

MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF
LUFKIN, TEXAS, HELD ON THE
6th OF JANUARY 2004

On the 6th day of January 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:

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| 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 |
| C. G. Maclin | City Manager |
| Atha Martin | City Secretary |
| Bob Flournoy | City Attorney |
| Keith Wright | City Engineer |
| David Koonce | Director of Human Resources |
| Kenneth Williams | Director of Public Works |
| Douglas Wood | Director of Accounting |
| Stephen Abraham | Director of Planning |

being present when the following business was transacted.

1. Meeting was opened with prayer by Rev. Jacqueline Hannon, First Presbyterian Church.
2. Mayor Bronaugh welcomed visitors present.

3. APPROVAL OF MINUTES

Minutes of the Regular Meeting of December 16, 2003 were approved on a motion by Councilmember Dennis Robertson and seconded by Councilmember Lynn Torres. A unanimous affirmative vote was recorded.

4. ORDINANCE – APPROVED – SECOND READING – ADOPTION OF INTERNATIONAL BUILDING CODE

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance for the adoption of the International Building Code.

City Manager Maclin stated that there was one other item related to Property Maintenance Building Code which was tabled. Mr. Maclin stated that the Director of Public Works is working on some information to provide Council with a greater understanding of the advantages and disadvantages and issues that could arise with that particular portion of the Building Code. Mr. Maclin stated that this item will be brought back to Council at a later date.

Motion was made by Councilmember Don Langston and seconded by Councilmember Rose Faine Boyd that Ordinance adopting the International Building Code be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

5. ORDINANCE – APPROVED – SECOND READING – ADOPTION OF THE INTERNATIONAL PLUMBING CODE

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance for the adoption of the International Plumbing Code.

Motion was made by Councilmember Don Langston and seconded by Councilmember Rose Faine Boyd that Ordinance adopting the International Plumbing Code be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

6. ORDINANCE – APPROVED – SECOND READING – ADOPTION OF THE INTERNATIONAL MECHANICAL CODE

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance for the adoption of the International Mechanical Code.

Motion was made by Councilmember Don Langston and seconded by Councilmember Rose Faine Boyd that Ordinance adopting the International Mechanical Code be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

7. ORDINANCE – APPROVED – SECOND READING – ADOPTION OF THE INTERNATIONAL FUEL GAS CODE

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance for the adoption of the International Fuel Gas Code.

Motion was made by Councilmember Don Langston and seconded by Councilmember Rose Faine Boyd that Ordinance adopting the International Fuel Gas Code be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

8. ORDINANCE – APPROVED – SECOND READING – ADOPTION OF THE INTERNATIONAL EXISTING BUILDING CODE

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance adopting the International Existing Building Code.

Motion was made by Councilmember Don Langston and seconded by Councilmember Rose Faine Boyd that Ordinance adopting the International Existing Building Code be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

9. ORDINANCE – APPROVED – SECOND READING – INTERNATIONAL FIRE CODE

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance adopting the International Fire Code.

Motion was made by Councilmember Don Langston and seconded by Councilmember Rose Faine Boyd that Ordinance adopting the International Fire Code be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

10. ORDINANCE – APPROVED – SECOND READING - AMENDMENT TO ORDINANCE NO. 3439 – BUILDING PERMIT FEE SCHEDULE

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance amending Ordinance No. 3439 to adopt a Building Permit Fee Schedule.

Motion was made by Councilmember Don Langston and seconded by Councilmember Rose Faine Boyd that Ordinance amending Ordinance No. 3439 to adopt a Building Permit Fee Schedule be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

11. ORDINANCE – APPROVED – FIRST READING – SPECIAL USE PERMIT – RECREATIONAL VEHICLE PARK – COMMERCIAL ZONING DISTRICT – RUFUS ONE STOP SUBDIVISION – 5002 LOTUS LANE

Mayor Bronaugh stated that the next item for consideration was a request of John Urbin to grant a Special Use Permit for a Recreational Vehicle Park within a "Commercial" zoning district on approximately 2.259 acres of land described as Lot 1 of the Rufus One Stop Subdivision and more commonly known as 5002 Lotus Lane.

