MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 16TH DAY OF MARCH, 1993 AT 5:00 P.M.

On the 16th day of March, 1993 the City Council 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	Councilman, Ward No. 1
Larry Kegler	Councilman, Ward No. 3
Bob Bowman	Councilman, Ward No. 4
Tucker Weems	Councilman, Ward No. 6

being present, and

Jack Gorden, Jr.	Councilman, Ward No. 5

being absent when the following business was transacted.

1. Meeting was opened with prayer by Reverend Steve Shirley, Central Baptist Church.

2. Mayor Bronaugh welcomed visitors present.

3. **APPROVAL OF MINUTES**

Minutes of the Regular Meeting of March 2, 1993 were approved on a motion by Councilman Don Boyd and seconded by Councilman Bob Bowman. A unanimous affirmative vote was recorded.

4. **PUBLIC HEARING - GADDY'S AMBULANCE SERVICE**

Mayor Bronaugh opened Public Hearing to consider an application from Gaddy's Ambulance Service for a Certificate of Public Convenience and Necessity for the operation of a non-emergency ambulance service within the City of Lufkin.

City Manager Maclin stated that an application and other supporting documents from Gaddy's Ambulance Service had been included in the Councilmember's packets.

Mrs. Lila Gaddy, Vice President and Secretary of Gaddy's Ambulance Service, stated that she and her husband Joe were requesting approval of an application they submitted for a Certificate of Public Convenience and Necessity for the operation of a non-emergency ambulance service within the City of Lufkin.

City Manager Maclin stated that the applicant is to provide letters or testimony from individuals testifying to the fact that the ambulance service is needed. Mrs. Gaddy stated that she had brought a letter from the VA Clinic stating that they would use Gaddy's service if they were given a Certificate to operate in the City.

In response to question by Councilman Simond, City Manager Maclin stated that when the previous applicant for ambulance service in the City made his presentation, he had in attendance a hospital administrator and a Doctor who could personally testify to the quality of service provided by the ambulance company.

Mrs. Gaddy presented the letter from the VA Clinic and copies were made by the City Secretary and distributed to members of the Council. Mrs. Gaddy stated that she had just had conversations with the hospitals telling her that their services were needed and would be used.

City Manager Maclin stated that it would be beneficial if there was personal testimony from a representative from the medical community who could testify to the need for an additional service in the City.

Councilman Don Boyd stated that the letter from the VA Clinic doesn't say anything, only that there is a need.

John Walger, a staff paramedic for Gaddy's Ambulance Service in Nacogdoches, spoke on behalf of the ambulance service.

John Brian, General Manager of Eastex EMS, stated that many of the comments that have been made in regard to the necessity and need for ambulance service are now currently being met by his service. Mr. Brian stated that these comments were generated from a time when a former ambulance service (LifeLine Ambulance Service) was in existence and was not able to perform to the level that was being requested from the medical community. Mr. Brian stated that at this time his service is working closely with the administrators at each of the hospitals in providing to them the services they are requesting. Mr. Brian stated that his service has been serving Lufkin for the past six weeks. Mr. Brian stated that he was not present to speak against Gaddy's, but would say that perhaps there is not the need that has been presented because of the fact that there is a system here now that is providing the services that are requested.

In response to question by Mayor Bronaugh, Mr. Brian stated that his company purchased LifeLine Ambulance Service, and operates in nine counties throughout Southeast Texas.

Mayor Bronaugh closed Public Hearing.

5. **ORDINANCE - APPROVED - SECOND READING - SPECIAL USE PERMIT - DOG KENNEL - COMMERCIAL ZONING DISTRICT - MARK & JOHN MADDOX - 2506 S. JOHN REDDITT DRIVE**

Mayor Bronaugh stated that the next item for consideration Second Reading of an Ordinance for approval of a Special Use Permit for a Dog Kennel in a Commercial Zoning District located at 2506 S. John Redditt Drive, as requested by Mark and John Maddox.

