

**MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF
LUFKIN, TEXAS HELD ON THE 5th DAY OF MARCH, 2013.**

On the 5th day of March, 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
Don Langston
Victor Travis
Robert Shankle
Lynn Torres
Rufus Duncan
Sarah Murray
Keith Wright
Bruce Green
Kara Atwood
Rodney Ivy
Scott Marcotte
Gerald Williamson
Ted Lovett
Belinda Southern
Dorothy Wilson
Chuck Walker
Steve Floyd
Barbara Thompson
Dale Allred

Mayor
Mayor Pro-Tem
Councilmember, Ward No. 1
Councilmember, Ward No. 2
Councilmember, Ward No. 3
Councilmember, Ward No. 5
Councilmember, Ward No. 6
Deputy City Manager
City Attorney
City Secretary
Human Resources Director
Police Chief
Assistant Police Chief
Fire Chief
Finance Director
Planning Director
Public Utilities Director
Public Works Director
Main Street Director
Inspection Services Director

being present; and

Paul L. Parker

City Manager

being absent when the following business was transacted.

1. The meeting was opened with prayer by Pastor Paul Geye, Angel of Joy Lutheran Church.
2. Mayor Bob Brown welcomed visitors present and recognized those in attendance from Smoke Free Lufkin.

APPROVAL OF MINUTES

3. Minutes of the Regular Meeting of February 19th, 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.
4. **ADMINISTER THE OATH OF OFFICE TO LUFKIN FIREFIGHTERS WILL MCELROY AND ANTHONY HOLCOMBE.**

Mayor Bob Brown administered the Oath of Office to new Lufkin Firefighters Will McElroy and Anthony Holcombe.

OLD BUSINESS:

5. **PUBLIC HEARING AND SECOND READING OF AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF LUFKIN, TEXAS, BY GRANTING A SPECIAL USE PERMIT FOR INDOOR COMMERCIAL RECREATION AND ENTERTAINMENT WITHIN A CENTRAL BUSINESS DISTRICT FOR PROPERTY DESCRIBED AS 3800 DENMAN W.C., BLOCK 2, LOT 1.7 AND PART OF 1.1 OF BLOCK 3, AND MORE COMMONLY KNOWN AS 113 WEST DENMAN AVENUE – APPROVED.**

Mayor Bob Brown stated that the next item on the agenda was to conduct a Public Hearing and consider on Second Reading an Ordinance amending the Zoning Ordinance of the City of Lufkin, Texas, by granting a Special Use Permit for Indoor Commercial Recreation and Entertainment

within a Central Business District for property described as 3800 Denman W.C., Block 2, Lot 1.7 and part of 1.1 of Block 3, and more commonly known as 113 West Denman Avenue.

Deputy City Manager Keith Wright stated this was the second reading for a request by Mr. Larry Hunt and Modest Coronado for a Special Use Permit for Indoor Commercial Recreation and Entertainment at 113 West Denman Avenue for a sports training center for youth baseball and football training. Deputy City Manager Wright stated that both Staff and the Planning & Zoning Commission recommended approval of the request.

Mayor Brown opened the Public Hearing at 5:05 p.m. and requested that anyone who wished to speak regarding the item to please step forward. There being no one who wished to speak, Mayor Brown closed the Public Hearing and asked for comments or questions from the Council.

Councilmember Robert Shankle moved to approve the Second Reading of an Ordinance amending the Zoning Ordinance of the City of Lufkin, Texas, by granting a Special Use Permit for Indoor Commercial Recreation and Entertainment within a Central Business District for property described as 3800 Denman W.C., Block 2, Lot 1.7 and part of 1.1 of Block 3, and more commonly known as 113 West Denman Avenue. Councilmember Sarah Murray seconded the motion and a unanimous vote to approve was recorded.

6. SECOND READING OF AN ORDINANCE OF THE CITY COUNCIL OF LUFKIN, TEXAS, AMENDING THE ORDINANCE ADOPTING A CLASSIFICATION PLAN FOR THE POLICE DEPARTMENT OF THE CITY OF LUFKIN, TEXAS (ORDINANCE 3312), ESTABLISHING CLASSIFICATIONS AND SETTING THE NUMBER OF AUTHORIZED CIVIL SERVICE POSITIONS, BY INCREASING THE CLASSIFICATION "POLICE OFFICER" (INCLUDING TRAINEES AND PROBATIONARY OFFICERS) BY FIVE (5) POSITIONS, INCREASING THE CLASSIFICATION "SERGEANT" BY ONE (1) POSITION, IN THE POLICE DEPARTMENT; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE – APPROVED.

