

**MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF**  
**LUFKIN, TEXAS, HELD ON THE**  
**17TH DAY OF MARCH, 1998 AT 5:00 P. M.**

On the 17th day of March, 1998 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	Councilmember, Ward No. 2
Betty Jones	Councilmember, Ward No. 3
Bob Bowman	Councilmember, Ward No. 4
Jack Gorden, Jr.	Councilmember, Ward No. 5
Tucker Weems	Councilmember, Ward No. 6
C. G. Maclin	City Manager
Bob Flournoy	City Attorney
Atha Stokes	City Secretary
Keith Wright	City Engineer
Kenneth Williams	Director of Public Works

being present when the following business was transacted.

1. Meeting was opened with prayer by Rev. Jeff Robinson, Minister, Southside Baptist Church.

2. Mayor Bronaugh welcomed visitors present.

3. **APPROVAL OF MINUTES**

Motion was made by Councilmember Don Boyd and seconded by Councilmember Jack Gorden, Jr. that the minutes of the Called Meeting of February 18, 1998 and the Regular Meeting of March 3, 1998 be approved as presented. A unanimous affirmative vote was recorded.

4. **PRESENTATION OF RECENT CONSTRUCTION AT WASTE WATER TREATMENT PLANT**

Bobby Mott, Waste Water Treatment Plant Superintendent, narrated a brief video of the recent construction at the Waste Water Treatment Plant.

5. **ORDINANCE - DENIED - FIRST READING - ZONE CHANGE - RESIDENTIAL MEDIUM SINGLE FAMILY TO LOCAL BUSINESS - OAKLAND ADDITION - FRANK AVENUE - MOORE AVENUE - A. L. HARGRAVES - JEAN McVICKER**

Mayor Bronaugh stated that the next item for consideration was request of A. L. Hargraves on behalf of Jean McVicker et al. to change the zoning from "RM" Residential Medium Single Family to "LB" Local Business on Lots 4 and 5 of Block 3 of the Oakland Addition (generally located on Moore Avenue east of Bynum Street) and the vacated alley between Frank Avenue and Moore Avenue extending from Bynum to Bledsoe Street.

City Manager Maclin stated that included in the Council packet is a memorandum of explanation from the Planning Department and a recommendation for approval by the Planning & Zoning Commission.

Bruce Shelby, the developer of the property, stated that the property will be developed for an Eckerd's drugstore and will be similar to the new Eckerd's at Lufkin Avenue and Timberland Drive. Mr. Shelby stated that the property consists of nine lots, two of which are zoned Residential. Mr. Shelby stated that the reason

he was present was to discuss the zone change for the two Residential lots to Commercial lots. Mr. Shelby stated that all of the frontage along Frank Avenue is Commercial but the two lots on Moore Street are zoned Residential. Mr. Shelby stated that the property on the front now has a Texaco station and The Spud. Mr. Shelby stated that it was his intent to remove the underground storage tanks from the service station and completely redevelop the property and hopefully make it look like the other Eckerd's store. Mr. Shelby stated that as a developer he builds the store and then leases it to Eckerd's. Mr. Shelby stated that this will actually be a relocation of the Eckerd's store in Gaslight Plaza. (Mr. Shelby passed out a copy of the site plan to Councilmembers.)

Toni Medina, who lives at 906 Moore Street, stated that she is opposed to this request. Mrs. Medina stated that as a long time resident and taxpayer of Lufkin she finds it difficult to believe that outsiders can come in and ultimately affect her family by compromising her families home and safety to build a business. Mrs. Medina stated that she was sure that there were many other sites just as accommodating and less compromising in this area of Lufkin in which to build another business. Mrs. Medina stated that the Shelby Development Group has not once approached them or shown an interest in their property, and they will be the ones who are ultimately affected. (The only residents living directly beside and behind this building.) Mrs. Medina stated that now they are left with a restriction and the only way to sell their property is to rely on their neighbor who is the only other resident on that block now if this zone change goes through. Mrs. Medina stated that she did not feel like they should have to rely on another party to be able to sell their home and their property. Mrs. Medina stated that she does understand that Shelby Development should not be forced to buy their property and by the same token she feels that they should not be forced on them.

