MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 19TH DAY OF SEPTEMBER, 1995 AT 5:00 P. M.

On the 19th day of September, 1995 the City Council of the City of Lufkin, Texas, convened in a regular meeting in the Council Chambers of City Hall with the following members thereof, to wit:

Louis Bronaugh	Mayor
Don Boyd	Mayor pro tem
Percy Simond, Jr.	Councilmember, Ward No. 1
Betty Jones	Councilmember, Ward No. 3
Bob Bowman	Councilmember, Ward No. 4
Jack Gorden, Jr.	Councilmember, Ward No. 5
Tucker Weems	Councilmember, Ward No. 6
Ron Wesch	Asst. City Manager/Public Works
Darryl Mayfield	Asst. City Manager/Finance
Stephen Abraham	City Planner
Bob Flournoy	City Attorney
Atha Stokes	City Secretary

being present, and

C. G. Maclin	City Manager

being absent when the following business was transacted.

1. Meeting was opened with prayer by Rev. Keith Whitaker, Minister, First United Methodist Church.

2. Mayor Bronaugh welcomed visitors present. Mayor Bronaugh recognized Scout Leader Mike Cotton, and Scouts Chris Byrd, Joey Officer, Matt Lindsey, and Letney Head from Troop 518. Mayor Bronaugh also recognized Service League Provisionals Tina Alexander and Sandy English.

Mayor Bronaugh stated that he would like to take a few minutes to explain a situation that took place this last week that was unfortunate, and was a mistake on his part. Mayor Bronaugh stated that it has to do with a letter that was written by Mrs. Bobbie Whitehead in requesting to be put on tonight's agenda. Mayor Bronaugh stated that the item she wished to address was related to a particular internal problem in the Police Department. Mayor Bronaugh stated that there is an on-going investigation of that item, and it was felt that because of the nature of the problem, which is a personnel problem as well as a disciplinary problem, that it could not be placed on the agenda. Mayor Bronaugh stated that it is dictated by the City Charter that the City Council is not allowed to enter into personnel problems and for that reason, the Council feels that this is not the place to discuss that particular item. Mayor Bronaugh stated that the investigation of the problem should be terminated within the next day or so, and at that time the City will be working with Mrs. Whitehead and others involved to see that this is brought to a successful conclusion. Mayor Bronaugh stated that he would apologize to Mrs. Whitehead and would see that this does not happen again.

3. **APPROVAL OF MINUTES**

Motion was made by Councilmember Don Boyd and seconded by Councilmember Bob Bowman that the minutes of the Regular Meeting of September 5, 1995 be approved as presented. A unanimous affirmative vote was recorded.

4. **ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - LOOP 287 - BURKE CENTER - S & W AUTO BODY SHOP - RESIDENTIAL LARGE TO LOCAL BUSINESS ZONING DISTRICT**

Mayor Bronaugh stated that the next item for consideration was the request of David C. Miles to change the zoning on approximately 9.26 acres of land abutting the southern right-of-way of Loop 287 and lying between the Burke Center and S & W Auto Body Shop from Residential Large to a Local Business Zoning District.

Asst. City Manager Ron Wesch stated that this property is part of the overall development of the Card property, which has recently been approved by City Council. Mr. Wesch stated that this particular area is located along Loop 287 and is 300' deep and lies between S & W Auto Body Shop and the Burke Center. Mr. Wesch stated that the recommendation by the Planning & Zoning Commission and the Planning Department is to change the zoning to Local Business. Mr. Wesch stated that this request was heard by the Planning & Zoning Commission last Monday night, and there was no opposition to the request. Mr. Wesch stated that the Planning & Zoning Commission is unanimously recommending the request to the City Council.

Mr. Miles stated that this area will be developed as a mixed use for retail, professional office and restaurant sites.

There was no opposition to the request from the audience.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Bob Bowman that the Ordinance for a Zone Change on approximately 9.26 acres of land abutting the southern right-of-way of Loop 287 and lying between the Burke Center and S & W Auto Body Shop from Residential Large to a Local Business Zoning District as requested by David C. Miles be approved on First Reading as presented. A unanimous affirmative vote was recorded.

