

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

On the 16th day of November, 1993 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 A. Bronaugh	Mayor
Don Boyd	Mayor pro tem
Percy Simond	Councilman, Ward No. 1
Bob Bowman	Councilman, Ward No. 4
Jack Gorden, Jr.	Councilman, Ward No. 5
C. G. Maclin	City Manager
Darryl Mayfield	Asst. City Manager/Finance
Ron Wesch	Asst. City Manager/Public Works
Bob Flournoy	City Attorney
Atha Stokes	City Secretary

being present, and

Larry Kegler	Councilman, Ward No. 3
Tucker Weems	Councilman, Ward No. 6

being absent when the following business was transacted.

1. Meeting was opened with prayer by Rev. Virgil Jackson, Minister, First Missionary Baptist Church.
2. Mayor Bronaugh welcomed visitors present. Mayor Bronaugh recognized Justin Looney, Boy Scout, Troop 136.

3. APPROVAL OF MINUTES

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

4. CITY CHARTER REVIEW - ARTICLES I THRU IV

Mayor Bronaugh stated that at last meeting it had been determined that the City Council would serve as the Charter Review Committee. Mayor Bronaugh stated that the Charter would be reviewed in four Sections at each Council meeting.

Mayor Bronaugh stated that Article I - Section 1 is the Incorporation. There were no comments by Council.

There were no comments on Section 2 Powers or Section 3 Form of Government. "Commission" has been changed to "Council".

Mayor Bronaugh stated that Article II relates to Elections. City Manager Maclin stated that a specific election date has been replaced with "as designated by State Law." There were no comments on Section 2 Regulation of Elections, or Section 3 Filing of Candidates. Councilman Gorden requested that in Section 4 Canvassing Elections and Declaring Results, the last line on page 8 be changed to read "declared by the Council to have been duly elected." City Manager Maclin stated that a designated period of time for holding the canvass has been changed to read "as specified by State Law."

Councilman Simond stated that, in his opinion, a City official should verify the election votes.

Councilman Gorden stated that, in his opinion, more people would turn out on Election Day if there was a centralized voting place.

Mayor Bronaugh stated that the next item for discussion was Section 5 Notification and Qualification of City Officers. Councilman Simond questioned what would happen if a person was unable to be sworn in due to an unavoidable circumstance. City Attorney Flournoy stated that it might be appropriate to add some language here to take care of that contingency.

Mayor Bronaugh stated that the next item for consideration was Article III Section 1 Composition. Mayor Bronaugh stated that this Section has been brought into compliance with the Single Member Districts.

There was no discussion on Section 2 Term of Office.

Councilman Boyd questioned how the age of twenty-five was derived at. City Attorney Flournoy stated that this was just a judgment call about when a person might be qualified by experience and wisdom to serve on the Council. Councilman Boyd stated that, in his opinion, it appears that by requiring a person to be 25 years old to run, it would be penalizing someone under 25 who might be qualified. Councilman Simond stated that if a person has to be 18 to vote they should be qualified to run for Council.

Mayor Bronaugh stated that this would be an item for discussion at the last meeting when the full Council is present.

There was no discussion on Section 4 Vacancies, Section 5 Powers of the Council, Section 6 Investigative Body, Section 7 Interference in Personnel Matters and Section 8 Mayor and Mayor pro tem.

Mayor Bronaugh stated that the next item for discussion was Section 9 Compensation. Councilman Boyd stated that since the Council no longer receives any compensation, this Section should be deleted in his opinion. Mr. Flournoy stated that if there is ever going to be any compensation for serving on the Council, it will have to be set by the Charter. Mr. Flournoy stated that the compensation either needs to be commensurate with the services performed or it needs to be "zero". Mr. Flournoy stated that the figure of \$10 was set in 1966 and if there is going to be compensation some consideration should be given to inflation. Mr. Flournoy stated that serving on the Council should either be simply a public service or there ought to be some reasonable compensation.

Councilman Boyd stated that this is one of the items that should be brought back for further consideration.

There was no discussion on Section 10 Meetings of the Council.

Mayor Bronaugh stated that the next item for consideration was Section 11 Rules for Procedure. Councilman Boyd stated that, in his opinion, every member should be able to abstain from voting without giving a reason. Mr. Flournoy stated that the Charter states that each member of the Commission present at any meeting shall vote on every question, Ordinance or Resolution. Mr. Flournoy stated that this is basically calling for accountability. Councilman Boyd stated abstaining is your vote, you have the right to abstain. Mr. Flournoy stated that some way or the other the Councilmember's action must be accounted for, and there are considerations for abstentions if a person has certain conflicts of interest. Mr. Flournoy stated that what this Charter calls for is that if you are elected to the Council it is your responsibility to vote unless you have a conflict. Councilman Boyd stated that that is an outdated reason. Mr. Flournoy stated that the Councilmember's constituents

have a right to expect him to take a position.

