

**MINUTES OF REGULAR MEETING OF THE CITY COMMISSION
OF THE CITY OF LUFKIN, TEXAS, HELD ON THE
3RD DAY OF MARCH, 1992 AT 5:00 P.M.**

On the 3rd day of March, 1992, 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

being present when the following business was transacted.

1. Meeting was opened with prayer by City Manager C. G. Maclin.

2. Mayor Bronaugh welcomed visitors present.

3. **APPROVAL OF MINUTES**

Minutes of Regular Meeting of February 17, 1992 were approved on a motion by Commissioner Don Boyd and seconded by Commissioner Bob Bowman. A unanimous affirmative vote was recorded.

4. **REDISTRICTING SUBCOMMITTEE REPORT - DATE SET FOR PUBLIC HEARING ON REDISTRICTING PLAN**

Mayor Bronaugh stated that the first item for consideration was a report from the redistricting subcommittee, and setting date for a Public Hearing on the redistricting plan.

City Manager Maclin stated that the Redistricting Subcommittee had met with the consultants to review some proposed corrections or amendments to the originally submitted Redistricting Plan. The Manager stated that the Subcommittee was unanimous in accepting the presentation, and the redistricting map and geographic delineations for the six districts. The Manager stated that the Subcommittee was basically coming today making a unanimous recommendation to the City Commission to consider the amended proposed plan.

The Manager stated that Dr. Hallman and Dr. Claunch were present to review the map and answer any questions of the City Commission as a whole. The Manager stated that after the City Commission feels comfortable with the Plan as submitted at this point, the next process would be to establish dates for a Public Hearing, advertise for that Public Hearing, and allow public comments to the proposed Plan. The Manager stated that upon completion of the Public Hearing, and any changes made as a result of the Public Hearing, then the City Commission would need to make a formal vote at that time on acceptance of the Plan and request that the consultants submit it to the Justice Department for confirmation.

Dr. Hallman stated that the revisions were relatively minor; one revision was on the east side of the City for the specific location of Commissioner Roper's residence. Dr. Hallman stated that he was the only Commissioner that ended up not being in his district, and in order to make that adjustment of some 76 people, another adjustment was made to return the boundary between precinct 1 and 2, moving it from the proposed Wilson Drive boundary back to the current boundary of North Street. Dr. Hallman stated that both adjustments have been made in the re-submission and the

Plan as amended still meets all the criteria of the Department of Justice, and still meets the test for dilution of minorities, which means that it does not dilute minorities and it is within the compliance or variance range.

In response to question by Mayor Bronaugh, Dr. Hallman stated that District 1 has a black majority of 56.7% and District 2 has a black majority of 57.6%, so that these two Districts remain as minority majorities. Dr. Hallman stated that the total variance on the amended plan is 7.1, which is well below the 10 maximum.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Don Boyd that a Public Hearing be set for March 17, 1992 at 6:00 P.M. in the City Hall Council Chambers to discuss the Redistricting Plan for the City of Lufkin with a motion in Open Meeting to vote on acceptance of the Redistricting Plan. A unanimous affirmative vote was recorded.

5. ORDINANCE - APPROVED - SECOND READING - SPECIAL USE PERMIT - PRIVATE CLUB - DON PROFFITT - 112 S. FIRST STREET-CENTRAL BUSINESS ZONING DISTRICT

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance as requested by Don Proffitt, on behalf of Jerry Moore, for approval of a Special Use Permit for a Private Club at 112 S. First Street and within a Central Business Zoning District.

Mayor Bronaugh stated that a sign-in sheet had been provided for anyone interested in speaking in regard to this request.

Mayor Bronaugh stated that at the First Reading of this Ordinance several individuals spoke for or against the request for the Private Club, and two individuals had signed up to speak at this Second Reading. Mayor Bronaugh stated that he would like to limit their presentations to three minutes each with a rebuttal.

Josephine Hughes-Mitchell stated that she was present on behalf of New Day Deliverance Church and the other church in downtown Lufkin. Pastor Hughes-Mitchell stated that there were rumors that regular services were not conducted at her church, but she wanted to state for the record that they did have regular services and were currently in revival services. Pastor Hughes-Mitchell stated that, in her opinion, she has been done an injustice in the community as a church, and she was present to stand up for her beliefs. Pastor Hughes-Mitchell stated that it was her desire to see a Christian community and she felt that the Private Club was an injustice downtown because of the alcohol. Pastor Hughes-Mitchell stated that she felt that the law had been circumvented and the spirit of the law has been changed. Pastor Hughes-Mitchell stated that it was never meant for a church and a club to be in the same area and she would like the City Commission to reconsider their vote.