Motion was made by Councilman Don Boyd and seconded by Councilman Larry Kegler that Ordinance (with the stipulation of the Modified Plan) be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

6. **ORDINANCE - APPROVED - SECOND READING - CITY ELECTION - COUNCILMEMBER POSITIONS - WARD 5 - WARD 6**

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

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

7. **ORDINANCE - APPROVED - SECOND READING - WATER & SEWER RATE INCREASE**

Mayor Bronaugh stated that the next item for consideration was Second and Final

Reading of an Ordinance increasing water and sewer rates to satisfy revenue bond issuance.

Motion was made by Councilman Bob Bowman and seconded by Councilman Larry Kegler that Ordinance be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

8. **ORDINANCE - TABLED - FIRST READING - SPECIAL USE PERMIT - USED CAR SALES LOT - LOCAL BUSINESS ZONING DISTRICT - COY ALLEN/EMMITT TOBIAS - 2507 N. RAGUET**

Mayor Bronaugh stated that the next item for consideration was request of Coy Allen and Emmitt Tobias for approval of a Special Use Permit for Used Car Sales Lot in a Local Business Zoning District located at 2507 N. Raguet.

City Manager Maclin stated that this item was tabled at last meeting because the applicant was not present.

Mr. Tobias stated that he was present to speak on behalf of Mr. Allen. Mr. Tobias stated that he lives at 2507 N. Raguet in a building that has been on the property for many years. Mr. Tobias stated that Mr. Allen is questioning why he would be required to place a sight bearing fence on three sides of the property if the zone change request is granted. Mr. Tobias stated that he and Mr. Allen would not object to having a wooden sight bearing fence across the back of the property. City Manager Maclin stated that the sight bearing fence is a recommendation from the Planning & Zoning Commission. City Planner Stephen Abraham referred the City Council to attachment #2. Mr. Abraham stated that the property line at the bottom of the page abutts a residential zoning district and according to the Zoning Ordinance when a Local Business zoning classification abutts a residential zoning district it requires a 6' sight bearing fence. Mr. Abraham stated that the purpose of rerouting the fence was basically to provide protection to the residential zoning district across the street and also to prevent traffic that might, because of the limited access, overshoot the lot and come down the residential street (the fence will prevent them from reaching this property). Mr. Abraham stated when the remainder of the property is used for any purpose allowed by the Zoning Ordinance under a Local Business, at that point the fence will be extended along the western boundary to provide further buffer.

In response to statement by Councilman Boyd, Mr. Abraham stated that a "green belt" buffer might be an appropriate amendment to the Zoning Ordinance.

Mr. Tobias stated that with a fence on three sides of the property a person could not tell that a used car lot was located on the property until they were past it, unless they placed a sign on the property, and they did not intend to do that. Mr. Tobias stated that he was unable to lease the property because people who inquired about it were not interested when they learned that they had to erect a six foot fence around the property.

Councilman Bowman recommended that Council help Mr. Tobias get into business by sending him back to the Planning & Zoning Director for clarification.

Motion was made by Councilman Bob Bowman and seconded by Councilman Percy Simond that First Reading of Ordinance be tabled so that Mr. Tobias can meet with the City Planner for clarification on the sight bearing fence. A unanimous affirmative vote was recorded.

9. **ORDINANCE - TABLED - FIRST READING - SPECIAL USE PERMIT - STORAGE WAREHOUSE - LOCAL BUSINESS ZONING DISTRICT - LYNN GEORGE - 1015 E. DENMAN**

Mayor Bronaugh stated that the next item for consideration was request of Lynn

George for approval of an Amendment to the Special Use Permit for Storage Warehouse within a Local Business Zoning District located at 1015 E. Denman Avenue.

City Manager Maclin stated that this item was tabled at the Planning & Zoning Commission meeting at the request of the applicant, and it would be appropriate for the City Council to also table this item.

