

**MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF  
LUFKIN, TEXAS, HELD ON THE  
20TH DAY OF JULY, 1999 AT 5:00 P. M.**

On the 20th day of July, 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:

Bob Bowman	Mayor pro tem
R. L. Kuykendall	Councilmember, Ward No. 1
Don Boyd	Councilmember, Ward No. 2
Betty Jones	Councilmember, Ward No. 3
Dennis Robertson	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
Kenneth Williams	Director of Public Works
Stephen Abraham	Director of Planning

being present, and

Louis Bronaugh	Mayor
----------------	-------

being absent when the following business was transacted.

1. Meeting was opened with prayer by Steven Pounds, Assistant Pastor, Eastview United Pentecostal Church.
2. Mayor pro tem Bowman welcomed visitors present.
3. **APPROVAL OF MINUTES**

Motion was made by Councilmember Don Boyd and seconded by Councilmember Jack Gorden, Jr. that the minutes of the Regular Meeting of July 6, 1999, be approved as presented. A unanimous affirmative vote was recorded.

**4. ORDINANCE - APPROVED - SECOND READING - SPECIAL USE PERMIT (RESTAURANT WITH A PRIVATE CLUB) - COMMERCIAL ZONING DISTRICT - BRENTWOOD CROSSING SUBDIVISION - HIGHWAY 59 - DANIEL McCALL - OUTBACK STEAKHOUSE OF FLORIDA, INC. - M. JACK MARTIN III**

Mayor pro tem Bowman stated that the next item for consideration was Second Reading of an Ordinance to consider granting a Special Use Permit for a "Restaurant with a Private Club" within a Commercial zoning district on approximately a 1.593 acre portion of Lot 2 of the Brentwood Crossing Subdivision and located on the west frontage of U. S. Highway 59 and north of the Daniel McCall intersection as requested by M. Jack Martin III on behalf of Outback Steakhouse of Florida, Inc.

Motion was made by Councilmember Betty Jones and seconded by Councilmember Jack Gorden, Jr. that Ordinance to grant a Special Use Permit for a "Restaurant with a Private Club" within a Commercial zoning district on approximately a 1.593 acre portion of Lot 2 of the Brentwood Crossing Subdivision and located on the west frontage of U. S. Highway 59 and north of the Daniel McCall intersection as requested by M. Jack Martin III on behalf of Outback Steakhouse of Florida, Inc. be approved on Second and Final Reading with the following condition: That the

Special Use Permit shall be for the sale of alcoholic beverages in conjunction with a full service restaurant facility; and shall not be construed as allowing the structure to be used in a manner which constitutes a night club, tavern, lounge, dance hall or commercial amusement establishment. A unanimous affirmative vote was recorded.

**5. ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - COMMERCIAL & APARTMENT TO APARTMENT - SPECIAL USE PERMIT (NURSING HOME) - CANTEX HEALTHCARE CENTERS - FRANK STREET - PHILIP W. GOODWIN**

Mayor pro tem Bowman stated that the next item for consideration was the request of Philip W. Goodwin on behalf of Cantex Healthcare Centers to change the zoning on approximately 10.267 acres of land located on Frank Street between First Bank & Trust and the Greenbriar Apartments from "Commercial & Apartment" to "Apartment" zoning district and to grant a Special Use Permit for a nursing home.

City Manager Maclin stated that included in the Council packet is a memorandum of explanation from the Planning Department. Mr. Maclin stated that this request comes from the Planning & Zoning Commission with a unanimous recommendation for approval.

Motion was made by Councilmember Don Boyd and seconded by Councilmember R. L. Kuykendall that Ordinance to change the zoning on approximately 10.267 acres of land located on Frank Street between First Bank & Trust and the Greenbriar Apartments from "Commercial & Apartment" to "Apartment" zoning district and to grant a Special Use Permit for a nursing home as requested by Philip W. Goodwin on behalf of Cantex Healthcare Centers be approved on First Reading as presented. A unanimous affirmative vote was recorded.

**6. ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - RESIDENTIAL SMALL TO MANUFACTURED DWELLING - KURTH DRIVE - SELLERS STREET AND BROCK STREET - ERIC WATTS**

Mayor pro tem Bowman stated that the next item for consideration was a request to change the zoning from "Residential Small" to "Manufactured Dwelling" on approximately 7.3 acres of land south of Kurth Drive and also fronting on Sellers Street and Brock Street as requested by Eric Watts.