Mayor Bob Brown stated the next item for consideration was the Second Reading of an Ordinance of the City Council of Lufkin, Texas, amending the ordinance adopting a classification plan for the Police Department of the City of Lufkin, Texas (Ordinance 3312), establishing classifications and setting the number of authorized Civil Service positions, by increasing the classification "Police Officer" (including trainees and probationary officers) by five (5) positions, increasing the classification "Sergeant" by one (1) position, in the Police Department; providing for a repealer clause; providing for a severability clause; and establishing an effective date.

Deputy City Manager Keith Wright stated this Ordinance simply established positions and titles within the Police Department per the Civil Service Chapter 143 of the Texas Local Government Code; and Staff recommended approval of the Ordinance as presented.

Councilmember Don Langston moved to approve the Second Reading of an Ordinance of the City Council of Lufkin, Texas, amending the ordinance adopting a classification plan for the Police Department of the City of Lufkin, Texas (Ordinance 3312), establishing classifications and setting the number of authorized Civil Service positions, by increasing the classification "Police Officer" (including trainees and probationary officers) by five (5) positions, increasing the classification "Sergeant" by one (1) position, in the Police Department; providing for a repealer clause; providing for a severability clause; and establishing an effective date. Councilmember Lynn Torres seconded the motion and a unanimous vote to approve was recorded.

7. SECOND READING OF AN ORDINANCE OF THE CITY COUNCIL OF LUFKIN, TEXAS, AMENDING THE ORDINANCE ADOPTING A CLASSIFICATION PLAN FOR THE FIRE DEPARTMENT OF THE CITY OF LUFKIN, TEXAS (ORDINANCE 2872), ESTABLISHING CLASSIFICATIONS AND SETTING THE NUMBER OF AUTHORIZED CIVIL SERVICE POSITIONS, BY DELETING THE CLASSIFICATION "DRIVER ENGINEER" WITH FIFTEEN (15) POSITIONS, REPLACING IT WITH THE CLASSIFICATION "LIEUTENANT" AND TWENTY-ONE (21) POSITIONS, ADDING A CLASSIFICATION OF "FIRE FIGHTER: TRAINEE PROBATIONARY"; ADDING NINE (9) "FIRE FIGHTER" POSITIONS AND THREE (3) "CAPTAIN" POSITIONS IN THE FIRE DEPARTMENT; PROVIDING FOR A REPEALER CLAUSE, AND ESTABLISHING AN EFFECTIVE DATE – APPROVED.

Mayor Bob Brown stated that the next item was to consider on Second Reading an Ordinance of the City Council of Lufkin, Texas, amending the Ordinance adopting a classification plan for the Fire Department of the City of Lufkin, Texas (Ordinance 2872), establishing classifications and setting the number of authorized Civil Service positions, by deleting the classification "Driver Engineer" with fifteen (15) positions, replacing it with the classification "Lieutenant" and twenty-one (21) positions, adding a classification of "Fire Fighter: Trainee Probationary"; adding nine (9) "Fire Fighter" positions and three (3) "Captain" positions in the Fire Department; providing for a repealer clause, and establishing an effective date.

Deputy City Manager Keith Wright stated that as with Item No. 7, this Ordinance established positions and titles within the Fire Department and Staff recommended approval of this item as well.

Councilmember Robert Shankle moved to approve the Second Reading of an Ordinance of the City Council of Lufkin, Texas, amending the Ordinance adopting a classification plan for the Fire Department of the City of Lufkin, Texas (Ordinance 2872), establishing classifications and setting the number of authorized Civil Service positions, by deleting the classification "Driver Engineer" with fifteen (15) positions, replacing it with the classification "Lieutenant" and twenty-one (21) positions, adding a classification of "Fire Fighter: Trainee Probationary"; adding nine (9) "Fire Fighter" positions and three (3) "Captain" positions in the Fire Department; providing for a repealer clause, and establishing an effective date. Councilmember Sarah Murray seconded the motion and a unanimous vote to approve was recorded.

NEW BUSINESS:

8. PUBLIC HEARING AND FIRST READING OF AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED TERRITORY (609 TOWER LANE) TO THE CITY OF LUFKIN, TEXAS, AND EXTENDING THE BOUNDARIES OF SAID CITY SO AS TO INCLUDE SAID PROPERTY WITHIN THE CITY LIMITS, AND GRANTING TO SAID TERRITORY AND TO ALL FUTURE INHABITANTS OF SAID PROPERTY ALL OF THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID FUTURE INHABITANTS BY ALL OF THE ACTS AND ORDINANCES OF THE SAID CITY – APPROVED.

