MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 21ST DAY OF MARCH, 1995 AT 5:00 P. M.

On the 21st day of March, 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 A. Bronaugh	Mayor
Don Boyd	Mayor pro tem
Percy Simond	Councilman, Ward No. 2
Larry Kegler	Councilman, Ward No. 3
Jack Gorden, Jr.	Councilman, Ward No. 5
Tucker Weems	Councilman, Ward No. 6
C. G. Maclin	City Manager
Ron Wesch	Asst. City Manager/Public Works
Darryl Mayfield	Asst. City Manager/Finance
Bob Flournoy	City Attorney
Atha Stokes	City Secretary

being present, and

Bob Bowman	Councilman, Ward No. 4

being absent when the following business was transacted.

1. Meeting was opened with prayer by Rev. N. C. Simmons, Minister, Mt. Beulah Baptist Church.

2. Mayor Bronaugh welcomed visitors present. Mayor Bronaugh introduced Kelly Davis, Miss Lufkin of 1995. Ms. Davis addressed the Council and stated that her theme for this year will be education.

3. **APPROVAL OF MINUTES**

Motion was made by Councilman Don Boyd and seconded by Councilman Tucker Weems that minutes of Regular Meeting of March 7, 1995 be approved as presented. A unanimous affirmative vote was recorded.

4. **ORDINANCE - APPROVED - SECOND READING - ZONE CHANGE - RESIDENTIAL LARGE TO NEIGHBORHOOD RETAIL ZONING DISTRICT - FM 58 - BARTMESS DRIVE - GENE PARKER**

Mayor Bronaugh stated that the first item for consideration was Second Reading of an Ordinance to change the zoning on approximately 0.631 acres of land located at the southeast corner of FM 58 and Bartmess Drive from Residential Large to a Neighborhood Retail Zoning District as requested by Gene Parker.

Motion was made by Councilman Percy Simond, Jr. and seconded by Councilman Larry Kegler that Ordinance be approved on Second Reading as presented.

The following vote was recorded:

Aye: Councilmen Gorden, Weems, Simond, Kegler and Mayor Bronaugh
Nay: Councilman Boyd

Motion carried by a vote of 5 to 1.

5. **ORDINANCE - APPROVED - SECOND READING - ZONE CHANGE - RESIDENTIAL LARGE TO PLANNED UNIT DEVELOPMENT - TULANE DRIVE - DAVID MILES - MARTHA HELEN CARD**

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance to change the zoning from Residential Large to a Planned Unit Development on approximately 28.75 acres of land located east of Tulane Drive and approximately 300 feet south of Loop 287 as requested by David Miles on behalf of Martha Helen Card.

James Lawrence of 2101 S. Chestnut stated that a map had been passed out to members of the Council with the red marks representing the water shed creeks and the green shaded area representing the land that drains into the creek. Mr. Lawrence stated that he wanted to address the concern for control of storm water runoff and potential flooding effects from the construction of the development shown on the map. Mr. Lawrence stated that he also wanted to address adequate planning for the existing channels running east and west to the entire property to be developed, also addressing action to prevent additional flood damage to the properties in his neighborhood by this development. Mr. Lawrence stated that he is present to represent six property owners with, or adjacent to, the flood runoff channel. Mr. Lawrence referred to a letter he received from FEMA, a copy of which was made available to members of the Council and staff. Mr. Lawrence read an eight page statement to Council and requested that the statement become a permanent part of the Minutes. (Mr. Lawrences's statement is attached.)

City Manager Maclin stated that the City of Lufkin has not received any type of request from FEMA for a drainage study. City Manager Maclin stated that Mr. Lawrence will have to call the FEMA agent and let him know that he will have to formerly request any kind of drainage study in writing. City Manager Maclin stated that it is rare that FEMA does something of this nature. City Manager Maclin stated that the City has guidelines that the Engineering Department and Building Inspection Department adheres to provided from FEMA. There is a planned review process at which time drainage considerations are reviewed and in some cases the City has required a developer to perform a drainage study and provide the City with a copy of the study done by an approved agency or engineering firm.

