

**MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF  
LUFKIN, TEXAS, HELD ON THE  
18th DAY OF MAY 2004**

On the 18<sup>th</sup> day of May 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
Lynn Torres	Councilmember, Ward No. 3
Don Langston	Councilmember, Ward No. 4
Dennis Robertson	Councilmember, Ward No. 6
Chief Larry Brazil	Interim City Manager
Atha Martin	City Secretary
Tommy Deaton	Asst. City Attorney
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. Chris Coiners, Trinity Baptist Church.
2. Mayor Bronaugh welcomed visitors present. Councilmember Torres recognized LHS students who were present satisfying their government class requirement.
3. **APPROVAL OF MINUTES**

Minutes of the Regular Meeting of May 4, 2004 were approved on a motion by Councilmember Lynn Torres and seconded by Councilmember R. L. Kuykendall. A unanimous affirmative vote was recorded.

4. **OATH OF OFFICE – COUNCILMEMBERS KUYKENDALL AND TORRES**

Judge Paul White administered the Oath of Office to Councilmembers Kuykendall and Torres.

5. **ORDINANCE – APPROVED – SECOND READING - ALLEY CLOSING – BLEDSOE STREET BETWEEN FRANK AVENUE AND MOORE STREET**

Mayor Bronaugh stated that the next item for consideration was First Reading of an Ordinance to close an alley off Bledsoe Street between Frank Avenue and Moore Street.

Motion was made by Councilmember Rose Faine Boyd and seconded by Councilmember R. L. Kuykendall that Ordinance to close an alley off Bledsoe Street between Frank Avenue and Moore Street be approved on Second and Final Reading as presented and that the property be sold at a fair market value of \$11,120. A unanimous affirmative vote was recorded.

6. RESOLUTION – APPROVED – AUTHORIZING INCORPORATION OF THE 4-B CORPORATION

Mayor Bronaugh stated that the next item for consideration was a Resolution authorizing the incorporation of the 4-B Corporation.

Chief Brazil stated that this is a statutory requirement and he would defer to Asst. City Attorney Tommy Deaton to explain the Resolution. Mr. Deaton stated that this Resolution has to be passed regarding the reallocation of the City's tax. Mr. Deaton stated that he had brought a copy of the Resolution for inspection by the City Council. Mr. Deaton stated that the first time the City will receive any money is in December as a result of the reallocation of the tax. (Copies of the Resolution were made and passed out to Councilmembers.)

Councilmember Gorden stated that Council was under the impression that Articles of the Corporation would be on the Agenda tonight. (Copies of the Articles of the Corporation were made and passed out to Councilmembers.) Councilmember Gorden stated that Article Six was to be stricken from the document. Mr. Deaton stated that parts of Article Six were still in the document but the provision referred to by Councilmember Gorden had been stricken.

Mayor Bronaugh stated that Article Four states that the purposes of the Corporation may include, but are not limited to, any of the following: (1.) To retain and expand existing jobs and businesses in the Lufkin area; (2.) To attract new industry and businesses to the Lufkin area; (3.) To promote long term employment opportunities for Lufkinites; (4.) To promote and develop industrial and manufacturing enterprises in order to eliminate unemployment and underemployment; and (5). To promote and encourage employment and public welfare of, for, and on behalf of the City. Mayor Bronaugh stated that number six had been eliminated.

Mayor Bronaugh stated that the Articles of Incorporation would be passed around to members for their review and if Council wants to, the vote could be delayed until Council has had a chance to review the document.

Councilmember Robertson stated that he would like to have a chance to review the document in detail if Council is approving the Articles of Incorporation by passage of the Resolution. Mayor Bronaugh stated that Council was approving the Articles of Incorporation to mail into the State Comptroller's Office.

Motion was made by Councilmember Robertson and seconded by Councilmember Rose Faine Boyd to table this item until the June 1<sup>st</sup> meeting.

