

**MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF
LUFKIN, TEXAS HELD ON THE 3rd DAY OF JULY, 2012.**

On the 3rd day of July, 2012, 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	Mayor
Don Langston	Mayor Pro-Tem
Victor Travis	Councilmember, Ward No. 1
Robert Shankle	Councilmember, Ward No. 2
Lynn Torres	Councilmember, Ward No. 3
Rufus Duncan	Councilmember, Ward No. 5
Sarah Murray	Councilmember, Ward No. 6
Paul L. Parker	City Manager
Keith Wright	Deputy City Manager
Bruce Green	City Attorney
Kara Atwood	City Secretary
Scott Marcotte	Police Chief
Ted Lovett	Fire Chief
Belinda Southern	Finance Director
Steve Floyd	Public Works Director
Steve Poskey	Street Department Director
Michael Akridge	Parks & Recreation Director
Kathryn Edwards	Assistant Planner
Chuck Walker	City Engineer
Jim Wehmeier	Economic Development Director
Dale Allred	Inspection Services Director
Steve McCool	Fire Marshal

being present when the following business was transacted.

1. The meeting was opened with prayer by Reverend Stephen Lantis, First Christian Church.
2. Mayor Bob Brown welcomed visitors present.

APPROVAL OF MINUTES

3. Minutes of the Regular Meeting of June 17, 2012 were approved on a motion by Councilmember Lynn Torres and seconded by Councilmember Robert Shankle. A unanimous affirmative vote was recorded to approve the minutes as presented.

NEW BUSINESS:

4. **PUBLIC HEARING AND FIRST READING OF AN ORDINANCE OF THE CITY OF LUFKIN, TEXAS, REPEALING PENAL ORDINANCE 15 (CODIFIED AS § 93.02 IN CODE OF ORDINANCES, “BURNING IN FIRE LIMITS RESTRICTED”) IN ITS ENTIRETY AND ESTABLISHING A NEW ORDINANCE, “OUTDOOR BURNING”, RELATIVE TO ADOPTING STATE REGULATORY REQUIREMENTS FOR OUTDOOR BURNING, ESTABLISHING GENERAL PROHIBITIONS; PROVIDING CONDITIONS FOR PERMITTED ENUMERATED FIRES; REQUIRING A PERMIT; PROVIDING GENERAL REQUIREMENTS FOR BURNING; PROVIDING FOR VIOLATIONS AND PENALTIES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE – APPROVED WITH ADDITION OF SECTION 7.6 TITLED DISPOSAL FIRES.**

Mayor Bob Brown stated that the next item on the agenda was to conduct a Public Hearing and consider on First Reading an Ordinance of the City of Lufkin, Texas, repealing Penal Ordinance 15 (Codified as § 93.02 in Code of Ordinances, “Burning in Fire Limits Restricted”) in its entirety and establishing a new Ordinance, “Outdoor Burning”, relative to adopting State regulatory requirements for Outdoor Burning, establishing general prohibitions; providing conditions for permitted

enumerated fires; requiring a permit; providing general requirements for burning; providing for violations and penalties; providing a severability clause; and providing an effective date.

City Manager Paul Parker stated this Ordinance was drafted to address the issue of outdoor burning in the City. City Manager Parker stated that present policy was to allow the burning of leaves and yard waste; however, if a complaint was made, either Lufkin Police or Lufkin Fire would respond to the call. City Manager Parker continued that when the Police Department responded, the resident would be advised to extinguish the fire, and if the Fire Department responded, they would extinguish the fire. City Manager Parker also stated that the Police Department did not routinely issue citations for illegal burning. City Manager Parker stated that the Police Department responds to approximately two hundred (200) calls in regard to burning. City Manager Parker continued that the City's current policy did not comply with State regulations. City Manager Parker stated that there were options to the Ordinance and it would be up to the City Council to make the decision on the Ordinance. City Manager Parker stated that the City does pick up yard debris and waste if placed curbside, and there was no additional charge for the service.