Jessie Medina stated that he would like to read a statement: "When Shelby Development came in the City Council nor the Planning & Zoning put any kind of restriction saying you've got to do this in order to get this measure approved. Likewise, I feel as a result of approving this no restriction should be forced upon the residents that remain. My issue here has not been that the Comprehensive Plan says this is going to be a future non-residential site. It has a little bit to do with that, but not totally. The issue here is that the restrictions are being put on me. Last week Mr. Shelby stood up and said the reason he purchased the lot on the back side of Moore Street is that the properties run 150' deep and you can't build much on a 150' depth. My property runs 140', so I'm sure I can't build anything on there either commercial wise. So I cannot sell my property by itself as commercial. I don't see any way to sell it residential, because nobody wants it plus it is a future non-residential site according to the Comprehensive Plan. So the whole agenda here is based on that restriction. That restriction basically says that in order for me to sell my home a few things have to happen. And I don't think anybodies rights will be violated if these two conditions are being met. One, I have to hope that somebody comes in with a good heart and wants to set up business on the Moore side of the street. That's the first thing that has to happen. The second thing that has to happen is that he has got to depend on the neighbor on the right side of him, as you are facing Moore Street, his willingness to sell his property in conjunction with mine. These two conditions have to be met. I have a family of six now, recently we just had twins. I live in a two bedroom home. I was planning on adding on before all this took place. That's no longer cost effective. Now my dilemma is to get another house. But if I have to wait for somebody to come and buy my house, or if I've got to wait for my neighbor to sell his property, I cannot get rid of my property to buy another house. I don't have money in the bank for a down payment on another house and still maintain a house on Moore Street. The whole issue is that a restriction is being placed on me. It may not come out in black and white, but morally that restriction is being applied to me. I would also like to say as a former U. S. Marine I believe in honesty and integrity and fighting for what I believe in. I stand firm in my opposition to the proposed Eckerd's site as previously stated. Right is right and wrong is wrong. And I feel that the Planning & Zoning Committee was wrong in allowing Shelby Development Company to

divide my block in an uneven proportion. This is the whole issue here, this is how it all started. Not that they came in and bought the property, but the way that they bought it. I also feel that as Mr. Castleberry tried to point out last week if Mantooth which is also adjoined to local businesses on Frank Street is permitted to maintain its status as residential, why not Moore. I want to go ahead and thank you, I know that this is a hard decision, but I want to thank each and every one for your time and consideration in this matter."

In response to question by Councilmember Gorden, City Manager Maclin stated that at the P&Z meeting Mr. Shelby indicated that they didn't have to have the second lot that would be due north of Mr. Medina's property, and would probably landscape this lot.

Mr. Shelby stated that The Spud restaurant is on the second lot and they wanted to remove all the improvements so there would be clean, open access along Frank Street. Mr. Shelby stated that lot will be used for landscaping as shown on the site plan.

Councilmember Gorden stated that he personally saw this is a dilemma.

Mr. Shelby stated that he certainly appreciates and understands the Medina's concern and as a part of the regular requirements he will have to do screening between his property, which will be commercial and residential. Mr. Shelby stated that he will screen everything on the east side of their property so that it will not affect the residential use of the Medinas.

Councilmember Simond stated that, in his opinion, anyone that would be opposed to this would be "spitting against the wind". Councilmember Simond asked if anyone had ever appraised the Medina's property. Mayor Bronaugh stated that the property had not been appraised. City Manager Maclin stated that the alley that is contiguous to Mr. Medina's property had been appraised at \$3 per square foot, which would be his northern boundary. In response to question by Councilmember Simond, City Manager Maclin stated that Mr. Lyons stated in his appraisal that he appraised the alley as if it were a lot on Frank Street so that basically he is indicating that the value of property along Frank Street is at \$3 per square foot. In response to question by Councilmember Simond, City Manager Maclin stated the sale of the alley was addressed by Council a month ago. City Manager Maclin stated that Council approved the sale if the buyer chose to purchase it. City Attorney Flournoy stated that the alley has been closed by Ordinance and authorized that it be sold at fair market value to the adjoining owners, and the Medinas would have a right to purchase half of the alley that lies behind their property.

Mrs. Medina stated that the lot beside her property that was purchased by Mr. Shelby has the exact same footage, the exact same dimensions as her lot. Mrs. Medina stated that she did not know how much Mr. Shelby paid for the property. Mrs. Medina stated that her lot was 7,000 sq. ft., 50' frontage, 140' depth. Councilmember Simond stated that basically this is \$21,000, and Eckerd's is too cheap to pay these people \$21,000. Mr. Flournoy stated that \$21,000 is for the land and the Medina's property has a house on it. Councilmember Simond stated that he is disturbed that when it comes to business versus people we always lean to the side of the business, and if there were no people there would be no business. Councilmember Simond stated that he did not know why "we could not get it in our heads" that we cannot let these companies come in and control the City without taking under consideration that we are displacing some people. Mr. Shelby stated that Eckerd's is not purchasing the property, this is two individuals buying the property and signing a lease with Eckerd's. Mr. Shelby stated that he is already purchasing property on Frank where The Spud restaurant is that he does not need as part of the development.

