

MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 4TH DAY OF APRIL, 1989, AT 5:00 P.M.

On the 4th day of April, 1989, the City Commission of the City of Lufkin, Texas, convened in regular meeting in the Council Chambers of City Hall with the following members thereof, to wit:

Louis A. Bronaugh	Mayor
Percy Simond	Commissioner, Ward No. 1
Don Boyd	Commissioner, Ward No. 2
Danny Roper	Commissioner, Ward No. 3
Jack Gorden	Commissioner, Ward No. 5
Paul Mayberry	Commissioner, Ward No. 6
Harvey Westerholm	City Manager
Brian Boudreaux	Assistant City Manager
Ron Wesch	Public Works Director
Bob Flournoy	City Attorney
Atha Stokes	City Secretary

being present, and

Bob Bowman	Commissioner, Ward 4
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being absent when the following business was transacted.

1. Meeting was opened with prayer by Rev. L. D. Bell, Minister, Mount Olive Baptist Church.

2. Mayor Bronaugh welcomed visitors present.

3. APPROVAL OF MINUTES

Minutes of regular meeting of March 21, 1989, with corrections on page 5 (items 16a and 16b), were approved on a motion by Commissioner Don Boyd and seconded by Commissioner Paul Mayberry. A unanimous affirmative vote was recorded.

4. ORDINANCE - APPROVED - FIRST READING - LINDA J. WARD - 3002 PAUL - RS TO RS, SU (DAY NURSERY - LIMITED TO NO MORE THAN SIX CHILDREN NOT RELATED BY BLOOD AND LIMITED TO THIS PARTICULAR OWNER OF THIS PROPERTY)

Mayor Bronaugh stated that the next item for consideration was First Reading of Ordinance for Zone Change request by Linda J. Ward, covering property located at 3002 Paul from Residential Small to Residential Small, Special Use (Day Nursery - limited to no more than six children not related by blood).

Mrs. Ward stated that she has a State registered family home where she cares for six (6) children on a regular basis and would like to continue operating her business in the same way she has been doing in the past 18 months.

In response to question by Commissioner Roper, City Planner Nick Finan stated that the Special Use designation runs with the property, but that a stipulation could be added that it is limited to this particular owner of the property. (City Attorney Flournoy concurred that this was possible.) Commissioner Roper stated that he would prefer that the Special Use be limited to this particular owner of this piece of property.

Motion was made by Commissioner Danny Roper and seconded by Commissioner Don Boyd that Ordinance be approved on first Reading with the stipulation under the Special Use designation of Day Nursery be limited to this particular owner of this piece of property. A unanimous affirmative vote was recorded.

5. ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - MEMORIAL MEDICAL CENTER OF EAST TEXAS - 1200 BLOCK OF FRANK AVENUE - LB, RL TO LB, SU (PROFESSIONAL OFFICE - WITH THE FOLLOWING RESTRICTIONS: SITE PLAN REVIEW TO INCLUDE NO MORE THAN TWO (2) ENTRANCES ON FRANK AVENUE; SIGHT BEARING FENCE WITH LIGHTED PARKING LOT FOR SECURITY AND PROTECTION; SURVEY OF AREA TO BE ZONED COMPLETED PRIOR TO FIRST READING OF ORDINANCE BEFORE CITY COMMISSION, OMITTING A MINIMUM OF 86' BUFFER BETWEEN PARKING LOT AND MANTOOTH TO REMAIN RESIDENTIAL LARGE)

Mayor Bronaugh stated that the next item for consideration was First Reading of Ordinance for Zone Change request by Memorial Medical Center of East Texas, covering property located at 1200 Block of Frank Avenue from Local Business, Residential Large to Local Business, Special Use (Professional Offices - with the following restrictions: Site plan review to include no more than two (2) entrances on Frank Avenue; Sight bearing fence with lighted parking lot for security and protection; Survey of area to be zoned completed prior to First Reading of Ordinance before City Commission, omitting a minimum of 86' buffer between parking lot and Mantooth to remain Residential Large).

Attorney Don Duran, representing Memorial Medical Center of East Texas, presented drawings of proposed plans for expansion by the hospital. Mr. Duran stated that hospital representatives have been working with home owners and the Mantooth Association and have agreed that there will be no access from Mantooth, and that they will never seek to open that portion of Franklin Street north of Frank. Mr. Duran stated that this particular Zone Change request was only for Tract 2. Mr. Duran stated that the proposed plan as presented does not reflect the requirement by the Planning and Zoning Commission for a maximum of two (2) entrances on Frank.

