medford stated that the Council Committee made some suggestions for trying to open the lines of communication, possibly have future meetings, and after the Board had been selected and officers were chosen, the two (2) groups would take a fresh look at the Agreement between the Kurth Memorial Library and the City of Lufkin. Councilmember Medford explained that the two (2) groups could discuss the Agreement and see if there were any areas that might need tweaking that could help avoid any conflicts between the City Council and the Kurth Memorial Library Board.

Councilmember Lynn Torres stated that the points of conflict had been about communication and that the two (2) groups had good discussions. Councilmember Torres added that neither group had enough members to vote on any issues, or have the final say, but both groups wanted to see the monthly meetings between the City and the Board be re-instituted, to assist the Librarian in negotiating her way through dealing with all of the groups that had some interest in the Library. Councilmember Torres stated that she sensed from the Library Committee that the other contentious issue was the decisions about who was able to use the meeting room. Councilmember Torres added that the Library Committee expressed that one (1) of the reasons to re-visit the Agreement was to have a more liberal leeway into how the building could be used. Councilmember Torres stated that she left feeling that both groups had extended the "olive branch" and that the meeting very productive.

Councilmember Rose Faine Boyd stated that the two (2) groups had a good meeting, and that the Council and the Library Board needed to look at the Agreement and make changes. Mayor Gorden asked for suggestions on the best way to move forward. Councilmember Medford stated that he did not think that the City Council should do anything at the moment. Councilmember Medford added that the Library Board should be allowed to install their new Board, select their new officers, and after the first of 2009, have committees of both groups (City Council and Library Board), sit down and bring suggestions from their respective Board or Council on areas that should be addressed. Councilmember Medford stated that the communication between the two (2) groups had become very stilted and formal and what was needed was honest and open communication in a relaxed setting. Councilmember Medford explained that if the two (2) groups could get to that point, and if there were genuine issues with the Agreement, the issues could then be addressed.

Councilmember Don Langston stated that he appreciated the Council Members who agreed to meet with the Library Committee. Councilmember Langston added that his comments on the situation was that the denial of the Board Members that were nominated was a response to the Library Board not meeting with the City Council, after being requested to do so for several months. Councilmember Langston stated that the City Council's action perhaps spurned the recent joint meeting and that he was glad that occurred. Councilmember

Langston stated that his real concern was not where the Board Members came from, and that there was a clouded understanding of how the Agreement between the City and the Library was to be utilized. Councilmember Langston added that the Agreement was used as a tool to deny, rather than a tool to cooperate. Councilmember Langston stated that it was mandatory that the Agreement be addressed and refined in a manner so that the City of Lufkin did not pay every dime of the cost to operate the Library, and then have their hands tied on how the building was used. Councilmember Langston added that the City should not take the public's money and refuse public service. Councilmember Langston stated that he was concerned that the City should move quickly in that direction. Councilmember Langston added that nominees to the Library Board were not the underlying problem. Councilmember Langston stated that the real problem was interpretation of how the facility was used and the clouded interpretation of authority that the Library Board had toward the City's employees. Councilmember Langston stated that all of those issues had been expressed prior to the Council's action on the nominees. Councilmember Langston added that the Council's action on the nominees was strictly to try to get the Library Board to come to the table to talk. Councilmember Langston stated that he was glad there was a beginning, but did not think that the two (2) groups were near an end.

Councilmember Lynn Torres stated that this was the first step, and the Council reconsidering the residency policy would prompt the Library Board to re-submit a list of nominees for the Council's approval. Councilmember Torres added that this would bring everyone back to the table and when the Library Board was in place and new officers were selected, there would be more steps to take. Councilmember Torres reiterated that this was first step suggested and was acted on that very same day, and that the Library Committee agreed that they also wanted to move forward and wanted to cooperate with the City of Lufkin. Councilmember Torres added that she thought the Council should agree to move forward and discuss at the next City Council Meeting whether or not the residency policy should be revised, and then the Library Board could submit a new list of nominees. Councilmember Torres stated that the Council should keep in mind that they had a long way to go.

Councilmember Langston stated that he wanted to request that the City Attorney sit down with the Library Board's Attorney and address the concerns, and see if there could be language resolution to those concerns. Councilmember Langston added that it was important that the Council act quickly, because the Library Board needed to be installed, but also the Council had concerns that needed to be addressed.

