

**MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY
OF LUFKIN, TEXAS HELD ON THE 2nd, DAY OF JULY, 2013.**

On the 2ND day of July, 2013, 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:

Bob Brown
Lynn Torres
Victor Travis
Robert Shankle
Don Langston
Rufus Duncan
Sarah Murray
Paul L. Parker
Keith Wright
Bruce Green
Kara Atwood
Scott Marcotte
Duane Freeman
Dorothy Wilson
Steve Floyd
Chuck Walker
Steve Poskey
Dale Allred
Barbara Thompson
Aaron Ramsey

Mayor
Mayor Pro-Tem
Councilmember, Ward No. 1
Councilmember, Ward No. 2
Councilmember, Ward No. 4
Councilmember, Ward No. 5
Councilmember, Ward No. 6
City Manager
Deputy City Manager
City Attorney
City Secretary
Police Chief
Assistant Fire Chief
Planning Director
Public Works Director
Public Utilities Director
Street Department Director
Inspection Services Director
Main Street Director
Animal Control Director

Being present when the following business was transacted.

1. A moment of silence was observed in remembrance of the nineteen (19) firefighters who perished in Arizona. The meeting was then opened with prayer by Pastor Paul Geye, Angel of Joy Lutheran Church.
2. Mayor Bob Brown welcomed visitors present and congratulated City Manager Paul Parker on receiving the Lifetime Achievement Award from the Texas City Manager's Association.
3. **APPROVAL OF MINUTES**

Minutes of the Regular Meeting of June 18th, 2013 were approved on a motion by Councilmember Lynn Torres and seconded by Councilmember Sarah Murray. A unanimous affirmative vote was recorded to approve the minutes as presented.

OLD BUSINESS:

4. **PUBLIC HEARING AND SECOND READING OF AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF LUFKIN, TEXAS, BY AMENDING THE CONCEPT PLAN FOR THE PLANNED UNIT DEVELOPMENT, ORDINANCE NO. 3779, FOR PROPERTY DESCRIBED AS 6948, THE WOODS AT PINECREST, BLOCK 1, LOT 1 AND AUTHORIZING THE CITY PLANNER TO MAKE SUCH CHANGES ON THE OFFICIAL MAP – APPROVED.**

Mayor Bob Brown stated that the next item for consideration was to conduct a Public Hearing and consider on Second Reading an Ordinance amending the Zoning Ordinance of the City of Lufkin, Texas, by amending the concept plan for the Planned Unit Development, Ordinance No. 3779, for property described as 6948, The Woods at Pinecrest, Block 1, Lot 1 and authorizing the City Planner to make such changes on the official map.

City Manager Paul Parker stated this was the Second Reading of the Ordinance that would allow for the construction of a temporary fence at Pinecrest Retirement Center. City

Manager Parker concluded that Staff and the Planning & Zoning Commission recommended approval.

Mayor Brown opened the Public Hearing at 5:04 p.m. and asked anyone who wished to speak on the matter to please step forward. There being no one who wished to speak, Mayor Brown closed the Public Hearing and asked for questions or motions from the Council.

Councilmember Lynn Torres moved to approve the Second Reading of an Ordinance amending the Zoning Ordinance of the City of Lufkin, Texas, by amending the concept plan for the Planned Unit Development, Ordinance No. 3779, for property described as 6948, The Woods at Pinecrest, Block 1, Lot 1 and authorizing the City Planner to make such changes on the official map. Councilmember Robert Shankle seconded the motion and a unanimous vote to approve was recorded.