Mr. Lawrence stated that he was told by the FEMA agent that his property is not actually in the flood zone at this time, but it has the potential of being if development in the area is not handled right. Mr. Lawrence stated that he and the other residents were not trying to stop the development, but rather was trying to inform Council that they have a problem now and it is very possible that the problem will get worse.

City Manager Maclin stated that drainage is part of the plans review process and what is on the agenda today is a zone change, and a zone change does not initiate construction. A building permit is needed to initiate construction.

Tom Welch, expeditor for the Card Forrest Project, informed Council that a five year survey has been made for this project on site, and he is concerned with the drainage too. Mr. Welch stated that one of the major investors in this project, Mrs. Card, will be living in a home near the creek and certainly would not want her home to be flooded. Mr. Welch stated that the bridging company for this project has come to the conclusion that in order to limit the restriction of the flow of water span bridges will have to be installed. (There are three proposed span bridges for the project.) Mr. Welch stated that the Master Plan of the project shows that along the creek they have dedicated an ample amount of reserve in the area to facilitate the natural drainage, which has been the thrust of the project. Mr. Welch stated that he had also made an on site inspection during the rains of March 7, trying to see how it would effect the property, and doing assessments to neighboring property on all sides that would allow him assess. Mr. Welch stated that he wanted to see that any flood control that they implement will be in the best interest of all the people surrounding the area and Lufkin overall.

Mr. Welch stated that he had visited with the U. S. Forestry Service in an effort to prevent drainage problems. Mr. Welch stated that he is aware that there is a problem and every effort will be made to address the problems when the plat is presented for construction. Mr. Welch stated that the creek is the focal point of the project, and he is aware that there is some critical water flow there. Mr. Welch stated that by cleaning out the creek it should ease the water flow, and the U. S. Forestry Service has given them ample information on how to go about doing this.

Mr. Welch stated that another thing he is concerned about is the preservation of the natural landscape. Mr. Welch stated that he is trying to keep as much (of the forest) as he can by dedicating the reserves all around the project. Mr. Welch stated that by them maintaining as much of the natural landscape as they possibly can, they will be able to keep the amount of natural drainage that is there. Mr. Welch stated that he does see some problems, but he is on top of them. Mr. Welch stated that this project is the model for the Angelina Beautiful/Clean for greenbelt development on the Loop and the model for the Greenbelt Resolution that was passed by Council.

Dr. William Wagnon stated that he would like to see the property remain a forest but if not, then he would like to see a privacy fence erected between his and Mrs. Clark's property. Dr. Wagnon stated that he would also like to see the property remain zoned as Residential Large, or if for some reason the project goes "flat", the original zoning be restored.

There was discussion by the City Manager and City Planner regarding the approval of a privacy fence by Council on Second Reading, and also having the Zone Change revert back to the original zoning. (Refer to tape for full discussion.)

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

6. **ORDINANCE - APPROVED - SECOND READING - CITY ELECTION - COUNCILMEMBER POSITIONS - POLLING PLACES - SETTING DATE FOR ELECTION**

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance providing for the calling of a City election for Councilmember positions, establishing polling places, and setting a date for the election.

City Manager Maclin stated that the City Secretary had been informed that there was a change of alternate judge in Ward 3. Ms. LaShaunda Taylor moved out of the City and would be replaced with Marian Bogany.

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.

7. **ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - RESIDENTIAL LARGE TO LOCAL BUSINESS - TRACTS 109, 110, 113 AND 114 - J. A. BONTON SURVEY (ABSTRACT NO. 5) - PIN OAK LANE**

Mayor Bronaugh stated that the next item for consideration was to consider request of Walter L. Borgfield, on behalf of the property owners to change the zoning from Residential Large to Local Business on Tracts 109, 110, 113 and 114 of the J. A. Bonton Survey (Abstract No. 5) and more commonly known as 1901, 1902, 1904 and 1905 Pin Oak Lane.

