

**MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF  
THE CITY OF LUFKIN, TEXAS, HELD ON THE  
5TH DAY OF NOVEMBER, 1996 AT 5:00 P. M.**

On the 5th day of November, 1996 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	Councilmember, Ward No. 1
Betty Jones	Councilmember, Ward No. 3
Bob Bowman	Councilmember, Ward No. 4
Jack Gorden, Jr.	Councilmember, Ward No. 5
Tucker Weems	Councilmember, Ward No. 6
C. G. Maclin	City Manager
Darryl Mayfield	Asst. City Manager/Finance
Stephen Abraham	Director of Planning
Bob Flournoy	City Attorney
Atha Stokes	City Secretary
Keith Wright	City Engineer

being present when the following business was transacted.

1. Meeting was opened with prayer by Rev. Walter Futch, Minister, Trinity Baptist Church.

2. Mayor Bronaugh welcomed visitors present and recognized Karen Lazarine of the Junior League.

3. **APPROVAL OF MINUTES**

Motion was made by Councilmember Don Boyd and seconded by Councilmember Bob Bowman that the minutes of the Regular Meeting of October 15, 1996 be approved as presented. A unanimous affirmative vote was recorded.

4. **ORDINANCE - APPROVED - SECOND READING - COMMERCIAL SOLID WASTE SERVICES**

Mayor Bronaugh stated that the next item for consideration was Second Reading of the Commercial Solid Waste Services Ordinance.

City Manager Maclin stated that it was discussed at a previous meeting that this Ordinance will provide the City the coordination that is needed to maintain the appropriate economies of scale in terms of provision of commercial and/or residential services in the City. City Manager Maclin stated that since the State has given the City this responsibility it has likewise given the authority to regulate it.

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember Betty Jones that Commercial Solid Waste Services Ordinance be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

5. **ORDINANCE - APPROVED - SECOND READING - PARADES AND MOTORCADES PERMIT**

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance regulating and permitting parades and motorcades.

Mayor Bronaugh stated that there were some revisions that Council had requested, which have been made in the Ordinance, and it now also meets the regulations of the Texas Department of Transportation. City Manager Maclin stated that this Ordinance places responsibility on the applicant to get their permits from the State in accordance with State law. City Manager Maclin stated that the two changes Council requested were to remove the fee and to change item number 16, which originally required the applicant to provide indemnification to the City for a parade and activities related to a parade. City Manager Maclin stated that indemnification implied that the applicant would have to purchase a bond which would be an expense to the applicant. City Manager Maclin stated that this has now been changed to a "Hold Harmless" statement.

Mr. Flournoy stated that he would like to point out on page 6 that this Ordinance would also permit the sale of goods and merchandise on the sidewalks if there is an event where the streets are closed off. Mr. Flournoy stated that this has not been the case in the past, but has been needed, and this Ordinance makes that provision.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Bob Bowman that Ordinance regulating parades and motorcades be approved on Second and Final Reading as presented.

The following vote was recorded:

Aye: Councilmembers Bowman, Jones, Gorden, Simond, Boyd and Mayor Bronaugh

Nay: Councilmember Weems

Mayor Bronaugh stated that motion carried with six affirmative votes.

## **6. SKATEBOARD ORDINANCE - APPROVED -FIRST READING**

Mayor Bronaugh stated that the next item for consideration is First Reading of the Skateboard Ordinance.

City Manager Maclin stated that at the last Council meeting when the draft Ordinance was reviewed it was requested that there be an opportunity for the Main Street Advisory Board to provide the consensus of opinion of their group. City Manager Maclin stated that that opinion has been provided for Council in the form of a memorandum from the Main Street Advisory Board. City Manager Maclin stated that basically their concern is the area referred to as the downtown fire district. City Manager Maclin stated that it is their opinion that by designating this area with the applicability of the Skateboard Ordinance that it will accomplish what downtown needed - to keep skateboarders and inline skaters from being a threat to the pedestrians and shoppers and people visiting businesses and restaurants downtown. City Manager Maclin stated that this Ordinance will not impact the area outside the Fire District, thereby not eliminating opportunities for skateboarders and inline skaters from having a place to skate.

Councilmember Boyd pointed out that the Ordinance still contained reference to the Central Business District. Mr. Flournoy stated that this was in error and would be corrected. In response to a question by Councilmember Boyd, City Manager Maclin stated that a map of the Fire Zone had been placed on the Council table. City Manager Maclin stated that the boundaries of the Fire Zone were: Angelina Street on the west, Fourth Street on the east, Groesbeck on the north, and Townsend on the south going up to Burke Street at an angle.

In response to question by Councilmember Boyd, City Manager Maclin stated that the Music Store and the furniture store were two businesses past Shepherd. City Manager Maclin stated that the furniture store has some evening sales and also there is a gymnastic business between the music store and furniture store that does

business at night.

Councilmember Boyd stated that he was concerned that the young people have a place to go for skateboarding and inline skating. Mayor Bronaugh stated that eventually the City Council will have to address the issue of providing a place for skateboarding and inline skaters. Mayor Bronaugh stated that Council does realize the problems with liability related to skateboarding and inline skating.

Councilmember Gorden stated that he was concerned about the wording naming specific things being prohibited, but noticed that the City Attorney had added "similar devices" to include anything new. Councilmember Gorden stated that he disliked having to make an Ordinance such as this, but the City needs to do it. Mayor Bronaugh stated that he also disliked the idea of having to put up signs since we already have so many.

