MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 6TH DAY OF SEPTEMBER, 1988, AT 5:00 P.M.

On the 6th day of September, 1988, 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
Brian Boudreaux	Assistant City Manager
Ron Wesch	Public Works Director
Robert Flournoy	City Attorney
Atha Stokes	City Secretary

being present when the following business was transacted.

1. Meeting opened with prayer by Rev. Gary Sills, Minister, Parkview Baptist Church, Lufkin.

2. Mayor Bronaugh welcomed visitors present.

3. APPROVAL OF MINUTES

Minutes of regular meeting of August 16, 1988 and special meeting of August 29, 1988, were approved on a motion by Commissioner Don Boyd and seconded by Commissioner Bob Bowman. A unanimous affirmative vote was recorded.

4. PUBLIC HEARING - PROPOSED TAX RATE

Mayor Bronaugh officially opened Public Hearing on the proposed tax rate.

Mayor Bronaugh recognized the following individuals who spoke against the tax increase: Harry Castleberry, representing the Angelina County Taxpayers Association, Bill Welch, member of the Angelina County Taxpayers Association, and Jack Gartner.

Mr. Castleberry stated that the total tax has now passed 50%; and, that people on fixed incomes are penalized when taxes are raised.

Virginia Allen spoke favorably regarding the tax increase.

Commissioner Bob Bowman stated that the City Commission had conducted a series of Budget Workshops that were attended by a few local citizens. Commissioner Bowman stated that he would have liked more input from citizens.

Mayor Bronaugh closed Public Hearing.

5. SECOND TAX RATE HEARING - DATE SET

Mayor Bronaugh stated that the next item for consideration was setting the date for the second tax rate hearing.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Don Boyd to set Public Hearing for second tax rate hearing for September 20, 1988. A unanimous affirmative vote was recorded.

6. PUBLIC HEARING - PROPOSED CITY BUDGET - FISCAL YEAR 1988-89

Mayor Bronaugh officially opened Public Hearing to consider the proposed City budget for fiscal year 1988-89.

Mayor Bronaugh recognized Scott Foster, former police officer, who read a prepared statement giving reasons for not cutting the Police Department's budget.

Mayor Bronaugh closed Public Hearing.

7. FINALIZATION OF BUDGET - FISCAL YEAR 1988-89

Mayor Bronaugh stated that the City Manager had provided a revised budget, as published in the newspaper, in the Commissioners' packet for consideration.

Commissioner Simond stated that he was opposed to taking $100,000 out of the Insurance Loss Fund.

Commissioner Mayberry stated that a quarterly budget review has merit and should be given consideration by the Commission.

Commissioner Mayberry stated that he was concerned that no provisions had been made in the budget for an on-going program for the Water Distribution System or for street repairs. Mayor Bronaugh stated that these items had been budgeted for the past few years, but were always cut.

Commissioner Mayberry stated that he would also like to see some type of accountability or commitment from the City on departmental level to show that each functioning area is getting maximum potential out of their employees. Commissioner Mayberry stated that he would also like to see a statement with the budget that City employees have an appreciation of the tax payers.

Commissioner Gorden stated that short falls from previous years have been an accumulation of some unusual circumstances, and that he will dedicate himself that next year the City will not have a shortfall but a surplus to do some of the things that have been put off in the past.

City Manager Westerholm stated that the City had been putting too much of the 1/2 cent sales tax into the Insurance Loss Fund, and as a result will not have a deficit this year.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Bob Bowman to comply with the recommendations of State Comptroller Bob Bullock using his percentages for the 1/2¢ sales tax, and place approximately $180,000 into the General Fund. A unanimous affirmative vote was recorded.

Gilbert Spring, addressing the Commission, stated that it was his understanding that all the money collected would be reduced back to ad valorem tax and it appears as though it is double taxation.

City Manager Westerholm stated that from the beginning of 1988 until September 30th the tax could be used for other purposes, but from then on it is to be for ad valorem tax relief.

City Manager Westerholm stated that the new revised budget Contingency Fund is $176,472.63, but $47,500 will be deducted for the contribution to the Transit System.

Motion was made by Commissioner Jack Gorden and seconded by Commissioner Don Boyd to accept the budget for fiscal year 1988-89 as presented. A unanimous affirmative vote was recorded.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Danny Roper to set the date for final adoption of the budget for fiscal year 1988-89, and adoption of the Tax Levying Ordinance and Appropriation Ordinance for September 20, 1988. A unanimous affirmative vote was recorded.

8. ORDINANCE - TABLED - SECOND READING - CABLECOM

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance for Cablecom of Lufkin's permit renewal.

Rev. Brance Moyer, representing the Angelina Ministerial Alliance, stated that he would like for Channel 5 to be included in the basic cable. Rev. Moyer stated that he had met with Wayne Neal Friday afternoon in regard to this request but wanted to go on record that the IBN should be a part of Cablecom. Rev. Moyer presented a Resolution to the City Commission which will be on file in the City Secretary's office.