John Fleming, attorney, stated that he would like to again remind the City Commission that this is a zoning case and that under the State Zoning Enabling Act any amendments to the Zoning Ordinance must be conducted in connection with the Comprehensive Plan. Mr. Fleming stated that the State Zoning Enabling Act further provides that each building within a particular district must be treated uniformly. Mr. Fleming stated that Lufkin's Comprehensive Plan contemplates that the Central Business Downtown District will include retail goods and personal services, with the personal services including for the providing of food and entertainment, therefore, this proposition fits and is consistent with this City's Comprehensive Plan for zoning. Mr. Fleming stated that the State Zoning Enabling Act provides that the Commission must act uniformly and a review of the history of downtown will reveal that the Central Business District has previously had private clubs. Mr. Fleming stated that the Lufkin Club and the Rex Club, which were both food and restaurant oriented, were located in the Angelina Hotel just one block from where this present request is being made. Mr. Fleming stated that the present site meets all the distance requirements under State law for distances from churches, and he was asking the Commission to vote on the

basis of what the legal requirements are and he was not asking for a decision for or against alcohol. Mr. Fleming stated that the choice is whether or not this request is consistent with the Comprehensive Plan for zoning.

Commissioner Boyd stated that there is also a State law which prohibits having a club within 300' of a church, and Mr. Fleming did not mention that.

Mr. Fleming stated that that is correct, but the State law also states how that distance is to be measured and the State's way of measuring that distance is such that the location of this facility meets State law requirement. Mr. Fleming stated that he would also make a statement that other cities have attempted to measure the distance from door-to-door in a direct "as the crow flies" standard. Mr. Fleming stated that the case of the City of Wichita Falls vs Able decreed that in deciding these issues the City must look to the State Alcoholic Beverage Commission regulations for determining how that distance is measured. Mr. Fleming stated that what his client proposes to do meets the State law requirements for Private Clubs. Mr. Fleming stated that he would not be presenting this request to the City Commission if he did not feel that it was legal and proper for the City of Lufkin.

Motion was made by Commissioner Danny Roper and seconded by Commissioner Paul Mayberry that Ordinance be approved on Second and Final Reading.

The following vote was recorded:

Aye: Commissioners Roper, Mayberry, Bowman, Simond, Gorden, and Mayor Bronaugh

Nay: Commissioner Boyd

The motion carried by a vote of 6 to 1.

Mayor Bronaugh stated that the City Commission has made a decision here to approve a zoning ordinance and that is all. Mayor Bronaugh stated that it is important that whenever the City Commission makes any decision of this nature that it is in the best interest of the City of Lufkin.

6. ORDINANCE - APPROVED - SECOND READING - ZONE CHANGE - BROOKSHIRE BROS. (JIM ARNOLD) - RESIDENTIAL MEDIUM TO LOCAL BUSINESS - TRACTS 13-16 OF J. L. QUINALTY SURVEY

Mayor Bronaugh stated that the next item for consideration was First Reading of an Ordinance as requested by Jim Arnold, on behalf of Brookshire Brothers, for approval of a zoning change from Residential Medium to Local Business on the most western seventy-five feet of Tracts 13, 14, 15 and 16 of the J. L. Quinalty Survey.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Percy Simond that Ordinance be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

7. ORDINANCE - APPROVED - SECOND READING - AMENDMENT TO ZONING ORDINANCE - LOCATION OF MOBILE HOMES - REPEALING ORDINANCE NO. 1580

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance for an amendment to the Zoning Ordinance of the City of Lufkin, Texas with regard to the location of mobile homes by repealing Ordinance No. 1580.

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

8. ORDINANCE - APPROVED - SECOND READING - CITY ELECTION

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

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

9. **ORDINANCE - APPROVED - SECOND READING - DANGEROUS DOGS**

Mayor Bronaugh stated that the next item for consideration was Second Reading of the Dangerous Dog Ordinance.

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

10. **ORDINANCE - APPROVED - FIRST READING - REPEALING ORDINANCE NO. 216 - REGULATING SPEED OF ENGINES, LOCOMOTIVES, AND RAILWAY TRAINS WITHIN THE CITY LIMITS**

Mayor Bronaugh stated that the next item for consideration was First Reading of an Ordinance tabled at the February 18th meeting repealing Ordinance No. 216 regulating the speed of engines, locomotives, and railway trains within the City limits of the City of Lufkin.