Mr. Duran stated that the residents of Mantooth Street prefer to leave the buffer area in a natural state and the hospital has agreed to do so.

Commissioner Mayberry stated that as a resident of this area he would like to express his appreciation to the hospital and Gary Deer for working with the residents and the Mantooth Association.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Don Boyd that Ordinance be approved on First Reading as presented. A unanimous affirmative vote was recorded.

6. ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - MEMORIAL MEDICAL CENTER OF EAST TEXAS - 1201 FRANK AVENUE - RL, RL, SU (PARKING LOT), RM, LB, TO LB, SU (HOSPITAL - WITH THE PROVISION THAT THE LOT ABUTTING KILN HAVE A SIGHT BEARING FENCE ADDED WHEN PROPERTY IS UTILIZED ABUTTING ALL RESIDENTIAL PROPERTY AND NO ACCESS TO KILN STREET TO BE ADDED, AND A MINIMUM PARKING/BED RATIO OF 2.14 BE MAINTAINED)

Mayor Bronaugh stated that the next item for consideration was First Reading of Ordinance for Zone Change request from Memorial Medical Center covering property located at 1201 Frank Avenue from Residential Large, Residential Large, Special Use (Parking Lot), Residential Medium, Local Business to Local Business, Special Use (Hospital - with the provision that the lot abutting Kiln have a sight bearing fence added when property is utilized abutting all residential property and no access to Kiln street to be added, and a minimum parking/bed ratio of 2.14 be maintained.

Mr. Duran presented a proposed plan of the area being considered for a Zone Change and stated that the hospital is asking that all of the area be rezoned "Special Use - Hospital" for uniformity.

There was no opposition to the request.

Mayor Bronaugh requested that the hospital take into consideration the

culvert that is draining this area to the west behind the Denman and Thannish Clinics.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Don Boyd that Ordinance be approved on First Reading as presented. A unanimous affirmative vote was recorded.

7. ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - SAMUEL K. KAEMMERLING - NORTH LOOP 287 AND SPENCE STREET - LM TO HM, SU (WITH THE PROVISION OF A 30 FOOT SETBACK OFF OF THE LOOP AND A NATURAL BUFFER - TREES AND SHRUBBERY - TO BE MAINTAINED ON SOUTHWEST PORTION SURROUNDING RESIDENTIAL PROPERTY)

Mayor Bronaugh stated that the next item for consideration was First Reading of Ordinance for Zone Change request by Samuel K. Kaemmerling, covering property located at North Loop 287 and Spence Street from Light Manufacturing to Heavy Manufacturing, Special Use (with the provision of a 30 foot setback off of the Loop and a natural buffer - trees and shrubbery - to be maintained on southwest portion surrounding residential property).

Mr. Kaemmerling stated that this property had not been in compliance since it was annexed into the City and his request was to comply with the City Ordinances.

There was no opposition present.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Danny Roper that Ordinance be approved on First Reading as presented. A unanimous affirmative vote was recorded.

8. ORDINANCE - APPROVED - FIRST READING - PRIVATE AMBULANCE SERVICE

Mayor Bronaugh stated that the next item for consideration was First Reading of an Ordinance regulating private ambulance service within the City.

City Attorney Flournoy stated that the Ordinance as presented for First Reading has had some minor changes eliminating the requirements for malpractice insurance and the requirement for the submission of a Profit and Loss Statement.

EMS Coordinator Steve Howland stated that he had met with Mr. Minatrea earlier today and he seemed satisfied with the Ordinance as written.

City Manager Westerholm stated that the actual dollar amount for the annual certificate fee had not been stated in Article V - Section 5.10. The Commission had agreed on a fee of \$100 annually at last meeting.

Motion was made by Commissioner Percy Simond and seconded by Commissioner Paul Mayberry that Ordinance be approved on First Reading.

Motion was amended by Commissioner Simond and seconded by Commissioner Mayberry to set annual certificate fee at \$100 in Article V - Section 5.10 of the Ordinance. A unanimous affirmative vote was recorded.

9. ORDINANCE - DISCUSSED - FIRST READING - MINIMUM STANDARDS FOR HOUSING - CITY OF LUFKIN

Mayor Bronaugh stated that the next item for consideration was an Ordinance establishing minimum standards for housing for the City of Lufkin.

City Attorney Flournoy stated that the Ordinance basically establishes minimum standards for all existing houses in the City. New construction is covered by the Standard Building Code.

