

**MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY  
OF LUFKIN, TEXAS HELD ON THE 6<sup>TH</sup> DAY OF APRIL, 2010**

On the 6<sup>th</sup> day of April, 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.	Mayor
Don Langston	Mayor Pro-Tem
R. L. Kuykendall	Councilmember, Ward No. 1
Robert Shankle	Councilmember, Ward No. 2
Lynn Torres	Councilmember, Ward No. 3
Rufus Duncan	Councilmember, Ward No. 5
Phil Medford	Councilmember, Ward No. 6
Paul L. Parker	City Manager
Keith Wright	Deputy City Manager
Bruce Green	City Attorney
Renee Thompson	City Secretary
Rodney Ivy	Human Resource Director
Danny Kistner	Fire Chief
Doug Wood	Finance Director
Dorothy Wilson	Planning Director
Steve Floyd	Public Works Director
Barbara Thompson	Main Street Director
Chuck Walker	Public Utilities Director

being present, when the following business was transacted:

1. The meeting was opened with prayer by Pastor John Greene, Harmony Hill Baptist Church.
2. Mayor Jack Gorden welcomed visitors present.
3. **APPROVAL OF MINUTES**

Minutes of the Regular Meeting of March 16, 2010 were approved on a motion by Councilmember Lynn Torres, and seconded by Councilmember Robert Shankle. A unanimous affirmative vote was recorded.

**OLD BUSINESS:**

4. **PUBLIC HEARING AND SECOND READING OF AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF LUFKIN, TEXAS, - APPROVED - BY CHANGING THE ZONING DESIGNATION ON LAND DESCRIBED AS BEING LOCATED AT 1212 KELTYS STREET, BEING BLOCK 5, LOT 9 OF THE NORTH LUFKIN SUBDIVISION, ANGELINA COUNTY, TEXAS, A "RESIDENTIAL SMALL SINGLE-FAMILY DWELLING" ZONING DISTRICT TO A "LOCAL BUSINESS" ZONING DISTRICT AND AUTHORIZING THE CITY PLANNER TO MAKE SUCH CHANGES ON THE OFFICIAL MAP 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 a Public Hearing and Second Reading of an Ordinance amending the Zoning Ordinance of the City of Lufkin, Texas, by changing the zoning designation on land described as being located at 1212 Keltys Street, being Block 5, Lot 9 of the North Lufkin Subdivision, Angelina County, Texas, a "Residential Small Single-Family Dwelling" zoning district to a "Local Business" zoning district and authorizing the City Planner to make such changes on the Official Map and the Future Land Use Plan of the 2001 Comprehensive Plan to the classification of "Retail".

City Manager Paul Parker stated that this was the Second Reading of the zone change request and that Staff stood ready to answer any questions from the Council. City Manager Parker added that the Planning and Zoning Commission unanimously recommended the request to the City Council for their approval, along with the Planning Department, and that Staff concurred with the recommendation.

Mayor Gorden then opened the Public Hearing 5:08 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 5:09 p.m.

Mayor Gorden asked for questions or comments from the Council.

Councilmember R. L. Kuykendall moved to approve the Second Reading of the Ordinance amending the Zoning Ordinance of the City of Lufkin, Texas, by changing the zoning designation on land described as being located at 1212 Keltys Street, being Block 5, Lot 9 of the North Lufkin Subdivision, Angelina County, Texas, a "Residential Small Single-Family Dwelling" zoning district to a "Local Business" zoning district and authorizing the City Planner to make such changes on the Official Map and the Future Land Use Plan of the 2001 Comprehensive Plan to the classification of "Retail". Councilmember Robert Shankle seconded the motion. A unanimous affirmative vote was recorded.

#### **NEW BUSINESS:**

#### **5. ENERNOC ENERGY PROPOSAL – APPROVED - ON THE TEXAS DEMAND RESPONSE PROGRAM**

Mayor Jack Gorden stated that the next item for consideration was the EnerNOC Energy Proposal on the Texas Demand Response Program.