City Manager Maclin stated that included in the Council packet is the memo of explanation from the Director of Planning along with the maps, site plan, etc. Mr. Maclin stated that the Planning & Zoning Commission by unanimous vote recommends approval of this Special Use Permit with the following five stipulations or conditions: (1) That the development of the RV Park shall be in accordance with the approved site plan (No extension of fence along western and northern property line); (Mr. Maclin stated that this item was put in this manner so that if Council felt like it was necessary they could re-instate the fencing at this meeting, but the P & Z was satisfied that it was not necessary); (2) No vehicular access shall be permitted directly from Lotus Lane; (3) That the RV Park not be expanded into the 0.563 acre area shown as a set aside on the site plan; (4) That the "Tenant Services" structure shown at the northeast section of the subject property shall not be used for dwelling purposes; and (5) No recreational vehicle shall be permitted to remain on site in excess of 30 consecutive days.

In response to question by Councilmember Robertson, Mr. Abraham stated that the City's Comprehensive Zoning Ordinance does limit the location of a recreational vehicle to no more than 30 consecutive days in any recreational vehicle park.

In response to question by Councilmember Gorden, Mr. Abraham stated that Mr. Urbin's intent is to just provide a service for his mobile home park rather than be more commercial. Councilmember Gorden stated that if Mr. Urbin wished to develop a larger recreational vehicle park he would support him on that endeavor. Mr. Abraham stated that he would agree that a nice RV park would be of added value to the City of Lufkin.

Councilmember Robertson stated that if we have a proposal for a larger park like Councilmember Gorden is talking about, Council might want to revisit the 30 day limitation.

In response to question by Councilmember Langston, Mr. Abraham stated that he felt like at this time because the Comprehensive Plan says that in the long run this should be Residential. Mr. Abraham stated that he is not convinced that the appropriate land use intensification should go all the way up to Commercial. Mr. Abraham stated that he was trying to provide a visual screen between Lotus Lane and the actual park itself. Mr. Abraham stated that as long as the trees are there, it is plenty of buffer. Mr. Abraham stated that he decided to let the Planning & Zoning Commission make the decision and they decided that a fence should not be required along the western side or the northern side because it is not visible from Lotus Lane.

Motion was made by Councilmember R. L. Kuykendall and seconded by Councilmember Dennis Robertson that Ordinance for a Special Use Permit for a Recreational Vehicle Park within a "Commercial" zoning district on approximately 2.259 acres of land described as Lot 1 of the Rufus One Stop Subdivision and more commonly known as 5002 Lotus Lane as requested by John Urbin with the following conditions: 1. No vehicular access shall be permitted directly from Lotus Lane. 2. That

the RV Park shall not be expanded into the 0.563 acre area shown as a set aside on the site plan 3. That the "Tenant Services" structure shown at the northeast section of the subject property shall not be used for dwelling purposes; and 4. No recreational vehicle shall be permitted to remain on site in excess of thirty consecutive days, be approved on First Reading as presented. A unanimous affirmative vote was recorded.

12. RESOLUTION – APPROVED – TEXAS HISTORICAL COMMISSION’S MAIN STREET CITIES – PRESERVE AMERICA DESIGNATED COMMUNITY

Mayor Bronaugh stated that the next item for consideration was a Resolution for the City of Lufkin, Texas to join the Texas Historical Commission's Texas Main Street cities in an effort to be named as a Preserve America Designated Community.

City Manager Maclin stated that included in the Council packet is some information from the web site of the Preserve America Designated Community, which is a Federal program that is being encouraged to help promote historical preservation. Mr. Maclin stated that staff received a contact from the Texas Historical Commission encouraging the City to seek this designation. Mr. Maclin stated that the Main Street Director, Diana Chatman, has completed an application and needs approval of a Resolution by Council. Mr. Maclin stated that if the application is approved it would allow the City to have extra points in our application to the National Historic Preservation Trust as well as give the City an additional designation for marketing of our Main Street Program.

In response to question by Councilmember Gorden, Mr. Maclin stated that there is no money involved and no grants, but is a way that the Federal government and the State government are trying to emphasize historic preservation where possible.

In response to question by Councilmember Robertson, Ms. Chatman stated that this is basically a pledge for our community to say that we will do everything we can to preserve our heritage and the community as it is.

In response to question by Councilmember Boyd, Ms. Chatman stated that the designation is for the entire community, but came through the Main Street Program of the Texas Historical Commission.

