

MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 16TH DAY OF JULY, 1991 AT 5:00 P.M.

On the 16th day of July, 1991, the City Commission 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	Commissioner, Ward No. 1
Danny Roper	Commissioner, Ward No. 3
Bob Bowman	Commissioner, Ward No. 4
Jack Gorden	Commissioner, Ward No. 5
C. G. Maclin	City Manager
Darryl Mayfield	Asst. City Mgr./Finance
Ron Wesch	Asst. City Mgr./Public Works
Bob Flournoy	City Attorney
Atha Stokes	City Secretary
David Cochran	Purchasing Agent

being present, and

Paul Mayberry	Commissioner, Ward No. 6
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being absent when the following business was transacted.

1. Meeting was opened with prayer by Rev. Tim Diebel, Minister, First Christian Church, Lufkin.

2. Mayor Bronaugh welcomed visitors present.

3. RECOGNITION OF MEDFORD ART COLLECTION

Mayor Bronaugh presented an album to Dr. Gail Medford in recognition of his gift of 47 western art paintings to the City of Lufkin.

Mayor Bronaugh stated that he would also like to recognize members of the Angelina County Photographic Association for taking the pictures that made it possible to put the album together.

4. PRESENTATION - CERTIFICATE OF APPRECIATION - DON CUTLER

Mayor Bronaugh presented a Certificate of Appreciation plaque to Don Cutler in recognition of his excellent contribution and dedicated service to the citizens of Lufkin by serving on the Examining & Supervising Board of Electricians from May 3, 1977 to May 3, 1991.

5. OATHS OF OFFICE - EXAMINING & SUPERVISING BOARD OF ELECTRICIANS (GARY ALEXANDER/JOE TREVATHAN) - LUFKIN BOARD OF DEVELOPMENT (JAY PANDYA)

Mayor Bronaugh administered oath of office to Gary Alexander and Joe Trevathan, newly appointed members to the Examining Board of Electricians, and to Jay Pandya to the Lufkin Board of Development.

6. APPROVAL OF MINUTES

Minutes of workshop meetings held on July 1 and July 2nd and regular meeting of July 2, 1991 were approved on a motion by Commissioner Don Boyd and seconded by Commissioner Danny Roper. A unanimous affirmative vote was recorded.

7. ZONE CHANGE - DENIED - ROBERT & MARY DUKE - 300 BLOCK OF PONDEROSA - RESIDENTIAL LARGE TO RESIDENTIAL SMALL - PERMANENT MOBILE HOME PERMIT

Mayor Bronaugh stated that the first item for consideration was a request by Robert and Mary Duke for a Zone Change from Residential Large to Residential Small, and approval of a Permanent Mobile Home Permit covering property in the 300 block of Ponderosa. Mayor Bronaugh stated that this request was denied by the Planning & Zoning Commission, and the request before the City Commission tonight is an appeal to that denial. Mayor Bronaugh stated that it will take a 4/5's vote by the Commission for approval of the request.

Donna Duke, representing her father in the request, presented a picture of the proposed mobile home to the Commission.

In response to question by Commissioner Simond as to why the request was denied, Asst. City Manager Mayfield stated that it is the opinion of the staff that zoning this piece of property as Residential Small in a largely residential area would be considered "spot zoning" and would give the applicant undue advantage to have the zoning changed to place a permanent mobile home on the property.

City Planner Stephen Abraham stated that "spot zoning" is where zoning serves no public purpose. Mr. Abraham stated that "spot zoning" is awarding a use classification to an isolated parcel of land which is detrimental or incompatible with the uses of the surrounding area, particularly when such an act favors a particular owner. Mr. Abraham stated that the Comprehensive Plan recommends this area remain as residential.

Mr. Abraham showed the area where the property is located on an overhead projector.

Mr. Abraham stated that in his planning report he went to great lengths to try to get across the point that it is not the mobile home that he is concerned about but the zone change.

In response to question by Commissioner Boyd, Mr. Abraham stated that the mobile home park in the area was included in an annexation in 1980 and is allowed to exist under a non-conforming status.

In response to question by Commissioner Bowman, Mr. Abraham stated that the Dukes have the option to apply for a Temporary Mobile Home Permit on the tract next to this site where the home is existing. Mr. Abraham stated that they do meet the qualifications for a Temporary Mobile Home Permit set up by the Planning & Zoning Commission which is, "care for the sick and elderly". Mr. Abraham stated that the mobile home would have to be set up on the same lot where the residence is located and possibly placed behind the home--this arrangement would not require a zone change.

