

**MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF LUFKIN, TEXAS HELD ON THE 20<sup>TH</sup> DAY OF JULY, 2010**

On the 20<sup>th</sup> day of July, 2010, 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.  
Don Langston  
Victor Travis  
Robert Shankle  
Rufus Duncan  
Phil Medford  
Paul L. Parker  
Keith Wright  
Bruce Green  
Renee Thompson  
Rodney Ivy  
Scott Marcotte  
Gerald Williamson  
Danny Kistner  
Doug Wood  
Dorothy Wilson  
Steve Floyd  
Barbara Thompson  
Dale Allred  
Chuck Walker  
Robbin Crawford  
Trent Cantrell

Mayor  
Mayor Pro-Tem  
Councilmember, Ward No. 1  
Councilmember, Ward No. 2  
Councilmember, Ward No. 5  
Councilmember, Ward No. 6  
City Manager  
Deputy City Manager  
City Attorney  
City Secretary  
Human Resource Director  
Police Chief  
Asst. Police Chief  
Fire Chief  
Finance Director  
Planning Director  
Public Works Director  
Main Street Director  
Inspection Services Director  
Public Utilities Director  
Senior Accountant  
Planning Dept.

being present, and

Lynn Torres  
Councilmember, Ward No. 3

being absent when the following business was transacted:

1. The meeting was opened with prayer by Rev. Carlos Alegria, Templo Bautista Jesus is the Lord.
2. Mayor Jack Gorden welcomed visitors present.
3. **APPROVAL OF MINUTES**  
Minutes of the Regular Meeting of July 6, 2010, were approved on a motion by Councilmember Robert Shankle, and seconded by Councilmember Rufus Duncan. A unanimous affirmative vote was recorded.
4. **CEREMONY PROMOTING FIREFIGHTER/PARAMEDIC WADE MODISSETTE AND FIREFIGHTER/PARAMEDIC JARED SOWELL TO FIRE LIEUTENANT**

Mayor Jack Gorden stated that the next item for consideration was a ceremony promoting Firefighter/Paramedic Wade Modisette and Firefighter/Paramedic Jared Sowell to Fire Lieutenant.

Mayor Gorden then asked the Firefighters/Paramedics Modisette and Sowell and their wives to come to the front of the Council Chambers. Mayor Gorden explained that the wives were

going to do the honor of pinning the Lieutenant badges on their husbands. Mayor Gorden then congratulated the two (2) Lieutenants on behalf of the City of Lufkin and the City Council. Mayor Gorden commented that earlier in the day, the Fire Department showed their spirit of community and the quality of the fire personnel, by their willingness to assist the Grigg family with their medical expenses, as well as to donate blood to save lives.

Mayor Gorden then stated that a Public Hearing on the proposed FY2010-2011 Budget would be conducted on Tuesday, August 17, 2010, at 5:00 p.m. at the Lufkin City Hall Council Chambers located at 300 East Shepherd, Lufkin, Texas.

**OLD BUSINESS:**

**5. SECOND READING OF AN ORDINANCE AUTHORIZING THE LUFKIN POLICE DEPARTMENT TO ADOPT A CITY-WIDE POLICY FOR TOWING MOTOR VEHICLES WHEN THE OPERATOR OF THE VEHICLE EITHER FAILS TO MAINTAIN, OR CANNOT PRESENT PROOF OF, FINANCIAL RESPONSIBILITY - APPROVED - REQUIRED BY THE STATE; PROVIDING FOR A FINANCIAL RESPONSIBILITY VERIFICATION FORM FEE, AND PROVIDING FOR AN EFFECTIVE DATE**

Mayor Jack Gorden stated that the next item for consideration was the Second Reading of an Ordinance authorizing the Lufkin Police Department to adopt a City-Wide Policy for towing motor vehicles when the operator of the vehicle either fails to maintain, or cannot present proof of, financial responsibility required by the State; providing for a financial responsibility verification form fee, and providing for an effective date.

City Manager Paul Parker stated that Staff handed out information provided to the Council from the Texas Sure auto insurance verification program. City Manager Parker added that this was a program where Staff could go online to check if a vehicle was insured. City Manager Parker stated that it was interesting that Angelina County had sixty-one thousand six hundred nineteen (61,619) total registered vehicles and fourteen thousand six hundred eighty-seven (14,687) vehicles didn't show to have any insurance. City Manager Parker explained that this was a 23.84% rate of uninsured vehicles. City Manager Parker stated that the State of Texas average was 21.65% of uninsured vehicles. City Manager Parker added that Angelina County was above the State average, but throughout the State the percentage of uninsured vehicles was rather high. City Manager Parker explained that the number was broken down by counties.

