

MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 20TH DAY OF NOVEMBER, 1990, AT 5:00 P.M.

On the 20th day of November, 1990, 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
Percy Simond, Jr.	Commissioner, Ward No. 1
Don Boyd	Commissioner, Ward No. 2
Danny Roper	Commissioner, Ward No. 3
Bob Bowman	Commissioner, Ward No. 4
Jack Gorden	Commissioner, Ward No. 5
Paul Mayberry	Commissioner, Ward No. 6
Harvey Westerholm	City Manager
Ron Wesch	Public Works Director/ Assistant to City Manager
Bob Flournoy	City Attorney
Atha Stokes	City Secretary
David Cochran	Purchasing Agent

being present when the following business was transacted.

1. Meeting was opened with prayer by Rev. John Carney, Minister, Christian Counseling Center.

2. Mayor Bronaugh welcomed visitors present.

3. APPROVAL OF MINUTES

Minutes of regular meeting of November 6, 1990 were approved on a motion by Commissioner Don Boyd and seconded by Commissioner Bob Bowman. A unanimous affirmative vote was recorded.

4. CERTIFICATES OF AWARD - POLICE OFFICERS/POLICE DOG

Mayor Bronaugh presented Certificates of Award from the U.S. Marshal's Office to Police Officers Libby Parish and Roger Parrott, and to Police drug dog "Mambo".

5. ORDINANCE - APPROVED - SECOND READING - ANNEXATION/PERMANENT ZONING - FM 58

Mayor Bronaugh stated that the first item for consideration was Second Reading of an Ordinance for Annexation and Permanent Zoning of property located along FM 58 (Chestnut) south of White House Drive and north of Platt Road to include the developed section of Bell Oak Subdivision, and a section of the Fuller Springs Community located south of Bartmess, east of FM 58, and west of Westwood Street.

Commissioner Mayberry stated that an interoffice memorandum from Public Works Director Ron Wesch had been included in the packet recommending that the developer of the Bell Oak Subdivision be required to extend his water lines to those lots that are currently being annexed into the City limits. Mr. Wesch stated that there are approximately 5 or 6 lots in the Subdivision that are facing the curb and guttered street and are a part of the annexation but the developer has failed to extend the water lines to those lots. Mr. Wesch stated that he has been contacted by one of the owners of the lots wanting to know when the City is going to extend those lines after the annexation. Mr. Wesch stated that, in his opinion, it is the responsibility of the developer to extend the lines and he would like to have it as part of the motion approving the annexation that the developer will extend the lines when the lots are sold.

City Attorney Flournoy stated that he did not think that the City could make the extension of these lines by the developer a condition of the annexation. Mr. Flournoy stated that on those 5 or 6 lots you might specifically provide that that section would not be included in the annexation unless the water lines are extended.

City Manager Westerholm stated that this subdivision was approved by the City under the Subdivision Ordinance. City Manager Westerholm stated that at the time the subdivision was approved water was available and the developer is supposed to provide water to all the lots; sewer was not available so the developer was not required to provide sewer. City Manager Westerholm stated that, in his opinion, the developer should meet this requirement under the Subdivision Ordinance.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Don Boyd that Ordinance for Annexation of property along FM 58 be approved on Second and Final Reading. A unanimous affirmative vote was recorded.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Jack Gorden that Ordinance for Permanent Zoning as Residential Large for property located along FM 58 (Chestnut) south of White House Drive and north of Platt Road to include the developed section of Bell Oak Subdivision, and a section of the Fuller Springs Community located south of Bartmess, east of FM 58, and west of Westwood Street be approved on Second and Final Reading. A unanimous affirmative vote was recorded.

In response to question by Mayor Bronaugh, City Attorney Flournoy stated that, in his opinion, the City could require the developer of the Bell Oaks Subdivision to extend water to the 5 or 6 lots in the subdivision.

6. ORDINANCE - APPROVED - SECOND READING - SPEED ZONE - FM 819

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance establishing the speed zone on FM 819.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Don Boyd that Ordinance be approved on Second and Final Reading. A unanimous affirmative vote was recorded.