City Attorney Flournoy stated that the Ordinance addresses ventilation,

square footage, lighting, weather-proofing and rodent-proofing of existing housing.

Mayor Bronaugh stated that a Housing Advisory Committee was being considered to review dilapidated houses in low income housing, handicapped housing and affordable housing. Mayor Bronaugh stated that Jack Bresie, City Building Official, has submitted a list of people who might be interested in serving on this committee.

In response to question by Commissioner Simond, Mr. Flournoy stated that the Ordinance does not deal with dilapidated houses in depth because they are covered in other current City Ordinances and State Ordinances.

Commissioner Simond stated that the list of demolished houses was not necessarily a current list since he had personally requested former Fire Chief Billy Stephens to use the house at 110 Bob Street for practice burning several years ago.

Commissioner Simond stated it appears that under the Code of Ordinances enclosure, Section "F" - Dilapidated and Unsafe Buildings, the City has enough Ordinances to address all of the problems that need to be enforced.

Commissioner Simond passed out photographs in color of unsightly property on two streets in North Lufkin.

Commissioner Simond stated that, in his opinion, the City should consider hiring another Code Enforcement Officer in next year's budget.

Mayor Bronaugh stated that when he was serving as Commissioner of Ward 6 he was contacted by Benny Moye regarding a problem of this nature, and together with some concerned citizens the problem was taken care of.

Commissioner Simond stated that if no one is paying the taxes on the property the City should have some kind of legal redress. Mr. Flournoy stated that part of the problem is that many of these properties have been abandoned because people do not know that they have an interest in the property. Mr. Flournoy stated that the Appraisal District has attorneys they have hired who are pursuing these owners and are foreclosing on the properties. Mr. Flournoy stated that in some cases the taxes may be more than the value of the property.

Mayor Bronaugh stated that he would like to see a committee, in a Workshop, go over the problem areas and work towards eliminating these problems.

Mr. Flournoy stated that the new Local Government Code adopted in 1987 has now provided an opportunity to take this kind of problem into District Court and assess a penalty of \$1,000 a day in fines. Mr. Flournoy stated, however, that if an individual is indigent, the fine is worthless.

A Workshop was set for Tuesday, April 12th, at 9:00 a.m. in City Hall Conference Room 202.

#### 10. RESOLUTION - APPROVED - SHORT-TERM LOANS - FIRST CITY NATIONAL BANK

Mayor Bronaugh stated that the next item for consideration was Resolution authorizing the City of Lufkin to borrow from First City National Bank on a short-term basis.

City Manager Westerholm stated that at last meeting of the City Commission, City Attorney Flournoy was instructed to prepare a Resolution authorizing staff members to borrow from the City's depository on a short-term basis, not to exceed 30 days, without prior Council approval.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Danny Roper that Resolution be approved as presented. A unanimous affirmative vote was recorded.

11. AMENDMENT - APPROVED - FIRST READING - TOW TRUCK ORDINANCE

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

City Manager Westerholm stated that at last meeting it had been suggested that some minor changes be made to the Tow Truck Ordinance addressing the problem of call-outs at night or weekends.

Section 25.91 - "Release of Vehicles from Storage and Fees to be Charged" has been amended to read:

A Tow Truck Company must release a vehicle to the owner or the owner's designee at any time night or day. No charge shall be made for any release during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, the Tow Truck Company may charge a release fee for a release at any other time but it shall be reasonable and shall not exceed the usual and customary charge for like services provided in the Tow Truck industry within the City of Lufkin and in no event exceed \$30.

Commissioner Boyd stated that he would like for the fee to be no more than \$20.

Mayor Bronaugh stated that the Commission is not actually setting the fee, but limiting it to \$30.

Jack Steele, owner of Steve's Wrecker Service, asked if this section of the amendment would be considered price-fixing and in violation of anti-trust laws.

Commissioner Boyd stated that in a recent survey of tow truck owners conducted by the Police Department, no one was charging more than \$20 and if the fee is set at \$30 everyone will start charging that amount.

Chief Collins gave a report of the fees charged by area tow truck owners, with the highest fee at \$25. Chief Collins stated that Angelina Chevrolet does not respond to call-outs and when this Amendment is adopted they will be taken off the rotation list.

Motion was made by Commissioner Jack Gorden and seconded by Commissioner Danny Roper that Amendment to the Tow Truck Ordinance be approved as presented.

