

**MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF LUFKIN, TEXAS, HELD ON THE
7TH DAY OF SEPTEMBER, 1993 AT 5:00 P.M.**

On the 7th day of September, 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/Finance
Ron Wesch	Asst. City Manager/Public Works
Bob Flournoy	City Attorney
Atha Stokes	City Secretary

being present when the following business was transacted.

1. Meeting was opened with prayer by Dr. Gary Halbrook of the Samaritan Counseling Center.

2. Mayor Bronaugh welcomed visitors present.

3. **APPROVAL OF MINUTES**

Minutes of the Regular Meeting of August 17, 1993 and Called Budget Workshop Meeting of July 29, 1993, were approved on a motion by Councilman Don Boyd and seconded by Councilman Tucker Weems. A unanimous affirmative vote was recorded.

4. **ORDINANCE - APPROVED - SECOND READING - APPROPRIATIONS
ORDINANCE**

Mayor Bronaugh stated that the first item for consideration was Second Reading of the Appropriations Ordinance.

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

5. **ORDINANCE - APPROVED - SECOND READING - TAX LEVYING
ORDINANCE**

Mayor Bronaugh stated that the next item for consideration was Second Reading of the Tax Levying Ordinance.

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

6. ORDINANCE - APPROVED - SECOND READING - RESIDENTIAL/COMMERCIAL WATER RATES REVISED

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance to revise residential and commercial water rates.

Motion was made by Councilman Don Boyd 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. ORDINANCE - APPROVED - SECOND READING - SEWER RATES REVISED

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance to revise sewer rates.

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

8. PUBLIC HEARING DATE SET - TAX ABATEMENT - JOSEPH J. KWIATKOWSKI - INTERNATIONAL TRUCK & EQUIPMENT OF TEXAS, INC. - DAVISVILLE ROAD/ANGELINA & NECHES RIVER RAILROAD

Mayor Bronaugh stated that the next item for consideration was request of Joseph J. Kwiatkowski on behalf of International Truck and Equipment of Texas, Inc. to call a Public Hearing for the purpose of granting a Tax Abatement on approximately 18.657 acres located south of Loop 287, between Davisville Road and the Angelina & Neches River Railroad.

City Manager Maclin stated that this item is on the agenda to let Council review the application to see that it does conform to the guidelines established by the City of Lufkin, and if they are comfortable with the application, the next step would be to call for a Public Hearing. City Manager Maclin stated that staff is recommending that the Public Hearing be held September 21st if this is agreeable with Council, and any vote would take place following the Public Hearing. City Manager Maclin stated that the Public Hearing by nature serves as a Public Hearing for all four taxing entities under the current Tax Abatement Policy.

In response to question by Councilman Gorden, Mr. Abraham stated that the entire 18 acres is platted as one lot, with the applicant making improvements the first year and will continue to make improvements over the course of time. Mr. Abraham stated that the abatement will be on just the amount of improvements that are made. City Manager Maclin stated that Mr. Kwiatkowski will continue to pay taxes on the 18 acres at its current value; the abatement will only apply to the improvements. Councilman Gorden stated that he was concerned that the applicant might sell part of the property. City Manager Maclin stated that if he did sell part of it that person would have to come back to the City for approval. City Manager Maclin stated that anything that is not included in writing in his application would be ineligible for abatement. Mr. Abraham stated that when the Contract is written for the Abatement he will put in a provision that the Abatement is not transferrable.

In response to question by Councilman Gorden, City Manager Maclin stated that the applicant was planning to utilize the Enterprise Zone.

Councilman Bowman stated that he had some questions, but would really like to ask them of Mr. Kwiatkowski. Mr. Abraham stated that he had spoken with Mr. Kwiatkowski and was led to believe that he would be present at tonight's meeting.