In response to question by Commissioner Bowman, Ms. Duke stated that her father wanted the mobile home set up permanently. Commissioner Bowman stated that the letter from the Dukes says that there is an 81-year old grandmother who doesn't want to live alone and is frightened because of recent burglaries in the neighborhood. Ms. Duke stated that her father wanted to move the mobile home onto the property to be closer to his mother. Ms. Duke stated that her application was to rezone the entire five acres but she would be willing to have one-half acre surveyed to place the mobile home on.

Ms. Duke stated that they have had no objections from the neighbors, and that her father planned to continue living on the property after her grandmother passed away.

Motion was made by Commissioner Danny Roper and seconded by Commissioner Bob Bowman that request of Robert and Mary Duke for a Zone Change from Residential Large to Residential Small and

approval of a Permanent Mobile Home Permit covering property in the 300 block of Ponderosa Drive be denied. A unanimous affirmative vote was recorded.

8. ZONE CHANGE - APPROVED - JOHN & RETHA MEANS - S. CHESTNUT DRIVE AND CARD DRIVE - LOCAL BUSINESS, SPECIAL USE (OFFICE BUILDING) NEIGHBORHOOD RETAIL

Mayor Bronaugh stated that the next item for consideration was request by John and Retha Means for a Zone Change from Local Business, Special Use (Office Building) to Neighborhood Retail on a 1.4 acre tract of land located at the southwest corner of S. Chestnut Street and Card Drive.

Mr. Abraham stated that the recommendation of the Planning Department and the Planning & Zoning Commission is that any rezoning of the property should be limited to the "cross-hatched" area as shown on the overhead projector. Mr. Abraham stated that immediately to the left of this area is the entire zoning district. Mr. Abraham stated that the map reflects in red the zoning districts that currently have commercial zoning and the green area indicates the corridor which the Comprehensive Plan recommends for commercial usage. Mr. Abraham stated that there is some residential with frontage on Chestnut that eventually will become commercial if the existing residents on Chestnut were to sell.

Mr. Abraham stated that it is the Planning Department's recommendation that a portion of the zoning district (the cross-hatched area) be rezoned to Neighborhood Retail. Mr. Abraham stated that the Planning Commission, after great consideration, decided to compromise and add another Special Use to the existing zoning designation of Local Business, Special Use (Office Building) to Local Business, Special Use (Office Building and Beauty Shop).

Mr. Abraham stated that the Planning Department and the Planning Commission are recommending that only a portion of this zoning district be rezoned and that the western lots should be left as they are.

In response to question by Mayor Bronaugh, Mr. Abraham stated that discussion of reverter clauses came up in the Planning Commission meeting, and generally reverter clauses are not held in high esteem by the courts. Asst. City Attorney Deaton stated that the way the City's special use is structured it does not revert to the other use. Mr. Deaton stated that the Special Use provisions do say that the Commission can authorize a Special Use in any higher use, i.e., Residential could be used in a Neighborhood Retail district.

In response to question by Commissioner Simond, Mr. Abraham stated that the Planning & Zoning Commission's recommendation by a 4 to 1 vote was that only the zoning on the easternmost lot (as illustrated in Exhibit A of the Planning Report) within the zoning district be changed from Local Business, Special Use (Office Building) to Local Business, Special Use (Office Building and Beauty Shop). Mr. Abraham stated that the Planning Department's recommendation was that the property be zoned Neighborhood Retail without a Special Use, which would accommodate both the office and beauty shop and other uses.

In response to question by Commissioner Bowman, Mr. Abraham stated that he had looked at the lot before it went to the Planning & Zoning Commission by going to the previous Ordinance and Planning records and he feels that these measurements are correct.

Guy Carlton, who resides at 402 Card Drive, stated that he was incorrect on the distances and that Mr. Abrahams measurements of the property were correct.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Jack Gorden that request of John and Retha Means for a Zone Change from Local Business, Special Use (Office Building) to Local Business, Special Use (Office Building and Beauty Shop) be approved. A unanimous affirmative vote was recorded.

Mayor Bronaugh complimented Asst. City Manager Mayfield and City Planner Abraham on the new format for presenting zone change requests to the City Commission.

