

**MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF
LUFKIN, TEXAS, HELD ON THE
7th OF OCTOBER 2003**

On the 7th day of October 2003 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
Jack Gorden, Jr.	Mayor pro tem
R. L. Kuykendall	Councilmember, Ward No. 1
Rose Faine Boyd	Councilmember, Ward No. 2
Lynn Torres	Councilmember, Ward No. 3
Don Langston	Councilmember, Ward No. 4
Dennis Robertson	Councilmember, Ward No. 6
C. G. Maclin	City Manager
Atha Martin	City Secretary
Bob Flournoy	City Attorney
Keith Wright	City Engineer
David Koonce	Director of Human Resources
Kenneth Williams	Director of Public Works
Stephen Abraham	Director of Planning

being present when the following business was transacted.

1. Meeting was opened with prayer by Rev. Rick Williams, Carpenter's Way Church.
2. Mayor Bronaugh welcomed visitors present. Councilmember Lynn Torres recognized LHS students who were in attendance as a requirement of their Government class.
3. **APPROVAL OF MINUTES**

Minutes of the Regular Meeting of September 16, 2003 were approved on a motion by Councilmember Dennis Robertson and seconded by Councilmember Lynn Torres. A unanimous affirmative vote was recorded.

**4. ORDINANCE - APPROVED - SECOND READING - ZONE CHANGE -
APARTMENT TO LOCAL BUSINESS ZONING DISTRICT - SOUTHWOOD
SUBDIVISION NO. 2 - SOUTHWOOD DRIVE - OLD GOBBLERS KNOW ROAD -
FM HIGHWAY 1336 - PINEYWOOD MEDICAL DEVELOPMENT CORP. - PHILIP
MEDFORD - TOM GANN**

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance to change the zoning from "Apartment" to a "Local Business" zoning district on approximately 11.365 acres of land described as Lots 1 and 2 of the Southwood Subdivision No. 2 located west of Southwood Drive, between Old Gobblers Knob Road and FM Highway 1336 as requested by Pineywoods Medical Development Corp. on behalf of Philip Medford and Tom Gann.

Motion was made by Councilmember Lynn Torres and seconded by Councilmember Jack Gorden, Jr. that Ordinance to change the zoning from "Apartment" to a "Local Business" zoning district on approximately 11.365 acres of land described as Lots 1 and 2 of the Southwood Subdivision No. 2 located west of Southwood Drive, between Old Gobblers Know Road and FM Highway 1336 as requested by Pineywoods Medical Development Corp., on behalf of Philip Medford and Tom Gann be approved on Second Reading as presented. A unanimous affirmative vote was recorded.

5. ECONOMIC DEVELOPMENT SALES TAX – TEXAS COMPTROLLER’S OFFICE

Mayor Bronaugh stated that the next item for consideration is further details and information regarding the implementation of an Economic Development Sales Tax, and to hear a presentation from Bob Bearden of the Texas Comptroller’s Office.

City Manager Maclin stated that in the Council packet are several pieces of information related to this item. First of all, there is a question and answer session that he put together based on Council’s questions from previous meetings. This was derived through contacting other cities who have successfully implemented the economic development sales tax, specifically 4B. There is also the updated September 2003 version from the Comptroller’s web site on the economic development sales tax, and the last item is a suggested ballot wording, which our speaker will touch on again in a moment. Mr. Maclin stated that this is a recommended wording should we take an election to the voters for a 4B. Mr. Maclin stated that the law for 4B is more flexible and the law for 4A is more specific as far as the wording of the ballot.

Mr. Maclin stated that the Council is privileged to have Mr. Bob Bearden, who has been with the Texas State Comptroller’s Office for over 27 years and is considered the expert in economic development sales tax issues and regularly serves as a speaker for the Texas Department of Economic Development and the Comptroller’s Office across the state.

