

**MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY
OF LUFKIN, TEXAS HELD ON THE 2nd DAY OF SEPTEMBER, 2008.**

On the 2nd day of September, 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
Bob Flourney	City Attorney
Kara Atwood	Executive Admin Assistant
Larry Brazil	Police Chief
Doug Wood	Finance Director
Barbara Thompson	Main Street Director
Steve Floyd	Solid Waste and Recycling Director
Sue Randleman	Library Director
Chuck Walker	City Engineer
Dorothy Wilson	Planning Director
Bill Cameron	City Webmaster

being present, and

Renee Thompson

City Secretary

being absent, when the following business was transacted:

1. The meeting was opened with prayer by Pastor Jeff Robinson, Southside Baptist Church. Mayor Gorden then expressed his thanks and appreciation to Pastor Robinson and his church for their role in housing evacuees during the Hurricane Gustav event. Mayor Gorden then thanked all those who participated in the event. Pastor Robinson stated that everything went very smoothly. Mayor Gorden stated that both Senator John Cornyn and State Representative Louie Gohmert had expressed that the City of Lufkin was to be commended for their efforts during the event. City Manager Paul Parker recognized all staff that was involved and commended Assistant City Manager Keith Wright, the City's Emergency Management Coordinator, for a job well done. City Manager Parker stated that only ninety-five (95) evacuees were still being housed in Lufkin. City Manager Parker stated that City employees had worked numerous hours during the holiday weekend.
2. Mayor Jack Gorden welcomed visitors present. Councilmember Lynn Torres stated that there were no LISD students present at the meeting. Mayor Gorden then wished City Manager Paul Parker Happy Birthday.

3. APPROVAL OF MINUTES

Minutes of the Regular Meeting of August 19, 2008 and August 26, 2008 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 APPROPRIATIONS ORDINANCE ADOPTING A BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2008, AND ENDING SEPTEMBER 30, 2009 - APPROVED**

Mayor Jack Gorden stated that the next item for consideration was the Second Reading of an Appropriations Ordinance adopting a Budget for the Fiscal Year beginning October 1, 2008, and ending September 30, 2009.

City Manager Parker stated that this was the Second Reading of the Ordinance to adopt the budget and that the proposed property tax rate for the fiscal year 2008-2009 would remain the same at 0.5554 per hundred dollar valuation. City Manager Parker continued that through the efforts of City Staff there would also be no increase in water, sewer, or solid waste rates this year. City Manager Parker stated that fuel costs had significantly increased, but the City's budget was in good shape and recommended approval.

Mayor Gorden clarified that this was the Second Reading of the Ordinance and asked for any comments.

City Manager Paul Parker stated that Tino Villasana, a representative of the Firemen's Pension Retirement Board, was present to address Council in regard to retirement benefits. Mayor Jack Gorden then asked for Mr. Villasana to approach the podium and turned the floor over to him. Mr. Villasana thanked the Mayor and Council for the opportunity to speak and stated he represented the Lufkin Fire Department Relief and Retirement Fund, and introduced the other board members in attendance including Lufkin Firefighters Randy Moody and Cody Sewell; the citizen members of the board, Danny Roper and Scott McIlveene; Councilmember Rufus Duncan and City Manager Paul Parker. Mr. Villasana continued that Council should have been provided the information that he would be addressing, and that the purpose of his comments was to convey to the City Council that it was the Board's fiduciary duty to inform Council of the status of the Fund, and that currently it was underfunded. Mr. Villasana then read a copy of his previous letter that was presented to Council. Mr. Villasana stated that the purpose of the correspondence was to fulfill the board's fiduciary duty, and that the Lufkin Fire Department Relief and Retirement Fund was currently underfunded and that an amortization of infinity was in place. Mr. Villasana continued that in an attempt to rectify this situation, members of the fund contacted City officials to notify them of unequal retirement contributions to the Fire Department Fund in comparison to all other city employees, and that this meeting took place in the City Manager's office in May of 1999. Mr. Villasana furthered that a constitutional amendment assuring fund solvency passed with the City's blessing in March of 2004, and that reductions in benefits and an increase in contributions, by both the body and the City, had moved the Fund in the right direction; but that stopping now only negated much of the completed work. Mr. Villasana stated that the actuarial report of 2006 showed the need for additional funds from both the City and the Fire Department employees to help bring the fund to an acceptable amortization, and that the annual audit, performed this year, supported the actuary. Mr. Villasana continued that the Fund was looking for the remainder of the matching and employee funds which would bring the Fund to the same level that all other City employees receive. Mr. Villasana furthered that presently City employees contribute 13.2 % into their Retirement fund and the City contributes 20.2% for a total of 33.4%; whereas Fire Department employees contribute 12.2% and the City contributes 17% for a total of 29.2%. Mr. Villasana continued that this was a difference of one percent (1%) contribution from the employees and 3.2% difference in City contributions for a total difference in contributions of 4.2%. Mr. Villasana stated that the Fund needed these contributions to help meet these amortization objectives and that other reductions in benefits were scheduled for study with the next actuary to be performed at the conclusion of 2008. Mr. Villasana continued that therefore, he was requesting an increase in matching funds of 3.2% from the City and increase of one percent (1%) in contributions from the body of Fire employees which would bring parity with all other City employees regarding retirement contributions. Mr. Villasana stated that other documents, included in the information presented, were letters from the retirement company Horizons, that stressed the need for the increase in contributions, pages from the Actuarial study report, and a letter from the auditor of the Fund, Alexander, Lankford and Hiers, which reinforced the suggestion from the Actuary.