Chief Collins stated that at the request of the Commission at last meeting, he had monitored the speed of trains passing through Lufkin for the past two weeks and was able to "clock" nine trains in that period of time. (Chief Collins handed out a survey with this information.) Chief Collins stated that he had shown the individual speeds on his handout, but had also averaged the speeds of the nine trains and the average was 23.1111 miles per hour.

In response to question by Commissioner Bowman, the Manager stated that there is a Federal Railroad Regulation Agency, according to the attorney for Southern Pacific, and the speed limits are set based on the class of track. The Manager stated that there are five classes of track, and a "class of track" means how good a quality the track is and what would be the safest maximum speeds that you could run on that class of track. The Manager stated that in order to answer Commissioner Bowman's question you would have to know what the five classes are, then what the speed limits are for each class, and then you would have to know what the class is for each section of track in the City limits to find out the speed for that class of track. The Manager stated that generally the newer the track is, or the more recently it has been renovated or repaired, normally the higher the class is going to be. The Manager stated that he had talked with the attorney for Southern Pacific and he gave a little more history behind the repealing of this Ordinance. The Manager stated that SP started at Louisiana and they are working their way west up to Kansas to have all the City Ordinances repealed. The Manager stated that all of the cities in Louisiana have been repealed, several of which were taken to Federal Court. The Manager stated that SP is down to only 12 cities remaining in Texas and Lufkin is one of the 12 to have voluntarily repealed. The Manager stated that he explained to Mr. McCulley, the attorney in Houston, that it would be nice if they had something to offer the City in return, like parking to be regained without a \$2 million liability limit. The Manager stated that Mr. McCulley stated that he would be happy to take this request to SP, however, he was very pessimistic as to any positive response in that the \$2 million umbrella liability policy is something they have stipulated to their lenders that they would include as part of their operating practices to minimize liability on the part of their company. The Manager stated that he did promise to make the request.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner

Jack Gorden that Ordinance repealing Ordinance No. 216 be approved on First Reading. A unanimous affirmative vote was recorded.

City Attorney Flournoy stated that he had also talked with the attorneys, and he has asked them what the class of track is in Lufkin, Texas. Mr. Flournoy stated that the attorneys have indicated that it is probably a class 4 or 5.

11. MEMORANDUM OF AGREEMENT - APPROVED - ANRA - REGIONAL WATER SYSTEM

Mayor Bronaugh stated that the next item for consideration was a Memorandum of Agreement with ANRA relating to the regional water system.

City Manager Maclin stated that last April when the City Commission discussed this project, they set out the parameters whereby the City would be willing to participate in a regional system. City Manager Maclin stated that basically the nucleus of the agreement was that the City would be the regional water supplier and would make enlargements to their water facilities necessary to serve greater than just the citizens of Lufkin, and would take those services to the City limits, at which time ANRA would be commissioned to put together an organization to serve water entities that needed water outside the City limits. City Manager Maclin stated that these entities would agree to bear that portion of the cost related to the excess capacity necessary above and beyond the City of Lufkin's needs. City Manager Maclin stated that a copy of the Memorandum of Agreement from ANRA, setting forth a process whereby the implementation of a regional water plan will be carried out, had been included in the Commissioner's packets.

City Manager Maclin stated that Gary Neighbors, representing ANRA, and Danny Vines representing the Angelina County Regional Water Supply Corporation (ACRWSC), were present at tonight's meeting. City Manager Maclin stated that ACRWSC is an entity currently made up of six separate entities that have met and gone through the necessary legal process to be recognized as an official entity, and have put together the aspects of the plan to meet the needs of their communities, or service their citizens, in their various water supply districts in the future.

City Manager Maclin stated that the City Commission, at this point, is to consider the Memorandum of Agreement between the City of Lufkin and ANRA. City Manager Maclin stated that Section I of the Agreement includes the Organizational Phase, the Pre-Construction Phase, and an anticipated cost for the Pre-Construction Cost (there will also be costs that the six entities of ACRWSC will have to bear beyond these costs).