In response to question by Councilman Weems, Mr. Abraham stated that Mr. Kwiatkowski is required to have 2,000 points to get the minimum Tax Abatement

and he has 3,025 and is eligible to ask for additional abatement . Mr. Abraham stated that it was his understanding that Mr. Kwiatkowski would ask for additional abatement beyond the typical schedule. Mr. Abraham stated that he could ask for a 100% abatement for all seven years. Mr. Abraham stated that with 2,000-3,000 points you can have a 100% abatement for the first three years; and the remaining years at 75%, 50% and 25% on a graduating scale. Mr. Abraham stated that the Contract that is drawn up will be based on what the verifiable points are.

In response to question by Councilman Gorden, City Manager Maclin stated that the other taxing entities are allowed to use the City's Public Hearing as one Public Hearing for all four entities to save the applicant from having to go through four separate Public Hearings. City Manager Maclin stated that each entity has the separate autonomy to choose whether or not they grant the abatement.

Motion was made by Councilman Tucker Weems and seconded by Councilman Jack Gorden, Jr. that Public Hearing for Tax Abatement be set for September 21st. A unanimous affirmative vote was recorded.

9. ORDINANCE - APPROVED - REVISIONS IN LOCAL GOVERNMENT CODE - BIDDING PROCEDURES

Mayor Bronaugh stated that the next item for consideration was First Reading of an Ordinance reflecting revisions in the Local Government Code relating to bidding.

City Manager Maclin stated that in the legislative session, the TML has for the past several sessions, attempted to get a bill passed to increase the competitive bidding dollar amount requirements. City Manager Maclin stated that Senate Bill 226 (a copy included in the packet) lists this particular Act raising the minimum dollar amount for competitive bidding procedures to \$15,000 with the following stipulations: A \$5,000 minimum relating to insurance and a \$3,000 minimum relating to the contacting of two disadvantaged businesses (these businesses have to register with the State through the County and appear on a list at which time the City would then be required to contact the disadvantaged businesses to make sure they had appropriate opportunity to bid on the items they were eligible to bid on.) City Manager Maclin stated that this Bill was structured in such a way that City Council action is adequate to implement this even though the Charter may or may not be in compliance with this minimum. City Manager Maclin stated that he had talked with Susan Horton of TML and she assured him that was the intent of the Texas Municipal League when they presented the Bill through the legislative process so that it would only require Council action to concur with the State Statute and would not require Charter Amendment. City Manager Maclin stated that included in the packet is a letter from the Purchasing Agent reassuring Council that the City will continue to do competitive bidding. City Manager Maclin stated that with the passage of this Ordinance, items over \$15,000 will be presented to Council, whereas in the past any item over \$2,000 was brought to Council for consideration. City Manager Maclin stated that it is staff's opinion that the passage of this Ordinance will expedite the purchasing process in some cases and alleviate some of the time consumed in Council meetings.

In response to question by Councilman Gorden, City Manager Maclin stated that in the past anything over \$500 has required telephone quotes, and the checks and balances through the purchase order system has insured that this procedure has been followed. City Manager Maclin stated that if Council wanted something more tangible, a Policy could be written relating to bidding procedures and could be adopted by Council. City Manager Maclin stated that staff will continue to go through the same procedure as when bids are taken on items under \$2,000. Councilman Gorden stated that, in his opinion, \$15,000 is a little high. City Manager Maclin stated that most cities have used \$5,000 as the criteria for bringing the bids to Council for approval. City Manager Maclin stated that up until recently it took a Charter Amendment to change the amount set forth in the Charter. City Manager Maclin stated that any amount up to \$15,000 will not require Charter

Amendment.

In response to question by Councilman Weems, Mr. Cochran stated that part of the competitive bidding process is to advertise in the newspaper twice (a 14 day delay), and if quotes were taken locally it would cut down on the advertising cost and speed up the process. City Manager Maclin stated that it is not uncommon for the City to spend \$2,500 a month on advertising in the newspaper.

Motion was made by Councilman Tucker Weems and seconded by Councilman Jack Gorden, Jr. that Resolution raising the bidding minimum to \$15,000 be approved with the stipulation that staff follow up with a written policy on bidding procedures voted on by the City Council.