Mayor Jack Gorden then asked for comments or questions from the Council and expressed appreciation for the information presented from Mr. Villasana. Mayor Gorden continued that he wanted to stress to the public that the Lufkin Fire Department is the City of Lufkin's Fire Department, and that the City was very proud of the Department, and that regardless of the

fund balance in the Fund, the City ensured that the retirement plan would work, and that the City had the legal obligation to do so. Mayor Gorden continued that even though the Fund balance may not be what the Actuarial stated it needed to be, there would not be a shortfall in any benefits and that the issue did need to be addressed; however, there were several other factors in the scenario that Mr. Villasana did not address. Mr. Villasana stated that it was a complex issue. Mayor Gorden then commended the Fire Department and the Board for spending the time to deal with the Fund and stated that the Fund was in a lot better shape than it previously had been, and that this was through a joint effort of the Board, the Fire Department and the City. Mr. Villasana then thanked the Mayor for being allowed to speak.

Mayor Gorden then entertained a motion on the Second Reading of the Ordinance.

Councilmember Rufus Duncan moved to approve the Second Reading of the Appropriations Ordinance adopting a Budget for the Fiscal Year beginning October 1, 2008, and ending September 30, 2009. Councilmember Phil Medford seconded the motion. A unanimous affirmative vote was recorded.

5. SECOND READING OF AN ORDINANCE LEVYING TAXES FOR THE USE AND SUPPORT OF THE MUNICIPAL GOVERNMENT OF THE CITY OF LUFKIN - APPROVED - AND PROVIDING FOR THE DEBT SERVICE FUND FOR THE FISCAL YEAR 2009 AND APPORTIONING EACH LEVY FOR THE SPECIFIC PURPOSE

Mayor Jack Gorden stated that the next item for consideration was a Second Reading of an Ordinance levying taxes for the use and support of the Municipal Government of the City of Lufkin and providing for the Debt Service Fund for the fiscal year 2009 and apportioning each levy for the specific purpose.

City Manager Paul Parker stated this item simply adopted the tax rate of \$0.5554, and even though the rate would remain the same, due to this generating more revenue, specific language must be used as required by State Law.

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

Councilmember Rose Faine Boyd stated that she moved that property taxes be increased by the adoption of a tax rate \$0.5554 and to approve the Second Reading of the Ordinance levying taxes for the use and support of the Municipal Government of the City of Lufkin and providing for the Debt Service Fund for the fiscal year 2009 and apportioning each levy for the specific purpose. Councilmember Lynn Torres seconded the motion. A unanimous affirmative vote was recorded.

NEW BUSINESS:

6. PUBLIC HEARING AND FIRST READING OF AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF LUFKIN, TEXAS, - DENIED - BY CHANGING THE ZONING DESIGNATION AND AMENDING THE FUTURE LAND USE PLAN DESIGNATION OF A CERTAIN TRACT OR PARCEL OF LAND WITHIN THE CORPORATE LIMITS OF THE CITY OF LUFKIN, TEXAS DESCRIBED AS 4.4 ACRES IN THE J. M. SHARP SURVEY, ABSTRACT 573, KNOWN AS 2208 BRENTWOOD DRIVE, FROM THE ZONING CLASSIFICATION OF "RESIDENTIAL LARGE SINGLE FAMILY DWELLING" TO A "LOCAL BUSINESS ZONING DISTRICT" AND AMENDING THE FUTURE LAND USE PLAN DESIGNATION FROM "OFFICE/MIXED" USE TO "COMMERCIAL" AND AUTHORIZING THE CITY PLANNER TO MAKE SUCH CHANGES ON THE OFFICIAL MAPS

Mayor Jack Gorden stated that the next item for consideration was to conduct a Public Hearing and First Reading of an Ordinance amending the Zoning Ordinance of the City of Lufkin, Texas, by changing the zoning designation and amending the Future Land Use Plan designation of a certain tract or parcel of land within the corporate limits of the City of Lufkin, Texas described as 4.4 acres in the J. M. Sharp Survey, Abstract 573, known as 2208 Brentwood Drive, from the zoning classification of "Residential Large Single Family Dwelling" to a "Local Business Zoning District" and amending the Future Land Use Plan

designation from “Office/Mixed” use to “Commercial” and authorizing the City Planner to make such changes on the official maps.

City Manager Paul Parker stated that this was a request by Mrs. Marcellie Pauling, owner, to change the zoning classification from “Residential Large Single-Family Dwelling” to a “Local Business” designation on property located on Brentwood Drive, and that the intended use of the property was currently unknown, although the applicant stated the intent was to increase the value of the property. City Manager Parker continued that properties to the south of the applicant were characterized as single family residential homes on large parcels of land and that to the north were vacant lots and retail developments. City Manager Parker furthered that land east of the applicant was vacant and the property to the west of the applicant was being developed with storage units. City Manager Parker continued that the applicant’s property was suited to a “Local Business” zoning designation, due to the proximity of the area to the high traffic, and business uses on Highway 59 South and the north end of Brentwood Drive. City Manager Parker furthered that the Future Land Use Plan classified the applicant’s lot as “Office/Mixed Use” and that the properties located to the west and north had a Future Land Use designation of “Retail”, with land east being designated as “Low Density Residential”. City Manager Parker stated that the Planning and Zoning Commission and Planning Staff both recommended approval of the proposed zone change to “Local Business” and the Future Land Use change to “Commercial”.