City Manager Maclin stated that this request came to Council with a unanimous recommendation from the Planning & Zoning Commission.

Motion was made by Councilman Jack Gorden, Jr. and seconded by Councilman Larry Kegler that Ordinance be approved on First Reading as presented. A unanimous affirmative vote was recorded.

8. **AUDIT REPORT - APPROVED - ALEXANDER, LANGFORD & HEIRS**

Mayor Bronaugh stated that the next item for consideration was the audit report from Alexander, Langford & Heirs.

City Manager Maclin stated that now is the appropriate time for the auditors to make their annual independent report of the City's financial records. (A copy of the audit report was given to Council two weeks ago along with a letter from the Asst. City Manager/Finance addressing some of the discrepancies discussed in the audit and how staff will deal with these discrepancies.)

Richard Rudel, of Alexander, Langford & Heirs, stated that he would review the City's audit report ending September 30, 1994.

Mr. Rudel stated that on page 7 is the Independent Auditor's Report and in that report is the auditors unqualified opinion on the City's financial statements. On pages 9 - 14 is the internal control report in accordance with government auditing standards and in that report they address the reportable conditions that are identified in the City's audit. Mr. Rudel stated that the conditions relating to investments were identified as a "material weakness." Also, included in the report is the internal auditors report on compliance in accordance with governmental auditing standards. On page 25 is the schedule of "Findings and Questioned Costs", and there are two findings that have been identified on this page, both of which are considered to be immaterial. On page 28-29 is the schedule of Federal Financial Assistance. On pages 30-31 are two grantor schedules that are required by the grantor agencies to be in the City's audit report. On pages 34-37 are the combined balance sheet, which actually reflects the City's combined financial position of all the funds as of September 30, 1994. On page 38-39 is the combined statement of revenue, expenditures and changes in fund balances for all governmental funds. On page 40-43 is the combined statement of revenue, expenditures and changes in fund balance for the General and Special Revenue fund budget. On pages 44-45 is the combined statement of revenue and expenses and changes in fund equity for all proprietary fund types. On page 46-47 is the combined statement of cash flows for all proprietary fund types. Beginning on page 49 are the notes to the financial statement and they continue through page 78, to be read in conjunction with the financial statement.

On page 81 is supplementary information. Mr. Rudel stated that the supplementary basically contains the "A" Schedules (pages 84-93) relating to the General Fund, which is where the auditors have either combining schedules or schedules where there is more information or more detail on the individual funds. These schedules are the combining information and the individual fund statements for special revenue fund types - "C" for debt services, "D" for capital project funds, "E" for enterprise funds, "F" for water and sewer utility funds, "G" for solid waste, "H" for internal service fund, "I" for fiduciary fund, and "J" for account groups. On page 154-167 is additional information that accompanies the report, such as information on the water and sewer rates, utility connections, and insurance coverage.

Mr. Rudel stated that he also wanted to relate to Council is the significant audit adjustments of Accounts Receivable, adjustments to Fixed Assets and Capital Outlay Expense, adjustments of Accounts Payable and the recording of long term debt. Mr. Rudel stated that during the audit process these were all areas that significant adjustments were made to them in order to reflect the audited balances of the City.

Mr. Rudel stated that in the auditors GAS letter on internal controls where they identify the reportable conditions, these were discussed with City staff and with the

City's investment committee. Mr. Rudel stated that the main thing is that the items that were discussed in regards to investments were considered to be material witnesses, and he believes the other conditions mentioned as well are reportable conditions and deserve attention by the City Council and City staff.

Mr. Rudel thanked the City staff for their cooperation in helping the auditing firm with the audit.

Councilman Gorden asked if it were possible to revisit the audit. Councilman Gorden stated that Council might structure some form of addressing the reportable conditions and issues, and a time frame set for doing so.

