MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 16TH DAY OF MAY, 1995 AT 5:00 P. M.

On the 16th day of May, 1995 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
Don Boyd	Mayor pro tem
Betty Jones	Councilmember, Ward No. 3
Jack Gorden, Jr.	Councilmember, Ward No. 5
Tucker Weems	Councilmember, Ward No. 6
C. G. Maclin	City Manager
Ron Wesch	Asst. City Manager/Public Works
Darryl Mayfield	Asst. City Manager/Finance
Bob Flournoy	City Attorney
Atha Stokes	City Secretary

being present, and

Percy Simond, Jr.	Councilmember, Ward 1
Bob Bowman	Councilmember, Ward 4

being absent when the following business was transacted.

1. Meeting was opened with prayer by Rev. Rick Williams, Minister, First Baptist Church.

2. Mayor Bronaugh welcomed visitors present.

3. **APPROVAL OF MINUTES**

Motion was made by Councilmember Don Boyd and seconded by Councilmember Tucker Weems that the minutes of the Regular Meeting of May 2, 1995 and Called Meeting of May 8, 1995 be approved as presented. A unanimous affirmative vote was recorded.

4. **PUBLIC HEARING - TAX ABATEMENT - LUFKIN INDUSTRIES, INC. (DOWNTOWN OPERATIONS)**

Mayor Bronaugh opened the Public Hearing to consider a request of Lufkin Industries, Inc. for approval of a Tax Abatement on approximately 66.15 acres of land containing their downtown operations.

Jim Haley, Secretary-Treasurer, Lufkin Industries, stated that he appreciated the opportunity to present Lufkin Industries' request for a Tax Abatement. Mr. Haley stated that Lufkin Industries has not in the past made a request for Tax Abatement, but was now requesting a Tax Abatement for proposed capital expenditures in the $10 million range. Mr. Haley stated that in the past year, Lufkin Industries has realized some growth in sales and has reached capacity in some of their product lines. Mr. Haley stated that Lufkin Industries is not proposing to add any additional buildings at this point, but is requesting Tax Abatement primarily on new machine tools and new manufacturing processes. These tools will be located primarily in the downtown area, the foundry and in the machine shop within the City of Lufkin. The tools will allow Lufkin Industries to add capacity to their product lines and employees to their payroll, and will also allow LI to increase their sales and thereby generating additional sales tax revenues for the City.

Mr. Haley stated that, in his opinion, this request does comply with the requirements of the Tax Abatement law, and he would appreciate the City

Council's approval of the request.

Henry Holubec, Chairman of the Angelina Chamber of Commerce, stated that he was present in support of Lufkin Industries' request. Mr. Holubec stated that Lufkin Industries is a vital part of the community and it is exciting to see them have the opportunity to expand.

Luther Martin, resident of Lufkin, stated that he was very much in favor of seeing any progress or growth in the City and was in favor of Lufkin Industries' proposal.

Mayor Bronaugh closed the Public Hearing.

5. **ORDINANCE - APPROVED - FIRST READING - TAX ABATEMENT - LUFKIN INDUSTRIES, INC. (DOWNTOWN OPERATIONS)**

Mayor Bronaugh stated that the next item for consideration was a request of Lufkin Industries, Inc. for approval of a Tax Abatement on approximately 66.15 acres of land containing their downtown operations.

City Manager Maclin stated that in the Council packet is a copy of Lufkin Industries' application, including the documentation of the property, a Qualification Threshold Point Sheet and a copy of the Ordinance for consideration by the Council. City Manager Maclin stated that the application nets out at 3,035 points, which qualifies Lufkin Industries for a 3,000 point level Tax Abatement. City Manager Maclin stated that all the paperwork is in order and has been completed in accord with the City's policies and procedures for a Tax Abatement application.

Councilmember Gorden stated that the Tax Abatement Program has been designed to encourage growth of business and attract new business, and he was proud to see Lufkin Industries take advantage of the Program.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Tucker Weems that the Ordinance be approved on First Reading as presented. A unanimous affirmative vote was recorded.