Mayor Brown opened the Public Hearing at 5:10 p.m. and requested that anyone who wished to speak on the item to please step forward. Ms. Donna Farmer spoke in favor of the Ordinance and cited health reasons caused by outdoor burning. Mr. Mike Hudgens spoke against the Ordinance due to the hardship it would cause in keeping his ten (10) acre property maintained. Mr. Homer McCall spoke in opposition and stated it would be a hindrance to property owners. Mr. Brent Watkins voiced his concern that the Ordinance did not include the exception for burning natural growing vegetation and stated that the Ordinance should be less restrictive to meet all citizens' needs. Mr. Bobby Mott spoke in opposition and stated that the alternatives to burning waste would be expensive. Mr. Mike Parker stated that he recognized the City's position; however, he saw no issue with the current policy. Mr. Clay Dark opposed the Ordinance and stated that he did not see the need for the Ordinance as it was written. Mr. Charles Evans spoke in favor of the Ordinance due to smoke from outdoor burning being a nuisance and a health hazard. Mr. Evans also stated that the Ordinance should have an exception for larger lot owners. Mr. Kyle Spradley spoke against the Ordinance due to the time and cost of disposing of debris by alternative methods such as hauling waste to the landfill. There being no one further who wished to speak, Mayor Brown closed the Public Hearing at 5:32 p.m.

City Attorney Bruce Green explained the background for the Ordinance and explained that the Ordinance as drafted mirrored State Law with several exceptions. City Attorney Green continued that outdoor burning was regulated by the Texas Commission on Environmental Quality (TCEQ) and if the City did not enforce TCEQ regulations, the City could be exposed to regulatory liability through TCEQ. City Attorney Green stated that in attempt to address the complaints regarding burning and to ensure the City complied with State Law, this Ordinance was drafted. City Attorney Green continued to explain the problems with enforcing State Law. City Attorney Green stated that the State Law provision to allow residents to burn yard waste that originated from their property was not included. City Attorney Green stated it was not included due to the issue of burning on smaller lots and the issues with enforcement. City Attorney Green stated that the Council could alter the Ordinance to allow for burning based on lot size, or simply adopt the exception that allowed residents to burn yard waste that originated from their property. Councilmember Don Langston stated that the intended goal of the Ordinance was to comply with State Law. Councilmember Langston continued that the second exception seemed to be the best course of action and he would like to see that included in the Ordinance. Councilmember Rufus Duncan stated that this Ordinance should not be more restrictive than the State Law. City Manager Parker stated that the Ordinance could be passed on First Reading with the addition of the stated exception and the amended Ordinance would be presented on Second Reading at the next Council Meeting.

Councilmember Don Langston moved to approve on First Reading an Ordinance of the City of Lufkin, Texas, repealing Penal Ordinance 15 (Codified as § 93.02 in Code of Ordinances, "Burning in Fire Limits Restricted") in its entirety and establishing a new Ordinance, "Outdoor Burning", relative to adopting State regulatory requirements for Outdoor Burning, establishing general prohibitions; providing conditions for permitted enumerated fires; requiring a permit; providing general requirements for burning; providing for violations and penalties; providing a severability clause; and providing an effective date with the addition of the Section 7.6 titled Disposal Fires. Councilmember Robert Shankle seconded the motion and a unanimous vote to approve was recorded.

5. FIRST READING OF AN ORDINANCE PROVIDING FOR THE TERMS AND CONDITIONS OF ABANDONMENT, VACATION, AND CLOSURE OF A CERTAIN TRACT OR PARCEL OF LAND BEING AN UNDEVELOPED ALLEY, BEING 0.143 ACRE, OR 6,226 SQUARE FEET, MORE OR LESS, HERTY BLOCK 3, LOTS 6 – 11, AND HERTY BLOCK 4, LOTS 1 – 16, ANGELINA COUNTY; AND PROVIDING FOR THE CITY MANAGER TO CONVEY BY QUIT CLAIM ALL OF THE CITY’S INTEREST IN SAID ALLEY TO THE ABUTTING PROPERTY OWNER, UPON PAYMENT OF FAIR MARKET VALUE – APPROVED.

Mayor Bob Brown stated that the next item was to consider on First Reading an Ordinance providing for the terms and conditions of abandonment, vacation, and closure of a certain tract or parcel of land being an undeveloped alley, being 0.143 acre, or 6,226 square feet, more or less, Herty Block 3, Lots 6 – 11, and Herty Block 4, Lots 1 – 16, Angelina County; and providing for the City Manager to convey by quit claim all of the City’s interest in said alley to the abutting property owner, upon payment of fair market value

City Manager Paul Parker stated this was a request from Brookshire Brothers to close and purchase an alley located near Atkinson Drive and Paul Avenue. City Manager Parker continued that this property was the subject of a recent zone change request. City Manager Parker stated that per City policy, the alley had been appraised by William J. Lyons & Associates and the appraised value was three thousand one hundred forty-four dollars (\$3,144) City Manager Parker stated the purchase price would include the cost of the appraisal in the amount of seven hundred fifty dollars (\$750). City Manager Parker stated that Staff recommended the approval of the closure and sale of the alley in the amount of three thousand eight hundred ninety four dollars (\$3,894) to Brookshire Brothers.