5. **ORDINANCE - APPROVED - FIRST READING - SPECIAL USE PERMIT - PRIVATE CLUB - COMMERCIAL ZONING DISTRICT - 206 S. TIMBERLAND DRIVE - MICHAEL DOCK**

Mayor Bronaugh stated that the next item for consideration was the request of Michael Dock for approval of a Special Use Permit for a Private Club within a Commercial Zoning District located at 206 S. Timberland Drive.

Asst. City Manager Wesch stated that Dock's Diner, located at 206 S. Timberland Drive and is on the same grounds as the Sun-N-Pines Motel, is requesting a permit for the sale of alcoholic beverages in a Private Club. Mr. Wesch stated that this request was presented to the Planning & Zoning Commission last Monday night and there was no opposition to the request. Mr. Wesch stated that this particular restaurant is located next to Tejas, which is a restaurant with a Special Use Permit for a Private Club. Mr. Wesch stated that the Planning & Zoning Commission is unanimously recommending approval of the request.

In response to a question by Councilmember Bowman, Mr. Abraham stated that the Ordinance will be issued to the restaurant with a private club, so if they stop the restaurant operation they no longer have the right to serve alcoholic beverages.

There was no opposition to the request from the audience.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Tucker Weems that the Ordinance for approval of a Special Use Permit for a Private Club within a Commercial Zoning District located at 206 S. Timberland Drive be approved on First Reading as presented. A unanimous affirmative vote was recorded.

6. **ORDINANCE - DENIED - FIRST READING - ZONE CHANGE - RESIDENTIAL LARGE TO MOBILE HOME ZONING DISTRICT - 2909 S. CHESTNUT - BEATRICE HODGE**

Mayor Bronaugh stated that the next item for consideration was the request of Beatrice Hodge to change the zoning on approximately four acres of land located at 2909 S. Chestnut from Residential Large to a Mobile Home Zoning District.

Asst. City Manager Wesch stated that Mrs. Hodge is the owner of the Melody Lane Mobile Home Park which is located at 2909 S. Chestnut. Mr. Wesch stated that this particular area was annexed into the City of Lufkin in 1975 as Residential Large. Mr. Wesch stated that this made the mobile home park a non-conforming park and it could not be expanded beyond the twelve established spaces when it was annexed into the City. Mr. Wesch stated that this item was heard before the Planning & Zoning Commission last Monday night and seven people appeared in opposition to the request, including the minister of the church under the direction of the Board of Deacons. Mr. Wesch stated that this mobile home park, if it were to be expanded, could have up to 40 spaces on the four acres Mrs. Hodges currently owns. Mr. Wesch stated that the Planning & Zoning Commission voted unanimously to deny the request for the expansion of the mobile home park.

Mayor Bronaugh stated that because this request was unanimously turned down by the Planning & Zoning Commission, it would require a 4/5's vote by the City Council to override their recommendation for denial.

Mrs. Hodge stated that she has been a resident of Lufkin since 1945 and had been in business in the City as the owner of three restaurants. Mrs. Hodge stated that when she bought this property she was under the impression that the local government was not a "gestapo-type" government, and would let a person do what they wanted to on their own land. Mrs. Hodge stated that she was only asking for 10 mobile homes to be placed on 1.6 acres. Mrs. Hodge stated that the expansion would be fenced and should not bother the adjoining property owners. Mrs. Hodge stated that, in her opinion, a person who had lived in this town as long as she has, and been in business, should be allowed to use the one acre to put 10 mobile homes on. Mrs. Hodge stated that perhaps in the future, a new owner of the property might be interested in expanding the number of mobile homes on the property.

Mrs. Hodge stated that she had prayed over using the right words to the Council, and wondered what kind of decision Councilmembers would make if their own mother was before them requesting a way to bring in another $1,000 a month for her livelihood. Mrs. Hodge stated that if the zone change is denied and the property is zoned for apartments, it will create a place for crime. Mrs. Hodge stated that, in her opinion, very little crime goes on in mobile home parks.

