

**MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF
LUFKIN, TEXAS, HELD ON THE
16th DAY OF MARCH 2004**

On the 16th day of March 2004 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
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
Douglas Wood	Director of Accounting
Stephen Abraham	Director of Planning

being present, and

Lynn Torres	Councilmember, Ward No. 3
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being absent when the following business was transacted.

1. Meeting was opened with prayer by Rev. Tom Anglin, Victory Assembly of God Church.
2. Mayor Bronaugh welcomed visitors present.
3. **APPROVAL OF MINUTES**

Minutes of the Regular Meeting of March 2, 2004 were approved on a motion by Councilmember Rose Faine Boyd and seconded by Councilmember R. L. Kuykendall. A unanimous affirmative vote was recorded.

4. **PUBLIC HEARING – SUBDIVISION ORDINANCE – TECHNICAL STANDARDS AND SPECIFICATIONS MANUAL**

Mayor Bronaugh opened Public Hearing to receive questions and comments on the adoption of a new Subdivision Ordinance and Technical Standards and Specifications Manual.

No one spoke for or against the Subdivision Ordinance or the Technical Standards and Specifications Manual.

Mayor Bronaugh closed Public Hearing.

5. ORDINANCE – APPROVED – AMENDMENTS – SECOND READING – COMPREHENSIVE PLAN – THOROUGHFARE PLAN – PUBLIC FACILITIES PLAN – FUTURE LAND USE PLAN

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance adopting amendments to the Comprehensive Plan regarding the Thoroughfare Plan, Public Facilities Plan, Housing Plan and the Future Land Use Plan.

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember R. L. Kuykendall that Ordinance adopting amendments of the Comprehensive Plan regarding the Thoroughfare Plan, Public facilities Plan, Housing Plan and the Future Land Use Plan be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

6. ORDINANCE – APPROVED – SECOND READING – AMENDMENTS – COMPREHENSIVE PLAN – FUTURE LAND USE PLAN

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance adopting amendments to the Comprehensive Plan regarding the Future Land Use Plan.

Motion was made by Councilmember Dennis Robertson and seconded by Councilmember Rose Faine Boyd that Ordinance adopting amendments to the Comprehensive Plan regarding the Future Land Use Plan be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

7. ORDINANCE – APPROVED – FIRST READING – SUBDIVISION ORDINANCE

Mayor Bronaugh stated that the next item for consideration was First Reading of a new Subdivision Ordinance.

City Manager Maclin stated that he would like for the City Engineer to give a brief history of how we got to this point today.

Keith Wright, City Engineer, stated that this is something that staff has been coordinating with the Comprehensive Plan. Mr. Wright stated that they have been looking at the Zoning Ordinance as well as the Subdivision Ordinance in an attempt to bring them up to date. Mr. Wright stated that the Subdivision Ordinance was passed in 1964. Mr. Wright stated that a lot of the standards and information that was provided in it no longer complies with State law for current construction practices. Mr. Wright stated that in 2001 an advisory committee was appointed to help staff develop the Subdivision Ordinance and the members were Trey Henderson, Rick Ainsworth, Pat Oats, Mike Parker and R. L. Kuykendall. Mr. Wright stated that Dan Sefko of Duncan Sefko, was the consultant on the project to develop the draft ordinance. Mr. Wright stated that the subdivision committee went through the ordinance page by page, striking items and adding items. Mr. Wright stated that the copy provided to Council has those items in red or blue. Mr. Wright stated that the advisory committee made recommendations to the Planning & Zoning Commission and the P&Z Commission passed the Ordinance unanimously and now it is before Council for approval.

Councilmember Robertson stated that he had a question about Section 3.1 dealing with streets and off-site improvements (page 42). Councilmember Robertson stated several years ago when he was on Planning & Zoning there was a subdivision that was being planned and it was on Mott Street, a very narrow, one lane street. Councilmember Robertson stated that his question at that time was who is responsible for upgrading Mott Street if the City approves the subdivision. Councilmember Robertson stated that at that time he was told that the City would be responsible for doing it and not the subdivider. Councilmember Robertson stated that his concern then is that it puts the

burden on the rest of the citizens to pay for streets that the sub-divider is causing. Councilmember Robertson asked Mr. Abraham to explain that for him. Mr. Abraham stated that in that case there was a street that ran perpendicular off Mott Street and one or two houses actually fronted on Mott Street. Mr. Abraham stated that the developer would be responsible for developing that street and all costs associated with it. Mr. Abraham stated that off-site improvements go into that impact fee and you can't make a developer pay for existing conditions. You can only make them pay for improvements that need to be made for that development. Mr. Abraham stated that you couldn't assess them a fee because Mott Street was insufficient. Mr. Abraham stated that this will put more traffic on Mott Street but they have a right to access their property. Mr. Abraham stated that they would be required to build any new streets for that subdivision but they would not be required to upgrade Mott Street to accommodate all the traffic that is already on Mott Street.