6. **AMENDMENT - APPROVED - COMPREHENSIVE ZONING ORDINANCE - SPECIAL USE PERMITS - LODGES, FRATERNITY AND SORORITY HOUSES - BOARDING AND ROOMING HOUSES - RESIDENTIAL LARGE ZONING DISTRICTS ON SITES LESS THAN ONE ACRE**

Mayor Bronaugh stated that the next item for consideration was amending Article XVI of the Comprehensive Zoning Ordinance as it relates to the granting of Special Use Permits for Lodges, Fraternity and Sorority Houses, and Boarding and Rooming Houses in Residential Large Zoning Districts on sites of less than one acre.

City Manager Maclin stated that the Planning and Zoning Commission recommends approval of this Amendment to the City's Comprehensive Zoning Ordinance.

City Planner Stephen Abraham stated that this textual Amendment allows the City Council to consider Special Use Permits on Residential property on sites of less than one acre. Mr. Abraham stated that currently the Zoning Ordinance states that a Bed and Breakfast, boarding house, lodging house, fraternity or sorority house would be allowed to be granted a Special Use Permit in an Apartment Zoning District with no minimum size requirement, and on Residential Large Districts on sites of at least one acre. Mr. Abraham stated that the Planning Department recommended, and the Planning & Zoning Commission approved on a 4 to 1 vote, that only a minor adjustment be made to the definition of "lodge", mainly for grammatical reasons, and that the one acre requirement on Residential Large tracts remain. Mr. Abraham stated that the one acre requirement on fraternity and soroity houses was removed, but a Special Use Permit is still required in a Residential Large District.

Mr. Abraham stated that at this time, the Zoning Ordinance does not have a definition for a fraternity or sorority house. Mr. Abraham stated that there would be no definitional change to boarding and lodging houses, but the requirement that they be on one acre would be removed. Mr. Abraham stated that a new definition for a Bed and Breakfast has been established as shown in the recommendation.

John Fleming, who resides at 909 Grove, stated that he was not present to protest the concept of the Bed and Breakfast, but he was against the Ordinance as it is proposed. Mr. Fleming stated that the proposed changes would make an already bad Ordinance even worse. Mr. Fleming stated that this particular Ordinance is being reviewed because of a specific request (item #7 on the agenda). Mr. Fleming stated that he would like to see these two issues addressed separately. Mr. Fleming stated that what the Council is being asked to do at this moment is to make a decision for the entire City of Lufkin as to what areas of these town quasi residential uses will be permitted. Mr. Fleming suggested that this item be tabled until further study can be made as to how these specific areas are addressed in other communities. Mr. Fleming stated that there was some discussion last Monday regarding alternative communities and the location of bed and breakfasts in other areas before the Planning & Zoning Commission. Mr. Fleming stated that subsequent to that time he has had the opportunity to do some investigation of his own, and he would submit to the Council that there are better ways to address this issue than the Amendment that is currently proposed. Mr. Fleming stated that, in his opinion, it should be of great concern to the Council that under the change a boarding house can be located in any residential district without any guidance to either the Council or the Planning and Zoning Commission about where a boarding house can be located. Mr. Fleming stated that, likewise, with respect to bed and breakfasts there is no guidance to the Planning & Zoning Commission or to the Council as to where these uses are appropriate. Mr. Fleming stated he would suggest that the City's current Comprehensive Plan does not provide any direction as to where such a use is also appropriate for granting this Special Use designation.

Mr. Fleming stated that Council can say that they require a Special Use Permit to address each request on a case-by-case basis. Mr. Fleming stated that he would suggest to Council that without some further guideline as to where it is appropriate and where it is not appropriate, there is the risk of having arbitrary and capricious standards set up. Mr. Fleming stated that before Council votes to amend an Ordinance that does not just address a single zoning issue (i.e. one at the corner of Mantooth and Thompson), but the whole community, the Council should consider the adoption of an Ordinance that protects the integrity of residential neighborhoods.

Mr. Fleming stated that the City of Nacogdoches has dealt with this issue and under their Ordinance a bed and breakfast with a Special Use Permit can be permitted in a Residential 1 (the equivalent of the City of Lufkin 's Residential Large), but only if it is for four patrons or less. Mr. Fleming stated that under the Ordinance that is being proposed tonight, a Residential Large area could have a Bed and Breakfast that would provide for up to 12 guests. Mr. Fleming stated that, in his opinion, the Council should consider whether having a Bed and Breakfast with 12 guests is appropriate in a Residential Large area.