In response to question by Councilmember Simond, City Manager Maclin stated that he has not heard of an actual accident involving skaters and pedestrians but he has received numerous calls about near misses. Mayor Bronaugh stated that there have also been complaints from the banks about damage to their sprinkler heads. Councilmember Simond asked if the Council had read the letter to the editor written by a young skater. Mayor Bronaugh stated that this young man had actually faxed some information to him regarding the problems in California declaring this a hazardous sport, and he had shared it with the City Manager and Parks & Leisure Services Director. City Manager Maclin stated that until skateboarding is declared a hazardous sport in Texas, the City cannot get insurance.

Mr. D. H. Neal stated that he and his wife own B. J.'s Antiques on First Street across from Lufkin National Bank. Mr. Neal stated that he had placed signs in the alley asking that the alley not be blocked and for a time there were 8 to 10 young people after school smoking and drinking beer and had torn down the signs. Mr. Neal stated that there is not a problem at this time.

Councilmember Jones stated that as an observation, the Angelina House is a facility that is occupied predominately by older people and they are on the sidewalk, and she could see where this could be a problem for them.

Martha Schwartz, owner of Lee's Jewelers, stated that the areas are traversed between the Lufkin National Bank and north on First Street frequently. Mrs. Schwartz stated that the sidewalks are used after 3:00 and 5:00 p.m when they close their store, so there is limitation of passage between these hours.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Betty Jones that Skateboard Ordinance be approved on First Reading as presented with the stipulation that the Council move forward in finding a place for these young people to skate.

The following vote was recorded:

Aye: Councilmembers Bowman, Jones, Gorden, Weems, Simond and Mayor Bronaugh  
Nay: Councilmember Boyd

Mayor Bronaugh stated that motion carried with six affirmative votes.

**7. ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - RESIDENTIAL LARGE SINGLE FAMILY TO "PUD" PLANNED UNIT DEVELOPMENT - HARMONY HILL DRIVE - BROWN ROAD - DAVID MILES - CARD-MILES ENTERPRISES, L.L.C.**

Mayor Bronaugh stated that the next item for consideration was request of David Miles on behalf of Card-Miles Enterprises, L. L. C., to change the zoning from "RL"

Residential Large Single Family to "PUD" Planned Unit Development on approximately a 5.5075 acre tract of land located on the north side of Harmony Hill Drive near the intersection of Brown Road and Harmony Hill Drive.

City Manager Maclin stated that the recommendation to Council had been for approval of the request with the following stipulations: (1) The front yard setback shall be 25 feet (2) Side yard setbacks shall be 10 feet on one side and zero on the adjacent lot line (3) Rear yard setbacks shall be 15 feet (4) Single-family structures shall have a minimum of 1,400 square feet of dwelling area (5) The maximum building height shall be 35 feet, and (6) There shall be a minimum of two off-street parking spaces per unit. City Manager Maclin stated that in essence this does not change the number of Residential Large units that could have been built in this area without the Planned Unit Development. City Manager Maclin stated that the PUD allows for movement in irregular lot sizes or shapes from what would be traditional Residential Large. City Manager Maclin stated that in terms of the net number of homes that could be built, the owner could have built the homes without the zone change, he would not, however, been able to use the configuration that is being proposed. City Manager Maclin stated that the PUD allows for different configurations for things such as townhouses, etc.

David Miles stated that he could have put 21 homes on this piece of property but what he is asking for today is zone change approval for a variance in lot size dimensions with the stipulations that Mr. Maclin read earlier. Mr. Miles passed out brochures and plans of the homes he proposes to put on these lots.

In response to question by Councilmember Boyd, Mr. Miles stated that this property is adjacent to Card Forest and is a subdivision within Card Forest, but it is not the same piece of property he brought before Council before.

In response to question by Councilmember Gorden, Mr. Miles stated that with the dynamics of Lufkin as they change rapidly in this area and with the City of Lufkin redefining what their PUD will allow, he might be looking at higher density in the Phase I area. Mr. Miles stated that this Phase I-A is the Courts of Card Forest and has Residential Large homes, and Phase I-B will be patio homes.

In response to question by Councilmember Weems, Mr. Miles stated that Lot 1 is a driveway access to the property next to it which he owns. Mr. Miles stated that working in conjunction with City staff it was recommended that instead of just a reserve that it be called a lot. Mr. Miles stated that this Lot 1 will not be divided into smaller lots.

Councilmember Jones stated that she had voiced her concerns to City staff that this is an area that has received a lot of attention lately with the rapid development in the area. Councilmember Jones stated that she is concerned about the drainage and would like consideration given to the drainage so that it does not effect someone else in this area. Mr. Miles stated that he is very sensitive to the drainage situation and that is why he is developing "up creek". Mr. Miles stated that he owns the property that this development will drain on and will do everything possible to eliminate any future problems. In response to question by Councilmember Jones, Mr. Miles stated that the large creek that runs in that area is approximately 600-700 feet from the subject property.