Councilmember Robertson stated that the way he reads page 43 regarding the off-site improvements is that we would require them to have some responsibility. Mr. Abraham stated that the way it was originally proposed is that if you were on a perimeter street you would be required to improve half of that perimeter street. Mr. Abraham stated that what the City has done for the past 10 years is if it is a substandard street the City acquires half of the right-of-way to bring it up to standard at some point in the future. Mr. Wright stated that for existing streets, staff has always assumed that that is the City's responsibility to take care of and develop. Councilmember Robertson stated that if this is setting us up for creating more responsibility for the City when some of these subdivisions go in, he has a concern about that. Mr. Wright stated that this is really a political question on what Council feels like they would desire to do and how they would desire to handle this. Mr. Wright stated that staff tried to keep with what is being done today, and the Advisory Committee felt that way also. Mr. Abraham stated that as they went through the review process, he and Mr. Wright pointed out to the committee everything that was in the document that was a change from City standards. Mr. Abraham stated that it was made clear to the Committee that this was a policy decision that they needed to advise the Planning & Zoning Commission and City Council on the appropriateness of this. Mr. Abraham stated that they did not want to go too far and make the document burdensome. Mr. Abraham stated that one of the things they wanted to accomplish was to provide more affordable housing. Mr. Abraham stated that the most affordable housing you will have will be on in-fill lots because the infrastructure is already there. Mr. Abraham stated that if you start requiring these streets to be improved to today's standards, you are going to really burden those property owners and will probably have a decrease in housing over the long term.

Mr. Abraham stated that the off-site improvements have been taken out of the Ordinance as well as on page 70 dealing with impact fees. Mr. Abraham stated that you can only make people do what's on site and perimeter to their property is considered on-site, everything else is off-site, so we would have to go and adopt impact fees which would apply universally based on service units.

Councilmember Langston stated that there had been discussion about impact fees when the Ordinance amending the Comprehensive Plan was considered by Council at a previous meeting and the Council voted that they did not wish to send that message. Councilmember Langston stated that looking at page 7, 1.12 *Petition for Relief* is talking directly about petitioning for relief from impact fees. Mr. Abraham stated that that was overlooked when they struck outside improvements. Mr. Abraham stated that there were other corrections to be made to the document once Council makes their wishes known. Councilmember Langston stated that he had about 38 pages of notes and a lot of the corrections were typos or clerical, and some of it is dealing with impact fees (page 8, Section C, Action on Petitions). Mr. Wright stated that he did not agree with it being impact fees, but is a petition from any other requirements of the Subdivision Ordinance. It is a variance process or an appeal process for anything.

Councilmember Langston stated that on page 18 there is a simultaneous submission of plats and he was trying to judge in his own mind who would ever want to bring a preliminary and a final plat at one time. Councilmember Langston stated that his concern is that usually if someone is bringing a preliminary and a final they have a pretty good indication that they have followed the book and he did not like the idea of the City penalizing them by having them sign a waiver that they can get it done in 30 days. Councilmember Langston asked if the 30 day requirement was a State requirement. Mr. Abraham stated that once the application is complete and it is verified that it is complete, Planning and Zoning has 30 days in which to act – approval or denial. Mr. Abraham stated that the construction plans do not have to go to the Planning & Zoning Commission any longer. Councilmember Langston asked why it takes 30 days to get approval on a simple matter and why we would want to delay a project possibly by extending that beyond 30 days. Mr. Abraham stated that you could do all the paperwork up front but say if it rained for three weeks and a contractor could not get the water line in, technically, whether the water line was in or not the final plat is automatically approved after 30 days. Mr. Abraham stated that he is saying for them to give him the waiver, that way if it takes 45 days to put the water line in, as soon as it's done and he's accepted, the City will file the plat.

Councilmember Langston stated that there were contradictory statements about development plats. Mr. Wright stated that if Council approves basically what staff has done to strike development plats, then it will be removed.

In response to question by Councilmember Langston, Mr. Wright stated that the City was not operating as an MS4.

Councilmember Gorden stated that he would like to thank all the Committee members, Planning and Zoning Commission and local engineers who worked on the Subdivision Ordinance.

