

MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF
LUFKIN, TEXAS, HELD ON THE
1st OF APRIL 2003

On the 1st day of April 2003 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
Lynn Torres	Mayor pro tem
R. L. Kuykendall	Councilmember, Ward No. 1
Rose Faine Boyd	Councilmember, Ward No. 2
Bob Bowman	Councilmember, Ward No. 4
Jack Gorden, Jr.	Councilmember, Ward No. 5
Dennis Robertson	Councilmember, Ward No. 6
C. G. Maclin	City Manager
Atha Martin	City Secretary
Bob Flournoy	City Attorney
Keith Wright	City Engineer
Kenneth Williams	Director of Public Works
Stephen Abraham	Director of Planning

being present when the following business was transacted.

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

2. Mayor Bronaugh welcomed visitors present.

3. APPROVAL OF MINUTES

Minutes of the Regular Meeting of March 18, 2003 were approved on a motion by Councilmember Lynn Torres and seconded by Councilmember Dennis Robertson. A unanimous affirmative vote was recorded.

4. PROCLAMATION – FAIR HOUSING MONTH

Mayor Bronaugh stated that April has been proclaimed as Fair Housing Month. Mayor Bronaugh read a copy of the Fair Housing Month Proclamation and presented a signed copy to Doug Dowler, Executive Director of the Pineywoods Home Team.

5. ORDINANCE – APPROVED – SECOND READING – SPECIAL USE PERMIT – RIDING ACADEMY/COMMERCIAL STABLE – LARGE SINGLE FAMILY DWELLING ZONING DISTRICT – 2401 FORD CHAPEL ROAD – SHARON McCLURE – ELSIE AND BUFORD MADDUX

Mayor Bronaugh stated that the next item for consideration was the request of Sharon McClure on behalf of Elsie and Buford Maddux to grant a Special Use Permit for a Riding Academy/Commercial Stable within a "Large Single Family Dwelling" zoning district on approximately 9.024 acres of land described as Tracts 5 and 6 out of the J. L. Quinalty Survey (Abstract No. 40) and more commonly known as 2401 Ford Chapel Road.

Motion was made by Councilmember Rose Faine Boyd and seconded by Councilmember R. L. Kuykendall that the Special Use Permit for a Riding Academy/Commercial Stable within a "Large Single Family Dwelling" zoning district on approximately 9.024 acres of land described as Tracts 5 and 6 out of the J. L. Quinalty Survey (Abstract No. 40) and more commonly known as 2401 Ford Chapel Road be approved on First Reading with the condition that the maximum number of horses kept on the premises be limited to eight. A unanimous affirmative vote was recorded.

6. REVISIONS – APPROVED – SECOND READING - SKATEBOARDING ORDINANCE NO. 3217

Mayor Bronaugh stated that the next item for consideration was Second Reading of the revisions to the Skateboarding Ordinance No. 3217.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Jack Gorden, Jr. that revisions to the Skateboarding Ordinance No. 3217 be approved on Second Reading as presented. A unanimous affirmative vote was recorded.

7. ORDINANCE – APPROVED – FIRST READING – ZONE CHANGE – APARTMENT TO SMALL SINGLE-FAMILY DWELLING – 504 HOMER STREET – 503 CHARLTON – EDDIE SMELLY – CHANGES TO FUTURE LAND USE PLAN

Mayor Bronaugh stated that the next item for consideration was the request of Eddie Smelley to change the zoning from “Apartment” to a “Small Single-Family Dwelling” district on property described as Lots 3 and 4, Block 33 of the W. C. Denman Addition and more commonly known as 504 Homer Street and 503 Charlton Street and make any changes to the Future Land Use Plan deemed appropriate.

City Manager Maclin stated that this request comes to Council from the Planning & Zoning Commission with a unanimous vote recommending that the Future Land Use Plan be amended to change the designation of the subject property from High Density Residential to Low Density Residential and that the change of zoning from “Apartment” to “Small Single-Family Dwelling” be approved.

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember Lynn Torres that Ordinance to change the zoning from “Apartment” to a “Small Single-Family Dwelling” district on property described as Lots 3 and 4, Block 33 of the W. C. Denman Addition and more commonly known as 504 Homer Street and 503 Charlton Street, and make any changes to the Future Land Use Plan deemed appropriate. A unanimous affirmative vote was recorded.

