MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 2ND DAY OF JUNE, 1992 AT 5:00 P.M.

On the 2nd day of June, 1992 the City Commission of the City of Lufkin, Texas, convened in regular meeting in the Council Chambers of City Hall with the following members thereof, to wit:

Louis A. Bronaugh	Mayor
Don Boyd	Commissioner, Ward No. 2
Larry Kegler	Commissioner, Ward No. 3
Bob Bowman	Commissioner, Ward No. 4
Paul Mayberry	Commissioner, Ward No. 6

being present, and

Percy Simond	Commissioner, Ward No. 1
Jack Gorden	Commissioner, Ward No. 5

being absent when the following business was transacted.

1. Meeting was opened with prayer by Reverend Tim Diebel, Minister, First Christian Church.

2. Mayor Bronaugh welcomed visitors present. Commissioner Paul Mayberry introduced his wife, Lee, and expressed his appreciation for her support during his tenure on the City Commission.

3. **APPROVAL OF MINUTES**

Minutes of Called Meeting of May 12, 1992 and Regular Meeting of May 19, 1992, were approved on a motion by Commissioner Bob Bowman and seconded by Commissioner Paul Mayberry. A unanimous affirmative vote was recorded.

4. **CERTIFICATE OF APPRECIATION - PAUL MAYBERRY - COMMISSIONER WARD 6**

Mayor Bronaugh presented a Certificate of Appreciation to Commissioner Paul Mayberry for his tenure on the City Commission as Commissioner of Ward 6 from May, 1988 to June 2, 1992.

5. **CERTIFICATES OF COMMENDATION - FIREFIGHTERS - CAPTAIN EARL JACKSON - DRIVER/ENGINEER J. C. HALSELL - FIREFIGHTER/PARAMEDIC WAYNE BICKLEY - FIREFIGHTER/PARAMEDIC BILL WAFER - DRIVER/ENGINEER DUANE FREEMAN**

Mayor Bronaugh presented Certificates of Commendation to firefighters, Captain Earl Jackson, Driver/Engineer J. C. Halsell, Firefighter/Paramedic Wayne Bickley, Firefighter/Paramedic Bill Wafer and Driver/Engineer Duane Freeman in recognition of their diligence and outstanding performance of duties regarding rescue efforts in Lufkin on May 6, 1992. Mayor Bronaugh stated that these firefighters had rescued a six year old child in a tree who was in danger of falling a distance of 40', and possibly sustaining a serious injury or possible death.

6. **CONTRACT - APPROVED - ANGELINA COUNTY SHERIFF'S DEPARTMENT - JAILER /PRISONERS - RECYCLING CENTER**

Mayor Bronaugh stated that the next item for consideration was a contract with the Angelina County Sheriff's Departmen for a jailer to supervise prisoners at the Recycling Center and other City properties.

City Manager Maclin stated that at the request of the City Commission, the City Attorney had drafted an Agreement for consideration at this time. City Manager Maclin stated that the Agreement addresses all the issues that were discussed at length with the City and County staffs.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Don Boyd that contract with the Angelina County Sheriff's Department for a jailer to supervise prisoners at the Recycling Center and other City properties be approved as presented. A unanimous affirmative vote was recorded.

7. **AGREEMENT - APPROVED - BETTS PUMP SUPPLY - GREASE TRAP WASTE FACILITY**

Mayor Bronaugh stated that the next item for consideration was approval of an Agreement with Betts Pump Supply for a Grease Trap Waste Facility.

City Manager Maclin stated that at the first meeting in May bids were opened for the provision of this collection service and utilization of a site on City property at the Sewage Treatment Plant on Southwood. City Manager Maclin stated that at that time there was some question about the 29 cents per gallon bid from Betts Pump Supply, and that there needed to be some type of written agreement. City Manager Maclin stated that the agreement has been drafted by the City Attorney, and the 29 cents per gallon has been honored by Betts Pump Supply.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Bob Bowman that the Agreement with Betts Pump Supply for the Grease Trap Waste Facility be approved as presented. A unanimous affirmative vote was recorded.