Mayor Bronaugh thanked Ms. Chatman for all of her efforts on behalf of the Main Street Program.

Motion was made by Councilmember Lynn Torres and seconded by Councilmember Jack Gorden, Jr. that the Resolution for the City of Lufkin, Texas to join the Texas Historical Commissions' Texas Main Street cities in an effort to be named as a Preserve America Designated Community be approved as presented. A unanimous affirmative vote was recorded.

13. RESOLUTION – APPROVED – CONTRACTUAL FORMAT AGREEMENT – LOWER NECHES VALLEY AUTHORITY – TEXAS WATER DEVELOPMENT BOARD LOAN APPLICATION

Mayor Bronaugh stated that the next item for consideration was a Resolution approving a contractual format agreement with the Lower Neches Valley Authority regarding a Texas Water Development Board loan application.

City Manager Maclin stated that included in the Council packet is a Resolution, the purpose of which is to be included with the City's Texas Water Development Board low interest loan/grant application to provide a vehicle so that in the future if the City does pursue this further we will have a referencing point for what a contract would look like if we had a contract agreement between the LNVA and the City of Lufkin. Mr. Maclin stated that on the Council table is an actual copy of the latest marked up version. Mr.

Maclin stated that he purposely left the mark up lines in so that Council could see the diligent work by the City Attorney. Mr. Maclin stated that the City Attorney has been working with Scott Hall, the Engineer from LNVA, and Robert Schroeder, the General Manager of LNVA. Mr. Maclin stated that the City staff has already had several meetings of significant length and input to get to this point. Mr. Maclin stated that Council is not approving the Contract tonight but rather Council would be approving a Resolution that says if the City does approve a Contract in the future it will look a lot like this. Mr. Maclin stated that, as discussed in previous meetings and the workshop meeting, the timing of that would be predicated on the Texas Water Development Board approval and hopefully the Corps of Engineer's approval to seek out funding that would assist in construction costs of the intake structure in the lake itself. Mr. Maclin stated that as we've talked about with these additional funds that LNVA could bring to the table that would help lower the threshold or the per-connection cost to our residents in Lufkin as well as the other communities such as Zavalla and Huntington, or other water districts who become a part of this regional surface water treatment effort. Mr. Maclin stated that as a part of the application they needed this Resolution approved to say that in the future, if and when we do a contract, this will be the format for which the contract is laid out.

Mr. Maclin stated that if Council members had any specific questions about legal issues the City Attorney is prepared to address those.

Councilmember Langston asked the City Attorney to give a summary of the content of the contract in relation to any other similar type contracts the City has entered into. Councilmember Langston stated that under Section 4 it says on line four "as presented to the members of the Council for their *review*, and authorizes" and he would like to change it to read "as presented to the members of the Council for their *approval*, and authorizes". Mr. Flournoy stated that that could be clarified in the Resolution without any problem at all, because that is the intent. Mr. Flournoy stated that obviously the contract still requires a lot of work; it's come a long way in the meetings with Vinson and Elkins, and Scott Hall and Robert Schroeder. Mr. Flournoy stated that the only thing that was required is at least a semblance of a contract that the City is contemplating entering into so that we can make this application, which needs to be in by the 12th. Mr. Flournoy stated that he understands that this contract does not have to be part of the application, but is something that we will have as an ongoing project. Mr. Flournoy stated that obviously we are not ready to enter into a contract, but it did require the City to have the basic outline of a contract before we could make an application.

Councilmember Langston asked what does partnering bring to the table for the City of Lufkin. Mr. Flournoy stated that there are substantial funds both from the LNVA itself that would make some contribution into the plant and all of the facilities, and by having a regional facility we are hopeful that we will qualify for some \$5-7 million in disadvantaged funds and we may get a commitment on that at some point in time soon. Mr. Maclin stated that he did not think that it was quite that much, but rather closer the \$4 million range. Mr. Maclin stated that that would be part of the allocation that Texas Water Development Board has. Mr. Maclin stated that what has created the opportunity is that there was another project (maybe in El Paso) that had earmarked by higher priority ranking in the scoring system of the applications a larger portion of the disadvantaged funds. Mr. Maclin stated that now that we feel like there is a potential that those funds will be turned back and then we could be in line to get a portion of those funds or up to \$4 million of those funds.

