MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF LUFKIN, TEXAS HELD ON THE 2ND DAY OF JANUARY, 2007

On the 2nd day of January, 2007, 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, Jr.	Councilmember, Ward No. 5
Phil Medford	Councilmember, Ward No. 6
Paul L. Parker	City Manager
Renee Thompson	City Secretary
Robert Flournoy	City Attorney
Keith Wright	Asst. City Manager
David Koonce	Human Resource Director
Larry Brazil	Police Chief
Scott Marcotte	Asst. Police Chief
Pete Prewitt	Fire Chief
Doug Wood	Finance Director
Barbara Thompson	Main Street Director
Dorothy Wilson	Planning Director
Jim Wehmeier	Economic Development Director

being present when the following business was transacted:

1. The meeting was opened with prayer by Pastor Paul Geye, Angel of Joy Lutheran Church.

2. Mayor Jack Gorden welcomed visitors present.

3. **APPROVAL OF MINUTES**

Minutes of the Regular Meeting on December 19th, 2006 were approved on a motion by Councilmember Lynn Torres, and seconded by Councilmember Rose Faine Boyd. A unanimous affirmative vote was recorded.

OLD BUSINESS:

4. **SECOND READING OF AN ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES NEAR PUBLIC SCHOOLS, PRIVATE SCHOOLS, DAYCARE CENTERS AND CHILD CARE FACILITIES, CHURCHES AND HOSPITALS; - APPROVED - REPEALING ALL INCONSISTENT ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE**

Mayor Jack Gorden stated that the next item for consideration was the Second Reading of an Ordinance regulating the sale of alcoholic beverages near Public Schools, Private Schools, Daycare Centers and Child Care Facilities, Churches and Hospitals; repealing all inconsistent Ordinances; and providing for an effective date. City Manager Parker stated that this Ordinance was consistent with the current City "Special Use" Ordinance that limits the sale of beer and wine within three hundred (300) feet, door to door, of public and private schools, day care facilities, hospitals and churches.

Councilmember Rufus Duncan moved to approve the Second Reading of an Ordinance regulating the sale of alcoholic beverages near Public Schools, Private Schools, Daycare Centers and Child Care Facilities, Churches and Hospitals; repealing all inconsistent

Ordinances; and providing for an effective date. Councilmember Phil Medford seconded the motion.

The following vote was recorded:

Aye: Council Members Rufus Duncan, Don Langston, Phil Medford and Mayor Gorden.

Nay: Council Members Lynn Torres, R. L. Kuykendall, and Rose Faine Boyd

The motion carried with (4) four affirmative votes.

5. **PUBLIC HEARING AND SECOND READING OF AN ORDINANCE AMENDING THE ZONING ORDINANCE AND THE FUTURE LAND USE PLAN OF THE 2001 COMPREHENSIVE PLAN OF THE CITY OF LUFKIN, TEXAS, - APPROVED - BY CHANGING THE ZONING AND FUTURE LAND USE PLAN DESIGNATION ON APPROXIMATELY 1.43 ACRES OF LAND DESCRIBED AS HURRICANE CREEK REGIONAL DETENTION POND #4, BLOCK 1, LOTS 2 AND 3 TO A "LOCAL BUSINESS" ZONING DISTRICT AND THE FUTURE LAND USE PLAN OF THE 2001 COMPREHENSIVE PLAN TO THE CLASSIFICATION OF "RETAIL"**

Mayor Jack Gorden stated that the next item for consideration was to conduct a Public Hearing and Second Reading of an Ordinance amending the Zoning Ordinance and the Future Land Use Plan of the 2001 Comprehensive Plan of the City of Lufkin, Texas, by changing the Zoning and Future Land Use Plan designation on approximately 1.43 acres of land described as Hurricane Creek Regional Detention Pond #4, Block 1, Lots 2 and 3 to a "Local Business" Zoning District and the Future Land Use Plan of the 2001 Comprehensive Plan to the classification of "Retail". City Manager Paul Parker stated that this was a Second Reading and that Staff had no additional information except that the Planning and Zoning Commission and Staff recommended unanimously that Council approve the Zone Change.

Mayor Gorden then opened the Public Hearing at 5:10 p.m. concerning the Zoning Ordinance. Mayor Gorden asked those attending the Council Meeting if there was anyone who wanted to speak concerning the Zoning Ordinance. Mayor Gorden then closed the Public Hearing at 5:11 p.m.