The following people appeared in opposition to the zone change request:

Ervin Hopkins - Over-population with mobile homes; will devalue the value of the property in the area.

Richard Joseph - Devaluation of property.

Howard Richard - The request now is for 10 mobile homes, but in reality it will be 10 mobile homes now and 10 later until there are 40 mobile homes on the four acres.

Alta Cline, a friend of Mrs. Hodge's, stated that the request is only for 10 mobile homes to be placed on 1.6 acres. Mrs. Cline stated that there seems to be some confusion about this request, and common knowledge would tell you that you cannot put 40 mobile homes on one acre. Mayor Bronaugh stated that the request is to rezone four acres of the property.

Mrs. Hodge stated that all of the people who are opposing her must not have searched their hearts or considered that if their mothers were in her shoes what they would do. Mrs. Hodge stated that if the City Council does not grant her request she will sell the property to someone who will put apartments on the property and then they will wish they had not gone against her.

In response to question by Mrs. Hodge, City Planner Abraham stated Residential Large is a matter of what the lot size is, and requires 10,000 sf of land and a minimum of 1200 sf dwelling area. The minimum width on a Residential Large is 80 ft. wide.

City Planner Abraham stated that the City's Mobile Home Ordinance says that you can have 10 mobile homes per acre.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Betty Jones that the First Reading of an Ordinance for a zone change on approximately four acres of land located at 2909 S. Chestnut from Residential Large to a Mobile Home Zoning District be denied as presented. A unanimous affirmative vote was recorded.

In response to a question by Councilmember Bowman, Mr. Abraham stated that because the property is currently zoned as Residential Large it is limited to single-family dwellings. Mr. Abraham stated that a lot of what she can do depends on the frontage on FM 58. Mr. Abraham stated that a Planned Unit Development would also be an option for Mrs. Hodge. In response to a question by Mrs. Hodge, Mr. Abraham stated that she could put a street in depending upon what was developed on the property.

Mayor Bronaugh requested that Mr. Abraham meet with Mrs. Hodge to discuss the options available to her.

7. **ORDINANCE - APPROVED - FIRST READING - ANNEXATION - ZONING - SPENCE STREET/LOOP 287 - SPECIAL USE PERMIT - SALVAGE STORAGE YARD - A. VARILLA SURVEY (TRACT 9)**

Mayor Bronaugh stated that the next item for consideration was the First Reading of an Ordinance for the annexation of, and appropriate zoning classification for, approximately 90.029 acres of land located on the west side of Spence Street just north of Loop 287.

Mayor Bronaugh stated that two Public Hearings have been held on this property, and this is the next step in the annexation proceedings.

Mr. Wesch stated that this is the 90 acre tract behind the Texas Smokehouse, and is a portion of the area that was developed approximately two years ago for the RPS Company. Mr. Wesch stated that the zoning being recommended by the Planning & Zoning Commission is Light Manufacturing.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Jack Gorden, Jr. that an Ordinance for the annexation of approximately 90.029 acres of land located on the west side of Spence Street just north of Loop 287 be approved on First Reading as presented. A unanimous affirmative vote was recorded.

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember Betty Jones that zoning for approximately 90.029 acres of land located on the west side of Spence Street just north of Loop 287 be designated as Light Manufacturing, and that a Special Use Permit be granted for a Salvage Storage Yard on approximately 3.948 acres of land identified as Tract 9 out of the A. Varilla Survey (A-49). A unanimous affirmative vote was recorded.

8. **ORDINANCE - APPROVED - FIRST READING - ANNEXATION - ZONING - FM 324 - SOUTHERN PACIFIC RAILROAD - DANIEL McCALL DRIVE - US 59**

Mayor Bronaugh stated that the next item for consideration was the First Reading of an Ordinance for the annexation of approximately 703 acres of land generally situated east of FM 324 and the Southern Pacific Railroad, south of Loop 287, north of Daniel McCall Drive, and west of U. S. 59, and also the appropriate zoning classification for that area and certain abutting properties.