Motion was made by Councilmember Percy Simond and seconded by Councilmember Betty Jones that Ordinance for zone change request from

Residential Medium Single Family to Local Business on Lots 4 and 5 of Block 3 of the Oakland Addition (generally located on Moore Avenue east of Bynum Street) and the vacated alley between Frank Avenue and Moore Avenue extending from Bynum to Bledsoe Street be denied. The following vote was recorded:

Aye: Councilmembers Simond and Jones

Nay: Councilmembers Bowman, Weems, Boyd, Gorden and Mayor Bronaugh

Motion failed with a 5 to 2 vote.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Bob Bowman that Ordinance for zone change request from Residential Medium Single Family to Local Business on Lots 4 and 5 of Block 3 of the Oakland Addition (generally located on Moore Avenue east of Bynum Street) and the vacated alley between Frank Avenue and Moore Avenue extending from Bynum to Bledsoe Street be approved on First Reading as presented. The following vote was recorded:

Aye: Mayor Bronaugh, Councilmembers Boyd, and Bowman

Nay: Councilmembers Simond, Jones, Gorden and Weems

Motion failed with a 4 to 3 vote.

**6. ORDINANCE - APPROVED - SECOND READING - CLOSURE OF ALLEY - CAIN STREET**

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance for the closure of an alley on Cain Street.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Percy Simond that Ordinance for the closure of an alley on Cain Street be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

**7. ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - RESIDENTIAL LARGE SINGLE FAMILY TO RESTRICTIVE PROFESSIONAL OFFICE - SPECIAL USE PERMIT - MOTOR BANK - S. JOHN REDDITT DRIVE (LOOP 287) AND COPELAND STREET - R. H. DUNCAN - A. B. JORDAN**

Mayor Bronaugh stated that the next item for consideration was the request of R. H. Duncan and A. B. Jordan to change the zoning from "RL" Residential Large Single Family to "RPO" Restrictive Professional Office and approval of a Special Use Permit for a motor bank on property located at the northwest corner of the intersection of S. John Redditt Drive (Loop 287) and Copeland Street.

City Manager Maclin stated that included in the Council packet is the memo of explanation from the Planning Department along with a unanimous recommendation for approval of the zone change with one condition that the site plan approval is required prior to the issuance of a building permit and the approved site plan will be made a part of the Ordinance granting the Special Use Permit.

Motion was made by Councilmember Tucker Weems and seconded by Councilmember Percy Simond that Ordinance to change the zoning from "RL" Residential Large Single Family to "RPO" Restrictive Professional Office and approval of a Special Use Permit for a motor bank on property located at the northwest corner of the intersection of S. John Redditt Drive (Loop 287) and Copeland Street be approved on First Reading with the condition that the site plan approval is required prior to the issuance of a building permit and the approved site plan will be made a part of the Ordinance granting the Special Use Permit. A unanimous affirmative vote was recorded.

**8. ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - RESIDENTIAL SMALL SINGLE FAMILY TO LOCAL BUSINESS - OAKWOOD ADDITION - CHESTNUT AND RALPH STREETS - KEITH GREEN - SANDRA KIDWELL**

Mayor Bronaugh stated that the next item for consideration was the request of Keith Green on behalf of Sandra Kidwell to change the zoning from "RS" Residential Small Single Family to "LB" Local Business on Lot 8, Block 2 of the Oakwood Addition generally located at the southeast corner of the intersection of Chestnut and Ralph Streets.

City Manager Maclin stated that included in the Council packet is a memorandum of explanation from the Planning Department and a recommendation of approval by the Planning & Zoning Commission.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Jack Gorden, Jr. that Ordinance to change the zoning from "RS" Residential Small Single Family to "LB" Local Business on Lot 8, Block 2 of the Oakwood Addition generally located at the southeast corner of the intersection of Chestnut and Ralph Streets be approved on First Reading as presented. A unanimous affirmative vote was recorded.

**9. AMENDMENT - APPROVED - FIRST READING - SKATEBOARD ORDINANCE**

Mayor Bronaugh stated that the next item for consideration was an Amendment to the Skateboard Ordinance.

City Manager Maclin stated that included in the Council packet are some letters of request from NationsBank and various occupants within the NationsBank facility. City Manager Maclin stated that basically they are requesting Council consideration for the extension of the boundary line for enforcement of the Skateboard Ordinance that was approved for downtown several months ago to include the property that includes the NationsBank facility. City Manager Maclin stated that the current property border is about one block north of their property and they are just requesting that it come down another block to include their property.