8. **AGREEMENT - APPROVED - FIRST STEP GROUP LUFKIN (NARCOTICS ANONYMOUS) - CHAMBERS PARK**

Mayor Bronaugh stated that the next item for consideration was a request by First Step Group Lufkin (Narcotics Anonymous) for a two-year lease of the log house in Chambers Park.

City Manager Maclin stated that this item was tabled at the last meeting because the representative of First Step had a work conflict and was unable to attend. City Manager Maclin stated that a copy of the letter requesting utilization of this facility had been included in the Commissioners' packets. Also, included in the packet is a copy of the Agreement that reflects their request and obligations and responsibilities, both by the City of Lufkin and the First Step Group.

City Manager Maclin stated that the only change that was made in principle was made at the Commission's request, that this be a one-year lease instead of a two-year lease.

Willie Brooks, GSR of the Narcotics Anonymous Group, stated that having access to this building would be a real asset to the City, the Courts and the community.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Don Boyd that the Agreement with the First Step Group (Narcotics Anonymous) be approved as presented. A unanimous affirmative vote was recorded.

9. **ORDINANCE - TABLED - FIRST READING - ZONE CHANGE - JACK GREER DAVIS - RESIDENTIAL LARGE TO RESTRICTIVE PROFESSIONAL OFFICE - JOHN REDDITT DRIVE BETWEEN HANKS STREET AND MOSSFIELD ROAD**

Mayor Bronaugh stated that the next item for consideration was a request of Jack Greer Davis for a zoning change from Residential Large to Restrictive Professional Office on approximately 9.25 acres of land fronting the west side of John Redditt

Drive between Hanks Street and Mossfield Road.

City Manager Maclin stated that this request is being recommended unanimously by the Planning & Zoning Commission.

Patsy Hineman, Donovan Real Estate, was present to represent Mr. Davis.

Mayor Bronaugh stated that the "Commercial" real estate sign on the property is misleading. Commissioner Bowman stated that he would like to clarify the issue by saying that no one from the City told Donovan Real Estate to put a "Commercial" sign on the property.

Richard Donovan, Donovan Real Estate, stated that the sign simply reflects that it is the internal Commercial Division of his real estate agency that is handling the sale of the property.

Those appearing in opposition of the request were:

Cy Stapleton - Mr. Stapleton read a prepared statement which is on file in the City Planner's Office.
John Pounds, Jr.
Gene Tate
Roy Myers
Bayo Hopper
John Sr. and Trudy Pounds
James Hubbard
Pastor and Mrs. L. W. Harvey
David McElveen
Gary and Barbara Walker
Brenda Barrett
Gary Bridges

Mr. Pounds presented a petition to the City Commission signed by property owners within 200' feet of the property on Loop 287 presently zoned Residential Large. Mr. Pounds stated that the residents do not object to the Restrictive Professional Office zoning but do object to any inclusion of retail concerns allowed under the 30% formula provided for under the new RPO Ordinance. (A copy of the petition is on file in the City Planner's office.)

Mr. Pounds stated that the residents were objecting to the City changing from the "Special Use" designation where they felt that the Loop would develop as they had been told by prior City Commission members. Mr. Pounds stated that residents felt that the "Special Use" designation would allow those people who wanted to develop the Loop front property to make a profit, and would also protect the homeowners. Mr. Pounds stated that another concern of the residents is drainage.

Mr. Pounds stated that he was asking that the City Commission compromise with the property owners and change the RPO to apply only to true, restrictive professional offices.

Mr. Tate stated that he wanted to let the Commission know that the objections of these residents has the support of the Neighborhood Associations in that area, as well as the Neighborhood Alliance.