Councilmember Don Langston moved to approve the Second Reading of an Ordinance amending the Zoning Ordinance and the Future Land Use Plan of the 2001 Comprehensive Plan of the City of Lufkin, Texas, by changing the Zoning and Future Land Use Plan designation on approximately 1.43 acres of land described as Hurricane Creek Regional Detention Pond #4, Block 1, Lots 2 and 3 to a "Local Business" Zoning District and the Future Land Use Plan of the 2001 Comprehensive Plan to the classification of "Retail". Councilmember Lynn Torres seconded the motion. A unanimous affirmative vote was recorded.

TABLED BUSINESS:

6. **REQUEST FROM THE FULLER SPRINGS VOLUNTEER FIRE DEPARTMENT - APPROVED - TO ALLOW THE FIRE DISTRICT TO INCLUDE THE ETJ TO THE LUFKIN CITY LIMITS BOUNDARY**

Mayor Jack Gorden stated that the next item for consideration was the request from the Fuller Springs Volunteer Fire Department to allow the fire district to include the ETJ to the Lufkin city limits boundary. Mayor Gorden then requested that the City Attorney, Bob Flournoy give his thoughts and recommendations to the Council.

City Attorney Bob Flournoy then stated that he had recently met with the representatives from the Fuller Springs Volunteer Fire Department and Mr. Dave Crawford, who had been assisting them in trying to establish the Emergency Service District, which included a portion of Lufkin's Extraterritorial Jurisdiction. City Attorney Flournoy explained that the law provided for the Fuller Springs VFD to establish the Emergency Service District which would have taxing authority. City Attorney Flournoy added that the concern of the City of Lufkin was if the Fuller Springs VFD had the taxing authority and then the City of Lufkin were to annex area within the ETJ, would the City of Lufkin have to assume a pro rata of their indebtedness? City Attorney Flournoy explained that the answer to that question was "yes" it would. City Attorney Flournoy stated that the Fuller Springs VFD had represented that there was no intention for the Emergency Service District to create any indebtedness. City Attorney Flournoy added that the ESD would pay the operational costs of the VFD to enable them to expand their facilities. City Attorney Flournoy added that the Council's concern was if there was a way for the City of Lufkin to avoid eventually having to take on any indebtedness due to annexation of area in the ESD. City Attorney Flournoy stated that the only way the City of Lufkin would not incur any indebtedness, by annexing any area in the ESD, would be if the ESD did not create any indebtedness. City Attorney Flournoy added that the law gave the ESD the authority to create indebtedness, although they had stated that the ESD had no intention of creating any indebtedness. City Attorney Flournoy explained that the City of Lufkin must consent to the establishment of the Emergency Service District so the Fuller Springs VFD would not have to obtain fifty percent (50%) of the signatures of the residents of the district. City Attorney Flournoy added that there would still be one hundred (100) signatures required to hold an election to establish the Emergency Service District. City Attorney Flournoy stated that the Fuller Springs VFD had provided a letter to the City of Lufkin that stated that in consideration of the City of Lufkin's consent to the Fuller Springs VFD calling for an election that the ESD would assure the City of Lufkin that the ESD would not create or assume any indebtedness at any time in the future toward the operation in the ETJ of the City of Lufkin, except by the consent of the City of Lufkin. City Attorney Flournoy stated that in addition to that representation the ESD also agreed that the same wording would be attached to the petition that would require the one hundred (100) signatures. City Attorney Flournoy explained that this was a further representation that the ESD would not create any indebtedness. City Attorney Flournoy suggested that they City of Lufkin might also want to consider wording on the ballot that would be in the election to establish the Emergency Service District so that the public would understand that the ESD would not create any debt. City Attorney Flournoy stated that the agreement would be effective to assure that the ESD would not create any indebtedness and therefore the City of Lufkin would not be obligated to assume any indebtedness.

There was some discussion among the Council and Mayor concerning the agreement with the Fuller Springs Volunteer Fire Department concerning the creating of an Emergency Service District.

Councilmember Don Langston moved to approve the request from the Fuller Springs Volunteer Fire Department to allow the fire district to include the ETJ to the Lufkin city limits boundary. Councilmember Rufus Duncan seconded the motion.

The following vote was recorded:

Aye: Council Members Rufus Duncan, Don Langston, Lynn Torres, Rose Faine Boyd and Mayor Gorden.