Mr. Bearden stated that he works in the Local Government Assistance Division of the Comptroller’s Office, and they are charged with assisting cities and counties in any way that they can. Mr. Bearden stated that one of the primary links between his agency and municipalities is the local sales tax. Mr. Bearden stated that the sales tax for economic development by far is the most popular form of local sales tax, with a total of 513 cities in the state that have adopted an economic development sales tax. Mr. Bearden stated that approximately 87 of them have both 4A and 4B. Mr. Bearden stated that 4B is by far the more popular between the two. Mr. Bearden stated that the cities collectively can expect to receive approximately a third of a billion dollars in sales tax allocation each year. Mr. Bearden stated that this number of cities and the allocation has increased each year with more and more cities adopting the tax. Mr. Bearden stated that there have been a number of communities who have done what Lufkin is looking at doing here and that is making an adjustment, reducing one sales tax to adopt an economic development sales tax. That’s been done by Palestine, Wharton, Lampasas, Pecos, and Greenville as the most recent city to do what the City is looking at doing. Mr. Bearden stated that the sales tax for economic development was actually passed by the Legislature in 1989 and Senator Bill Ratliff of Mt. Pleasant was the author of the tax. Mr. Bearden stated that Senator Ratliff convinced the Texas Legislature that rural Texas communities were operating at a disadvantage when competing with major metropolitan areas and even when competing with similar size communities from other states in attracting business and industry to their communities. He felt they had a lot going for them but simply lacked a dedicated funding mechanism to make it happen. Mr. Bearden stated that Senator Ratliff got the legislature to agree to enact an economic development sales tax. Mr. Bearden stated that the Legislature has made changes to the economic development sales tax each legislative session since 1989. Mr. Bearden stated that there has been some perception on the part of some lawmakers and determined that certain communities maybe had used the funds for matters outside of true economic development. Mr. Bearden stated that there have been a couple of cases where municipal buildings have been built and a few other things, so the Legislature decided to tighten up the allowable uses of the tax. Mr. Bearden stated that the 4B tax has been re-tooled somewhat in this last regular session of the Texas Legislature to bring it back more to what it was originally passed for in the first place, and that being for the creation of primary jobs within a community. Mr. Bearden stated that they even went so far in HB2912, that was the Bill that passed that even defined primary jobs, and essentially it determined that if you are going to provide economic development incentives, it would need to be for a primary employer and that being an employer of which a product or service is manufactured or provided and is delivered outside of the immediate area. Mr. Bearden stated that the institute would have to meet one of certain North American Industrial Classifications Systems Sector numbers, and manufacturing would be one of the key ones they listed. Mr. Bearden stated that they did leave some allowance for other type of business incentive – they

did leave in infrastructure, like for retail type businesses and that sort of thing. Also, job training. Mr. Bearden stated that job training had been in the act as an allowable use of the revenue but it was somewhat convoluted the way that you had to go about qualifying a business entity to provide help with job training. Mr. Bearden stated that they made that much simpler; now all a business would have to do is pay the prevailing wage of that market area. Mr. Bearden stated that that would also apply to retail type businesses as well as your primary employers. Mr. Bearden stated that the Legislature did leave infrastructure and job training as incentives that could be provided for a retail type business if you want to do that with an economic development sales tax. Mr. Bearden stated that the real focus is trying to bring primary employers to the community to help provide jobs and expand the City's tax base.

Mr. Bearden stated that the Legislature also added for a 4B corporation only a provision that allows for a 4B corporation to undertake with specific voter approval a water supply or water conservation project. Mr. Bearden stated that if you have a 4B corporation and are looking at some need that is related to water, you could do it with a 4B tax, but not a 4A.

Mr. Bearden stated that most development corporations would require it anyway, and apparently there have been some that did not, the Legislature provided that you had to now, if you are going to provide incentive to a business, you have to have a written performance agreement before you can provide any incentive to a business. Mr. Bearden stated that the Bill stipulates what all would need to be included in that performance agreement including a provision to provide for what you would call recapture to re-coop your investment if the business failed to comply with the terms of the contract. Mr. Bearden stated that the Legislature wanted to try and cut down on bad deals by requiring a performance agreement any time you are going to provide an incentive to a business.

Mr. Bearden stated that there have been some cases where an Economic Development Director would pay a "bounty" to an agent or broker that would go out and get a business to locate in a community. Mr. Bearden stated that Legislature felt like if that is going to be done it needs to be approved by the Board of Directors in an open meeting. Mr. Bearden stated that they did not say you cannot do it, but put a requirement that now the Board of Directors in an open meeting would have to vote to pay a "bounty". Mr. Bearden stated that they also prohibited a practice which was kind of a surprise to some of the lawmakers. Mr. Bearden stated that in some cases a business would locate a purchasing office – say you have a homebuilder who was building a lot of homes in one town and then maybe they put a purchasing office for the purpose of purchasing taxable items and then re-selling them to the real homebuilder for use in building all the houses, but they put the purchasing office in a particular city and work a deal where the city would get a kick back of the sales tax. Mr. Bearden stated that this practice was eliminated so 4A and 4B corporations can no longer do that. Also, cities cannot do it either with the regular sales tax.