Councilmember Langston stated that the State requires three Incorporators to act on behalf of the proposed Economic Development Corporation and their purpose is to file with the State an Article of Incorporation saying we intend to incorporate, we intend to form a Board, we intend to perform these functions. Councilmember Langston stated that this could be delayed if necessary, and there is a motion for that purpose, but this is really just a formality required by the State that has very little impact on the function of the Board that comes later. Councilmember Langston stated that the Corporation must get something on record with the State that they exist and then the Board of Directors will come to the Council with By-Laws, and this more or less authorizes that action. Councilmember Langston stated that the purpose of these Articles is to allow the State to be placed on notice that this event has occurred. Councilmember Langston stated that the next event would be for this Board, which this Council has already approved, to meet and form By-Laws that they will bring to Council for their consideration and approval, so the "meat" will be in the By-Laws. Mr. Deaton stated that that is exactly right. Mr. Deaton stated that the election has allowed Council to do this and the Articles of Incorporation initiate the Corporation with three Incorporators signing the document. Mr. Deaton stated that the signed copies are filed with the

Corporate Division of the Secretary of State's Office. Mr. Deaton stated that the Lufkin Economic Development Corporation would then be of record. Mr. Deaton stated that the actual intricacies of the Corporation are done when the Board, which will meet after the Incorporators finish their duties, (they last just long enough to get this document filed) and then the Board of Directors meet and they will adopt By-Laws. Mr. Deaton stated that the By-Laws tell how the Corporation functions and what it is supposed to do. Mr. Deaton stated that this is just a formality.

Councilmember Robertson stated that if this were standard language he would withdraw his motion. Councilmember Boyd stated that she would withdraw her second to the motion.

It was noted that Councilmember Langston's first name had been misspelled on the document.

Motion was made by Councilmember Lynn Torres and seconded by Councilmember Rose Faine Boyd that Resolution authorizing the incorporation of the 4-B Corporation be approved as presented. A unanimous affirmative vote was recorded.

**7. POLICE DEPARTMENT BLOCK GRANT BUDGET – APPROVED**

Mayor Bronaugh stated that the next item for consideration was approval of the Police Department Block Grant Budget.

Chief Brazil stated that this is a 2002 block grant that has already been approved by Council and has a balance of \$9,600 remaining in the grant. Chief Brazil stated that the Department would like to apply the remaining monies toward upgrades in the Communications Center capabilities through equipment and software and associated operational training upgrades.

Motion was made by Councilmember R. L. Kuykendall and seconded by Councilmember Dennis Robertson that the Police Department Block Grant Budget be approved as presented. A unanimous affirmative vote was recorded.

**8. ELECTION OF MAYOR PRO TEM**

Mayor Bronaugh stated that the next item for consideration was the election of the Mayor Pro Tem.

Motion was made by Councilmember Lynn Torres and seconded by Councilmember R. L. Kuykendall that Councilmember Rose Faine Boyd be elected as the Mayor pro tem. A unanimous affirmative vote was recorded.

**9. REQUEST – APPROVED – LUFKIN/ANGELINA COUNTY ECONOMIC DEVELOPMENT PARTNERSHIP – FINANCIAL INCENTIVES – NEW JOBS AND INVESTMENT**

Mayor Bronaugh stated that the next item for consideration was the request of the Lufkin/Angelina County Economic Development Partnership for financial incentives to attract new jobs and investment.

Chief Brazil stated that four years ago the City Council designated \$100,000 for economic development incentives. Chief Brazil stated that the Partnership is requesting the use of those funds to repay the Partnership \$100,000, which is the City's portion of an incentive payment to ETI.

Councilmember Langston stated that under a previous contractual arrangement with ETI he would prefer to recuse himself from any action on this item.

Councilmember Robertson asked when this fund was established were there any stipulations on the criteria for use of these funds. Councilmember Robertson stated that he did not recall that Council had put any bounds on how the funds were to be used.