In response to question by Councilmember Gorden, Mr. Maclin stated that if we applied on our own we could get the funds without the LNVA, but it may take multiple applications, because LNVA did not get disadvantaged funds in the first application on this.

Councilmember Gorden asked if the City could get the grant funding for the intake structure on our own. Mr. Maclin stated that it is staff's understanding that you have to be a co-sponsor and even though we were a sponsor by definition, the amount of sponsorship that we had in Rayburn was minor by comparison. Mr. Maclin stated that they already have an established relationship with the Corps of Engineers as is evidenced by the salt water barrier project that they just completed. Mr. Maclin stated that it would require a sponsor of the lake, in this case Sam Rayburn, structure to be able to go to the Corps of Engineers and seek earmarked designation funds within their budget next year to be included specifically for an intake structure.

In response to question by Councilmember Gorden, Mr. Maclin stated that they also have water rights in the lake in addition to what we have and ours originally came through them. Mr. Maclin stated that they were saying that we could use for the other entities that would be served as part of the regional entity some of their water rights so we could continue to reserve ours strictly for the City of Lufkin as opposed to allocating them for Huntington, Zavalla and other communities. Mr. Maclin stated that the other financial aspect that the City Attorney was referring to is that LNVA has indicated a willingness to purchase 15% of the capacity so they would be injecting cash into the project the same as us that would help them lower by spreading through the economies of scale the overhead cost of the infrastructure - \$50 million in round numbers.

In response to question by Councilmember Gorden, Mr. Maclin stated that it includes 15% of the 100% of the total. Mr. Maclin stated that they are willing to pay that up front as a gesture of helping to buy down the connect fee cost and to show their intent on being a partner in the project.

Mr. Flournoy stated that it does appear that by having the LNVA to do this and have the bonds coming through the State, it won't go on our books as debt to us as it would if we were doing this project ourselves. Mr. Maclin stated that staff discussed this at length with the Vinson & Elkins attorneys about a lease approach to the purchase of potable water as opposed to a take-or -pay contract and did agree with the Vinson & Elkins attorneys that before we got into a final disposition or signature into an agreement we would bring in our external auditors, whether that is Axley & Rode, or Alexander Langford and Heirs and get their opinion as to whether or not this would be put on the City books as a debt requirement thereby expanding the volume of debt in our Utility Fund. Mr. Maclin stated that the V & E attorneys are optimistic that that will be the case but we will need the opinion of our external auditors who audit us on an annual basis to concur with that before we are completely satisfied that that is verification.

Robert Schroeder stated that he agreed with the City Attorney and the City Manager and if Council had any questions of him he would be glad to answer.

Councilmember Langston stated that, in his opinion, it would be appropriate for the City to monitor as the process goes alone the receipt of any grant money toward the offset cost of this project. Councilmember Langston stated that it was important to him to see that we do have the opportunity and that there are funds received before final contract signed for offset of cost to this project.

Mr. Maclin stated that in Section 3 those two blanks should be the Mayor and City Manager; in Section 4 we will add the words "review and approval"; Section 5 will be the Mayor and in Section 7 it would be the Mayor, City Manager, City Engineer and City Attorney.

Motion was made by Councilmember Rose Faine Boyd and seconded by Councilmember Dennis Robertson that the Resolution approving a contractual format agreement with the Lower Neches Valley Authority regarding a Texas Water Development loan application be approved with a correction to Section 4 to add "review and approval". A unanimous affirmative vote was recorded.

14. SERVICE CONTRACT – APPROVED – ANGELINA NECHES RIVER AUTHORITY (ANRA)

Mayor Bronaugh stated that the next item for consideration was a service contract with the Angelina Neches River Authority (ANRA).

City Manager Maclin stated that the City of Lufkin has been providing water to the Angelina Fresh Water District in the Cedar Grove area since its inception. Mr. Maclin stated that a few years ago when I. D. Henderson retired as County Commissioner, he also retired as the Manager of the Angelina Fresh Water District, and the Angelina Neches River Authority by management contract took over the operation of that water district. Mr. Maclin stated that the City has a service contract with ANRA that has been in effect ever since they took over that responsibility. Mr. Maclin stated that ANRA has come to the City with a request for updating this contract to reflect some increases in their consumption based on growth both current and anticipated in the future growth where they have done some line extensions and added some new homes in the area. Mr. Maclin stated that staff is just basically meeting their request that is necessary with their TCEQ state requirements. Mr. Maclin stated that basically what this reflects, is some increased numbers for consumption and growth, which are well within our ability to handle.