Asst. City Manager Wesch stated that this is the area along FM 819 running between Loop 287 and U. S. 59 South, an area that has been under discussion for the past year and a half. Mr. Wesch stated that this annexation was discussed at the City Council Planning Retreat in May. Mr. Wesch stated that the Planning & Zoning Commission had discussed this annexation at their meeting on Monday night and it was their recommendation to bring this property into the City as Commercial. Mr. Wesch stated that there have been two Public Hearings at City Hall and a Public Meeting at the Red Barn concerning the zoning of the property. Mr. Wesch stated that at the Planning & Zoning Commission meeting the vote was 2-2; tonight in order to approve the zoning of this property, it will need to have 6 affirmative votes out of 7.

Mr. Abraham showed various maps of the property being considered for annexation. Mr. Abraham pointed out the existing zoning in the area. A map was presented showing the zoning as recommended by the Planning & Zoning Commission. Mr. Abraham pointed out the City of Lufkin Recycling Center located in the Industrial Park, and the proposed site for American Colloid, both of which require Heavy Manufacturing zoning. Mr. Abraham stated that the 100 foot wide easement for the TU Electric transmission line abutting the southern boundary of the industrial park is also included in the Heavy Manufacturing recommendation. Mr. Abraham stated that there was quite a bit of land being zoned Commercial, but because there is no road system it is difficult to orient things. Mr. Abraham stated that the major development will occur along the road. Mr. Abraham stated that of the notices mailed out regarding this property there were seven responses in favor, one opposed, and 58 did not respond.

In response to a question by Councilmember Simond as to whether or not the City has to recuse itself from voting since it is listed as one of the property owners, Mr. Abraham said "no". Mr. Abraham stated that the City gives its answer through the Councilmembers at the meeting.

In response to a question by Councilmember Gorden, Mr. Abraham stated that what he is trying to do from a planning standpoint is to try to make a logical use of the property. Mr. Abraham stated that Commercial zoning would not require a site bearing fence.

Councilmember Gorden stated that, in his opinion, the property should not be brought in totally as Commercial.

In response to a question by Councilmember Simond, Mr. Abraham stated that Residential uses are allowed in a Commercial zoning designation.

Councilmember Boyd stated that the property can be annexed into the City as Commercial and then residents of the area could come in and make an application to change the zoning on their property.

Mayor Bronaugh stated that, in his opinion, part of Councilmember Gorden's concern is that the vote at the Planning & Zoning Commission was 2 to 2, and perhaps it should be sent back and reconsidered when more of the P&Z members are present. Councilmember Gorden stated that from time to time important issues have come before the Council and because one or more Councilmembers were absent the item was tabled until the whole Council could be present.

Councilmember Gorden stated that, in his opinion, some of the property to be annexed should be Commercial, some of it should be Industrial, and some of it should be Local Business, and some of it, perhaps should be Residential.

In response to a question by Councilmember Gorden, Mr. Abraham stated that the Comprehensive Plan suggests that on the 59 Corridor, just the frontage be Commercial and the interior of it be Industrial.

Mr. Abraham stated that the Industrial Park includes approximately 59 acres.

Walter Borgfeld, attorney for Mr. and Mrs. John Barrett, stated that one of the things he had not heard in the presentation of this item was the fact that this proposal not only includes zoning of that property which is being annexed but it includes changing zones on property that is already in the City. Mr. Borgfeld stated that his clients have property zoned Residential taken into the City years ago, and now the City without any request on the part of his client is going to change his client's property from Residential property to Commercial property. Mr. Borgfeld stated that he could not recall the City ever having done this kind of thing before.

