

**MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF LUFKIN, TEXAS, HELD ON THE
20TH DAY OF JULY, 1993 AT 5:00 P.M.**

On the 20th day of July, 1993 the City Council 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	Mayor pro tem
Percy Simond	Councilman, Ward No. 1
Larry Kegler	Councilman, Ward No. 3
Bob Bowman	Councilman, Ward No. 4
Jack Gorden, Jr.	Councilman, Ward No. 5
Tucker Weems	Councilman, Ward No. 6
C. G. Maclin	City Manager
Darryl Mayfield	Asst. City Manager
Bob Flournoy	City Attorney
Atha Stokes	City Secretary

being present when the following business was transacted.

1. Meeting was opened with prayer by Rev. Bettye Kennedy, Minister, Collins Chapel, CME.

2. Mayor Bronaugh welcomed visitors present, and introduced Rev. Kennedy's daughter, Bettye, Jr., and her children, who were in the audience.

3. **APPROVAL OF MINUTES**

Minutes of the Regular Meeting of July 6, 1993 were approved on a motion by Councilman Don Boyd and seconded by Councilman Tucker Weems. A unanimous affirmative vote was recorded.

4. **PRESENTATION OF PICTURE TO POLK OIL COMPANY - JULY 4TH FIREWORKS DISPLAY - ELLEN TROUT PARK**

Mayor Bronaugh stated that Council has been making an effort in the last few years to recognize important projects or an outstanding production by an organization in the Council meetings. Mayor Bronaugh stated that at tonight's meeting he would like to recognize an effort of dedication and a donation of a great deal of money that enabled the City to continue the July 4th celebration at the Ellen Trout Park. Mayor Bronaugh stated that several years ago the fireworks display was in jeopardy and the City had just about decided that it might have to be discontinued, but in talking with Ray Polk, Mr. Polk stated that on behalf of himself and Mobil Oil Company they were willing to give the \$8,000-10,000 for the fireworks display. Mayor Bronaugh presented a picture of the fireworks display taken by City Manager C. G. Maclin on July 4th to Ray Polk and his son Carl Ray Polk.

Carl Ray Polk stated that on behalf of Polk Oil Company, he and his family were proud to make this contribution to the City of Lufkin. Mayor Bronaugh also presented a video of the fireworks display to Ray and Carl Ray Polk.

Mayor Bronaugh extended his appreciation to Don Hannabas, Director of Parks and Recreation, and his crew for the excellent job they have done with the fireworks presentation each year.

5. ORDINANCE - APPROVED - SECOND READING - AMENDMENT - ELECTRICAL ORDINANCE NO. 316

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Amendment to the Electrical Ordinance No. 316.

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

6. ORDINANCE - APPROVED - SECOND READING - SPECIAL USE PERMIT - DAY CARE CENTER - RESIDENTIAL LARGE ZONING DISTRICT - 105 NORMANDY STREET - FRED D. HOWELL

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance for approval of a Special Use Permit for a Day Care Center in a Residential Large Zoning District located at 105 Normandy Street as requested by Fred D. Howell.

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

7. FINAL AUTHORITY RESPONSIBILITY - CITY BOARDS, COMMISSIONS, AND COMMITTEES - DISCUSSED

Mayor Bronaugh stated that the next item for consideration was final authority responsibility regarding City Boards, Commissions and Committees.

Mayor Bronaugh stated that Councilman Simond had requested that this item be discussed and the City Attorney has provided the Council with a list of the City Boards and Commissions, and a copy of those people who are currently serving on the Boards. Mayor Bronaugh stated that these people are serving without pay and do a great job for the City of Lufkin and the citizens of Lufkin.

