

**MINUTES OF WORKSHOP MEETING OF THE CITY COUNCIL OF
THE CITY OF LUFKIN, TEXAS, HELD ON THE
17TH DAY OF MAY, 1994 AT 4:00 P. M.**

On the 17th day of May, 1994 the City Council of the City of Lufkin, Texas, convened in a Workshop Meeting in Room 202 of City Hall with the following members thereof, to wit:

Louis A. Bronaugh	Mayor
Percy Simond	Councilman, Ward No. 1
Larry Kegler	Councilman, Ward No. 3
Bob Bowman	Councilman, Ward No. 4
Jack Gorden, Jr.	Councilman, Ward No. 5
Tucker Weems	Councilman, 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

Don Boyd	Mayor pro tem
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being absent when the following business was transacted.

1. Meeting was opened by Kristi Gay, President of the Main Street Board.
2. Ms. Gay welcomed City Council Members and City employees to the Annual Main Street Report.

3. **MAIN STREET REPORT**

Ms. Gay expressed her appreciation on behalf of the Board to the City Council for the passage of an Ordinance that will enable them to work more efficiently in the downtown area.

Ms. Gay stated that membership in the Main Street Program had risen from 47 members in 1993 to 70 members in 1994. Membership dues collected for 1993 was \$5,475, as opposed to \$6,625 in 1994.

Ms. Gay stated that the Main Street Program had received a grant from AB/C to buy some very large concrete planters for the downtown area.

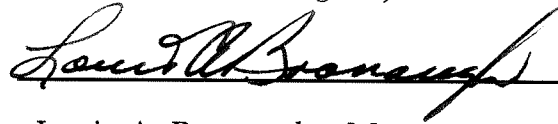
Gary Neighbors spoke on behalf of the Main Street Program.

Dawn Glover, Main Street Director, presented a reinvestment summary for October, 1990 through May, 1994. Ms. Glover stated that the total amount of rehabed or restored properties in downtown for this period was \$1,009,000. The grand total invested in the downtown area was \$1,616,600. There were 117 jobs created.

Ms. Gay stated that the primary focus on the downtown property was physical appearance. Ms. Gay stated that the Code Enforcement Office had helped tremendously and expressed her appreciation to that office.


Main Street members introduced at the meeting were: Cooper Castleberry, Don Duran, Jerry Moore, Jo Ann Denby, Jay Shands, John Letney, Gary Neighbors and Martha Schwartz.

4. There being no further business for consideration, meeting adjourned at 4:50 p.m.



Louis A. Bronaugh - Mayor

ATTEST:



Atha Stokes - City Secretary

**MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF LUFKIN, TEXAS, HELD ON THE
17TH DAY OF MAY, 1994 AT 5:00 P.M.**

On the 17th day of May, 1994 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
Percy Simond	Councilman, Ward No. 1
Larry Kegler	Councilman, Ward No. 3
Bob Bowman	Councilman, Ward No. 4
Jack Gorden, Jr.	Councilman, Ward No. 5
Tucker Weems	Councilman, 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, when the following business was transacted.

1. Meeting was opened with prayer by Rev. N. C. Simmons, Minister, Mt. Beulah Baptist Church.
2. Mayor Bronaugh welcomed visitors present.
3. **APPROVAL OF MINUTES**

Minutes of Called Meeting of April 29, 1994 and Regular Meeting of May 3, 1994 were approved on a motion by Councilman Don Boyd and seconded by Councilman Larry Kegler. A unanimous affirmative vote was recorded.

4. **ORDINANCE - APPROVED - FIRST READING - REGULATING SMOKING IN PUBLIC PLACES**

Mayor Bronaugh stated that the first item for consideration was First Reading of an Ordinance regulating smoking in public places in the City of Lufkin.

City Manager Maclin stated that at the last meeting Council gave some more specific direction in terms of reviewing the City of Arlington and the Texas Department of Health model Ordinances and gave the City Attorney some instruction on items to include or not to include. City Manager Maclin stated that the City Attorney has taken these documents and the requests made by Council and has produced the draft ordinance that was included in the packet.

City Attorney Flournoy stated that basically the new ordinance would prohibit smoking in any place except in bars, private residences (unless there are childcare or health care facilities in them), retail tobacco stores, restaurants, hotel/motel conference rooms (meeting rooms that are being used for private functions), and properly designated areas in restaurants and employee work places in restaurants could not exceed 25% of the eating area when it is enclosed and is set up so that it minimizes the impact of smoke on common areas and pathways, and also subject to approval by the City; employers can designate a place for employees to smoke (there are some requirements regarding signs).