In response to question by Mayor Bronaugh, City Manager Maclin stated that this is just a plat and the drainage will be addressed when the actual plans are submitted to the Building Inspection Department for review by the Engineering Department for any problems. In response to question by Mayor Bronaugh, City Manager Maclin stated that the City reviewed and made some requirements by Lowes Building Supplies when their plans were submitted and approved.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Jack Gorden, Jr. that Ordinance to change the zoning from "RL"

Residential Large Single Family to "PUD" Planned Unit Development on approximately a 5.5075 acre tract of land located on the north side of Harmony Hill Drive near the intersection of Brown Road and Harmony Hill Drive be approved on First Reading as presented. A unanimous affirmative vote was recorded.

**8. ORDINANCE - TABLED - FIRST READING - ZONE CHANGE - RESIDENTIAL SMALL SINGLE FAMILY TO SINGLE FAMILY/MIXED USE - HOME AVENUE - FREEMAN STREET - D. H. NEAL**

Mayor Bronaugh stated that the next item for consideration was request of D. H. Neal to change the zoning from "RS" Residential Small Single Family to "SF/MX" Single Family/Mixed Use on approximately 10.249 acres of land which includes all property between Home Avenue and Freeman Street east of Paul Avenue. Mayor Bronaugh stated that this request was denied by the Planning & Zoning Commission.

City Manager Maclin stated that included in the Council packet is the explanation of the request and the location. City Manager Maclin stated that by utilization of Single Family/Mixed Use it would allow the use of mobile homes in this area in addition to stick built homes. City Manager Maclin stated that the Planning & Zoning Commission voted denial by a 4-2 vote. City Manager Maclin stated that there is also greater than 20% of surrounding property owners who are in opposition to the request, and for those two reasons, it will require a 4/5ths or 6 out of 7 vote for approval of the zone change request.

D. H. Neal stated that he bought this piece of property from the City, County and School and thought he could clean up the property and utilize it and get it back on the tax rolls. Mr. Neal stated that he talked with the City Manager and Mr. Maclin told him the procedure to go through and he did. Mr Neal stated that he talked to Michael Bieniek, City Planner, and Mr. Bieniek said that the property is worth about \$17,000 where as on Home Street it is about \$22-23,000. Mr. Neal stated that he cleaned the tree limbs out of the power lines, cleaned up all the beer cans, and is now in the process of putting tin horn pipe across the front of the lot to eliminate the ditch. Mr. Neal stated that all he wanted the zone change on was the lot that he bought and did not know why he should have to have 10 acres zoned just for one lot. Mr. Neal stated that he is not sure that he will even place a mobile home on this lot, he may in fact build a house on it. Mr. Neal stated that his grandson and his wife are both in college, and he told them he would buy the lot and put a mobile home on it for four or five years while they finish college. Mr. Neal stated that the Planning & Zoning Commission had their minds made up that he was not going to get this zone change before he went before them. Mr. Neal stated that if he is not able to utilize this property, what will he do with it, sell it back to the City.

Mayor Bronaugh stated that the way he understands this is that the type of dwelling he would have to put on this lot could not be a mobile home, it would have to be a regular dwelling.

Mr. Neal stated that the Planning & Zoning Commission claimed that a mobile home would deteriorate the property, and he wanted to pass around some pictures of the houses on both sides of this property, and also a picture of a mobile home he owns that is 140 feet from this property that looks better than the property on each side of his lot. Mr. Neal stated that this lot has a cyclone fence. Mr. Neal stated that one of the men who owns a house next to this lot said that he was afraid a mobile home would deteriorate the neighborhood. Mr. Neal stated that this gentleman has the house rented to 4 or 5 girls and he (Mr. Neal) spends a lot of time cleaning up their beer cans. Mr. Neal stated that anything he did to this lot would not deteriorate the neighborhood.

In response to question by Councilmember Gorden, City Manager Maclin stated that Mr. Neal owns Lot 5 as shown on page 3, which he purchased through a tax sale, and technically LISD may have been the trustee since they have the largest tax lien.

Mr. Neal stated that he purchased the lot two years ago. Mr. Neal stated that at one time a house had been located on the lot but had been torn down by the City. Mr. Neal stated that in the last ten years the lot has grown up in weeds. Mr. Neal stated that the City would not do anything about the condition of the lot, so he cleaned up the lot with help from TP&L.

City Manager Maclin stated that the City cannot change the zone on just one lot because it would be "spot zoning", and the Courts have ruled that that is illegal. City Manager Maclin stated that when a citizen wants to put a mobile home on a lot in Lufkin there are only two ways that it can be done legally; through a temporary mobile home permit where there is a hardship involved as judged by the Planning & Zoning Commission or, if it is a permanent situation, the applicant goes through a zone change called a "Single Family/Mixed Use". This is mixed uses with houses that are stick built or mobile homes. City Manager Maclin stated that the areas in Lufkin where this zoning classification has been implemented and has been approved have been areas where the neighborhood has generally deteriorated to the extent to where a mobile home is by far a better quality home than the existing housing already in the neighborhood. City Manager Maclin stated that staff has had several applications in the last two or three years for this type of zoning classification and some have been approved and some have not. City Manager Maclin stated that for the ones that have been approved there has been very little opposition to the zone change because the property owners were typically absentee and the structures were very sub-standard in quality and as a result there was no opposition in the neighborhood to allowing mobile homes.

City Manager Maclin stated that the mobile home that Mr. Neal refers to on Paul Avenue is called a non-conforming use meaning that it was at that location prior to the zone classification being implemented in this area.

