MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 15TH DAY OF SEPTEMBER, 1992 AT 5:00 P.M.

On the 15th day of September, 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
Percy Simond	Commissioner, Ward No. 1
Don Boyd	Commissioner, Ward No. 2
Larry Kegler	Commissioner, Ward No. 3
Bob Bowman	Commissioner, Ward No. 4
Jack Gorden	Commissioner, Ward No. 5
Tucker Weems	Commissioner, Ward No. 6

being present when the following business was transacted.

1. Meeting was opened with prayer by Reverend Jerry Leal, UMC Hispanic Ministry.

2. Mayor Bronaugh welcomed visitors present.

3. APPROVAL OF MINUTES

Minutes of Regular Meeting of September 1, 1992, were approved on a motion by Commissioner Don Boyd and seconded by Commissioner Bob Bowman. A unanimous affirmative vote was recorded.

4. PUBLIC HEARING - 1992 TEXAS COMMUNITY DEVELOPMENT PROGRAM APPLICATION

Mayor Bronaugh opened Public Hearing to discuss the proposed 1992 Texas Community Development Program application. Mayor Bronaugh stated that this is the second of the two public meetings required by State law.

City Manager Maclin stated that the City's application this year is a repeat of last year's application, which would provide for the construction and street improvements to the Martin Luther King Drive area adjacent to Dunbar Intermediate School. The bulk of the expense for this project would provide a crosswalk so that students crossing MLK Drive to go from one side of the campus to the other would be protected. City Manager Maclin stated that LISD and the community are strongly supporting this grant application.

There was no participation from the audience and Mayor Bronaugh closed the Public Hearing.

5. ORDINANCE - APPROVED - SECOND READING - ZONE CHANGE - DR. RICHARD GALLAS/MARIAN JOAN GALLAS - RESIDENTIAL LARGE TO RESTRICTIVE PROFESSIONAL OFFICE - 3810 SOUTH MEDFORD DRIVE

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance for a change of zoning from Residential Large to Restrictive Professional Office at 3810 South Medford Drive as requested by Dr. Richard Gallas and Marian Joan Gallas.

Motion was made by Commissioner Jack Gorden and seconded by Commissioner Bob Bowman that Ordinance be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

6. **ORDINANCE - APPROVED - SECOND READING - ZONE CHANGE - LIGHT MANUFACTURING ZONING DISTRICT - SPECIAL USE PERMIT - D &H CONTRACTING COMPANY/WALTER TURNER - 1813 AND 1905 NORTH RAGUET**

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance for a Special Use Permit for a salvage yard within a Light Manufacturing Zoning District located at 1813 and 1905 North Raguet as requested by D & H Contracting Company and Walter Turner.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Larry Kegler that Ordinance be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

7. **AMENDMENT - APPROVED - COMPREHENSIVE ZONING ORDINANCE (ORDINANCE NO. 1146) - OFF-STREET PARKING - CENTRAL BUSINESS ZONING DISTRICT**

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Amendment to the Comprehensive Zoning Ordinance (Ordinance No. 1146) relating to off-street parking requirements in the Central Business Zoning District.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Tucker Weems that Amendment to the Comprehensive Zoning Ordinance relating to off-street parking be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

8. **AMENDMENT - APPROVED - COMPREHENSIVE ZONING ORDINANCE (ORDINANCE NO. 1146) - TEMPORARY USES**

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Amendment to the Comprehensive Zoning Ordinance (Ordinance No. 1146) relating to temporary uses.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Tucker Weems that Amendment to the Comprehensive Zoning Ordinance relating to Temporary Uses be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

9. **AMENDMENT - APPROVED - COMPREHENSIVE ZONING ORDINANCE (ORDINANCE NO. 1146) - "DEVELOPMENT" DEFINED**

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Amendment to the Comprehensive Zoning Ordinance (Ordinance No. 1146) relating to the definition of "Development".

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Tucker Weems that Amendment to the Comprehensive Zoning Ordinance relating to the definistion of "Development" be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

10. **REQUEST FOR CITY OF LUFKIN WATER - APPROVED - CHAMPION INTERNATIONAL**

Mayor Bronaugh stated that the next item for consideration was a request from Champion International for City of Lufkin water.

City Manager Maclin stated that staff had visited with the administration from Champion International, as well as an engineer representing their firm, concerning their request for City of Lufkin water. City Manager Maclin stated that they have a need primarily for potable water, and it does not in any way impact their production water. City Manager Maclin stated that the amounts they are requesting and the methods in which they have requested to receive this water would be compatible with the size lines and pressure that the City has in that area. City Manager Maclin stated that from a staff standpoint, as is the case with any out-of-city request, the requestor would be responsible for the expenses to tie in to the City's water system, purchase the meter, and be charged the 1.5 rate.