In response to question by Councilman Bowman, Mr. Flournoy stated that the Ordinance does not address how the restaurant is to minimize the impact of smoke

on common areas and pathways, and they are leaving it up to the City to decide on ways to minimize the smoke without requiring that a separate air conditioning unit be installed. Mr. Flournoy stated that, in his opinion, violations to the Ordinance would be by someone complaining, as opposed to sending around "the smoke police".

In response to question by Councilman Gorden, Mr. Flournoy stated that the Ordinance being presented to Council is primarily the model ordinance by the Texas Department of Health and does incorporate some items from the City of Austin (where it deals with places of employment), and some items from the City of Arlington (the way it deals with restaurants).

Councilman Gorden stated that he was in favor of totally excluding smoking from public places.

Councilman Boyd stated that, in his opinion, the restaurant owners should have the right to decide if they want to make their businesses non-smoking. Mayor Bronaugh stated that if a restaurant owner wants to have smoking in his restaurant he should have a sign on the outside of the building letting patrons know in advance that there is a smoking area.

Councilman Gorden stated that smoke always filters over from the smoking area to the non-smoking area.

Councilman Weems stated that the Ordinance, as it is now written, would meet his requirements.

Linda McKnight Thomason, who suffers from chronic lung disease, spoke against smoking in public places.

Motion was made by Councilman Jack Gorden, Jr. and seconded by Councilman Bob Bowman that Ordinance be approved on First Reading and that there will a total ban on smoking in public places.

In response to question by Mayor Bronaugh, Mr. Flournoy stated that bars, retail tobacco shops, and private residences (except where there are childcare centers) be excluded. Mr. Flournoy stated that Article V, B (1), states that "Designated employees smoking areas may be located in areas to which employees, but not the general public, except by invitation only, have access during the course of employment. A common employee work area shall not be designated as an employee smoking area unless every person who works in that area agrees in writing to the designation. "

Councilman Simond stated that, in his opinion, smoking should be banned in the entire City of Lufkin.

Mr. Flournoy stated that as he understands the motion it is to prohibit smoking in any public place with the exception of bars, private residences (except where used as childcare facilities), and retail tobacco shops. In response to question by City Manager Maclin, Mr. Flournoy stated that Article V, dealing with places of employment, would be deleted altogether; items 4 and 5 under Article VI, and Article IV, item 7 would be amended to read "Restaurants", leaving out the exceptions.

In response to question by Mayor Bronaugh if the City would have jurisdiction over private clubs in restaurants, Mr. Flournoy stated that it is a public facility. Mr. Flournoy stated that he would suggest rewording the exception for bars to read "Bars, where enclosed, or separated from a restaurant and serviced by a separate air conditioning system."

Councilman Gorden asked if 90 days would be reasonable for an effective date.

Mr. Flournoy stated that this Ordinance is broad enough to cover hotel/motel rooms. Councilman Boyd stated that this is getting too technical. Mr. Flournoy stated that if smoking is allowed in hotel/motel rooms, the Ordinance as it is written, will have to be changed.

City Manager Maclin suggested that hotel/motel rooms be added under Article VI - A.

Motion was amended by Councilman Gorden and seconded by Councilman Bowman that Ordinance be approved on First Reading with the following changes: Article V, dealing with places of employment, would be deleted altogether; delete items 4 and 5 under Article VI; Article IV, item 7 would be amended to read "Restaurants", leaving out the exceptions; and under Article VI - A, hotel/motel rooms would be added. The following vote was recorded:

Aye: Councilmen Kegler, Gorden, Bowman, Simond, Mayor Bronaugh
Nay: Councilmen Boyd and Weems

Motion carried by a vote of 5 to 2.

Mayor Bronaugh requested that a copy of the Ordinance as amended be distributed to members of the Council prior to the next Council meeting.

Sherine Boston of Fuller's Buffet addressed the Council stating that their establishment is a "smoking restaurant", where the largest percentage of patrons and all of the employees smoke, and asked questions regarding the Ordinance. Ms. Lawson stated that the establishment she works for has been hurt by the Grease Trap Ordinance, and this Ordinance would also hurt their business. Ms. Lawson stated that she would like to be able to post a sign establishing Fuller's as a "smoking" restaurant.

