MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 1ST DAY OF AUGUST, 1995 AT 5:00 P. M.

On the 1st day of August, 1995 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:

Louis Bronaugh	Mayor
Don Boyd	Mayor pro tem
Percy Simond, Jr.	Councilmember, Ward No. 1
Betty Jones	Councilmember, Ward No. 3
Bob Bowman	Councilmember, Ward No. 4
Jack Gorden, Jr.	Councilmember, Ward No. 5
C. G. Maclin	City Manager
Ron Wesch	Asst. City Manager/Public Works
Darryl Mayfield	Asst. City Manager/Finance
Stephen Abraham	City Planner
Bob Flournoy	City Attorney
Atha Stokes	City Secretary

being present, and

Tucker Weems	Councilmember, Ward No. 6

being absent when the following business was transacted.

1. Meeting was opened with prayer by Rev. Bettye Kennedy, Minister, Collins Chapel CME Church.

2. Mayor Bronaugh welcomed visitors present. Members of the Lufkin Service League present were: Kim Brazil, Amy Corley, Catherine Roberts, Janet Moss, and Alane Simmons. Kyle Swearingen and Kevin Williams of Boy Scout Troop 136, sponsored by the Lufkin Evening Lions Club, were present for their Citizenship in the Community Badge.

3. **APPROVAL OF MINUTES**

Motion was made by Councilmember Don Boyd and seconded by Councilmember Betty Jones that the minutes of the Regular Meeting of July 18, 1995 be approved as presented. A unanimous affirmative vote was recorded.

4. **PUBLIC HEARING - ANNEXATION - SPENCE STREET - LOOP 287 - PLANNING DEPARTMENT**

Mayor Bronaugh opened Public Hearing to consider annexation of approximately 90.029 acres of land located on the west side of Spence Street and just north of Loop 287 as requested by the Planning Department.

City Manager Maclin requested that City Planner Stephen Abraham come forward and provide a map and give Council an overview on the two areas to be annexed, and to speak generically about the process for both of these tracts in terms of the scheduled annexation and various aspects related to the annexation.

Mr. Abraham stated that this is the first of two Public Hearings, which is the initial process in annexation proceedings, and is designed for public input and the purpose for the two Public Hearings is to allow for people who are unable to make the first Public hearing to come and make their views made on the second Hearing. Mr. Abraham stated that the annexation of 90 acres on Spence Street was first brought to the Council on December 21, 1993, and was tabled at that time and staff was directed to bring the annexation back for consideration in 1995. Mr. Abraham stated that

that request was initiated for the purpose of providing sanitary sewer service to the RPS facility that was locating in the Industrial Foundation property. Mr. Abraham stated that that an agreement was reached in order not to slow RPS down that the City would allow them to hook onto the sanitary sewer with the understanding that the property would be annexed. Mr. Abraham stated that some issues came up and at that time the City Administration and the City Council felt that the right thing to do would be to put off the annexation until this time.

Mr. Abraham stated that no further capital improvements are anticipated for the Spence Street area, since they have full City services at the property line. Mr. Abraham stated that immediately upon annexation the City must continue the maintenance of existing water and wastewater facilities; within 10 days of the annexation Police and Fire protection and emergency medical services must be provided; within 60 days Solid Waste collection and disposal, maintenance of streets and drainage, street lighting, maintenance of any parks and recreation facilities, or other services such as Planning, Code Enforcement, and Animal Control must be provided. Mr. Abraham stated that within two years the City must begin construction of needed water, sewer, street, and drainage facilities, and all of these capital improvements must be completed within four and one-half years.

There was no one present to speak for or against this annexation.

Mayor Bronaugh closed Public Hearing.

5. **PUBLIC HEARING - ANNEXATION - FM 324 - SOUTHERN PACIFIC RAILROAD RIGHT-OF-WAY - LOOP 287 - DANIEL MC CALL DRIVE - U. S. 59 - PLANNING DEPARTMENT**

Mayor Bronaugh opened Public Hearing to consider annexation of approximately 703 acres of land generally situated east of FM 324 and the Southern Pacific Railroad right-of-way, south of Loop 287, north of Daniel McCall and west of U. S. 59 as requested by the Planning Department.