5. **PUBLIC HEARING AND SECOND READING OF AN ORDINANCE OF THE CITY OF LUFKIN, TEXAS, BY AMENDING THE SPECIAL USE PERMIT FOR A RECREATIONAL VEHICLE PARK, ORDINANCE NO. 4255, FOR PROPERTY DESCRIBED AS A 22.7 ACRE PARCEL OF THE ABS BARELA ANASTACIO SURVEY, TRACT 37.2 AND MORE COMMONLY KNOWN AS 250 FM 2021 – APPROVED.**

Mayor Bob Brown stated that Item No. 5 was to conduct a Public Hearing and consider on Second Reading an Ordinance of the City of Lufkin, Texas, by amending the Special Use Permit for a Recreational Vehicle Park, Ordinance No. 4255, for property described as a 22.7 acre parcel of the ABS Barela Anastacio Survey, Tract 37.2 and more commonly known as 250 FM 2021.

City Manager Paul Parker stated this was the Second reading of the Ordinance that would modify the size of the RV pads to allow for more yard space between units. City Manager Parker furthered that Staff and the Planning & Zoning Commission recommended approval.

Mayor Brown opened the Public Hearing at 5:06 p.m. and asked anyone who wished to speak on the matter to please step forward. There being no one who wished to speak, Mayor Brown closed the Public Hearing and asked for questions or motions from the Council.

Councilmember Victor Travis moved to approve the Second Reading of an Ordinance of the City of Lufkin, Texas, by amending the Special Use Permit for a Recreational Vehicle Park, Ordinance No. 4255, for property described as a 22.7 acre parcel of the ABS Barela Anastacio Survey, Tract 37.2 and more commonly known as 250 FM 2021. Councilmember Sarah Murray seconded the motion and a unanimous vote to approve was recorded.

NEW BUSINESS:

6. **PUBLIC HEARING AND FIRST READING OF AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF LUFKIN, TEXAS, BY WITHDRAWING SPECIAL USE PERMIT ORDINANCE NO. 1496 AND GRANTING A SPECIAL USE PERMIT FOR DRINKING ESTABLISHMENT WITHIN A COMMERCIAL ZONE IN AN EXISTING BUILDING AT 1903 SOUTH FIRST STREET – APPROVED.**

Mayor Bob Brown stated the next item was conduct a Public Hearing and consider on First Reading an Ordinance amending the Zoning Ordinance of the City of Lufkin, Texas, by withdrawing Special Use Permit Ordinance No. 1496 and granting a Special Use Permit for Drinking Establishment within a Commercial zone in an existing building at 1903 South First Street.

City Manager Paul Parker stated that the applicant, Mr. Patel, along with the owner, had requested approval of a Special Use Permit at 1903 South First Street, formerly the old Shoney's location. City Manager Parker stated the location was surrounded by mainly Commercial properties. City Manager Parker furthered that both Staff and Planning & Zoning Commission recommended approval of the issuance of a Special Use Permit for a Drinking Establishment.

Mayor Brown opened the Public Hearing at 5:04 p.m. and asked anyone who wished to speak on the matter to please step forward. There being no one who wished to speak, Mayor Brown closed the Public Hearing and asked for questions or motions from the Council.

Councilmember Victor Travis questioned whether the property was going to be used as a nightclub. Mr. Patel stated the business would be a sports bar, with televisions and games. Councilmember Travis asked whether food would be served. Mr. Patel stated that finger foods, such as burgers, would be served. Councilmember Travis confirmed that this was not a family atmosphere, but just for adults. Mr. Patel stated it was an establishment for adults over twenty-one (21).

Councilmember Lynn Torres moved to approve the First Reading of an Ordinance amending the Zoning Ordinance of the City of Lufkin, Texas, by withdrawing Special Use Permit Ordinance No. 1496 and granting a Special Use Permit for Drinking Establishment within a Commercial zone in an existing building at 1903 South First Street. Councilmember Rufus Duncan seconded the motion and a unanimous vote to approve was recorded.

7. **AWARD OF BID TO TIMBERLINE CONSTRUCTORS, INC. IN THE AMOUNT OF SIX HUNDRED NINETY-NINE THOUSAND FIVE HUNDRED THIRTY-EIGHT DOLLARS AND TWENTY CENTS (\$699,538.20) FOR THE CONSTRUCTION OF THE NORTH BRENTWOOD DRIVE EXTENSION – APPROVED.**

Mayor Bob Brown stated the next agenda item was to consider an award of bid to Timberline Constructors, Inc. in the amount of six hundred ninety-nine thousand five hundred thirty-eight dollars and twenty cents (\$699,538.20) for the construction of the North Brentwood Drive Extension.