Mr. Neal stated that he could not make a commitment that Cablecom would add IBN to its cable. Mr. Neal stated that in order to put IBN on the cable he would have to take something off. Commissioner Simond stated that he would like to see the Home Shoppers Program replaced.

In response to question by Commissioner Simond, Mr. Flournoy stated that Cablecom has a six months window to consider the new contract, and they have approximately four more months left on the six months window.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Paul Mayberry that Ordinance be approved on Second Reading as presented.

The following vote was recorded:

Aye - Commissioners Boyd and Mayberry
Nay - Commissioners Simond, Roper, Gorden, Bowman and Mayor Bronaugh

Mayor Bronaugh stated that motion failed by a vote of 5 to 2. Second Reading of Ordinance will be tabled until next meeting.

Rev. Gary Sills stated that the Angelina Ministerial Alliance had presented a petition with 2,600 signatures to Cablecom. Rev. Sills stated that he would suggest that Cablecom use Channel 15 or 18 for the IBN system, or dropping Channel 3 from Jacksonville and replacing it with Channel 5.

9. ORDINANCE - APPROVED - FIRST READING - SANITATION RATES INCREASED

Mayor Bronaugh stated that the next item for consideration was First Reading of Ordinance increasing Sanitation rates.

City Manager Westerholm stated that the Ordinance reflects the 10% increase in sanitation rates as proposed in the budget for 1988-89. City Manager Westerholm stated that the new rates were $6.16 for private residence service and $8.48 for commercial establishments.

Motion was made by Commissioner Percy Simond and seconded by Commissioner Danny Roper that Ordinance be approved on First Reading as presented. A unanimous affirmative vote was recorded.

10. COUNTY AMBULANCE CALLS - ADJUSTED RATES - TABLED

Mayor Bronaugh stated that the next item for consideration was establishing adjusted rates for County ambulance calls.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Percy Simond that this item be tabled until next meeting of the City Commission. A unanimous affirmative vote was recorded.

11. APPEAL - DENIED - BUEL PURYEAR

Mayor Bronaugh stated that the next item for consideration was an appeal from fireman Buel Puryear to extend his benefits.

Julie Owens, attorney, stated that the City has supplemented Mr. Puryear's salary for a period of one year and terminated benefits at the end of one year. Ms. Owens stated that Mr. Puryear is presently under the treatment of a physician for his on-the-job injury. Ms. Owens stated that Mr. Puryear has appealed the City's decision to the Civil Service Commission and they requested that the matter be deferred to the City Commission. Ms. Owens stated that a suit has been filed in District Court against the City of Lufkin and the Civil Service Commission. Ms. Owens stated that, in her opinion, the City misused it's authority by failing to extend the benefits beyond one year.

City Attorney Bob Flournoy stated that if the City Commission decision is adverse to the request then the Civil Service Commission would have to reconsider the request within ten days and make a written opinion.

Commissioner Simond stated that, in his opinion, Mr. Puryear should be taken care of and he would suggest extending his benefits for a period of six to nine months.

In response to question by Commissioner Mayberry, Mr. Flournoy stated that Section 143 of the Local Government Code is basically in conflict with what the Firemen's Relief and Retirement Pension Fund Plan calls for. Mr. Flournoy stated that Civil Service law basically says that a person who is injured on the job can not rely on his sick leave benefits and that Worker's Compensation benefits are contemplated; sick leave benefits are not available to him. Mr. Flournoy stated that Mr. Puryear was given the option of taking permanent disability full retirement and 90 days sick leave. Mr. Puryear does not want to retire because he wants to come back to work. Mr. Puryear attempted to take temporary disability but because he is over 50 years of age and has over 20 years of service it presents a conflict. He is not entitled to temporary benefits because he is eligible for permanent retirement. Mr. Puryear could take permanent retirement and continue to draw Worker's Compensation. If Mr. Puryear takes permanent retirement he would not have the right to come back to work.

Commissioner Danny Roper stated that, in his opinion, what the City has provided thus far is justified. Commissioner Roper stated that Worker's Compensation coverage is purchased by the City and meets the City's obligation.

City Attorney Flournoy stated that four months ago the City Commission made the decision that the City was not to extend benefits beyond 60 days.

City Attorney Flournoy stated that the Firemen's Relief and Retirement Fund Board may want to get outside counsel to represent them.

Motion was made by Commissioner Percy Simond and seconded by Commissioner Don Boyd to extend benefits to Captain Buel Puryear for a period of eight months.

The following vote was recorded:

Aye - Commissioners Don Boyd and Percy Simond
Nay - Commissioners Paul Mayberry, Danny Roper, Jack Gorden, Bob Bowman, and Mayor Bronaugh

Mayor Bronaugh stated that motion failed.

Motion was made by Commissioner Danny Roper and seconded by Commissioner Jack Gorden that benefits for Captain Buel Puryear not be extended beyond one year.

The following vote was recorded:

Aye - Commissioners Roper, Gorden, Bowman, Mayberry and Mayor Bronaugh
Nay - Commissioners Simond and Boyd

Mayor Bronaugh stated that motion carried by vote of 5 to 2.