City Manager Maclin stated that included in the Council packet is a memorandum of explanation from the Planning Department, along with a map that details the subject property and proposed area for revision. Mr. Maclin stated that Mr. Watts plans to move a manufactured dwelling on the property. Mr. Maclin stated that the Planning & Zoning Commission, by unanimous vote, recommends approval of the request. Mr. Maclin stated that there was no opposition to the request.

Motion was made by Councilmember Don Boyd and seconded by Councilmember R. L. Kuykendall that Ordinance to change the zoning from "Residential Small" To "Manufactured Dwelling" on approximately 7.3 acres of land south of Kurth Drive and also fronting on Sellers Street and Brock Street as requested by Eric Watts be approved on First Reading as presented. A unanimous affirmative vote was recorded.

**7. RESOLUTION - APPROVED - URBAN AND COMMUNITY FORESTRY PROGRAM GRANT AWARD - ESTABLISHING A REPRESENTATIVE TO EXECUTE AGREEMENTS**

Mayor pro tem Bowman stated that the next item for consideration was a Resolution accepting the award of an Urban and Community Forestry Program Grant and establishing a representative to execute agreements.

City Manager Maclin stated that included in the Council packet is a memorandum of explanation followed by a Resolution. Mr. Maclin stated that the City has received \$4,956 grant for the forest project, and staff was seeking Council's approval of the Resolution which designates the City arborist as the authorized representative to spend the dollars on behalf of the City.

Motion was made by Councilmember Dennis Robertson and seconded by Councilmember Betty Jones that Resolution accepting the award of an Urban and Community Forestry Program Grant and establishing a representative to execute agreements be approved as presented. A unanimous affirmative vote was recorded.

**8. RESOLUTION - APPROVED - DONOHUE INDUSTRIES, INC. - ENTERPRISE PROJECT**

Mayor pro tem Bowman stated that the next item for consideration was a Resolution nominating Donohue Industries, Inc. for designation as an Enterprise Project.

City Manager Maclin stated that the memorandum of explanation indicates that Donohue is requesting the City of Lufkin to nominate the Lufkin Mill for designation as an Enterprise Project consideration for their commitment to spend in excess of \$200 million in reinvestment and retain a minimum of 500 jobs. Mr. Maclin stated that this basically is a renewal of a previous Enterprise Project designation that Champion has had for the past five years. Mr. Maclin stated that Donohue received the remaining portion of that designation which expires in September, and they are seeking renewal under the name of Donohue, which will give them five years to take advantage of the Enterprise Project designation for State incentive benefits which include lower electrical rates, sales tax rebates and franchise tax rebates from the State of Texas.

Debbie Johnston, Community Relations Manager for Donohue Industries, stated that she was present asking for Council's consideration for nomination of the Lufkin mill for Enterprise Project Designation within the City's Enterprise Zone. Ms. Johnston stated that Donohue made an announcement last February where they talked about the \$200 million plus capital expansion that is planned, which was approved by the Donohue Board with some contingencies, pending certain passage of economic development incentives. Ms. Johnston stated that earlier this year Donohue did receive support from Angelina County, Angelina College, and LISD in the form of property tax abatements.

Ms. Johnston stated that also present with her tonight were Carl Wright, the Mill Manager, and Mallory Caldwell, Donohue's legal assistant.

In response to question by Mayor pro tem Bowman, Mr. Wright stated that Donohue would like to start actual construction of the modernization of the mill by September 1 depending upon the environmental permits.

Bill Wellborn, Executive Director of the Economic Development Partnership, stated that back in July of 1998 when the Mill was up for sale, a sales enhancement package was put together by the City, Chamber and the Partnership and in this package was the offer for the designation of an Enterprise Zone Project. Mr. Wellborn stated that the Partnership made the offer and they accepted.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Betty Jones that Resolution designating Donohue Industries, Inc. for designation as an Enterprise Project be approved as presented. A unanimous affirmative vote was recorded.

**9. ANNUAL REPORT - SMALL BUSINESS DEVELOPMENT CENTER OF ANGELINA COLLEGE - BRIAN McCLAIN**

Mayor pro tem Bowman stated that the next item for consideration was the annual report from Brian McClain of the Small Business Development Center of Angelina College.

Mr. McClain stated that for every dollar invested in the program this year according to his study, they returned \$2.95 to the community. Mr. McClain stated that so far this year they have helped businesses raise \$2.2 million to go into business or refinance a business or help expand a business. Mr. McClain stated that they have another \$2.1million in the pipeline, which hopefully will close before October 1 for local people. Mr. McClain stated that he has been working with one group in Lufkin on a \$1.8 million manufacturing plant, which will bring about \$600,000 worth of payroll into the Lufkin market. Mr. McClain stated that last year they had approximately \$2.4 million in loans and this year it will be just over \$4 million. Mr. McClain stated that six months ago they started requiring people who made application with them to attend a Step One Going Into Business Class. Mr. McClain stated that of the 100 people who sign up for the class, only about 10% end up coming back to them once they figure out the requirements, personal, financial and legal aspects of running their own business. Mr. McClain stated that the average hours spent with a client is up to eight hours per client. Mr. McClain stated that he spent almost six months with the people who are opening up the manufacturing plant in Lufkin.