Mayor Bob Brown stated that the next item was to conduct a Public Hearing and consider on First Reading an Ordinance annexing the hereinafter described territory (609 Tower Lane) to the City of Lufkin, Texas, and extending the boundaries of said City so as to include said property within the City Limits, and granting to said territory and to all future inhabitants of said property all of the rights and privileges of other citizens and binding said future inhabitants by all of the acts and ordinances of the said City.

Deputy City Manager Keith Wright stated this was a request for annexation from Mr. Jimmy Carnes for approximately 2.09 acres of land located on Tower Lane, in order to receive full municipal services, which were available to the property. Deputy City Manager Wright stated that previously City Council had approved the Resolution to proceed with the annexation and held two (2) Public Hearing as required. Deputy City Manager Wright concluded that Staff recommended approval of the first reading of the annexation ordinance for the property.

Mayor Brown opened the Public Hearing at 5:09 p.m. and asked anyone who wished to speak on the item to please step forward. There being no one who wished to speak; Mayor Brown closed the Public Hearing and asked for comments or questions from the City Council.

Councilmember Victor Travis moved to approve the First Reading of an Ordinance annexing the hereinafter described territory (609 Tower Lane) to the City of Lufkin, Texas, and extending the boundaries of said City so as to include said property within the City Limits, and granting to said territory and to all future inhabitants of said property all of the rights and privileges of other citizens and binding said future inhabitants by all of the acts and ordinances of the said City. Councilmember Lynn Torres seconded the motion and a unanimous vote to approve was recorded.

9. DISCUSSION REGARDING PROPOSED REPEAL AND REPLACEMENT OF THE CURRENT CITY OF LUFKIN SMOKING ORDINANCE – NO ACTION REQUIRED.

Mayor Bob Brown stated the next item on the agenda was a discussion regarding the proposed repeal and replacement of the current City of Lufkin Smoking Ordinance.

Deputy City Manager Keith Wright stated over the past several years, the City had been approached numerous times in regard to the passage of a smoke free ordinance for the City of Lufkin. Deputy City Manager Wright continued that previously, the Smoke Free Lufkin group had made a presentation regarding a proposed ordinance that would essentially ban smoking in public places. Deputy City Manager Wright stated that a model ordinance had been included in the packet for review by City Council and City Attorney Bruce Green had completed intensive research regarding this ordinance along with the modifications that had been made to the model ordinance by other cities. Deputy City Manager Wright simply requested Council to direct Staff on how to proceed with the ordinance. Deputy City Manager Wright then asked City Attorney Bruce Green to review the ordinance. City Attorney Green then reviewed the ordinance, which has appeared to be used by the majority of the cities that have enacted smoke free legislation. City Attorney Green stated this model ordinance had been provided as a working document for City Council to review and alter as they saw fit. City Attorney Green stated that a list of cities that had enacted this ordinance, whether in toto or modified was included the Council Packet. City Attorney Green then gave City Council an overview of the current City of Lufkin smoking ordinance that was enacted in 1994. City Attorney Green stated that the model ordinance, unlike the current ordinance, would not allow a business to be designated as a "smoking" business and would essentially ban smoking in all public places, which included a perimeter outside public places, as well as areas of outdoor employment. City Attorney Green stated that a number of cities that adopted the model ordinance had modified it in four areas that included the allowance of "smoking" hotel/motel rooms, by granting a hotel a certain percentage of rooms that could be designated "smoking". City Attorney Green continued that the percentage of rooms that were designated as "smoking" ranged from ten percent (10%) to thirty percent (30%), with the most common percentage being twenty-five percent (25%). City Attorney Green stated the second modification was the reasonable distance requirement, which was the perimeter outside of building where smoking was not allowed. City Attorney Green stated that the reasonable distance varied from fifteen feet (15') to twenty-five feet (25') and cited the requirements for some Texas cities. City Attorney Green stated that the third modification was the exception for smoking to be allowed in retail tobacco stores and the last modification regarded outdoor places of employment. City Attorney Green stated that some cities did not address outdoor places of employment at all, and some had implemented a reasonable distance requirement, but still allowed smoking outdoors. City Attorney Green continued that the proposed model ordinance was generally the starting point for cities that wished to implement a smoke free ordinance; however, the ordinance would not regulate or ban smoking outdoors generally, in private residences that are not used for child care or day care, or any place that was not open to the public. Deputy City Manager Wright stated that the substance of the ordinance began in Section 4, which prohibited smoking in all areas, vehicles, buildings, and property owned or leased by the City of Lufkin, including outdoor adjacent property.