In response to statement by Councilmember Gorden, Mr. Abraham stated the Subdivision Ordinance is an Ordinance that requires two readings, and the Technical Standards are in Resolution form so that staff can adapt to changing technology and changing practices immediately without having to go to the Planning & Zoning Commission first, but go straight to Council. Mr. Wright stated that the Technical Standards are not only referred to by the Subdivision Ordinance but would also apply to all City construction. Councilmember Gorden asked Councilmember Langston if he would work with staff on the changes that need to be made.

In response to question by Councilmember Langston, Mr. Wright stated that the policy issues are coming to Council from Planning & Zoning as recommendations to adopt as presented.

Councilmember Langston stated that he would feel much more comfortable having an opportunity to sit down with staff and go over all the questions he has. Councilmember Langston stated that he was not prepared to pass this document as it sits tonight, but on the other hand he sees it as a very good document with a lot of merit. Councilmember Langston stated that there just seems to be numerous questions in his mind as to some of the intent of the items and some of the physical aspects of the design, which he would not mind going over also. Councilmember Langston stated that he personally would love the opportunity to sit down and go over those items with staff. Councilmember Langston stated that he did not know if that was appropriate or whether the Council wants to allow that opportunity for him or not.

Councilmember Gorden asked if Council could designate Mr. Langston to work with the staff and let him voice his concerns, and get the typos corrected, and pass this this evening and by the Second Reading we'll see if we need to make some adjustments in the document.

Councilmember Robertson stated that he would rather that the Ordinance be tabled if there needed to be more work done on it so Council could come back with a clean document for another review. Councilmember Robertson stated that he had some concerns about what was struck out of the document that looked like good things, and he had about three other items he was concerned about. Councilmember Robertson stated that one of them was dealing with sidewalks on thoroughfares, which looks like it has been eliminated, even though that puts more burden and cost to the developer. Councilmember Robertson stated that in his opinion these types of things should be designed up front like they ought to be – with sidewalks on thoroughfares. Councilmember Robertson stated that eventually we will need these things for children going to school or people going to shopping centers without them having to walk out in the street. Councilmember Robertson stated that he has said many times that we should make Lufkin a more pedestrian/bicycle friendly kind of a community. Councilmember Robertson stated that if we don't leave this in the Ordinance then we will forever not have a subdivision or development that meets some of those standards.

Mr. Wright stated that there are many things that people feel differently about and it will be hard for one Councilmember to go through the Ordinance and still satisfy everybody else's opinion. Mr. Wright suggested an in-depth workshop with the entire Council going over all the questions. Councilmember Gorden stated that he wouldn't mind doing that but looking around the room at the people in the audience who contributed to this document and the people on P & Z, he was not sure that he could add much to the Ordinance. Councilmember Gorden stated that he loved sidewalks and wished we had them everywhere, but we are fighting to get new housing construction in the City versus most of it going out in the County at this point. Councilmember Gorden stated that anything that adds cost to building from where we are here, he is not for.

Mr. Flournoy stated that what Council votes on tonight on First Reading can't be significantly different from what they vote on at Second Reading. Mr. Flournoy stated that it would be his recommendation that the Ordinance be tabled and a committee be appointed to work with the staff on the Ordinance. Mr. Flournoy stated that from what he is hearing here tonight is that there is not really a meeting of the minds and if what Council does at the next meeting is significantly different, this first reading will not work. Mr. Flournoy stated that you must be reading and passing the same thing two times with very little difference.

Councilmember Robertson asked how much time did the Committee spend on this document. Mr. Abraham responded by saying, "many hours". Councilmember Robertson stated that Planning & Zoning passed it unanimously. Councilmember Robertson stated that he had some concerns, but that work was very diligently done and rather than get bogged down in a bunch of details here he would say let's go ahead and approve it as done. Councilmember Robertson stated that if Council starts questioning all these things that the Committee and P & Z have done, then we are saying that we don't trust them to do the job that we have appointed them to do.

Councilmember Langston stated that he, too, trusts the P & Z, but they also brought a recommendation for impact fees and he is vehemently against impact fees and part of this document addresses impact fees. Councilmember Langston stated that this Council has already addressed impact fees once. Councilmember Langston stated that he has read the Ordinance more than once and when you read it as a whole it is a wonderful document, but when you begin to read it as a developer trying to interpret what will be required of him, it has some holes in it. Councilmember Langston stated that he had to step back and say that the pleasurable reading is over, now let's see how we apply it and that's when he began to find some minor issues if this Council has already made a decision that impact fees are a negative for development of this City.

Councilmember Langston stated that he had some issues with technical design and in his opinion that would take a discussion in itself, primarily cul de sac streets.

Councilmember Langston stated that he lived on a cul de sac street that has 32 units and yet we are not going to allow that any more. Councilmember Langston stated that 1600' is a typical block in the Subdivision Ordinance and we are 1200', and he doesn't know why.