9. PUBLIC HEARING DATE - APPROVED - ANNEXATION/PERMANENT ZONING - CROWN COLONY SUBDIVISION - SECTION VII-B - SABINE INVESTMENT

Mayor Bronaugh stated that the next item for consideration was setting date for Public Hearing of Annexation and Permanent Zoning as requested by Sabine Investment Company for Crown Colony Subdivision, Section VII-B.

Elmo Taylor of Sabine Investment Company was present in representation of the request.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Jack Gorden that Public Hearing date for Annexation and Permanent Zoning as requested by Sabine Investment Company for Crown Colony Subdivision, Section VII-B be set for August 6, 1991. A unanimous affirmative vote was recorded.

10. ZONE CHANGE - APPROVED - SABINE INVESTMENT COMPANY - APARTMENT, SPECIAL USE TO RESIDENTIAL MEDIUM - CROWN COLONY - SECTION VII-A, BLOCK 1, LOT 14

Mayor Bronaugh stated that the next item for consideration was request by Sabine Investment Company for a Zone Change from Apartment, Special Use to Residential Medium covering property at Crown Colony Subdivision, Section VII-A, Block 1, Lot 14.

City Manager Maclin stated that a written recommendation by the City Planner had been included in the Commissioner's packet.

There was no opposition present.

Elmo Taylor, Sabine Investment Company, stated that the property had originally been zoned Apartment, Special Use for townhouses. Mr. Taylor stated that he is proposing that Lot 14 be re-subdivided for Residential Medium.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Bob Bowman that First Reading of Ordinance for Zone Change from Apartment, Special Use to Residential Medium covering property at Crown Colony Subdivision, Section VII-A, Block 1, Lot 14 as requested by Sabine Investment Company be approved as presented. A unanimous affirmative vote was recorded.

11. UTILITY EASEMENT AGREEMENT - APPROVED - JAMES P. BAKER

Mayor Bronaugh stated that the next item for consideration was utility easement agreement for James P. Baker.

City Manager Maclin stated that a memo from the City Attorney addressing this request, and suggesting that the City give Mr. Baker an agreement in the form of an easement to build over the City's easement, was included in the Commissioner's packets. City Manager Maclin stated that there are no utilities in the easement.

Asst. City Attorney Deaton stated that this was an oversight, and the City is not actually conveying anything, but is allowing Mr. Baker the right to build over the easement.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Danny Roper granting a utility easement agreement to James P. Baker as requested by the City Attorney. A unanimous affirmative vote was recorded.

12. GRANT APPLICATION - APPROVED - TRAFFIC LIGHT SYNCHRONIZATION - TEXAS HIGHWAY DEPARTMENT

Mayor Bronaugh stated that the next item for consideration was authorization to submit a grant application to the Texas Highway Department for a traffic light synchronization program.

City Manager Maclin stated that this is a program available through the Governor's Energy Management Center which has provided some grant funds to synchronize traffic signals on the State Highway System. City Manager Maclin stated that Mr. Wesch had provided a letter regarding this program, and excerpts from the program manual that outlines the various requirements for the grant application.

Morgan Prince, Engineer with the Texas Highway Department, was present to answer any questions the Commissioners might have relating to the program.

In response to question by Commissioner Boyd, Mr. Wesch stated that the synchronization would begin at Chestnut and the Loop, going across Chestnut to Timberland, then on Chestnut to where Frank intersects and out Frank past Memorial Hospital.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Jack Gorden authorizing a grant application to the Texas Highway Department for a traffic light synchronization program. A unanimous affirmative vote was recorded.

13. EMS BILLINGS - QUARTERLY WRITE-OFFS - APPROVED

Mayor Bronaugh stated that the next item for consideration was quarterly write-offs of EMS billings over 120 days past due in accordance with City policy.

City Manager Maclin stated that this is the first time the staff has brought an official write-off to the City Commission as a result of the decisions made at the last meeting in June in terms of implementing this policy to more accurately reflect through the audit revenues that are still due the City and at the same time authorize turning these bad debts over to a collection agency that was selected at that same meeting.

In response to question by Commissioner Bowman, City Manager Maclin stated that the City will be writing off these bad debts but at the same time authorizing the collection agency to pursue collection activities. City Manager Maclin stated that this will not relieve the person of their debt--it is just an accounting measure.

In response to question by Commissioner Gorden, Chief Snyder stated that turning these delinquent accounts over to the Credit Bureau is a local option and the City can choose to allow the collection agency to transfer these accounts once they have been worked to a credit reporting status or not to turn them over to a credit reporting agency. Chief Snyder stated that TRW is also a credit reporting agency.