Mr. Bearden stated that that is a quick run through of HB 2912, which does make a couple of changes. Mr. Bearden stated that it is safe to say that the Legislature has taken a more concentrated look at the affairs of the 4A/4B corporations around the state the last few years. Mr. Bearden stated that they did put a training requirement in the session of 2001 requiring that if you have an economic development corporation (4A or 4B) that certain individuals have to attend training that is put on. Mr. Bearden stated that there is a seminar in Austin on the 27th of this month and one in Arlington in December and representatives from the Attorney General's office and himself and some economic development practitioners and an attorney out of Dallas essentially put on the seminars. Mr. Bearden stated that the Texas Economic Council has been hosting the seminars.

Mr. Bearden stated that there is also a reporting requirement if you have a 4A or 4B Corporation you have to file an annual report with the Comptroller's Office indicating its revenues and expenditures, etc. This was passed in the Legislature in 1997. Mr. Bearden stated that it seems like the Legislature every session will make some changes to the 4A/4B tax.

Mr. Bearden stated that there isn't any statutory ballot wording though the Attorney General's office has recommended ballot wording and utilizing it you essentially would leave the door open to pretty much anything that's allowable for use with the 4B tax. Mr. Bearden stated that although he has talked about primary jobs there are also some provisions of 4B for certain types of community improvement type projects as well.

In response to question by Councilmember Robertson, Mr. Bearden stated that as far as one over the other, they each have their advantages. Mr. Bearden stated that the advantage for 4B would be that it simply provides a broader range of allowable types of projects. Mr. Bearden stated that in addition to business development you can also use it for park related projects or some sort of facility that would help promote tourism for your community. Mr. Bearden stated that 4B has a requirement that 4A does not in that it requires a Public Hearing be held before you can undertake any project. Mr. Bearden stated that, in his opinion, the reason there are more 4B's around the State than 4A's is simply because it has more choices of types of projects that you can undertake.

In response to question by Councilmember Robertson, Mr. Bearden stated that in 4A you can provide infrastructure to a project which could also be water or sewer if it is project specific. Mr. Bearden stated that if it looks like you are getting too many businesses and too much growth that your overall water needs are going to dictate that you have got to have more water from another source, 4A will not help you; 4B is the option you would need to look at because that's where it has specific language for water supply and water conservation projects that would be for the benefit of the city as a whole. Mr. Bearden stated that if you just needed to run one line to a business you can do it with 4A, but if you are looking at a major water supply project, 4B would be your vehicle.

Councilmember Robertson asked if in that answer could the City develop a full blown system that we might need for expanded development that we would expect at the city or be limited to the amount of the money under the 4B to just increase to the volume we would need. Mr. Bearden stated that say there's a project and there's no way the 4B can pay for all of it, there's certainly nothing wrong with the 4B corporation paying a portion and maybe joining with the city and/or any other entity to provide funding for the overall project. Mr. Bearden stated that with the 4B corporation and the 4A as well, you can contract with entities and partners on projects.

Councilmember Robertson stated that when we first starting talking about this proposal he was under the assumption that we could use 4B corporation money to fix infrastructure problems in other parts of the city other than just the area that was designated for industrial development. Councilmember Robertson stated that in reading the language one has to go in for that election it says "related infrastructure", so the only thing we can spend the money on is related to that particular facility which we are attracting to the city. Mr. Bearden stated that if you are looking at sewer, electric, water, just general infrastructure, it would need to support business development and that could include retail for infrastructure or tied to a park related project or some other qualified project for a 4B corporation. Mr. Bearden stated that there is really not a provision for example in 4B for residential sewer. Mr. Bearden stated that there is an Attorney General's opinion that essentially says you couldn't use a 4B for residential sewer but you could certainly use in it your commercial district or industrial district.