City Attorney Flournoy stated that the question has been raised over the years, and recently as well, about the appeal procedure from decisions of Boards, such as this Board. Mr. Flournoy stated that the City Council appoints a number of Boards and grants them certain authority, most of them acting in an advisory capacity and are an extension of this Board but do not have any particular authority. Mr. Flournoy stated that there are those Boards that this Council has given authority to grant variances from, or make certain interpretations of Ordinances or Codes. Mr. Flournoy stated that the Lufkin Board of Development and the Tree Board are Boards that don't have any real authority that would bring any kind of appeal. Mr. Flournoy stated that the question is really, should appeals properly come from those Boards back to this Council, or should they go on to the Court system. Mr. Flournoy stated that there are basically three functions that are determining factors for whether or not these go on to the Court. Mr. Flournoy stated that one is whether or not the function they perform is legislative in nature, or if it is judicial in nature, or quasi-judicial in nature. Mr. Flournoy stated that this Council deals with legislative matters. The Planning and Zoning Commission is a part of this legislative function, with the Council delegating authority to make recommendations, but they can't do anything unless this Council actually adopts it. The Judicial functions, such as the Municipal Court, and the quasi-judicial like the Board of Adjustment and Appeals, where they make certain decisions and exercise a certain judgment, that is none irrespective of what the Council does. Mr. Flournoy stated that this Council by selecting and appointing people to the Boards gives them that authority, they can then appeal to the Judicial system. Mr. Flournoy stated that it is sometimes hard to distinguish between the quasi-judicial and legislative because some of the Boards have more than one function. Mr. Flournoy stated that once you have given Boards authority to make decisions, as

opposed to just recommendations, if it goes from the Board on appeal back to the Council, then there is no reason to have them in the first place.

Councilman Simond stated that he would submit to the Council that everything that any body such as this does is political. Councilman Simond requested that Mr. Flournoy state which Boards are legislated by this Council, that he had suggested that the decision must be appealed to a Court of records. Councilman Simond stated that, in his opinion, this subject could be addressed in the Charter Review. Councilman Simond stated that he hoped that the Council will be able to make some drastic changes in the Charter.

Mr. Flournoy stated that basically the Boards are the Firemen's Relief and Retirement Fund, Civil Service Commission, the Examining and Supervising Board of Electricians, the Mechanical Board, the Plumbing Board, all of these are adopted by the City Council and it has the authority to make that determination as to who the appeal will be made to. Mr. Flournoy stated that in all of those instances the National Codes have been adopted, and these Codes provide for appeal to Courts of Record. Mr. Flournoy stated that with the exception of the Firemen's Relief and Retirement Fund and Civil Service Commission, the City Council has the authority to establish who the appeals will be made to.

8. ORDINANCE - APPROVED - FIRST READING - STREET CLOSING - DAVIS STREET - WILLIAM GEORGE COMPANY, INC.

Mayor Bronaugh stated that the next item for consideration was the sale of a portion of Davis Street to the William George Company, Inc.

City Manager Maclin stated that included in the packet is a letter from Sam Griffin, Jr. representing William George Company, Inc., requesting consideration for the sale of this property. City Manager Maclin stated that staff did go through the standard operating procedure of contacting the contiguous property owner, Southern Pacific, who has not expressed an interest in the property. City Manager Maclin stated that the appraisal provided by the Purchasing Agent David Cochran is the fair market value of \$1,800. City Manager Maclin stated that the City could choose today to grant the request and sell the property. In the past the Council was able to quit claim the property, however, State law now provides that the property be appraised and sold at fair market value. Mr. Flournoy stated that property cannot be sold for less than its fair market value.

In response to question by Mayor Bronaugh as to whether or not Southern Pacific will give the City an easement, City Manager Maclin stated that this is an entirely different negotiation. City Manager Maclin stated that staffs procedure is, that when we have a request from an individual desiring to purchase property that the City owns, to contact the contiguous property owners to make sure everyone is being given a fair chance. City Manager Maclin stated that based on previous dealings with Southern Pacific, he doubted whether the City would ever receive a response from them.

City Attorney Flournoy stated that normally when you are appraising an alley or a street, because of the narrow width, they are not usable for anything else so the value per square foot is minimal.

City Attorney Flournoy asked if this portion of the street had been officially closed. City Manager Maclin stated that it was a dead end street, and there is access to the railroad. City Manager Maclin stated that the City has an easement for water and sewer lines.