City Manager Parker stated that a citizen had approached Councilmember Don Langston concerning the laws related to towing and asked some legal questions regarding those laws. City Manager Parker added that he referred the question to City Attorney Bruce Green, who researched it and had a legal opinion. City Manager Parker then asked City Attorney Green to give his opinion to the City Council. City Manager Parker added that whenever City Attorney Green concluded his opinion, that Staff recommended approval of the Ordinance to allow the Police Department to require vehicles to be impounded for failure to maintain financial responsibility (no insurance).

City Attorney Bruce Green then explained the relationship between the Ordinance and the State Law, regarding the impoundment of vehicles. City Attorney Green also explained the authority of a Municipal Police Department to impound vehicles operated by drivers without insurance, and the effect of the Ordinance under consideration. City Attorney Green stated that the Ordinance authorized the Lufkin Police Department to adopt a city wide policy for towing uninsured motor vehicles, codified in a City Ordinance the general police power to tow and impound to prevent impeding traffic, threatening the efficient flow of traffic, or threatening public safety and convenience, and authorized the Lufkin Police Department to develop a financial verification form and require an operator to secure it in order to have his/her vehicle released. City Attorney Green assured the City Council that the Ordinance would not be in conflict with any State or Federal laws.

Mayor Gorden asked for questions or comments from the Council.

Councilmember Don Langston moved to approve the Second Reading of the Ordinance authorizing the Lufkin Police Department to adopt a City-Wide Policy for towing motor vehicles when the operator of the vehicle either fails to maintain, or cannot present proof of, financial responsibility required by the State; providing for a financial responsibility verification form fee, and providing for an effective date. Councilmember Phil Medford seconded the motion. A unanimous affirmative vote was recorded.

City Manager Parker added that Police Chief Scott Marcotte wanted to do a relatively extensive public relation campaign regarding the Ordinance, and was looking to begin the enforcement of the Ordinance around September 1, 2010. City Manager Parker explained that this would allow individuals that learn about the Ordinance some time to get their insurance and come into compliance with the law.

There was discussion among the Mayor and Council concerning the Ordinance.

**NEW BUSINESS:**

**6. FIRST READING OF AN ORDINANCE AMENDING ORDINANCE #3004, AND ALL AMENDMENTS THERETO, - APPROVED - REGARDING HOTEL AND MOTEL OCCUPANCY TAX FOR THE CITY OF LUFKIN, TEXAS, REPEALING CONFLICTING AND INCONSISTENT PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE**

Mayor Jack Gorden stated that the next item for consideration was the First Reading of an Ordinance amending Ordinance #3004, and all amendments thereto, regarding Hotel and Motel Occupancy Tax for the City of Lufkin, Texas, repealing conflicting and inconsistent provisions; and providing for an effective date.

City Manager Paul Parker stated that City Attorney Green had a load of Ordinances before him to go through and clean up, so that they would correspond with State law. City Manager Parker added that this was such an Ordinance. City Manager Parker stated that the present Hotel/Motel Occupancy Tax Ordinance did not allow for all of the exemptions per State law. City Manager Parker added that as the Ordinance now existed; it referred to only one (1) exemption from the tax, which was for federal and state government. City Manager Parker stated that the Tax Code actually exempted permanent residents (30 days or longer) and religious, charitable or educational organizations as well. City Manager Parker explained that the Ordinance basically brought the City of Lufkin into compliance with State law and cleared up other language in it. City Manager Parker stated that Staff recommended that the Council approve the Ordinance amending Ordinance #3004 (Hotel/Motel Occupancy Tax).

Mayor Gorden asked for questions or comments from the Council.

Councilmember Phil Medford moved to approve the First Reading of the Ordinance amending Ordinance #3004, and all amendments thereto, regarding Hotel and Motel Occupancy Tax for the City of Lufkin, Texas, repealing conflicting and inconsistent provisions; and providing for an effective date. Councilmember Robert Shankle seconded the motion. A unanimous affirmative vote was recorded.