Commissioner Bob Bowman stated that he would like to recuse himself from discussion and from voting on this item.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Jack Gorden that request of Champion International to purchase City of Lufkin water be approved as presented. A unanimous affirmative vote was recorded.

11. **Z&OO RAILROAD REQUEST - APPROVED - LARGE PAVILION CONSTRUCTION - ELLEN TROUT PARK**

Mayor Bronaugh stated that the next item for consideration was a request of Z&OO Railroad to construct a large pavilion at Ellen Trout Park.

Mayor Bronaugh recognized Jack Davis representing the Host Lions Club, which owns and operates the Z&OO Railroad at Ellen Trout Park. Mr. Davis stated that money raised from the railroad goes to the Zoo, Ellen Trout Park, and back into the community. Mr. Davis stated that he had consulted with Don Hannabas regarding the needs of the Park, and the Host Lions Club voted to give up to $25,000 to construct a large pavilion.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Larry Kegler to accept the large pavilion to be constructed at Ellen Trout Park with monies donated by the Host Lions Club. A unanimous affirmative vote was recorded.

12. **APPLICATIONS/CONSTRUCTION BIDS - APPROVED - TEXAS COMMUNITY DEVELOPMENT PROGRAM - NEIGHBORHOOD IMPROVEMENT COMMITTEE**

Mayor Bronaugh stated that the next item for consideration was approval of top ranked applications and construction bids for the Texas Community Development Program as recommended by the Neighborhood Improvement Committee.

City Manager Maclin stated that two handouts had been passed out prior to the meeting; a cover letter from Kenneth Williams, who is the coordinator for the City's housing program, and the bid tabulations for each of different case numbers of the individual homes that are to be rehabed. City Manager Maclin stated that the Neighborhood Improvement Committee is recommending that the City award five bids totaling $42,760 to Janice Reeves, four bids totaling $30,834 to Due Construction, and two bids totaling $24,200 to Van Neason Construction. City Manager Maclin stated that the City is under a time restraint to have these projects completed. In a few cases, if the low bid on each and every individual case had been awarded, then one particular contractor would have ended up with more rehab jobs than is humanly feasible to complete before the January deadline. The Committee has made a recommendation to distribute the bids in a way that each contractor will have adequate time to complete the jobs by the deadline. City Manager Maclin stated that staff is recommending that the Committee's recommendation be accepted on these bid awards.

Commissioner Simond questioned how one of the contractors could submit a bid that was so much lower than the other bids, and why local contractors were not required to be bonded. City Manager Maclin stated there are bid specifications that the contractors have to adhere to, and there are safeguards the City has to protect the citizen who is going to receive the benefit of the grant. City Manager Maclin stated that the City is held accountable by the Texas Department of Commerce and the Texas Department of Housing and Community Affairs. City Manager Maclin stated that it is his understanding that this is the first time the City has received bids from the contractor who submitted the bid that is substantially lower than the other bids.

In response to question by Commissioner Simond, Kenneth Williams stated that all the work performed on these houses has to meet the City's Building Codes, and this individual's credentials have been checked locally and with the State, and there does not seem to be a problem. Mr. Williams stated that upon completion of the work, if the work is not up to standards, the Contractor is not paid.

Commissioner Simond stated that he would like for the City to address bonding for local contractors at a future date.

Johnnie Jones, a member of the Neighborhood Improvement Committee, and Vicki Ellison, of Gary Traylor & Associates, were present.

Motion was made by Commissioner Percy Simond and seconded by Commissioner Don Boyd to accept the recommendation of the Neighborhood Improvement Committee in awarding the bids for housing rehabilitation. A unanimous affirmative vote was recorded.

13. **RESOLUTION - APPROVED - TEXAS COMMUNITY DEVELOPMENT APPLICATION**

Mayor Bronaugh stated that the next item for consideration was approval of a Resolution authorizing the submission of a Texas Community Development application to the Texas Department of Housing and Community Affairs for Community Development funds; and authorizing the Mayor to act as the City's Chief Executive Officer and authorized representative in all matters pertaining to the City's participation in the Community Development Program.

City Manager Maclin stated that a copy of the Resolution, which gives the authorization and support of the City for making the application that was discussed in the Public Hearing, was included in the Commissioner's packets. Mayor Bronaugh stated that this is the City's third time for submitting this application.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Bob Bowman that Resolution authorizing the submission of a Texas Community Development application to the Texas Department of Housing and Community Affairs be approved as presented. A unanimous affirmative vote was recorded.