Motion was made by Councilman Bob Bowman and seconded by Councilman Don Boyd that First Reading of Ordinance be tabled. A unanimous affirmative vote was recorded.

10. **RELEASE OF EASEMENT - APPROVED - DARCY FAIRCLOTH, JR. - CROWN COLONY SECTION IX - LOTS 2 AND 3 - BLOCK 1**

Mayor Bronaugh stated that the next item for consideration was request of Darcy Faircloth, Jr. to authorize a release of easement between Lots 2 and 3 of Block 1, Crown Colony, Section IX.

City Manager Maclin stated that documentation from the Planning & Zoning Commission recommending approval of this request had been included in the Councilmember's packets. City Manager Maclin stated that Mr. Faircloth is trying to put two lots into one, and that the utility companies had been contacted and were in agreement.

Motion was made by Councilman Don Boyd and seconded by Councilman Bob Bowman to authorize a release of easement between Lots 2 and 3 of Block 1, Crown Colony, Section IX, as requested by Darcy Faircloth, Jr. A unanimous affirmative vote was recorded.

11. **PUBLIC HEARING - APPROVED - TAX ABATEMENT - LESA WADE - LOTS 7 & 8 - BLOCK 20 - ORIGINAL TOWN OF LUFKIN - 317 AND 321 E. FRANK AVE.**

Mayor Bronaugh stated that the next item for consideration was a request by Lesa Wade to call a Public Hearing to consider Tax Abatement on lots 7 and 8 of Block 20, Original Town of Lufkin, and more commonly known as 317 and 321 E. Frank Avenue.

City Manager Maclin stated that included in the Councilmember's packet is some information including a location map, a Tax Abatement Policy, and a description from the applicant of what their plans are for the facility. Mr. Connors was present to represent the request.

City Manager Maclin stated that staff recommendation is to set a Public Hearing for April 6, 1993 to consider the Tax Abatement at 317 and 321 E. Frank Avenue.

Motion was made by Councilman Bob Bowman and seconded by Councilman Don Boyd that Public Hearing to consider Tax Abatement for Lesa Wade for property located at 317 and 321 E. Frank Avenue be set for April 6, 1993. A unanimous affirmative vote was recorded.

12. **NON-EMERGENCY AMBULANCE SERVICE - DENIED - GADDY'S AMBULANCE SERVICE**

Mayor Bronaugh stated that the next item for consideration was approval of an application from Gaddy's Ambulance Service for a Certificate of Public Convenience and Necessity for the operation of a non-emergency ambulance service within the City of Lufkin.

Motion was made by Councilman Bob Bowman and seconded by Councilman Don Boyd that application from Gaddy's Ambulance Service be denied because a public need has not been shown. A unanimous affirmative vote was recorded.

Mayor Bronaugh stated that Mr. and Mrs. Gaddy can reapply to the Council when they can show public necessity through letters or personal testimony.

13. **REQUEST - TABLED - CORPS OF ENGINEERS - SAM RAYBURN DAM SPILLWAY REPAIRS**

Mayor Bronaugh stated that the next item for consideration was a request from the Corps of Engineers representative regarding the City's participation in construction costs for Sam Rayburn Dam Spillway repairs.

Michael Jordan, Project Manager for the Sam Rayburn Dam Spillway Modification project, was present in representation of the request.

Mr. Jordan stated that the City of Lufkin is under contract with the Corps of Engineers for a water supply contract which will be paid off in the year 2016. Mr. Jordan stated that the Corps of Engineers is proposing to modify the spillway to safeguard it for future spills.

Mr. Jordan gave an overview of the repairs listed under Article I of the Contract, which was included in the packet. Mr. Jordan stated that what precipicated the necessity for the repairs, in addition to last year's flooding, was a flooding situation that occurred in 1981. (Mr. Jordan passed around a photograph of the damage to the spillway that occurred in 1981.) Mr. Jordan stated that he is proposing to replace the existing concrete spillway with a labyrinth weir, which makes the spillway much narrower (it is presently 2,200' wide and the proposal is to make it 650' wide).