8. EXCESSIVE FORCE RESOLUTION – FAIR HOUSING ACTIVITIES

Mayor Bronaugh stated that the next item for consideration was an Excessive Force Resolution and other Fair Housing activities.

City Manager Maclin stated that included in the Council packet are several items provided by the Pineywoods Home Team relating to this item. Mr. Maclin stated that there is also a grievance procedure and other documents relating to this item, but specifically there is an Excessive Force Resolution included in the packet.

Motion was made by Councilmember Rose Faine Boyd and seconded by Councilmember R. L. Kuykendall that the Excessive Force Resolution and other Fair Housing activities be approved as presented. A unanimous affirmative vote was recorded.

9. RESOLUTION – APPROVED – ADVANCED FUNDING AGREEMENT FOR VOLUNTARY MAINTENANCE BY A LOCAL GOVERNMENT (ON-SYSTEM)

Mayor Bronaugh stated that the next item for consideration was a Resolution for the Advanced Funding Agreement for Voluntary Maintenance by a Local Government (On-System).

City Manager Maclin stated that basically this is an agreement where the City will agree to maintain the area in the downtown after the improvements are made that are currently under construction. Mr. Maclin stated that since the City is providing the construction activity, the State requires the City to maintain it following the construction. Mr. Maclin stated that this is a Resolution that is necessary for the City’s agreement with TxDOT as it relates to First Street.

Mr. Wright stated that the City is agreeing that they will maintain that segment of First Street from Frank to Denman.

Motion was made by Councilmember Dennis Robertson and seconded by Councilmember R. L. Kuykendall that the Resolution for the Advanced Funding Agreement for Voluntary Maintenance by a Local Government (On-System) be approved as presented. A unanimous affirmative vote was recorded.

10. SITE PLAN – APPROVED – SHOPPING CENTER – HOME DEPOT STORE – TULANE AND LOOP 287 SERVICE ROAD – LAWRENCE A. CATES AND ASSOCIATES

Mayor Bronaugh stated that the next item for consideration was the request of Lawrence A. Cates and Associates for approval of a site plan for an 11.636-acre shopping center containing a 137,858 square foot Home Depot Store generally located at the southeast corner of the intersection of Tulane Drive and the Loop 287 service road.

City Manager Maclin stated that included in the Council packet is the explanation and minutes from the Planning & Zoning Commission meeting relating to this item. Mr. Maclin stated that this request is coming to Council from the Planning & Zoning Commission with a unanimous vote of recommendation that the site plan be approved with the following conditions: That prior to the issuance of a building permit, all involved property will be platted to provide for the following: a) A forty feet wide no build easement, as shown on the proposed site plan, shall be placed on lot 3; b) The fifty feet wide landscape buffer located along the southern property line of lot 2 (the subject site) be extended eastward to the end of the Card-Miles tract (partially shown as lot 3 on the site plan); and c) Lot 3 will be reconfigured to meet the minimum access requirements upon a public or private street. And, that the maximum height of the sign shall not exceed fifty feet.

Mr. Maclin stated that this is coming to Council as a proposed approval of the site plan from the P & Z Commission, but the applicant is here tonight to also appeal one item of the site plan and that is the maximum height of the sign. Mr. Maclin stated that on the Council table is a document that staff received by FedEx yesterday that provides the justification by the applicant for the extension of the signage from 50 feet to 90 feet.

Larry Cates stated that he is the Civil Engineer on the proposed project and was present representing Home Depot. Mr. Cates stated that he was fine with all the stipulations that were required from the P & Z Commission with the exception of the signage. Mr. Cates stated that they couldn't make a good argument last week with P & Z because they did not have their packet together showing the need for the 90-foot sign. Mr. Cates stated that Bell Signs of Florida, who do a lot of the Home Depot signs, had prepared the packet for Council. Mr. Cates stated that he explained to P & Z at their last meeting that when he came in on the Loop he actually missed his exit and he had been to the site before. Mr. Cates stated that it is evident from some of the pictures included in the packet that it is imperative that there is a 90 foot sign in order to see the Home Depot sign from the U S 59 exit. Mr. Cates stated that he had brought along representatives from the sign company and Emma Lou Barnes from Home Depot.