City Manager Paul Parker stated this project was included in the previous bond issue. City Manager Parker continued that this road would be located from Tractor Supply to The Palms Shopping Center. City Manager Parker furthered that all right-of-way and easements have been granted by the property owners. City Manager Parker stated that the Staff had also value engineered this project and upon approval of the contract, would submit Change Order No. 1, which would reduce the price to below six hundred fifteen thousand dollars (\$615,000), which is the budgeted amount for the project. City Manager Parker then outlined the proposed change order. City Manager Parker concluded that Staff recommended City Council award the bid for the original amount of six hundred ninety-nine thousand five hundred thirty-eight dollars and twenty cents (\$699,538.20) with the understanding that Change Order No. 1 would be submitted to reduce the cost under the approved budget.

Councilmember Don Langston moved to approve an award of bid to Timberline Constructors, Inc. in the amount of six hundred ninety-nine thousand five hundred thirty-eight dollars and twenty cents (\$699,538.20) for the construction of the North Brentwood Drive Extension. Councilmember Lynn Torres seconded the motion and a unanimous vote to approve was recorded.

8. **CONSIDER AN AWARD OF BID TO LANGSTON CONSTRUCTION IN THE AMOUNT OF ONE MILLION ONE HUNDRED SIXTY THOUSAND DOLLARS (\$1,160,000) FOR THE CONSTRUCTION OF FIRE STATION NO. 5 – APPROVED.**

Mayor Bob Brown stated the next item was the consideration of an award of bid to Langston Construction in the amount of one million one hundred sixty thousand dollars (\$1,160,000) for the construction of Fire Station No. 5.

City Manager Paul Parker stated this project was also included in the previous bond program with an approved construction budget of nine hundred thousand dollars (\$900,000). City Manager Parker furthered that this estimate was based on the construction of a previous Fire Station; however, with the rising cost of construction and the increased amount of dirt work required for this project, the bids were higher than expected. City Manager Parker stated that there were funds remaining in the bond program from the savings on the Pershing project that would cover the increased cost of the Fire Station. City Manager Parker continued that there were seven (7) bidders, with the apparent low bidder being Langston Construction with

a bid amount of one million one hundred thirty-one thousand dollars (\$1,131,000). City Manager Parker furthered that the Construction Committee also recommended the acceptance of Alternates No. 2 (Sealed Concrete in Bays); No. 4 (Brick Veneer); No. 6 (Fire Sprinkler System); and No. 7 (Monument Sign). City Manager Parker stated this would increase the bid to one million one hundred sixty thousand dollars (\$1,160,000). City Manager Parker continued that Staff would also value engineer this project and would work in conjunction with the Contractor to determine the viability of modifications to save funds.

City Manager Parker stated that Councilmember Don Langston was not part of the meeting of the Construction Committee due to the Conflict of Interest. City Manager Parker then requested that City Attorney Bruce Green explain the State Law regarding Conflict of Interest.

City Attorney Green stated that there were several documents regarding the issue, one of them being the required affidavit signed by Councilmember Langston. City Attorney Green then highlighted the State Law regarding the subject of Conflict of Interest where a public official has a substantial interest in a business that contracts with a municipality. City Attorney Green stated this was not prohibited, but regulated by Chapter 171 of the Texas Local Government Code. City Attorney Green explained "substantial interest" as defined by the statute and that it triggers a Conflict of Interest. City Attorney Green stated that should there be a Conflict of Interest with a public official under Chapter 171, the official must take three (3) steps. City Attorney Green furthered that the official must file an Affidavit of Conflict of Interest which disclosed their substantial interest, and state the nature of the conflict. City Attorney Green continued that this document must be notarized and filed with the City Secretary's office before any vote occurs on the issue. City Attorney Green stated that the affidavit had been filed in a timely manner by Councilmember Langston. City Attorney Green continued that secondly, the official must abstain from any discussion and lastly, that the official abstain from voting on the issue. City Attorney Green reiterated that Councilmember Langston had filed the appropriate affidavit in a timely manner and had not participated in any discussion regarding the issue, nor had there been any vote on the issue. City Attorney Green furthered that he would be glad to answer any questions.