City Manager Paul Parker stated that there were representatives from EnerNOC present at the Council Meeting who were ready to explain the item to the Council. City Manager Parker added that the Texas Response Program was sponsored by ERCOT (Electric Reliability Council of Texas). City Manager Parker explained that the Texas Response Program, called EILS (Emergency Interruptible Load Service), was used for emergency situations only, when the electric grid was under an extreme load and about to be forced to resort to rolling brownouts/blackouts. City Manager Parker added that the program would be initiated to help reduce the load on the grid, and therefore eliminate the need for the brownouts/blackouts. City Manager Parker stated that the program would pay the City to take a certain amount of load off of the electrical grid. City Manager Parker added that the loads that had been discussed for the City to remove were all areas where the City had back-up generators. City Manager Parker stated that there had been two (2) events in the last twenty (20) years where there was actually a brownout/blackout in Texas that would call for this type of action. City Manager Parker explained that traditionally each year ERCOT could conduct one (1) fifteen (15) minute test of the system. City Manager Parker reiterated that the City of Lufkin had back-up generators on all of the facilities where the load would be removed, and that the City could easily do a fifteen (15) minutes test without affecting any water treatment or production. City Manager Parker stated that if the City was called on to brownout/blackout for the four (4) hour maximum, and the City did not follow through with the request due to high water demands or things of that nature, the only penalty would be that the City would not get paid for the quarter and may not be able to be back in the program for a period of time. City Manager Parker added that several cities across the state were already involved in the program, and that EnerNOC's role was that they provided all of the monitoring, permitting, reporting and equipment necessary to monitor the program. City Manager Parker explained that the funding would be split between EnerNOC and the City on the cost of the program. City Manager Parker stated that Staff was considering using sites such as the Wastewater Treatment Plant, Water Wells #10, #12, #13, #14 and #15, and Water Plants #1 and #2. City Manager Parker stated that the City could expect to receive sixty to eighty thousand dollars (\$60,000-\$80,000) annually for participating in the program, depending on the load and the demand. City Manager Parker stated that there appeared to be no negative to the program, and that several cities in the State were already involved in it. City Manager Parker added that he called several of the cities such as Nacogdoches, Corpus Christi, Cleburne, Midlothian, Grapevine, Waxahachie, Sherman, etc. City Manager Parker stated

that several City Managers in those cities told him that they had no problem with the program, but that there had been no rolling brownout/blackout. City Manager Parker stated that this was a synopsis of the program, and then asked City Engineer Chuck Walker to expand on the program and to introduce the guest from EnerNOC.

City Engineer Chuck Walker then introduced Mr. Sachin Gupta with EnerNOC. Mr. Walker then turned the meeting over to Mr. Gupta. City Manager Parker asked Mr. Gupta to correct anything that he had said that was incorrect. Mr. Gupta stated that City Manager Parker had gotten everything correct. Mr. Gupta explained the program, the audit tests and impact to the City.

Mr. Gupta then explained ERCOT's role in the program. Mr. Gupta explained that ERCOT worked with the PUC (Public Utility Commission) and State Legislature to create the programs. Mr. Gupta added that EnerNOC was started in 2001 and went public in 2005. Mr. Gupta stated that when the markets became deregulated in 2000-2001, there were programs in place in regulated markets all around the country. Mr. Gupta added that those programs never carried over. Mr. Gupta explained that the programs never had a way to take in a supply and demand related emergency. Mr. Gupta stated that EnerNOC started off in Massachusetts and the northeast creating demand response programs and working with different utilities. Mr. Gupta added that EnerNOC would provide free monitoring software to the City that would allow the City to be more energy savvy. Mr. Gupta stated that there were about twenty (20) cities in Texas enrolled in the program. Mr. Gupta then asked the City Council if there were any questions.

There were questions and discussion among the City Council regarding the program.

Mayor Gorden asked for any other questions or comments from the Council.

Councilmember Lynn Torres moved to approve the EnerNOC Energy Proposal on the Texas Demand Response Program. Councilmember R. L. Kuykendall seconded the motion. A unanimous affirmative vote was recorded.

**6. CERTIFICATION FROM CITY SECRETARY CANCELING THE MUNICIPAL ELECTION SCHEDULED FOR MAY 8, 2010 TO ELECT A CITY COUNCIL MEMBER FOR WARD NUMBER THREE (3) AND THE FIRST READING OF AN ORDINANCE DECLARING UNOPPOSED CANDIDATE IN THE MAY 8, 2010 GENERAL CITY ELECTION, ELECTED TO OFFICE; - APPROVED - CANCELING THE ELECTION FOR COUNCILMEMBER WARD NUMBER THREE (3); PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE**

Mayor Jack Gorden stated that the next item for consideration was the Certification from City Secretary canceling the Municipal Election scheduled for May 8, 2010 to elect a City Council Member for Ward Number Three (3), and the First Reading of an Ordinance declaring unopposed candidate in the May 8, 2010 General City Election, elected to office; canceling the election for Councilmember Ward Number Three (3); providing a severability clause; and providing an effective date.