Mayor Bronaugh stated that this is an item to bring back for discussion.

Mr. Flournoy stated that there needs to be an expansion of the definition of "his/her financial interest".

There was no discussion on Section 12 Chaplain, Section 13 Procedure to Enact Legislation or Section 14 Publication of Ordinances.

Councilman Bowman suggested changing "any newspaper" in Section 15 Code of Ordinances to "the official newspaper of the City" referred to in Section 14 Publication of Ordinances, for consistency.

Mayor Bronaugh stated that the next item for consideration was Article IV Administrative Organization - Section 1 The City Manager. Councilman Simond stated that he had a problem with the statement that when the City Manager is appointed he need not be a resident of the City, however, upon acceptance he shall immediately establish his residence within the City. Councilman Simond stated that the Council does not place that restraint on other City employees, so why should that requirement be made of the City Manager. Councilman Simond stated that, in his opinion, if the City Manager is required to live in the City, then everyone who works for the City should be required to live in the City.

City Manager Maclin stated that he had called Susan Horton at TML and there is a State law that does not allow the City of Lufkin to require employees to live in the City. In response to question by Mayor Bronaugh, City Manager Maclin stated that State law says that public safety officials have to live within a reasonable amount of time for emergency calls.

There was no discussion on Section 2 Powers and Duties of the City Manager, or Section 3 Administrative Departments.

Section 4 Directors of Departments. Councilman Boyd stated that for continuity, he would like to see the Councilmembers have final approval of Department Heads appointed by the City Manager. City Attorney Flournoy stated this would be in direct conflict with Article III, Section 7 "Interference in Personnel Matters", which states that neither the Commission or any of its members shall instruct or request the City Manager or any of his subordinates to appoint to or remove from office or employment any person except with respect to those offices which are to be filled by appointment by the Commission under the provision of this Charter." Councilman Boyd stated that the City Manager has to have the approval of the City Council to appoint the City Attorney and the Municipal Judge, and why not all the other Department Heads? City Attorney Flournoy stated that the real question is that it gets the Council too involved in personnel matters under the City Manager form of government. Mayor Bronaugh stated that he feels very strongly that the Council should not get involved in approval of Department Heads, and that it is the City Manager's job. Mayor Bronaugh stated that since the City Manager is ultimately responsible for the Department Heads he should be in charge of appointing them.

Mayor Bronaugh stated that this Section will be included in the list to be discussed at the last meeting of the Charter Review.

There was no discussion on Section 5 Departmental Organization or Section 6 Attorney.

Mayor Bronaugh stated that this finishes the review for Articles I thru IV.

5. ORDINANCE - APPROVED - SECOND READING - WATER CONSERVATION/DROUGHT CONTINGENCY PLAN

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance adopting a water conservation/drought contingency plan for the City of Lufkin.

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

6. ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - GEORGE W. GARRETT/FRED WALKER/CENTRAL CONGREGATION OF JEHOVAH'S WITNESS - RESIDENTIAL LARGE TO COMMERCIAL - NORTH RAGUET BETWEEN HENDERSON STREET AND HIGHWAY 103

Mayor Bronaugh stated that the next item for consideration was First Reading of an Ordinance for a Zone Change from Residential Large to Commercial on approximately 19.588 acres of land on North Raguet between Henderson Street and Highway 103 as requested by Philip W. Goodwin on behalf of George W. Garrett, Fred Walker, and the Central Congregation of Jehovah's Witness.

City Manager Maclin stated that this request is unanimously recommended by the Planning & Zoning Commission. City Manager Maclin stated that the breakdown of the 19.588 acres is: 2.5 acres for the church; 16.278 acres for the retail nursery; and 0.81 acres for the house to remain. City Manager Maclin stated that the Comprehensive Master Plan recommends the long range land usage for properties fronting North Raguet to be Commercial.

There was no opposition present.

Motion was made by Councilman Percy Simond and seconded by Councilman Jack Gorden, Jr. that Ordinance be approved on First Reading as presented. A unanimous affirmative vote was recorded.

7. INTERLOCAL AGREEMENT - APPROVED - CABLE REGULATION COMMITTEE - CITIES OF LIVINGSTON AND LUFKIN

Mayor Bronaugh stated that the next item for consideration was an Interlocal Agreement between the Cities of Livingston and Lufkin for the creation of a Cable Regulation Committee.