Councilmember Langston stated that he is quite willing to take the time and try to get the answers to his questions right now to move forward, or vote to table the document, but he cannot vote to pass it.

Mr. Abraham stated that the City would have to do a completely new Ordinance to institute impact fees following Chapter 395 of the Local Government Code.

Councilmember Kuykendall asked if Councilmembers were to look at every single item and if they see something they do not particularly care for they could vote against it. Councilmember Kuykendall asked if were not that simple. Mr. Abraham stated that that is the dilemma staff has because they don't know where four votes will lie on either side of these issues. Mr. Abraham stated that the reason the document was presented in this way is so Council could see the whole range of things, and that some things were taken out because staff did not think they would work in Lufkin. Councilmember Langston asked if staff was trying to second guess how Council is going to stand on some of these things and it is not coming as a complete recommendation.

City Manager Maclin stated that staff felt confident that they understood the consensus of opinion of all seven of the Councilmembers on the issues that were struck. Mr. Maclin stated that staff felt comfortable in deleting those items because they felt there was zero support from any of the Councilmembers on that.

Councilmember Robertson stated that, in his opinion, that was appropriate because that is what staff is for, to delete things, and to bring what is reasonable to P & Z and ultimately to Council to approve. Councilmember Robertson stated that he has some concerns because of his personal beliefs in how the City should be developed and who should be responsible for those things, and Mr. Gorden has a different opinion, and he respected Jack's opinion. Councilmember Robertson stated that at the same time he's trying to look at the factor of what we want the City to look like in 15 or 20 years also. Councilmember Robertson stated the Committee and P & Z have sent what they thought was appropriate and even though he has a difference of opinion he is willing to say let's move on with it. Councilmember Gorden stated that he agreed with Mr. Robertson's vision of what he wanted the City to look like.

Councilmember Langston stated that he agreed with Councilmember Robertson on the work that has been done and it has been excellent, but his question again becomes when you make this a living document how does it read, how does it interpret, and how can it be utilized by developers coming to town when they buy a copy of this document. Councilmember Langston stated that he does have a couple of items he does wish to question the reason they are in the document the way they are in – the length of cul de sac streets. Councilmember Langston stated that he does have a very strong concern about limiting the length of cul de sac streets without absolute good reason and he just does not find this in ordinances in the area that he has come in contact with. Councilmember Langston stated that one of the most onerous ordinances he has as a developer is in Longview, Texas. Councilmember Langston stated that they allow streets to 1600' but do limit the number of dwellings to 25 which is reasonable. Councilmember Langston stated that this Ordinance with 500' would limit you to basically 22 – 25 houses if you develop 80' lots and just made them deeper. Councilmember Langston stated that this is a concern he has had and he has voiced that over time and we do have instances in our City where we have allowed that as a more subjective look by P & Z, and he didn't know why we couldn't just make it a rule and quit making it a guess work. Councilmember Langston stated that he would like to have that changed.

Mr. Flournoy stated that this Ordinance is being submitted as a whole and we don't really have line item type veto here unless it is submitted that way. Mr. Flournoy stated that obviously there are some areas that need clarification and if it is in that state Council can not do anything but vote against it. Mr. Flournoy stated that he suggests that Council table the Ordinance and come back identifying the areas where there may be some disagreement, whether it's about cul de sacs or whatever and allow them to be voted on separately.

Motion was made by Councilmember Dennis Robertson and seconded by Councilmember Jack Gorden, Jr. to accept the new Subdivision Ordinance as submitted by the Committee and Planning & Zoning Commission on First Reading.

The following vote was recorded:

Aye: Councilmembers Robertson, Kuykendall, Boyd, Gorden, and Mayor Bronaugh

Nay: Councilmember Langston

Motion carried with five affirmative votes.

8. RESOLUTION – TABLED – TECHNICAL STANDARDS AND SPECIFICATIONS MANUAL

Mayor Bronaugh stated that the next item for consideration was a Resolution adopting a Technical Standards and Specifications Manual.

City Manager Maclin stated that included in the Council packet is the second document and as was mentioned earlier the purpose of this being a Resolution was to provide timely responsiveness for changes or corrections or updates to meet new technology that provide a more cost effective way of delivering a final product.