In response to question by Councilman Kegler, City Manager Maclin stated that he had spoken to Bob Bashaw from Bill Haley's office and Mr. Bashaw has promised to send a list of the disadvantaged businesses as soon as the list is complete.

In response to statement made by Councilman Simond regarding the purchase of vehicles, City Manager Maclin stated that everything that is purchased is through a Decision Package through the budgeting process and is voted on by the Council. City Manager Maclin stated that the City is getting away from the ownership of vehicles by design. City Manager Maclin stated that occasionally vehicles are wrecked and have to be purchased through the Contingency Fund. Councilman Simond stated that the City of Lufkin has a lot of brand new vehicles.

Councilman Kegler stated that he was not comfortable with \$15,000 and would prefer that the amount be lowered to \$10,000.

Councilman Weems amended his motion, and Councilman Gorden seconded the amendment, that Ordinance be approved on First Reading with the minimum bidding amount as \$10,000, with the stipulation that staff follow up with a written policy on bidding procedures voted on by the City Council. A unanimous affirmative vote was recorded.

10. EMPLOYEE PERSONNEL HANDBOOK - REVISIONS - APPROVED

Mayor Bronaugh stated that the next item for consideration were updates to the Employee Personnel Handbook.

City Manager Maclin stated that staff drafted a new Employee Personnel Handbook, Safety Manual and Resource Manual in the summer of 1991, which went into effect in October of 1991. City Manager Maclin stated that since that time staff has not made any official changes through Council; however, there have been some internal memos and policy changes to reflect changes in State and Federal law and other interpretations as needed. City Manager Maclin stated that it is the opinion of staff members that the Personnel Handbook needs to be updated on a bi-annual basis, and tonight there are some housekeeping items that need to be addressed. City Manager Maclin stated that there are some items specifically related to State or Federal law, the Texas Municipal Retirement System, and some items specifically requested by Council for review. City Manager Maclin stated that the Grievance Policy had been discussed at the Retreat in May, and Mr. Simond had requested that the Nepotism Policy be reviewed.

Kerry Little, Personnel Director, reviewed changes to the Personnel Handbook, as follows:

- 1) Paragraph 2.7, page 3 - This is a new procedure which will insure administrative communication between Department Directors.
- 2) Paragraph 2.9, page 4 - This is to clarify the rights of employees who have been laid off as opposed to those who are re-employed at a different time for a different reason.
- 3) Paragraph 2.10, page 4 - This is to correct paragraph numbers due to

a change in another part of the policy.

- 4) Paragraph 3.4, page 5 - This is a policy change which would reflect the direction of the Council request as a result of the Retreat, which Mr. Maclin referred to earlier.
- 5) Paragraph 4.5, page 7 - This is to comply with TMRS recommendations which governs the retirement system. Primarily this is to address tenured retirement versus disability retirement or self-retirement.
- 6) Paragraph 5.2, page 9 - This is to comply with ADA practices and guidelines reference physical requirements as they relate to job descriptions.
- 7) Paragraph 5.2, page 9 - This is to comply with the current practice reference job descriptions.
- 8) Paragraph 5.3, page 10 - This is a change in minimum grade from Step P (Probationary) to Step A.
- 9) Paragraph 6.1, page 11 - This is to add Martin Luther King's birthday to the list of approved holidays.
- 10) Paragraph 6.2, page 12 - This is to make sick leave and vacation utilization the same.
- 11) Paragraph 6.3, page 13 - This is to make sick leave and vacation maximum accrual the same.
- 12) Paragraph 6.3, page 14 - This is to change verbiage and give a reference on this subject.
- 13) Paragraph 6.3, page 14 - This is an addition of Paragraph K which explains the benefit that employees being transferred, promoted, or demoted shall retain their accrued sick leave amounts. This had not been addressed previously.
- 14) Paragraph 6.9, page 16 - This is to correct grammar and spelling.
- 15) Paragraph 6.10, page 17 - This is to correct grammar.
- 16) Paragraph 6.11, page 17 - This is Family and Medical Leave Act to comply with Federal law.
- 17) Paragraph 7.7, page 20 - This is to correct the intent regarding sleeping on the job.
- 18) Paragraph 8.1, page 25 - This is already under the disciplinary actions in another section of the policy.
- 19) Paragraph 10.5, page 27 - This was recommended by TMRS to make the retirement provisions more understandable in the Handbook.
- 20) Paragraph 11.1, page 29 - This is a change per Council direction. Under the old policy, when an employee requested a Grievance Committee they could select a Department Head of their own choosing, under this Policy they can select an employee of their own choosing so long as it is not in the same department.
- 21) Paragraph 12.8, page 30 - This is to correct grammar.