In response to question by Mayor Bronaugh, City Manager Maclin stated that staff had submitted a plan of action to address the reportable conditions. City Manager Maclin stated that what Mr. Gorden is requesting is a progress report in 90 days.

Councilman Weems asked a question relating to the City's portion of the employees pension fund. Mr. Rudel stated that he did not think that it was a full 200% on the gross contribution. Mr. Rudel stated that basically what he is doing on the audit report relating to TMRS is getting the TMRS to provide the information to them. In response to question by Councilman Weems in regards to schedule as shown on page 86, Mr. Rudel stated that the unfunded pension obligation is in regard to the age of the City employee, and there are a lot of factors that enter into this.

In response to question by Councilman Weems that in regard to a schedule that effects the reserve requirements, Mr. Rudel stated that Fund 2, being the Water and Sewer Revenue Fund, and Fund 10, being the Water and Sewer Interest and Sinking Fund, should be looked at as far as the cash in the Water and Sewer Interest and Sinking Fund making sure there is adequate cash in this fund to meet the interest and sinking fund requirements. Mr. Rudel stated that the problem is not there being an adequate amount of cash in water and sewer total, but as far as the cash in Fund 10 as opposed to Fund 2. Councilman Weems stated that he would like to see the auditors follow up on seeing what the staff has done in making the necessary corrections.

City Manager Maclin stated that he is not sure that the City's contract with the auditors provides for them to spend that additional time, but staff will try and work something out with them.

Motion was made by Councilman Tucker Weems and seconded by Councilman Don Boyd that audit report be approved as presented. A unanimous affirmative vote was recorded.

9. **CITY'S INVESTMENT POLICY - REVISIONS - APPROVED**

Mayor Bronaugh stated that the next item for consideration was revisions to the City's Investment Policy and related items.

City Manager Maclin stated that this afternoon at 3:00 p.m. there was an "ad hoc" investment committee that was appointed by the Mayor and Council to review specifically the recommendations from the Auditor relating to the City's investment policy. City Manager Maclin stated that also attending that meeting was the City's Asset Manager Dick Long of First Southwest. City Manager Maclin stated that the recommendations for revisions were discussed in detail and also reviewed the City's investment portfolio and some other related items.

Councilman Simond stated that the Committee did meet this afternoon and there was a thorough discussion about the best investment policy and a recommendation was made to the auditors as to what the auditors should be doing, and a recommendation to the City Manager as to what the Committee thought should be done in house. Councilman Simond stated that he was so pleased about the meeting that at the right time he will make the recommendation that the Council approve the policy.

Councilman Weems stated that a good deal of time was spent on the objectives and responsibilities; controls have been set, and the ethics involved in conjunction with the investments. Councilman Weems stated that the City Manager has assumed the responsibility for assessing all of this, and giving the Council back some information that will be good for them to evaluate the investments that have taken place. Councilman Weems stated that Mr. Long had done a good job in conjunction with his report and he had some recommendations that will be taken under advisement. Councilman Weems stated that if Council sees fit to leave the Committee in place, they will consider these additional recommendations of Mr. Long.

Councilman Gorden stated that he felt like it was a very good meeting and covered a lot of good information. Councilman Gorden stated that the auditors were very good in helping the Committee to know where they were and where they needed to go, and that Mr. Long is very knowledge about investments. Councilman Gorden stated that if this policy is approved, the Council will be vesting the authority for these investments in the City Manager through the investment advisor. Councilman Gorden stated that the recommendation includes some items that were already in the investment policy that had not been adhered to. Councilman Gorden stated that there will be additional controls related to dual signatories, etc., and other people looking at what is going on.

City Manager Maclin stated that in addition to the draft policy that Council is reviewing he will also submit next month what will be referred to as the "Investment Internal Control Checklist", and an "Investment Transaction Checklist" . This will be a supplement or an attachment to the Investment Policy, and will be approved by the auditors before it is brought back to Council. City Manager Maclin stated that as part of the consideration for item #9, in addition to the Investment Policy, staff is seeking Council's recognition and formal approval of the Investment Committee as it met today. City Manager Maclin stated that the Committee will meet on a quarterly basis and will be provided monthly reports, and these same monthly reports will be provided to the other Councilmembers through their packet information.