In response to question by Commissioner Mayberry, City Manager Maclin stated that there were 13 or 14 other entities who asked questions and expressed an interest from an information standpoint, but when it came time for financial commitments and some of the restructuring that was made during the last two years of the development of this process, some entities chose not to participate. City Manager Maclin stated that one entity found another source of water that they felt like would meet their needs in the future. City Manager Maclin stated that when it came time to make a decision on the project, these six entities, through the leadership of Danny Vines, came together in a common agreement and a consensus of opinion that they felt like this was an opportunity to guarantee their water supplies for years to come, and they were able to come to a Memorandum of Agreement amongst themselves as to the decision to positively participate in the program.

In response to question by Commissioner Mayberry as to a closing date for joining this association, City Manager Maclin stated that the discussions that have taken place in the past was that the capacity being designed would have capacity greater than these six entities, and as other entities came to ACRWSC to seek participation, they would then on a case-by-case basis make a determination of whether or not they could participate, and how much volume they would participate at, and what type of financial

costs would be allowed by them not coming in at the ground stage like these six entities who are currently participating. City Manager Maclin stated that the answer to Commissioner Mayberry's question is that the capacity design of the regional system will handle more than just these six entities, and yes, there is the potential for more entities to participate, but that it would be appropriate that they share their fair burden of costs at the time they come in, and for not coming in at the initial stages.

In response to question by Commissioner Mayberry regarding Diboll not participating, City Manager Maclin stated that their non-participation did have a substantial impact on the design and scope of the project because they were the largest single other user. The City Manager stated that they indicated that they had other sources of water that would meet their needs in an equivocal cost manner, so therefore, they chose not to participate.

In response to question by Commissioner Simond as to the prime participants in this project, City Manager Maclin stated that those participating in the project were the Hudson Water Corporation, Burke Water Supply Corporation, Central WCID, City of Zavalla, City of Huntington, and the Angelina Water Supply Corporation.

Danny Vines stated that currently 67% of the rural meters in the County are participating in the Angelina County Water Supply Corporation. Mr. Vines stated that each entity has the right to have one person serve on the Board. Members of the Board are: Danny Vines, President of the Board, (President of the Hudson Water Corporation); Frank Williams, Vice President, (Councilman for the City of Huntington); Secretary John Rhodes of the Central WCID; Member-at-Large is Dorothy Dorsett with Angelina Water Supply Corporation; and, Member-at-Large Vernon Clements with the Burke Water Supply Corporation.

Mr. Vines stated that two of the entities have incorporated some engineers to advise them as to their need to participate in a regional system. Mr. Vines stated that the regional concept as it is proposed allows each entity to meet the needs of their water demand for the next 30 or 40 years at a fraction of the cost of each individuals solution to their own problem.

In response to question by Commissioner Simond, Mr. Vines stated that the original proposal proposed two years ago had a group of approximately 12 different entities including the City of Lufkin, several large industries in the County, individual water supply corporations, and other municipalities. Mr. Vines stated that the only problem with that approach is that your location identified your cost to participate, and it made it non-economic for some of the smaller users. Mr. Vines stated that they then came up with an idea that was truly a regional concept and that was to take a group of rural meters (they were able to assemble the present group which represents 67%). Mr. Vines stated that the Angelina Regional Water Supply Corporation will be funding a substantial portion of the upgrade that the City of Lufkin is needing to do anyway, plus the additional above ground storage capacity to meet the needs of the regional system. Mr. Vines stated that the cost of the Angelina Regional System will be in excess of \$3 million. Mr. Vines stated that the City of Lufkin will not be participating in the Regional Water Supply Corporation, but it will own 100% of the lines, and will operate 100% of the lines in the City limits (the Regional System will fund a large portion of that construction cost).

In response to question by Commissioner Simond, Mr. Vines stated that Gary Neighbors is the individual working with ANRA and has agreed to oversee the pre-construction, the construction, and the funding of this particular project. Mr. Vines stated that the proposal before the Commission was generated by ANRA for the City of Lufkin's review, and ACRWSC has signed a Memorandum of Agreement that is almost identical to this Agreement. Mr. Vines stated that ACRWSC's budget was substantially higher than the City of Lufkin's budget for this project. Mr. Vines stated that the \$15,000 is the cost that ANRA will incur representing the City of Lufkin for the purpose of doing the design work, the creation of the legal documents that will be necessary from a water supply standpoint, and overseeing the pre-construction phase of the

project. Mr. Vines stated that once the pre-construction of the project is done and bonds are issued, the bond money would re-pay this particular cost (\$15,000).

