MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 2ND DAY OF MARCH, 1999 AT 5:00 P. M.

On the 2nd day of March, 1999 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
Don Boyd	Councilmember, Ward No. 2
Tucker Weems	Councilmember, Ward No. 6
C. G. Maclin	City Manager
James Hager	Asst. City Manager/Finance
Bob Flournoy	City Attorney
Atha Stokes Martin	City Secretary
Keith Wright	City Engineer
Stephen Abraham	Director of Planning
Kenneth Williams	Director of Public Works

being present, and

Betty Jones	Councilmember, Ward No. 3
Bob Bowman	Councilmember, Ward No. 4

being absent when the following business was transacted.

1. Meeting was opened with prayer by Rev. N. C. Simmons, Pastor, Mt. Beulah Baptist Church.

2. Mayor Bronaugh welcomed visitors present.

3. **APPROVAL OF MINUTES**

Motion was made by Councilmember Don Boyd and seconded by Councilmember R. L. Kuykendall that the minutes of the Regular Meeting of February 16, 1999 be approved as presented. A unanimous affirmative vote was recorded.

4. **ORDINANCE - APPROVED - SECOND READING - ZONE CHANGE - RESIDENTIAL LARGE TO NEIGHBORHOOD RETAIL - 1513 S. CHESTNUT STREET - B. J. McADAMS**

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance to change the zoning from Residential Large to Neighborhood Retail at 1513 S. Chestnut Street and being approximately one acre of land abutting the northern property line of the Gipson, Hunter, Metcalf Funeral Home as requested by Don Duran on behalf of B. J. McAdams.

Motion was made by Councilmember Tucker Weems and seconded by Councilmember Don Boyd that Ordinance to change the zone from Residential Large to Neighborhood Retail at 1513 S. Chestnut Street and being approximately one acre of land abutting the northern property line of the Gipson, Hunter, Metcalf Funeral Home as requested by Don Duran on behalf of B. J. McAdams be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

5. ORDINANCE - APPROVED - SECOND READING - ZONE CHANGE - RESIDENTIAL LARGE TO COMMERCIAL - LEWIS HOLLOWAY SURVEY - G. W. MASSINGILL, JR. SURVEY - LOOP 287 AND SHADY PINE - MORRIS MOREHEAD - JERRY JOHNSON

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance to change the zoning from Residential Large to Commercial on approximately 2.74 acres of land described as Tract 214 of the Lewis Holloway Survey (Abstract 310) and Tracts 6, 7, 8 and 9 of the G. W. Massingill Jr. Survey (Abstract 475) and located at the northwest corner of the intersection of Loop 287 and Shady Pine Street as requested by Morris Morehead on behalf of Jerry Johnson.

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember R. L. Kuykendall that Ordinance to change the zoning from Residential Large to Commercial on approximately 2.74 acres of land described as Tract 214 of the Lewis Holloway Survey (Abstract 310) and Tracts 6, 7, 8 and 9 of the G. W. Massingill Jr. Survey (Abstract 475) and located at the northwest corner of the intersection of Loop 287 and Shady Pine Street as requested by Morris Morehead on behalf of Jerry Johnson be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

6. ORDINANCE - REVISED - SECOND READING - HEALTH BENEFITS - CITY RETIREES

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance revising Ordinance #3354 offering health benefits to City retirees.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Tucker Weems that Ordinance revising Ordinance #3354 offering health benefits to City retirees be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

7. AUDIT REPORT - APPROVED - AXLEY & RODE - FISCAL YEAR 1997-'98

Mayor Bronaugh stated that the next item for consideration was the audit report from the City's external auditor Axley & Rode for fiscal year 1997-'98.

City Manager Maclin stated that Councilmembers received a copy of the audit last Friday with their packet. City Manager Maclin stated that the Finance Committee received a preview report from Linda Milford, and she was present tonight to give Council a brief overview of the fiscal audit for 1997-'98.

Ms. Milford stated that in Axley & Rode's opinion the general purpose financial statements are presented fairly in all material respects and the financial position of the City of Lufkin, Texas as of September 30, 1998, and the results of its operations and the cash flows of its proprietary fund types for the year ended in conformity with generally accepted accounting principles. Ms. Milford stated that in accordance with Government Auditing Standards they have also issued a report on their consideration of the City's internal control structure and a report on its compliance with laws and regulations. Ms. Milford stated that since this is also a single audit they have an additional report bound together in this report concerning their observations of the internal control over Federal Financial Assistance and over the internal controls of the major Federal Financial Assistance Funds.