Jim Peters, property representative for the owners of the building commonly referred to as the NationsBank building, stated that the tenants have an exelcating problem with youngsters using the property for skateboard areas and for line skating creating a hazard both to themselves and to the clients and employees that frequent the building and property. Mr. Peters stated that recently the youngsters have started coming into the building on the skateboards primarily to use the restroom and the water fountain facilities. Mr. Peters stated that he has no quarrel with the youngsters other than the fact that they have now started to disregard the cleanliness and the safety of the property inside. Mr. Peters stated that there are occasions where customers and clients in the building were told to get out of the way and told using profanity which is not conducive to a business atmosphere. Mr. Peters stated that the owners acquired this property with the intention of restoring it to its original quality and make it a show place for the City of Lufkin. Mr. Peters stated that the renovation process has begun. Mr. Peters stated that he is asking that the Ordinance be extended one block to include the bank not only for the safety of the children and customers but also to relieve the possibility of financial liability on the part of the owners should one of them have an accident or cause an accident. Mr. Peters stated that based on this he is respectfully requesting that the Ordinance be extended one block.

Councilmember Simond asked why the Ordinance could not be extended to Denman Avenue. City Manager Maclin stated that Mr. Peters is asking that the Ordinance be extended to Jodie Street.

Mr. Peters stated that he is not asking for assistance inside the building. Mr. Peters stated that Ordinance No. 3217 covers the downtown area and comes adjacent to this property and he is asking that it be extended to the end of that block to give them the protection that Council has already afforded the balance of the downtown area.

In response to question by Councilmember Jones, Mr. Peters stated that the only measures that they are able to take that are available to them legally, morally and ethically are to just ask the people not to come in between the cars, and please do not come into the building and soil the restrooms. Mr. Peters stated that he knows that as a property owner he has a liability financially to the skateboarders and to the automobile owners on the premises. Mr. Peters stated that his attorneys say that he also has liability in the event a skateboard runs into a car parked in the parking lot. Mr. Peters stated that this has already happened and the person that this happened to was nice enough to say that they would tend to the damage repair on their automobile.

In response to question by Councilmember Gorden, Mr. Peters stated that the legal owner of record of the property is S & B Corporation of Dallas.

Councilmember Gorden stated that depending on what happens on this item tonight he would offer a motion that Council rescind the existing Skateboard Ordinance. Councilmember Gorden stated that, in his opinion, the City is not in a position to regulate this type of activity. Councilmember Gorden stated that he wanted to go on record as saying that he is against Council having approved the Skateboard Ordinance.

Councilmember Simond stated that when the Skateboard Ordinance was first considered he too was opposed to it but he has had a change of heart especially since Mr. Peters had addressed the liability issue. Councilmember Simond that he did not like the idea of amending the Ordinance one block at a time.

Mr. Peters stated that the citizenry of Lufkin does have the feeling of being protected from various hazards, one of them being the children on skateboards running in between the cars, up and down the sidewalks creating a hazard as far as people walking. Mr. Peters stated that in addition to that the bank now has employees in the building that are a little hesitant about going home in the evening especially if they work late because of the group or crowd that are somewhat intimidating (not in words or actions) in size. Mr. Peters stated that bank employees are now asking for an escort to their cars if they work late or work on Saturdays. Mr. Peters stated that the bank feels that this is not conducive to good business and it was not their intent to buy into a blighted area, and their position is that they will restore the bank inside and outside that the City of Lufkin will be proud of as they were in the beginning.

Councilmember Bowman stated that he concurred with Mr. Simond in that it does not make sense to extend the Ordinance one block at a time.

In response to question by Mr. Peters, City Manager Maclin stated that the original intent of this Ordinance goes back to the Main Street Advisory Committee who recommended this Ordinance to the City Council predicated on the need and circumstances of downtown with narrow sidewalks and the problems that were being encountered by certain businesses in the downtown area. City Manager Maclin stated that the boundaries refer back to the Central Business District which is a commonly recognized definable area of downtown. City Manager Maclin stated that was the easiest, most logical boundary for utilization of enforcement.

Mayor Bronaugh stated that, in his opinion, it is the City's responsibility to make the sidewalks safe inside the City limits. Councilmember Bowman asked that a map of the Central Fire District be included in the Council packet information for Second Reading of this Amendment.

Councilmember Boyd stated that he could empathize with the bank, but the City

needs to build a skate park for the kids or provide some place for them to go. Councilmember Boyd stated that the kids are our future. Mayor Bronaugh stated that Council could have a workshop and discuss the liability and insurance requirements relating to a skateboard park.

Motion was made by Councilmember Betty Jones and seconded by Councilmember Bob Bowman that Amendment to the Skateboard Ordinance be approved on First Reading as presented. The following vote was recorded:

Aye: Councilmembers Jones, Bowman, Simond, Weems, Mayor Bronaugh

Nay: Councilmembers Gorden and Boyd

Motion carried with a 5 to 2 vote.