Mayor Gorden then asked Planning Director Dorothy Wilson to clarify whether this request, since opposition had been made, would require a three-fourths (3/4) majority vote to be approved. Ms. Wilson stated that only two (2) requests for denial were received from the neighborhood and the vote for approval from the Planning and Zoning Commission was unanimous, so it did not require the super majority vote. Mayor Gorden then asked for questions or comments on the request. Councilmember Don Langston stated he had some questions and that he had looked at the property. Councilmember Langston questioned whether or not the property was located across from the undeveloped Sabine Investments property and added that it appeared to be on the map. Ms. Wilson stated that she did not know the location well enough to be certain. Councilmember Langston stated that knowing the location was important to making a decision. Councilmember Langston added that one had to know where to draw the line for a buffer between commercial designations and the very expensive homes that were located next to the property. Councilmember Langston stated that there was also a very large piece of property across the street, and that the owner objected to the request, due to it already being zoned “Residential” and that this was the owner’s future intent. Councilmember Langston questioned again where the buffer began, that protected residences already located around commercial businesses. Councilmember Langston added that natural encroachment would occur due to there being older, established residences in an area that was going through a transition. Councilmember Langston stated that the area was still not completely developed, and that the owner of the largest piece of property objected to the request. Assistant City Manager Wright confirmed that the large piece of property was owned by Sabine Investments. Councilmember Langston stated that Sabine Investments had fifty plus (50+) acres in the parcel, and may also request a zone change for the property. Councilmember Langston added that they currently objected to the proposed zone change, as well as the owner of the adjacent property, Dr. Jordan. Ms. Wilson stated that she knew the large parcel was zoned “Commercial”, but did not know about properties further down Brentwood Drive. Councilmember Langston asked whether it was indeed zoned “Commercial”; Councilmember Lynn Torres clarified that it was zoned “Retail”. Ms. Wilson explained that the current zoning was “Commercial” and the Future Land Use designation was “Retail”. Councilmember Langston asked whether the owner, Sabine Investments, had to apply for a zone change to develop the property as residential use. Ms. Wilson stated that a zone change would be necessary. Councilmember Langston continued that his concern was that the subject property was bordered on three (3) sides by property that was residential, and questioned whether there was a procedure to create a buffer zone between the residential areas. Councilmember Langston asked what the thought process was, because at that time he would not vote to approve the zone change. Ms. Wilson stated that when she made her recommendation she looked at the traffic patterns, the recommendations of the comprehensive plan, types of uses that were currently in the area, and projected transportation route changes. Ms. Wilson continued that her recommendation was in part due to the proposed Tulane Drive extension, which placed the subject property between two (2) roadways. Ms. Wilson furthered that due to an existing drainage issue, she didn’t foresee the large parcel of property across the street being developed into a residential

area. Ms. Wilson continued that her recommendation was also due to the subject property being bordered on the west side by a street that serviced mainly commercial areas, including Academy, along with the property's proximity to power lines and Highway 59 South, and that "Local Business" seemed an appropriate zoning for the property to act as a transition zoning to the "Commercial" zoning designations located further south. Councilmember Langston questioned again where the buffer would be between the zones. Ms. Wilson explained that there was not a transitional zoning designation that was scaled from low intensity commercial to high intensity commercial zoning, except for "Local Business" zoning designation, so a decision had to be made. Ms. Wilson furthered that she did not anticipate large residences being developed in the immediate area or further south of the area, but that it was a judgment call for the Council, and it appeared to her that the zone change could work in the area. Councilmember Langston stated that he could only view the area as being residential, even after driving around the area and looking at the map. Councilmember Langston continued that there was a highline and a rather substantial transmission line, which cut the subject property in half, and made the development difficult for any use. Councilmember Langston expressed that he was concerned that there was no manner for a transitional use, but even more concerned that Staff had not taken an adequate field look at the properties and the direction the properties were headed, and still made a recommendation. Councilmember Langston then questioned whether the Tulane Drive extension was something the City was looking to complete in the near future. Assistant City Manager Wright stated that the Tulane Drive extension was included in the Comprehensive Plan as a possible street extension, should development drive the need for the extension. Councilmember Langston questioned where the extension would come out. Assistant City Manager Wright stated that it fed out by the back entrance of Crown Colony. Councilmember Langston stated that there were already a number of large residences in the area and asked if the location of the residences would change the proposed route of the Tulane Drive extension. Assistant City Manager Wright stated that it could change the alignment, but when looking back at the comprehensive plan in regard to new streets, etc., one had to consider that none of the ideas were set in stone. Councilmember Langston questioned again whether the Tulane Drive project was in the City's long range plan. Assistant City Manager Wright stated it was not projected to be completed with City funding. Councilmember Langston stated that the effect of the extension in regard to the request, could then be a dead issue. Councilmember Phil Medford stated that he was in absolute agreement with Councilmember Langston, in regard to there being no buffer between commercial and residential properties, and that it was disconcerting that the reason listed on the application was to attract buyers. Councilmember Medford continued that in all fairness to the neighboring property owners, the area should stay residential, but if there was a proposed use, that maybe the neighborhood might feel more comfortable with the zone change. Councilmember Medford added that however, the property could become anything allowed under the zoning designation in the future, and not just what was proposed now. Councilmember Medford furthered that should the proposed use be compatible with the neighborhood, he could justify the zone change, but the neighboring property owners would probably be comfortable with a zone that would be sort of a buffer. Councilmember Medford stated that it was a tough call and that he agreed with Ms. Wilson that the area was not prime residential property, but at the same time having an unknown use was not a good idea. Councilmember Duncan stated that some of these battles were fought when the Comprehensive Plan was created, by designating this zone acceptable all the way to Champions Drive. Councilmember Duncan added that in a way, a signal had already been sent to the owner of the property that it was acceptable, and that the existing homeowners must not have followed along when the Comprehensive Plan was updated in 2001, because in some manner the area was designated for this. Councilmember Langston stated that this was a fair assessment, but mentioned that the Comprehensive Plan was created with blinders, due to some of the area already being developed with high end residences. Mayor Gorden asked whether the property across the street was meant to be residential. Councilmember Langston answered that the only work, as far as platting that had been done, was residential on the Brentwood side; but that the Highway 59 side may be used for retail. Councilmember Langston stated that the only plan he was aware of for the property was for residential, that the owners opposed the zone change request, and he could see why, due to the effect it had on residential development. Councilmember Langston stated that his main concern was the lack of methodology for drawing the line between residential and commercial zoning, and in this case the need was evident. Mayor Jack Gorden asked how a buffer would be placed, should the property owner of the large parcel across the street develop part as residential and part as retail. Councilmember Langston stated that this was a good question, that there were