Ms. Milford stated that the City adopted one change in generally accepted accounting principles and that was to adopt the Governmental Accounting Standards Board - Statement 31, which is Accounting and Reporting for Certain Investments and for external investment pools.

Ms. Milford referred to the Balance Sheet (pages 8 and 9 of the audit), and stated that the City of Lufkin is in a strong financial position as of September 30, 1998.

Ms. Milford stated that in the combined statement of Revenues and Expenditures and Changes in Fund Balances All Governmental Fund Types you can see the effect of the adoption of the Gatsby statement in that what they do here is restate the prior year fund balance for the cumulative effect of the change in accounting principles. Ms. Milford stated that Statement 31 requires that all investments be reported at fair value rather than at cost.

Ms. Milford stated that on the Proprietary Fund (page 24) looking at the budget for actual comparisons for the City even though there were a few exceptions where the City over spent its budget, generally speaking, and as a whole, the City stayed well within its budget for this year. Ms. Milford stated that all in all, she feels that this is a good report.

Motion was made by Councilmember Tucker Weems and seconded by Councilmember R. L. Kuykendall that the audit report from the City's external auditor Axley & Rode for fiscal year 1997-'98 be approved as presented. A unanimous affirmative vote was recorded.

Ms. Milford stated that she would like to offer her appreciation to the City of Lufkin for having them perform the audit, and would like to thank the City and staff for the help and cooperation they gave the auditors.

City Manager Maclin stated that the City would likewise like to express their appreciation to Axley and Rode. City Manager Maclin stated that this has been one of the more pleasant experiences of enduring an audit in his 25 years of municipal government and he appreciated the attitude of the auditors.

8. **SITE PLAN - APPROVED - SOUTHERN COLONY SHOPPING CENTER - BRENTWOOD DRIVE AND WHITEHOUSE DRIVE - RODNEY MOORE**

Mayor Bronaugh stated that the next item for consideration was request of Rodney Moore for approval of a site plan for an 18.9 acre shopping center to be known as Southern Colony and located at the southeast corner of Brentwood Drive and Whitehouse Drive.

City Manager Maclin stated that included in the Council packet is a memorandum of explanation from the Planning Department on this request. City Manager Maclin stated that this request comes to Council from the Planning & Zoning Commission with a unanimous vote recommending site plan approval with three conditions: (1) No building shall be located closer than forty (40) feet to any perimeter boundary of the shopping center. (2) Separate site plan approval shall be required to establish standards for all freestanding signs within the development. and, (3) The detention pond may be constructed in phases. However, the storage capacity of the pond will at all times meet the minimum requirements of the Drainage Criteria Manual that is proportional to the amount of impervious surface that is developed.

Motion was made by Councilmember Tucker Weems and seconded by Councilmember Jack Gorden, Jr. that the site plan for an 18.9 acre shopping center to be known as Southern Colony and located at the southeast corner of Brentwood Drive and Whitehouse Drive as requested by Rodney Moore be approved with the following conditions: (1) No building shall be located closer than forty (40) feet to any perimeter boundary of the shopping center. (2) Separate site plan approval shall be required to establish standards for all freestanding signs within the development. and, (3) The detention pond may be constructed in phases. However, the storage capacity of the pond will at all times meet the minimum requirements of the Drainage Criteria Manual that is proportional to the amount of impervious surface that is developed. A unanimous affirmative vote was recorded.

9. **AMENDMENT - APPROVED - FUTURE LAND USE MAP - COMPREHENSIVE PLAN - ATKINSON DRIVE - PAUL AVENUE AND NECHES STREET**

Mayor Bronaugh stated that the next item for consideration was an Amendment to the Future Land Use Map of the Comprehensive Plan on property located on the south side of Atkinson Drive (State Highway 103) between Paul Avenue and Neches Street.

City Manager Maclin stated that included in the Council packet is a memorandum of explanation from the Planning Department regarding this request to amend the Comprehensive Plan. City Manager Maclin stated that the Planning & Zoning Commission, by unanimous vote, recommends the Future Land Use Map of the Comprehensive Plan be amended to indicate the land fronting the south side of State Highway 103 between Paul Avenue and Neches Street is suitable for Commercial development. City Manager Maclin stated that this is basically just reflecting a change over the years in the property as it is frontage on a four lane State highway.

Motion was made by Councilmember Don Boyd and seconded by Councilmember R. L. Kuykendall that Amendment to the Future Land Use Map of the Comprehensive Plan on property located on the south side of Atkinson Drive (State Highway 103) between Paul Avenue and Neches Street be approved as presented. A unanimous affirmative vote was recorded.