Motion was made by Councilman Percy Simond, Jr. and seconded by Councilman Tucker Weems that the City's Investment Policy revisions be approved as presented. A unanimous affirmative vote was recorded.

10. **RATE INCREASE REQUEST - APPROVED - ENTEX**

Mayor Bronaugh stated that the next item for consideration was rate increase request by ENTEX.

City Manager Maclin stated that included in the Councilmembers packet is a statement of intent to change rates from ENTEX that is forwarded to Council and has been discussed individually.

Eddie Overhulz, manager of ENTEX in Lufkin, introduced Philip Reeves, Manager of Rates in the General Office in Houston, and Gary Cerney, District Manager of this area of East Texas. Mr. Overhulz stated that ENTEX has supplied the City of Lufkin dependable natural gas service for many years. Mr. Overhulz stated that ENTEX has made no adjustment to its residential and small commercial base rates since July of 1987. In the nearly eight years since the last change in their base rates, no adjustment has been made for changes in operating expenses, nor for increases in the level of investment in the gas distribution plant and facilities. Mr. Overhulz stated that as a result ENTEX is realizing a negative 11.16% overall rate of return on the companys investment in their distribution facilities. Mr. Overhulz stated that ENTEX is asking the City Council to approve an increase in their rates along with a cost of service clause that has been used very effectively in cities they serve such as Nacogdoches, Huntsville, Jacksonville, Marshall, Longview, and all the other small towns in East Texas in between those. Mr. Overhulz stated that the cost of service adjustment is designed to provide for small annual adjustments in their rates for increases or decreases in per customer operating expenses. Mr. Overhulz stated that the proposed rates they are asking Council to approve allows ENTEX to earn an overall rate of return 5.29 per cent during the first year the proposed rates will be in effect. This increase amounts to less than 10 cents per day per customer. Mr. Overhulz stated that the point that he would like to make is the fact that ENTEX has reduced its fuel costs over the last several years. As recent as February of this year, fuel costs were reduced by 45.1 cents per MCF. This fuel cost reduction is immediately passed along to ENTEX customers.

Mr. Overhulz stated that the rate changing procedures for the gas utility regulatory act may be summarized as follows: No action on the City's part is required to permit the proposed rates to go into effect, or the Council may take action and render a decision on the request.

Motion was made by Councilman Percy Simond, Jr. and seconded by Councilman Don Boyd that rate increase requested by ENTEX be approved as presented. A unanimous affirmative vote was recorded.

11. **CONTRACT - APPROVED - MARK McCOLLOW - MASTER PLAN - ELLEN TROUT ZOO**

Mayor Bronaugh stated that the next item for consideration was award of Contract to Mark McCollow for Master Plan development for Ellen Trout Zoo.

City Manager Maclin stated that in the packet is a contractual agreement plus the items included in the agreement, and some parameters in a letter from Mr. Henley to Mr. McCollow. City Manager Maclin stated that Gorden Henley, Director of the Zoo, was present to address this item further. Mr. Henley has been working with the Temple Foundation for the better part of a year and is ready now to proceed to the next step in granting the contract. City Manager Maclin stated that the contract is funded by the TLL Temple Foundation.

Mr. Henley stated that he was requesting authorization to proceed with this contract, which was funded specifically to engage this architectural firm to master plan for the Zoo's renovation and future growth and development.

Mayor Bronaugh recognized Danny Roper who was present representing Mary Leah Duran, President of the Friends of the Zoo.

In response to question, Mr. Henley stated that Mr. McCollow has tentatively set April 28 and 29 as the initial meeting dates. Mr. Henley stated that he will be putting together the Master Plan team which will consist of Zoo employees, some Friends of the Zoo members, City Manager Maclin, Park Department employees, and Don Hannabas, and he will contact the Temple Foundation to see if they would like to have someone present to represent the Foundation. Mr. Henley stated that it is anticipated that it will take three to four months upon the initiation of the plan to completion of the plan.