City Manager Maclin stated that several weeks ago Lufkin met with the City of Livingston's staff including the City Manager, City Secretary and City Attorney regarding common needs and situations relating to cable television. City Manager Maclin stated that both the City of Livingston and the City of Lufkin have voted to become a certified cable operator and have filed appropriate documentation with the Federal Communications Commission. City Manager Maclin stated that the fact that both cities have the same cable service provider in Cablecom gives the City the opportunity to utilize and take advantage of certain economies of scale and likewise be able to save the citizens of Lufkin some money. City Manager Maclin stated that staff anticipates during the process of cable regulation that there may come a time when we will need additional legal expertise or additional accounting expertise for calculation of the benchmarks or for other legal maneuvers required under cable regulation. City Manager Maclin stated that basically this is a standard intergovernmental contract format whereby if the City did in the future have a need for this outside professional assistance, we could share the cost between the two cities.

In response to question by Asst. City Manager Mayfield, Councilman Gorden stated that the Committee referred to in the Agreement consists of Marilyn Sutton and

himself at this time. Mr. Mayfield stated that in the future he anticipates coming back to the Council to request that they make some appointments to the Committee.

Mr. Mayfield stated that included in the Councilmember's packets is a draft Ordinance to be adopted at Council's pleasure. Mr. Mayfield stated that staff has not heard anything negative from the application they submitted to the FCC. Mr. Mayfield stated that if within 30 days if there is no negative response from the FCC then the City is in the Cable regulation business.

In response to question by Councilman Simond, Mr. Mayfield stated that Council is the authority for regulating basic service tiers; cable programming on the next tier is regulated only by the FCC (which is only regulated by complaint.) Mr. Mayfield stated that anything above that, the cable company can charge what it would like for Pay-Per-View.

Motion was made by Councilman Percy Simond and seconded by Councilman Bob Bowman that Interlocal Agreement between the Cities of Livingston and Lufkin for the creation of a Cable Regulation Committee be approved as presented. A unanimous affirmative vote was recorded.

8. BID - APPROVED - LEASE PURCHASE - TRUCK W/HYDRAULIC LOADER AND DUMP BODY - SOLID WASTE DEPARTMENT - BEAVER CHEVROLET

Mayor Bronaugh stated that the next item for consideration was bids for lease purchase of a truck with hydraulic loader and dump body for the Solid Waste Department.

City Manager Maclin stated that Council had discussed the purchase of this truck in the budget process. City Manager Maclin stated that this truck will have a grappler mounted on it so that large items can be picked up such as brush, appliances, etc., where in the past these items have been picked up by hand.

City Manager Maclin stated that when staff went through the bid process, there was one bid quoting a Prentice loader and one bid quoting a Lemco loader. The Prentice loader can be serviced locally by Timberjack. There was a bid for a Lemco loader out of Dallas that was less expensive, but White GMC Trucks of Dallas recommended the City go with the Prentice loader.

Motion was made by Councilman Don Boyd and seconded by Councilman Jack Gorden, Jr. that bid of Beaver Chevrolet in the amount of \$3,588.28 quarterly (total: \$62,963) be approved as submitted. A unanimous affirmative vote was recorded.

9. EXECUTIVE SESSION

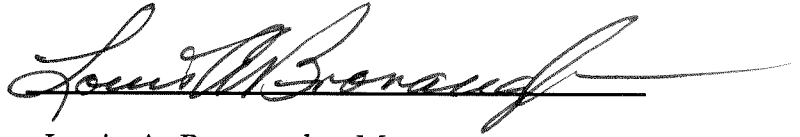
Mayor Bronaugh recessed Regular Session at 6:30 p.m. to enter into Executive Session. Regular Session reconvened at 6:52 p.m. and Mayor Bronaugh stated that Council had discussed attorney-client matters, real estate, and appointments to Boards and Committees.

10. COMMENTS

City Manager Maclin stated that a draft copy of the Lufkin Letter had been placed before the Councilmembers for their review and consideration.

City Manager Maclin reminded Councilmembers of the joint meeting of DETCOG and DETDA Thursday at the Alabama Choushatta Indian Reservation.

11. There being no further business for consideration, meeting adjourned at 7:00 p.m.

A handwritten signature in cursive script, reading "Louis A. Brounagh", written over a solid horizontal line.

Louis A. Brounagh - Mayor

ATTEST:

A handwritten signature in cursive script, reading "Atha Stokes", written over a solid horizontal line.

Atha Stokes - City Secretary