City Manager Maclin stated that basically most of the changes are housekeeping with the exception of two sections - Nepotism and the Grievance Committee. City Manager Maclin stated that staff did some research on nepotism laws and found what he felt like was the intent of Council's desire through a nepotism policy from the City of Wichita Falls. City Manager Maclin read the definition of the immediate family, and stated that if an applicant was related to a current City employee and was listed in the definitions, he/she would not be eligible for employment with the City. City Manager Maclin stated that those employees hired prior to October 1, 1993, would remain under the previous policy, which basically is that you cannot work in the same department of which your relative would supervise, or be in a potential position to supervise a family member.

City Manager Maclin stated that he had visited with Councilman Simond earlier in the day and Mr. Simond indicated that his intent was more aimed at the Department Head level, Administration, and up. City Manager Maclin stated that a "cousin" was excluded from the definition of immediate family members.

City Manager Maclin stated that in the case of the Grievance Policy, previously a person requesting a meeting with the Grievance Committee would meet with the

City Manager, the Asst. City Manager of the Department not involved, and a Department Head of the employee's choosing. The request of Council at the Retreat was to change that to any employee of the employee's choosing outside the grievor's department.

In response to question by Councilman Gorden as to what happens when two employees become related later, Mr. Little stated that there is a provision in the revised Employee Personnel Handbook which addresses this. Mr. Little stated that if it is at a supervisory level, this would not be acceptable. Mr. Little stated that if it is through marriage, then this would not apply, but they could not have supervisory authority over the employee. Mr. Little stated that the nepotism policy of the City of Ft. Worth was recommended by TML primarily because it has been tested in the Court system both for civil service and non-civil service. City Manager Maclin stated that the City of Ft. Worth has won 12 cases in Court relating to the nepotism law.

Councilman Simond stated that the City of Lufkin currently has a top-notch supervisor and his wife, son and daughter were all employees of the City. Councilman Simond stated that when he made his request for revisions to the Policy he did not have in mind that sisters and brothers could not both work for the City. Councilman Simond stated that his intention was that a top-notch supervisor should not have their relatives working on the payroll.

City Manager Maclin stated that he would have to seek legal confirmation from TML, but if the City said the hiring part applies to Department Head and higher from an administrative standpoint and that if a person fell into one of the definitions at the bottom of the page, then they could not work in the same department and that would allow a husband and wife who were not Department Head or higher to work in two separate departments in the City. City Manager Maclin stated that the reason he likes this idea is because it still doesn't allow a fireman and a fireman's brother work in the Fire Department and create that situation, because sooner or later one of them will be promoted.

In response to statement by Councilman Kegler that he had a problem with the Grievance Committee, City Manager Maclin stated that when this was discussed at the Retreat there was concern with the person chosen as the employee's representative being a Department Head, there being too much emphasis on Administrative personnel and it needed to be revised where it gave the employee the authority to choose someone from any level of employee they wanted to. City Manager Maclin stated that he felt it was important that that person be outside of their employee's department for this reason: If it's a close friend they work with day to day in that department and for whatever reason their friend decided against them, there would be some animosity that could not be overcome. City Manager Maclin stated that staff had looked at 10 or 12 grievance policies from other cities and they are similar to the Policy the City has. City Manager Maclin stated that in all the other policies the City Manager was the Chairman.