Sam Griffin, representing William George Co., stated that the company plans to make a major expansion of \$1 million to their warehouse at this location. Mr. Griffin stated that a small corner of the addition, on the south side, has to go out into the street. Mr. Griffin stated that he was present to ask that the street be closed,

and they be allowed to purchase the street at the City's appraised value of \$1,800. Mr. Griffin stated that this portion of the street is next to the old Southern Pacific roundhouse and they would probably be in touch with SP in the future regarding acquisition of some of their property.

Mr. Griffin stated that there are utility lines to be moved and he hoped to take care of this as soon as the street was officially closed. City Manager Maclin stated that the City will have to retain a utility easement.

Motion was made by Councilman Tucker Weems and seconded by Councilman Jack Gorden, Jr. that Ordinance to close a portion of Davis Street be approved on First Reading as presented. A unanimous affirmative vote was recorded.

9. GRANT APPLICATION SUBMISSION - APPROVED - TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS - ECONOMIC DEVELOPMENT TECHNICAL ASSISTANCE

Mayor Bronaugh stated that the next item for consideration was submission of a grant application to the Texas Department of Housing and Community Affairs for economic development technical assistance.

City Manager Maclin stated that included in the Councilmember's packet was a letter announcing this grant from Ruth Cedillio, Director of the Texas Community Development Program, and a letter dated July 8th from Ms. Cedillio announcing the application process availability. The application, included in the packet, consisted of five questions. City Manager Maclin stated that he was seeking authorization from the Council today to authorize City staff to apply for participation in this program. City Manager Maclin stated that the program is limited to cities that are non-entitlement cities, non-SMSA major size cities, and is also limited to cities that have an Enterprise Zone. City Manager Maclin stated that the City of Lufkin falls in that category of being an Enterprise city that is a non-entitlement city.

City Manager Maclin stated that award of this Grant would not provide any funds or cash to the City, but rather assistance in economic development marketing, planning, and other specific grant application formats and procedures. City Manager Maclin stated that the Department of Housing and Community Affairs will be putting together a resource team made up of experts and officials from various State agencies including the Department of Commerce, Department of Housing and Community Affairs, Department of Agriculture, Texas Water Commission and several others. City Manager Maclin stated that this team will come to our community, meet with interested citizen groups and committees relating to economic development, and neighborhood improvement, and give the City direction as far as plans, access to various grants that might be available through Federal and State resources. City Manager Maclin stated that a representative from Ms. Cedillio's office indicated that if Lufkin is selected as a participant in this program, it would enhance our scores on Community Development Block Grants, on HOME applications, and programs to improve housing opportunities for low to moderate income individuals.

City Manager Maclin stated that this program is funded through HUD. This will be targeted at the Enterprise Zone area and could include infrastructure, consulting and advise, housing assistance, targeted marketing assistance, and development of a brochure to better advertise the City's Enterprise Zone.

Motion was made by Councilman Don Boyd and seconded by Councilman Jack Gorden, Jr. authorizing City staff to submit a grant application to the Texas Department of Housing and Community Affairs for economic development technical assistance. A unanimous affirmative vote was recorded.

10. CHARTER REVIEW COMMITTEE - APPOINTED

Mayor Bronaugh stated that the next item for consideration was the appointment of a Charter Review Committee. Mayor Bronaugh stated that this is an item that has been discussed at various times over the years. Mayor Bronaugh suggested that the Lufkin City Council be named as the Charter Review Committee. Councilman Simond stated that he would like to see somebody else besides the City Council be on the Committee. Mayor Bronaugh stated that the Council could go over the Charter in workshop sessions and then have a Committee take the changes and revisions to the voters. City Manager Maclin stated that a Committee cannot take the changes and revisions to the voters, the City Council is the only one that can take this to the voters. Councilman Simond stated that the last Charter Committee consisted of 15 members. Councilman Simond stated that he would personally like to have more people involved and let them bring their recommendations back to the City Council.