Councilmember Gorden stated that he did not believe there were any restrictions. Councilmember Gorden stated that it was his impression that everyone took it that it would be used in some effort, probably in conjunction with the Partnership at that time, but it was not specifically specified. Councilmember Robertson stated that it seems like there have been some decisions made previously on this that Council should have been made aware of before we got to this point tonight about these funds. Councilmember Robertson stated that if this is an incentive like the Tax Abatement to get somebody to come, then we are behind the curve on it. Councilmember Robertson stated that this is kind of like a "thank you" payment for coming rather than an incentive to get you here. Councilmember Gorden stated that the Tax Abatement Program is totally separate from this \$100,000 incentive money. Councilmember Gorden stated that the Tax Abatement Program is specific as to the number of jobs created and the amount of the abatement. Councilmember Gorden stated that this \$100,000 was merely an effort for job incentives and an effort needed to be made to create jobs. Councilmember Gorden stated that this \$100,000 relates to an agreement that City Manager C. G. Maclin and the Mayor entered into with the Partnership for part of an incentive package to get ETI to locate here. Councilmember Robertson stated that his point is do the City Manager and the Mayor have the authority to do this without Council approval. Mayor Bronaugh stated that this was brought before Council but he could not remember when. Councilmember Robertson stated that he knew that it had been discussed but he did not remember a vote on the use of this money before. Councilmember Robertson stated that the way he reads this is the Partnership is asking for the money like the Council has already approved it, and he takes exception to the procedure that we have gone through to give that \$100,000 out of City funds over to the Partnership. Councilmember Robertson stated that the Council approves money for contracts on a full-Council basis on other items and it seems like this one was not brought to full Council before the agreement was made to give them the \$100,000. Councilmember Robertson stated that he did not know whether protocol had been broken here or whether he does not understand the protocol on this or what the situation is. Councilmember Kuykendall stated that he remembers discussion on this but because the wording was not clear it was sent back for correction. Mayor Bronaugh stated that he distinctly remembers that Council had discussed this incentive. Councilmember Robertson stated that he had seen the letter essentially back in December when we had information in the Council packets about ETI but he did not remember having a vote of Council to use the \$100,000 for an incentive payment to get ETI to come to town. Mayor Bronaugh stated that the vote on this item could be delayed. Councilmember Gorden stated that he is certain that we could find it in previous meeting minutes where Mr. Maclin mentioned this. Councilmember Gorden stated that it did relate to the number of jobs coming as in the Tax Abatement. Councilmember Gorden stated that ETI is at 300+ jobs and steadily going forward and it is not unrealistic to think that they will have between 500 and 600 jobs in fairly short order. Councilmember Gorden stated that this is a major event for Lufkin and he did not think that Council could have found a better way to spend the money.

Councilmember Robertson stated that he understands the Tax Abatement issue and how it relates to the number of jobs, etc. Councilmember Robertson stated that at the meeting where they were given the Tax Abatement, his concern was that the protocol is that the company comes to the City to ask for a Tax Abatement as part of the incentive to come to town and its already here, then we are not using that incentive to come to town any more. Councilmember Gorden stated that there were agreements prior to them actually coming here that related to this. Councilmember Robertson stated that he might not understand the total protocol on the agreements that City Council needs to approve in what point in time. Councilmember Robertson stated that it seemed to him that if Council is going to have a policy saying that free incentives to get people to come

to town, Tax Abatement, so many dollars per job that they create, ought to be part of an incentive package to get them to come rather than a "thank you" payment after they get here. Councilmember Gorden stated that they just see this a little differently and he saw that it was structured before they actually came just because the payment had not been made yet. Councilmember Robertson asked if decisions were being made by the City Manager that City Council ultimately needs to pass on before they make commitments to somebody is his concern. Councilmember Robertson stated that it seems that some commitments were made without City Council approval.