7. ORDINANCE - APPROVED - SECOND READING - TMRS - "BUY-BACK" OF FORFEITED SERVICE

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance for "buy-back" of forfeited service with TMRS.

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

8. TRAFFIC ORDINANCE AMENDMENT - APPROVED - SECOND READING - KURTH MEMORIAL LIBRARY - 15-MINUTE PARKING

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Amendment to the Traffic Ordinance as requested by Kurth Memorial Library for 15-minute parking in front of the library.

City Manager Westerholm stated that the library has thirteen parking spaces, and four of the spaces are located directly in front of the building. (A sketch of the parking spaces was included in the Commissioner's packets.)

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Bob Bowman that Amendment to Traffic Ordinance designating four (4) parking spaces directly in front of Kurth Memorial Library as 15-minute parking be approved on Second and Final Reading. A unanimous affirmative vote was recorded.

9. ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - MR. AND MRS. JAMES E. RADKE - 1007 SHERMELL - RESIDENTIAL LARGE TO RESIDENTIAL SMALL

Mayor Bronaugh stated that the next item for consideration was First Reading of an Ordinance for Zone Change as requested by Mr. and Mrs. James E. Radke covering property located at 1007 Shermell from Residential Large to Residential Small.

City Manager Westerholm stated that Mr. and Mrs. Radke want to subdivide a Residential Large lot into two smaller lots, and propose to move another house on this property. City Manager Westerholm stated that there was no opposition to the request at the Planning and Zoning Commission meeting.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Bob Bowman that Ordinance for Zone Change as requested by Mr. and Mrs. James E. Radke covering property at 1007 Shermell from Residential Large to Residential Small be approved on First Reading. A unanimous affirmative vote was recorded.

10. ORDINANCE - APPROVED - FIRST READING - WILLIE SWINDLE - 102 NORTH AVENUE - LOCAL BUSINESS, SPECIAL USE (TWO CHAIR BEAUTY SHOP WITH ENTRANCE FROM NORTH STREET AND SAYERS STREET CONSIDERED A SIDE STREET) TO LOCAL BUSINESS, SPECIAL USE (BEAUTY SHOP)

Mayor Bronaugh stated that the next item for consideration was First Reading of Ordinance for Zone Change requested by Willie Swindle covering property located at 102 North Avenue from Local Business, Special Use (Two chair beauty shop with entrance from North Street and Sayers Street considered a side street) to Local Business, Special Use (Beauty Shop).

City Manager Westerholm stated that there had been no opposition to the request and it was unanimously approved by the Planning and Zoning Commission.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Danny Roper that Ordinance for Zone Change as requested by Willie Swindle covering property located at 102 North Avenue from Local Business, Special Use (Two chair beauty shop with entrance from North Street and Sayers Street considered a side street) to Local Business, Special Use (Beauty Shop) be approved on First Reading. A unanimous affirmative vote was recorded.

11. HARPER STREET CLOSING - DISCUSSED - DR. DALLAS PIERRE

Mayor Bronaugh stated that the next item for consideration was a request from Dr. Dallas Pierre concerning the closing of Harper Street.

In response to question by Dr. Pierre, City Manager Westerholm stated that he had no knowledge of how long Harper Street has been in existence. City Manager Westerholm stated that this area was annexed when the Loop was developed in 1971.

City Attorney Flournoy stated that the status of the street has been discussed several times over the past year but no determination has been made whether or not the street has been there an adequate length of time and had adequate use to justify a prescriptive easement.

Mr. Flournoy stated that one reason the City has not gotten involved is that this is a legal question between property owners as to whether or not there is an easement that has arisen by use.

Mr. Flournoy stated that Mr. Meyer approached the City for the purpose of wanting to close the street. Mr. Flournoy stated that the City declined to do so because it did not have enough facts to say that it was or was not a prescriptive easement and it didn't serve anybody who lived in the City of Lufkin.