Councilman Kegler stated that basically he feels that with the City Manager, Asst. City Manager and an employee from another Department, the deck would be stacked against the employee. Councilman Kegler stated that, in his opinion, having the City Manager and Asst. City Manager, would be intimidating to the employee who had requested the grievance hearing. Councilman Kegler stated that in a grievance meeting an employee should feel that he is given a fair shake, and if he had to go into a meeting and see that the City Manager and Asst. City Manager were present he would feel intimidated, even if he had a fellow employee in the room.

Councilman Simond stated that he could understand that Mr. Little was supposed to be present to record the meeting, and that he was not supposed to be speaking. Councilman Simond stated that it was his understanding that Mr. Little does more of the talking than anyone in the meeting. City Manager Maclin stated that he had tapes of the meeting, and this is an invalid accusation. City Manager Maclin stated

that Mr. Little does not have a vote and is allowed to answer a question if it is directed to him. City Manager Maclin stated that he could appreciate Councilman Kegler's position in terms of the perception by the employee coming into a situation where Administrative staff is present. City Manager Maclin stated that in the two grievance committees meetings the City has had in the last 2 1/2 years, all of the members were counseled and cautioned to make an independent decision based on the facts, and that their decision whatever it may be was perfectly acceptable, and he did not want them to feel intimidated by him, so he always voted last.

Councilman Simond stated that Councilman Kegler was right, the City Manager and Asst. City Manager along with the Personnel Director will get together before the meeting and determine that person's fate before the meeting in all probability. City Manager Maclin stated that he would respectfully disagree. Councilman Simond stated that he felt that there should be someone other than top management in a meeting with a minimum wage employee who had a family to support and was afraid that he was going to lose his job.

Councilman Kegler stated that he would recommend that the decision from the Grievance Committee goes to the City Manager with him making the final decision. Councilman Kegler stated that he would like for the employee to feel that he had a fair chance and that the deck wasn't stacked against him beforehand.

Councilman Simond stated that two employees have come to him after the Grievance Committee meetings. Mr. Little stated that he had spoken with both individuals before they went to the Grievance Committee, and in both instances he felt like it was correctly handled. Mr. Little stated that in both cases the person the employee chose was the first to cast their vote and agreed that the employee had been properly treated.

Councilman Simond stated that actually there have been three people who have come to him, and one of them was not dismissed but was demoted. Councilman Simond stated that it is a scare tactic to tell an employee that if they are not happy with the decision of the Grievance Committee they can go to Court. Mr. Little stated that the threat of going to Court has been from the employee to management and not the other way around.

Councilman Simond asked whatever became of the standing Grievance Committee that was made up of employees. City Manager Maclin stated that he was not aware of a Grievance Committee in existence when he came. Mr. Maclin stated that when he brought the Grievance Committee to the Council as part of the Employee Personnel Handbook last year it was unanimously approved by the City Council so he assumed it was all right.

There was discussion that a committee could be made up of one Department Head, one rank and file employee, and one other employee not above the Department Head level. City Manager Maclin stated that in regard to the policy suggested by Councilman Boyd, there could be a standing committee of three, the employee could have the right to scratch one, and there could be a list of three alternates to replace the one that was scratched. Councilman Kegler stated that the employee would present their side, with legal counsel if they want it, and Mr. Little would present the City's side (with legal counsel if he wanted it), and they would meet with the committee of three.

Councilman Weems suggested that the group of people chosen for the Grievance Committee should have some type of education in regard to personnel policy, and could possibly serve on the committee for one year. City Manager Maclin stated that there would be some minimum requirements in order to serve on the Committee. Mr. Maclin stated that the new Arbitration/Negotiator for the Chamber of Commerce and Mediator Service could provide some training.

Mayor Bronaugh took an unofficial vote to determine Council's feelings on leaving

the policy as it is presently and 2 voted for it - 5 voted for the newly proposed committee. City Manager Maclin stated that this would not apply to Civil Service, because Civil Service supersedes this.

Chief Collins gave suggestions for how the Committee could be selected with the Department Head choosing a member of the Committee to hear a particular grievance, with the employee to choose another employee; and those two members get together and comprise a list of three possible third members. Each one of the two designees have one strike, so you end up with the third member. Chief Collins stated that this is a fair and impartial committee to hear the grievance.