Mr. Jordan stated that under the Dam Safety Act of 1986 it prescribed that the cost sharing between Federal and non-Federal interests would be required. (Under this Act the City's pro-rated share would be 15% or cost allocation for water supply.) Mr. Jordan stated that in this case the Contract calls for a 1.689 percent share of the O&M cost for the reservoir. Mr. Jordan stated that the cost to the City will be $114,767, and the total cost of the project will be $45,300,000. Mr. Jordan stated that the Corps of Engineers is looking for the City's voluntary participation in the project. Mr. Jordan stated that the schedule for the project had been accelerated because of its obvious critical nature.

Mr. Jordan stated that the other non-Federal interests are the Lower Neches Valley Authority and the Sam Rayburn Dam Electric Cooperative. Mr. Jordan stated that the total amount of money that is being recovered through the cost sharing program is $1.6 million out of $45.3 million for the total project costs, minus interest during construction. Mr. Jordan stated that at this time interest during construction is estimated at 8 1/4 %, which is set by law.

In response to question by Councilman Simond, Mr. Jordan stated that the City's share of the contribution they have been making since 1965 will be paid off in the year 2017. Mr. Jordan stated that construction on this project will begin in January, 1994, and there is the possibility that the interest rate will change before the project is completed. Mr. Jordan stated that the rate at the time the work is initiated is the rate the City will "lock into" if they choose to finance through the Government.

City Manager Maclin stated that in looking at the Contract (Modification No. 1), Alternative #2, is the most desirable approach, and is financially most acceptable. Mr. Jordan stated that the Corps of Engineers is most negotiable in Alternative #2. City Manager Maclin stated that he would recommend Alternative #2. City Manager Maclin stated that in the blank to be filled in for the date of payment each year, the City would like for that date to be June 1st for budgeting purposes.

City Manager Maclin stated that if the City Attorney has read the Contract and feels comfortable from a legal obligation standpoint, then the Council needs to approve the Contract with Modification No. 1, the Escrow Agreement with the understanding that the City would be exercising Alternative No. 2 for the payment plan, and requesting the Corps of Engineers to notify the City by June 1st of each year the estimated funds required of the City to meet the City's share of the total project cost for the upcoming fiscal year.

Councilman Kegler requested that Council table this item and set a Workshop to give more time for clarification.

Motion was made by Councilman Larry Kegler and seconded by Councilman Percy Simond to table the decision on this item until the April 6th meeting and hold a Workshop for further discussion on March 25th at 5:30 p.m. A unanimous affirmative vote was recorded.

(Refer to tape for further discussion.)

14. **ORDINANCE - APPROVED - FIRST READING - REVENUE BONDS - IMPROVEMENTS & EXTENSIONS - WATER TREATMENT PLANT - SEWER SYSTEM**

Mayor Bronaugh stated that the next item for consideration was First Reading of an Ordinance authorizing the issuance of revenue bonds for improvements and extensions to the City's combined Waterworks and Sewer System.

Motion was made by Councilman Bob Bowman and seconded by Councilman Tucker Weems that Ordinance be approved on First Reading as presented. A unanimous affirmative vote was recorded.

15. **EMERGENCY MANAGEMENT ORDINANCE - APPROVED - FIRST READING**

Mayor Bronaugh stated that the next item for consideration was the adoption of the revised Emergency Management Ordinance.

City Manager Maclin stated that a letter from Assistant City Manager Ron Wesch had been included in the Councilmember's packets relating to the revision of this Ordinance.

Mr. Wesch stated that he would like to recognize Tom Braziel of the Fire Department who was the author of the revised plan. Mr. Wesch stated that there are no significant changes, only those changes that would bring the Ordinance up to 1993 standards.