In response to statement by Mayor Bronaugh, Councilmember Robertson stated that he just brings up the question since it seems that some protocol here that Council needs to fine tune a little better for approval of budget items like this and in terms of the process of moving this money into a project. Councilmember Robertson stated that he did not recall a vote being taken to use this money for any particular item before. Councilmember Robertson stated that this is a fine company that has moved to town and it is a worthy thing to do, but he is a little concerned on how Council is doing business with some of these items dealing with economic development. Mayor Bronaugh stated that tomorrow staff would research the minutes for this information.

Mayor Bronaugh stated that when the letter of request from the Partnership came in he went to Doug Wood and asked if there would be any problems with writing this check and he said, "No".

Motion was made by Councilmember Dennis Robertson and seconded by Councilmember Lynn Torres that the request of the Lufkin/Angelina County Economic Development Partnership for the reimbursement of \$100,000 to cover the City's portion of the Agreement with ETI be approved as presented. Six affirmative votes were recorded with Councilmember Langston recusing himself. Motion carried.

10. **BID - APPROVED - ABNEY STREET RECONSTRUCTION - J & D CONSTRUCTION**

Mayor Bronaugh stated that the next item for consideration was award of bid for Abney Street reconstruction.

Chief Brazil stated that included in the Council packet is a memorandum from Debbie Fitzgerald, Asst. Public Utilities Director, listing two bids for the reconstruction project. Chief Brazil stated that the bids are J & D Construction in the amount of \$1,081,459.80 and Drewery Construction in the amount of \$1,231,549.15. Chief Brazil stated that there are two additional bids for paving from J & D Construction in the amount of \$500,378 and Drewery Construction in the amount of \$523,392. Chief Brazil stated that the City of Lufkin crews could complete the asphalt work for \$341,758.62. The Engineering Department recommends approval of the low bid from J & D Construction for the reconstruction project and to allow the City of Lufkin crews to complete the asphalt work for a total project cost of \$1,423,218.42.

In response to question by Councilmember Langston, Ms. Fitzgerald stated that there were actually eight companies that picked up plans but when the bids came in they only received two. James Flournoy stated that some of the companies combined their bids.

Motion was made by Councilmember Dennis Robertson and seconded by Councilmember R. L. Kuykendall that the bid of J & D Construction in the amount of \$1,081,459.80 for the Abney Street reconstruction and the asphalt work by the City crews for a total of \$1,423,218.42 be approved as submitted. A unanimous affirmative vote was recorded.

**11. BID – APPROVED – KIT McCONNICO PARK – PHASE 1-B – TIMBERLINE CONSTRUCTORS**

Mayor Bronaugh stated that the next item for consideration was award of bid for Kit McConnico Park Phase 1-B.

Chief Brazil stated that included in the Council packet is a memorandum from Debbie Fitzgerald listing two bids for this project. Chief Brazil stated that the bids are J & D Construction in the amount of \$1,649,900.01 and Timberline Constructors, Inc. in the amount of \$1,400,000. The Engineering Department recommends approval of the low bid submitted by Timberline Constructors. Chief Brazil stated that Debbie Fitzgerald and Don Hannabas would answer questions.

Councilmember Langston stated that he noticed that there were a lot of alternates on this bid and wanted to know if these were just informational alternates or did it affect the budget matter that alternates were not elected. Ms. Fitzgerald stated that when this project was originally talked about there were options staff wanted (best-case scenario) and after the bids came in they were much too high to remain in the budget they were working in. Ms. Fitzgerald stated that additional costs, which will be incurred on this project were \$30,000 to Oncor for electrical service, \$358,695 for lighting from Musco Co. (through the BuyBoard), and \$10,920 for additional consultant fees.

Councilmember Langston stated that he had noticed that the additional funds needed to complete this project would be obtained from other CIP projects that have had a reduction of costs. Ms. Fitzgerald stated that they are looking possibly at Whitehouse because it may come in lower than originally budgeted, and the Abney Street job will come in below budget. Councilmember Langston stated that he would be more comfortable if the reductions in cost could be identified so that we know that we are living within the means of the CIP budget. Ms. Fitzgerald stated that the engineer on this job is Hal Barringer from Round Rock.