Councilmember Robertson stated that in the language of what was included in the Council packet it says "recycling facilities" and mentions parks and in the context of parks he did not see how that relates. Mr. Bearden stated that that is right; in the statute there are two different areas, one is where you've got the business stuff that we are talking about and the other is more park related. Mr. Bearden stated that 1989 was the year Senator Ratcliff got the 4A tax passed and in 1991 was when the 4B was actually passed. Mr. Bearden stated the reason 4B was passed at the time was because the City of Arlington was looking for a new funding for a ball park. Mr. Bearden stated that if you look where 4B was originally enacted it is just full of language that screams parks – professional or amateur. Mr. Bearden stated that it is confusing when you see parks mixed in with business development. Mr. Bearden stated that there is certainly nothing wrong with taking that recommended ballot wording and adjusting it around to fit the City's need. Mr. Bearden stated that if primary employers

is more of a driving force with people wanting good jobs you can certainly reword the ballot however you wish.

In response to question by Councilmember Robertson, Mr. Bearden stated that 4A and 4B both provide a means for you to develop your economy, attracting new business to the community. Mr. Bearden stated that 4B additionally though has some other things related to parks that are allowable as well.

Councilmember Robertson stated that the related facilities have to be streets, sewer line, water lines, utilities and those sorts of things that would be needed to access that new facility, whatever it may be. Mr. Bearden stated that it needs to be related back to business development, in other words the business is the primary employer. Mr. Bearden stated that they added a separate stipulation in the definition of project in the act that addresses infrastructure and it defines infrastructure – it says, streets, roads, rail spurs, telecommunication, electric, gas, water, sewer, which would have to support business development. Mr. Bearden stated that secondly, and separately, if you have a park related project you can fund any infrastructure for it too, of course. Mr. Bearden stated that you can fund infrastructure for any kind of business enterprise including retail, it doesn't have to be primary employers. Mr. Bearden stated that there is not anything in 4B or 4A that would provide a means for funding like sewer lines in a residential area for example.

Councilmember Robertson stated that when this was talked about at a previous meeting he was under the impression that we could fix some things that he is saying have high priority within parts of our city that needed some attention and this doesn't help him do that.

Councilmember Gorden asked if there happened to be a time frame when there wasn't a project in the intermittent time do you still collect the tax for the probability of another project coming along. Mr. Bearden stated that if you pass a 4B tax and then you get the corporation working and then let's say, for whatever reason, you are between projects, the tax doesn't stop, it continues. Mr. Bearden stated that there is some concern in that there is some language in 4B that seems to imply that once all debts and obligations of the corporation are satisfied, you are supposed to notify the Comptroller to stop the tax. Mr. Bearden stated that they also added some language that if you adopt the tax after September 1999 the provision is there for a repeal and would provide for an election to repeal it in the event the voters ever wanted to stop. Mr. Bearden stated that the tax is approved by the voters and the voters have a right to petition for its repeal if they ever deem necessary, and Council can also put on the ballot to repeal it if they ever wanted to.

In response to question by Mayor Bronaugh, Mr. Bearden stated that total 4A and 4B cities in the State is 513. Mr. Bearden stated that that does not count the election results from September. Mr. Bearden stated that of the 513 about 89 have both 4A and 4B.

Mr. Maclin stated that if Council feels like they have all their questions answered then our next step would be to direct the City Attorney and City Secretary to proceed with the preparation of the Ordinances necessary to call an election at the next available election date as prescribed by the Secretary of State's office, which would be February 7th. Mr. Maclin stated that between now and the first meeting in November the City Attorney and the City Secretary would develop an Ordinance calling the election. Mr. Maclin stated that in the ballot wording as indicated in the memo you can move some things around in that suggested wording without causing problems and you can also delete items from the list recognizing of course that if ever in the future the City wanted to use ED tax dollars for some type of facility that was deleted you would have to go back to the voters to add that back in. Mr. Maclin stated that those dollars would be ineligible for anything that is deleted from the list. Mr. Maclin stated that is an all inclusive list and the wording that Mr. Bearden provided does reflect an Attorney General's recommendation. Mr. Maclin stated that one of the things he and Trey Henderson had talked about was changing the job creation, which is the primary function, to the beginning of the ballot as opposed to amateur and professional athletic sports events being at the beginning of the ballot as it is now. Mr. Maclin stated that

Mr. Bearden indicated that he didn't think there would be any problems in changing the location in the ballot.

Councilmember Torres stated that, in her opinion, Council has a unique opportunity to take advantage of something that is not given at all times and would be remiss if we did not investigate this and continue forward with it.

Motion was made by Councilmember Lynn Torres and seconded by Councilmember R. L. Kuykendall to instruct the City Attorney and the City Secretary to move forward with the election by preparing an Ordinance for an Economic Sales Tax Election (4B) for the November Council agenda.