#### **10. AGREEMENT - APPROVED - HUMANE SOCIETY OF ANGELINA COUNTY/CITY OF LUFKIN - ANIMAL ADOPTION**

Mayor Bronaugh stated that the next item for consideration was an Agreement between the City of Lufkin and the Humane Society of Angelina County for the adoption of animals.

City Manager Maclin stated that included in the Council packet is a cover letter followed by a joint agreement between the Angelina County Humane Society and the City of Lufkin for a cooperative program regarding the adoption of animals in the City of Lufkin. City Manager Maclin stated that this would provide a joint cooperative agreement as previously discussed in January about the initiation of an adoption program. City Manager Maclin stated that after further discussion with the Humane Society of Angelina County they had come up with a methodology that would provide an opportunity for more animals to be adopted, more animals for selection for the citizen, and will provide a clear delineation of responsibilities between the City and the Humane Society in this activity. City Manager Maclin stated that it is the staff recommendation to approve this cooperative agreement between the City and the Angelina County Humane Society.

In response to question by Councilmember Boyd, City Manager Maclin stated that this agreement provides a cooperative agreement between the two agencies, the other agreement would have been two separate adoption programs, one through the Humane Society and one through the City. City Manager Maclin stated that this agreement will provide a written document that will hold each entity accountable for their actions.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Jack Gorden, Jr. that the Agreement between the City of Lufkin and the Humane Society of Angelina County for the adoption of animals be approved as presented. A unanimous affirmative vote was recorded.

#### **11. SCHEDULE OF ACTIVITIES - APPROVED - ISSUANCE OF DEBT - CAPITAL IMPROVEMENT PROJECTS**

Mayor Bronaugh stated that the next item for consideration was a schedule of activities relating to issuance of debt for capital improvement projects.

City Manager Maclin stated that at a called meeting with Council last month there was discussion of several items for capital improvement projects to be forthcoming. City Manager Maclin stated that Council had given preliminary approval to those items and basically what staff wanted to do tonight was to provide Council with a schedule of sequenced activities relating to the regional detention ponds. City Manager Maclin stated that there is also a draft of the plans for the new Solid Waste Facility and the new Fire Station. City Manager Maclin stated that these plans will be brought back to Council on April 7th for formal consideration of approval. City Manager Maclin stated that what staff specifically wanted to seek Council's approval

on tonight was the memorandum from the City Engineer that provides a sequence of events for developing these proposed regional detention ponds.

Keith Wright stated that in order to move forward there are several items for the proposed bonds, the regional detention facilities off of Old Union Road and Lotus Lane. Mr. Wright stated that the first step in developing this project would be to enter into an engineering contract, and staff is proposing to do that with Klotz & Associates, EGA, and Pickett & Jacobs to cover all aspects of the engineering. Mr. Wright stated that the second step would be to approach the property owners and begin property acquisition cost estimates and appraisals. Mr. Wright stated that one of the best ways to approach the various types of tracts they are dealing with is to meet with Jake Lyons and Sid Medford, and begin the surveying and acquisition process. Mr. Wright stated that next they would do the actual design of the spillway and the flood routing of the 100 year storm through the facility. Mr. Wright stated that they would complete geotechnical investigations to determine the soil types for the dam that would be constructed and what type of borrow areas they could provide dirt from in the proposed facility. Mr. Wright stated that they would do a detailed topographic survey of the dam areas to determine the exact size and location of the dams. Mr. Wright stated that they would develop an environmental impact and get wetlands approval from the U. S. Army Corps of Engineers and approval from the TNRCC due to the dam heights, and a dam break safety analysis to determine if the dam failed what kind of problems there would be down stream. Mr. Wright stated that the next step would be to do the actual design, prepare the plans and specifications for the dam and the spillway and the low level outlet, then move on to complete construction. Mr. Wright stated that this is a brief outline and staff was requesting Council approval to move forward with this project. Mr. Wright stated that Klotz & Associates, who were hired to review the flood study, listed 31 different comments on the study, and there is a response from Dotson & Associates on those comments. Mr. Wright stated that staff expects very little change in the document itself from these comments. Mr. Wright stated that staff would like to move forward in submitting this to FEMA and with Public Hearings at City Hall for the public to have input into the process.

City Manager Maclin stated that basically what staff is seeking from Council tonight is to grant staff permission to pursue the schedule of activities including the submittal to FEMA and the Public Hearings process to allow for public, and at the next Council meeting staff will ask for formal approval of the plans and specifications for the two facilities - the Solid Waste Facility and the Fire Substation so that once those are approved staff can go out to bid on those items also. Mr. Wright stated that staff would also like to go ahead and enter into the engineering contracts, and start developing the property acquisition for the detention ponds.

In response to question by Councilmember Bowman, Mr. Wright stated that the cost estimate is \$1.8 million, and the time estimate will probably take close to eight to ten months to finish the project, depending on property acquisition.