natural buffers, such as creeks, but it was zoned in a manner that the owner could take that risk should they choose. Mayor Gorden commented that he did not know what State law stated; but that he had always questioned rezoning property without a specific use, and that he was respectful of property owner's rights, but the intended use would be helpful when making a decision. Ms. Wilson stated that the property to the west was currently zoned "Commercial", but the long range plan was "Retail". Mayor Gorden questioned if this was the property across the street. Ms. Wilson answered that it was. Mayor Gorden then asked for clarification if the owners intended to develop this as a residential area. Councilmember Langston stated that the owners objected to the zone change request and that they planned for a residential use, but what bothered him was the depth that this zone change would impact the residential area, and that it would be separated from the high-traffic corner. Councilmember Langston added that he did not see Brentwood Drive trending in a "Commercial" or "Local Business" direction, nor did he foresee the existing high end homes becoming offices as indicated on the long range plan. Councilmember Langston continued that at some point the long range plan needed to be reconsidered due to changes, etc. Mayor Jack Gorden stated that he agreed, and asked if there were no specific intent for the request, would it be sensible to think about the issue further or go ahead with a vote on the matter. Councilmember Torres questioned Ms. Wilson as to whether everything, up to the subject property, was already "Local Business". Ms. Wilson stated that all properties to the east were "Local Business" and properties to the west were "Commercial". Ms. Wilson stated that the City did not have an "Office/Mixed Use". Councilmember Torres questioned whether all were changed at once, or property by property. Ms. Wilson stated that she was not here at the time they were rezoned, but that Ms. Pauling, the applicant, was under the impression that at some time in the past her property was already zoned "Local Business". Ms. Wilson added that finding out it wasn't, she wanted to make the change to "Commercial", but that Staff recommended she apply to be rezoned as "Local Business" to match the zoning of adjacent property.

Mayor Gorden opened the Public Hearing at 5:30 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 5:31 p.m.

Mayor Jack Gorden then asked for comments or questions from the Council. Councilmember Langston stated that he would have to deny the request, based on the lack of information as to what the end use of the property would be, and due to it abutting a residential area, even though he realized it was not proper reason for denial. Councilmember Langston stated that it was important that Staff encourage zone change applicants to indicate a end use for property, rather than an indiscriminate use.

Councilmember Don Langston moved to deny the First Reading of the Ordinance amending the Zoning Ordinance of the City of Lufkin, Texas, by changing the zoning designation and amending the Future Land Use Plan designation of a certain tract or parcel of land within the corporate limits of the City of Lufkin, Texas described as 4.4 acres in the J. M. Sharp Survey, Abstract 573, known as 2208 Brentwood Drive, from the zoning classification of "Residential Large Single Family Dwelling" to a "Local Business Zoning District" and amending the Future Land Use Plan designation from "Office/Mixed" use to "Commercial" and authorizing the City Planner to make such changes on the official maps. Councilmember Phil Medford seconded the motion. The following vote was recorded:

Aye: Mayor Jack Gorden, Council Members Rufus Duncan, Phil Medford, Don Langston and Rose Faine Boyd

Nay: Council Members Lynn Torres and R.L. Kuykendall

The motion to deny carried with five (5) affirmative votes.