Richard Donovan stated that Mr. Davis feels very strongly that he is entitled to reap the rewards of this strategic location. Mr. Donovan stated that he would take exception to some of the remarks made by Mr. Stapleton, in that there is nothing unethical about placing a rider that says "Commercial" on a piece of property.
In response to question by Commissioner Bowman, Mr. Donovan stated that he is not in a position to make a decision about compromise, but Mr. Davis may be willing to compromise.

In response to question by Commissioner Bowman, Mr. Davis stated that City Planner Stephen Abraham has presented to him, that many of the restrictions that are of concern to the property owners will never come about. Mr. Davis stated that Mr. Abraham had convinced him that there will automatically be a buffer because of the natural growth. Mr. Davis stated that he is only interested in developing the property that is right on the Loop.

Commissioner Bowman asked Mr. Davis if he would be willing to compromise by restricting the property to professional offices only and no retail, Mr. Davis stated that Mr. Abraham told him that only professional offices can be placed on the property. Commissioner Bowman stated that the property owners have said that they do not want retail stores on the property and asked Mr. Davis if he would be willing to accept a classification that does not include retail. Mr. Davis stated that according to Mr. Abraham, there would not be any retail businesses. Commissioner Bowman stated that Mr. Abraham's proposal calls for 30% retail activity and some of those activities would include flower shops, gift shops, book stores, photography, etc. Mr. Davis stated that he would be willing to accept a classification that would not include these activities.

City Attorney Flournoy stated that the City does not have the authority under this Ordinance to make any restriction. Mr. Flournoy stated that about the only way you could accomplish what Commissioner Bowman is suggesting is, if Mr. Davis is willing to put some sort of deed restriction on the property to restrict it to Professional Offices.

In response to question by Commissioner Bowman, Mr. Davis stated that he would be willing to put a deed restriction on the property.

Mayor Bronaugh stated that the City is not making this proposal. The residents around the property are making the proposal that retail sales be restricted, and Mr. Davis seems to be in agreement.

Mr. Donovan explained to Mr. Davis that if he ever sells the property, his attorney at the time will put a deed restriction in the deed that there can be no retail outlets on this piece of property.

Mr. Flournoy stated that he would suggest that Mr. Davis have ample opportunity to understand the deed restriction, and discuss it with his attorney. Mr. Flournoy stated that he was not speaking for or against the deed restrictions, but feels that the ramifications should be considered in detail. Mayor Bronaugh stated that he wanted to emphasize that this is not a City proposal, but is being proposed by the residents.
Commissioner Bowman stated that since two of the Commission members are not in attendance at tonight's meeting, he would like to suggest tabling this item until the next meeting.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Paul Mayberry that the request of Jack Greer Davis for a zoning change from Residential Large to Restrictive Professional Office on approximately 9.25 acres of land fronting the west side of John Redditt Drive between Hanks Street and Mossfield Road be tabled until next meeting of the Commission.

The following vote was recorded:

Aye - Commissioners Kegler, Bowman, Mayberry, and Mayor Bronaugh
Nay - Commissioner Boyd

Motion carried by a vote of 4 to 1.

Mr. Stapleton stated that it is obvious that he is adamantly opposed to the request and the reason he was adamantly opposed was because he was told by Planning & Zoning and by Asst. City Attorney Tommy Deaton that there can be no negotiation the way that the Restrictive Professional Office Ordinance is written. Mr. Stapleton stated that he has no problem with the way the Professional Office Building is, and if he left the impression that he had no desire for any kind of change to made on the Loop, that is incorrect. Mr. Stapleton stated that if what Mr. Flournoy says, that there is a way to do this without giving the option for Mr. Davis to use this property as retail space, and if it can be done so the property owners are assured that there will be professional office buildings there, none of the property owners will have a problem.