10. **EXTENSION OF CITY SERVICES - DENIED - KING'S ROW MOBILE HOME PARK - RONALD WEISS**

Mayor Bronaugh stated that the next item for consideration was a request of Ronald Weiss for expansion and extension of City services for the King's Row Mobile Home Park outside the City limits of Lufkin.

City Manager Maclin stated that included in the Council packet is a memorandum of explanation from the City Engineer along with a letter of request from Bill Moreau of East Texas Engineering, and an engineering report prepared by Mr. Moreau relating to the calculation of the engineering report for the servicing of their proposed expansion.

Bill Moreau stated that the present tract has 103 sites on it and these sites have been discharging sanitary sewer into the City of Lufkin's facilities since the park's inception. Mr. Moreau stated that the owners of King's Row found a small area they could clear and add nine additional sites. Mr. Moreau stated that will not be any more land at King's Row to put any more homes on than the nine that they are proposing. Mr. Moreau stated that the addition of nine connections into the present King's Row Mobile Home Park and the City of Lufkin's U. S. 69 system will not have any significant impact. Mr. Moreau stated that the City's South Highway 69 lift station is more than adequate to handle this appropriate 2000 gallons a day (1% of what is in the present lift station). Mr. Moreau stated that they are not proposing to add sewer service to any other tract other than what has already been serviced by the City of Lufkin for a number of years.

In response to question by Councilmember Gorden, City Manager Maclin stated that the cover letter for this item is saying that as staff we are seeking Council's authorization. City Manager Maclin stated that staff does not have the authority to provide service (in this case, additional service) outside the City limits. City Manager Maclin stated that basically in the last eight years the only exception to service outside the City limits that Council has granted is Trinity Baptist Church, which would not have an impact to the tax roll had they been annexed. City Manager Maclin stated that they were contiguous to the City's boundaries at the time. City Manager Maclin stated that at their own expense they put in a sewer pump to pump their sewer into the City's system. City Manager Maclin stated that outside of that "not for profit" exception, there have been no other extensions or additional services for sewer service granted outside the City limits, therefore staff needed Council to provide input for this request.

Councilmember Gorden stated that he was not in favor of granting sewer service to King's Row when they made their request eight or nine years ago.

Mr. Wright stated that Mr. Moreau was correct when he made the statement that the nine sites were minimal and the City's lift station does have the capacity. Mr. Wright stated that the only thing he would be concerned about is what if King's Row bought more land at a later date and came back to Council and asked for additional discharge to the sewer system based on the fact that they are already an existing customer. Mr. Wright stated that he has been contacted by other people in the area who wanted to get on the City's sewer system. Mr. Wright stated that his standard response has been that unless they are annexed, the City Council's policy is that they cannot get on the system without City Council approval.

Councilmember Gorden stated that, in his opinion, the City has some responsibility to help with sanitary control of this type of thing, but Council has a direct responsibility to the tax payers of Lufkin and that tax base is what causes the City to exist and do some good things. Councilmember Gorden stated that, in his opinion, the City should not extend sewer service outside the City limits.

Mr. Wright stated that this has been a unique situation and he did not know how to handle it since it was a system that was already being served outside the City limits.

In response to question by Councilmember Kuykendall, City Manager Maclin stated that the question is not whether the City can handle the capacity of these nine additional lots, but it is following City policy. Mr. Wright stated that his understanding from talking with Ron Wesch was when the sewer treatment plant was expanded in 1986 and all the money that was spent, the Council decided at that time that they would not add any additional sewer outside the City because of the cost and the impact to the plant. Mr. Wright stated that this policy went into effect in the mid '80's. Mr. Wright stated that this lift station discharges into an area at Highway 69 and the Loop where the City spent a large sum of money for the 24" sewer main. Mr. Wright stated that the problem for the City is the collection system.

Jeff Chance, attorney, stated that he certainly understands the considerations that have been raised with respect to the policy and the desire to follow the policy, but the truth of the matter is that this particular mobile home park is already outside of that policy. Mr. Chance stated that it is his understanding that Council can do whatever they feel like is in the City's best interest. Mr. Chance stated that he might suggest for Council's consideration that typically if an entity has already been able to be contradictory to a policy that later came into place that they would be grandfathered out of the policy change that occurred at some point later. Mr. Chance stated that King's Row has been at their present location prior to 1986 before the policy change came into place. Mr. Chance stated that King's Row is simply asking that this request be grandfathered, since it is already being served and it will have very little impact on the City's sewerage treatment plant. Mr. Chance stated that in regard to Mr. Wright's comment about the possiblity of King's Row purchasing additional land in the future, perhaps that is an issue for another day, and today's issue is these nine units.