Mr. Wesch stated that Mr. Barrett's property is a 10 acre tract with part of it being in the City and part of it in the County. Mr. Wesch stated that if the property is left as it stands, part of it will be Residential and the back half of the property will be Commercial. Mr. Borgfeld stated that after the annexation the property will be all Commercial. Mr. Wesch stated that Mr. Borgfeld had requested at the Planning & Zoning Commission meeting that the property be zoned all Residential Large, and the P & Z Commission had agreed. Mr. Borgfeld stated that it seemed totally unfair to him to have somebody who lives in the City limits and the City comes in and changes their zone to what they consider to be a lower use without any action on the part of the property owner. Mr. Borgfeld stated that the City should not come out and gratuitously change the zones on the people who are already in the City limits. Mr. Borgfeld stated that, in his opinion, any property taken in by the City, a portion of which is already in the City limits, should be taken in with that same zoning. Councilmember Simond concurred. Councilmember Simond stated that there should be some clarification made in the Zoning Ordinance regarding this type of zoning situation.

Sarah Jane Thames stated that she and Dr. Thames had been out of town and were not able to attend the Planning & Zoning Commission meeting. Mrs. Thames stated that they had built their home on Daniel McCall Drive 35 years ago on family owned property. Mrs. Thames stated that they were requesting that their property remain Residential Large. Mrs. Thames stated that they were concerned that if the property is zoned Commercial it will cause their taxes to go up, and their taxes are already high.

Walter Myer stated that he owns a small plot of land in the 703 acres that the City is looking to annex. Mr. Myer stated that he had received a letter or two, which said that the meetings were to discuss the zoning of the property, not the annexation of the property. Mr. Myer stated that he is against any and all of the annexation of the 703 acres. Mr. Myer stated that he was talking to his aunt (Betty Powdrill), who lives next to him, and she was saying that she received a letter from the City of Lufkin asking her whether or not she wished to be annexed or not. Mr. Myer stated that his aunt had sent in a reply to the letter she received, but he did not receive a letter. Mr. Myer stated that he recently came across some papers he had that included a section from the Vernon's Statutes, which said that the City was supposed to supply the property owners a comprehensive service plan for the next 10 years prior to the first notice. Mr. Myer stated that he would like to see the service plan. Mr. Myer stated he wanted to go on record, with all of his relatives, as being opposed to the annexation.

Mr. Abraham stated that the service plan is to be made available at the time the first notice is in the newspaper, and it was. Mr. Abraham stated that at the first Public Hearing of the annexation he provided a summary of when each service is to be provided. Mr. Abraham stated that the service plan was also discussed at the meeting at the Red Barn.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Tucker Weems that an Ordinance for the annexation of approximately 703 acres of land generally situated east of FM 324 and the Southern Pacific Railroad, south of Loop 287, north of Daniel McCall Drive, and west of U. S. 59 be approved on First Reading as presented. A unanimous affirmative vote was recorded.

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember Bob Bowman that the zoning classification request be returned to the Planning & Zoning Commission to be reconsidered with a recommendation to be made to the City Council. A unanimous affirmative vote was recorded.

9. **STREET NAME CHANGE - APPROVED - MAGNOLIA LANE - JUNIPER LANE - BROOKHOLLOW NO. 14**

Mayor Bronaugh stated that the next item for consideration was to change the name of Magnolia Lane located in the Brookhollow Addition No. 14 to Juniper Lane.

Asst. City Manager Wesch stated that the developer of Brookhollow No. 14 had established Magnolia Lane as one of the streets within that subdivision. It was later discovered that there is a City street named "Magnolia Avenue ". The developer of Brookhollow No. 14 would like to change the street name to Juniper Lane.

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember Bob Bowman that the name of Magnolia Lane in the Brookhollow Addition No. 14 be changed to Juniper Lane as requested by the developer. A unanimous affirmative vote was recorded.

10. **PROPOSAL - APPROVED - RIGHT-OF-WAY MAINTENANCE CONTRACT - GASLIGHT BOULEVARD PROPERTY OWNERS**

Mayor Bronaugh stated that the next item for consideration was acceptance of a proposal by the Gaslight Boulevard property owners for a right-of-way maintenance contract.