7. **PUBLIC HEARING AND FIRST READING AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF LUFKIN, TEXAS, BY CHANGING THE ZONING DESIGNATION AND AMENDING THE FUTURE LAND USE PLAN DESIGNATION OF A CERTAIN TRACT OR PARCEL OF LAND WITHIN THE CORPORATE LIMITS OF THE CITY OF LUFKIN, TEXAS, - APPROVED - DESCRIBED AS BLOCK 7, LOT 2 OF THE TANGLEBRIAR ADDITION, LOCATED ON THE CORNER OF COPELAND AND LOOP 287, KNOWN AS 1401**

SOUTH JOHN REDDITT, FROM THE ZONING CLASSIFICATION OF “RESIDENTIAL LARGE SINGLE FAMILY DWELLING” TO A “LOCAL BUSINESS ZONING DISTRICT” AND AMENDING THE FUTURE LAND USE PLAN DESIGNATION FROM “OFFICE/MIXED” USE TO “RETAIL” AND AUTHORIZING THE CITY PLANNER TO MAKE SUCH CHANGES ON THE OFFICIAL MAPS

Mayor Jack Gorden stated that the next item for consideration was to conduct a Public Hearing and First Reading of an Ordinance amending the Zoning Ordinance of the City of Lufkin, Texas, by changing the zoning designation and amending the Future Land Use Plan designation of a certain tract or parcel of land within the corporate limits of the City of Lufkin, Texas, described as Block 7, Lot 2 of the Tanglebriar Addition, located on the corner of Copeland and Loop 287, known as 1401 South John Redditt, from the zoning classification of “Residential Large Single Family Dwelling” to a “Local Business Zoning District” and amending the Future Land Use Plan designation from “Office/Mixed” use to “Retail” and authorizing the City Planner to make such changes on the official maps.

City Manager Paul Parker stated Mr. John P. Winston III, had requested a zone change from “Residential Large Single Family Dwelling” to “Local Business” on property located on Copeland Drive and Loop 287, in order to operate a gift shop. City Manager Parker continued that properties to the north and south of the applicant were small businesses and single family homes, and properties to the west, located across Loop 287, were offices and small businesses. City Manager Parker furthered that the Future Land Use classification was “Office/Mixed Use” and the properties located to the east had a designation of “Residential”. City Manager Parker explained that “Retail” was an appropriate category for the property since it abutted a high traffic street and was located near numerous businesses. Both the Planning Staff and Planning Commission recommended approval of the proposed zone change to “Local Business” and the Future Land Use Map change to “Retail”.

Mayor Gorden opened the Public Hearing at 5:45 p.m. and asked anyone who wished to speak on the item to please step forward. Mr. Mike Parker, representing the applicant approached the podium and stated he was available for any questions the Council had regarding the request. There appearing to be no one else wishing to speak, Mayor Gorden closed the Public Hearing at 5:47 p.m.

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

Councilmember Rufus Duncan moved to approve the First Reading of the Ordinance amending the Zoning Ordinance of the City of Lufkin, Texas, by changing the zoning designation and amending the Future Land Use Plan designation of a certain tract or parcel of land within the corporate limits of the City of Lufkin, Texas, described as Block 7, Lot 2 of the Tanglebriar Addition, located on the corner of Copeland and Loop 287, known as 1401 South John Redditt, from the zoning classification of “Residential Large Single Family Dwelling” to a “Local Business Zoning District” and amending the Future Land Use Plan designation from “Office/Mixed” use to “Retail” and authorizing the City Planner to make such changes on the official maps. Councilmember Don Langston seconded the motion. A unanimous vote was recorded.

8. **PUBLIC HEARING AND FIRST READING OF AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF LUFKIN, TEXAS, BY CHANGING THE ZONING DESIGNATION AND AMENDING THE FUTURE LAND USE PLAN DESIGNATION OF A CERTAIN TRACT OR PARCEL OF LAND WITHIN THE CORPORATE LIMITS OF THE CITY OF LUFKIN, TEXAS, - APPROVED - DESCRIBED AS BLOCK 1, LOT 2 OF THE GRANT AVENUE ADDITION #2, LOCATED AT 1009 GRANT AVENUE FROM THE ZONING CLASSIFICATION OF “LOCAL BUSINESS” TO A “COMMERCIAL ZONING DISTRICT” AND AMENDING THE FUTURE LAND USE PLAN DESIGNATION FROM “LOW DENSITY RESIDENTIAL” TO “COMMERCIAL” AND AUTHORIZING THE CITY PLANNER TO MAKE SUCH CHANGES ON THE OFFICIAL MAPS**

Mayor Jack Gorden stated that the next item for consideration was to conduct a Public Hearing and First Reading of an Ordinance amending the Zoning Ordinance of the City of Lufkin, Texas, by changing the zoning designation and amending the Future Land Use Plan

designation of a certain tract or parcel of land within the corporate limits of the City of Lufkin, Texas, described as Block 1, Lot 2 of the Grant Avenue Addition #2, located at 1009 Grant Avenue from the zoning classification of “Local Business” to a “Commercial Zoning District” and amending the Future Land Use Plan designation from “Low Density Residential” to “Commercial” and authorizing the City Planner to make such changes on the official maps.