Asst. City Manager Mayfield stated that the staff feels comfortable at this time turning the accounts over to TRW.

Commissioner Gorden stated that he would like for every account that is over 120 days to be turned in to the local Credit Bureau.

Motion was made by Commissioner Jack Gorden and seconded by Commissioner Bob Bowman that quarterly write-off of EMS billings

over 120 days past due in accordance with City policy be approved as presented. A unanimous affirmative vote was recorded.

It was the consensus of opinion that discussion of turning the delinquent accounts over 120 days to the local Credit Bureau be placed on the agenda for next meeting.

14a. 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 there are two considerations of the refuse bags--the regular refuse bags that have been provided to the public for the past several years at a low bid from Arrow Industries at \$81,074, and a smaller purchase of recycled bags from Bemis at \$1,664.

City Manager Maclin stated that Mr. Wesch has visited with Mrs. Marcel Canon of the Neighborhood Alliance Association, and several neighborhood groups have agreed to test the recycled bags.

City Manager Maclin stated that there is a provision in State law now that encourages cities to utilize recycled materials when possible. City Manager Maclin stated that using the recycled bags gives the City the opportunity to comply with the intent of State law, and test by comparison the recycled material bags versus the non-recycled material bags and get some survey through the Neighborhood Association as to public input and be better prepared next year when the City goes out for bids for refuse bags.

In response to question by Commissioner Gorden, City Manager Maclin stated that the recycled bags are a little more expensive.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Don Boyd to accept the bid of Bemis Company in the amount of \$1,664 for recycled refuse bags and the bid of Arrow Industries in the amount of \$81,074 for regular refuse bags. A unanimous affirmative vote was recorded.

14b. BID - APPROVED - PIPE & MATERIALS - WATER LINE EXTENSION - C. F. THOMPSON ADDITION

Mayor Bronaugh stated that the next item for consideration was bids for pipe and materials for the water line extension in the C. F. Thompson Addition.

City Manager Maclin stated that the low bid had been received from Coburn Supply Company in the amount of \$46,889.16.

Motion was made by Commissioner Jack Gorden and seconded by Commissioner Bob Bowman that bid of Coburn Supply Company in the amount of \$46,889.16 be accepted as submitted. A unanimous affirmative vote was recorded.

15. EXECUTIVE SESSION

Mayor Bronaugh recessed regular session to enter into Executive Session at 6:15 p.m. Regular session reconvened at 6:40 p.m. and Mayor Bronaugh stated that personnel matters had been discussed.

16. COMMENTS

City Manager Maclin stated that when the City Attorney returns he will give the City Commission a memo in writing regarding the Cable TV bill. City Manager Maclin stated that he had talked with a member of the TML legislative staff and it is their opinion that the City now has the authority to regulate basic

rates. City Manager Maclin stated that in order for Cablecom to go up on their basic rates they would have to go through the City Commission. City Manager Maclin stated that this does not give the City Commission any authority over premiums which would include Tier 1, Tier 2 and any of the other premium channels.

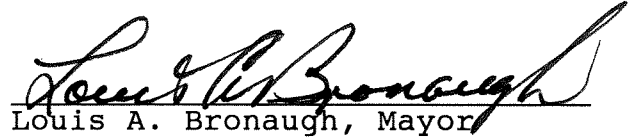
Commissioner Simond stated that he is mostly concerned with cable service.

City Manager Maclin stated that there had been some comments from the Commissioners on the priority ranking sheets regarding computerization. City Manager Maclin stated that Mr. Mayfield had met with various departments that had requested computer capital outlay and has put together a plan of connectivity and a plan of appropriate maximum utilization.

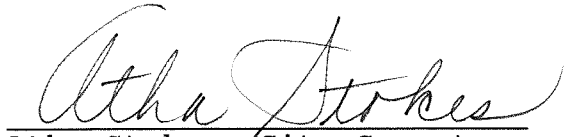
City Manager Maclin stated that the Solid Waste Priority Ranking Sheets had been passed out to the Commissioners at tonight's meeting.

City Manager Maclin stated that the salary survey and personnel plan reclassification survey was not ready for distribution as he had planned for tonight's meeting, but would be distributed as soon as it is completed.

17. There being no further business for discussion, meeting adjourned at 7:00 P.M.


Louis A. Bronaugh, Mayor

ATTEST:


Atha Stokes, City Secretary