

MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF
LUFKIN, TEXAS, HELD ON THE
16TH DAY OF MARCH, 1999 AT 5:00 P. M.

On the 16th day of March, 1999 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
Jack Gorden, Jr.	Mayor pro tem
R. L. Kuykendall	Councilmember, Ward No. 1
Don Boyd	Councilmember, Ward No. 2
Bob Bowman	Councilmember, Ward No. 4
Tucker Weems	Councilmember, Ward No. 6
C. G. Maclin	City Manager
James Hager	Asst. City Manager/Finance
Bob Flournoy	City Attorney
Atha Stokes Martin	City Secretary
Keith Wright	City Engineer
Stephen Abraham	Director of Planning
Kenneth Williams	Director of Public Works

being present, and

Betty Jones	Councilmember, Ward No. 3
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being absent when the following business was transacted.

1. Meeting was opened with prayer by Rev. Bob Klund, Pastor, Believer's Bible Church.
2. Mayor Bronaugh welcomed visitors present.

3. APPROVAL OF MINUTES

Motion was made by Councilmember Don Boyd and seconded by Councilmember Tucker Weems that the minutes of the Regular Meeting of March 2, 1999 be approved as presented. A unanimous affirmative vote was recorded.

4. ORDINANCE - TABLED - FIRST READING - MUNICIPAL MAINTENANCE AGREEMENT - TEXAS DEPARTMENT OF TRANSPORTATION

Mayor Bronaugh stated that the next item for consideration was First Reading of a Municipal Maintenance Agreement with the Texas Department of Transportation.

City Manager Maclin stated that staff met with Resident Engineer Cheryl Flood yesterday regarding this maintenance agreement. Mr. Maclin stated that this is an agreement that TxDOT is attempting to negotiate with all communities they serve, and today he is asking that Council consider tabling this item for a future date.* Mr. Maclin stated that based on the meeting yesterday with Ms. Flood there were several questions they asked her in an attempt to identify some compromise as well as some definitive definitions for maintenance. Mr. Maclin stated that to summarize this request, TxDOT is trying to pass along some additional responsibilities for State highways to the City. Mr. Maclin stated that excluding the Loop, for all other State highways, TxDOT is wanting the City to take responsibility for maintenance for drainage and a lot of things that in the past the City has not had the responsibility for. Mr. Maclin stated that staff is hopeful that some of the things that City Engineer Keith Wright brought up in the meeting yesterday will be able to be addressed whereby the City will be responsible for maintenance, but the State would still be responsible for construction and replacement. Mr. Maclin stated that the

City Engineer did some research with other cities to see what was going on in other communities our size in East Texas, and he found that TxDOT is attempting this approach statewide to try to make their dollars go further by requiring local government to have a greater participation in the maintenance of State highways in the State of Texas.

Mr. Maclin stated that he would respectfully respect that Council table this item for a future meeting and the City receives answers to their requests from the Resident Engineer.

In response to question by Councilmember Gorden, Mr. Maclin stated that until staff has definitive answers there is no way to know the cost, but in his estimation it would be thousands of dollars for unexpected things that could not be budgeted for. Mr. Maclin stated that under the clarification that staff is seeking, the City would not have to take over the resurfacing, but would be responsible for all of the mowing other than the Loop, and would be responsible for all the drainage maintenance of structures, which includes what has been done on Timberland Drive. Mr. Wright stated that the City would have to take care of all the grass growing in the esplanades.

Mr. Wright stated that one of the things he wanted clarified was who is responsible for curb and gutter, which is not really defined in the agreement. Mr. Maclin stated that staff requested that they retain that responsibility, but do not know whether they will give the City an affirmative answer to that or not.

In response to question by Councilmember Bowman, Mr. Maclin stated that on the agreements that staff saw, the only notation to population was that cities with less than 50,000 population, the State would continue to maintain the traffic signals, and cities greater than 50,000 population it would be the city's responsibility to maintain all the traffic lights.

Mr. Wright stated that the City has an agreement with TxDOT, which goes back to 1981, and this is just a modification of the existing agreement.

In response to question by Mayor Bronaugh, Mr. Wright stated that the Texas Transportation Code says that inside the City limits the municipality has control over all public streets and right-of-ways.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Jack Gorden, Jr. that the Municipal Maintenance Agreement with the Texas Department of Transportation be tabled on First Reading as presented. A unanimous affirmative vote was recorded.

5. ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - RESIDENTIAL MEDIUM TO COMMERCIAL - G. W. MASSINGILL, JR. SURVEY - LEWIS HOLLOWAY SURVEY - LOOP 287 AND PAUL AVENUE - CORLIS HULETT - DON AND CLETHA DICKERSON

Mayor Bronaugh stated that the next item for consideration was a request of Corlis Hulett on behalf of Don and Cletha Dickerson to change the zoning from Residential Medium to Commercial on 1.486 acres of land located at the northeast corner of Loop 287 and Paul Avenue described as Tract 2 of the G. W. Massingill, Jr. Survey (A-475) and Tract 218 of the Lewis Holloway Survey (A-310) and more commonly known as 2603 Paul Avenue.

City Manager Maclin stated that included in the Council packet is a memorandum of explanation from the Planning Department which notes that this request is in compliance with the Comprehensive Plan. Mr. Maclin stated that the Planning & Zoning Commission, by unanimous vote, recommends approval of the zone change request as submitted.

Don Dickerson and Mr. and Mrs. Hulett were present.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Bob Bowman to change the zoning from Residential Medium to Commercial on 1.486 acres of land located at the northeast corner of Loop 287 and Paul Avenue described as Tract 2 of the G. W. Massingill, Jr. Survey (A-475) and Tract 218 of the Lewis Holloway Survey (A-310) and more commonly known as 2603 Paul Avenue as requested by Corlis Hulett on behalf of Don and Cletha Dickerson be approved on First Reading as presented. A unanimous affirmative vote was recorded.

6. ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - RESIDENTIAL MEDIUM TO COMMERCIAL - LOCAL BUSINESS (SPECIAL USE - AUTOMOBILE SALES) EASTWOOD ADDITION - 205 ARENA STREET - GIUSEPPE V. RICCIO

Mayor Bronaugh stated that the next item for consideration was the request of Giuseppe V. Riccio for approval of a change of zoning from Residential Medium to Commercial on Lot 3, Block 2 of the Eastwood Addition, and more commonly known as 205 Arena Street.

City Manager Maclin stated that included in the Council packet is a memorandum of explanation from the Planning Department which notes that perhaps this property is not appropriate for Commercial zoning, however, as an alternative a zoning classification of Local Business with a Special Use Permit for automobile sales could be considered. Mr. Maclin stated that the Planning & Zoning Commission, by unanimous vote, recommends approval of the request as Local Business with a Special Use Permit for automobile sales that prohibits vehicular access onto Arena Street according to the site plan.

Mr. Riccio was present.

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember Bob Bowman that Ordinance to change the zoning from Residential Medium to Local Business with a Special Use Permit for automobile sales, and prohibiting vehicular access onto Arena Street, on Lot 3, Block 2 of the Eastwood Addition, more commonly known as 205 Arena Street, as requested by Giuseppe V. Riccio be approved on First Reading as presented. A unanimous affirmative vote was recorded.

7. SITE PLAN AMENDMENT - APPROVED - SOUTHLOOP CROSSING - PYLON SIGN - LOOP 287

Mayor Bronaugh stated that the next item for consideration was a request to amend the site plan for Southloop Crossing to permit a pylon sign for use by the out parcels fronting on Loop 287.

City Manager Maclin stated that included in the Council packet is a memorandum of explanation from the Planning Department outlining the history of this site plan amendment going back to the first site plan on August 19, 1997, an amendment approved on December 21, 1998, and to the current request which would increase the pole height to 60' and increase the square footage to 600'. Mr. Maclin stated that this request comes to Council with a unanimous vote of approval from the Planning & Zoning Commission for approval as submitted.

Motion was made by Councilmember Don Boyd and seconded by Councilmember R. L. Kuykendall that amendment to the site plan for Southloop Crossing to permit a pylon sign for use by the out parcels fronting on Loop 287 be approved as presented. A unanimous affirmative vote was recorded.

8. RESOLUTION - APPROVED - FIRST AND FRANK STREETS CLOSED - HOE DOWN

Mayor Bronaugh stated that the next item for consideration was a Resolution to close First and Frank Streets for the Hoe Down.