14. **TEMPORARY VARIANCE - APPROVED - PRE-TREATMENT SEWER ORDINANCE - POLK OIL COMPANY**

Mayor Bronaugh stated that the next item for consideration was a request from Polk Oil Company, Inc. for a temporary variance from the City's pre-treatment sewer ordinance.

Mayor Bronaugh stated that information had been included in the Commissioner's packet explaining that the City will be getting an oil recycling program.

City Manager Maclin stated that in 1990, as part of the EPA mandated pre-treatment program for industry, the City passed an Ordinance that provided for non-acceptance of BTX into the sanitary sewer system. City Manager Maclin stated that in order to grant the request of Polk Oil Company, a variance from this Ordinance must be approved by the City Commission. City Manager Maclin stated that staff is recommending a 12-month variance in order to develop statistics by monitoring the effluent that is a by-product of the recycling facility to confirm that it will be able to stay within the 500 parts per billion of the BTX. After the 12-month period, if this is confirmed, staff will come back to the City Commission for a request to change the

Ordinance to a permanent nature.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Jack Gorden that request of Polk Oil Company be granted as presented. A unanimous affirmative vote was recorded.

15. **<u>CONVEYANCE OF OWNERSHIP - APPROVED - COTTON SQUARE PARK - KURTH MEMORIAL LIBRARY</u>**

Mayor Bronaugh stated that the next item for consideration was conveyance of ownership of the Cotton Square Park presently owned by Kurth Memorial Library to the City of Lufkin.

City Manager Maclin stated that a letter from Jim Haley, president of the Kurth Memorial Library Board, had been included in the Commissioner's packet making this request. City Manager Maclin stated that the request is with the understanding that the property would continue to be used as a park. The library would still have some expense with regard to lighting and maintenance and upkeep. City Manager Maclin stated that it is staffs recommendation to grant the Library Board's request and accept this property as a City park.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Tucker Weems that the City of Lufkin grant the Library Board's request and accept Cotton Square Park as a City park. A unanimous affirmative vote was recorded.

16. **<u>ORDINANCE - APPROVED - FIRST READING - POLICE DEPARTMENT - CLASSIFICATION PLAN</u>**

Mayor Bronaugh stated that the next item for consideration was First Reading of an Ordinance revising the Lufkin Police Department's Classification Plan as reflected in the 1992-93 budget.

City Manager Maclin stated that this item was reflected in the 1992-93 budget in that the Police Chief submitted in his budget request a reclassification of five officers from a patrolman to the corporal position. City Manager Maclin stated that since Lufkin is a Civil Service City, City Commission approval is needed to update the Police Department Classification Plan to reflect these five nomenclature changes from patrolman to corporal, and other changes made in the salary reclassification by changing titles of some existing positions.

Motion was made by Commissioner Jack Gorden and seconded by Commissioner Tucker Weems that Ordinance be approved on First Reading as presented. A unanimous affirmative vote was recorded.

17. **<u>AMENDMENT - APPROVED - PRIVATE CLUB ORDINANCE - FOOD SECTION REQUIREMENT DELETED</u>**

Mayor Bronaugh stated that the next item for consideration was an Amendment to the Private Club Ordinance deleting the section relating to the food requirement.

City Attorney Flournoy stated that the State of Texas, through the Texas Alcoholic Beverage Commission, has pre-empted the City and will not allow an Ordinance to be adopted that requires a food/drink percentage. Mr. Flournoy stated that he has merely deleted this particular section from the existing Ordinance to conform to State law.

Motion was made by Commissioner Percy Simond and seconded by Commissioner Jack Gorden that Ordinance be approved on First Reading as presented. The following vote was recorded:

Aye - Commissioners Gorden, Simond, Boyd, Kegler and Mayor Bronaugh

Nay - Commissioners Bowman and Weems

Motion carried by a vote of 5 to 2.

Pastor Bob Lewis, Victory Assembly of God Church, questioned whether the City has to conform to the State law, and stated that he was concerned about loosing local control of the City.

In response to question by Commissioner Simond, Mayor Bronaugh stated that the City could request a report from TML on what has been done with reference to the Texas Supreme Court ruling on the food portion of the Private Club Ordinance. Mayor Bronaugh stated that if nothing has been done, then the City could go forward with a Resolution next year to TML to pursue this ruling.

18. **ENGINEER - APPROVED - WATER & SEWER IMPROVEMENTS - CHESTNUT**

Mayor Bronaugh stated that the next item for consideration was the selection of an engineer for water and sewer improvements on Chestnut Street.