5. ORDINANCE - APPROVED - SECOND READING - ANNEXATION/ZONING - WHITE HOUSE DRIVE - BRENTWOOD DRIVE

Mayor Bronaugh stated that the next item for consideration is Second Reading of an Ordinance for the annexation of and the appropriate zoning classification for 6.35 acres of land known as tracts 129, 129-1-1, and 128 of the McKinney & Williams Survey (Abstract 463) and located along the south side of White House Drive between Brentwood Drive and the existing City limits.

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

6. ORDINANCE - APPROVED - FIRST READING - SPECIAL USE PERMIT - AUTO UPHOLSTERY/TRIM SHOP - NEIGHBORHOOD RETAIL ZONING DISTRICT - 902 PERSHING

Mayor Bronaugh stated that the next item for consideration is a request by Richard L. Jones for approval of a Special Use Permit for an auto upholstery and trim shop within a neighborhood retail zoning district located at 902 Pershing.

City Manager Maclin stated that included in the Councilmember's packet is an explanation of the request, and a recommendation by the Planning & Zoning Commission by unanimous vote to approve this request and that the Comprehensive Plan be amended to reflect that this area should be for "Commercial" land usage.

There was no opposition to the request.

Motion was made by Councilman Bob Bowman and seconded by Councilman Tucker Weems that Ordinance for Special Use Permit be approved on First Reading as presented, and that the Comprehensive Plan be amended to reflect that this area should be for "Commercial" land usage. A unanimous affirmative vote was recorded.

7. ADDENDUM - NO ACTION TAKEN - ORDINANCE - FARMER'S MARKET - NOISE

Mayor Bronaugh stated that the next item for consideration is an Addendum to Ordinance No. 355 (Farmers Market shall have permission to have a volume level not to exceed 90 decibels).

City Manager Maclin stated that included in the Councilmember's packets is a letter from Lois McCarty, Manager of the Angelina County Farmer's Market, regarding this request.

Ms. McCarty stated that for the past three years the County has been trying to have special events at the Farmer's Market and there is a family behind the Market who call and complain during each event. Ms. McCarty stated that she is making her request because it is impossible to have any kind of event without this family complaining, and she is afraid that she will eventually lose bookings for the Market. Ms. McCarty stated that she is in the process of planning special events at the Market each month of the year.

David Cantu stated that last week at the Cinco de Mayo festival at the Market the Police came in answer to a complaint, and threatened to close down the band if there was another call. Mr. Cantu stated in years past this event has been held in downtown Lufkin, and this was the first year for the event at the Farmer's Market.

Mayor Bronaugh stated that the fact that the lady who was complaining lives outside the City limits had never been brought to the City's attention.

In response to question by Mr. Cantu, City Manager Maclin stated that the Ordinance does not have a decibel rating, but rather states that any sound or noise that is plainly audible at a distance of 50' from the building in which it is located shall be prima facie evidence of a violation of the Ordinance.

City Manager Maclin stated that the vast majority of complaints received during the Cinco de Mayo festival came from outside the City limits and he has instructed the Police Chief when these calls come in that they be directed to the Sheriff's office. In response to question by Mr. Cantu, City Manager Maclin stated that the six telephone complaints that were received were all from outside the City limits.

City Manager Maclin stated he would suggest to Ms. McCarty to use common sense; if she thinks the music is too loud she should exercise her authority as manager of the Market to ask for a happy medium.

City Manager Maclin stated that the City is not equipped to give every Police Officer a decibel monitoring device, but will try to use common sense and reasonableness in enforcement of this Ordinance. City Manager Maclin stated that the City is asking for the cooperation of the Farmer's Market manager and there shouldn't be any problems.

Mayor Bronaugh stated that no action needs to be taken on this item.

Mr. Cantu made a request for financial aid from the City for the Cinco de Mayo festival and Mayor Bronaugh stated that this was not the appropriate time for this request. Mayor Bronaugh stated that this could be heard on an agenda in the future.

Councilman Weems stated that he appreciated the Police Department's reports and the way they handled the situation.

8. CONSTRUCTION & MAINTENANCE AGREEMENT - APPROVED - TURTLE CREEK DRIVE - TEXAS DEPARTMENT OF TRANSPORTATION

Mayor Bronaugh stated that the next item for consideration is approval of Construction and Maintenance Agreement to the Texas Department of Transportation for replacing the bridge on Turtle Creek Drive.