City Manager Maclin stated that this request does not actually close Frank Street but is to close First Street from Frank Street. Mr. Maclin stated that it is a requirement by the Texas Department of Transportation that when a State owned street is closed for more than four hours it requires a Resolution by Council. Mr. Maclin stated that this is the same area that has been closed in previous years for the Downtown Hoe Down, which is scheduled this year for April 17.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Jack Gorden, Jr. that Resolution to close First at the Frank Street intersection for the Hoe Down on April 17, 1999 be approved as presented. A unanimous affirmative vote was recorded.

9. TAX REFUNDS - APPROVED - ANGELINA COUNTY TAX ASSESSOR-COLLECTOR - DALE WARING - CIRCUIT CITY STORES, INC.

Mayor Bronaugh stated that the next item for consideration was approval of tax refunds by Angelina County Tax Assessor-Collector.

City Manager Maclin stated that included in the Council packet is a letter from Bill Shanklin, Angelina County Tax Assessor-Collector. Mr. Maclin stated that there are three requests for refunds and because these funds are in excess of \$500 it requires each taxing entity's consideration of approval. Mr. Maclin stated that these refunds are what is due these particular property owners, and it would be staff's recommendation for approval of this request.

Motion was made by Councilmember Tucker Weems and seconded by Councilmember Jack Gorden, Jr. that tax refunds for Dale Waring in the amount of \$548.10, to Circuit City Stores, Inc. in the amount of \$690.28, and \$865.69 to Circuit City Stores, Inc. be approved as presented. A unanimous affirmative vote was recorded.

10. TRANSFER OF FUNDS - APPROVED - FIRE DEPARTMENT - BREATHING APPARATUS - PICKUP TRUCK

Mayor Bronaugh stated that the next item for consideration was the transfer of funds by the Fire Department for the purchase of self-contained breathing apparatus and a pickup truck.

City Manager Maclin stated that included in the Council packet is a letter of request from Fire Chief Pete Prewitt. Mr. Maclin stated that since 1994 the Council has approved a recurring decision package for replacement of an ambulance chassis or remount, and this year Chief Prewitt felt that his need for air packs and a replacement pickup for the hydrant maintenance officer were in greater need than a remount. Mr. Maclin stated that Chief Prewitt is seeking Council authorization to transfer funds from the line item that would have paid for the remount and instead purchase the air packs at an approximate cost of \$22,500 and the pickup at \$17,500. Mr. Maclin stated that staff would have to go out for bids on these items.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Tucker Weems that transfer of funds by the Fire Department for the purchase of self-contained breathing apparatus in the amount of \$22,500 (approximate), and a pickup truck in the amount of \$17,500 (approximate) be approved as presented. A unanimous affirmative vote was recorded.

11. AUTHORIZATION - APPROVED - ADDITIONAL FUNDS - CIVIC CENTER ROOF REPLACEMENT

Mayor Bronaugh stated that the next item for consideration was authorization for additional funds to replace the roof on the Civic Center.

City Manager Maclin stated that in this year's budget Council authorized \$12,000 for repairs to the roof at the Civic Center, which is approximately 23 years old. Mr. Maclin stated that included in the Council packet is a letter of request for consideration along with a letter from the City Engineer addressing the repair portion. Mr. Maclin stated that when the City Engineer inspected the roof for drafting of the specifications, he found that the roof was deteriorated to the extent that it was his opinion that it would probably be unwise for the City to spend \$12,000 on repair when the real need is replacement. Mr. Maclin stated that Civic Center Director Renee Thompson is present and can testify that they do have some leaks that occur after heavy rains. Mr. Maclin stated that there are a couple of options for consideration. The estimated total cost for replacement is approximately \$70,000. Mr. Maclin stated that staff could take the \$12-13,000 currently set aside in the budget for the repairs and add approximately \$60,000 to that from the Hotel/Motel tax reserve and go ahead and do this project now, or if Council desires the replacement/repairs could be delayed and it could be a part of the budget process for the 1999-2000 budget.

In response to question by Mayor Bronaugh, Ms. Thompson stated that the repairs or replacement would take two to three weeks and would not involve closing the Civic Center while the repairs were being made.

In response to question by Councilmember Gorden, Mr. Wright stated that the roof is a rubber neoprene and is fully adhered onto an insulation. Mr. Wright stated that there is a similar type roofing systems at the Waste Water Treatment Plant. Mr. Wright stated that 20 years is the typical life span for this type roof. Mr. Wright stated that looking at the roof as you are on it, it looks as though it is deteriorating and breaking down. In response to question by Councilmember Gorden, Ms. Thompson stated that the roof had been replaced about 15 years ago. Mr. Wright stated that this type of roof has a 5 to 10 year warranty.