Councilmember Rufus Duncan suggested that the same two (2) groups (Council Committee and Library Committee), that had previously met, should meet again to keep the issues out of the "attorney league". Councilmember Langston agreed that the two (2) groups meeting was a great idea, but that he thought the attorneys would have to be present because the Agreement should be worded correctly. Councilmember Duncan agreed that the attorneys should be part of the committee or team. City Attorney Bob Flournoy agreed to work with the groups from the City and the Library.

City Manager Paul Parker asked if the intent of the group was to discuss the Agreement, as well as the residency policy. Mayor Gorden stated that Council Members Duncan and Langston seemed to suggest that the groups study all of the issues right away. Councilmember Langston stated that it was time to get it all done. Councilmember Langston added that both groups understood their differences, both agreed that there were some interpretive issues, and that there needed to be that clarification in the Agreement and move on. Councilmember Medford stated that it would be helpful to be totally objective and to stand back and say that there was a City Council, City Manager, Library Board, Board President, Library Director, and Friends of the Library, and all were injecting ideas. Councilmember Medford added that the chance for miscommunication was rather large. Councilmember Medford stated that if the meeting took place, he thought the objective would be to first identify the problems, then turn to the Agreement, and determine if the problem was the wording in the Agreement or the interpretation of the Agreement.

Councilmember R. L. Kuykendall asked if the wording of the Agreement was available to the Council to read. Councilmember Torres stated that the Agreement was in the last Council Packet. Councilmember Kuykendall stated that this was his point, and that if there were still problems with the Agreement, it should be looked at again.

Mayor Gorden stated that it sounded like a great plan and asked Council Members Torres, Medford and Boyd, along with City Attorney Bob Flournoy, to meet with the Library Committee and the Library Board's Attorney to discuss the issues once again.
City Manager Parker stated that if the Council Committee and the Library Committee were going to discuss the Agreement, he would also have to be involved in the conversations. The Council concurred with City Manager Parker.

City Attorney Flournoy stated that there were a lot of things that were not in the Agreement, such as the residency requirement. City Attorney Flournoy added that the residency policy was the City's policy, because it was the City of Lufkin taxpayers who funded the Library. City Attorney Flournoy stated that it was important to expand on the residency idea. City Attorney Flournoy asked if it would be waived for all time, or just one (1) year. City Attorney Flournoy added that if the residency policy was waived for all time, the Library could appoint someone outside the City of Lufkin city limits each time a term was up, and eventually could have every member of the Library Board living outside the city limits of Lufkin. City Attorney Flournoy added that there would need to be a lot of thought put into the process when reviewing the Agreement. Mayor Gorden agreed that many parts of the Agreement could use the same scrutiny.

Councilmember Langston stated that residency requirement did not bother him, and if the Council could get someone to come from Houston every day to sit on the Library Board and had the interest of Lufkin at heart, it would be okay with him. Councilmember Langston added that the concern was the residency policy was what finally got the two (2) groups to the table. Councilmember Langston stated that while the groups were at the table, the main issued needed to be solved. Mayor Gorden stated that he had heard it discussed that the goal was to get the Library accredited as an "Accredited Library". Councilmember Lynn Torres explained that the accreditation spoke to the age of the collection. Councilmember Torres added that a lady from the Houston Library Association came to Lufkin to do an analysis of the average age of the collection. Councilmember Torres stated that the collection must be current within a certain number of years in order to have what was deemed to be a current collection. Mayor Gorden asked the Council Committee to consider discussing with the Library Committee about a type of reporting mechanism to the Council. Councilmember Torres stated that the original Agreement stated that the Library Board would make an annual report to the City. Councilmember Torres added that there were things in the original Agreement that had been missed or were up for interpretation, and when the two (2) groups go back to the table, everything in the Agreement needed to be studied.

Councilmember R. L. Kuykendall inquired about the residency policy of the City, as it related to City Boards and Committees. Councilmember Kuykendall asked if the City that had brought up the issue concerning Board Members having to live in the city limits of the City of Lufkin, or was it the Library Board that had brought up the issue. Councilmember Kuykendall also asked why the question concerning the residency was coming up at this time, if the City had put the policy in place several years earlier.