In response to question by Councilmember Gorden, Mr. Hannabas stated that he had placed drawings of the area of Kit McConnico Park being considered in this bid and highlighted in yellow the four soccer fields and four softball fields. Mr. Hannabas stated that there would be a restroom/concession inside this complex with a pavilion similar to what is at Morris Frank Park. Mr. Hannabas stated that there would be irrigation for all the fields.

In response to question by Councilmember Gorden, Mr. Hannabas stated that when staff originally started this project they were planning on two spokes of softball fields, which would make a total of eight softball fields. Mr. Hannabas stated that nothing is being done to enhance the three fields outside the yellow area. Mr. Hannabas stated that the Parks Department would be getting the word out about the new fields through the TAAF Association and the ASA Association, and would be bidding on State and regional tournaments.

Motion was made by Councilmember Rose Faine Boyd and seconded by Councilmember Lynn Torres that the bid of Timberline Constructors in the amount of \$1,400,000 for Kit McConnico Park Phase 1-B be approved as submitted. A unanimous affirmative vote was recorded.

**12. EMERGENCY SEWER MAIN REPAIR – APPROVED – SYBIL STREET**

Mayor Bronaugh stated that the next item for consideration was allocation of funds for emergency sewer main repair on Sybil Street.

Chief Brazil stated that approximately 1,300 feet of 24" sewer line had to be replaced under emergency conditions. Chief Brazil stated that a memorandum from Debbie Fitzgerald, Asst. Public Utilities Director, is included in the Council packet, detailing a

request for \$210,000 to pay for the repairs. Chief Brazil stated that this expenditure may be paid from the Water & Sewer Depreciation Fund.

In response to question by Councilmember Robertson, Ms. Fitzgerald stated that this an old 21" concrete lined pipe and over time the sewer methane gases ate the concrete and the line caved in. Ms. Fitzgerald stated that a couple of weeks ago she was called out because there was an odor of sewer gas and when she got there there was a hole in the top of the pipe for the entire width of the pipe. Ms. Fitzgerald stated that once that part was repaired the line broke in another place. Ms. Fitzgerald stated that they had TV'd the line and found that every joint has decayed completely.

In response to question by Councilmember Langston, Ms. Fitzgerald stated that the maximum cost is \$197,611 from J & D Construction. Ms. Fitzgerald stated that depending on rain this includes the rental of the pump, the by-pass, and the fuels to run the pump is \$160 a day. Ms. Fitzgerald stated that they are not running the pump at night to try and save some funds. Ms. Fitzgerald stated that these numbers are worse case scenario if everything goes wrong. Ms. Fitzgerald stated that the contractor feels that he can get the job done in five days, six at the max.

Motion was made by Councilmember Dennis Robertson and seconded by Councilmember R. L. Kuykendall that the request for \$210,000 (which includes the bid of J & D Construction in the amount of \$197,611) for the emergency sewer main repair on Sybil Street be approved as requested. A unanimous affirmative vote was recorded.

### 13. EXECUTIVE SESSION

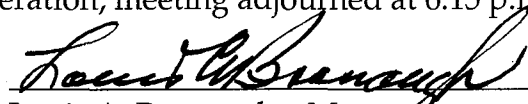
Mayor Bronaugh recessed Regular Session at 5:50 p. m. to enter into Executive Session. Regular Session reconvened at 6:11 p.m. and Mayor Bronaugh stated that Council had discussed personnel.

### 14. RECLASSIFICATION OF PURCHASING AGENT TO OAI POSITION

Mayor Bronaugh stated that the next item for consideration was reclassification of Purchasing Agent to an OAI position.

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember R. L. Kuykendall that the position of Purchasing Agent be reclassified to an OAI position. A unanimous affirmative vote was recorded.

15. There being no further business for consideration, meeting adjourned at 6:15 p.m.

  
Louis A. Bronaugh – Mayor

ATTEST  
  
Atha Martin – City Secretary