City Manager Paul Parker stated Mr. Christopher Perry, applicant, and Mrs. Elsie Maddux, owner, requested a change of zoning from “Local Business” to a “Commercial” zoning classification for property located at 1009 Grant Avenue, and that the intent of the applicant was to use the property as a roofing business. City Manager Parker continued that the properties to the north, south, and east of the applicant were characterized as single family residential homes and that properties to the west were commercial lots and retail developments. City Manager Parker furthered that there were two (2) large metal buildings, originally permitted to be used as an auto repair shop, and that the applicant was recently informed by the City that the use of the property as a roofing business did not presently fall under the zoning classification. City Manager Parker stated the applicant requested the zone change to bring the property into compliance and was not aware of the zoning restriction. The Future Land Use Plan classified the applicant’s lot as “Low Density Residential”, however the Planning Commission and Planning Staff recommended approval of the proposed zone change and the Change in the Future Land Use Plan designation.

Mayor Gorden opened the Public Hearing at 5:50 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 5:51 p.m.

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

Councilmember Langston stated he was confused by the map, due to the surrounding properties appearing to be zoned the same and asked for clarification from Planning Director Dorothy Wilson. Ms. Wilson stated that the coloring of the map was off, which was causing the confusion. Mayor Gorden commented that the aerial photo, included in the information, helped to see the location. Ms. Wilson stated that the photo was included to clarify that the surrounding properties were vacant. Mayor Gorden asked that the photos be included with future zoning requests. Mayor Gorden asked if the reason for the request was to be aligned with the zoning of surrounding properties. Ms. Wilson stated that previously, the buildings had been used as auto repair, which was allowed under ‘Local Business’, but presently the applicant used the building as a roofing business. Ms. Wilson added that when the applicant applied for financing, it was discovered the roofing business was not allowed and thus the request for the change was submitted. Councilmember Medford asked whether any complaints had been received concerning the property, or the operation of the roofing business. Ms. Wilson replied that there had been no complaints and that during her visits to the property, she had seen no activity.

Councilmember Lynn Torres moved to approve the First Reading of the Ordinance amending the Zoning Ordinance of the City of Lufkin, Texas, by changing the zoning designation and amending the Future Land Use Plan designation of a certain tract or parcel of land within the corporate limits of the City of Lufkin, Texas, described as Block 1, Lot 2 of the Grant Avenue Addition #2, located at 1009 Grant Avenue from the zoning classification of “Local Business” to a “Commercial Zoning District” and amending the Future Land Use Plan designation from “Low Density Residential” to “Commercial” and authorizing the City Planner to make such changes on the official maps. Councilmember Rose Faine Boyd seconded the motion. A unanimous affirmative vote was recorded.

9. PUBLIC HEARING AND FIRST READING OF AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF LUFKIN, TEXAS, - DENIED - BY CHANGING THE ZONING DESIGNATION AND AMENDING THE FUTURE LAND USE PLAN DESIGNATION OF A CERTAIN TRACT OR PARCEL OF LAND WITHIN THE CORPORATE LIMITS OF THE CITY OF LUFKIN, TEXAS, DESCRIBED AS A 10.733 ACRE PORTION OF THE CLARK ESTATES SUBDIVISION FROM THE ZONING CLASSIFICATION OF “AGRICULTURAL” TO A “COMMERCIAL ZONING DISTRICT” AND AMENDING THE FUTURE LAND USE PLAN DESIGNATION FROM “AGRICULTURAL” TO

“COMMERCIAL” AND AUTHORIZING THE CITY PLANNER TO MAKE SUCH CHANGES ON THE OFFICIAL MAPS

Mayor Jack Gorden stated that the next item for consideration was to conduct a Public Hearing and First Reading of an Ordinance amending the Zoning Ordinance of the City of Lufkin, Texas, by changing the zoning designation and amending the Future Land Use Plan designation of a certain tract or parcel of land within the corporate limits of the City of Lufkin, Texas, described as a 10.733 acre portion of the Clark Estates Subdivision from the zoning classification of “Agricultural” to a “Commercial Zoning District” and amending the Future Land Use Plan designation from “Agricultural” to “Commercial” and authorizing the City Planner to make such changes on the official maps.

City Manager Paul Parker stated that the initial application was made by Mr. Thomas Deaton, representing AKJ Properties, who requested a change of zoning from “Agricultural District” to a “Commercial” zoning classification on properties located on US Highway 59 South and FM 324. City Manager Parker added that the intent of the application was uncertain. City Manager Parker continued that the subject area was 10.733 acres and comprised of three (3) lots, with one (1) existing home on the interior lot. City Manager Parker stated that the lot that fronted on Highway 59 South and the interior lot were approximately equal in size, with the lot farthest from the Highway being roughly double in size of the other two (2) lots combined. City Manager Parker furthered that the applicant had previously indicated that he planned to convert the existing home into an office and that the property had recently been used for a business, which was possibly considered a “Trade Days” event. City Manager Parker stated that the owner was notified by the City of Lufkin Code Enforcement Office that the use was not permitted in an “Agricultural” zone. City Manager Parker then stated that properties to the south of the applicant were largely undeveloped with the general area surrounding the subject area being characterized as single family residential homes. City Manager Parker added that this was with the exception of the properties that fronted on Highway 59 South and that to the north, (on Highway 59 South), there was a commercial fireworks business, Lufkin Power Sports and a self-storage facility. City Manager Parker explained that the applicant’s property that fronted on US Highway 59 South may be suited to a “Commercial” zoning designation, due to the proximity of the lots to the high traffic and commercial uses on US Highway 59 South. City Manager Parker furthered that the Planning Department recommended that only the applicant’s land that fronted Highway 59 South be changed on the Future Land Use Plan to “Commercial” and that the two (2) interior lots remain “Agricultural” and that only the lots that fronted the highway be rezoned “Commercial”. City Manager Parker continued that on August 11, 2008, the Planning and Zoning Commission considered this request and several adjoining residents spoke in opposition of the request. City Manager Parker added that the Planning Commission unanimously recommended to the Council that this request be disapproved. City Manager Parker also reminded Council that due to the unanimous disapproval by the Planning Commission, a super majority vote, or three-fourths (3/4) majority would be required by Council for approval.