Councilmember Robertson stated that he has a concern about how the City would operate this ED sales tax internally within the City assuming that we move forward. Councilmember Robertson asked if there would be a Public Hearing where citizens could come and ask questions of Council as to how this will operate. Councilmember Robertson stated that the citizens ought to have the opportunity to do that. Councilmember Robertson stated that if we don't do that we will have a lot of misunderstanding possibly if we carry on forward the development without that. Councilmember Robertson stated that, in his opinion, we should do everything we can to attract new business and he did not oppose the sales tax but he is concerned about what we will give up within the City in terms of budget to put the money over into this category. Councilmember Robertson stated that he knew we were proposing a process to get that money initially over with the reduction of the fund balances and those kinds of things but this to him actually takes money out of the General Fund for infrastructure things that he sees that need to be done within the City that he is concerned about and how we will catch back up so to speak to the point of being able to pay some attention to those kind of things, such as sewer lines that are leaking and infiltration of storm water into sewer lines that is causing backup into our citizens residences. Councilmember Robertson stated that those things need to be fixed and 4B isn't going to fix those things for his Ward. Councilmember Robertson stated that those are the kind of things that we need to understand from a City Council's standpoint, what this means to the other things. Councilmember Robertson stated that we are getting businesses in here to create new jobs and new taxes and those kind of things and we will eventually catch up, but in the short term, he is concerned about how we are going to fix some of these things. Councilmember Robertson stated that those kinds of things will hinge on whether or not this thing will pass by the citizens.

Mayor Bronaugh stated that that was why Mr. Bearden was present tonight and that was to answer all of our questions.

Mr. Maclin stated that he would like to address two things: one as it relates to a Public Hearing and Mr. Bearden was clear in communicating this to us earlier that if you approve a 4B then all projects have to have a Public Hearing. Mr. Maclin stated that 4A does not require a Public Hearing for projects. Mr. Maclin stated that, for example, if the City wanted to move forward with the construction of an industrial park, assuming the election is approved in February, then before the City could proceed with the development of that industrial park, it would have to host a Public Hearing. Mr. Maclin stated that there is a 60-day period from the time of public notification that the public could provide opposition to that. Mr. Beard stated that if within 60 days of first publishing notice of its intent to undertake a project, the voters don't like it and get a petition up and present it to the City and 10% of the registered voters signed, before that Board could move forward with the project they would have to call a full election on that project and then the voters would have the say on whether the Board would be allowed to go forward with the project or not. Mr. Bearden stated that that is a stipulation in 4B that is not in 4A. Mr. Maclin stated that the second response to Mr. Robertson's concern about sanitary sewer issues – this would not have a bearing based on the history of the City as it relates to the repair of residential sewer because the history of the City as all residential sewer repairs have come through the Utility Fund. Mr. Maclin stated that what is being talked about here is transferring an eighth of a cent of sales tax which is limited to the General Fund. Mr. Maclin stated that you are not competing dollars with sales tax dollars as it relates to repairs to the sewer system because that comes out of the Utility Fund. Mr. Maclin stated that would be more directly related then, if you were talking about an increase in funding to double or triple

the amount of sewer lines we were replacing through an increase in the sewer rate. Mr. Maclin stated that we have a proprietary fund for sewer and water and a proprietary fund for solid waste. Mr. Maclin stated that as a point of clarification, the change of this sales tax would not have an impact on an issue like sewer lines – it would have an issue on streets as far as neighborhood streets are concerned, but it would not have an adverse impact to sewer lines.

Councilmember Robertson asked what effect it would have on drainage and storm water since we do not have another fund for fixing those kinds of things. Councilmember Robertson stated that recognizing that we do have a lot of low lying areas in the City that do have water problems. Councilmember Robertson stated that that is part of the problem associated with the infiltration. Mr. Maclin stated that infiltration is age of the sewer line and the quality of the sewer line. Mr. Maclin stated that as far as storm drains, the City made a substantial commitment with five detention ponds as its tangible method of dealing with storm water runoff and following that created a drainage criteria manual. Mr. Maclin stated that the problem with a back up after a rain is more impacted by the quality and age of the sewer line than it is anything to do with storm water runoff.