Mr. Flournoy stated that, in his opinion, the City should not be involved in determining whether the street should or should not be closed.

In response to question by Dr. Pierre, Mr. Flournoy stated that the City has not given permission for the street to be closed. Mr. Flournoy stated that the Legal Department's position is that the City does not have any rights that it determine that the street should be closed. Mr. Flournoy stated that there is no written easement or deed to the City or the County. Mr. Flournoy stated that usually this kind of situation is settled in Court where a Judge takes all the facts from all the sides and decides that there is a prescriptive easement or there is not a prescriptive easement. Mr. Flournoy stated that the City does not have those facts and it is not their right or responsibility to make that determination.

In response to question by Dr. Pierre, City Manager Westerholm stated that there is no City sewer service to that area, and he was not sure about water.

Mr. C. P. Carrol, who resides in the area, stated that he objected to closing the street because it would force him to use the feeder road for access to the Loop and he felt the traffic was too fast and it was dangerous. Mr. Carrol stated that when it rains it is impossible for two cars to pass on the other road the residents would have to use.

In response to question by Mayor Bronaugh, Mr. Carrol stated that he had spoken to his County Commissioner Jim Nerren and had also gone before Commissioner's Court about the street being closed. Mr. Carrol stated that he had been referred to the City.

Maxine Duffield, Linda Duffield and approximately eight other people living in the area appeared in opposition to the street being closed.

Mr. Carrol stated that County Commissioner Leon Tillman built the street 13 years ago after Coach Hall, who owned the property at that time, gave permission to build the street.

Mr. Flournoy stated that this is not a question of equity or convenience but is a question of law. Mr. Flournoy stated that basically this is a civil matter and the City is not a party to it. Mr. Flournoy stated that the residents will have to find another forum, like the Court, to make the determination if the street should be closed or remain open.

12. AGREEMENT - APPROVED - INDUSTRIAL PRE-TREATMENT PROGRAM - ANRA

Mayor Bronaugh stated that the next item for consideration was approval of an Agreement with ANRA for Industrial Pre-Treatment Program.

City Manager Westerholm stated that in the budget this year a new Pre-Treatment Program was set up whereby the City would perform all the collections and analysis of its industrial customers.

City Manager Westerholm stated that this created a hardship for ANRA and he was now proposing to contract out the sample collections and a portion of the laboratory analysis work.

City Manager Westerholm stated that a copy of the Agreement between the City of Lufkin and ANRA had been included in the Commissioner's packet.

In response to question, City Manager Westerholm stated that the ANRA lab is state-approved.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Jack Gorden that Industrial Pre-Treatment Program Agreement between the City of Lufkin and Angelina and Neches River Authority be approved as submitted. A unanimous affirmative vote was recorded.

13. AGREEMENT EXTENSION - APPROVED - BRAZOS TRANSIT SYSTEM

Mayor Bronaugh stated that the next item for consideration was extension of an Agreement with Brazos Transit System.

City Manager Westerholm stated that the original contract with Brazos Transit System was for two years. City Manager Westerholm stated that the City failed to extend the contract for the last year and Brazos Transit System has been operating without a valid contract. The Agreement will be for a period of three years commencing on October 1, 1989 and expiring September 30, 1992.

Commissioner Mayberry reminded the Commission that the new extension would include Item 2 of the former contract which calls for striking the capital costs.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Bob Bowman that Agreement with Brazos Transit System commencing on October 1, 1989 and expiring September 30, 1992 be approved. A unanimous affirmative vote was recorded.

14a. BID - APPROVED - CARDIAC MONITOR DEFIBRILLATORS/BATTERY CHARGING SYSTEM - FIRE DEPARTMENT - PHYSIO CONTROL CORPORATION

Mayor Bronaugh stated that the next item for consideration was bid for cardiac monitor defibrillators and battery charging system.