Councilman Gorden stated that, in his opinion, it would be difficult to have a large number of people involved. City Manager Maclin stated that having gone through Charter reviews on two occasions in his five years in Wharton, they had a small committee consisting of two attorneys, the City Attorney, two City Councilmembers, a retired English teacher (whose primary function was that everything be grammatically correct), and himself.

City Manager Maclin stated that basically all the committee in Wharton did was make a recommendation for consideration to the City Council and then the City Council still had the authority to make changes and what they recommended, and whatever the City Council finally agreed upon was what went to the voters. City Manager Maclin stated that in view of the fact that this City Council has not had a Charter review in so long, it would be appropriate that the Council serve as the Charter review committee to be able to get a handle on those things that they have had concerns about over the years. City Manager Maclin stated that the lay citizen will not understand the changes that need to be made like the Councilmembers will who have served on the Council for a period of years. City Manager Maclin stated that after the budget is finalized, a series of workshops can be scheduled.

Motion was made by Councilman Larry Kegler and seconded by Councilman Bob Bowman that the Lufkin City Council be appointed as the Charter Review Committee. A unanimous affirmative vote was recorded.

11. EMERGENCY REPAIRS TO WATER WELL NO. 10 - APPROVED - WEISINGER WATER WELL, INC. - WATER & SEWER CONTINGENCY FUND

Mayor Bronaugh stated that the next item for consideration was emergency repairs to Water Well No. 10.

City Manager Maclin stated that the City has had some emergency problems relating to Water Well No. 10, but they do not place the City in the position of not being able to provide water to the citizens of Lufkin.

Asst. City Manager Wesch stated that Larry Lasiter of Goodwin-Lasiter was present to answer any questions Council might have regarding these repairs. Mr. Wesch stated that a short synopsis of the well situation is that the wear rings at the bottom of the pump bowls have cratered thereby cratering the balance of everything that is 700' deep in the ground. Mr. Wesch stated that the well was removed and all components were taken to Weisinger's Company office in Conroe and disassembled. Mr. Wesch stated that after inspection by Weisinger's it was determined that there are several problems with the well (a detailed report by Weisinger's is included in the packet information for this item). Mr. Wesch stated that the total cost for the well repair, pulling the well, engineering fees and re-installation will cost approximately \$37,500.

Mr. Wesch stated that he was requesting authorization from Council to proceed on securing bids for repair of the well. In response to question by Councilman Simond, Mr. Wesch stated that funds for this repair will come from the Water and Sewer Contingency Fund. Asst. City Manager Mayfield stated that currently there is a balance of \$96,400 in the Water and Sewer Contingency Fund.

Motion was made by Councilman Bob Bowman and seconded by Councilman Larry Kegler to approve emergency repairs to Water Well No. 10 as performed by Weisinger Well, Inc. in the amount of \$37,500, and that this amount be taken from the Water & Sewer Contingency Fund. A unanimous affirmative vote was recorded.

12a. BID - APPROVED - PIPE & MATERIAL - LUBBOCK STREET WATER LINE - GOLDEN TRIANGLE PIPE

Mayor Bronaugh stated that the next item for consideration was bids for pipe and material for the Lubbock Street water line.

City Manager Maclin stated that staff recommendation is to award the low bid of Triangle Pipe in the amount of \$33,266.81.

Motion was made by Councilman Larry Kegler and seconded by Councilman Jack Gorden, Jr. that bid of Triangle Pipe in the amount of \$33,266.81 be approved as submitted. A unanimous affirmative vote was recorded.

12b. BID - APPROVED - VALVES - KILN STREET ELEVATED STORAGE TANK - GOLDEN TRIANGLE PIPE

Mayor Bronaugh stated that the next item for consideration was bids for valves to be replaced at the Kiln Street elevated storage tank.

City Manager Maclin stated that staff recommendation is to award the low bid of Triangle Pipe in the amount of \$7,147.40.

Motion was made by Councilman Bob Bowman and seconded by Councilman Larry Kegler that bid of Triangle Pipe in the amount of \$7,147.40 be approved as submitted. A unanimous affirmative vote was recorded.