Mayor Brown asked for comments or motions from the Council.

Councilmember Lynn Torres moved to approve the First Reading of an Ordinance providing for the terms and conditions of abandonment, vacation, and closure of a certain tract or parcel of land being an undeveloped alley, being 0.143 acre, or 6,226 square feet, more or less, Herty Block 3, Lots 6 – 11, and Herty Block 4, Lots 1 – 16, Angelina County; and providing for the City Manager to convey by quit claim all of the City’s interest in said alley to the abutting property owner, upon payment of fair market value. Councilmember Sarah Murray seconded the motion and a unanimous vote to approve was recorded.

6. PURCHASE OF A TYMCO MODEL 600 STREET SWEEPER FOR THE STREET DEPARTMENT IN THE AMOUNT OF ONE HUNDRED EIGHTY-SEVEN THOUSAND SEVEN HUNDRED SIXTY DOLLARS (\$187,760) FROM TYMCO, INC. – APPROVED.

Mayor Bob Brown stated that the next item on the agenda was to consider approval of the purchase of a TYMCO Model 600 Street Sweeper for the Street Department in the amount of one hundred eighty-seven thousand seven hundred sixty dollars (\$187,760) from TYMCO, Inc.

City Manager Paul Parker stated Council recently approved funding for the purchase of a new Street Sweeper for the Street Department. City Manager Parker stated that Staff recommended the purchase of a TYMCO Model 600 Sweet Sweeper in the amount of one hundred eighty-seven thousand seven hundred sixty dollars (\$187,760) from TYMCO, Inc. to replace the existing 2006 Street Sweeper. City Manager Parker continued that this equipment was heavily used throughout the City. City Manager

Mayor Brown then asked for comments or motions from the Council.

Councilmember Rufus Duncan moved to approve the purchase of a TYMCO Model 600 Street Sweeper for the Street Department in the amount of one hundred eighty-seven thousand seven hundred sixty dollars (\$187,760) from TYMCO, Inc. Councilmember Robert Shankle seconded the motion and a unanimous vote to approve was recorded.

7. PURCHASE OF A WIRTGEN W120F ASPHALT MILLING MACHINE FOR THE STREET DEPARTMENT IN THE AMOUNT OF FOUR HUNDRED EIGHTEEN THOUSAND THREE HUNDRED SEVENTY DOLLARS (\$418,370) FROM WIRTGEN AMERICA – APPROVED.

Mayor Bob Brown stated that the next item on the agenda was consideration of a purchase of a Wirtgen W120F Asphalt Milling Machine for the Street Department in the amount of four hundred eighteen thousand three hundred seventy dollars (\$418,370) from Wirtgen America.

City Manager Paul Parker stated Council recently approved funding for the purchase of this equipment and Staff wished to purchase a Wirtgen W120F Asphalt Milling Machine for the Street Department. City Manager Parker continued that the purchase price also included training for two (2) operators and two (2) mechanics due to the equipment being very specialized. City Manager Parker stated that the existing milling machine would be sold through the auction process. City Manager Parker concluded that Staff recommended the purchase of the Wirtgen W120F Asphalt Milling Machine for the Street Department in the amount of four hundred eighteen thousand three hundred seventy dollars (\$418,370). Councilmember Don Langston asked for clarification on where the funding for these purchases was being allocated from and if this equipment would then be included in the Amortization Schedule. City Manager Parker stated that the funding was taken from the General Fund Unobligated Fund Balance and per Council's request; all three (3) pieces of equipment would be included in the Amortization Schedule from now on. Councilmember Rufus Duncan questioned the expense of the engine upgrade. Public Works Director Steve Floyd stated that the engine upgrade was required due to emissions regulations and was now required for all large diesel engines and equipment based on the horsepower of the engine.

Mayor Brown then asked for comments or motions from the Council.