Councilmember Don Langston then recused himself from the discussion and vote on Item No. 8.

City Manager Parker concluded that Staff and the Construction Committee recommended City Council award the bid for the construction of Fire Station No. 5 to Langston Construction in the amount of one million one hundred sixty thousand dollars (\$1,160,000). City Manager Parker furthered that City Staff would complete the demolition of the existing station and Fire personnel would relocate to previous Fire Station No. 3 on Atkinson Drive during the construction period.

Councilmember Victor Travis moved to approve the award of bid to Langston Construction in the amount of one million one hundred sixty thousand dollars (\$1,160,000) for the construction of Fire Station No. 5.

Councilmember Robert Shankle stated that when the item was placed on the agenda, he conferred with City Attorney Green regarding the legality of the item. Councilmember Shankle stated that he had been provided with the information on the statute regarding the issue and that Councilmember Langston had followed the statute properly. Councilmember Shankle stated that he was uncomfortable approving the award of a contract to Councilmember Langston.

Councilmember Sarah Murray stated that she also had a problem with the Conflict of Interest, that she understood it was legal, however, she did not feel comfortable with it.

Councilmember Rufus Duncan stated he had been a part of the bidding process for a long time. Councilmember Duncan continued that this was a sealed bid opening with a hard bid supervised by an architect. Councilmember Duncan furthered that the majority of the bidders in Lufkin bid this project and that Langston Construction was the apparent low bidder. Councilmember Duncan concluded this was a good, straight deal for the City of Lufkin.

Councilmember Rufus Duncan seconded the motion. The motion was approved with a vote of four (4) to two (2) vote. Mayor Bob Brown, Councilmember Rufus Duncan, Councilmember Lynn Torres and Councilmember Victor Travis voted for the motion and Councilmember Robert Shankle and Councilmember Sarah Murray voted against the motion.

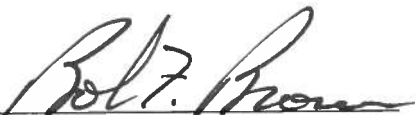
9. **EXECUTIVE SESSION**

Mayor Bob Brown stated that there was no need for an Executive Session. Mayor Brown then read a letter from the Angelina County Expo Center thanking Deputy City Manager Keith Wright and Staff for their assistance during the recent Brahman Show.

10. **DISCUSSION OF ITEMS OF COMMUNITY INTEREST, INCLUDING EXPRESSIONS OF THANKS, CONGRATULATIONS OR CONDOLENCE; INFORMATION REGARDING HOLIDAY SCHEDULES; HONORARY RECOGNITIONS OF CITY OFFICIALS, EMPLOYEES OR OTHER CITIZENS; REMINDERS ABOUT UPCOMING EVENTS SPONSORED BY THE CITY OR OTHER ENTITY THAT IS SCHEDULED TO BE ATTENDED BY CITY OFFICIALS OR EMPLOYEES; AND ANNOUNCEMENTS INVOLVING IMMINENT THREATS TO THE PUBLIC HEALTH AND SAFETY OF THE CITY.**

City Manager Paul Parker highlighted upcoming events and meetings on the calendar including the Fourth of July Celebration at Ellen Trout Zoo, First Friday Luncheon and Councilmember Shankle's scheduled Town Hall Meeting. Councilmember Victor Travis highlighted the recent soccer game between local athletes and the Chivas soccer team and thanked the City and Mayor Brown for their support.

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


Bob F. Brown, Mayor


Kara Atwood, City Secretary

SEAL