City Manager Maclin stated that the City's responsibility in the water and sewer improvement project on Chestnut Street includes acquisition of right-of-way and relocation of utilities. City Manager Maclin stated that the next phase would be to have the utilities relocated, and in his case, replaced because of the age of these facilities. This is an approximately $200,000 project for construction of new utility lines. City Manager Maclin stated that staff would like to recommend utilization of Goodwin-Lassiter Engineering firm to provide engineering services for this project.

City Manager Maclin stated that after the City completes the utility relocation the Highway Department will come in and rebuild the street at their expense.

Motion was made by Commissioner Percy Simond and seconded by Commissioner Don Boyd to accept the recommendation of the Public Works Department that Goodwin-Lassiter provide the engineering services for the water and sewer improvements on Chestnut Street. A unanimous affirmative vote was recorded.

19. **BID - APPROVED - ELLEN TROUT ZOO - CONSTRUCTION OF NEW ENTRANCE**

Mayor Bronaugh stated that the next item for consideration was award of bid for construction of new entrance at Ellen Trout Zoo.

City Manager Maclin stated that Gordon Henley, Zoo Director, was out of town and had prepared a letter to the City Commission which had been passed out prior to the meeting. City Manager Maclin stated that the proposal includes a bid tabulation sheet showing the bids received for completing both phases of the project. City Manager Maclin stated that the bids received came in above the architectural estimates, and in an effort to reduce the overage, some items were selected that could be completed in-house through the City force account to reduce the costs of the Contract. (This includes site preparation and installation of utilities to the restroom facilities.) City Manager Maclin stated that this reduces the price from the low bid of $212,136 to $199,395. City Manager Maclin stated that it is staffs opinion that there is significant cost advantage in doing both phases because of the uniqueness of the structure. City Manager Maclin stated that staff is recommending the award of the low bid (J. E. Kingham Construction Company for $199,395), and that the Zoo Director and Friends of the Zoo continue fund raising efforts through private sources and foundations to make up the $48,000 shortfall. City Manager Maclin stated that if it is not possible to raise the full $48,000 then staff would come back to the Commission in January/February and request whatever balance is necessary from the General Fund contingency to make up the difference.
Ray Scott, of Scott and Strong Architects, passed out a sketch of the proposed entrance to the Zoo, and stated that the most expense of the structure would be with

the design.

Danny Roper, representing Friends of the Zoo, stated that he would concur with the City Manager's recommendation to go ahead with both phases of the project. Mr. Roper stated that completion of the facility will fall in line within weeks of the opening of the Dinamation Exhibit.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Jack Gorden to approve the bid of J. E. Kingham Construction Company in the amount of $199,395 to construct the new entrance to Ellen Trout Zoo. A unanimous affirmative vote was recorded.

20. **FUND BALANCE DESIGNATION - APPROVED - ZOO EXPENDITURE - FISCAL YEAR 1992-93**

Mayor Bronaugh stated that the next item for consideration was designation of $50,000 of fund balance for Zoo expenditure in Fiscal Year 1992-93.

City Manager Maclin stated that this is an audit trail item that staff has discussed with the City's auditors. City Manager Maclin stated that $50,000 had been allocated in the 1991-92 budget for the Zoo, and since the contract is just now being awarded, it is obvious that the expense will not take place in this budget year. City Manager Maclin stated that he is asking the City Commission to designate this $50,000 as part of the fund balance for the Zoo project in next year's budget.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Tucker Weems that the amount of $50,000 be designated as fund balance for the Zoo project in next year's budget. A unanimous affirmative vote was recorded.

21a. **BID - APPROVED - HAZARDOUS GAS METER DEVICE - WASTE WATER TREATMENT PLANT - PLANK COMPANY**

Mayor Bronaugh stated that the next item for consideration was bids for a hazardous gas meter device for the Waste Water Treatment Plant.

City Manager Maclin stated that staff recommendation is to award the low bid of Plank Company in the amount of $2,365.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Larry Kegler that bid of the Plank Company in the amount of $2,365 be approved as submitted. A unanimous affirmative vote was recorded.

21b. **BID - APPROVED - JONES PARK - PARKING LOT RESURFACING - B & J EXCAVATING**

Mayor Bronaugh stated that the next item for consideration was bids for Jones Park parking lot resurfacing.

City Manager Maclin stated that the resurfacing of Jones Park is the final element of the TLL Temple Foundation Grant/Jones Park improvement project, and the staff recommendation is to award the low bid of B & J Excavating Company in the amount of $46,830.