Mayor Gorden asked for questions or comments from the Council.

Councilmember Robert Shankle moved to approve the Certification from City Secretary canceling the Municipal Election scheduled for May 8, 2010 to elect a City Council Member for Ward Number Three (3) and First Reading of the Ordinance declaring unopposed candidate in the May 8, 2010 General City Election, elected to office; canceling the election for Councilmember Ward Number Three (3); providing a severability clause; and providing an effective date. Councilmember R. L. Kuykendall seconded the motion. A unanimous affirmative vote was recorded.

**7. BUDGET FOR LANDSCAPING IMPROVEMENTS ON US HWY 59 SOUTH AND A RESOLUTION AUTHORIZING AN AMENDMENT TO THE 2009/2010 OPERATING BUDGET (BUDGET AMENDMENT NO. 17), - APPROVED -**

**PROVIDING FOR THE SUPPLEMENTAL APPROPRIATION OF FUNDS IN THE GENERAL CONSTRUCTION FUND; AND PROVIDING AN EFFECTIVE DATE**

Mayor Jack Gorden stated that the next item for consideration was a budget for landscaping improvements on US Hwy 59 South, and a Resolution authorizing an amendment to the 2009/2010 Operating Budget (Budget Amendment No. 17), providing for the supplemental appropriation of funds in the General Construction Fund; and providing an effective date. Mayor Gorden stated that at the last Council Meeting the Council voted to accept a grant to supplement the TxDOT landscaping on US Hwy. 59 South.

City Manager Paul Parker stated that Mr. Buddy Temple came before the Council at the last City Council Meeting to announce that the TLL Temple Foundation had approved a grant of six hundred fifteen thousand dollars (\$615,000) to help beautify the entrance of US Hwy 59. City Manager Parker added that to enable the City to expend the money, and to apply for the reimbursement, an accounting procedure had to take place that would allocate the six hundred fifteen thousand dollars (\$615,00) to allow the City to front the cost and bill back to the TLL Temple Foundation.

Mayor Gorden asked for questions or comments from the Council.

Councilmember Lynn Torres moved to approve a budget for landscaping improvements on US Hwy 59 South, and a Resolution authorizing an amendment to the 2009/2010 Operating Budget (Budget Amendment No. 17), providing for the supplemental appropriation of funds in the General Construction Fund; and providing an effective date. Councilmember R. L. Kuykendall seconded the motion. A unanimous affirmative vote was recorded.

**8. SET UP AN ACCOUNT FOR THE ZOO HAY BARN IN THE AMOUNT OF FIFTY-ONE THOUSAND SIX HUNDRED THIRTY-FIVE DOLLARS (\$51,635), AND A RESOLUTION AUTHORIZING AN AMENDMENT TO THE 2009/2010 OPERATING BUDGET (BUDGET AMENDMENT NO. 18), - APPROVED AS AMENDED - PROVIDING FOR THE SUPPLEMENTAL APPROPRIATION OF FUNDS IN THE 1999 CIP BOND PROGRAM FUND; AND PROVIDING AN EFFECTIVE DATE AND ACCEPTING A BID FROM LOGGINS AND SONS, INC. IN THE AMOUNT OF FORTY-SEVEN THOUSAND ONE HUNDRED DOLLARS (\$47,100) FOR THE BUILDING AND FOUR THOUSAND FIVE HUNDRED THIRTY-FIVE DOLLARS (\$4,535) FOR ADDITIONAL CONCRETE WORK**

Mayor Jack Gorden stated that the next item for consideration was to set up an account for the Zoo Hay Barn in the amount of fifty-one thousand six hundred thirty-five dollars (\$51,635), and a Resolution authorizing an amendment to the 2009/2010 Operating Budget (Budget Amendment No. 18), providing for the supplemental appropriation of funds in the 1999 CIP Bond Program Fund; and providing an effective date and accepting a bid from Loggins and Sons, Inc. in the amount of forty-seven thousand one hundred dollars (\$47,100) for the building and four thousand five hundred thirty-five dollars (\$4,535) for additional concrete work.