Councilmember Gorden stated that he sees next to no impact financially to the City – the groundwork that we've laid already and the timing of this, and the opening of a lot of new businesses in town and creation of additional sales tax. Councilmember Gorden stated that personally he didn't see there being an impact like what Mr. Robertson is talking about that is negative, having to actually take away from anything. Councilmember Robertson stated that the thing that is going to be there though is the fact that the \$700,000 or \$1,000,000 is going to go in that fund. Councilmember Robertson stated that one of his concerns is we going to have a so called cap on that, or do we build it to \$20 million if we don't find the opportunity to bring another factory to town. Councilmember Robertson stated that then that money is set aside, if we can set that over into our investment fund and use that as part of our investment reserve eventually that is one thing. Councilmember Robertson stated that he still sees it as coming out of the General Fund. Councilmember Gorden stated that he is of the understanding that this tax, as it is collected, it will not go into the investment portfolio of the City until it is used – it will go to this corporation. Mr. Bearden stated that by law once the allocation starts including the economic development tax, a 4B tax, the City is required to forward those funds to its Development Corporation.

Councilmember Robertson asked if the money the Development Corporation doesn't use, does it go into an investment fund by the Corporation. Mr. Bearden stated that whatever funds the Development Corporation may have on hand they could invest however they see fit with Council approval. Mr. Bearden stated that City Council has complete oversight authority of the Corporation. Mr. Bearden stated that the Council appoints the Board and they have to have Council approval on any projects before they move forward with them. Mr. Bearden stated that he assumed that Council could stipulate how the Corporation invested their funds, but technically it is their funds and not the City's funds, but they do have to get Council approval on how they spend them and what projects they choose to undertake. Councilmember Robertson stated that his concern is that the money will just keep building, and if nobody wants to come to Lufkin, we are just sitting there with the money in a big pot. Councilmember Robertson stated that the citizens could say that we have taken this money out of the General Fund which could have been used for other purposes. Mr. Bearden stated that if it was ever determined that the Council wanted to do away with the 4B corporation altogether all the corporation's assets including any cash on hand revert to the City.

In response to question by Councilmember Boyd, Mr. Bearden stated that there is a provision to provide for an election for that to happen or there is a provision in the act that indicates that the City could choose to terminate the corporation on some motion.

Councilmember Langston stated that he did not want Mr. Robertson or Council to think that his silence means that he is not in support of this, because in previous meetings he has certainly stated how strongly he does support this action. Councilmember Langston stated that he would also like to point out that truly this action is going to be an action of the citizens of Lufkin and really not an action of this Council. Councilmember Langston stated that the Council simply takes over the fiduciary

responsibility after the citizens give Council direction. Councilmember Langston stated that he is encouraged by the opportunity to see a portion of the City's sales tax revenue dedicated in this area simply because he strongly believes that it will free up money out of General Fund and Sewer Fund for other infrastructure needs, for example, the ability to use economic development money to improve infrastructure for a retail operation such as we are doing now for a retail development, improving old sewer lines, etc. Councilmember Langston stated that we are taking that money out of the sewer funds, whereas that money had we had this opportunity already in place could have been used elsewhere for another need that wouldn't be specific to bringing a business or supporting retail development in the City. Councilmember Langston stated that he sees numerous opportunities for this City to be able to move forward with other cities – 513 out of approximately 1,200 in this state have this available. Councilmember Langston stated that he is strongly encouraged that this Council is willing to look at the #1 opportunity that we have as a council to give the voters an opportunity to certainly direct their future as far as economic development is concerned. Councilmember Langston stated that as he has stated before growth has to come from primary job growth, and those are manufacturing type jobs are the better paying jobs.

Councilmember Torres stated that as a Council they all need to commit tonight that just passing this doesn't mean it just goes forward on its own. Councilmember Torres stated that everyone in this room, including friends in the audience, are committed to doing a campaign and taking it to the voters and giving the public a voice to express their wishes for the City of Lufkin.

Councilmember Boyd stated that she would make a motion to amend the previous motion by Councilmember Torres to move "ballparks and stadiums" from the first part of language of the ballot and rewording it. Councilmember Kuykendall concurred with the amendment. A unanimous affirmative vote was recorded.

6. **ORDINANCE – APPROVED – FIRST READING – ZONE CHANGE – LARGE SINGLE-FAMILY DWELLING TO LOCAL BUSINESS – FRANK AVENUE BETWEEN PERRY DRIVE AND HILL STREET – JACK WADE, JR.**

Mayor Bronaugh stated that the next item for consideration was the request of Jack Wade, Jr. to change the zoning from "Large Single-Family Dwelling" to a "Local Business" zoning district on approximately 1.45 acres of land described as Tract 42 out of the J. A. Bonton Survey (Abstract No. 5) located on the north side of Frank Avenue between Perry Drive and Hill Street.