Mayor Gorden opened the Public Hearing at 5:55 p.m. and asked anyone who wished to speak on the item to please step forward. Mr. David Paulette approached the podium and stated that he opposed the request. Mr. Gerald Crump then approached the podium and stated that he too opposed the request. There appearing to be no one else who wished to speak, Mayor Gorden closed the Public Hearing at 6:00 p.m.

Mayor Jack Gorden then asked for comments or questions from the Council. Councilmember Rose Faine Boyd questioned whether the property was located next to the recently annexed area that contained the fireworks stand that was given the five (5) year restriction. Councilmember Medford answered that it was and that the property was south of the area. Councilmember Langston commended the Planning and Zoning Commission for their decision, based on the lay of the land and the fact that it would encroach severely into an existing residential area. Councilmember Langston added that if the applicant had talked about a portion instead of the entire property, it would have made more sense and been more conforming.

Councilmember Phil Medford moved to deny the First Reading of an Ordinance amending the Zoning Ordinance of the City of Lufkin, Texas, by changing the zoning designation and amending the Future Land Use Plan designation of a certain tract or parcel of land within the

corporate limits of the City of Lufkin, Texas, described as a 10.733 acre portion of the Clark Estates Subdivision from the zoning classification of "Agricultural" to a "Commercial Zoning District" and amending the Future Land Use Plan designation from "Agricultural" to "Commercial" and authorizing the City Planner to make such changes on the official maps. Councilmember Lynn Torres seconded the motion. A unanimous affirmative vote to deny the request was recorded.

10. RESOLUTION FOR THE CITY OF LUFKIN, TEXAS ELECTING TO BE EXEMPT FOR THE PLAN YEAR BEGINNING OCTOBER 1, 2008 THROUGH SEPTEMBER 30, 2009 – APPROVED - FROM THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996.

Mayor Jack Gorden stated that the next item on the agenda was the consideration of a Resolution for the City of Lufkin, Texas electing to be exempt for the plan year beginning October 1, 2008 through September 30, 2009 from the Health Insurance Portability and Accountability Act of 1996.

City Manager Paul Parker stated that in the past, the City of Lufkin had chosen to exempt itself from the requirements imposed by HIPAA and had chosen to form it's health plan to provide quality benefits to employees without complying with HIPAA.

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

Councilmember Rose Faine Boyd moved to approve the Resolution for the City of Lufkin, Texas electing to be exempt for the plan year beginning October 1, 2008 through September 30, 2009 from the Health Insurance Portability and Accountability Act of 1996. Councilmember Don Langston seconded the motion. A unanimous affirmative vote was recorded.

11. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LUFKIN, TEXAS, AUTHORIZING THE SUBMISSION OF A TEXAS COMMUNITY DEVELOPMENT PROGRAM APPLICATION TO THE OFFICE OF RURAL COMMUNITY AFFAIRS FOR THE COMMUNITY DEVELOPMENT FUND; - APPROVED - AND AUTHORIZING THE MAYOR TO ACT AS THE CITY'S EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE COMMUNITY DEVELOPMENT PROGRAM.

Mayor Jack Gorden stated that the next item for consideration was a Resolution of the City Council of the City of Lufkin, Texas, authorizing the submission of a Texas Community Development Program application to the Office of Rural Community Affairs for the Community Development Fund; and authorizing the Mayor to act as the City's Executive Officer and authorized representative in all matters pertaining to the City's participation in the Community Development Program.

City Manager Paul Parker stated that once again City Staff was seeking permission to apply for a grant in the amount of two hundred fifty thousand dollars (\$250,000) with no match required by the City. City Manager Parker explained that the grant was for sewer line improvements in the North Lufkin area, off Forest Park Boulevard, which would consist of approximately five thousand seven hundred twenty (5,720) linear feet of six inch (6") clay tile line to be replaced and nineteen (19) brick manholes that would be replaced. Councilmember Langston questioned whether this grant would cover the entire cost of the project. City Manager Parker stated that the preliminary cost estimates indicated it would.

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

Councilmember Rose Faine Boyd moved to approve the Resolution of the City Council of the City of Lufkin, Texas, authorizing the submission of a Texas Community Development Program application to the Office of Rural Community Affairs for the Community Development Fund; and authorizing the Mayor to act as the City's Executive Officer and authorized representative in all matters pertaining to the City's participation in the Community Development Program. Councilmember Don Langston seconded the motion. A unanimous affirmative vote was recorded.

12. AWARD OF BID FOR FUEL FOR ON THE ROAD VEHICLES TO POLK OIL COMPANY – APPROVED.

Mayor Jack Gorden stated that the next item for consideration was to authorize the award of a bid for the purchase of fuel for on the road vehicles to Polk Oil Company.