Asst. City Manager Wesch stated that after several meetings between City staff and property owners along Gaslight Boulevard it was decided that the property owners would request that the City obtain bids through their bidding process concerning the lawn maintenance of the right-of-way, with the City overseeing the Contractor's work. Mr. Wesch stated that the property owners would reimburse the City for the total cost of the lawn care maintenance of Gaslight Boulevard. Mr. Wesch stated that the maintenance specifications were included in the Council packet.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Jack Gorden, Jr. that right-of-way maintenance contract as requested by Gaslight Boulevard property owners be approved as presented.

Mayor Bronaugh stated that he is a property owner on Gaslight Blvd. and recused himself from voting. Motion carried with six (6) affirmative votes.

11. **GENERAL AND UTILITY FUND BALANCE DESIGNATION - APPROVED - 1994-'95 FISCAL YEAR BUDGET - PARKS & RECREATION - CIVIC CENTER - STREET DEPARTMENT - WATER UTILITIES DEPARTMENT - FIRE/EMS - ZOO**

Mayor Bronaugh stated that the next item for consideration was establishing a designation of General and Utility Fund balance for specific projects in the 1994-'95

Fiscal Year Budget, which have not yet been completed.

Asst. City Manager Darryl Mayfield stated that this is a general housekeeping item, and staff is asking Council to designate $304,067.00 out of General Fund balance for payment of items listed in the memo (Street Department - $154,162 for drainage projects; $68,455 for a tandem truck. Parks & Recreation Department - $15,500 for ADA projects; Civic Center - $58,000 for chairs; and Fire Department - $7,950 for new software). Mr. Mayfield stated that staff is asking for a total of $276,000.00 of fund balance from the Water & Sewer Fund in payment of items in 1996 that were budgeted for in FY '95 (Wastewater Treatment Plant - $160,000; Water Utilities Department - $116,000).

Mr. Mayfield stated that one item that was listed late was the Zoo Building Fund in the amount of $7,000 for fencing.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Tucker Weems that $304,067 out of the General Fund balance, $276,000 out of the Water & Sewer Fund balance, and $7,000 of the FY '95 Zoo Building Fund balance be designated for expenditure in FY '96. A unanimous affirmative vote was recorded.

12. **EXECUTIVE SESSION**

Mayor Bronaugh recessed Regular Session at 6:40 p.m. to enter into Executive Session. Regular Session reconvened at 7:10 p.m. and Mayor Bronaugh stated that appointments to Boards and Commissions, legal matters and personnel matters had been discussed.

13. **APPOINTMENTS - APPROVED - PLANNING & ZONING COMMISSION - TAXI CAB COMMITTEE - ZONING BOARD OF ADJUSTMENT & APPEALS**

Motion was made by Councilmember Don Boyd and seconded by Councilmember Percy Simond that Max Powers and Bill Philmon be reappointed to the Taxi Cab Committee. A unanimous affirmative vote was recorded.

Motion was made by Councilmember Percy Simond and seconded by Councilmember Don Boyd that Oscar Kennedy and Don Duran be reappointed to serve as Alternate Members on the Zoning Board of Adjustment and Appeals. A unanimous affirmative vote was recorded.

14. **COMMENTS**

Asst. City Manager Ron Wesch stated that on the Council table was a copy of the Street Overlay Program for FY 1994-'95, and FY 1995-'96, which will become effective October 1. Mr. Wesch stated that all of the streets in the FY 1994-'95 program had been completed.

Mayor Bronaugh stated that there will be a meeting of the Neighborhood Alliance on Wednesday, September 20th at 6:00 p.m. in Room 202 of City Hall.

Councilmember Bob Bowman stated that DETDA will meet on Friday, September 22nd at Crown Colony Country Club, and that George Christian will be speaking on property taxes.

Mayor Bronaugh stated that on Tuesday, September 26th at 7:00 p.m., TxDOT will hold a meeting on US 69, which is the evacuation route from Beaumont, at City Hall in Room 102.

15. There being no further business for consideration, meeting adjourned at 7:13 p.m.

Louis A. Bronaugh

Louis A. Bronaugh - Mayor

ATTEST: Atha Stokes

Atha Stokes - City Secretary

9/19/95