City Manager Maclin stated that the purpose of this Agreement with ANRA is in essence picking up where they (the City and ANRA) left off last April. City Manager Maclin stated that the Commission said last April, "here are the parameters of which the City of Lufkin can feel comfortable in participating in a regional water supply." City Manager Maclin stated that the City is the supplier and provides water to the City limits, and from the City limits ACRWSC through ANRA gets the water to where it needs to go, whether it is Hudson, Burke or Zavalla.

City Manager Maclin stated that tonight the Commission is being asked to approve this format, and the process for implementation of the regional water supply with the City of Lufkin being the supplier and ACRWSC being the receiver of that water. City Manager Maclin stated that \$15,000 has been included as an estimated fee for engineering, legal, and fees to ANRA as the entity that follows through to see that all the details are carried out and all the legal documentation is prepared. City Manager Maclin stated that on page 2 under the Pre-Construction Phase it states: "That before proceeding to construction the City of Lufkin shall approve all the plans, specifications and costs, or shall terminate participation." City Manager Maclin stated that this clause specifies that if a cost comes in above what the engineers estimated, then the City has a way to say that this is not the way we thought it was going to be, and at that time can terminate participation. City Manager Maclin stated that through the City's approval of the Plan, the bonds would be issued and this is in essence the fee required to ANRA.

In response to question by Commissioner Simond, City Manager Maclin stated that the City will reimburse themselves with bond proceeds later on for the \$15,100 pre-construction costs. Wayne Stolz stated that the total cost of the project to the City is between \$2.5 and \$4 million. City Manager Maclin stated that this Board establishes the rules, policies, procedures, and methods that the water gets from the City of Lufkin's city limits to Zavalla, Burke, or one of the other entities. City Manager Maclin stated that, in his opinion, there was no need for the City of Lufkin to be involved in those type of decisions. City Manager Maclin stated that the City has total control over what happens in its own City limits. The ACRWSC is referring to water sold outside the City limits as it is delivered, and it will be their responsibility to get it delivered to those entities and will collect the fees per meter and gallon usage from their meter customers, which will be funneled back through one group--the ACRWSC.

In response to question by Commissioner Simond, City Manager Maclin stated that the City is committing to enlarge the City's water supply as directed by the City Commission in April of last year.

City Manager Maclin stated that the City Commission and staff have been discussing the need for a larger distribution line on the East Loop and an elevated storage tank on the South side of town for approximately five years. City Manager Maclin stated that the only reason the City has not proceeded with plans and construction on these water line improvements is to allow time for regional participation.

City Manager Maclin stated that ACRWSC is saying that they will pay for the difference between just what the City needs and what the region would need, if the City was to meet the needs of these entities. City Manager Maclin stated that the region will pay for the cost above and beyond the estimated \$2.5 or \$3 million that would be the City's cost with or without a regional water plan. City Manager Maclin stated that ACRWSC is saying that they will pay the cost to expand the capacity of that distribution line and elevated storage tank to meet their needs also.

Commissioner Mayberry commended Danny Vines for getting 67% of the meters in the County.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner

Jack Gorden that Memorandum of Agreement with ANRA relating to the regional water system be approved as presented. A unanimous affirmative vote was recorded.

12. ORDINANCE - APPROVED - FIRST READING - OFFICIAL INTENT TO REIMBURSE COSTS TO THE CITY OF LUFKIN, TEXAS

Mayor Bronaugh stated that the next item for consideration was First Reading of an Ordinance expressing official intent to reimburse cost to the City of Lufkin, Texas.

City Manager Maclin stated that Federal statutes require that in order for the City to reimburse itself from bond proceeds after the fact, the City has to pass an Ordinance expressing our official intent to reimburse ourselves. The Manager stated that costs in item #11, which has been previously discussed, and in item #13, could all be reimbursed back to the City once the Bond issue proceeds are received. The Manager stated that in the meantime the City will be using the contingency from the Utility Fund, which is approximately \$1.4 million. The Manager stated that once the bonds are issued, the City can pay itself back.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Jack Gorden that Ordinance expressing official intent to reimburse cost to the City of Lufkin, Texas for improvements to the City's water system be approved on First Reading as presented. A unanimous affirmative vote was recorded.

13. PROPOSAL - APPROVED - ENGINEERING COSTS - EGA - ELEVATED STORAGE TANK

Mayor Bronaugh stated that the next item for consideration was a proposal from EGA for engineering costs associated with a site selection for an elevated storage tank.

In response to question by Mayor Bronaugh as to the selection of the site for the elevated storage tank, Mr. Wesch stated that he and Jimmy Griffith had selected an approximate site, and within the last few weeks the location had been narrowed down to a specific piece of property on White House Drive near the White House Cemetery.