City Manager Maclin stated that included in the Council packet is the memorandum of explanation from the Director of Planning along with a plat and some photographs of the site. Mr. Maclin stated that this comes to Council from the Planning & Zoning Commission with a unanimous recommendation for approval that the zone change be approved from "Large Single-Family Dwelling to Local Business".

Motion was made by Councilmember Rose Faine Boyd and seconded by Councilmember R. L. Kuykendall that Ordinance to change the zoning from "Large Single-Family Dwelling" to a "Local Business" zoning district on approximately 1.45 acres of land described as Tract 42 out of the J. A. Bonton Survey (Abstract No. 5) located on the north side of Frank Avenue between Perry Drive and Hill Street on First Reading as presented. A unanimous affirmative vote was recorded.

7. **RESOLUTION – APPROVED – U. S. CORPS OF ENGINEERS – U. S. ENVIRONMENTAL PROTECTION AGENCY – LAKE COLUMBIA**

Mayor Bronaugh stated that the next item for consideration was a Resolution requesting the U. S. Corps of Engineers and the U. S. Environmental Protection Agency concur with the reservoir plan as proposed in the 404 permit application and issue a 404 permit for the construction of the reservoir at the conclusion of the public comment period.

Mayor Bronaugh stated that this was a request from the Jacksonville Chamber of Commerce asking the City to consider the approval of a Resolution in support of the permit to construct Lake Columbia or Mud Creek Reservoir.

Councilmember Robertson asked that on the environmental impacts, have they done a significant environmental study of this to talk about the pros and cons of that development. Mayor Bronaugh stated that the City has been part of Mud Creek Reservoir development for approximately 10 years. Mayor Bronaugh stated that the city got out of the financial support some six or eight years ago. Mayor Bronaugh stated that the City is supporting it because it is good for East Texas.

Councilmember Robertson stated that it is very superficial in terms of environmental impact and he did not know whether they had done a full blown environmental statement or not to justify these conclusions. Mr. Maclin stated that they are required to have an environmental impact study that is Federal and State law. Mr. Maclin stated that you cannot get a 404 permit without an environmental impact study.

Councilmember Robertson stated that in item #7 he wanted to clarify where it says that the only opposition that they have heard locally comes from Richard Donovan. Councilmember Robertson stated that he had contacted Mr. Donovan and he says that is not the case. Councilmember Robertson stated that it needs to be clarified in the notes that Mr. Donovan does not oppose this development.

Richard Donovan came forward and stated that his question is where did this come from, whose signature is on the letter. Mr. Maclin stated that it was Larry Morgan the President of the Chamber of Commerce in Jacksonville. Mr. Donovan stated that he was interested in who said he opposed the request. Mr. Donovan stated that this lake presents a real opportunity in its mitigation if we will but seize the opportunity to use that mitigation in the way it should be used and the Council can have an awful lot to do with the effective of that.

Motion was made by Councilmember Dennis Robertson and seconded by Councilmember R. L. Kuykendall that Resolution for the support of Lake Columbia be approved as presented. A unanimous affirmative vote was recorded.

8. RESOLUTION – APPROVED – INTERLOCAL AGREEMENT – REGION IV EDUCATION SERVICE PURCHASING NETWORK – TEXAS COOPERATIVE PURCHASING NETWORK

Mayor Bronaugh stated that the next item for consideration was a Resolution approving the terms and conditions of an Interlocal Agreement between the Region IV Education Service Purchasing Network (Texas Cooperative Purchasing Network) and the City of Lufkin.

City Manager Maclin stated that included in the Council packet is an Interlocal agreement and a Resolution. Mr. Maclin stated that the City is eligible to take advantage of this state purchasing network as a result of some changes that have taken place recently in State law. Mr. Maclin stated that they are trying to make more and more of the large State contracts that are bid to allows cities, school districts and counties to take advantage of those also. Mr. Maclin stated that this just gives the City another vehicle that we can get pricing from and doesn't obligate us in any way, and does not require any payment for membership. Mr. Maclin stated that it just gives us the opportunity to view those bid lists and determine whether or not that is fiscally advantageous for the City to use this cooperative as a method of purchasing certain items.