Mayor Bronaugh stated that Mr. Flournoy will not be the one to make the ruling on this request, but rather Mr. Davis and his attorney. Mr. Stapleton stated that Mr. Deaton is the one that said if this passes, the way the Ordinance is written, Mr. Davis can use 30% of the property for commercial, and there is nothing the property owners can do to negotiate--the Ordinance either passes or it fails. Mr. Stapleton stated that the property owners feel unless there can be some sort of restriction, they would rather see the Ordinance fail. Mr. Flournoy stated that there is no negotiation with the City. Mr. Stapleton stated that perhaps the City Commission might consider drafting another Ordinance that covers this particular question.

Mayor Bronaugh read the following statement for the record:

> For eight years I have had the honor and pleasure of serving the City of Lufkin as a member of the City Commission. During this time, one of my on going concerns has been how to take advantage of the City's economic resource provided by the Loop while at the same time providing protection to residents from the intrusive elements of commercialization. This concern has been magnified in the general vicinity of this request over these past eight years. Although a primary concern is protection of residential areas, one half of the equation cannot be forgotten if an equitable solution is to be found.
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> With these concerns in mind, the City Commission and the Planning and Zoning Commission sought to find an answer that would serve the needs of both the residential and business community. The agreed upon solution is the Restrictive Professional Office zoning district. The formulation of the "RPO" district began by evaluating all the non-residential uses allowed in the Local Business zoning district for compatibility with residential neighborhoods. Of the 76 uses allowed in the Local Business district, only 17 were deemed suitable as uses allowed "by right" in the "RPO" district. The impact of the uses were further limited by requiring that retail oriented uses be allowed only inside an office oriented structure.
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> The "RPO" allows a limited diversity of uses as a way to recognize the importance of economics. However, in return for allowing diversity, the zoning district limits the physical aspects of construction. Important features are:
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> 1. Limitation on site coverage.
> 2. Ability to adequately buffer the site from residential properties.
> 3. Landscape requirement
> 4. Signage regulation
> 5. More detailed site plan submittal requirement.

10. **ORDINANCE - TABLED - FIRST READING - RESIDENTIAL SMALL TO SINGLE-FAMILY DWELLING/MIXED USE - BLOCKS 1, 2, 3, 4 AND LOT 1 OF BLOCK 5 - FAIRGROUND ADDITION - CAIRO STREET**

Mayor Bronaugh stated that the next item for consideration was a change of zoning from Residential Small to Single-Family Dwelling/Mixed Use on properties described as Blocks 1, 2, 3, and 4 of the Fairground Addition and also Lot 1 of Block 5 of the Fairground Addition generally located on Cairo Street north of Fairy Avenue and south of Richey Street and on Nile Street, between Wilson Avenue and Richey Street.

City Manager Maclin stated that this Ordinance was a tool that was developed by the Planning & Zoning Commission to prevent a problem in terms of Permanent Mobile Home Permits. City Manager Maclin stated that this item was tabled by the Planning & Zoning Commission for 45 days to allow for additional input from neighborhood residents. No action is required by the City Commission at this time other than to likewise table until a recommendation is sent from the Planning & Zoning Commission.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Bob Bowman that request for a change of zoning from Residential Small to Single-Family Dwelling/Mixed Use on properties described as Blocks 1, 2, 3, 4 and Lot 1 of Block 5 of the Fairground Addition, generally located on Cairo Street, north of Fairy Avenue and Richey Street and on Nile Street, between Wilson Avenue and Richey Street be tabled until a recommendation is sent from the Planning & Zoning Commission. A unanimous affirmative vote was recorded.

11. <u>CONSTRUCTION PLANS - TABLED - BROOKHOLLOW NO. 13 SUBDIVISION - RUFUS DUNCAN, SR. - UTILITIES, STREETS AND DRAINAGE</u>

Mayor Bronaugh stated that the next item for consideration was request by Philip Goodwin on behalf of Rufus Duncan, Sr. for approval of construction plans for utilities, streets and drainage for the Brookhollow No. 13 Subdivision.