City Planner Stephen Abraham stated that a map of the proposed annexation area had been mailed to residents within the proposed area. Mr. Abraham stated that this annexation is precipitated by the need of not only existing facilities in the area, which include the Red Barn, the Industrial Park, the City's Recycling Center, and a new business in the Industrial Park, and the need for sanitary sewer service, but also propsective businesses. Mr. Abraham stated that it is the City's policy not to provide sewer service outside the City limits. Mr. Abraham stated that knowing the areas that have immediate needs, and those which have been discussed with the Planning Department, both on the north end of the proposed annexation area and on the south end of the annexation, it became very difficult to find any other course of action to annex this area other than what we have. Mr. Abraham stated the City would be prohibited from totally surrounding a land area without taking them in. When there is pressure both at the top where there is an existing City limit line along Loop 287 and then the existing City limit line along Daniel McCall Drive, Mr. Abraham stated that it would be difficult to do anything other than to take this whole area in to serve the Industrial Park.

Mr. Abraham stated that the Service Plan is the same as it is on the previous proposed annexation.

Mayor Bronaugh invited participation from the audience.

Linda Smelley, of Buckner Children and Family Services in Lufkin, gave a brief history of the organization. Mrs. Smelley stated that last year Bucker Services began networking with Angelina College, and at the same time Angelina College was networking with the Women's Shelter. Mrs. Smelley stated that between these organizations a plan was developed to have 20 to 40 houses for women with children, and their husbands, (if they have a husband), to live in the facility. There would be a daycare on-site for their children. The Administration offices would house the Women's Shelter, one-stop shopping for WIC, MHMR, DHS, Adult Probation and Goodwill, to do some counseling, nuturing and parenting with these women. Mrs. Smelley stated that the women would attend Angelina College and get a Certificate or an Associates Degree, and upon leaving they would make much more than minimum wage and get off the welfare rolls. The maximum time the women could stay in the facility is two years. Mrs. Smelley stated that the College would use the daycare as a lab school for their students, working in conjunction with Dr. Phillips at the College and the Women's Shelter.

Mrs. Smelley stated that in the proposed annexation area there is a piece of property that they would like to see annexed so that they could receive City services, mainly sewer to their facility, as soon as possible. Dr. Phillips of Angelina College, and Randy Daniels, the Administrator for the Buckner facility, were present in the audience.

Mrs. Smelley stated that this property is directly across from the ballpark at Angelina College, near College Drive and Daniel McCall (the Riley Hughes property).

Weldon Hardy stated that he had owned his property in the proposed annexation area for 20 years and had done quite well without City services. Mr. Hardy stated that it would be a long, drawn out and expensive proposition for him to take advantage of City services. Mr. Hardy stated that for that reason he would like for his property to be exempted from the annexation process and he be allowed to maintain his residence outside the City limits. Mr. Hardy stated that his property is directly south of the Red Barn Foundation, between the Red Barn and the Industrial Foundation property. Mr. Hardy stated that he owned 37 acres, and specifically the property he wanted exempted if possible would be his house and the survey it sits on and faces or borders the railroad right-of-way on the west side of the proposed annexation.

Mr. Hardy stated that he had visited with Mr. Abraham and was informed that there is a provision that when property is annexed there must be a 1,000 ft., and it appears that the City could maintain 1,000 ft. and leave out approximately 14 acres of his property.

Mrs. Thatcherette McDaniel of Longview, and a former resident of Lufkin, stated that included in the proposed annexation area is the J. F. Lake property where she grew up. Mrs. McDaniel stated that she would support the City Council in its annexation process provided that her property be zoned Commercial. Mrs. McDaniel stated that at this time the only value of the property is its pretty trees. Mrs. McDaniel stated that for future development of the property basically a Commercial zoning is the only zoning that would be of benefit to her. City Manager Maclin stated that a meeting will be held at the Red Barn on August 7th for the purpose of allowing specific input by each property owner as to their desire for zoning classifications. A notice has been mailed to all property owners in the area.