Keith Wright, City Engineer, stated that this document was developed prior to him being the City Engineer for the City of Lufkin and also during that process. Mr. Wright stated that all the water and sewer details that are basically in the document were created under Ron Wesch's leadership and there have been some minor changes to the document. Mr. Wright stated that the street profiles for the concrete and asphalt were basically approved as amendments to the old Subdivision Ordinance. Mr. Wright stated that some minor modifications have been made to those as well. Mr. Wright stated that staff has added storm sewer details over time and erosion control details, which were typically taken from Subdivision plans that were approved by the City and built in Crown Colony, Brookhollow and Oak Trace. Mr. Wright stated staff has compiled all this information that engineers have submitted and what has standardly been done throughout the City. Mr. Wright stated that basically what this document has done is to put it all into one document of what has been done over the past 10 -15 years and try to bring it into something that could be used and utilized by engineers and developers to reduce their cost.

Mr. Wright stated that this document did not go to the Planning & Zoning Commission. Mr. Wright stated that this was a city-wide application for these standards and after the advisory committee went through this document and gave their approval, staff resubmitted it to all the engineering firms and invited them to make comments. Mr. Wright stated that there are some modifications based on those comments that are on the Council table. Mr. Wright stated that all the areas that are highlighted on these sheets are things that were modified, and mainly they were minor changes.

Councilmember Langston expressed concern over several items that related to the construction business. (The discussion in its entirety can be seen on the City's web site).

Motion was made by Councilmember Don Langston and seconded by Councilmember Rose Faine Boyd that Resolution adopting a Technical Standards and Specifications

Manual be tabled until the next Council meeting on April 6th. A unanimous affirmative vote was recorded.

9. RESOLUTION – APPROVED – MATRICULA CONSULAR IDENTIFICATION CARD

Mayor Bronaugh stated that the next item for consideration was a Resolution regarding the “Matricula Consular” identification card.

City Manager Maclin stated that included in the Council packet is some information provided by the Mexican General Consular seeking Council’s approval of the use of the attached defined cards, issued by the Consular, as recognized identification for Mexican Nationals. Mr. Maclin stated that also included in the packet information is a letter from Police Chief Larry Brazil with further input on this request. Mr. Maclin stated that several cities have approved similar resolutions, as well as some banks have agreed to accept these cards as valid identification.

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember Dennis Robertson that Resolution regarding the “Matricula Consular” identification card be approved as presented. A unanimous affirmative vote was recorded.

10. RESOLUTION – APPROVED – ADDITIONAL DELINQUENT FEE INCREASE – TEXAS PROPERTY TAX CODE

Mayor Bronaugh stated that the next item for consideration was a Resolution in consideration of additional delinquent fee increase pursuant to the Texas Property Tax Code.

City Manager Maclin stated that included in the Council packet is a letter from George Walker with Linebarger, Goggan, Blair & Sampson seeking Council’s consideration for a revision in the delinquent fees charged for late tax payments as allowed by State law.

Mr. Walker stated that this additional collection penalty is paid by the delinquent taxpayer, not the City of Lufkin, and is to defray the cost of delinquent tax collections that are borne entirely by their law firm. Mr. Walker stated that this increase would have no financial impact on the City of Lufkin or its taxing entities. Mr. Walker stated that this increase would be prospective only and would not affect delinquent amounts for 2002 and prior years.

Bill Shanklin, Tax Assessor/Collector for Angelina County, and Janet Purvis of the law firm of Linebarger Goggan Blair & Sampson were present.

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember Rose Faine Boyd that Resolution in consideration of additional delinquent fee increase pursuant to the Texas Property Tax Code be approved as presented. A unanimous affirmative vote was recorded.

11. EXECUTIVE SESSION

Mayor Bronaugh recessed Regular Session at 6:50 p. m. to enter into Executive Session. Regular Session reconvened at 7:10 p.m. and Mayor Bronaugh stated that Council had discussed personnel, appointments to Boards and Commissions and Attorney/Client matters.

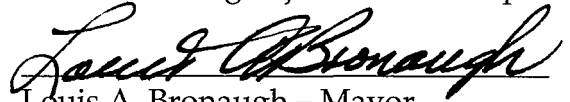
12. APPOINTMENTS – APPROVED – LUFKIN BOARD OF DEVELOPMENT

Motion was made by Councilmember Don Langston and seconded by Councilmember R. L. Kuykendall that Debbie Johnston and Tom Brewer be re-appointed to the Lufkin Board of Development. A unanimous affirmative vote was recorded.

13. APPOINTMENT OF INTERIM CITY MANAGER

Motion was made by Councilmember Rose Faine Boyd and seconded by Councilmember Don Langston that Police Chief Larry Brazil be appointed as the Interim City Manager. A unanimous affirmative vote was recorded.

14. There being no further business for consideration, meeting adjourned at 7:12 p.m.


Louis A. Bronaugh – Mayor

ATTEST:

Atha Martin – City Secretary