In response to question by Mayor Bronaugh, Don Hannabas, Parks & Recreation Director, stated that the Tree Board had met and had determined that two large post oaks remain and eleven other trees be cut.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Jack Gorden that bid of B & J Excavating Company in the amount of $46,820 be accepted as submitted. A unanimous affirmative vote was recorded.

Randle Howard, president of Howard Construction Company of Ft. Worth, stated that, in his opinion, the low bid did not meet the guidelines because the bid was not submitted as a sealed bid but was faxed to the City. Mr. Howard stated that he was present at the bid opening and when the bid of B & J Excavating was brought into the room by a member of the City staff and it was not brought in an envelope. Mr. Howard stated that he considers this to be a technical deficiency. Mr. Mayfield stated that the City will accept faxed bids with the provision that a sealed bid will follow.

Darryl Mayfield, Asst. City Manager/Finance, stated Mr. Howard had indicated that his firm was the second lowest bid, and that was not correct.

Mr. Howard stated that he and his father went to the park and measured the actual site to be resurfaced since the City staff had made reference to the fact that the square footage was an estimate and an actual measurement needed to be done before the work was bid. Commissioner Simond stated that he was not comfortable with the fact that the precise measurements were not given to bidders. City Manager Maclin stated that measuring the site is the responsibility of the bidder.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Larry Kegler to reject all bids and readvertise for resurfacing of Jones Park. The following vote was recorded:

Aye: Commissioners Bowman, Kegler, Simond and Boyd
Nay: Commissioners Weems and Gorden, and Mayor Bronaugh

Motion carried by a vote of 4 to 3.

21c. **BID - APPROVED - RODENTS - ZOO - HARLAN SPRAGUE DAWLEY, INCORPORATED**

Mayor Bronaugh stated that the next item for consideration was bids for rodents for the Zoo.

City Manager Maclin stated that staff recommendation is to award the low bid of Harlan Sprague Dawley, Inc. in the amount of $16,004.80.

Commissioner Weems questioned awarding the bid to a firm outside the City when there was one local bid. City Attorney Flournoy stated that the City has to accept the low bid unless there is a significant advantage in awarding another bid.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Larry Kegler to accept the low bid of Harlan Sprague Dawley, Inc. in the amount of $16,004.80. The following vote was recorded:

Aye: Commissioners Boyd, Kegler, Gorden, Simond, and Mayor Bronaugh
Nay: Commissioners Bowman and Weems

Motion carried by a vote of 5 to 2.

21d. **BID - APPROVED - PRE-AERATION BASIN SAND REMOVAL - WATER POLLUTION CONTROL PLANT SETTLING UNIT - BETTS PUMPING SERVICE**

Mayor Bronaugh stated that the next item for consideration was bids for pre-aeration basin sand removal from the Water Pollution Control Plant settling unit.

City Manager Maclin stated that staff recommendation is to accept the low bid of Betts Pumping Service in the amount of $7,285.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Larry Kegler to accept the low bid of Betts Pumping Service in the amount of $7,285.

A unanimous affirmative vote was recorded.

22. **EXECUTIVE SESSION**

Mayor Bronaugh recessed regular session at 6:45 p.m. to enter into Executive Session. Regular session was reconvened at 7:15 p.m. Mayor Bronaugh stated that the Commission had discussed appointments to Boards and Committees, legal matters and demolition of dilapidated houses.

Recommendation was made by City Attorney Bob Flournoy that the following houses be demolished:

1. 706 Hoskins
2. Church and Carnegay Streets
3. 409 Robin
4. 1116 North Avenue

Motion was made by Commissioner Percy Simond and seconded by Commissioner Larry Kegler to approve the recommendation of dilapidated houses for demolition as presented by the City Attorney. A unanimous affirmative vote was recorded.

23. **COMMENTS**

Commissioner Simond stated he had received calls from three or four small local plumbers complaining about the Ordinance that has put a lot of cost on people regarding hot water heater replacement. City Manager Maclin stated that the updated Codes provide for all hot water heaters to have ventilation, which requires cutting a hole in the roof of the house as a means of fire prevention.

Commissioner Simond stated that he also questioned why all the plumbers on the Plumbing Board were people from large firms and none of the smaller plumbers were asked to serve. Mayor Bronaugh stated that at the present time the City is creating a Building Committee rather than separate committees.

It was the consensus of opinion that a called meeting would be held at noon on September 21st to consider items that needed attention before the end of the fiscal year.

24. There being no further business for consideration, meeting adjourned at 7:25 p.m.

Louis A. Bronaugh

Louis A. Bronaugh - Mayor

ATTEST:

Atha Stokes

Atha Stokes - City Secretary