Mr. Little stated that a list of ten people can be selected to set up an arbitration grievance committee and train them.

City Manager Maclin stated that these revisions will be made to the Employee Personnel Handbook and will be brought back for Council consideration at the next meeting.

11a. BID - APPROVED - REPAIRS TO WATER WELL NO. 10 - WEISINGER WATER WELL COMPANY

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

City Manager Maclin stated that a letter from Mike Walker of Goodwin-Lassiter had been included in the Councilmember's packet and in that letter there is a better tabulation regarding comparison of the bids. City Manager Maclin stated that this was an emergency repair to the well and that Weisinger was able to provide the quickest response to the needs of a temporary pump. City Manager Maclin stated that it is staff's recommendation that the bid of Weisinger Water Well Company in the amount of \$34,740 be accepted.

Motion was made by Councilman Percy Simond and seconded by Councilman Jack Gorden, Jr. that the bid of Weisinger Well Company in the amount of \$34,740 be approved as submitted. A unanimous affirmative vote was recorded.

11b. BID - APPROVED - REFUSE BAGS - BEMIS COMPANY

Mayor Bronaugh stated that the next item for consideration was bids for refuse bags.

City Manager Maclin stated that staff recommendation is to award the low bid of Bemis Company.

In response to question, Mr. Wesch stated that the bid included black and blue (recycled) bags.

Motion was made by Councilman Larry Kegler and seconded by Councilman Percy Simond that bid of Bemis Company in the amount of \$91,630 be approved as submitted. A unanimous affirmative vote was recorded.

11c. BID - APPROVED - COPIER - MUNICIPAL COURT - COPY DUPLICATING PRODUCTS OF LUFKIN

Mayor Bronaugh stated that the next item for consideration was bids for a copier to be used in Municipal Court.

City Manager Maclin stated that this item was listed on the mini-decision package list that had been presented to Council at last meeting. City Manager Maclin stated that staff recommendation is to award the bid of Copy Duplicating Company in the amount of \$2,520.

Motion was made by Councilman Bob Bowman and seconded by Councilman Don Boyd that bid of Copy Duplicating Company in the amount of \$2,520 be approved as submitted. A unanimous affirmative vote was recorded.

12. EXECUTIVE SESSION

Mayor Bronaugh recessed Regular Session at 6:51 p.m. to enter into Executive Session. Regular Session reconvened at 7:15 p.m. and Mayor Bronaugh stated that the Councilmembers had discussed re-appointments to Boards and additional members of the Zoning Board of Adjustment and Appeals.

13. APPOINTMENTS - APPROVED - PLANNING & ZONING COMMISSION- JAMES SLACK

Motion was made by Councilman Bob Bowman and seconded by Councilman Jack Gorden, Jr. that James Slack be reappointed to the Planning & Zoning Commission for a three year term. A unanimous affirmative vote was recorded.

14. COMMENTS

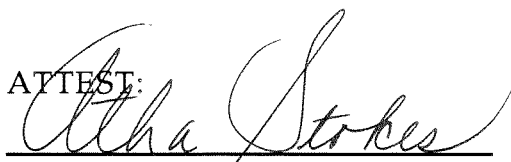
Councilman Kegler expressed his appreciation to Code Enforcement Officer Kenneth Williams for presenting him with percentages by Department and by ethnicity.

Asst. City Manager Darryl Mayfield gave a report on the Cable Act.

Councilman Simond questioned the Municipal Court report and City Manager Maclin stated the reason for the inconsistency in the number of traffic violations is that the Narcotics Team, which normally writes the tickets, had been pulled off their normal assignment to work on some burglaries which had caused some problems in the City for a couple of months. City Manager Maclin stated that he would speak to Judge Sloan and request that he make a report before Council at one of the regularly scheduled meetings in October.

15. There being no further business for consideration, meeting adjourned at 7:32 p.m.

ATTEST:



Atha Stokes - City Secretary



Louis A. Bronaugh - Mayor