Nay: Council Members Phil Medford and R. L. Kuykendall

The motion carried with (5) five affirmative votes.

7. AGREEMENT WITH TRAFFIPAX – APPROVED - FOR THE PROVISION OF PHOTO ENFORCEMENT SERVICES

Mayor Jack Gorden stated that the next item for consideration was an Agreement with Traffipax for the provision of Photo Enforcement Services. City Manager Paul Parker stated that Council had requested that Staff look at other studies concerning traffic enforcement devices. City Manager Parker explained that there were numerous studies done by different interest groups that gave a variety of opinions concerning the devices. City Manager Parker added that Staff determined that the Highway Department's study was primarily considered that showed that the traffic enforcement devices were beneficial. City Manager Parker added that the Police Department also interviewed other cities and that there were reports from Duncanville, Rowlett, Plano, Richardson, Denton, El Paso and Houston showing how they were all successful in decreasing traffic light violations. City Manager Parker stated that one (1) or two (2) of the cities did experience some minor increases in rear-end collisions but most showed a great decrease in the "t-bone" accidents that were much more life threatening type accidents. City Manager Parker stated that one of the previous concerns was also the length of the contract and that Traffipax had volunteered to reduce the contract to three (3) years. City Manager Parker added that there was also a "piggyback" clause in the contract that allowed other cities to adopt the City of Lufkin's contract. City Manager Parker added that the City of Lufkin would also have the option to renew in the future if it so desired. City Manager Parker stated that Police Chief Larry Brazil had the City of Lufkin Police Officers looking at the device and what other cities thought after using it and that there were so far, none in Texas, that said that they had not be successful with the use of the device. City Manager Parker stated that another question that the Council had asked was what intersections would be involved. City Manager Parker explained that the Staff did not know, at that time, but asked Chief Brazil to address some intersections that the City of Lufkin anticipated could be reviewed for use of the devices. City Manager Parker added that the first step of the contract, if entered into by the City, would be for engineers from Traffipax to do a study of intersections and make recommendations to the City where to place the devices. City Manager Parker stated that there would be a minimum of five (5) intersections where the devices would be placed, and possibly more.

Police Chief Larry Brazil stated that the Police Department Staff looked at 2004, 2005, and 2006 and determined that Highway 59 at Loop 287 was determined to be the number one (1) intersection recommended for the device. Chief Brazil added that the number two (2) intersection was Highway 59 South at FM819, number three (3) was Chestnut Drive at Loop 287, number four (4) was Timberland Drive at Paul, number five (5) was Timberland Drive at Kurth Drive, number six (6) was Loop 287 at Highway 94, number seven (7) was Timberland Drive at Chestnut Drive, number eight (8) was Highway 69 South at Loop 287, number nine (9) was Frank Street at Second Street, and number ten (10) was Denman Avenue at Timberland Drive. Chief Brazil added that the most serious injury accidents were at Highway 59 South at FM 819 and Pershing at Loop 287.

City Manager Parker then explained that those intersections were the ones that the City anticipated would be reviewed, but more than likely the devices would not be at all of the intersections suggested. Chief Brazil stated that there had been eighty-four (84) accidents caused last year by red light running. Chief Brazil added that the number could be lower or higher depending on how the officer classified the accident.

There was discussion among the Staff, Council and Mayor concerning the Photo Enforcement System.

Councilmember Don Langston moved to approve the Agreement with Traffipax for the provision of Photo Enforcement Services. Councilmember Rose Faine Boyd seconded the motion. A unanimous affirmative vote was recorded.

8. **FIRST READING OF AN ORDINANCE OF THE CITY OF LUFKIN, TEXAS, - APPROVED - AMENDING THE CODE OF ORDINANCES OF THE CITY OF LUFKIN BY AMENDING TITLE VII ("TRAFFIC CODE") TO ADD A NEW CHAPTER 76 TO BE ENTITLED, "AUTOMATED TRAFFIC SIGNAL ENFORCEMENT", ESTABLISHING CIVIL ENFORCEMENT AND LIABILITY FOR TRAFFIC LIGHT INFRACTIONS; ESTABLISHING PROCEDURES FOR CIVIL ADJUDICATIONS OF VIOLATIONS: PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE**

Mayor Jack Gorden stated that the next item for consideration was First Reading of an Ordinance of the City of Lufkin, Texas, amending the Code of Ordinances of the City of Lufkin by amending Title VII ("Traffic Code") to add a new Chapter 76 to be entitled, "Automated Traffic Signal Enforcement", establishing civil enforcement and liability for traffic light infractions; establishing procedures for Civil Adjudications of Violations: providing a severability clause; and providing an effective date. City Manager Paul Parker stated that the Ordinance would allow the City to establish civil penalties and a fine system for individuals who violate the automated traffic signal enforcement devices. City Manager Parker added that Staff recommended that the Council approve the Ordinance.