Mayor Gorden explained that the residency policy had been in place for several years in the City of Lufkin. Mayor Gorden added that Staff had sent out information to every chairman of every committee in the City of Lufkin regarding appointments and City policies relating to those appointments. Councilmember Lynn Torres stated that the City Council had brought up the issue relating to Board Members being residents of the City of Lufkin. Councilmember Torres explained that the Council expected the Library Board to be representative of the City of Lufkin, as the Council expected of any other City Board. Councilmember Torres added that the Library did serve the county as well as the City of Lufkin and that suggestions were made to the Library Board to approach the Council with the request to modify the policy. Mayor Gorden stated that whenever the new Library was constructed was when the City began appointing members to the Library Board. Mayor Gorden added that the City of Lufkin had a financial role with Kurth Memorial Library for many years, but when the new Library was constructed, the financial role took on a major part of the City of Lufkin's budget. Mayor Gorden stated that the Agreement between the City and Library then came into play. Mayor Gorden added that because the taxpayers of Lufkin were funding the Library, they should have some type of say in the process. Councilmember Torres explained that for years, people had to resign from City Boards because they moved out of the city limits of the City of Lufkin. Councilmember Torres added that the residency requirement had been a practice and a policy of the City for a long time. Councilmember Torres stated that the Council had just recently made a concerted effort to inform the members and leaders of all of the City Boards that the residency requirement was in fact a City Policy. Councilmember Torres added that the Library Board was informed of the residency policy, but still submitted nominations for members that lived outside of the city limits of the City of Lufkin. Councilmember Torres stated that this prompted the disagreement between the City and the Library Board and was the first time that the residency policy had been challenged. Councilmember Torres added that everyone else had resigned their seats on the Planning and Zoning Commission, the Appraisal District Board, etc., when they moved out of the city limits of Lufkin.

City Manager Paul Parker stated that several committees in the City of Lufkin, such as the Planning and Zoning Commission and the 4B Economic Development Board, by Ordinance, declared that all Board Members had to be a resident of the City of Lufkin. City Manager Parker added that other Boards, such as the Library Board, Parks Board, and Construction Boards did not specifically state that the Board Members had to be a resident of the City of Lufkin. City Manager Parker stated that in the past, the Council had Board appointments scattered throughout the year. City Manager Parker added that this caused quite a bit of confusion and the Council decided to move all Board appointments to July of each year. City Manager Parker stated that whenever the Council changed the appointment dates, they also decided that everyone that served on a City Board should be a resident of the City of Lufkin. City Manager Parker stated that this was the first time that the residency policy had been challenged. City Manager Parker added that a person could make the same argument that the Library Board was making about serving people in the county. City Manager Parker stated that the Parks and Recreation Department and the Ellen Trout Zoo served people in the county also. City Manager Parker added that the Kurth Memorial Library was not a "City only" library and was open to people in the area and possibly should have representation in the county.

City Manager Parker requested that the Council Committee, that was meeting with the committee from the Library, get a letter of intent or agreement back to City Staff, with information on the major issues, such as how to open communication, information concerning the meeting rooms at the Library, and a plan to review the entire Library Agreement during the next year. Mayor Gorden stated that he agreed with City Manager Parker that Staff needed a letter of intent or agreement that identified the major issues, and would begin working toward reviewing the total Library Agreement.

11. Mayor Jack Gorden stated that there was no need for an Executive Session that evening.

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

Mayor Jack Gorden stated that the next item on the agenda was the Calendar notations from the Mayor, Council Members, and City Council. Mayor Gorden stated that Jay Glick, President/CEO of Lufkin Industries would be the speaker at First Friday and requested that the Council let City Secretary Renee Thompson if they planned to attend. Mayor Gorden reminded the Council that "A Taste of Tuscany" Fall Festival and Auction would be held on Saturday, November 15, 2008 at the Lufkin Pitser Garrison Civic Center. Mayor Gorden also reminded the Council about the City of Lufkin Employee Banquet that would be held on Tuesday, December 9, 2008 at 6:30 p.m. at the Lufkin Pitser Garrison Civic Center.

13. There being no further business for consideration, the meeting adjourned at 4:25 p.m.

Jack Gorden

Jack Gorden, Mayor

Renee Thompson

Renee Thompson – City Secretary