In response to question by Councilmember Gorden, Mr. Wright stated that this is pretty much the standard roof for commercial buildings. Mr. Wright stated that a roof today will be a better, improved product, and the insulation underneath the roof will be much better. Councilmember Gorden stated that he would like for staff to research roof types and be sure that the one that is selected is the best roof for the money. Mr. Wright stated that a rock ballast could be placed on this type roof which will absorb some of the sun off of the roof.

Beauford Chapman, Director of Inspection Services, stated that what Mr. Wright said about the fully adhered rubber roof is true, it is the best roof on the market in his opinion. Mr. Chapman stated that a built up roof which is a multi-ply asphaltic roof, is much more of a maintenance headache. Mr. Chapman stated that there is a better built up roof, but it will cost in the range of 20-25% more than the fully adhered rubber roof. Mr. Chapman stated that the Civic Center roof does not have enough pitch to accommodate a metal roof. Mr. Chapman stated that Carney Roofing or Bonner Roofing might verify to the City that a new roof can be laid over the top of the existing rubber roof. Mr. Chapman stated that he would strongly encourage Council to stay away from a ballast roof which would cause additional problems to the roof.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Bob Bowman that authorization for additional funds to replace the roof on the Civic Center be approved as presented and that these funds be taken from the Hotel/Motel tax fund. A unanimous affirmative vote was recorded.

12. EXECUTIVE SESSION

Mayor Bronaugh recessed Regular Session at 5:35 p.m. to enter into Executive Session. Mayor Bronaugh reconvened Regular Session at 6:16 p.m. and stated that Councilmembers had discussed attorney-client matters, real estate and condemnation of property for public necessity.

13. CONDEMNATION OF PROPERTY - APPROVED - PUBLIC NECESSITY - STREET RIGHT-OF-WAY - TULANE

Mayor Bronaugh stated that the next item for consideration was condemnation of property for public necessity for a street right-of-way.

City Attorney Flournoy stated that this is in conjunction with the rerouting and improvement of Tulane Street. Mr. Flournoy stated that this is a piece of property that lies adjacent to the Texas Forest Service property on Tulane and the street is going to be moved in that location. Mr. Flournoy stated that this is a street that the City has had and maintained for 50 years or more, but in the process of making the transfer to the other piece of property that comes from the Texas Forest Service, the City must convey to them the right-of-way and the fee title to this particular street. Mr. Flournoy stated that the right-of-way is actually owned by a corporation named Ten-Tex Corporation, whose charter was forfeited in 1979. Mr. Flournoy stated that Ten-Tex Corporation owned a larger tract of land and this property was always recognized as belonging to the City but actually the legal title to the underlying property under the surface has not technically belonged to the City. Mr. Flournoy stated that Council needs to condemn that property and it will have to be done by citing by publication the unknown stockholders of that corporation. Mr. Flournoy stated that he has made a diligent search for the stockholders and has been unable to locate them. Mr. Flournoy stated that staff needs authorization from the Council to declare a public need for that property for street purposes, and authorizing him to proceed with condemnation procedures.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Tucker Weems that condemnation of property for public necessity for a street right-of-way on Tulane be approved as presented. A unanimous affirmative vote was recorded.

14. CONDEMNATION OF PROPERTY - APPROVED - PUBLIC NECESSITY - DRAINAGE CONTROL - DETENTION PONDS - OLD UNION ROAD

Mayor Bronaugh stated that the next item for consideration was condemnation of property for public necessity for drainage control and detention ponds.

City Manager Maclin stated that this request involves property relating to the City's construction of a detention pond of 35 acres in size that Council approved as a flood control measure that was part of the comprehensive drainage plan. Mr. Maclin stated that this was a recommendation from the City's hydrological engineering firm, Dodson & Associates. Mr. Maclin stated that there is some difficulty in obtaining agreements with some of the smaller parcel property owners. Mr. Maclin stated that staff is seeking from Council the condemnation in terms of a public necessity for the drainage control for the entire 35 acre tract and specifically for two tracts, one owned by Damon Waldron and one owned by Allen Repp, so that staff can continue to move forward with this project.