Councilmember Rufus Duncan moved to approve the First Reading of an Ordinance of the City of Lufkin, Texas, amending the Code of Ordinances of the City of Lufkin by amending Title VII ("Traffic Code") to add a new Chapter 76 to be entitled, "Automated Traffic Signal Enforcement", establishing civil enforcement and liability for traffic light infractions; establishing procedures for Civil Adjudications of Violations: providing a severability clause; and providing an effective date. Councilmember R. L. Kuykendall seconded the motion. A unanimous affirmative vote was recorded.

NEW BUSINESS:

9. BID FOR THE LOTUS LANE STREET IMPROVEMENT PROJECT TO ALLEN LOGGINS AND SONS IN THE AMOUNT OF $2,138,483.67 AND CONSIDER A RESOLUTION AUTHORIZING AN AMENDMENT TO THE 2006/2007 OPERATING BUDGET - APPROVED - (BUDGET AMENDMENT NO. 6)

Mayor Jack Gorden stated that the next item for consideration was the awarding of bid for the Lotus Lane Street Improvement Project to Allen Loggins and Sons in the amount of $2,138,483.67 and consider a Resolution authorizing an Amendment to the 2006/2007 Operating Budget (Budget Amendment No. 6). City Manager Paul Parker stated that this was the last of the four (4) streets that were identified for reconstruction in the 2001 Street Bond Election. City Manager Parker added that those streets were Angelina, Abney, Whitehouse and Lotus Lane. City Manager Parker stated that the revised engineering estimate for the project was two million one hundred twenty-seven thousand one hundred five dollars and fifty cents ($2,127,105.50) (not including asphalt). City Manager Parker stated that the recent low bid was two million four hundred fifty thousand four hundred forty dollars and fifteen cents ($2,450,440.15) (not including asphalt). City Manager Parker added that the asphalt cost was estimated to be approximately five hundred thirty thousand one hundred twenty dollars ($530,120) based on the City's recent contract. City Manager Parker stated that Staff met with the contractor and engineer to discuss ways that the project could be reduced in cost. City Manager Parker explained that several items were being recommended to the Council in the change order. City Manager Parker stated that the change order would eliminate sidewalks, changing the sewer pipe from concrete to HDPE pipe, and City Staff would complete the striping, along with several other miscellaneous changes. City Manager Parker stated that the changes would result in a three hundred eleven thousand nine hundred fifty-five dollar ($311,955) cost reduction. City Manager Parker explained that if Council approved the amended change order the cost projection would be two million one hundred thirty-eight thousand four hundred eighty three dollars and sixty-seven cents ($2,138,483.67) plus asphalt at five hundred thirty thousand one hundred twenty dollars ($530,120) which would bring the total project cost to two million six hundred sixty-eight thousand six hundred two dollars ($2,668,602). City Manager Parker added that along with the reduction in scope, Staff was also proposing that funds be reallocated for the water and sewer portion of the construction of Abney, Whitehouse, and Lotus Lane to Fund 355. City Manager Parker explained that the move would result in a shifting of seven hundred forty-three thousand nine hundred ninety-six dollars ($743,996) from the Street Bond Fund (Fund 306) to the Water and Sewer Bond Fund (Fund 355). City Manager Parker stated that the move would allow the City to award the contract. City Manager Parker explained that a shortfall of three thousand eight hundred twenty-five dollars ($3,825) would exist between the projected expenditures and revenue but would be made up through additional accrued interest by the time the project was finalized. City Manager Parker added that one (1) area of concern was there was no room in the funding for change orders that often take place during a project and there was the chance that before the project was completed there could be the need for supplementation from the General Fund or other funding source. City Manager Parker stated that Staff recommended that Council approve a proposed contract with Allen Loggins and Sons in the amount of two million four hundred fifty thousand four hundred forty dollars and fifteen cents ($2,450,440.15) and approve Change Order Number One (1) reducing the contract to two million one hundred thirty-eight thousand four hundred eighty three dollars and sixty-seven cents ($2,138,483.67) and also approve Budget Amendment Number Six (6).