In response to question by Councilmember Kuykendall, City Manager Maclin stated that, in his opinion, grandfathering would not legitimately apply unless when they granted the development in 1985, they prescribed a total number of lots then that said they would do 103 lots or 112, and if they were granted the authority for 112 slots back in 1985 and are just now coming to get the full measure of those granted slots or mobile home sites, then that might be called grandfathered because it would be documented that they had requested the total number at the time and for whatever reason had not utilized all of those.

City Attorney Flournoy stated that "grandfathered" is probably not the correct term, but is rather what the City calls a "non-conforming" use. Mr. Flournoy stated that there are clear limitations on "grandfathered" property - you cannot expand or even rebuild in case of obsolescence. Mr. Flournoy stated that the prescedence would be against extending this in this particular situation if it violated the policy.

Mr. Moreau stated that this property probably came in as a tract with field notes.

Councilmember Gorden stated that he thought he remembered that there was a sewer plant at the mobile home park site and there had been problems which prompted the owners to come to the City and request sewer service. Councilmember Gorden stated that he personally is not for adding to the number of sewer connections that are already there. Mr. Moreau stated that he vaguelly remembers that at one time there was a sewer treatment plant on site.

In response to question by Councilmember Weems, Mr. Wright stated that the water meters are on an individual basis at one and one-half the water rate, which would impact their sewer. Mr. Wright stated that the City of Lufkin will serve anybody who is in the City's CCN (Certificate of Convenience and Necessity). Mr. Wright stated that the City is required by the State to furnish water but not sewer service.

Councilmember Weems asked if staff had made a study as to what the impact of annexing King's Row would be as opposed to charging the one and one-half rate. Mr. Wright stated that he has not come up with any monetary figures, but that he and Mr. Abraham looked at the maps this afternoon and the possibility of annexing them, and what kind of utilities would be needed. Mr. Wright stated that King's Row is approximately 2800 feet outside the City limits and it would require annexing 30-35 additional properties and meet State law as far as 1000 foot from the roadway that is required. Mr. Wright stated that the water service would not impact the annexation, but there would have to be some sewer improvements to serve all the tracts.

Councilmember Weems stated that he had watched the mobile home park grow larger over the years and he did not remember it coming before the Council. Mr. Moreau stated that the owners of King's Row are just trying to utilize the tract that is out there. Mr. Wright stated that more than likely the mobile home park had so many sewer taps put out and they have now run out. Mr. Moreau stated that the area for the nine additional lots is basically in the middle of the park and not on the back.

Mr. Wright stated that Mr. Vann in the Engineering Department told him that the City had been approached by the State to take over the sewer plant at King's Row because they were not in compliance.

In response to question by Mayor Bronaugh, Mr. Moreau stated that there had not been a request for annexation. Mr. Moreau stated that the people in the mobile home park are paying one and one half times the water rate, and the property taxes are paid by the owner of the mobile home park.

City Manager Maclin stated that if the owners of the park were asked to consider annexation, their biggest challenge would be trying to encourage the 35 property owners in that 2800 feet between the current City limits and King's Row to join in the annexation.

Mr. Moreau stated that the sewer system that serves King's Row was actually installed by King's Row, so the City of Lufkin's sewer service ends at the City limits.

City Manager Maclin stated that typically the out of City rates are one and one half for water and two times for sewer, particularly if you are outside the City's ETJ.

Mr. Wright stated that staff needs some guidance from Council since this is a special situation where there is an existing facility, and staff needs to know how to handle this, and what will be the City's policy in the future.

In response to question by Mayor Bronaugh, Mr. Wright stated that the City had expanded the Sewer Treatment Plant in 1995 at a cost of $3.5 million and right now the capacity is at 11.3 MGD and we are pumping typically six to seven MGD. Mr. Wright stated that as for as the treatment plant itself, the City is in good shape. The worst problem is the City's collection system and the sewer rehab program that will need to be implemented.

Mr. Moreau stated that he was under the impression that adding nine lots to the existing system would not be such a problem.

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember Tucker Weems that request of Ronald Weiss for expansion and extension of City services for the King's Row Mobile Home Park outside the City limits of Lufkin be denied, and that City staff continue abiding by the current City policy. A unanimous affirmative vote was recorded.