Mr. Fleming stated that, in his opinion, before the City Council amends an Ordinance that has long term effects on the whole City, and will set the benchmark or standard for future Zone Changes, the Council needs more information about how other cities have handled the Bed and Breakfast issue so it can be done in a comprehensive and well ordered plan that will serve the City for years to come. Mr. Fleming stated that he was urging the Council to table the current proposal until further study and comparisons with other communities can be made.

In response to a question by Councilmember Jones, Mr. Fleming stated that a Bed and Breakfast with over five guests in a Residential Large area would have a disproportionate impact.

Mr. Abraham stated that the purpose of a Special Use Permit is to add flexablity to a zoning classification - it does not change the zoning classification of any property. Mr. Abraham stated that a Special Use Permit is determined on the existing land use at a particular location. Mr. Abraham stated that the Amendment to the Ordinance will provide the City Council an opportunity to consider on a case-by-case basis the appropriateness of individual requests in singe-family and two-family zoning districts on sites that are less than one acre in size. Mr. Abraham stated that under a Special Use Permit, the Council is allowed to impose conditions on a particular operation which makes it compatible with the surrounding uses.

In response to question by Councilmember Boyd, City Attorney Flournoy stated that Mr. Boyd's question points out the quandry staff was in when they began looking at the City's Ordinance and how a Bed and Breakfast should be treated. Mr. Flournoy stated that the Ordinance was not clear and it was staff's intention to make it clear. Mr. Flournoy stated that this Ordinance is not being changed for a particular piece of property. Mr. Flournoy stated that there are 26 categories of Special Use Permits in the City's Zoning Ordinance that it has been operating under since 1963. Mr. Flournoy stated that on page 35 of the Zoning Ordinance it states that the Council has the authority for imposing specific landscaping requirments, specific screening, ingress and egress, surfacing the parking lot, control regulation of all signs, lighting and other things that will make the property compatible with the particular area. Mr. Flournoy stated that if there comes a time when staff finds that there are some specific guidelines that should be imposed on Bed and Breakfast establishments, the Ordinance can be amended. Mr. Flournoy stated that, in his opinion, the Ordinance as proposed is adequate to cover this request.

In response to question by Councilmember Gorden, Mr. Abraham stated that the Council does have injunctive relief and can issue citations for violations of the Zoning Ordinance and the provisions of the Special Use Permit.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Tucker Weems that the Amendment to Article XVI of the Comprehensive Zoning Ordinance be approved as presented. A unanimous affirmative vote was recorded.

7. **ORDINANCE - APPROVED - SPECIAL USE PERMIT - BED AND BREAKFAST ESTABLISHMENT - BLAIR AND PATTI NICKS - 620 MANTOOTH AVENUE**

Mayor Bronaugh stated that the next item for consideration was a request of Blair and Patti Nicks for approval of a Special Use Permit for a Bed and Breakfast Establishment at 620 Mantooth Avenue.

City Manager Maclin stated that included in the Council packet is a copy of the explanation and recommendation from the Planning and Zoning Commission. City Manager Maclin stated that the Planning and Zoning Commission has recommended by unanimous vote the Special Use Permit with six conditions - (1) There shall be no increase in habitable floor space; (2) No person shall occupy the pool between the hours of 10:00 p.m. and 10:00 a.m. the following morning; (3) There shall be no more than four sleeping rooms provided to guests of the establishment; (4) No alteration to the exterior of any structure (except for maintenance purposes) shall be permitted, unless such alternation is for the purpose of restoring an identifiable historic or architectural feature. It shall be the responsibility of the owner to obtain written approval from the City prior to commencing any exterior alteration; (5) There shall be no more than one sign located on the premises. The sign shall not exceed six square feet in surface area and shall not be internally illuminated nor directly illuminated after 11:00 p.m. If attached to a structure, the sign shall be located below the eave line. If a ground sign, no portion of the sign shall exceed three feet above grade. (6) The establishment shall meet all requirements of a "Customary Home Occupation" except the prohibition on signage and the square footage limitation.