The following vote was recorded:

Aye: Commissioners Roper, Gorden, Mayberry, Simond, Mayor Bronaugh  
Nay: Commissioner Boyd

Mayor Bronaugh stated that motion passed by a vote of 5 to 1.

12. INVOICE - APPROVED - ANGELINA COUNTY APPRAISAL DISTRICT - PROPERTY TAX ROLLBACK

Mayor Bronaugh stated that the next item for consideration was an invoice from the Angelina County Appraisal District for the property tax rollback.

City Manager Westerholm stated that this invoice represents adjustments on the tax receipts changing the tax rate from 34 cents to 30.5 cents.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Danny Roper that invoice from Angelina County Appraisal District in the amount of \$16,332.10 be approved as presented. A unanimous affirmative vote was recorded.

13. CHANGE ORDER/FINAL PAYMENT - APPROVED - CONTRACT - CAT EXHIBIT

Mayor Bronaugh stated that the next item for consideration was a Change Order and final payment on contract on the cat exhibit.

City Manager Westerholm stated that the original contract price for the cat exhibit was \$188,750; \$150,000 of that amount is grant monies from TLL Temple Foundation, with the balance being made up by the Friends of the Zoo.

Commissioner Roper stated that there are some problems with the paint flaking on the building at the cat exhibit, and as a member of the Board of Friends of the Zoo, and on their behalf he would recommend that the City Commission retain \$2,000 until this problem can be resolved with the contractor.

Motion was made by Commissioner Danny Roper and seconded by Commissioner Jack Gorden that Change Order No. 2 and final payment of invoice from Moore Brothers Construction Co. be approved for payment of \$11,452 and \$2,000 retained until the problem with the paint is resolved. A unanimous affirmative vote was recorded.

14. RELEASE OF EASEMENT - APPROVED - SUBSTITUTION OF UTILITY EASEMENT - CROWN COLONY SECTION VI - B

Mayor Bronaugh stated that the next item for consideration was a release easement for substitution of a utility easement in Crown Colony Section VI - B.

City Manager Westerholm stated that two sketches from the Engineering Department had been provided for each member of the Commission showing the location of the old and new easements.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Danny Roper authorizing the release of an easement and acceptance of a new easement for power lines in Crown Colony Section VI - B. A unanimous affirmative vote was recorded.

15a. BID - APPROVED - PIPE AND MATERIALS - MLK DRIVE/WILDLIFE LANE - BIG STATE UTILITY

Mayor Bronaugh stated that the next item for consideration was bids for pipe and materials for a relief line for the elevated storage tank on Martin Luther King Drive, and the Wildlife Lane sewer line.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Percy Simond that bid of Big State Utility in the amount of \$7,269.30 be accepted and that the Utility Fund Budget be amended accordingly. A unanimous affirmative vote was recorded.

15b. BID - APPROVED - ELECTRIC LIFT - CIVIC CENTER - DAVIS EQUIPMENT CO.

Mayor Bronaugh stated that the next item for consideration was bids for an electric lift to be used at the Civic Center.

City Manager Westerholm stated that the low bid had been received from Davis Equipment Company of Houston in the amount of \$3,325 with a discount of \$125 if the invoice is paid in full within fifteen (15) days of the shipping date.

Motion was made by Commissioner Percy Simond and seconded by Commissioner Don Boyd that bid of Davis Equipment Company of Houston in the amount of \$3,325, with a discount of \$125 if the invoice is paid in full within fifteen (15) days of shipping date, be approved as the lowest bid. A unanimous affirmative vote was recorded.

16. LUFKIN TRANSIT SYSTEM - HB 1661 - SALES TAX - TML REGIONAL 16 MEETING

Commissioner Boyd stated that he was pleased to see a press release that Lufkin Transit System was #1 in the State.


Commissioner Mayberry stated that he would like to see the City Commission endorse proposed HB 1661 for a motor-fuel tax for street im-

provements, which will be dedicated on a countywide optional vote basis, and has been recommended by TML.

In response to question by Commissioner Roper, City Manager Westerholm stated that he had been in touch with the State Comptroller's office regarding the two nurseries which are selling as itinerant vendors, and was assured that their sales tax will be paid to the City. Mayor Bronaugh stated that the City Secretary's office will check to see that all solicitors/vendors have a tax I.D. number and that all sales tax receipts are paid locally.

Mayor Bronaugh stated that TML Region 16 will meet at Crown Colony Country Club on Thursday, April 20th at 6:30 p.m.

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

  
Louis A. Bronaugh, Mayor

ATTEST:

  
Atha Stokes, City Secretary