11. **<u>BID - APPROVED - AERATOR AND CATWALK REPAIR - WATER PLANT - TIMBERLINE CONSTRUCTORS, INC.</u>**

Mayor Bronaugh stated that the next item for consideration was a bid for aerator and catwalk repair at the water plant.

City Manager Maclin stated that included in the Council packet is the bid tabulation, and that staff recommendation is the low bid of Timberline Constructors, Inc. in the amount of $12,256.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Jack Gorden, Jr. that bid of Timberline Constructors, Inc. in the amount of $12,256 for repairs to the aerator and catwalk at the water plant be approved as submitted. A unanimous affirmative vote was recorded.

12. **<u>BID - APPROVED - WOOD STREET ELEVATED STORAGE TANK - PAINTED</u>**

Mayor Bronaugh stated that the next item for consideration was to award the bid to paint the Wood Street elevated storage tank.

City Manager Maclin stated that the staff recommendation is to award the low bid of Tandem Services in the amount of $77,800. City Manager Maclin stated that this is substantially under the amount that was budgeted, but that was due to the fact that the previous job was a quality job, and therefore staff was able to save some dollars on this project without having to do as much site preparation as we normally would.

Motion was made by Councilmember Don Boyd and seconded by Councilmember R. L. Kuykendall that the bid of Tandem Services, Inc. in the amount of $77,800 to paint the Wood Street elevated storage tank be approved as submitted. A unanimous affirmative vote was recorded.

13. **<u>BID - APPROVED - RECONSTRUCTION OF INTERSECTION - ABNEY AND SAYERS STREETS - B & J EXCAVATING</u>**

Mayor Bronaugh stated that the next item for consideration was bids for the reconstruction of the intersection of Abney and Sayers Streets.

City Manager Maclin stated that included in the Council packet is the bid tabulation and staff recommendation is the low bid of B & J Excavating in the amount of

$12,300.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Tucker Weems that bid of B & J Excavating in the amount of $12,300 for reconstruction of Abney and Sayers Street be approved as submitted. A unanimous affirmative vote was recorded.

14. **BID - APPROVED - STREET RECONSTRUCTION PROJECT - CULVERHOUSE**

Mayor Bronaugh stated that the next item for consideration was bids for street reconstruction project of Culverhouse Street.

City Manager Maclin stated that this is a project that was approved in the budget process and brought to Council a couple of meetings ago for approval in the street program for 1999. City Manager Maclin stated that the staff recommendation is the low bid of Allen Loggins & Sons, Inc. in the amount of $63,884.31.

Motion was made by Councilmember Tucker Weems and seconded by Councilmember Jack Gorden, Jr. that bid of Allen Loggins & Son, Inc. in the amount of $63,884.31 for the reconstruction project of Culverhouse Street be approved as submitted. A unanimous affirmative vote was recorded.

15. **BID - APPROVED - BURKE WATER WELLS PLUGGED - LAYNE CHRISTENSEN COMPANY**

Mayor Bronaugh stated that the next item for consideration was bids for plugging the Burke water wells.

City Manager Maclin stated that this is a requirement of the operation and taking over the Burke Water System, and the staff recommendation is the low bid of Layne Christensen in the amount of $29,866.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Tucker Weems that bid of Layne Christensen Company in the amount of $29,866 for plugging the Burke water wells be approved as submitted. A unanimous affirmative vote was recorded.

16. **EXECUTIVE SESSION**

Mayor Bronaugh recessed Regular Session at 5:50 p.m. to enter into Executive Session. Mayor Bronaugh reconvened Regular Session at 6:40 p.m. and stated that Councilmembers had discussed attorney-client matters and real estate.

17. **COMMENTS**

Councilmember Weems stated that the City of Lufkin has a net worth of approximately $110 million in infrastructure including parks, streets, utilities, etc. Councilmember Weems stated that he did not think the citizens realized how much money in tax dollars had been invested in the City of Lufkin.

City Manager Maclin stated that he will be going to Austin Wednesday to meet with Senator Nixon, the Lower Neches River Authority, ANRA, the Upper Neches River Authority and other representatives of Key 7, to try to discuss further the options relating to the future of the Angelina Neches River Authority. Mr. Maclin stated that he would report back to Council on Friday what the results of the meeting were.

18. There being no further business for consideration, meeting adjourned at 6:42 p.m.

Louis A. Bronaugh
Mayor

ATTEST:

Atha Stokes Martin

Atha Stokes Martin - City Secretary