City Manager Maclin stated that when a zone change is made there have to be legitimate boundaries, like streets or natural geographic barriers, the City typically does not use just a single lot (spot zoning, which is not allowed by law).

City Manager Maclin stated that the City of Lufkin is one of the few cities in Texas that allows temporary mobile home permits. City Manager Maclin stated that there are two requirements that have to be met for a temporary mobile home permit and they have to be renewed on an annual basis.

In response to question by Councilmember Jones if a temporary mobile home permit would not work in this situation, City Manager Maclin stated that he and Mr. Neal talked about this when he came to visit. City Manager Maclin stated that the only two things that qualify for a temporary mobile home is 1) security of a business that needs 24 hour security and someone is living on the premises, and 2) an illness or hardship. City Manager Maclin stated that historically where Planning & Zoning Commission has approved these requests is where a person places a mobile home on a lot next door to an existing residence to care for a relative who is ill. City Manager Maclin stated that Mr. Neal's situation is that he wants to put a mobile home on the lot for his grandson while he is in college. City Manager Maclin stated that nothing would prevent Mr. Neal from putting a stick built home or even moving in a manufactured home (a mobile home that has never had an axle), and these would be legal. City Manager Maclin stated that Mr. Neal was honest about what his intentions were regarding the lot.

Mr. Neal stated that he presented his request to the Planning & Zoning Commission as recommended by the City Manager Maclin and there was no opposition at the meeting. Mr. Neal stated that he owns the first lot on Home Street and bought the whole strip between Freeman and Home Street, and nothing is built on this property. Mr. Neal stated that he might not even put a mobile home on this property, but was trying to help his grandson. Mr. Neal stated that his daughter lives in a mobile home approximately 125 feet from this property.

Stephen Abraham, Director of Planning, directed Council's attention to Attachment 1 of the packet information, which shows a Manufactured Dwelling Subdivision. Mr. Abraham stated that looking at the circle the small lots are labeled as "MD". Mr. Abraham stated that "MD" to the northwest of this circle is the Manufactured Dwelling Subdivision and on Paul Street where it shows "SF/MX" there is a mobile home next to it. Mr. Abraham stated that the "SF/MX" was changed two years ago and was originally a mobile home zoning district, but someone wanted to put a stick built house in this area. Mr. Abraham stated that the Zoning Ordinance says that a mobile home zoning classification does not allow for a brick house, so it was changed from Mobile Home to a "SF/MX" in order to keep the mobile home they had on the one lot, approximately four acres, and could divide the second lot and build a brick home on it.

In response to question by Councilmember Bowman, Mr. Neal stated that he had been given 21 names of residents who were in the surrounding area and 16 that were contacted were in agreement with the zone change. Mr. Neal stated that Mr. Bieniek, City Planner, told him that if he could get 80% to sign for the zone change he should not have any problem.

In response to question by Mr. Neal's grandson, Mr. Abraham stated that when a person comes in to submit a request for a zone change they are told to poll the neighbors before they submit their application or pay the fee for a zone change to get a general atmosphere of the neighborhood. Mr. Abraham stated that the 20% rule is not the number of people, it is the amount of land; if a person owns 20% of the land within the requested area. Mr. Abraham stated that the request area is bounded by Freeman and Home. Mr. Abraham that the area in pink on the map is the amount of land within that request area that has filed an objection, and the area in green denotes the people who are in favor of the zone change. Mr. Abraham stated that it is not 20% of the owners, but owners of 20% of the land either in the request area or within 200 feet of the request area. Mr. Abraham stated that this request does not deal with just Mr. Neal's property, but a whole neighborhood.

In response to question by Councilmember Simond, Mr. Abraham that this 20% rule is a State Law (Local Government Code) and is also in the City's Zoning Ordinance. Councilmember Simond stated that he would like to see the State law.

Kendall Moseley, who lives in Englewood, stated that he owns property at 3001 Freeman Street and was present at the request of the person who is currently living in his rent home and opposes the zone change. Mr. Moseley stated that, in his opinion, if this request is approved it will be a detriment to the neighborhood. Mr. Moseley stated that he did not attend the P&Z meeting, but did give written opposition to the request.

Councilmember Gorden stated that normally he agrees with P&Z, but in this particular case he disagrees, and in his opinion, Council should overrule their decision.

In response to statement by Councilmember Bowman, Mr. Abraham stated that his recommendation, if it is the Council's desire that Mr. Neal be able to utilize this property, would be to modify the request area to include tracts 46 through 58 to overcome the "spot zoning" issue.

Councilmember Jones stated that it might be dragging the decision out but when you change a neighborhood, that is forever, and she would prefer that the request go back to P&Z for a more in depth look at what has been discussed here.

Mr. Flournoy stated that Mr. Neal's real need is for one location not for a lot of mobile homes. Mr. Flournoy stated that the City normally does not change the zone on a piece of property unless there is a need. Mr. Flournoy stated that what he has suggested is that he might want to put one mobile home on the property.

Mr. Flournoy stated that, in his opinion, in the state of the application it should be sent back to the Planning & Zoning Commission.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Betty Jones that request of D. H. Neal to change the zoning from "RS" Residential Small Single Family to "SF/MX" Single Family/Mixed Use on approximately 10.249 acres of land which includes all property between Home Avenue and Freeman Street east of Paul Avenue be tabled at this time and returned to the Planning and Zoning Commission for consideration of a smaller area. A unanimous affirmative vote was recorded.