The City Manager stated that staff was wanting to go ahead and proceed with the site location engineering. The Manager stated that with or without the regional water supply, it was his opinion that the City needs to proceed with this project. The Manager stated that what staff is requesting of the Commission tonight is to go ahead and proceed with asking EGA to do the engineering for the site selection for the elevated storage tank and these fees can be reimbursed from the bond proceeds.

Mr. Wesch stated that he would like to point out is that it would take approximately one year to construct the elevated storage tank.

Motion was made by Commissioner Jack Gorden and seconded by Commissioner Paul Mayberry that proposal from EGA for engineering costs associated with a site selection for an elevated storage tank on the South side of town be approved as submitted. A unanimous affirmative vote was recorded.

14. PETITION - COLLECTIVE BARGAINING - FIRE/POLICE DEPARTMENTS - ORDINANCE - FIRST READING - SETTING AN ELECTION

Mayor Bronaugh stated that the next item for consideration was a petition calling for a vote on Collective Bargaining for firefighters in the Fire Department and police officers in the Police Department, and First Reading of Ordinance setting an election.

Mayor Bronaugh stated that it was a requirement in order to call such an election that there would have to be 25 signatures on the petition. City Manager Maclin stated that a petition containing 78 names had been submitted, and the required number of 25 signatures had been verified.

Mayor Bronaugh stated that the Commission must pass an Ordinance setting the date for the election, which will be the same day as the election for Commissioners of Wards 1 and 3 on May 2.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Jack Gorden that petition be accepted as submitted, and Ordinance be approved on First Reading as presented. A unanimous affirmative vote was recorded.

15. ORDINANCE - APPROVED - FIRST READING - CALCULATION OF RESIDENTIAL SEWER RATES

Mayor Bronaugh stated that the next item for consideration was a recommendation for changing the way residential sewer rates are calculated.

City Manager Maclin stated that back in October after the new water and sewer rates went into effect for the 1990-91 budget, the timing was somewhat inconvenient in that the City had its first drought in the last 18 months that occurred during the months of September and October. The Manager stated that going consecutive weeks without significant, measurable rainfall caused in October, shortly after the rate changes went into effect, a lot of people began to water their yards. The Manager stated that some of the people felt that since there had been such a wet summer and they did not water their yards as much as in a normal summer, that they should water more frequently during this drought period. The Manager stated that the consumption in October that mirrored normal consumption in peak use periods like July and August, combined with the rate increase and a change in the method of the sewer calculation, which was a cap of 12,000 raised to a cap of \$20,000, which meant that there were several people who had unusually high bills for the months of October and November. The Manager stated that he had received numerous phone calls and visits, as had the City Commission members, from citizens who were concerned about this. The Manager stated that primarily from the fact that they felt like they were being penalized for watering their yard. The Manager stated that typically across the State its common that cities charge their sewer built on water consumption. The Manager stated that it is virtually impossible to meter sewage, so you basically have to charge sewer based on water consumption. The Manager stated that even though the water consumption you may use in summer to water yards and gardens does not go in the City's sanitary sewer, it goes in the ground, but you still have to pay a sewer fee based on that. The Manager stated that the citizens that expressed concern about this felt like they were being unfairly penalized. The Manager stated that several of the Commissioners had asked him if he could address this in some way that would not provide this unfair penalty to those who watered their yards in the summer. The Manager stated that he began to put together a proposal which is similar to approximately 30-35% of other cities in Texas who use this method of residential sewer bill calculation. The Manager stated that they take the consumption for the months of December, January and February, which are traditionally the lowest consumption months by residential customers, because these are wetter times of the year and that there is very little yard watering in these months.

The Manager stated that taking those three months and come up with an average, i.e., if you used 6,000, 8,000 and 10,000 gallons in December, January and February, your average for those three months would be 8,000 gallons. The Manager stated that taking that average of 8,000 gallons for sewer consumption purposes and put that in as a fixed amount and it remains 8,000 gallons for 12 consecutive months. The Manager stated in the summer time that those residents who water their yards are going to be paying 8,000 gallons worth of sewer bill as opposed to the 12-20,000 gallons worth of water per month they may place on their yards. The Manager stated that this is a way that many cities have found to be the most fair way of billing residential sewer so that you don't penalize people for trying to keep their yards green. The Manager stated that in order to accomplish this, the rates would have to be adjusted in mid-year (in April) in order to take into account the revenues that would be lost from making this change. The Manager stated that the City would lose

approximately \$60-70,000 a year in revenue. The Manager stated that in order to make that adjustment for the sewer revenues for the budget for FY '92, the minimum sewer charge would need to be raised from \$5.46 to \$5.75, or 29 cents a month or a total of \$3.48 a year to the minimum billing customer. The Manager stated that then we would have to raise our cost per thousand for additional above and beyond the first 2,000 gallons from \$1.30 to \$1.35 per thousand gallons.