City Manager Westerholm stated that only one bid had been received and it was from Physio Control Corporation in the amount of \$16,524.50, which is within the budgeted amount of \$17,300. Chief Snyder stated that the main reason only one bid was received is because Physio Control is the only provider of this piece of equipment. Chief Snyder stated that these units will be compatible with existing equipment and with equipment used by the local hospitals.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Don Boyd that bid of Physio Control Corporation in the amount of \$16,534.50 be accepted as presented. A unanimous affirmative vote was recorded.

14b. BID - APPROVED - VEHICLE - CODE ENFORCEMENT OFFICER - MIKE PERRY MOTOR COMPANY

Mayor Bronaugh stated that the next item for consideration was bids on a vehicle to be used by the Code Enforcement Officer.

City Manager Westerholm stated that this vehicle had been rebid from a previous meeting. City Manager Westerholm stated that Purchasing Agent David Cochran had recommended the lowest bid

from a local dealer (Angelina Autoplex), so that the vehicle could be serviced locally. The actual low bid had been received from Mike Perry Motor Company in the amount of \$11,172.65; a difference of \$415.04. Commissioner Bowman stated that he would feel more comfortable if the difference between the two cars was less.

Commissioner Boyd stated that he would like for the Commission to accept the bid of Angelina Autoplex for the Chevrolet Lumina for the quality of the vehicle.

Commissioner Simond stated that it would cost more than \$400 transporting someone to Nacogdoches and back for service.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Danny Roper that bid of Mike Perry Motor Company in the amount \$11,172.65 for a Plymouth Acclaim vehicle be accepted as the best bid.

The following vote was recorded:

Aye - Commissioners Danny Roper, Jack Gorden, Bob Bowman, Paul Mayberry and Mayor Bronaugh

Nay - Commissioners Percy Simond and Don Boyd

Motion carried by a vote of 5 to 2.

15. EXECUTIVE SESSION - DILAPIDATED HOUSES - CITY MANAGER, C. G. MACLIN

Regular meeting adjourned at 6:03 p.m. to enter into Executive Session. Mayor Bronaugh reconvened regular session at 6:46 p.m. and stated that the Commissioners had discussed demolition of dilapidated houses and personnel.

City Attorney Bob Flournoy stated that Code Enforcement Officer Kenneth Williams had recommended that houses located at 1714 and 1716 Paul Avenue be considered for demolition.

Motion was made by Commissioner Percy Simond and seconded by Commissioner Don Boyd that houses at 1714 and 1716 Paul Avenue be demolished as recommended by the Code Enforcement Officer. A unanimous affirmative vote was recorded.

Mayor Bronaugh stated that 48 applications had been received for the position of City Manager. Mayor Bronaugh stated that 14 of the applicants had been interviewed by a three-member committee (Commissioners Mayberry and Simond and Mayor Bronaugh). Mayor Bronaugh stated that the final five applicants were interviewed yesterday and today by six members of the Commission (Commissioner Gorden was unable to attend because auditors were at his Bank).

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Bob Bowman that C. G. Maclin, who is currently the City Manager of Wharton, be hired as City Manager for the City of Lufkin. A unanimous affirmative vote was recorded.

16. AUTHORIZATION FOR PURCHASE OF RIGHT-OF-WAY - TABLED - BRENTWOOD DRIVE

This item was rescheduled for the December 4, 1990 meeting.

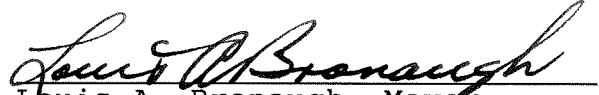
17. COMMENTS

Commissioner Simond stated that he was concerned for the safety of those City employees who work late and have to go to their cars which are parked in an unlighted area.

City Manager Westerholm stated that he and Bob Flourney will be attending a TML meeting on redistricting in Dallas on Wednesday, November 28th.

Mayor Bronaugh stated that Mr. C. G. Maclin will be in the City on Friday at 10:00 a.m. for a Press Conference.

18. There being no further business for discussion, meeting adjourned at 6:52 p.m.


Louis A. Bronaugh, Mayor

ATTEST:


Atha Stokes, City Secretary