Mayor Brown then asked for questions or comments from City Council. Councilmember Don Langston stated that he appreciated the amount of research completed by City Attorney Green and concurred that the majority of smoke free ordinances in the state were modeled similarly. Councilmember Langston continued that it was difficult to find cities that had adopted a 100% smoke free ordinance and he was encouraged that State legislation was underway regarding banning smoking as well. Councilmember Langston stated that the model ordinance was a very good start; however, the City Council had to look at modifications due to existing businesses. Councilmember Langston furthered that the City had not had adequate enforcement of the existing ordinance which had aggravated the current situation. Councilmember Langston stated that City Council had heard from a number of those in the community and that it was certainly worth taking a look at and he was ready to move forward with a new ordinance or a modification of the existing ordinance. Councilmember Lynn Torres stated that she was not against the Ordinance; however, her only issue was that the Ordinance would not do anything to prevent smoking. Councilmember Torres stated that she did not feel enough was being done on the education and the effort to stop smoking or prevent the youth of the community from beginning to smoke. Councilmember Torres continued there were deeper issues regarding smoking and the Ordinance was a start, but nowhere near addressing the problem of smoking in the community. Councilmember Victor Travis stated that he agreed with Councilmember Torres, that the Ordinance would help, but did not address the problem of reducing smoking. Councilmember Langston stated that this Ordinance would only affect a handful of businesses in the City but he was concerned about enforcement of the Ordinance. Councilmember Langston stated the Ordinance would help to publicize the requirements, but it would be very difficult to enforce the Ordinance. Councilmember Langston concluded that he was not willing to pass a 100% smoke free ordinance due to the implications to ongoing businesses and he would also like to see more education to discourage smoking. Councilmember Robert Shankle stated that he agreed with Councilmember Langston, but he understood the Ordinance could not be 100% smoke free. Councilmember Shankle stated he also agreed that enforcement would be an issue, but City Council needed to take the steps to pass an Ordinance. Councilmember Rufus

Duncan stated that he could support the model ordinance; however he had several concerns; hotel/motels should be allowed to have twenty-five percent (25%) of rooms designated as smoking; did not agree with Section 20; and that reasonable distance around buildings should be twenty-five feet (25'). Councilmember Duncan stated that if those modifications were made, he would support the Ordinance. Deputy City Manager Wright confirmed the direction of the Council that Staff should proceed using the model ordinance as a starting document, and the modifications requested by Councilmember Duncan. Mayor Brown then allowed Dr. Sid Roberts to speak regarding the model ordinance. Councilmember Langston stated that he wished to go on record that he had a number of areas of concern with the ordinance. Dr. Roberts stated that he agreed there were reasonable exceptions that could be made to the model ordinance that included the hotel/motel room exception; however, local hotel owner Victor Patel stated he had no issue with his establishments being 100% smoke free. Dr. Roberts continued that there was a nationwide trend for hotel/motels to be 100% smoke free. Dr. Roberts stated that reasonable distance could be modified along with an exception could be provided for retail tobacco stores and that Smoke Free Lufkin could support an ordinance with these modifications. Dr. Roberts stated that he appreciated City Council's choice to move forward with the creation of an ordinance. Mayor Brown then asked if anyone was present that wished to speak against a smoke free ordinance. There being no one who wished to speak, Mayor Brown thanked those present and stated Council would move forward with the development of an ordinance.

10. DEFERRAL FOR ONE (1) YEAR OF A TAX ABATEMENT AND ECONOMIC DEVELOPMENT PROGRAM AGREEMENT WITH HPC ASSOCIATES/HOTEL ANGELINA HOLDINGS, LLC – APPROVED.

Mayor Bob Brown stated the next item was the consideration of the approval of deferral for one (1) year of a Tax Abatement and Economic Development Program Agreement with HPC Associates/Hotel Angelina Holdings, LLC.