In response to question by Mrs. McDaniel, City Manager Maclin stated that after the Planning & Zoning Commission finishes making recommendations on the zoning, there will be an Ordinance for Council to consider at the September 19th meeting, and at the meeting on the first Tuesday in October, and technically then the annexation process will be complete by November. City Manager Maclin stated that Mrs. McDaniels will know by the end of the two City Council meetings what the recommended zoning classification is.

Mayor Bronaugh closed Public Hearing.

6. **ORDINANCE - APPROVED - SECOND READING - ZONE CHANGE - LUFKIN AVENUE - LEWIS HOLLOWAY SURVEY - RESIDENTIAL LARGE TO COMMERCIAL - WALTER BORGFELD - R. H. DUNCAN**

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance to change the zoning on approximately 28.83 acres of land on Lufkin Avenue and known as Tracts 33 and 34 out of the Lewis Holloway Survey (Abstract No. 310) from a Residential Large zoning district to a Commercial zoning district as requested by Walter Borgfeld, on behalf of R. H. Duncan.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Jack Gorden, Jr. that Ordinance to change the zoning on approximately 28.83 acres of land on Lufkin Avenue from a Residential Large zoning district to a Commercial zoning district as requested by Walter Borgfeld on behalf of R. H. Duncan be approved as presented. The following vote was recorded:

Aye: Councilmembers Bowman, Gorden, Jones, Simond and Mayor Bronaugh
Nay: Councilmember Boyd

Motion carried by a vote of 5 to 1.

7. **ORDINANCE - APPROVED - SECOND READING - AMENDMENT TO ORDINANCE NO. 2876 - SPECIAL USE PERMIT - 112 SOUTH FIRST STREET - PRIVATE CLUB - JERRY AND CAROL MOORE**

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance to approve an entrance from First Street to the private club located at 112 South First Street by amending Ordinance No. 2876, which granted a Special Use Permit for a Private Club with a prohibition against an entrance from First Street as requested by Jerry and Carol Moore.

City Manager Maclin stated that as a review from last meeting, Council did provide some stipulations that they requested for this item, and the City Attorney and City Planner met to try to most closely address those stipulations in a legal manner.

City Planner Abraham stated that he had listened to the minutes of the last meeting very closely in an attempt to understand the essence of what the Council was trying to do and put it in a manner that would accomplish what Council was trying to do. Mr. Abraham stated that the motion came down to tying the request to the owner or the tenant. Mr. Abraham stated that for the reasons outlined in the memorandum, it could have unintended consequences. For instance, if it was attached to the owner and he had a lease purchase with a tenant so that after five years the tenant actually owned the building, the City Council would be hearing this same discussion even though nothing had changed. Mr. Abraham stated that at this point the tenant has not been identified, and he did not believe that it was the intent of the City Council to amend the Special Use Permit if the restaurant changed from an Italian restaurant to a steak restaurant. Mr. Abraham stated that he believed they were trying to make sure it was first and foremost a restaurant. Mr. Abraham stated that rather than tying the Special Use Permit just to the tenant or the owner, he is recommending the following condition be placed on the Special Use Permit: "This Special Use Permit is for the sale of alcoholic beverages only in conjunction with a full service restaurant facility. It shall not be construed as allowing the structure to be used in a manner which constitutes a night club, tavern, a lounge a dance hall or commercial amusement establishment. If the owner or operator change the character or the use of the building from a full service restaurant to a night club, tavern, lounge, dance hall of commercial amusement establishment, this Special Use Permit shall automatically be null and void." Mr. Abraham stated that it is his belief that this arrangement is getting away from specific people and getting to the characteristics of the restaurant and that seemed to be what the focus was - not so much who the person is, but how the restaurant is operated.

Councilmember Jones stated that it seems that Mr. Abraham has summed up what had been discussed at the last meeting and that was keeping a watchful eye on the operation of the restaurant so that it is only a restaurant.

In response to question by Mayor Bronaugh asking if the entrance on Cotton Square ever became the main entrance would this request revert back to what it was before this Amendment, Mr. Abraham stated that this Amendment takes away the Amendment which included the third level of the building. Mr. Abraham stated that the zoning for this property is Central Business regardless of where the entrance is located. Mr. Abraham stated that if any subsequent owner tries to make the facility into a club, then the entrance reverts back to Cotton Square.