**9. ZONING CLASSIFICATION - APPROVED - UNITED PENTECOSTAL CAMPGROUND - U S HIGHWAY 59 AND FM 819**

Mayor Bronaugh stated that the next item for consideration was to consider the appropriate zoning classification for two tracts of land comprising approximately 29.3895 acres adjacent to the United Pentecostal Campground and generally located at the southwest corner of U. S. Highway 59 and FM 819.

City Manager Maclin stated that the Planning & Zoning Commission recommends that the annexation be approved and that the proposed service plan be adopted and the zoning for the two tracts be designated as Residential Large Single Family.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Jack Gorden, Jr. that zoning classification for two tracts of land comprising approximately 29.3895 acres adjacent to the United Pentecostal Campground and generally located at the southwest corner of U. S. Highway 59 and FM 819 be zoned Residential Large Single Family. A unanimous affirmative vote was recorded.

**10. ZONE CHANGE - TABLED - RESIDENTIAL LARGE SINGLE FAMILY TO LOCAL BUSINESS - HARMONY HILL DRIVE - CHESTNUT DRIVE (FM 58) - JAMES RICK MARTIN**

Mayor Bronaugh stated that the next item for consideration was request of Don Duran on behalf of James Rick Martin to change the zoning from "RL" Residential Large Single Family to "LB" Local Business on approximately a 2.650 acre tract of land located at the northwest corner of the intersection of Harmony Hill Drive and Chestnut Street (FM 58).

City Manager Maclin stated that there is no recommendation from the Planning & Zoning Commission for Council to act on because the request was tabled.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Jack Gorden, Jr. that request of Don Duran on behalf of James Rick Martin to change the zoning from "RL" Residential Large Single Family to "LB" Local Business on approximately a 2.650 acre tract of land located at the northwest corner of the intersection of Harmony Hill Drive and Chestnut Street (FM 58) be tabled until a later meeting. A unanimous affirmative vote was recorded.

**11. ORDINANCE - DENIED - FIRST READING - FROZEN DESSERT ON PUBLIC STREETS**

Mayor Bronaugh stated that the next item for consideration is an Ordinance providing for the sale of frozen dessert on public streets.

City Manager Maclin stated that included in the Council packet is the Ordinance drafted by the City Attorney that provides for the sale of frozen desserts from vehicles, the safety aspects, the regulations, the time to sell, insurance requirements, severability clause and penalty clause. City Manager Maclin stated that the only thing the Ordinance does not include is whether or not a fee will be required for this

license. City Manager Maclin stated that all of the City's other vendor/solicitor type licenses have an annual fee. City Manager Maclin stated that the City of Nacogdoches has an \$85 fee.

Mr. Flournoy stated that \$85 would be appropriate for the fee.

Councilmember Boyd questioned the time limits and exclusion of selling on holidays in the Ordinance. Mr. Flournoy stated that the reason for this is that it generates a lot more traffic on holidays.

Councilmember Gorden stated that Council has discussed this issue many times, and he will have to vote against it.

Councilmember Simond stated that Council had discussed the danger of the skateboards in a previous item, and, in his opinion, selling from the streets is more dangerous. Councilmember Simond stated that since there are no sidewalks in Lufkin and with the narrow streets and children running in the streets to get ice cream, this is much more dangerous than the skaters.

Motion was made by Councilmember Don Boyd that Ordinance be approved on First Reading with changes allowing the sale of frozen desserts on Sunday and holidays and with a fee of \$85. Motion died for lack of a second.

## **12. TAX REFUND REQUEST - APPROVED - TAX ASSESSOR-COLLECTOR**

Mayor Bronaugh stated that the next item for consideration was a tax refund request from the Tax Assessor-Collector.

City Manager Maclin stated that included in the Council packet is a letter from Bill Shanklin, Tax Assessor-Collector. City Manager Maclin stated that in accordance with State Property Tax Code any request for approval of a refund greater than \$500 requires approval of the governing body, in this case the City Council. City Manager Maclin stated that the refund request was for Terry M. Carnes in the amount of \$1,857.98 for taxes he paid in 1992, 1993, 1994, and 1995 that were City taxes, but his residence is not in the City limits. City Manager Maclin stated that this was an error made by the Central Appraisal District. City Manager Maclin stated that Mr. Carnes came to the Tax Assessor-Collectors office and requested a refund, and Mr. Shanklin cannot make a refund without Council approval.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Betty Jones that tax refund in the amount of \$1,857.98 payable to Terry M. Carnes be approved as presented. A unanimous affirmative vote was recorded.

## **13. FORFEITED FUND BUDGET - APPROVED - FISCAL YEAR 1996-1997**

Mayor Bronaugh stated that the next item for consideration was forfeited fund budget for fiscal year 1996-1997.

City Manager Maclin stated that included in the Council packet is a memorandum from the Chief of Police and on the back is a proposed budget for forfeited funds for 1996-'97.

Chief Collins stated that this is a yearly requirement in order to submit a budget to the State Attorney General and at the end of the City's fiscal year, submit a copy of the audit report showing that the City complied with this proposed budget.

In response to question by Councilmember Simond, Chief Collins stated that the amount that is currently in the forfeited fund account is approximately \$30,000, and he expects more funds to become available in this fiscal year.