Motion was made by Councilman Don Boyd and seconded by Councilman Larry Kegler that revised Emergency Management Ordinance be approved on First Reading as presented. A unanimous affirmative vote was recorded.

16. **EMERGENCY MANAGEMENT PLAN - UPDATED**

Mayor Bronaugh stated that the next item for consideration was adoption of an updated Emergency Management Plan for the City of Lufkin.

Mr. Wesch stated that the revision of the Emergency Management Ordinance has also identified the need to update the City's Emergency Management Operations Plan. Included in the updated Plan is legislation on both the State and Federal level. Mr. Wesch stated that the Ordinance is the law, and the Plan has the enforcement powers.

Motion was made by Councilman Larry Kegler and seconded by Councilman Don Boyd that updated Emergency Management Plan be adopted as presented. A unanimous affirmative vote was recorded.

17a. **BID - APPROVED - RESURFACING OF CHAMBERS PARK - TENNIS COURTS - CGI INCORPORATED**

Mayor Bronaugh stated that the next item for consideration was bids for resurfacing of Chambers Park Tennis Courts.

City Manager Maclin stated that staff's recommendation is to award the bid of CGI Incorporated in the amount of $5,949. Funding for the resurfacing is appropriated in the FY '92-'93 budget at $7,000.

Motion was made by Councilman Larry Kegler and seconded by Councilman Tucker Weems that bid of CGI Incorporated in the amount of $5,949 be approved as submitted. A unanimous affirmative vote was recorded.

17b. **BID - APPROVED - FRONT END LOADERS - SOLID WASTE DEPARTMENT - WHITE/GMC TRUCKS OF HOUSTON**

Mayor Bronaugh stated that the next item for consideration was bids for three (3) front end loaders to be used in the Solid Waste Department.

City Manager Maclin stated that the low bid of B & C Body Company of Dallas did not meet the specifications and the staff recommendation is to accept the bid of White/GMC of Dallas in the amount of $281,147. The amount originally budgeted for the purchase of these three (3) vehicles is $285,000.

Motion was made by Councilman Bob Bowman and seconded by Councilman Percy Simond that bid of White/GMC in the amount of $281,147 be accepted as submitted. A unanimous affirmative vote was recorded.

17c. **BID - APPROVED - LITTER & RESTROOM CLEANING - CITY PARKS - WALTER A. SMITH ENTERPRISES**

Mayor Bronaugh stated that the next item for consideration was bids for litter and restroom cleaning in City parks.

City Manager Maclin stated that staff recommendation is to accept the bid of Walter A. Smith Enterprises in the amount of $13,340.

Motion was made by Councilman Bob Bowman and seconded by Councilman Larry Kegler that bid of Walter A. Smith Enterprises in the amount of $13,340 be accepted as submitted. A unanimous affirmative vote was recorded.

18. **EXECUTIVE SESSION**

Mayor Bronaugh recessed regular session at 6:42 p.m. to enter into Executive Session. Regular session reconvened at 7:03 p.m. Mayor Bronaugh stated that the Council had discussed real estate and attorney-client matters. No decisions were made in Executive Session.

19. **COMMENTS**

Councilman Weems stated that the budget report looked good this month.

Councilman Simond requested that a Resolution from the City Council supporting President Clinton's economic plan be placed on the agenda for consideration at the next Council meeting.

City Manager Maclin informed the Council that there would be a DETDA meeting in Livingston on Thursday, March 19th.

Mayor Bronaugh stated that Governor Ann Richards and Senator Bill Haley would be at the Angelina Airport between 12:30 and 1:00 p.m. on Saturday to promote Statewide school elections.

It was decided that the Sam Rayburn Dam Spillway Workshop would be held at 5:30 p.m., Thursday, March 25th, in connection with the revenue bond bids.

20. There being no further business for consideration, meeting adjourned at 7:08 p.m.

Louis A. Bronaugh

Louis A. Bronaugh - Mayor

ATTEST:

Atha Stokes

Atha Stokes - City Secretary