Councilmember Gorden stated that he would like to see the Amendment worded in such a way that the building could not revert back to a club.

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember Bob Bowman that Ordinance amending Ordinance No. 2876 as requested by Jerry and Carol Moore for property located at 112 South First Street be approved on Second and Final Reading as presented.

The following vote was recorded:

Aye: Councilmembers Gorden, Bowman, Jones, Simond and Mayor Bronaugh
Nay: Councilmember Boyd

Motion carried by a vote of 5 to 1.

8. <u>BID - APPROVED - STORM DRAIN PIPE - STREET DEPARTMENT - INTERNATIONAL SUPPLY OF LUFKIN</u>

Mayor Bronaugh stated that the next item for consideration was bids for storm drain pipe for the Street Department.

City Manager Maclin stated that five bids had been received for some plastic storm drain pipe which will be part of some drainage improvement projects primarily for the Englewood Subdivision area. City Manager Maclin stated that the low bid is from Coburn Supply in the amount of $25,079 but does not, in staff's opinion, meet the bid specifications in that it does not have bands, but uses a ball and spigot joint. City Manager Maclin stated that staff asked the City's engineers to review this pipe and give an opinion as to whether or not this pipe would be deemed an equal or equivalent to the pipe that was specified. City Manager Maclin stated that on the Council table is a letter from Goodwin-Lasiter, engineer of record for the drainage project, stating that he does not feel like the pipe will meet the specifications. City Manager Maclin stated that the problem with the ADS pipe is that it is relatively new, and staff could not find any projects that had used this new style of connection pipe that was older than a year or a year and a half, because its only been on the market that long. City Manager Maclin stated that Mr. Goodwin stated in his letter he did not feel that there was adequate time of utilization of this new connecting joint for the City to take the risk of using it and having it come undone underneath the street and having to tear out the street to repair the pipe.

City Manager Maclin stated that staff is recommending the next bid which is from International Supply of Lufkin in the amount of $25,757.20.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Jack Gorden, Jr. to award the low bid of International Supply of Lufkin in the amount of $25,575.20. A unanimous affirmative vote was recorded.

9. <u>COMMENTS</u>

Councilmember Boyd stated that he hoped that the Council was satisfied with the

Zone Change for the Special Use Permit. Councilmember Boyd stated that he did not think any of the Council would like to have a place like this across from their church.

Councilmember Simond asked how much individual insurance coverage did the City have for Councilmembers. City Manager Maclin stated that the City has a $1 million individual per occurrence and a $3 million umbrella. Councilmember Simond stated that he and Councilmember Jones had attended a meeting at the TML Conference in Austin regarding Councilmembers being sued.

Councilmember Simond asked if there was an approved Chase Policy by the Police Department. City Manager Maclin stated that as a result of the ruling in the Mesquite case the City had made some significant modifications in our policy that would limit liability and reduce the liability of the City. Chief Collins stated that staff had consulted with the TML attorneys when the modifications to the Policy were made. City Manager Maclin stated that TML had approved the City's policy as an acceptable policy under current law. Mr. Flournoy stated that any policy that is adopted by the Council has an effect.

Councilmember Simond stated that he had received complaints about the excessive cost for a house moving permit. Councilmember Simond asked that staff check with other cities for a comparison of their fees. City Manager Maclin stated that the staff did address this two years ago and at that time, what prompted the Council to increase the fees was the cost that the City had for out-of-pocket expenses which was greater than the cost of the fee.

City Manager Maclin reminded Council of the First Friday luncheon where Tommy Thompson of Loral Vought will be the speaker.

City Manager Maclin stated that next Wednesday, August 9th at 10:00 a.m. there will be a Called Meeting to present a budget draft to Council for consideration.

10. There being no further business for consideration, meeting adjourned at 5:50 p.m.

Louis A. Bronaugh

Louis A. Bronaugh - Mayor

ATTEST:

Atha Stokes

Atha Stokes - City Secretary