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember Bob Bowman that schedule of activities relating to the issuance of debt for capital improvement projects be approved as presented. A unanimous affirmative vote was recorded.

## **12. REPLACEMENT OF ASBESTOS/CEMENT PIPE LINES**

Mayor Bronaugh stated that the next item for consideration was replacement of asbestos/cement pipe lines.

City Manager Maclin stated that this is also an item that was discussed at the called meeting in February, and it was agreed at that time that Council would delay any further action for 30 days to allow Council the opportunity for public input. City Manager Maclin stated that staff had indicated that they would ask Mr. Byrd to come back after further review of the Texas Water Development low interest loan

program for water quality programs and to submit to Council a proposed debt amortization dividing the estimated \$15 million project into five \$3 million installments. City Manager Maclin stated that 25% of the City's distribution system is made up of asbestos pipe and would be divided into blocks of approximately that size for bidding and construction purposes. City Manager Maclin stated that we would also then be able to stagger the increase in rates to make it more affordable for the citizens. City Manager Maclin stated that by breaking it up into smaller bites in a less than 3% rate increase per year range it would be easier to budget from a consumers standpoint.

Mike Byrd, the City's financial advisor, stated that he passed out a one page illustration of the amortization schedule on five \$3 million issues. Mr. Byrd stated that if the City needs to put \$15 million in the bank to do this project as soon as possible, that is fine. Mr. Byrd stated that he would then go to market and try to get the best deal there is. Mr. Byrd stated that the reason he proposed installments was that in visiting with the City Engineer the logistics of the project are that it simply can not be done within a couple of years, and if that is the case, he would like to see the City, to the extent that it can, take advantage of the arbitrage laws. Mr. Byrd stated that if the City issues \$5 million or less of tax exempt debt in a calendar year, then they are entitled to invest the money and keep any difference that they make over and above the cost of the bonds. Mr. Byrd stated that under the Drinking Water State Revolving Fund the interest rates would be somewhere between 3 1/2 to 4%, and if that is the case, the money could be invested for a couple of years at 5 to 5 1/2%. Mr. Byrd stated that the need for the capital and the project time line is the main consideration. Mr. Byrd stated that this is a very basic illustration showing in the left hand column the total current water and sewer payments, plus the \$200,000 that has been included in the \$4.4 million issue, and five installments of \$3 million. Mr. Byrd stated that reading from left to right to the Projected Total Water & Sewer Payments in 1998, the total obligations of the City's water and sewer system is \$1,764,169. Mr. Byrd stated that the column to the right shows the additional payment that is required over the base year, 1998 being the base year. Mr. Byrd stated that this is expressed in terms of a percentage increase that would be required over and above the base year revenues. Mr. Byrd stated that in looking at the example, in the year 2005, the City would need an increase of \$624,897 more to service debt service. Mr. Byrd stated that the actual increase in revenues over this five year period of time should fall somewhere close to 4 or 5% because this illustration fails to take into account normal growth and revenues from year to year. Mr. Byrd stated that when he speaks in terms of budget increases, he would not be referring to the increase as the 1998 year, but would look at prior year revenues and see how much the City needs. Mr. Byrd stated that Lufkin has been in a healthy growth pattern and he is not aware of any reason that we should expect any major changes there. Mr. Byrd stated that if the Council finds that as the projected payments reach the \$2.3/\$2.4 million range they will feel a little more comfortable with some smaller payments, he can customize the schedule and keep the total payment around \$2.2 million. Mr. Byrd stated that in order to do so he would ship a small amount of the principal out to later years. Mr. Byrd stated that to do this in installments allows the Council flexibility to look from year to year and take into account how things are and make adjustments accordingly. Mr. Byrd stated that based on 1998 revenues and a moderate amount of growth the City should be able to accommodate \$15 million with about a 5% increase over time.

Councilmember Gorden stated that he would like to see the City use arbitrage but asked if there was something that would interfere with that if the Council makes a commitment to do the total project and issue the bonds on an as needed basis and if it becomes necessary to do the project before a calendar year expires which would go against the arbitrage, could we do it anyway. Mr. Byrd stated that he asked the question of bond counsel the other day that if the City goes forward when we do a bond issue with a reasonable expectation that things are going to be a certain way, and at such time that the City issues, if we do not expect that we will issue more than \$5 million in a calendar year, then as soon as we get the proceeds we commence with arbitrage if we can make it. Councilmember Gorden stated that he

still believes that the City should do the whole project at one time. Mr. Byrd stated that based on the information he is getting, the logistics of the project may be such that it requires a multi-year construction period and even at that it could be funded at one time, which would be at the Council's pleasure. Mr. Byrd stated that if the City thought that they couldn't actually accomplish the construction in a two to three year time and went ahead and issued the entire \$15 million, we would not get any effect of the arbitrage. Mr. Byrd stated that he did not want to overemphasize this but the arbitrage is not the over riding consideration. Councilmember Gorden stated that the other side of the coin is that Council will look into the economies of scale because it is a huge job, but it needs doing and the Council is committed to getting it done.