Patti Nicks stated that her plan for the Bed and Breakfast is that it will be an establishment that will be quiet and discreet, which is the philosophy of the Bed and Breakfast. Mrs. Nicks stated that people want a place to come that has been renovated historically and their plans are to run it as an elegant home from the 1920's. Mrs. Nicks stated that the Bed and Breakfast will be family owned and managed and would be their home. Mrs. Nicks stated that it would not be necessary to hire outside help as this will be the primary occupation of Mr. Nicks. Mrs. Nicks stated that the dwelling, built in 1924, will be kept historically accurate. Mrs. Nicks stated that the changes that need to occur are from rotting wood. There will not be a need for additional parking, and no parking on the street will be allowed. Mrs. Nicks stated that under #2 of the guidelines she is requesting that "person" be changed to "guest", and that the pool hours for the family use be changed because of the summer heat (pool hours would be from 7:00 a.m. to 10:00 p.m.).

Mr. Nicks passed around pictures of the house on Mantooth, along with pictures of older historical homes in Lufkin and Nacogdoches.

Luther Martin, citizen, spoke in support of the request.

Dennis Robertson, 611 Mantooth, stated that he had polled the neighbors and there was no opposition to the Bed and Breakfast.

Motion was made by Councilmember Tucker Weems and seconded by Councilmember Don Boyd that Ordinance be approved on First Reading with changes to item #2 of the conditions set by the Planning & Zoning Commission (change "person" to "guest", and "10:00 p.m. to 10:00 a.m." to "10:00 p.m. to 7:00 a.m."). A unanimous affirmative vote was recorded.

8. **REQUEST - APPROVED - ANGELINA BEAUTIFUL/CLEAN - WATER BILL CONTRIBUTION**

Mayor Bronaugh stated that the next item for consideration was a request of Angelina Beautiful/Clean concerning water bill contributions.

Gig Langston, a member of the Angelina Beautiful/Clean Board, stated that the organization currently receives $7,000 from the citizens $1.00 water bill donation for administrative costs to AB/C. Mr. Langston stated that he is requesting that the donation be increased to $10,000 for administration. Mr. Langston stated that this increase will in no way affect the project money. Mr. Langston stated some of the reasons for the request is because of the increase in postage, rent on a storage building, rent for office space in the Chamber, and salaries for the two co-ordinators.

In response to a question by Councilmember Gorden, Mr. Langston stated that the total AB/C budget is $147,000, with $52,700 designated for administrative costs.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Jack Gorden, Jr. that the request of Angelina Beautiful/Clean be approved as presented. A unanimous affirmative vote was recorded.

9. **POLICY - APPROVED - INSTALLATION OF STORM SEWER PIPE AND CULVERTS**

Mayor Bronaugh stated that the next item for consideration was the adoption of a policy for the installation of storm sewer pipe and culverts.

City Manager Maclin stated that the City has been operating under a policy that allows citizens to request the installation of a culvert in their front yard or under their driveway in order to use that area for maintenance purposes. City Manager Maclin stated that staff was unable to locate a written policy for the installation of storm sewer pipe and culverts, and since it is important that the City has a policy with written documentation, he requested that the Asst. City Manager of Public Works draft such a Policy.

Mr. Wesch stated that basically 95% of all culvert installations are for driveways and most of them are replacement culverts. Mr. Wesch stated that the City very seldom installs storm sewer pipe for citizens because of the expense involved, but they do install the pipe on occasion. Mr. Wesch stated that staff has conducted hydrologic studies in order to install storm sewer pipe and the policy addresses the application of those studies. Mr. Wesch stated that no storm sewer pipe will be installed until such time that a hydrologic study of the complete water shed within a particular area has been completed. Mr. Wesch stated that, in his opinion, this Policy outlines what the City has been doing the past 14 years that he has been with the City.

Councilmember Jones stated that she would like to make sure that the City has a good documentation system when the hydrologic studies are conducted.

Motion was made by Councilmember Betty Jones and seconded by Councilmember Jack Gorden, Jr. that the policy for the installation of storm sewer pipe and culverts be approved as presented. A unanimous affirmative vote was recorded.