In response to question by Councilmember Gorden, Mr. Cates stated that the exit that you have to take if you are going eastbound is the exit at Barnhill's but the trees are so tall on Tulane that he couldn't see. Mr. Cates stated that the trees are part of the reason for the request for the 90-foot sign, otherwise the next exit is at Lowe's. Mr. Maclin stated that there is a combination of the trees and the overpass, and in the future there would be a northbound overpass.

Councilmember Boyd asked if some of the trees were to be removed in the future. Mr. Maclin stated that some of the trees will be on State right-of-way and retained on right-of-way. Mr. Maclin stated that staff was told that the trees could be trimmed as far as the overhang onto the frontage road but that would not eliminate the height as a visual barrier.

Mr. Wright stated that the Planning Department received the original packet from Home Depot about the time that the mail outs were sent to the P & Z Commissioners and staff

did not have time to respond to it, so Steve put together his response and that wasn't given to Home Depot until the night of the P & Z meeting. Mr. Wright stated that in staff's opinion the 90 foot sign would be appropriate.

Councilmember Torres stated that within sight of where this sign would be there is the Lufkin Mall sign, which is 90 feet and the Budget Inn sign, which is 80 feet. Mr. Wright stated that the City would typically hold Home Depot to the 50-foot sign, but due to the visibility restrictions at the site, they thought it would be appropriate to allow the 90-foot sign.

Mr. Wright stated that in any motion the Council makes, if they consider this as an appeal that is based on visibility conditions at the site, they would include this language as part of the motion.

In response to question by Councilmember Robertson, Mr. Wright stated that at the P & Z Commission meeting the Commissioners knew that the 50' sign would be appealed, they just did not have the information necessary to base an appeal on. Mr. Wright stated that at that time Mr. Cates was not prepared nor was staff so they asked the P & Z Commission to approve the sign at 50' knowing that an appeal would take place at the Council meeting.

In response to question by Councilmember Boyd, Mr. Maclin stated that the Lowe's sign is 50' and the proposed signage at Southwood Crossing is 40'.

In response to question by Councilmember Gorden, Mr. Maclin stated that you can only address signage through a site plan because the City does not have a Sign Ordinance by definition. Mr. Wright stated that one of the things staff was looking at was what the other signs were and what we had site plan approval for in the past. Mr. Wright stated that the only reason that staff would consider the 90' sign is due to the visibility problems at the site, the TxDOT proposed structure that will take place on 59 in the future, and the tall trees adjacent to the site.

Councilmember Robertson stated that he was looking at the proposed Sign Ordinance, which is not in existence yet, and based on what he is reading the Council would not approve a 90' sign in this location if the new Sign Ordinance were in place. Councilmember Robertson stated that he is on the Sign Ordinance Committee and if this Ordinance were in place, the City would not allow the 90' sign. Mr. Wright stated that under the new Sign Ordinance there would be an appeal mechanism for other considerations due to site-specific problems.

Councilmember Robertson stated that in reading the minutes from the P & Z Commission meeting, if those trees were not there and assuming there will be new development along the Loop, then that sign would be visible in a lot more places. Mr. Wright stated that Mr. Cates had brought out at the P & Z Commission meeting that Home Depot does not have any control over those trees, and when they are taken out and the new development is there is some time in the future that nobody knows. Mr. Wright stated that if the trees are taken out it might be that the sign wouldn't need to be 90', but right now today it does provide a visibility problem to the site.

Councilmember Gorden stated that there is some verbiage in the minutes that Mr. Cates would plant so many trees on the site. Mr. Cates stated that he had no problem with any of the stipulations that were placed on the Home Depot site. In response to question by Councilmember Gorden, Mr. Cates stated that it would be very difficult to save any of the large trees because of the creek that runs down the middle of the site and they will have to put in a large box culvert. Mr. Cates stated that they are leaving the 50' buffer in it's natural state. Mr. Cates stated that the Home Depot building would face the Loop. Mr. Cates stated that it is Home Depot's policy to try to save as many trees as they can.

Councilmember Gorden stated that he assumed that the Home Depot people are real happy with the Tulane traffic situation to go ahead and proceed with this. Mr. Cates stated that most retailers he knows like a lot of traffic. Mr. Cates stated that Home Depot doesn't like the fact that there is some traffic backup. Mr. Wright stated that he had talked to TxDOT last week and they are going to go ahead and move forward

and put up a temporary signal system at this location to try and facilitate some of that movement. Mr. Wright stated that they have included an expansion of the bridge as a modification to Tulane and that intersection in the near term U S 59 improvements.