City Manager Maclin stated that the other relationship to that is the TNRCC, if the City has more tests above 7 million fibers per liter between now and the end of this calendar year, TNRCC may require the City to move at an accelerated rate. Councilmember Gorden stated that the Council's commitment to get this project done and find a way to get it done all at one time is theoretical, but it could save the City a lot of money in fines that would over ride the arbitrage. Mr. Byrd stated that a recommendation that could be in order for the Council today is to authorize some engineering to find out exactly what we are dealing with. Mr. Byrd stated that Council can reimburse itself if they choose to from the proceeds of that future issue.

In response to question by Councilmember Simond, Mr. Wright stated that on the estimates basically what staff did was to take 1,000 feet of pipe and look at the cost of that assuming that there would be two water valves, so many connections, so much acquisitions, and the assumption was made based on the total footage of pipe. Mr. Wright stated that there needs to be a real detailed estimate that will take numerous man hours to develop, and the City will need to hire some engineers to do that all over the City.

City Manager Maclin stated that ultimately whatever the Council decides tonight as a plan, that plan will be put into writing and staff will submit it to TNRCC and he and Mr. Wright will go to Austin and visit with them and try to get them to agree to the plan that is agreed upon by this Council in hopes that they will endorse it and approve it as an acceptable means of resolving the problem. Mr. Wright stated that the City of Lufkin entered a bilateral agreement with TNRCC and in that agreement the City promised to them that if we continued to have violations that we would take additional steps, and the only additional steps at this point is to replace the pipe.

City Manager Maclin stated that he would suggest from a staff standpoint that under the presumption that Council feels similar to Mr. Gorden in that we do need to get rid of this problem and the only way to get rid of the problem is to get rid of the pipe, to authorize staff to move forward with RFP's (request for proposals from engineering firms) to assist staff in the cost estimate and identification of these projects that would basically replace 25% of the City's distribution system that is currently asbestos cement pipe. City manager Maclin stated that with the assistance of Mr. Esquivel, the City's bond counsel/legal provider, with a Resolution where if the City uses it's Utility Fund fund balance currently until such time as we get proceeds from the Texas Water Development Board's low interest program, then we could use existing funds on hand to pay for those costs and then reimburse ourselves as soon as the bond proceeds are made available, which would be sometimes this fall. City Manager Maclin stated that staff would make application for the low interest loan funds under the assumption that the City would receive them, and once we had funds on hand we could begin construction. City Manager Maclin stated that by giving staff the authorization to move forward with this now it allows us to work with engineering firms to get the preliminary work completed so that when we do have cash on hand we can go to bid immediately.

In response to question by Councilmember Weems, City Manager Maclin stated that if we receive a failure notification then staff would seek Mr. Byrd's assistance to go to the general market and sell revenue bonds at a higher rate of interest.

Motion was made by Councilmember Tucker Weems and seconded by Councilmember Percy Simond authorizing staff to do the engineering study to develop the cost for the replacement of the asbestos/cement pipe lines. A unanimous affirmative vote was recorded.

**13. AUTHORIZATION TO SEEK BIDS - APPROVED - REPLACING PAVILION - CHAMBERS PARK - INSURANCE LOSS FUND**

Mayor Bronaugh stated that the next item for consideration was authorization to seek bids for replacing the pavilion at Chambers Park with funding from the Insurance Loss Fund.

City Manager Maclin stated that during a recent storm a large pine tree fell destroying the pavilion which had been in the park for a number of years. City Manager Maclin stated that included in the Council packet is a letter of recommendation from the Parks and Leisure Services Department. City Manager Maclin stated that Dennis Robertson, the Chairman of the Parks Advisory Board, and Mike Sandlin of the Parks Department are both present should Council have any questions. City Manager Maclin stated that the recommendation is that the pavilion be replaced at an estimated cost of approximately \$24,000. City Manager Maclin stated that this item would go to bid. City Manager Maclin stated that staff's suggestion to Council is that there are two options, the General Fund contingency, or the Insurance Loss Fund. There is \$200,000 in the General Fund contingency at this time.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Betty Jones that staff be authorized to seek bids for replacing the pavilion at Chambers Park with funding from the General Fund Contingency Fund. A unanimous affirmative vote was recorded.

**14. BIDS - APPROVED - STREET IMPROVEMENTS - WEBBER STREET**

Mayor Bronaugh stated that the next item for consideration was bids for street improvements to Webber Street.