The Manager stated that for the minimum users this would mean a total of 29 cents per month or \$3.48 for the year, but to those people who water their yards heavily in the summer it would be 12,000 gallons. The Manager stated that for an average customer who used 12,000 gallons, this would reduce their sewer bill by \$15.01 per month, thereby taking away this disincentive for watering their yard for having to pay for sewer that doesn't actually go into the City's sanitary sewer system.

The Manager stated that Stacy George of AB/C was present tonight in support of this suggestion.

Motion was made by Commissioner Percy Simond and seconded by Commissioner Jack Gorden that change in residential sewer rates as recommended by staff be approved as presented. A unanimous affirmative vote was recorded.

16. PURCHASE OF PIPE AND MATERIALS - APPROVED - REPLACEMENT OF WATER LINE - LOOP 287 AND HIGHWAY 94

Mayor Bronaugh stated that the next item for consideration was purchase of pipe and materials for replacement of water line on Loop 287 and Highway 94.

City Manager Maclin stated that included in the packet were letters from Asst. City Manager Ron Wesch and J. L. Beard stating that they anticipated the receipt of some Federal funds that would cause the implementation of the grade separation or overpass at Loop 287 and Highway 94 West to be accelerated as far as its timing for bid letting. The Manager stated that this has been on the 5 and 10 year plan and has been discussed as a project that needed to be done, but State funds were not available to see the project implemented. The Manager stated that with some anticipated funds to be received through a Federal Highway Bill that the President should sign in the near future, bids could be let as soon as this September. The Manager stated that in order to meet their time schedule, staff needs to have Commission's approval to make relocation of the water lines in that area at an estimated cost of \$36,560.

In response to question by Commissioner Mayberry, the Manager stated that City employees would do this work.

In response to question by Commissioner Bowman, Mr. Wesch stated that this project would be identical to the project at Lufkin Avenue. Mr. Wesch stated that he anticipates that the State will spend between \$6 and \$7 million.

In response to question by Commissioner Bowman, the Manager stated that there is money in the contingency fund to handle relocation of these lines.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Percy Simond that the purchase of pipe and material for replacement of water lines on Loop 287 and Highway 94 be accepted as presented. A unanimous affirmative vote was recorded.

17. PURCHASE - APPROVED - REPLACEMENT VEHICLE - STREET DEPARTMENT

Mayor Bronaugh stated that the next item for consideration was purchase of a replacement vehicle for the Street Department.

City Manager Maclin stated that a letter from Asst. City Manager Wesch relating to an accident that occurred on December 10, 1991, along with estimates from repair shops stating that the vehicle was totalled. The Manager stated that pictures were included in the packets.

In response to question by Commissioner Mayberry, Mr. Wesch stated that if he is authorized to purchase this vehicle, it will replace a vehicle for new construction and the truck will be used to haul patch materials.

Mr. Wesch stated that he is asking that the purchase of this vehicle come out of the General Fund contingency, which a week ago had a balance of \$171,000.

Commissioner Jack Gorden questioned whether this purchase could come out of the Insurance Loss Fund.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Bob Bowman that authorization to purchase vehicle be approved, and that the vehicle be purchased out of the regular operating fund as budgeted.

The following vote was recorded:

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

Motion carried by a vote of 5 to 2.

18a. BID - APPROVED - UNIFORMS - PUBLIC WORKS DEPARTMENT - RELIABLE UNIFORMS

Mayor Bronaugh stated that the next item for consideration was bids for uniforms for the Public Works Department.

The Manager stated that the staff recommendation for this item was the bid of Reliable Uniforms in the amount of \$53.10 per uniform.

In response to question by Commissioner Gorden, Mr. Wesch stated that this bid was approximately the same as last years bid, and that the uniforms are charged out to each individual department's budget.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Jack Gorden that bid of Reliable Uniforms in the amount of \$53.10 per uniform be accepted as submitted. A unanimous affirmative vote was recorded.