There was discussion among the Staff, Council and Mayor concerning the Lotus Lane Street Improvement Project.

Councilmember Don Langston moved to deny the awarding of bid for the Lotus Lane Street Improvement Project to Allen Loggins and Sons in the amount of two million one hundred thirty-eight thousand four hundred eighty three dollars and sixty-seven cents ($2,138,483.67) and consider a Resolution authorizing an Amendment to the 2006/2007 Operating Budget (Budget Amendment No. 6). The motion died for lack of a Second.

Councilmember R. L. Kuykendall moved to approve the awarding of bid for the Lotus Lane Street Improvement Project to Allen Loggins and Sons in the amount of two million one hundred thirty-eight thousand four hundred eighty three dollars and sixty-seven cents $2,138,483.67 and consider a Resolution authorizing an Amendment to the 2006/2007 Operating Budget (Budget Amendment No. 6). Councilmember Rose Faine Boyd seconded the motion.

The following vote was recorded:

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

Nay: Councilmember Don Langston

The motion carried with (6) six affirmative votes.

10. <u>PURCHASE OF EQUIPMENT – APPROVED - FOR THE BOYS AND GIRLS CLUB NEW AQUATIC CENTER</u>

Mayor Jack Gorden stated that the next item for consideration was authorizing the purchase of equipment for the Boys and Girls Club new Aquatic Center. City Manager Paul Parker stated that the City of Lufkin had a previous Aquatic Center Operation Agreement with the Boys and Girls Club. City Manager Parker explained that the agreement would allow the Boys and Girls Club to use the City's ability to purchase through the Texas Local Government Purchasing Cooperative or Texas Building and Procurement Commission and save dollars for the purchase of the aquatic equipment. City Manager Parker stated that the total cost for the equipment was fifty eight thousand one hundred sixty-six dollars and ninety-one cents ($58,166.91). City Manager Parker added that the City had requested and received a check for that amount and therefore would require no City funds to be utilized but would use the City's purchasing power to save the operation money. City Manager Parker stated that Staff recommended that the Council authorize the Boys and Girls Club to purchase aquatic equipment through the City of Lufkin's government purchasing powers in the amount of fifty eight thousand one hundred sixty-six dollars and ninety-one cents ($58,166.91).

Councilmember Don Langston asked to be recused from voting on the item. Mayor Gorden then asked City Secretary Renee Thompson to note that Councilmember Langston would be recused from voting on the item.

Councilmember Rose Faine Boyd moved to approve authorizing the purchase of equipment for the Boys and Girls Club new Aquatic Center. Councilmember Lynn Torres seconded the motion. A unanimous affirmative vote was recorded.

11. City Manager Parker stated that the Mayor and Council had discussed setting a date for a future "Strategic Planning Retreat". City Manager Parker explained that this would be a time for the Council to discuss the numerous topics concerning the future of the City of Lufkin. City Manager Parker stated that Staff had been looking for a date for the "Retreat" and were considering the last two (2) weeks of March. City Manager Parker explained that he would like to lock in a date for the event so that the Staff could begin organizing information for the Council. City Manager Parker added that he would also like to discuss with Council how to proceed with the event. City Manager Parker then asked the Council to discuss a particular day of the week that would be most favorable. City Manager Parker also asked the Council whether they preferred using a consultant for a more formal "Strategic Plan" or would prefer more of a "Workshop" concept for the

"Retreat". The Council then discussed the day, date, and concept of the way the "Retreat" would take place and determined that they would prefer the "Workshop" concept and holding the event on Wednesday, March 21, 2007.

City Secretary Renee Thompson reminded the Council about the Deep East Texas Reception that would be held in Austin on Monday, January 8, 2007 and asked Council Members if they would be attending.

City Manager Paul Parker reminded the Council that the Chamber of Commerce Banquet would be held on Thursday, January 25th, 2007 and asked Council to RSVP to City Secretary Renee Thompson so that tables could be reserved.

12. There being no further business for consideration, the meeting adjourned at 6:20 p.m.

Jack Gorden

Jack Gorden – Mayor

Renee Thompson

Renee Thompson – City Secretary