10. **RESOLUTION - APPROVED - AMENDING AUTHORIZED REPRESENTATIVES FOR TEXPOOL**

Mayor Bronaugh stated that the next item for consideration was a Resolution amending the authorized representatives for TEXPOOL.

City Manager Maclin stated that on the table before Councilmembers is an updated copy of the TEXPOOL Resolution to replace the one that was in the packet. City Manager Maclin stated that also on the table is a copy of a letter from Martha Whitehead, Texas State Treasurer. City Manager Maclin stated that the purpose of this item being on the agenda is to update signatures that were previously listed and to also update the Resolution with TEXPOOL to mirror or reflect the policy that Council adopted in regards to investments and the Investment Clearing Fund.

City Manager Maclin stated he would like to bring Council's attention to the letter from Mrs. Whitehead dated April 26, 1995 that reports to the City that Standard & Poor's Corporation in New York has assigned a AAAm to TEXPOOL. City Manager Maclin stated that a rating of AAAm is probably the hardest and highest rating to be received from a rating agency. City Manager Maclin stated that in order to receive a AAAm there are very stringent requirements including daily reporting to S&P. City Manager Maclin stated that to solidify any concern that citizens may have had about TEXPOOL when it was in the news approximately 8 to 10 months ago, this is a statement from S&P that TEXPOOL is solid in its credit rating and in its money market fund management.

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember Don Boyd that the Resolution amending the authorized representatives for TEXPOOL be approved as presented. A unanimous affirmative vote was recorded.

11. **EXECUTIVE SESSION**

Mayor Bronaugh recessed the Regular Session to enter into Executive Session at 6:05 p.m. Regular Session reconvened at 6:26 p.m. and Mayor Bronaugh announced that attorney/client matters and appointments to various boards had been discussed.

12. **APPOINTMENTS - APPROVED - DETCOG BOARD OF DIRECTORS - CIVIL SERVICE COMMISSION - TREE BOARD - ZONING BOARD OF ADJUSTMENTS AND APPEALS**

Mayor Bronaugh stated that the next item for consideration was appointments to the DETCOG Board of Directors and various City boards.

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember Tucker Weems that Mayor Louis Bronaugh, Mayor pro tem Don Boyd, Councilmember Tucker Weems and Councilmember Betty Jones be appointed to the DETCOG Board of Directors. A unanimous affirmative vote was recorded.

Motion was made by Councilmember Tucker Weems and seconded by Councilmember Don Boyd that Royce Garrett be reappointed to the Civil Service Commission. A unanimous affirmative vote was recorded.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Jack Gorden, Jr. that Betty Jones be appointed to the Tree Board. A unanimous affirmative vote was recorded.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Jack Gorden, Jr. that Jerry Benson, Luther DeBerry, Al Meyer, Lt. Gen. Orren Whiddon and Lacy Chimney be reappointed to the Zoning Board of Adjustment and Appeals. A unanimous affirmative vote was recorded.

13. **COMMENTS**

Councilmember Boyd stated that Council might need to look at the requirements for residence qualifications for candidates who seek office in the City elections. In response Mr. Flournoy stated that basically the law says that 'residence" is a matter of intent. Mr. Flournoy stated that there needs to be some objective evidence that the person does have a residence in the City. City Manager Maclin stated that State law says that the right to make a determination has been taken away from the City Council and is determined by District Court. Councilmember Boyd stated that the purpose of the single member district is being defeated. City Manager Maclin stated that the Secretary of State has said that if a person does not agree that a candidate lives in the Ward, then there is a mechanism for disagreement and it is filing a suit in District Court. City Manager Maclin stated that there is a tool to force an individual to prove their residency beyond just their intent.

Councilmember Weems, who was absent at the swearing in ceremony, welcomed Betty Jones to the Council.

City Manager Maclin reminded Councilmembers of the annual DETCOG meeting on Thursday, May 25 at the Civic Center.

Mayor Bronaugh reminded Councilmembers of the Planning Retreat on June 8 at Pine Island.

14. There being no further business for consideration, meeting adjourned at 6:35 p.m.

Louis A. Bronaugh

Louis A. Bronaugh - Mayor

ATTEST:

Atha Stokes

Atha Stokes - City Secretary