City Manager Paul Parker stated that recently the City of Lufkin had received annual bids for the purchase of fuel and the City received one (1) bid from Polk Oil Company. City Manager Parker added that the bids were taken by the amount of cost over rack price of the fuel minus federal taxes. City Manager Parker clarified the bid amounts and stated that the difference in the current bid amounts from previous bid amounts received in August 2006 was a 1.3 cent increase in unleaded fuel and a 1.52 cent increase in diesel above rack price. City Manager Parker continued that the previous bid for unleaded fuel in 2006 was 7.42 cents above rack, and that the current bid was 8.72 cents above rack. City Manager Parker added that the previous bid for diesel in 2006 was 8.20 cents and the current bid was 9.72 cents and that the increases were due to transportation costs, per the bidder. City Manager Parker recommended that Council approve the bid.

Mayor Jack Gorden then asked for comments or questions from the Council. Councilmember Langston stated that he noticed, in the bid, that the profit after freight and taxes was 2.4773 cents per gallon of unleaded fuel, and that was not a large amount, and that diesel was even lower at 2.2173 cents per gallon. Councilmember Duncan stated that this was a really good bid, especially when there was only one (1) bidder and that Polk Oil Company was being very fair. Mayor Gorden expressed his appreciation to Brookshire's and Polk Oil Company for a good bid.

Councilmember Rufus Duncan moved to approve the award of bid for the purchase of fuel for on the road vehicles to Polk Oil Company. Councilmember Don Langston seconded the motion. A unanimous affirmative vote was recorded.

13. CONSIDERATION OF A CHANGE IN THE CITY OF LUFKIN EMPLOYEE HANDBOOK – APPROVED - CONCERNING HEALTH INSURANCE NINETY (90) DAY DEFERMENT FOR NEW HIRES

Mayor Jack Gorden stated that the next item for consideration was a change in the City of Lufkin Employee Handbook concerning Health Insurance ninety (90) day deferment for new hires.

City Manager Parker began by stating that as Council was aware, the City's Health Plan was like most presently facing higher medical costs, while still being able to minimize costs to employees. City Manager Parker continued that one (1) way to save funds would be to delay the time period for new hires to begin receiving health benefits. City Manager Paul Parker stated that presently newly hired employees began receiving health insurance benefits the first day of the month after their initial hire date, and that the proposal was for new hires to begin receiving benefits on the first day of the month following a ninety (90) day waiting period. City Manager Parker furthered that in the past, an employee was hired at the end of the month, and began receiving health benefits the following day and that this change would delay this up to one hundred ten (110) days. City Manager Parker continued that there had been employees who were hired and stayed less than a month, incurred sizable health costs, and then left, which impacted existing employees. City Manager Parker furthered that this change should save at least twenty thousand dollars (\$20,000) in administration fees, and potentially more, due to the employee not being able to utilize the initial five thousand dollar (\$5,000) City contribution, which could be a potential additional savings of one hundred twelve thousand dollars (\$112,000). City Manager Parker stated it would not be a true savings, due to the possibility of an employee incurring significant costs in the future, but that it should create some savings, as well as eliminate abuse of the health plan by short term employees. City Manager Parker continued that in order to simplify the change, the proposal would also include the optional dental insurance and life insurance. Mayor Gorden stated that it sounded like a significant savings and if the Council so desired, that City Manager Parker would have the option to waive the waiting period in the hiring of Administrative Staff. City Manager Parker stated that it was important in the hiring of Administrative Staff to be able to offer benefits, without a waiting period, to be competitive in the hiring process of employees

such as a Police Chief. Councilmember Langston stated that he was aware that there was a tremendous amount of work by Staff to maintain the health plan benefits, and that this was an excellent example of their efforts to protect employees and lower abuses, and that this change would also conform to what local industry had in place.

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

Councilmember Rose Faine Boyd moved to approve the change in the City of Lufkin Employee Handbook concerning Health Insurance ninety (90) day deferment for new hires. Councilmember Don Langston seconded the motion. A unanimous affirmative vote was recorded.

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

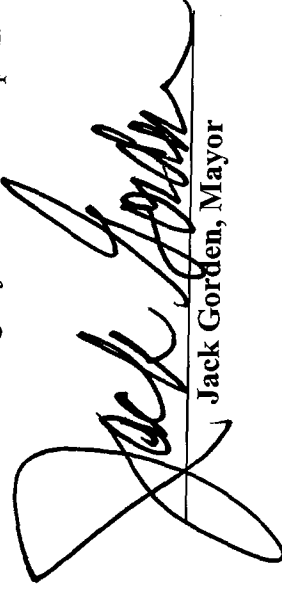
Mayor Jack Gorden stated that there would not be a need for an Executive Session and moved to the next item on the agenda.

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

City Manager Paul Parker reminded Council of the First Friday luncheon to be held at 12:00 noon at Crown Colony Country Club, during which the Small Business Award of the Year would be presented and asked that anyone wishing to attend contact Kara Atwood. City Manager Parker also highlighted several other events, including the Amazing Turtle Race. Mayor Gorden then suggested a date of October 14th, 2008 at noon, in City Hall, to hold a Special Called Meeting in order to allow Council to work on the further development of Ordinances previously presented at a Work Session.

- 16.** There being no further business for consideration, the meeting adjourned at 6:38 p.m.


Renee Thompson – City Secretary


Jack Gorden, Mayor