18b. BID - APPROVED - ALTITUDE VALUE - WATER SYSTEM - B K CONSTRUCTION CO.

Mayor Bronaugh stated that the next item for consideration was bids for an altitude value for the water system.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Jack Gorden that bid of B K Construction Co. in the amount of \$17,316.41 be accepted as submitted. A unanimous affirmative vote was recorded.

18c. BID - APPROVED - GRINDERS - RECYCLING - INDUSTRIAL DISPOSAL SUPPLY

Mayor Bronaugh stated that the next item for consideration was bids for grinders to be used in the Recycling Department.

The Manager stated that the staff recommendation for this item is the low bid of Industrial Disposal Supply in the amount of \$69,800. The Manager stated that this

item is to be paid from the TLL Temple Recycling Grant.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Danny Roper that bid of Industrial Disposal Supply in the amount of \$69,800 be accepted as submitted. A unanimous affirmative vote was recorded.

18d. **BID - APPROVED - COMPOST TURNER - RECYCLING - INDUSTRIAL DISPOSAL SUPPLY**

Mayor Bronaugh stated that the next item for consideration was a compost turner for the Recycling Department.

The Manager stated that the staff recommendation for this item is the low bid of Industrial Disposal Supply in the amount of \$53,500.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Jack Gorden that bid of Industrial Disposal Supply in the amount of \$53,500 be accepted as submitted. A unanimous affirmative vote was recorded.

18e. **BID - APPROVED - PUMP PACKING MAT - WATER POLLUTION CONTROL - LUFKIN RUBBER & GASKET CO.**

Mayor Bronaugh stated that the next item for consideration was a pump packing mat for the Water Pollution Control Department.

The Manager stated that the staff recommendation for this item is the low bid of Lufkin Rubber & Gasket Co. in the amount of \$2,990.50.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Danny Roper that bid of Lufkin Rubber & Gasket Co. in the amount of \$2,990.50 be accepted as submitted. A unanimous affirmative vote was recorded.

19. **EXECUTIVE SESSION**

Mayor Bronaugh recessed Regular Session at 6:43 p.m. to enter into Executive Session. Regular Session was reconvened at 6:55 p.m. and Mayor Bronaugh announced that appointments to several boards had been discussed.

20. **APPOINTMENTS - APPROVED - PLANNING & ZONING COMMISSION - ZONING BOARD OF ADJUSTMENT & APPEALS**

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Jack Gorden that David Perkins be appointed to the Planning & Zoning Commission for the unexpired term of Jim Partridge which expires November 30, 1993. A unanimous affirmative vote was recorded.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Bob Bowman that B. L. DeBerry be appointed to the Zoning Board of Adjustment & Appeals to replace Thomas Moore whose term expires in June, 1992. The appointment will become effective in June. A unanimous affirmative vote was recorded.

21. **COMMENTS**

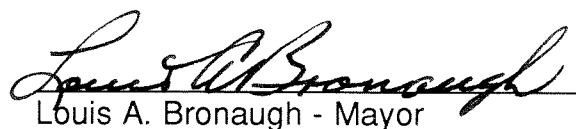
Commissioner Simond stated that there had been discussion earlier in the meeting regarding a replacement truck in the Street Department, and he wanted the staff to know that as far as he is concerned the streets in the northern section of Lufkin have priority. Commissioner Simond stated that he very seldom sees a truck in North Lufkin doing street repair, and that he wants to see trucks in that area patching the streets.

Commissioner Simond stated that he had been contacted by a group who wanted to

feed the homeless in Brandon Park, and they were told that there is a \$25 deposit and a \$10 per hour rental fee. Commissioner Simond stated that he would like to see the fees waived in this instance since it is for a charitable cause. Commissioner Simond stated that he suggest that the Commission give the City Manager the authority to make an informed decision on this. Mayor Bronaugh stated that, in his opinion, this needs to be an agenda item and brought before the Commission for discussion. The Manager stated that he would like to follow up on this request by Commissioner Simond. Commissioner Simond stated that the Commission could grant permission to waive the fees this time and then discuss it at another date.

Commissioner Bowman stated that with the opening of the new Wal-Mart store the traffic has increased significantly on White House Drive and he would like for the City staff to begin studying that street to see if there is something that can be done. Commissioner Bowman stated that perhaps this street could be included in the Bond Election.

22. There being no further business for consideration, meeting adjourned at 7:05 p.m.


Louis A. Bronaugh - Mayor

ATTEST:


Atha Stokes - City Secretary