**7. PUBLIC HEARING AND RESOLUTION OF THE CITY OF LUFKIN, TEXAS, AUTHORIZING APPLICATION WITH THE U. S. DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE ASSISTANCE, FY2010 EDWARD BYRNE JUSTICE ASSISTANCE GRANT PROGRAM IN THE AMOUNT OF TWENTY-TWO THOUSAND ONE HUNDRED NINETEEN DOLLARS (\$22,119); - APPROVED - AUTHORIZING THE CITY MANAGER TO ACT ON BEHALF OF THE CITY OF LUFKIN IN ALL MATTERS RELATED TO THE GRANT; AND PLEDGING THAT THE CITY OF LUFKIN WILL COMPLY WITH ALL GRANT REQUIREMENTS**

Mayor Jack Gorden stated that the next item for consideration was a Public Hearing and Resolution of the City of Lufkin, Texas, authorizing application with the U. S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, FY2010 Edward Byrne Justice Assistance Grant Program in the amount of twenty-two thousand one hundred

nineteen dollars (\$22,119); authorizing the City Manager to act on behalf of the City of Lufkin in all matters related to the grant; and pledging that the City of Lufkin will comply with all grant requirements.

City Manager Paul Parker stated that this was a grant for twenty-two thousand one hundred nineteen dollars (\$22,119). City Manager Parker added that the Police Department would utilize the grant to upgrade the communication system within the Lufkin Police Department. City Manager Parker stated that the funds would offset some money in the General Fund budget for next year. City Manager Parker then recommended that the Council conduct a Public Hearing and allow the City to apply for the funds.

Mayor Gorden opened the Public Hearing 5:27 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 5:28 p.m.

Mayor Gorden asked for questions or comments from the Council.

Councilmember Rufus Duncan moved to approve the Resolution of the City of Lufkin, Texas, authorizing application with the U. S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, FY2010 Edward Byrne Justice Assistance Grant Program in the amount of twenty-two thousand one hundred nineteen dollars (\$22,119); authorizing the City Manager to act on behalf of the City of Lufkin in all matters related to the grant; and pledging that the City of Lufkin will comply with all grant requirements. Councilmember Robert Shankle seconded the motion. A unanimous affirmative vote was recorded.

**8. ENGINEERING CONTRACT FOR THE DESIGN OF THE ENTRANCE ROAD TO ASPEN POWER – APPROVED - TO EVERETT GRIFFITH, JR. AND ASSOCIATES IN THE AMOUNT OF FORTY-THREE THOUSAND THREE HUNDRED DOLLARS (\$43,300)**

Mayor Jack Gorden stated that the next item for consideration was an engineering contract for the design of the entrance road to Aspen Power to Everett Griffith, Jr. and Associates in the amount of forty-three thousand three hundred dollars (\$43,300).

City Manager Paul Parker stated that this was the entry road into Aspen Power, and would be dedicated as a public road, and therefore met the standards of the City of Lufkin. City Manager Parker stated that one (1) of the first steps in the process was to have the road designed, so that the City could go to bid to determine the final cost of the roadway. City Manager Parker stated that the City of Lufkin, through the Texas Capital Fund Grant program, had allocated seven hundred fifty thousand dollars (\$750,000) for the construction. City Manager Parker explained that of that money, there was forty-three thousand three hundred dollars (\$43,300) eligible for engineering and architectural design. City Manager Parker stated that this amount would be reimbursed through the Texas Capital Fund Grant and recommended that the City Council authorize the contract with Everett Griffith, Jr. and Associates, Inc. City Manager Parker added that as the final cost was developed, Staff would have to return with a total budget amendment to appropriate the funds. City Manager Parker stated that the final contract had been allocated, but the overall budget had not been set up. City Manager Parker stated that Council had asked Staff for security in case the application was defaulted on. City Manager Parker explained that there was a certain amount of job creation required. City Manager Parker added that City Attorney Bruce Green had prepared documentation that had been signed by Mr. Danny Vines that would assure the City of Lufkin that if any of the project was declared ineligible, the City would be refunded for any amount of the ineligible costs. City Manager Parker stated that Staff recommended that the City Council authorize an engineering contract with Everett Griffith, Jr. and Associates, Inc., in the amount of forty-three thousand three hundred dollars (\$43,300), for the design of the entrance road to Aspen Power.

Mayor Gorden commented that to his knowledge this was the first Capital Fund Grant that the City of Lufkin had received. Mayor Gorden added that this was something that the City should be proud of. Mayor Gorden asked for questions or comments from the Council.

Councilmember Don Langston moved to approve the engineering contract for the design of the entrance road to Aspen Power to Everett Griffith, Jr. and Associates in the amount of forty-three thousand three hundred dollars (\$43,300). Councilmember Robert Shankle seconded the motion. A unanimous affirmative vote was recorded.