City Manager Maclin stated that this is the project that was initiated with a grant application to the Texas Capital Fund followed by an exceeding matching grant application to the Economic Development Administration, and was triggered by the creation of jobs at Pilgrim's Pride poultry processing facility located at the corner of Frank and Webber. City Manager Maclin stated that the bid opening was held this past Friday afternoon. City Manager Maclin stated that copies of the engineering firm project directors letter of recommendation, along with the bid tabulation from the four companies who provided bids, was faxed to Councilmembers prior to this meeting.

Philip Goodwin stated that bids were received on March 13th at 2:00 p.m., and the low bid for all pavement options was from Timberline Construction Company. Their bid for Option 1, which was reinforced concrete pavement was \$970,693. The bid for Option 2 was \$919,362, which was for asphaltic pavement with a limestone base. There were alternate bids for using a fly ash mixture for the reinforced concrete in the amount of \$968,533. Mr. Goodwin stated that the bids were very close in the concrete option and the asphaltic option. Mr. Goodwin stated that the spread is quite a bit less than what the general spread is between asphaltic concrete and reinforced concrete. Mr. Goodwin stated that when the spread is this close the engineers take into consideration the use of the pavement, and in this case the pavement will be used for an industrial area, with a lot of heavy wheel load to include a concrete plant, an asphalt plant, a Coca Cola plant and a poultry plant that will have quite a bit of truck traffic on it. Mr. Goodwin stated that there are also some geometric considerations, which includes an "S" curve at the Coca Cola location which will make some lateral stress on the pavement. Mr. Goodwin stated

that in making this recommendation they have looked at the initial cost versus the long term cost. Mr. Goodwin stated that reinforced concrete pavement, while it costs more on the front end, is considerably less cost to the City in the maintenance of the pavement over the life of the street. Mr. Goodwin stated that reinforced concrete pavement will last for 40 years with relatively minimal maintenance and asphaltic concrete pavement usually requires refurbishing at a period of 8 to 10 years and then a repeat refurbishing in another 8 to 10 years. Mr. Goodwin stated that all things considered, in considering the close dollar price of the bid, they are recommending that Council go with Option 1, the reinforced concrete bid.

In response to question by Councilmember Bowman, Mr. Goodwin stated that the asphaltic section is a rather detailed section because of the wheel loads, it starts with a subgrade of a lime stabilized base of 6", and on top of that is 9 1/2" of limestone base, which is the best base they can get under an asphaltic pavement. Mr. Goodwin stated that then there is a 2 1/2" surface of hot mix asphalt on top of that.

In response to question by Councilmember Boyd, Mr. Goodwin stated that he is recommending concrete for this street because of the loads and the relatively small amount of additional cost it would take on the front end of the reinforced concrete. Councilmember Boyd stated that on the MLK bid the engineers recommended asphalt and it is just as heavy a load because there are heavy trucks on MLK too. Councilmember Boyd asked what was the difference between MLK and Webber Street. City Manager Maclin stated that for the benefit of Mr. Goodwin, he was not the engineer on the MLK project. City Manager Maclin stated that the difference between the asphalt and concrete bids on MLK was over 40%, and the difference in this case is only 5%, which makes a major contribution on why he would recommend Option 1. Councilmember Boyd stated that all of a sudden concrete got real cheap. City Manager Maclin stated that the only person who could explain the prices in the materials would be Moore Bros.

In response to question by Councilmember Boyd, City Manager Maclin stated that the reason the contractors had dug so deep on MLK was to put all the base material necessary for the pavement to hold up. Mr. Wright stated that one of the reasons the contractors dug so deep is for sighting distances for traffic coming up over the hill for safety purposes, and for drainage.

Motion was made by Councilmember Tucker Weems and seconded by Councilmember Jack Gorden, Jr. that bid of Timberline Construction Company in the amount of \$970,693 for Option 1 as recommended by staff be approved as submitted. The following vote was recorded:

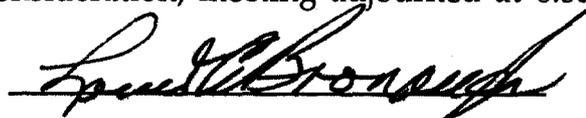
Aye: Councilmembers Weems, Gorden, Simond, and Mayor Bronaugh  
Nay: Councilmembers Bowman and Boyd

Motion carried with a 4 to 2 vote.

#### 15. COMMENTS

Mayor Bronaugh reminded Councilmembers of the DETCOG meeting in San Jacinto County on the 26th.

16. There being no further business for consideration, meeting adjourned at 6:55 p.m.



Louis A. Bronaugh  
Mayor

ATTEST  


Atha Stokes - City Secretary

3/17/98