City Attorney Flournoy stated that the Firemen's Pension Fund Board has scheduled a meeting for Friday, September 9th at 11 AM to consider hiring outside counsel for determination of retirement for age versus retirement for disability.

12. INVOICE - APPROVED - MONCON - WASTEWATER TREATMENT PLANT

Mayor Bronaugh stated that the next item for consideration was invoice from Moncon for extra work at the Wastewater Treatment Plant, and that the invoice from McWilliams and Sons would not be considered at this time.

Motion was made by Commissioner Percy Simond and seconded by Commissioner Don Boyd that invoice from Moncon in the amount of $4,100 be approved as presented. A unanimous affirmative vote was recorded.

13. BID - APPROVED - TRACTOR AND BUSHHOG - SEWER TREATMENT PLANT - W. A. DUBOSE AND SON

Mayor Bronaugh stated that the next item for consideration was bids for a tractor and bushhog to be used at the Sewer Treatment Plant.

Bobby Mott, plant superintendent, stated that he had recommended the bid of W. A. DuBose and Son in the amount of $11,460 over the lower bid of Fish and Still in Nacogdoches because transportation cost on warranty work and service would probably save the difference in the two low bids ($119) during the first year.

In response to question by Commissioner Paul Mayberry, Mr. Mott stated that roll bars and seat belts were included in the standard package for these items.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Bob Bowman that bid of W. A. DuBose and Son in the amount of $11,460 be accepted as presented. A unanimous affirmative vote was recorded.

14. SIGN ORDINANCE - DISCUSSED

Mayor Bronaugh stated that the next item for consideration was a request from the Planning and Zoning Commission concerning a Sign Ordinance.

Jim Partridge, Chairman of the Planning and Zoning Commission, stated that a citizens committee working on the Comprehensive Master Plan had suggested a Sign Ordinance and a Landscape Ordinance for the City of

Lufkin. Mr. Partridge stated that a sub-committee composed of Planning and Zoning Commissioners Robin Mercer(Chairperson), Dr. Ned Barrett, Jr., and Robert McGee had worked up a draft of a proposed Sign Ordinance and had submitted it to a citizens group of 15 members. Mr. Partridge stated that local businessmen had attended the meeting in protest of the Ordinance and he was before the City Commissioner tonight to see if they thought the City of Lufkin needed a Sign Ordinance.

In response to question by Commissioner Boyd, Mr. Partridge stated that all existing signs would be "grandfathered".

City Attorney Bob Flournoy stated that because of the difficulty in interpreting the present Ordinance, the Planning and Zoning Commission had taken on this monumental task, which was not popular with a lot of people. Mr. Flournoy stated that the City Commission has the final decision as to whether the Ordinance will be rewritten.

Appearing in opposition of the Sign Ordinance were:

Jack Gartner, George Moore, Gene Nerren, Ben Hollis, Murphy George and Harry Castleberry

In response to opposition, Robin Mercer stated that the Sign Ordinance was in a preliminary stage and members of various civic organizations throughout the City (all Chamber of Commerce members) had been invited to join the sub-committee for citizen input.

Mr. Partridge stated that from listening to the opposition voiced at this meeting, the Planning and Zoning Commission would not pursue the Sign Ordinance.

15. EXCHANGE OF SURPLUS EQUIPMENT

Mayor Bronaugh stated that the next item for consideration was exchange of surplus equipment for a used bulldozer.

Public Works Director Ron Wesch stated that the City owns a 1973 Warner-Swasey grade-all machine and a 1974 Gallion motor grader that he is recommending trading to Oscar Crawford of Crawford Construction Company for a 1975 Case 450 dozer. Mr. Wesch stated that he had submitted an independent appraisal of the two pieces of equipment with his letter to the City Manager.

Motion was made by Commissioner Percy Simond and seconded by Commissioner Don Boyd that exchange of equipment (1973 Warner-Swasey grade-all machine and 1974 Gallion motor grader for a 1975 Case 450 dozer) be approved as presented. A unanimous affirmative vote was recorded.

16. EXECUTIVE SESSION - TABLED

It was the general consensus of opinion that because of the lateness of the hour the Executive Session be tabled until next meeting.

17. SIGN ORDINANCE - RAILROAD CROSSINGS - HANDICAPPED PARKING

Commissioner Jack Gorden stated that he did not feel good about not going ahead with the Sign Ordinance because a lot of hard work had gone into it.

In response to question by Commissioner Don Boyd, Public Works Director Ron Wesch stated that he would stay in touch with railroad personnel until they have completed removing the railroad crossings at various locations in the City.

In response to question by Commissioner Percy Simond, Mayor Bronaugh stated that tomorrow at 10 AM there will be a first meeting of a committee for the handicapped and they will be considering checking on handicapped parking and reporting to Chief Collins regarding violators.

18. There being no further business for consideration, meeting adjourned at 8:45 P.M.

Louis A. Bronaugh

Louis A. Bronaugh, Mayor

ATTEST:

Atha Stokes

Atha Stokes, City Secretary