MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 16th OF SEPTEMBER 2003

On the 16th day of September 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
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
David Koonce	Director of Human Resources
Stephen Abraham	Director of Planning
Kenneth Williams	Director of Public Works

being present, and

Keith Wright	City Engineer

being absent when the following business was transacted.

1. Meeting was opened with prayer by Rev. Jeff Robinson, Southside Baptist Church.

2. Mayor Bronaugh welcomed visitors present.

3. **PROCLAMATION – RACIAL EQUALITY WEEK**

Mayor Bronaugh read a Proclamation celebrating Racial Equality Week and presented the Proclamation to Rev. James Townes.

4. **PROCLAMATION – HELP PREVENT UNDERAGE DRINKING**

Mayor Bronaugh read a Proclamation to bring attention to the campaign to "Help Prevent Underage Drinking" and presented the Proclamation to Janet Taylor.

5. **APPROVAL OF MINUTES**

Minutes of the Regular Meeting of September 2, 2003 were approved on a motion by Councilmember Dennis Robertson and seconded by Councilmember R. L. Kuykendall as presented. A unanimous affirmative vote was recorded.

6. **APPROPRIATIONS ORDINANCE – APPROVED – SECOND READING**

Mayor Bronaugh stated that the next item for consideration was Second Reading of the Appropriations Ordinance.

Motion was made by Councilmember R. L. Kuykendall and seconded by Councilmember Rose Faine Boyd that the Appropriations Ordinance be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

7. **TAX LEVYING ORDINANCE – APPROVED – SECOND READING**

Mayor Bronaugh stated that the next item for consideration was Second Reading of the Tax Levying Ordinance.

Motion was made by Councilmember R. L. Kuykendall and seconded by Councilmember Rose Faine Boyd that the Tax Levying Ordinance be approved on Second Reading as presented. A unanimous affirmative vote was recorded.

8. ORDINANCE – APPROVED – SECOND READING - AMENDING THE WATER RATES

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance to amend the water rates.

Motion was made by Councilmember R. L. Kuykendall and seconded by Councilmember Rose Faine Boyd that Ordinance amending the water rates be approved on Second Reading as presented. A unanimous affirmative vote was recorded.

9. ORDINANCE – APPROVED – SECOND READING – AMENDING THE SEWER RATES

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance to amend the sewer rates.

Motion was made by Councilmember R. L. Kuykendall and seconded by Councilmember Rose Faine Boyd that the Ordinance to amend the sewer rates be approved on Second Reading as presented. A unanimous affirmative vote was recorded.

10. ORDINANCE - APPROVED – SECOND READING - WATERWORKS AND SEWER SYSTEM REVENUE BONDS, SERIES 2003– ISSUANCE OF BONDS – UBS FINANCIAL SERVICES, INC.

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance related to the issuance and sale of $1,500,000 "City of Lufkin, Texas Waterworks and Sewer System Revenue Bonds, Series 2003", including the receipt of bids therefore and the passage and adoption of an Ordinance authorizing the issuance of such bonds.

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember Don Langston that the Ordinance authorizing the issuance of the "$1,500,000 City of Lufkin, Texas Waterworks and Sewer System Revenue Bonds, Series 2003," be approved on Second and Final Reading as presented, and that the bid of UBS Financial Services, Inc. with an interest rate of 4.532640 be approved as submitted. A unanimous affirmative vote was recorded.

11. ORDINANCE – APPROVED – SECOND READING - CITY OF LUFKIN, TEXAS GENERAL OBLIGATION BONDS, SERIES 2003 – A. G. EDWARDS

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance related to the issuance and sale of $3,750,000 "City of Lufkin, Texas, General Obligation Bonds, Series 2003", including the receipt of bids therefore and the passage and adoption of an Ordinance authorizing the issuance of such bonds.

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember Don Langston that the Ordinance authorizing the issuance of the $3,750,000 "City of Lufkin, Texas General Obligation Bonds, Series 2003" be approved on Second and Final Reading and the bid of A. G. Edwards at an interest rate of 4.403287 be approved as submitted. A unanimous affirmative vote was recorded.

12. **ORDINANCE – APPROVED – SECOND READING – CITY OF LUFKIN, TEXAS TAX AND WATERWORKS AND SEWER SYSTEM SURPLUS REVENUE CERTIFICATES OF OBLIGATION, SERIES 2003 - UBS FINANCIAL SERVICES, INC.**

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance related to the issuance and sale of $1,700,000 "City of Lufkin, Texas Tax and Waterworks and Sewer System Surplus Revenue Certificates of Obligation, Series 2003", including the receipt of bids therefore and the passage and adoption of an Ordinance authorizing the issuance of such Certifications of Obligation.