Mr. Flournoy stated that the City is still in the process of attempting diligently to reach some agreement with these property owners, understanding that this is raw acreage and is not homes. Mr. Flournoy stated that these are a couple of lots that water could back up on and since there is such a public urgency to obtaining the property for the detention pond in order to stop some of the flooding down stream, he is asking for authorization to go forward with condemnation procedures if in the next week he is not able to negotiate with these property owners. Mr. Flournoy

stated that the property has been appraised and he has been trying to reach an agreement with them. The property owners have been offered the fair market value, and then some, in trying to reach some agreement. Mr. Flournoy stated that if an agreement cannot be reached he needs immediate authorization to proceed with these two particular tracts and any of the other ones that he cannot reach an agreement with.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember R. L. Kuykendall that a public necessity be declared to acquire the property needed for the construction of the detention ponds for drainage control on Old Union Road and to exercise eminent domain proceedings if necessary, specifically for tracts owned by Damon Waldron and Allen Repp, and any other tracts required for the construction of the 35 acre detention pond. A unanimous affirmative vote was recorded.

15. CITY'S AMBULANCE TRANSFER SERVICE SALE - APPROVED

Mayor Bronaugh stated that the next item for consideration was the sale of the City's ambulance transfer service.

City Manager Maclin stated that staff has been in the process of negotiating with Memorial Hospital for the sale of the City's transfer service. Mr. Maclin stated that when the City began a transfer service in May of 1994, we went into it at the time with the understanding from the City Council to staff that if the transfer business did not at least break even, if it ever became a burden to the taxpayers, the City would get back out of the transfer business. Mr. Maclin stated that with changes in the medical community and changes in the Medicare law, this is the situation that the City is in, and so it is time to find a way to dissolve that department. Mr. Maclin stated that staff has been negotiating with Memorial Hospital, who has a desire to help maintain medical quality of life by including medical transfers in their business. Mr. Maclin stated that staff has negotiated through the City Attorney an agreement, and staff would like to recommend that the City enters into an agreement to sell the transfer service to Memorial Hospital for \$440,000, which is the appraised value. Mr. Maclin stated that an independent appraisal was done by an appraisal firm out of Dallas who specializes in appraisals of ambulance services. Mr. Maclin stated that this agreement, as written, would be executed in 60 days from today, which would give time for an orderly transition and to seek opportunity with Memorial and Champion EMS for potential employment of the City's current five full time employees remaining in our transfer service.

Mr. Maclin stated that the firm of Jake Lyons Appraisals submitted the appraisal of Fire Station No. 2 at \$1,300 per month.

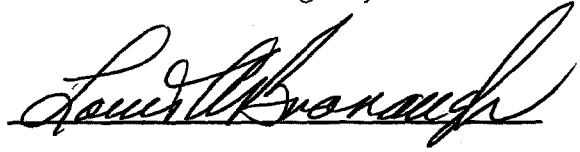
Motion was made by Councilmember Don Boyd and seconded by Councilmember R. L. Kuykendall that the sale of the City's ambulance transfer service to Memorial Medical Center of East Texas, effective May 16, 1999, for \$440,000 be approved as presented, and that Fire Station No. 2 located on Ellis Street be leased to Memorial Medical Center of East Texas for \$1,300 per month for a period of 15 years. A unanimous affirmative vote was recorded.

16. COMMENTS

City Manager Maclin stated that he had neglected to introduce Beauford Chapman the new Director of Inspection Services at the last meeting. City Manager Maclin stated that Mr. Chapman comes to the City with 28 years of experience in the construction industry, and that the City is very pleased to have him as a member of the department.

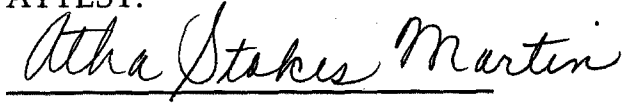
City Manager Maclin stated that the next DETCOG meeting will be held on March 25 in San Jacinto County.

17. There being no further business for consideration, meeting adjourned at 6:27 p.m.

A handwritten signature in cursive script, reading "Louis A. Bronaugh", written over a horizontal line.

Louis A. Bronaugh
Mayor

ATTEST:

A handwritten signature in cursive script, reading "Atha Stokes Martin", written over a horizontal line.

Atha Stokes Martin - City Secretary