City Manager Maclin stated that this is a revision to the Agreement due to some eligibility requirements and requested that Mr. Wesch review this item.

Mr. Wesch stated that the City had put the initial 10% on the bridge on Copeland Street and at the current time this bridge does not meet the requirements for the bridge replacement program. Mr. Wesch stated he feels that the bridge on Copeland will qualify in the next 18 months or 2 years and it will still be included in the money.

Mr. Wesch stated that this project is a substitute for the previously executed agreement for the Copeland Street project.

Motion was made by Councilman Bob Bowman and seconded by Councilman Jack Gorden, Jr. that Construction & Maintenance Agreement with the Texas Department of Transportation for bridge replacement on Turtle Creek Drive be approved as presented. A unanimous affirmative vote was recorded.

9a. BID - APPROVED - INCLINED FEED CONVEYOR - RECYCLING - KRAUSE MANUFACTURING, INC. - SOLID WASTE CONTINGENCY FUND

Mayor Bronaugh stated that the next item for consideration is bids for an inclined feed conveyor to be used in the Recycling Department.

City Manager Maclin stated that staff recommendation is to award the bid of Krause Mfg., Inc. in the amount of \$37,900.

City Manager Maclin stated that there is currently \$50,000 in the Solid Waste Contingency Fund.

In response to question by Councilman Gorden, City Manager Maclin stated that this is a replacement piece of equipment.

Motion was made by Councilman Tucker Weems and seconded by Councilman Bob Bowman that bid of Krause Mfg. Inc. in the amount of \$37,900 be accepted as submitted, and that \$26,000 of this amount be taken from the Solid Waste Contingency Fund. A unanimous affirmative vote was recorded.

9b. BID - APPROVED - UNIFORMS - CINTAS CORPORATION - VARIOUS DEPARTMENTS

Mayor Bronaugh stated that the next item for consideration is bids for uniforms in various departments.

City Manager Maclin stated that staff recommendation is to award the bid of Cintas Corporation in the amount of \$15,447.50.

Motion was made by Councilman Bob Bowman and seconded by Councilman Jack Gorden, Jr. that bid of Cintas Corporation in the amount of \$15,447 be accepted as submitted. A unanimous affirmative vote was recorded.

10. EXECUTIVE SESSION.

Mayor Bronaugh recessed Regular Session at 6:07 p. m. to enter into Executive Session. Regular Session reconvened at 6:24 p.m. and Mayor Bronaugh announced that Council had discussed legal matters and appointments to boards and commissions.

11. APPOINTMENT - APPROVED - ZONING BOARD OF ADJUSTMENT & APPEAL - ROTLEY TANKERSLEY

Motion was made by Councilman Larry Kegler and seconded by Councilman Jack Gorden, Jr. that Rotley Tankersley be appointed to serve as an alternate member on the Zoning Board of Adjustment & Appeals. A unanimous affirmative vote was recorded.

12. COMMENTS

In response to question by Councilman Simond, City Manager Maclin stated that the reason there are no diving boards at the City's swimming pools is because of liability, and that diving boards attribute to 85% of the accidents at swimming pools.

Councilman Simond stated that there are a number of people throwing things off of the overpass on Kurth Drive and he would recommend that staff be in touch with the railroad in regard to installing a wire enclosure over the overpass to prevent this type of action. Councilman Bowman requested that staff also ask the railroad to do something about the untidiness of the area around the underpass on Frank and Angelina Streets.

Councilman Simond questioned the fact that pool halls or new businesses need to have a permit to operate in the City of Lufkin. Mr. Flournoy stated that as long as a pool hall or business is in the right zone, the City does not have any control over it.

City Manager Maclin reminded Councilmembers that the budget retreat will be held tomorrow, Wednesday, at the Kurth Lake Lodge.

City Manager Maclin stated that DETDA will hold a meeting on Friday at 10:00 a.m. at Crown Colony and the speaker will address current health care issues to include the President's plan.

Mayor Bronaugh reminded Councilmembers that they have been invited to attend the Kiwanis meeting on May 25 to hear the Canadian Consul General.

Mayor Bronaugh reminded Councilmembers that the annual DETCOG luncheon meeting will be held on Thursday, May 26, at 10:00 a.m. at the Civic Center and Charles Wilson will be present.

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

ATTEST:



Atha Stokes - City Secretary



Louis A. Bronaugh - Mayor