Deputy City Manager Keith Wright stated that in February 2012, City Council approved a Tax Abatement and Economic Development Program Agreement with HPC Associates/Hotel Angelina Holdings, LLC or Project Landmark, in order to provide assistance for the redevelopment of the Angelina Hotel. Deputy City Manager Wright stated that the current owner, Mr. Mark Hicks purchased the building and committed an additional five hundred thousand dollars (\$500,000) for renovations, which included the replacement of the roof, renovation of the façade, abatement of environmental issues and reconstruction of the first floor into usable space. Deputy City Manager Wright stated that the agreement required that a five hundred thousand dollar (\$500,000) investment be made and a total of seven (7) jobs be created during year one (1) of the agreement. Deputy City Manager Wright continued that Mr. Hicks had not met the year one (1) requirement due to issues with the renovation; however, he had made an a considerable investment of three hundred thousand dollars (\$300,000) and completely leased the first floor of the hotel. Deputy City Manager Wright stated that the Texas Tax Code allowed for the deferral of the tax abatement and agreement, which is what Mr. Hicks had requested in writing from the City. Councilmember Don Langston questioned whether the 4B Board had met regarding this request. Deputy City Manager Wright stated that since it was a one (1) year deferral and not a modification of the abatement, the 4B Board was not required to consider and approve the request. Councilmember Rufus Duncan questioned whether an additional year would be added. Deputy City Manager Wright stated it would not be added, the dates on the agreement would be deferred for one (1) year. Councilmember Victor Travis questioned whether the City would lose anything related to the agreement. Councilmember Lynn Torres stated the City had not paid Mr. Hicks any of the incentive funding. Councilmember Langston stated he previously voted against the item due to no City regulations being found that allowed for an incentive grant in the amount of one hundred thousand dollars (\$100,000) or anything in the 4B rules that allowed for it either. Councilmember Langston stated that if City Attorney Bruce Green stated the grant was allowed, he did not have an issue with it. Mayor Brown questioned whether the five hundred thousand dollar (\$500,000) investment would be required to be substantiated. Councilmember Torres stated that Mr. Hicks would have to submit documentation to prove the investment prior to the City dispersing the incentive funding. Councilmember Travis asked if this was allowed under the new Tax Abatement policy. City Attorney Green stated this would fall under the previous guidelines and was allowed under those and City Council could either defer the agreement or declare it in default. Councilmember Langston stated that although he did not agree with the issue initially, he also did not think the City should not honor the agreement that was previously made due to the hardships that the owner has faced.

Councilmember Don Langston moved to approve the deferral for one (1) year of a Tax Abatement and Economic Development Program Agreement with HPC Associates/Hotel Angelina Holdings,

LLC. Councilmember Robert Shankle seconded the motion. The motion carried with a six (6) to one (1) vote. Mayor Bob Brown voted against the motion.

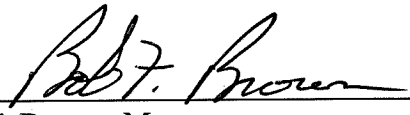
- 11. EXECUTIVE SESSION:** The City Council of the City of Lufkin, Texas may adjourn into Executive Session in accordance with the Texas Government Code, Section 551.071, consultation with City Attorney, on any Regular Session Agenda item requiring confidential, attorney/client advices necessitated by the deliberation or discussion of said items as needed.

Mayor Bob Brown stated that there was no need for an Executive Session and moved to Item No. 12.

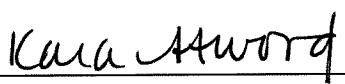
- 12. DISCUSSION OF ITEMS OF COMMUNITY INTEREST, INCLUDING EXPRESSIONS OF THANKS, CONGRATULATIONS OR CONDOLENCE; INFORMATION REGARDING HOLIDAY SCHEDULES; HONORARY RECOGNITIONS OF CITY OFFICIALS, EMPLOYEES OR OTHER CITIZENS; REMINDERS ABOUT UPCOMING EVENTS SPONSORED BY THE CITY OR OTHER ENTITY THAT ARE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

Deputy City Manager Keith Wright reviewed the calendar with the upcoming events for the next two (2) weeks. Deputy City Manager Wright asked whether City Council members would be able to attend a workshop on March 19th, 2013 at 2:00 p.m. in regard to employee health care. City Council concurred they would be able to attend. Deputy City Manager Wright also highlighted the next performance at The Pines Theater and the upcoming Main Street Hoe Down. Councilmember Victor Travis stated that there would be Teen Summit on March 26th sponsored by the Concerned Black Men of Lufkin. Mayor Brown thanked Public Works Director Steve Floyd for his department's efforts on the hazardous waste event.

- 13.** There being no further business for consideration, the meeting adjourned at 5:53 p.m.



Bob F. Brown, Mayor



Kara Atwood, City Secretary

SEAL