12c. BID - APPROVED - FUEL AND LUBRICANTS - POLK OIL COMPANY/FUEL AND LUBRICANT BULK DELIVERY - OKAY FOOD COMPANY/FUEL AND LUBRICANT ROLLING STOCK

Mayor Bronaugh stated that the next item for consideration was bids for fuel and lubricants for the City of Lufkin.

City Manager Maclin stated that only one bid was received for the Fuel and Lubricant Bulk Delivery and that was from Polk Oil Company. City Manager Maclin stated that staff recommendation is to award the bid of Polk Oil Company for the Fuel and Lubricant Bulk Delivery and award the bid of Okay Food Company for Fuel and Lubricant Rolling Stock.

Motion was made by Councilman Jack Gorden, Jr. and seconded by Councilman Larry Kegler that bid of Polk Oil Company for Fuel and Lubricant Bulk Delivery in the amount of \$21,462.20 be approved as submitted. A unanimous affirmative vote was recorded.

Motion was made by Councilman Don Boyd and seconded by Councilman Larry Kegler that bid of Okay Food Company for Fuel and Lubricant Bulk Delivery in the amount of \$175,394.00 be approved as submitted. A unanimous affirmative vote was recorded.

12d. **BID - APPROVED - PRINTER/COPY MACHINE - STORY- WRIGHT**

Mayor Bronaugh stated that the next item for consideration was a printer/copy machine.

City Manager Maclin stated that staff recommendation is to award the low bid of Story-Wright Office Supplies under the State of Texas Government contract pricing, including required accessories, in the amount of \$8,850.75.

City Manager Maclin stated that this machine represents the latest in technology as it functions as a color printer, color copier, and color scanner, all as one piece of equipment. City Manager Maclin stated that the funds for this equipment come from the Public Property Finance Package of last year as an item to be included in a list of computer and equipment purchases.

City Manager Maclin stated that for the last 18 months any color printing that staff has done has been on a limited use basis of the color printer at the DETCOG office on First Street.

City Manager Maclin stated that the purchase of this item will allow staff to access color printing in house for graphs, budgets, desktop presentations, economic development proposals, and service club programs.

Motion was made by Councilman Jack Gorden, Jr. and seconded by Councilman Bob Bowman that bid of Story-Wright in the amount of \$8,850.75 be approved as submitted. A unanimous affirmative vote was recorded.

13. **EXECUTIVE SESSION**

Mayor Bronaugh recessed Regular Session at 6:00 p.m. to enter into Executive Session. Regular Session reconvened at 6:39 p.m. Mayor Bronaugh stated that the Council had discussed real estate matters and demolition of dilapidated houses.

City Attorney Bob Flournoy recommended that the following list of houses be demolished:

- 1) 1517 Higgins
- 2) 306 Scarborough
- 3) 416 E. Bremond
- 4) 301 Mill
- 5) 3005 Freeman
- 6) 711 Lufkin Avenue
- 7) 1600 Sayers
- 8) 312 Homer

Motion was made by Councilman Percy Simond and seconded by Councilman Larry Kegler that the list of dilapidated houses recommended by the City Attorney for demolition be approved as presented. A unanimous affirmative vote was recorded.

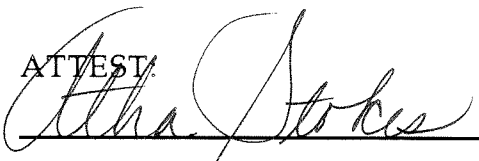
14. **COMMENTS**

City Manager Maclin stated that Councilmembers would be provided with Priority Ranking Sheets for the Budget after the final Budget Workshop Meeting on Wednesday, and requested that they be returned to him as soon as possible.

City Manager Maclin reminded Councilmembers that under the FYI section of the packet is a notice of a TML Region 16 meeting to be held in Jasper on Thursday, July 29th.

Councilman Bob Bowman stated that there will be a DETDA meeting on Friday

15. There being no further business for consideration, meeting adjourned at 6:45 p.m.

ATTEST:

Atha Stokes - City Secretary


Louis A. Bronaugh - Mayor