Mr. McClain stated that so far this year they have helped 14 businesses start in the immediate area, and helped four business do expansion projects. Mr. McClain stated that this year they have had 121 clients. Mr. McClain stated that one of their achievements is that they have acquired a \$250,000 Smart Jobs Grant from the State of Texas for local businesses, with 15 local business taking part in the grant. Mr. McClain stated that they will train just under 400 employees with the Grant.

Mr. McClain stated that their budget next year is \$127,603, of which the SBA contributes \$60,000, Angelina College contributes \$15,000, the City of Lufkin contributes \$7,500, the County contributes \$7,500 and the Crockett Economic Corporation contributes \$2,500. Mr. McClain stated that they have just started and opened an International Trade Resource Center for local businesses to come out and research their projects worldwide.

Mr. McClain stated that they also applied for a Community Technology Grant for \$350,000 that goes a little further than small business. Mr. McClain stated that they will create a laboratory with 10 or 12 computers with all different kinds of software and members of the community will be able to come and learn different softwares with one-on-one teaching. Mr. McClain stated that this will include computers for the seeing and hearing impaired.

Mayor pro tem Bowman thanked Mr. Clain for his presentation.

**10. AUTHORIZATION - APPROVED - CONVEYING PARK STREET TO LISD**

Mayor pro tem Bowman stated that the next item for consideration was authorization to convey Park Street to LISD.

City Attorney Flournoy stated that as the City prepares to make an exchange with the LISD on the property on which the new library will be built, he has examined the title to that property where the Lufkin Junior High property is located. Mr. Flournoy stated that on the south end of that property is five acres that ultimately will be swapped to the City once the library is built, and the City will be swapping the library building downtown for the new library building. Mr. Flournoy stated that in checking the property title there was originally three streets that ran through part

of that property, and one of those was a street named Parks Street. Mr. Flournoy stated that the City Council in 1948 closed those streets and actually deeded the portion of the streets that were closed to the school. Mr. Flournoy stated that for some reason they failed to deed the Parks Street property to the school and he is just trying to clear up that title and asking Council to authorize the City Manager to sign the deed for something that has already been agreed to but never was completed.

Motion was made by Councilmember Don Boyd seconded by Councilmember R. L. Kuykendall that authorization be granted to convey Park Street to LISD. A unanimous affirmative vote was recorded.

#### **11. ANIMAL CONTROL AGREEMENTS - APPROVED - GROVETON - HEMPHILL - HUNTINGTON - DIBOLL**

Mayor pro tem Bowman stated that the next item for consideration was Animal Control Agreements with the Cities of Groveton, Hemphill, Huntington and Diboll.

City Manager Maclin stated that included in the Council packet is an Agreement that is basically a renewal of services provided to some area communities who do not have an animal control department but need animal control services. Mr. Maclin stated that included in the packet is a copy of the agreement for Groveton, Hemphill, and Huntington.

Cathy Clark, Director of Animal Protection Services, stated that the rate for the above referenced cities is \$17 per animal. Ms. Clark stated that the cities of Diboll and Huntington have an added paragraph in their agreement that states that if their officer is off sick or needs assistance that the City of Lufkin will assist them at \$50 per hour. Ms. Clark stated that Hemphill and Groveton bring their animals into Lufkin. Ms. Clark stated that there is a special after hours fee.

In response to question by Mayor pro tem Bowman, Ms. Clark stated that with the figures that Mr. Hager has helped her with, in her opinion, the Department is being adequately compensated.

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember Dennis Robertson that Animal Control Agreements with the Cities of Groveton, Hemphill, Huntington and Diboll be approved as presented. A unanimous affirmative vote was recorded.

#### **12. APPROVAL OF FEES - COUNTY'S DANGEROUS DOG ORDINANCE**

Mayor pro tem Bowman stated that the next item for consideration was approval of fees for administering the County's Dangerous Dog Ordinance.

City Manager Maclin stated that the County's Commissioner's Court, at the request of some of their constituents, have exercised their authority under State law to implement a dangerous animal ordinance for county wide application. Mr. Maclin stated that however, they do not have trained personnel or vehicles designed for implementation and enforcement of the ordinance so they came to the City seeking City services in this regard. Mr. Maclin stated that included in the Council packet is a couple of sheets of analysis of the budget operating costs in that Department.