Councilmember Robertson stated that he was not an advocate of keeping moving signs up in the atmosphere to try to get better visibility. Councilmember Robertson stated that we could get these signs so high in the air that they become non-visible. Councilmember Robertson stated that from his perspective he did not like to see one business come in and say that they've got to have their sign higher than the next guy because it's going to be visible, and he did not think that we ought to be trying to elevate our signs higher in the air regardless of whether we have a Sign Ordinance or not on these issues.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Lynn Torres that the site plan for an 11.636 acre shopping center contained a 137,858 square foot Home Depot Store generally located at the southeast corner of the intersection of Tulane Drive and the Loop 287 service road be approved with the following conditions: 1. Prior to the issuance of a building permit, all involved property will be platted to provide for the following: a) A forty fee wide no build easement, as shown on the proposed site plan, shall be placed on lot 3; b) The fifty feet wide landscape buffer located along the southern property line of lot 2 (the subject site) be extended eastward to the end of the Care-Miles Tract (partially) shown as lot 3 on the site plan); c) Lot 3 will be reconfigured to meet the minimum access requirements upon a public or private street. A unanimous affirmative vote was recorded.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Lynn Torres that an appeal for the 90' sign based on visibility be approved as requested. The following vote was recorded:

Aye: Councilmembers Bowman, Torres, Gorden, Kuykendall and Mayor Bronaugh

Nay: Councilmembers Boyd and Robertson

Motion carried with five affirmative votes.

11. BID – APPROVED – SEWER CLEANER – TEXAS LOCAL GOVERNMENT PURCHASING COOPERATIVE

Mayor Bronaugh stated that the next item for consideration was bids for a sewer cleaner.

City Manager Maclin stated that the staff recommendation is to award the low bid of the Texas Local Government Purchasing Cooperative in the amount of \$104,293.10.

In response to question by Councilmember Robertson, Mr. Wright stated that this is actually a jet machine and is used when there is a sewer stoppage. Mr. Wright stated that the machine has a long hose that has a jet water nozzle on the end of it and goes up into the sewer main and unstops it. Mr. Wright stated that this machine replaces a similar machine.

Motion was made by Councilmember Rose Faine Boyd and seconded by Councilmember R. L. Kuykendall that the bid of Texas Local Government Purchasing Cooperative in the amount of \$104,293.10 for a sewer jet machine be approved as submitted. A unanimous affirmative vote was recorded.

12. BID – APPROVED – WATER PLANT CHLORINATION IMPROVEMENTS – OSCAR CRAWFORD

Mayor Bronaugh stated that the next item for consideration was bids for water plant chlorination improvements.

City Manager Maclin stated that staff is recommending the low bid of Oscar Crawford in the amount of \$69,645, and is well below budget.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Jack Gorden, Jr. that bid of Oscar Crawford in the amount of \$69,645 for water plant chlorination improvements be approved as submitted. A unanimous affirmative vote was recorded.

13. **EXECUTIVE SESSION**

Mayor Bronaugh recessed Regular Session at 5:42 p. m. and Councilmembers entered into Executive Session. Regular Session reconvened at 6:32 p. m. and Mayor Bronaugh stated that Council had discussed real estate matters.

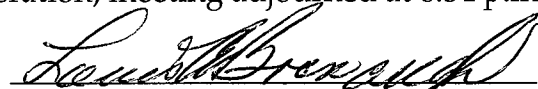
14. **CALENDAR NOTATIONS FROM MAYOR, COUNCILMEMBERS AND CITY MANAGER**

City Manager Maclin stated that this Friday is the First Friday luncheon with Daniel Brandenstein, a former Astronaut, as the speaker.

City Manager Maclin stated that on April 8th the Chamber would sponsor an Industrial Appreciation Dinner at the Diboll Civic Center.

City Manager Maclin stated that Thursday, April 10th is the TOPIC graduation at the Civic Center at 6:00 p.m. and encourage all Council members to be present.

15. There being no further business for consideration, meeting adjourned at 6:34 p.m.


Louis A. Bronaugh – Mayor

ATTEST

Atha Martin – City Secretary