**9. DISCUSSION REGARDING THE PROPOSED FAÇADE IMPROVEMENT PROGRAM GRANT FOR MAIN STREET AREA (DOWNTOWN) IN THE CITY OF LUFKIN**

Mayor Jack Gorden stated that the next item for consideration was a discussion regarding the proposed Façade Improvement Program Grant for Main Street Area (Downtown) in the City of Lufkin.

City Manager Paul Parker stated that the City Council asked Staff to explore the options of a program to assist in revitalizing the Downtown area to try to help preserve the historic appearance of many of the buildings. City Manager Parker added that many of the buildings had fake façades, and other buildings had façades that didn't match the period construction. City Manager Parker stated that Staff first looked at stringent Ordinances that were based on penalties. City Manager Parker added that a Historic Preservation Commission was set up to review applications and to approve any plans before construction. City Manager Parker stated that after considerable discussion, the City Council directed Staff to go back and look at an Ordinance that would be more incentive oriented, rather than restrict the growth of the Downtown area. City Manager Parker explained that the Council thought that any development that was taking place in the Downtown area was worth encouraging. City Manager Parker stated that Staff had recently revised the proposal. City Manager Parker explained that it was open for discussion and was not being recommended for a vote of the City Council. City Manager Parker explained that the revised Façade Improvement Program Grant would match funds up to ten thousand dollars (\$10,000) for the restoration of the exterior portion of the façades of buildings in the Downtown area. City Manager Parker added that the description of the area would remain the same as the Main Street area that had been looked at in years past. City Manager Parker stated that there would be a panel of staff to include Main Street, Planning, Inspection Services, Economic Development and Engineering that would look at the proposals and determine if they were in compliance with the stipulations set forth in the proposed Ordinance or program. City Manager Parker added that many aspects, other than such things as mirrored glass, were left to the discretion of the panel, because there were so many materials such as concrete that had the appearance of being wood or other composites that could be a better fit than the original construction. City Manager Parker explained that it would be left to the discretion of the panel, rather than trying to regulate exactly what would or wouldn't be allowed in the restoration. City Manager Parker added that this would give more flexibility in the design, and would also allow more discretion and interpretation on what was appropriate. City Manager Parker stated that the panel would consist of at least five (5) individuals to assist in determining what would be appropriate, instead of the view of one (1) person. City Manager Parker stated that Staff recommended that if the Council was ready to go forth with the façade program an initial fifty thousand dollars (\$50,000) would be requested from the 4B Economic Development Board for the initial seed money to begin the program. City Manager Parker added that if the program was successful, and there were as many as five (5) buildings restored, Staff would return for additional funding. City Manager Parker explained that this was the essence of the program. City Manager Parker stated that City Planning Director Dorothy Wilson took the lead on the proposed project, along with Planner Trent Cantrell, Inspection Services Director Dale Allred, Public Utilities Director and City Engineer Chuck Walker, Main Street Director Barbara Thompson and Deputy City Manager Keith Wright. City Manager Parker added that Staff invested many hours in developing the project. City Manager Parker stated that Staff recommended that the City Council authorize Staff to approach the 4B Economic Development Board for potential funding of the project. City Manager Parker added that he would answer any questions that the Council had regarding the project.

Mayor Gorden asked for questions or comments from the Council. There was discussion among the Mayor, Council, City Manager and Staff concerning the façade program. The consensus of the City Council was to go forth with the program.

## **10. CITY MANAGER'S REPORT**

Mayor Jack Gorden stated that the next item for consideration was a report from City Manager Paul Parker.