James Hager, Assistant City Manager, stated that Ms. Clark and he had discussed the costs that she incurs at the Animal Control facility. Mr. Hager stated that one of the costs is overhead for providing that service to the community. Mr. Hager stated that they had identified the cost of administration as overhead, separated and identified the cost of the pickup service that she provides, and then identified the boarding cost as it relates to sheltering the animals. Mr. Hager stated that they had identified all operating costs and depreciation costs for the equipment and the building that it requires. Mr. Hager stated that in administration they allocated 50% to the service pickup, 50% to the boarding service, and based upon the fact that

the activity that drives the pickup service is an hourly rate they have calculated a rate of \$30.75 per hour. Mr. Hager stated that boarding service was based upon the number of dogs on an annual basis through the animal facility. Mr. Hager stated that Ms. Clark had estimated 8,000 dogs came through the facility, which would equate to a \$5 per day per animal charge.

Mr. Maclin stated that under this arrangement the City would not be involved in any of the fines or whatever the County chooses to do in regard to failure to comply with the Ordinance by citizens of the County. Mr. Maclin stated that this service would be based on a call out by the Sheriff's office.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Dennis Robertson that approval of fees for administering the County's Dangerous Dog Ordinance be approved as submitted. A unanimous affirmative vote was recorded.

### 13. AGREEMENT - APPROVED - KURTH MEMORIAL LIBRARY

Mayor pro tem Bowman stated that the next item for consideration was an Agreement with Kurth Memorial Library.

City Manager Maclin stated that included in the Council packet is an agreement that comes to Council from the Kurth Memorial Library Board, which was approved by the Board four weeks ago. Mr. Maclin stated that this is an attempt to basically convert the Library facility to a City department much the same as Parks and Recreation or other services that the City provides. Mr. Maclin stated that the timing of this would coincide with two things (1) the City fiscal year, October 1, 2000, and (2) the time of the anticipated completion of the new library facility. Mr. Maclin stated that the Library would become a City department and would be under the auspices, from a budget and control standpoint, of the City of Lufkin. Mr. Maclin stated that the Library Board would then become the advisory board that acts as a liaison between the public and the City Council much the same as the Parks Advisory Board, and will continue to attempt to raise funds to help support the Library, seek grants for new books and equipment, and would continue to act as an oversight from a policy implementation.

In response to question by Mr. Gorden, Mr. Maclin stated that the current format operation of the library is the only quasi-public library that he had seen in his career. Mr. Maclin stated that this is a unique situation in that the Kurth Memorial Library Board is an autonomous governing board. Mr. Maclin stated that technically the employees and operation are at the discretion of the Board. Mr. Maclin stated that making the Board from a governing board to an advisory board is a significant change. Mr. Maclin stated that as indicated, the City Council has veto authority. Mr. Maclin stated that each year the Board will provide a slate of nominees to the City Council for consideration as board members and then the Council has the authority to accept or reject all or one of the nominees. Mr. Maclin stated that likewise the City has total authority in establishing the budget. Mr. Maclin stated that by virtue of the Council having total authority for the expenditures they have authority over the library by definition. Mr. Maclin stated that the Library Board in addition to being an advisory board and liaison to the general public will continue to have the responsibility of seeking grants and other funding sources to augment the operation of the library to supplement the purchase of new books and equipment as needed. Mr. Maclin stated that the City will continue to seek funding through United Way, and other auxiliaries that provide funding sources to the Library currently. Mr. Maclin stated that going to a facility that is more than double the size of the current facility, there are some anticipated increased operating costs. Mr. Maclin stated that, in his opinion, the Board was concerned about their ability to meet those needs in the future, and to likewise give an opportunity for it to become a full blown City library under a traditional sense.

Mr. Gorden stated that by approving this agreement the Council is making a very

large commitment for the City and the future Councils and taxpayers of Lufkin. Mr. Maclin stated that the control of funding applies only to funds that are specifically given to the Kurth Memorial Library Board. Mr. Maclin stated that funds given to the City of Lufkin Library are like any other general fund receipts. Mr. Maclin stated that if the Kurth Memorial Library Board applies for a grant, basically they are saying that they would have the authority to designate the gift for new books or new computers if they were the ones who secured the funds through their personal efforts. Mr. Maclin stated that any efforts through the City or the City Librarian or the City Manager or any other City employee that results in funds, would be City funds just the same as it is in the Recreation Department. Mr. Maclin stated that control or authority of funds is as it applies only to those funds specifically raised by the Board and specifically designated as such. Mr. Maclin stated that those funds would go through the budget process as a designated gift. Mr. Maclin stated that when this was discussed in further detail by the Board, the consensus of opinion was that any gifts received would be turned over to the City for audit purposes.