Motion was made by Councilman Don Boyd and seconded by Councilman Percy Simond, Jr. that contract to Mark McCollow for the Master Plan development for Ellen Trout Zoo be approved as presented. A unanimous affirmative vote was recorded.

12. **MANAGEMENT FIRM SELECTION - APPROVED - 1995 TEXAS COMMUNITY DEVELOPMENT PROGRAM - GRANT PROJECT - RAYMOND VANN & ASSOCIATES**

Mayor Bronaugh stated that the next item for consideration was the review and selection of a management firm for the 1995 Texas Community Development Program grant project.

Motion was made by Councilman Don Boyd and seconded by Councilman Larry Kegler that Raymond Vann & Associates be selected as the management firm for the 1995 Texas Community Development Program grant project. A unanimous affirmative vote was recorded.

13. **ENGINEERING FIRM SELECTION - APPROVED - 1995 TEXAS COMMUNITY DEVELOPMENT PROGRAM GRANT PROJECT - EGA**

Mayor Bronaugh stated that the next item for consideration was the selection of an engineering firm for the 1995 Texas Community Development Program grant project.

Motion was made by Councilman Percy Simond, Jr. and seconded by Councilman Jack Gorden, Jr. that EGA (Everett Griffith & Associates) be approved as the engineering firm for the 1995 Texas Community Development Program grant project. A unanimous affirmative vote was recorded.

14. **CONTRACT - APPROVED - GARY R. TRAYLOR & ASSOCIATES, INC. - GRANT MANAGEMENT SERVICES - 1993 HOME PROGRAM GRANT**

Mayor Bronaugh stated that the next item for consideration was a contract with Gary R. Traylor and Associates, Inc. for grant management services for the City's 1993 HOME Program Grant.

Motion was made by Councilman Don Boyd and seconded by Councilman Percy Simond, Jr. that contract of Gary R. Traylor & Associates, Inc., for grant management services for the City's 1993 HOME Program Grant be approved as presented. A unanimous affirmative vote was recorded.

15. **COMMENTS**

Councilman Gorden stated that looking around the City it is easy to see some major things that have happened in Lufkin because of the TLL Temple Foundation, and he would like to see some type of formal recognition to the Foundation.

City Manager Maclin stated that this Thursday at 6:00 p.m. there will be a Town Hall meeting in City Hall to provide an opportunity for citizens to voice their concerns about the flooding and drainage problems in the City. City Manager Maclin stated that the meeting will be recorded and that the contents will be reduced to reading form. City Manager Maclin stated that it is staffs intention to allow this input and give it to area engineering firms and to follow up with another drainage workshop with the commitment to solicit proposals which will be presented to Council in the form of Decision Packages during budget preparation.

City Manager Maclin reminded Council that on Friday, March 24 DETDA will be having the Texas Department of Commerce speak on tourism at 10:00 a.m. at Crown Colony.

City Manager Maclin stated that on March 28 at 5:30 p.m. there will be a meeting for residents of MLK, Jr. Drive regarding street improvements. A meeting has already been conducted on improvements to Paul Avenue.

City Manager Maclin stated that March 29 will be Lufkin/Nacogdoches Day in

Austin with a reception at Saengerrunde Hall from 5:00 p.m. to 7:00 p.m.

The City's Employees Awards Banquet will be held on Thursday, March 30 at 6:30 p.m. at the Civic Center.

On March 31 at 9:00 a.m. Shea Burgamy with the Texas Department of Commerce will be in Lufkin in regard to the Empowerment Zone.

16. There being no further business for consideration, meeting adjourned at 7:18 p.m.

Louis A. Bronaugh

Louis A. Bronaugh - Mayor

ATTEST:

Atha Stokes

Atha Stokes - City Secretary