City Manager Paul Parker stated that the City's General Fund was well within the year as it was being reported through June 30, 2010, and September 30, 2010, would be the end of the fiscal year. City Manager Parker added that the Ad Valorem Taxes were about par, but that the City's Sales Tax was still down. City Manager Parker stated that the last month's Sales Tax was positive, as the sales were above the same period of the previous year. City Manager Parker stated that this was still not to the level it was two (2) years earlier. City Manager Parker added that the City Departments were holding down expenditures, even after the revised budgets were completed, to minimize the availability of funds in each department. City Manager Parker explained that the City should end the fiscal year with a negative budget, but Staff would hold off to see how the under spent funds would come out. City Manager Parker stated that the Water and Sewer Fund was below budget. City Manager Parker explained that the City was in its summer months, and could possibly make up the deficit in a short period of time. City Manager Parker added that the City had once again had timely rain, which could affect the water sales revenue. City Manager Parker stated that expenses were once again being held down in the Water and Sewer Fund. City Manager Parker stated that Solid Waste was on target for revenues and expenses. City Manager Parker stated that the Hotel/Motel Tax Fund revenue was down, and was a sign of the economy. City Manager Parker added that there had not been as many hotel stays as in years past, but that the Parks and Recreation Department had recently hosted a softball tournament that had filled up several hundred rooms and many teams stayed as many as five (5) nights in the local hotels. City Manager Parker stated that there was another tournament consisting of thirty-six (36) teams that would be held in the upcoming weekend. City Manager Parker added that the softball tournaments had really helped bring more visitors to Lufkin. City Manager Parker stated that he would not highlight the other funds, unless there were questions from the City Council.

City Manager Parker stated that there were no projects to discuss with the Council at the present time. City Manager Parker explained that the current projects were going forth with few problems, and that Staff was looking forward to the potential Bond Program that would begin many programs back up in October and November. City Manager Parker stated that there was a meeting during the previous week with Texas Department of Transportation (TxDOT). City Manager Parker explained that TxDOT was looking at going forth with the US Highway 59 North Project in 2012. City Manager Parker added that the City would once again have a sizeable financial obligation to move and relocate the water and sewer lines out of the right-of-way. City Manager Parker stated that this project was different funding, and the City fortunately would not have the right-of-way cost that we had on the US Highway 59 South Project, but would still have the utility relocation costs. City Manager Parker explained that Staff was trying to get a firm number on the cost and it had previously been estimated to be as high as three million dollars (\$3,000,000), but could be as low as two million five hundred thousand dollars (\$2,500,000). City Manager Parker added that this was additional funding that the City would have to obtain within the next two (2) years, and that Staff was looking at different methodologies to set funds aside for the project and to anticipate that cost. City Manager Parker stated that June 2012 was the potential letting date, at the current time. City Manager Parker stated that he would answer any questions the Council had regarding the Financial Report or the Project Status Report.

Councilmember Don Langston stated that it would be good if the Council could see the layout of the proposed improvements, if Staff could provide this at a future meeting. Councilmember Langston added that the project should really help that intersection from a safety standpoint. City Manager Parker stated that Staff had the preliminary drawings and could put that on a future agenda. City Manager Parker added that the project would tie in with the Council's project through the EDA Grant on Old Moffett Road. City Manager Parker explained that the City's project would do away with the crossing at the railroad track and tie directly in to the interchange, which would really help the traffic in that area and the park situation.

**11.** Mayor Jack Gorden recessed the Regular Session at 5:49 p.m. to enter into Executive Session.

**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 reconvened the Regular Session at 6:32 p.m.

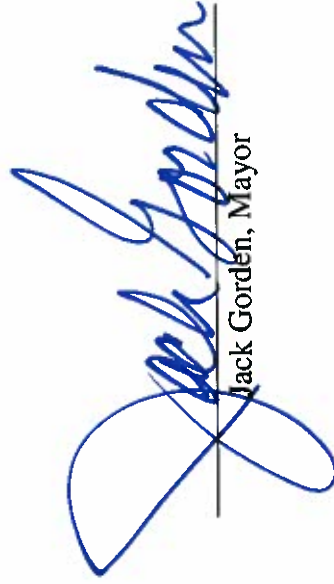
**12. DISCUSSION OF ITEMS OF COMMUNITY INTEREST, INCLUDING EXPRESSIONS OF THANKS, CONGRATULATIONS OR CONDOLENCE; INFORMATION REGARDING HOLIDAY SCHEDULES; HONORARY RECOGNITIONS OF CITY OFFICIALS, EMPLOYEES OR OTHER CITIZENS; REMINDERS ABOUT UPCOMING EVENTS SPONSORED BY THE CITY OR OTHER ENTITY THAT IS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

Mayor Gorden stated that the next item for consideration was the 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.

Mayor Jack Gorden stated that Thursday, July 22, 2010, was the DETCOG Board Meeting in Hemphill at 12:00 noon at the Hemphill ISD Cafeteria. City Manager Paul Parker stated that the Council had their calendars for referencing other meetings for the upcoming weeks.

**13.** There being no further business for consideration, the meeting adjourned at 6:33 p.m.

  
Renee Thompson – City Secretary

  
Jack Gorden, Mayor