In response to question by Mr. Gorden, Mr. Maclin stated that the Library Director reports to the Board of Directors, even though the Library Director has City benefits, and 55-58% of the budget which is mostly earmarked for employees salaries, is still under the authority of the governing board. Mr. Maclin stated that after October 1, 2000, if this agreement is approved, the Library Director will be a City employee who reports to the City Manager. Mr. Maclin stated that any work that is done by the Library Director such as making a presentation to the United Way for funds, these will be City funds because she is a City employee.

In response to question by Mr. Gorden, Mr. Maclin stated that in terms of current proceeds, the only one that he would say that would be subject to the advisory board would be the Kurth Trust. Mr. Maclin stated that that is a function of the fact that the Kurth Memorial Library Board goes back to the beginning of the Trust.

Mr. Flournoy stated that the thing that might be giving Mr. Gorden a little bit of a problem would be the definition of Library. Mr. Flournoy stated that here Library is the Kurth Memorial Library Non-profit Operation, 501 C (3), and it is not the building, it is not the operation, its an entity in itself. Mr. Flournoy stated that the Library will retain its name and part of that reason is because of the bequest in the Kurth will. Mr. Flournoy stated that the Board will have controls over these funds because it was given in that way. Mr. Flournoy stated that this is a unique situation, and this is more of a cooperative agreement to maintain and retain the help of the community in the library, what they have done in the past and what they will do in the future, the ultimate decisions are the City's. Mr. Flournoy stated that basically they wanted to have the authority to budget the funds they have solicited. Mr. Flournoy stated that they will have some control over those funds they raise themselves, which obviously will be used for the good of the library, primarily the foundation funds because of the way the Trust is written.

Mr. Flournoy stated that the City wants to give the Board the incentive to work for this library as they have in the past.

Mr. Robertson asked if the Library would set up fees for County residents. Mr. Maclin stated that will become a decision this Council will have the authority to make after October 1, 2000 based on this agreement.

Motion was made by Councilmember Dennis Robertson and seconded by Councilmember R. L. Kuykendall that Agreement with Kurth Memorial Library be approved as presented. A unanimous affirmative vote was recorded.

**14. BID - APPROVED - HYDRAULIC PVC PIPE FUSION MACHINE - WATER UTILITIES DEPARTMENT - SECOR**

Mayor pro tem Bowman stated that the next item for consideration was bids for the purchase of a hydraulic PVC pipe fusion machine for the Water Utilities

Department.

City Manager Maclin stated that this is the other piece of equipment that was mentioned when the City made the purchase for the pipe bursting machine at a previous meeting. Mr. Maclin stated that this item is within the funds allocated and staff recommendation is the low bid of Secor in the amount of \$22,796.08.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Dennis Robertson that the bid of Secor in the amount of \$22,796.08 for a hydraulic PVC pipe fusion machine for the Water Utilities Department be approved as submitted. A unanimous affirmative vote was recorded.

15. EXECUTIVE SESSION

Mayor pro tem Bowman recessed Regular Session at 5:52 p.m. to enter into Executive Session. Regular Session was reconvened at 6:03 p.m. and Mayor pro tem Bowman stated that Council had discussed possible acquisition of real estate.

16. COMMENTS

City Manager Maclin stated that there would be a reception Thursday at 6:00 p.m. at the Red Barn sponsored by the Chamber of Commerce and the Economic Development Partnership to welcome the new District Engineer of TxDOT District 16, Dennis Cooley.


City Manager Maclin stated that staff will present a budget draft presentation on July 27th at 2:00 p.m.

City Manager Maclin stated that there will be a special City officials opening of the Rhino/Giraffe exhibits around the 30th of this month, and the official opening on the 31st at 1:30 p.m.

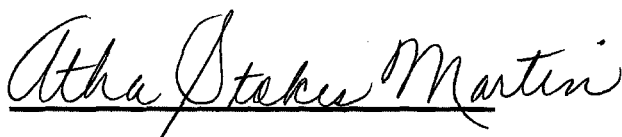
City Manager Maclin stated that the DETCOG meeting will be held Thursday in Pineland.

Mr. Gorden stated that, for the minute record, the Investment Finance Committee met today with the City's financial advisor.

17. There being no further business for consideration, meeting adjourned at 6:08 p.m.

  
Bob Bowman  
Mayor pro tem

ATTEST:



Atha Stokes Martin - City Secretary