Councilmember Lynn Torres moved to approve the purchase of a Wirtgen W120F Asphalt Milling Machine for the Street Department in the amount of four hundred eighteen thousand three hundred seventy dollars (\$418,370) from Wirtgen America. Councilmember Sarah Murray seconded the motion and a unanimous vote for approval was recorded.

8. PURCHASE OF A VOGELE 5103-2 ASPHALT PAVER FOR THE STREET DEPARTMENT IN THE AMOUNT OF THREE HUNDRED TWENTY THOUSAND FOUR HUNDRED SIXTY-FOUR DOLLARS (\$320,464) FROM WIRTGEN AMERICA – APPROVED.

Mayor Bob Brown stated that the next item on the agenda was to consider approval of the purchase of a Vogele 5103-2 Asphalt Paver for the Street Department in the amount of three hundred twenty thousand four hundred sixty-four dollars (\$320,464) from Wirtgen America.

City Manager Paul Parker stated the existing asphalt paver was experiencing numerous mechanical problems. City Manager Parker continued this was the additional piece of equipment that funding was recently approved for. City Manager Parker stated that Staff recommended approval of the purchase of a Vogele 5103-2 Asphalt Paver for the Street Department in the amount of three hundred twenty thousand four hundred sixty-four dollars (\$320,464) from Wirtgen America. City Manager Parker also stated that the existing paver would be sold through the auction process. Councilmember Don Langston questioned if the paving width of the machine was adjustable. Street Department Director Steve Poskey stated that it was adjustable from eight feet (8') to sixteen feet (16'). Councilmember Langston questioned what the need was for such a large paver and if money could be saved by purchasing a smaller machine. Director Poskey stated that the next smaller piece of equipment was for laying driveways and aprons; and was not compatible for laying streets.

Mayor Brown then asked for comments or motions from the Council.

Councilmember Lynn Torres moved to approve the purchase of a Vogele 5103-2 Asphalt Paver for the Street Department in the amount of three hundred twenty thousand four hundred sixty-four dollars (\$320,464) from Wirtgen America. Councilmember Robert Shankle seconded the motion and a unanimous vote for approval was recorded.

9. APPOINTMENT TO THE 4-B ECONOMIC DEVELOPMENT BOARD (MR. JACK SWEENY) AND APPOINTMENT OF MAYOR BOB BROWN TO THE ANGELINA COUNTY AND CITIES HEALTH DISTRICT BOARD – APPROVED.

Mayor Bob Brown stated the next item on the agenda was to consider an appointment to the 4-B Economic Development Board and the appointment of Mayor Bob Brown to the Angelina County and Cities Health District Board.

City Manager Paul Parker stated that during the Council meeting of June 19th, 2012, appointments were made to the numerous boards and committees of the City of Lufkin. City Manager Parker continued that the appointment of Mr. Jack Sweeny to the 4-B Economic Development Board was inadvertently left out of the motion, therefore, this appointment still needed to be confirmed. City Manager Parker also stated that the Angelina County and Cities Health District Board had requested that Council appoint Mayor Bob Brown as the City's representative on the Board to replace former Mayor Jack Gorden.

Councilmember Lynn Torres moved to confirm the appointment of Mr. Jack Sweeny to the 4-B Economic Development Board and the appointment of Mayor Bob Brown to the Angelina County and Cities Health District Board. Councilmember Robert Shankle seconded the motion and a unanimous vote to approve the motion was recorded.

Mayor Bob Brown recessed the regular session at 5:55 p.m. to enter into Executive Session.

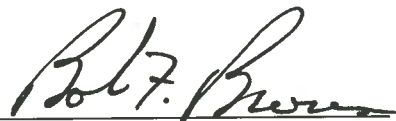
10. **EXECUTIVE SESSION:** In accordance with the Texas Government Code Section 551.071 (2) Consultation with City Attorney on any Regular Session Agenda item requiring confidential, attorney/client advices necessitated by the deliberation or discussion of said items (as needed), and real estate, demolition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

Mayor Bob Brown reconvened the regular session at 6:40 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.**

City Manager Paul Parker highlighted upcoming meetings on the Council Calendar including the upcoming First Friday Luncheon.

12. There being no further business for consideration, the meeting adjourned at 6:43 p.m.



Bob F. Brown, Mayor



Kara Atwood, City Secretary

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