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember Lynn Torres that the service contract with the Angelina Neches River Authority (ANRA) be approved as presented. A unanimous affirmative vote was recorded.

15. BIDS – APPROVED – ANGELINA COUNTY TAX ASSESSOR/COLLECTOR – SALE OF TRUST PROPERTIES

Mayor Bronaugh stated that the next item for consideration was bids through the Angelina County Tax Assessor/Collector for the sale of trust properties.

City Manager Maclin stated that included in the Council packet is a cover letter from the Tax Assessor/Collector of Angelina County, Mr. Shanklin. Mr. Maclin stated that as Council has reviewed on numerous occasions previously when the Tax Assessor/Collector, through their delinquent collection service of Linebarger Goggan Blair & Sampson, have a tract of property that has gone through the trustee sale but the highest bid did not meet the total dollars in terms of past penalty, interest and taxes owed. Mr. Maclin stated that then each taxing entity is required to give their approval for any value less than the total owed. Mr. Maclin stated that these bids are good bids, when you look at the amount of bid in many cases they are a little shy of the total but will still bring some dollars in to each of the taxing entities. Mr. Maclin stated that more importantly it will put these properties back on the tax roll where they can begin to collect taxes again at full value. Mr. Maclin stated that staff is seeking Council's approval of each one of these trustee sales so we can receive the funds. Mr. Maclin stated that each property shows the dollars that the City will recover. Mr. Maclin stated that obviously the LISD had the most owed so they gain the most, but we get that proportionally based on our tax rate and how much was owed specifically to the City.

Mr. Maclin stated that staff would recommend Council approval of these bids and authorization for the County Tax Assessor/Collector to proceed with the sale as requested.

Motion was made by Councilmember Lynn Torres and seconded by Councilmember Jack Gorden, Jr. that the sale of trust properties through the Angelina County Tax Assessor/Collector be approved as presented. A unanimous affirmative vote was recorded.

16. EXECUTIVE SESSION

Mayor Bronaugh recessed Regular Session at 5:40 p. m. to enter into Executive Session. Regular Session reconvened at 6:12 p.m. and Mayor Bronaugh stated that Council had discussed personnel.

17. CALENDAR NOTATIONS FROM MAYOR, COUNCILMEMBERS AND CITY MANAGER

City Manager Maclin stated that tomorrow morning he would be speaking to the Kiwanis Club Seniors regarding the 4B economic development sales tax at 10:00 a.m. at the Golden Corral.

Mr. Maclin stated that on Monday, January 12th the Economic Development Partnership has their full board meeting and he would be making a presentation there.

Mr. Maclin stated that on the 13th he will be making a presentation at 6 p.m. at the Citizens Police Academy Alumni Association here in City Hall.

Mr. Maclin stated that on the 14th the Texas Good Roads Association will be meeting at Crown Colony at noon to hear Commissioner Robert Nichols.

Mr. Maclin stated that Councilmembers also received an invitation to the Chamber of Commerce Retreat on Thursday, January 15th at Boggy Slough beginning at 12:15 p. m. and going to 5:30 p.m. with a reception at the end.

Mr. Maclin stated that City Hall will be closed on Monday, January 19th for Martin Luther King's birthday.

Mr. Maclin stated that on the 20th, the next regularly scheduled Council meeting, he will be doing a presentation at the Lions Club.

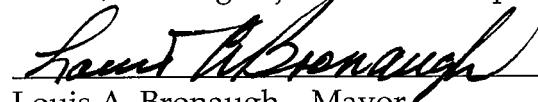
Mr. Maclin stated that on the 22nd he will be doing a presentation at City Hall at noon to the Neighborhood Alliance on the ED sales tax election.

Mr. Maclin stated that on Wednesday, January 28th is the Lufkin/Nacogdoches Day in Austin.

Mr. Maclin stated that on Thursday, January 15th at 7 p. m. there will be a Public Meeting at the HOPE Center regarding the ED sales tax.

Mr. Maclin stated that the Chamber of Commerce banquet will be Thursday, January 22nd, and the speaker is the Sheriff of Smith County.

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


Louis A. Bronaugh – Mayor

ATTEST

Atha Martin – City Secretary