No one was present to represent this request, and motion was made by Commissioner Don Boyd and seconded by Commissioner Bob Bowman that this item be tabled until the next meeting. A unanimous affirmative vote was recorded.

12. <u>BID - APPROVED - FIRE & RESCUE TRUCK - FERRARA FIRE APPARATUS</u>

Mayor Bronaugh stated that the next item for consideration was bids for a fire and rescue truck to be used in the Fire Department.

City Manager Maclin stated that staff recommendation was the low bid of Ferrara Fire Apparatus, Inc. in the amount of $62,585.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Don Boyd that bid of Ferrara Fire Apparatus, Inc. in the amount of $62,585 be accepted as the low bid. A unanimous affirmative vote was recorded.

13. <u>PETITION PRESENTED TO CITY COMMISSION - LARRY PENNINGTON - COMMISSIONER, WARD 6 VACANCY</u>

Mayor Bronaugh stated that the next item for consideration was a petition from Larry Pennington concerning a replacement for the seat vacated by Paul Mayberry on the City Commission.

Mr. Pennington presented a petition to the City Commission and stated that he was a registered voter and home owner in Ward 6 of the City of Lufkin. Mr. Pennington stated that the reason for his appearance before the City Commission is two-fold: (1) To join the City Commission in expressing his personal appreciation to Mr. Paul Mayberry for his long service to our City, and (2) to present a petition recently signed by a number of Ward 6 citizens following Mr. Mayberry's resignation announcement regarding their new representation on the City Commission. Mr. Pennington stated that he has publicly expressed his belief in the importance of citizen participation in our government. Mr. Pennington stated that his intentions are to put personal action to those words by running for the Ward 6 seat in next years election. Mr. Pennington stated that he would prefer that the Ward 6 seat be filled by an election because he strongly believes that the democratic election process remains the best way to insure that the person serving in a public office has the support of the people that he or she seeks to represent. Mr. Pennington stated that since the City Charter now requires a majority of the remaining members of the City Commission to vote to appoint a Ward 6 replacement, rather than to hold an election to fill that seat, he wanted the City Commission to know that he would like to serve in this position. Mr. Pennington stated that he was asking the City Commission for their vote tonight, and appreciated their allowing him to present his petitions and speak before them tonight.

14. **EXECUTIVE SESSION**

Mayor Bronaugh recessed regular session at 6:15 p.m. to enter into Executive Session. Regular session was reconvened at 6:45 p.m. Mayor Bronaugh stated that the City Commission had discussed appointments to various boards, and the appointment of a City Commissioner for Ward 6.

15. **APPOINTMENT - APPROVED - COMMISSIONER, WARD 6 - TUCKER WEEMS**

Commissioner Paul Mayberry stated that he had submitted his resignation as of June 2, 1992 and would like to recommend that the City Commission accept his resignation. Commissioner Mayberry stated that Larry Pennington, through his hard work and diligence, had collected 57 names for his petition and this was commendable.

Commissioner Mayberry stated that he would like to recommend Tucker Weems for the position of Commissioner of Ward 6. Commissioner Mayberry stated that Mr. Weems was a former partner in the accounting firm of Axley & Rode, and a long time resident of the City of Lufkin. Mr. Mayberry stated that Mr. Weems is a professional, and is committed to the community. Mr. Mayberry stated that having a CPA on the City Commission would certainly enhance the Commission, in his opinion.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Larry Kegler to accept the resignation of Paul Mayberry as Commissioner of Ward 6. A unanimous affirmative vote was recorded.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Larry Kegler to adhere to Mr. Mayberry's recommendation and appoint Tucker Weems to the position of Commissioner of Ward 6. A unanimous affirmative vote was recorded.

16. There being no further business for consideration, meeting adjourned at 6:52 p.m.

Louis A. Bronaugh

Louis A. Bronaugh - Mayor

ATTEST:

Atha Stokes

Atha Stokes - City Secretary