In response to question by Councilmember Gorden, Chief Collins stated that occasionally the Department will seize a vehicle that a drug dealer will be using that can be converted to the Department's use. Chief Collins stated that the drug dealer may owe a small lien on the vehicle and the Department will pay off the lien to forfeit the vehicle to their own use.

Councilmember Weems stated that he would like to see further detail as to how the Department will be using the fax machine, communication equipment and computer equipment.

Chief Collins stated that he has to make the budgets broad and general because if he makes them too specific and a need does not come up this year then he cannot use the money for anything else. Chief Collins stated that he could give Council a detailed list but it would be a long list because he will be trying to cover every possibility.

In response to question by Mayor Bronaugh, Chief Collins stated that if some of these items are not actually needed during the year, the funds will be carried over until next year. Chief Collins stated that this fund has been ongoing for nine years and he has never spent all of the funds.

Motion was made by Councilmember Tucker Weems and seconded by Councilmember Betty Jones that Forfeited Fund Budget as presented by Chief Collins be approved as presented. A unanimous affirmative vote was recorded.

#### **14. RIGHT-OF-WAY EXCHANGE - APPROVED - TULANE DRIVE**

Mayor Bronaugh stated that the next item for consideration was right-of-way exchange on Tulane Drive.

City Manager Maclin stated that the City has entered into the acquisition process for the Tulane Street improvements, which is one of the four streets approved in the bond election. City Manager Maclin stated that as part of the proposed alignment that was given to Council by Goodwin-Lasiter approximately a year and a half ago, Tulane was proposed to be straightened taking some of the curves out and making it a more parallel north/south artery and parallel to U. S. 59. City Manager Maclin stated that in one area there is an opportunity to exchange property for property and save the City approximately \$25,000 in payment as opposed to having to buy the right-of-way. City Manager Maclin stated that there are two corrections, one in the memo changing U. S. Forest Service to Texas Forest Service and on the tract description correcting U. S. Forest Service to Texas Forest Service. City Manager Maclin stated that this property actually belongs to the Texas A & M University System. City Manager Maclin stated that this exchange will be presented to the A & M Board of Regents next month for approval. City Manager Maclin stated that the new Tulane will be behind the Texas Forest Service, and there is an area on the back lot where they have all their vehicles and on the very back side of this area is the location for the proposed alignment of Tulane. City Manager Maclin stated that the Forest Service has some property that the City needs on the back of that lot and when Tulane is relocated there will be a portion of Tulane and Ricks Road that the City will no longer need except for utility easement, which the City will retain under this proposal. City Manager Maclin stated that staff is seeking Council's authorization today to swap property for property.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Betty Jones to authorize the right-of-way exchange on Tulane Drive. A unanimous affirmative vote was recorded.

#### **15. AUTHORIZATION - APPROVED - ARCHITECT - ZOO MASTER PLAN**

Mayor Bronaugh stated that the next item for consideration was authorization to hire an architect for the Zoo Master Plan.

City Manager Maclin stated that included in the Council packet is a letter from the Zoo Director Gorden Henley which delineates the fact that the City received seven proposals. City Manager Maclin stated that staff has reviewed the applications and ranked them in order of proficiency or previous record in terms of their work with zoos, and who has done the most work for zoos in a satisfactory manner. City Manager Maclin stated that that listing is ranked in order from one to seven, with the first firm being Portaco out of Seattle, which is a zoo specialist architectural engineering firm, and have done some very impressive work. City Manager Maclin stated that their proposal was the one that was deemed the best qualified to meet the needs of the City of Lufkin's zoo master plan.

City Manager Maclin stated that what staff is seeking from Council today is to allow staff to attempt to negotiate a contract in the order that the firms are listed.

Mayor Bronaugh recognized Mary Leah Duren, President of the Friends of the Zoo, and Danny Roper, member of the Friends of the Zoo.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Jack Gorden, Jr. that authorization be granted to hire an architect for the Zoo Master Plan as ranked by City staff.

City Manager Maclin stated that this is actually the construction plans and specifications, the Master Plan had already been approved.

The following vote was recorded:

Aye: Councilmembers Boyd, Simond, Gorden, Bowman, Jones and Mayor Bronaugh

Nay: Councilmember Weems

Mayor Bronaugh stated that the motion carried with six affirmative votes.

Gorden Henley, Zoo Director, stated that yesterday the Zoo received a check from the Kurth Foundation in the amount of \$175,000, which makes their contribution to the Master Plan \$200,000, and fully funds Part 1 of Phase I of the Master Plan. In response to question by Councilmember Gorden, Mr. Henley stated that the original estimate from the architect was \$740,000, and there is \$800,000 in funds available to spend at this time.

#### **16. AUTHORIZATION - APPROVED - POLICE CAD SOFTWARE - ACCORD GROUP**

Mayor Bronaugh stated that the next item for consideration was authorization to purchase Police CAD software.

City Manager Maclin stated that included in the Council packet is a memo from the Assistant City Manager/Finance stating the recommendation from the computer consultant which is the Accord Group, and three pages of recommendations from Chip Collins, and a bid tabulation on interest rates. City Manager Maclin stated that the staff recommendation is to request approval for the purchase of CAD software from HTE in the amount of \$319,788 and for financing under the proposal that was submitted in last year's budget, the best proposal for the interest and the timing the City would request, is Tobyne & Co. with an interest rate of 5.23% of four annual payments.