Motion was made by Councilmember Rose Faine Boyd and seconded by Councilmember Dennis Robertson that Resolution approving the terms and conditions of an Interlocal Agreement between the Region IV Education Service Purchasing Network (Texas Cooperative Purchasing Network) and the City of Lufkin be approved as presented. A unanimous affirmative vote was recorded.

9. REVISIONS – APPROVED – EMS SERVICE RATES – MEDICARE-MEDICAIDE REQUIREMENTS

Mayor Bronaugh stated that the next item for consideration was revisions of EMS service rates to comply with new Medicare-Medicade requirements.

City Manager Maclin stated that included in the Council packet is a cover letter from the Chief and then an explanation of the proposed rate changes from the Administrative Assistant in the Fire Department Paula Bailey, along with a survey, EMS base rates, and the categories thereof. Mr. Maclin stated that then there is a large packet of data from the Department of Health and Human Services as it relates to Medicare/Medicade. Mr. Maclin stated that in essence Medicare/Medicade does surveys of regions and then they typically assign what Medicare/Medicade will pay for services rendered based on an average of those surveys usually at a reduction of about 80% of that cost. Mr. Maclin stated that basically what staff is seeking from Council tonight is to amend our fees as stated in the letter with the new fee schedule effective in January so that we will be in alignment with what Medicare/Medicade is recommending for our area. Mr. Maclin stated that even with this increase we will still have the lowest EMS provider rates of anybody in the area.

Motion was made by Councilmember Lynn Torres and seconded by Councilmember Rose Faine Boyd that the EMS service rates to comply with new Medicare-Medicade requirements be approved as presented. A unanimous affirmative vote was recorded.

10. REVISIONS – APPROVED – CITY OF LUFKIN PERSONNEL HANDBOOK

Mayor Bronaugh stated that the next item for consideration was revisions and updates to the City of Lufkin Personnel Handbook.

City Manager Maclin stated that Councilmembers should have gotten a booklet that represents the entire booklet but the first page inside gives the specific changes. Mr. Maclin stated that some of these are items that were added to the City's policy and some of them were clarifications to the current policy. Mr. Maclin stated that the two most significant ones would be the affirmative action plan for equal opportunity program, which was revised back in January based on a recommendation from the Undoing Racism Task Force, so this basically puts this as a formal inclusion in our handbook. Mr. Maclin stated that the second one is the addition of a holiday, which Council discussed during the budget process, that being the Friday after Thanksgiving.

Motion was made by Councilmember Dennis Robertson and seconded by Councilmember R. L. Kuykendall that revisions and updates to the City of Lufkin Personnel Handbook be approved as presented. A unanimous affirmative vote was recorded.

11. BID – APPROVED – GARBAGE BAGS – DYNA PAK CORP.

Mayor Bronaugh stated that the next item for consideration was bids for garbage bags.

City Manager Maclin stated that included in the Council packet is the tabulation for the garbage bags. Mr. Maclin stated that it is customary for the City to go out for the blue bags and black bags and the staff recommendation is the low bid received from DynaPak Corp. through our RFP Depot bidding process of \$2.658 for the black bags and \$3.219 for the blue bags, which is a 7% reduction from last years rates.

Motion was made by Councilmember Rose Faine Boyd and seconded by Councilmember Jack Gorden, Jr. that the bid of Dyna Pak Corp in the amount of \$3.219 for the blue bags and \$2.658 for the black bags be approved as submitted. A unanimous affirmative vote was recorded.

12. EXECUTIVE SESSION

Mayor Bronaugh recessed Regular Session at 6:10 p.m. to enter into Executive Session. Regular Session reconvened at 7:18 p.m. and Mayor Bronaugh stated that attorney/client matters had been discussed.

13. CALENDAR NOTATIONS FROM MAYOR, COUNCILMEMBERS AND CITY MANAGER

City Manager Maclin stated that two weeks from today the Finance Committee at 3:00 p.m. would hold their quarterly meeting which represents the end of the fiscal year and our investment counselor Dick Long will be present to present the end of the year report on our investments. Mr. Maclin stated that Mr. Long will also make recommendations for revisions to the investment policy.

14. There being no further business for consideration, meeting adjourned at 7:20 p.m.

ATTEST

Atha Martin
Atha Martin – City Secretary

Louis A. Bronaugh
Louis A. Bronaugh – Mayor