City Manager Paul Parker stated that recently the Council had appropriated two hundred fourteen thousand five hundred dollars (\$214,500) for the construction of a Zoo maintenance facility. City Manager Parker added that when the bids were received earlier in the year the actual bid price was one hundred twenty thousand three hundred thirty-one dollars and fifty-six cents (\$120,331.56). City Manager Parker furthered that at that time Staff discussed with the Council about going forth with another project on the Capital Improvements Program that was aimed at the Zoo, which was a hay barn facility to help store food for the feeding of the Zoo animals. City Manager Parker stated that plans and specifications were completed and bids were sent out. City Manager Parker added that the apparent low bidder at the time was Timberline Construction in the amount of forty-two thousand nine hundred dollars (\$42,900), with an alternate bid of five thousand one hundred eighteen dollars (\$5,118) for concrete work. City Manager Parker explained that Timberline did not submit the required bid bond, which was part of the bid policy that the council had adopted to guide Staff in the review policy. City Manager Parker added that Staff did not feel that it was in their authority to waive the irregularity, and therefore the next low bidder who had filled all of the requirements and did have a bid bond, was Loggins and Son, Inc. in the amount of forty-

seven thousand one hundred dollars (\$47,100), with an alternate bid of four thousand five hundred thirty-five dollars (\$4,535). City Manager Parker stated that Staff reviewed the item with City Attorney Bruce Green after it was brought to the Staff's attention that the Council had the authority to waive irregularities such as bid bond requirements. City Manager Parker added that City Attorney Green's opinion to the Staff was that the council could award the bid to Timberline Construction, since they were a known contractor. City Manager Parker explained that if the Council wanted to maintain the existing bid policy, Loggins and Son, Inc. would be the next lowest bidder.

There was discussion by the Council, City Manager, City Attorney and Staff regarding the City's bid policy and the bids for the Zoo hay barn.

Mayor Gorden asked for questions or comments from the Council.

Councilmember Don Langston moved to set up an account for the Zoo Hay Barn in the amount of fifty-one thousand six hundred thirty-five dollars (\$51,635), and a Resolution authorizing an amendment to the 2009/2010 Operating Budget (Budget Amendment No. 18), providing for the supplemental appropriation of funds in the 1999 CIP Bond Program Fund; and providing an effective date and accepting a bid from Timberline Construction in the amount of forty-two thousand nine hundred dollars (\$42,900) for the building, and five thousand one hundred eighteen dollars (\$5,118) for additional concrete work (alternate bid). Councilmember R. L. Kuykendall seconded the motion. Councilmember Lynn Torres requested to be recused from voting on the item. A unanimous affirmative vote was recorded.

**9. CONTRACT WITH GALLAGHER BENEFIT SERVICES, INC. FOR A BI-ANNUAL ACTUARIAL STUDY – APPROVED - OF THE OTHER POST EMPLOYMENT BENEFITS IN THE AMOUNT OF ELEVEN THOUSAND DOLLARS (\$11,000)**

Mayor Jack Gorden stated that the next item for consideration was a contract with Gallagher Benefit Services, Inc. for a Bi-Annual Actuarial Study of the Other Post Employment Benefits in the amount of eleven thousand dollars (\$11,000).

City Manager Paul Parker stated that this was one (1) of the accounting requirements from GASB 45 (Governmental Accounting Standards Board). City Manager Parker explained that the City had to look at OPEB (Other Post Employment Benefits) every two (2) years. City Manager Parker added that this was primarily health insurance for people who retired before the age of sixty-five (65). City Manager Parker stated that the eleven thousand dollars (\$11,000) was lower than most cities, but was required each year. City Manager Parker explained that the City had their health system set up on retiree health funds and employee health funds. City Manager Parker stated that Gallagher Benefit Services, Inc. did the City's last actuarial, and that Staff recommended that Council authorize the City Manager to enter into a contract with Gallagher Benefit Services, Inc. in the amount of eleven thousand dollars (\$11,000) for the OPEB actuarial study.

There was some discussion among the Council concerning the retiree's health insurance and the actuarial study. Mayor Gorden asked for questions or comments from the Council.

Councilmember Rufus Duncan moved to approve staff to contract with Gallagher Benefit Services, Inc. for a Bi-Annual Actuarial Study of the Other Post Employment Benefits in the amount of eleven thousand dollars (\$11,000). Councilmember Phil Medford seconded the motion. A unanimous affirmative vote was recorded.

**10. Mayor Jack Gorden recessed the Regular Session at 5:39 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 6:35 p.m.


**11. 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 Gorden stated that there would be an Annual Budget Retreat at Kurth Lake Lodge beginning at 8:00 a.m. the following morning, April 7, 2010. City Manager Parker added that he expected the Retreat to end shortly after lunch, depending on the discussions at the meeting.

12. There being no further business for consideration, the meeting adjourned at 6:37 p.m.

  
Renee Thompson – City Secretary

  
Jack Gorden, Mayor