City Manager Maclin stated that staff hopes to be coming back to Council with the other related items (lap mobile units as well as the PC's for the Police Department) at the next Council meeting.

Councilmember Weems stated that he had some reservations in regard to the next 12 to 18 months of acquiring and implementing this equipment. City Manager Maclin stated that all the City is purchasing today is the CAD software, which is the most important element of the entire package because of what it will do for dispatch and communications operations. City Manager Maclin stated that staff is still receiving bids and just wanted to move forward with this portion of the equipment.

Motion was made by Councilmember Tucker Weems and seconded by Councilmember Jack Gorden, Jr. that staff be authorized to purchase Police CAD software from HTE in the amount of \$319,788 with financing from Tobyne & Co. for an interest rate of 5.23% of four annual payments. A unanimous affirmative vote was recorded.

#### **17. AUTHORIZATION - APPROVED - BACKHOES - WATER UTILITIES - HGAC**

Mayor Bronaugh stated that the next item for consideration was authorization to purchase backhoes from HGAC for the Water Utilities Department.

City Manager Maclin stated that these are items that are in the budget and the bid is for three (3) Model 310 backhoes and one (1) Model 410 backhoe to be purchased through the Houston Galveston Area Council Cooperative Purchasing Program. City Manager Maclin stated that HGAC's purchasing program was a blanket bid from a corporate office of John Deere where they pre-set a government price for these units and then when a City wants to take advantage of this government bid price they pass it along to the local dealer. City Manager Maclin stated that the actual sale will take place through the local John Deere dealer.

City Manager Maclin stated that staff is seeking authorization to purchase these four backhoes at a price of \$155,577.39 which includes a trade in of \$22,550.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Don Boyd that bid of John Deere through the HGAC contract for three Model 310 backhoes at \$41,934 each (less trade ins as shown) and one Model 410 backhoe at \$49,434 for a total net cost of \$155,577.39 be approved as submitted. A unanimous affirmative vote was recorded.

#### **18. AUTHORIZATION - APPROVED - POLICE CARS - HGAC**

Mayor Bronaugh stated that the next item for consideration was authorization to purchase police cars from HGAC.

City Manager Maclin stated that the Police vehicle purchasing has become more difficult and complex since there are less people who want to get involved in the sale of these vehicles. City Manager Maclin stated that there are also less companies who are manufacturing these vehicles. City Manager Maclin stated that the City has the same option as last year through the Houston Galveston Area Council Cooperative Purchasing Program. City Manager Maclin stated that staff is recommending the purchase of ten (1) 1997 Ford Crown Victoria Police sedans at \$19,885 each, one (1) 1997 12 passenger club wagon van to replace the existing van at a cost of \$23,505, and one (1) Ford F-150 extended cab pickup for \$19,674. City Manager Maclin stated that staff is also recommending that since these vehicles are budgeted as lease purchase items, that the interest rate provided by Ford Motor Company for the ten (1) police vehicles at 5% and 5.23% on the pickup and the van be approved.

In response to question by Councilmember Gorden, City Manager Maclin stated that these are the vehicles that were presented and approved in Chief Collin's budget during the Budget Workshop. City Manager Maclin stated that Chief Collins has had a pickup the last couple years, but it has been an economy pickup.

In response to question by Councilmember Jones, Chief Collins stated that the

pickup will be for his personal use and will be used for hauling training supplies for the Police Department. Chief Collins stated that the most common use will be when Lt. Denman puts on a rape prevention clinic he will be hauling some mats around. Chief Collins stated that a pickup is needed for the Department, and that part of his compensation package is that the City furnish him with a car and he personally prefers to drive a pickup.

In response to question by Councilmember Gorden, City Manager Maclin stated that on the Police vehicles there has been little interest in local bids and most dealers do not think they are profitable. City Manager Maclin stated that staff has found that going through HGAC, because of the volume the City buys, saves money. Councilmember Gorden asked if staff could ask HGAC to sell through a local dealer like the John Deere bid. City Manager Maclin stated that staff could ask but the way HGAC has done in the past, they open the bids to all the Ford dealers in Texas, and the Ford dealer who has been the low bidder the past three years has been a dealer in Orange. Councilmember Gorden stated that Council and staff had talked about moving to smaller vehicles in the future. Councilmember Gorden stated that he was concerned about saving money. Councilmember Gorden stated that he has seen the Ford Taurus in other cities. Chief Collins stated that the front wheel drive vehicles have not worked out well, and the maintenance costs is exorbitant. Chief Collins stated that the initial cost is a little less but the operating cost is considerably more. Chief Collins stated that eventually manufacturers are going to stop making the rear wheel full size sedans.

Councilmember Simond asked the City Manager to see what the savings would be if the City were to have their own gas pump and pump their own gas for City vehicles. City Manager Maclin stated that actually the City got out of that business several years ago because of the law changes by the Texas Natural Resources Conservation Commission. City Manager Maclin stated that the City used to own tanks and sold them all. City Manager Maclin stated that each year Mr. Cochran bids out the City's gasoline to local wholesalers.

Councilmember Gorden stated that he could understand bidding out the police cars through HGAC, but would like to know if the economy trucks could be bid locally. City Manager Maclin stated that the trucks were bid through HGAC for expediency but could be rebid locally. City Manager Maclin stated that because of the economies of scale, the trucks are cheaper through HGAC. Councilmember Gorden stated that the City needs to try and save money, but should also try and do business with local dealers. City Manager Maclin stated that Council can table item #19 and rebid all the trucks locally. City Manager Maclin stated that in the future staff will give consideration to local bidders.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Jack Gorden, Jr. to authorize the purchase of ten 1997 Police Patrol units for \$19,885 each; one 1997 3/4 ton twelve passenger van for \$23,505; and one 1997 1/2 ton extended cab pickup truck for \$19,674 purchased through HGAC with financing through the Ford Motor Company at an interest rate of 5% on the patrol units and 5.3% on the van and pickup be approved as submitted. A unanimous affirmative vote was recorded.

**19. AUTHORIZATION - APPROVED - ECONOMY TRUCKS - HGAC - ENGINEERING - WATER COLLECTIONS - WATER POLLUTION CONTROL**

Mayor Bronaugh stated that the next item for consideration was authorization to purchase three economy trucks from HGAC.

Councilmember Simond asked why the Water Collections Department would need an extended cab pickup. City Manager Maclin stated that these are economy pickups and the extended cab has more space for their tool boxes and long wrenches they use to cut meters off. In response to question by Councilmember Gorden, City Manager Maclin stated that even through the Collection people are not primarily

responsible for meters, they do repairs.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Betty Jones to authorize the purchase of three economy trucks for the Engineering Department, Water Collections Department and the Water Pollution Control Department at \$14,657 each with a fee of \$261.52 from HGAC for a total price of \$14,918.52 per vehicle be approved as submitted. A unanimous affirmative vote was recorded.

## 20. WAYNE HAGLUND - MUNICIPAL PARKING FACILITY

Mayor Bronaugh stated that the next item for consideration is Wayne Haglund addressing the Council regarding the need for a municipal parking facility.

Mr. Haglund stated that he was present tonight on behalf of the Main Street Board. Mr. Haglund asked those members of the Main Street Board (Donna Evans and Martha Schwartz) to stand (Mr. John Ross Kay and Mr. Charles Stone had been present but left). Mr. Haglund stated that members of the Board were present at an earlier meeting when the new Parking Ordinance for downtown was passed. Mr. Haglund stated that in fairness to the people downtown, if the City is going to be more stringent in parking and tougher on fines, the people must have a place to park. Mr. Haglund stated that a Statement of Need prepared by City staff had been included in the Councilmembers packets. Mr. Haglund stated that this Statement indicates that if this concentration of businesses downtown were anywhere else in the City except the Central Business District the City's existing Ordinance would require them to have somewhere in the neighborhood of 600 parking spaces. Mr. Haglund stated that, in fact, there are 110 parking spaces available in downtown Lufkin today, a little over 1/6th of the parking spaces the City's Ordinance would require if these businesses were spread out.

Mr. Haglund stated that the Main Street Board anticipates when the enforcement of the Ordinance begins on January 1st, staff and Council will hear a lot of negative comments from unhappy people and he would like to suggest that this would be an appropriate way to deal with these complaints.

Mr. Haglund stated suggested that Councilmembers ride through the downtown Central Business area any week night and see how difficult it is to find a parking place. Mr. Haglund stated that he would like Council to recognize the progress that has been made in downtown Lufkin in terms of the money pumped in, businesses that have been remodeled, ad valorem taxes that are being collected, property values are going up and not down, plus the sales tax base that the City is beginning to acquire downtown. Mr. Haglund stated that the Main Street Board would like to see the City involved in providing a municipal parking facility for downtown.

Mayor Bronaugh thanked Mr. Haglund for his efforts in this endeavor.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Tucker Weems to accept the Statement of Need as presented by the Main Street Advisory Board as presented. A unanimous affirmative vote was recorded.

## 21. EXECUTIVE SESSION

Mayor Bronaugh recessed Regular Session at 7:10 p.m. to enter into Executive Session. Regular Session was reconvened at 7:43 p.m., and Mayor Bronaugh stated that an appointment to the Planning & Zoning Commission Board was discussed. Mayor Bronaugh stated that after hearing the statement of need for more additional parking in downtown Lufkin it was discussed that the Council needs to consider creating municipal parking facility and while doing that Council has discussed with the City Attorney looking at a piece of property on the corner of Burke Street and First Street.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Tucker Weems declaring a public necessity for a municipal parking lot in the downtown area and determining that the City should acquire the property at First and Burke Street for the parking lot and authorizing the City Attorney to proceed with acquisition of that property. A unanimous affirmative vote was recorded.

22. APPOINTMENT - APPROVED - PLANNING & ZONING COMMISSION - RONNIE ROBINSON

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember Betty Jones that Ronnie Robinson be reappointed to the Planning & Zoning Commission. A unanimous affirmative vote was recorded.

23. COMMENTS

City Manager Maclin stated that Councilmembers will be receiving a Drainage Advisory Committee report at the end of this week.

City Manager Maclin stated that the TML Conference will be held in Corpus Christi next week.

City Manager Maclin stated that American Colloid will have an Open House with lunch at their facility this Friday.

City Manager Maclin stated that next Monday, Veterans Day, is a City holiday.

24. There being no further business for consideration, meeting adjourned at 7:47 p.m.

  
Louis A. Bronaugh - Mayor

ATTEST:

  
Atha Stokes - City Secretary