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember Don Langston that Ordinance authorizing the issuance and sale of $1,700,000 "City of Lufkin, Texas, Tax and Waterworks and Sewer System Surplus Revenue Certificates of Obligation, Series 2003" be approved on Second and Final Reading as presented and that the bid of UBS Financial Services, Inc. at an interest rate of 4.492652 be approved as submitted. A unanimous affirmative vote was recorded.

13. **STATE OF TEXAS ECONOMIC DEVELOPMENT SALES TAX – CITY OF LUFKIN**

Mayor Bronaugh stated that the next item was further consideration of the potential implementation of the State of Texas Economic Development Sales Tax in the City of Lufkin.

City Manager Maclin stated that on June 11th Council held a special workshop meeting to discuss potential utilization of the Texas Economic Development Sales Tax. Mr. Maclin stated that since June 11th the numbers of cities participating in the TEDST is now 513 who have exercised the option, taken it to the voters and been approved to implement an economic development sales tax for the purpose of providing economic development funds to assist in their communities efforts. Mr. Maclin stated that this has been designated by the State of Texas as the vehicle for economic development funding in Texas. Mr. Maclin stated that he had prepared a memo that is included in the Council packet that provides an answer to the question that was asked – "Is there a way to propose the economic development sales tax election to the citizens of Lufkin without a property tax rate increase?" Mr. Maclin stated that in order for the City to implement economic development sales tax, we will have to create some room in the cap of our sales tax allocation as designated by the State of Texas by removing a portion of our sales tax for ad valorem reduction and then by taking and freeing that up then we would have the option to take to the voters an election for economic development sales tax. Mr. Maclin stated that if the Council were to do that as discussed on June 11th, it would be a two-item ballot. The first item would be for the public to say "yes" or "no" to removing an eighth of a cent, and the second item on the ballot would be for the public to say "yes" or "no" about then implementing an eighth of a cent for economic development. Mr. Maclin stated that if the City were to do that with its current financial policies and the current financial status, it would require about a five cent tax increase to make up for the difference of what sales tax is now off-setting the ad valorem or property tax rate. Mr. Maclin stated that when this was discussed back in June, the question came up - is there a way to be able to take this to the voters as an election without a tax rate increase. Mr. Maclin stated that there is at least one alternative that could accomplish the request. Mr. Maclin stated that the City would divert an eight of a cent of sales tax receipts to the formation of an Economic Development Corporation and would need to replace between $700,000 and $750,000 to the General Fund. Mr. Maclin stated that in simple terms that would require a tax increase of about five cents. Mr. Maclin stated that another way of replacing the $700,000 without a tax increase would involve changing the City's financial policy from our current financial policy of a 25% fund balance or 90 days balance requirement in the General Fund to a 20% or 72 days fund balance minimum requirement. Mr. Maclin stated that based on the City's budget for fiscal year 2004, with a 25% fund balance requirement for the General Fund, our minimum balance required is $5,522,618, however, if the City lowered that to a 20% fund balance our new minimum would be $4,418,094 thereby releasing about $1.1 million for use in the General Fund. Mr. Maclin stated that during our recent bond rating meetings with Standard & Poor's and

Moody Investment Rating Agencies staff asked this question specifically to seek their comments on this issue. Mr. Maclin stated that in years past when staff has gone to meet with the rating agencies, they have been somewhat vague about how much is enough fund balance in order to get the maximum bond rating that the City could obtain from a reasonable fund balance standpoint. Mr. Maclin stated that in recent years they've become a little more definitive and even now Standard and Poor's prints a brochure that lists items relating to recommendations for fund balances for municipal government.

Mr. Maclin stated that staff asked Standard & Poor's and Moody's if there would be an impact or a change in the City's bond rating if they lowered the fund balance from 25% to 20% and Standard & Poor's, after staff provided an explanation behind the reason for changing the fund balance, that being to take the economic development sales tax election to the voters, stated that lowering the fund balance from 25% to 20% for the reason of implementing an Economic Development Corporation, would not adversely impact the City's bond rating. Mr. Maclin stated that part of that was due to the fact that the rating agent that staff was dealing with had been located or positioned in the City of Dallas with his tenure at Standard and Poor's and therefore had a grasp and understanding of Texas law and specifically economic development corporation and the economic development sales tax in Texas.

Mr. Maclin stated that the response from the Moody Investment Agency was a little less definitive. Mr. Maclin stated that they apparently did not have the same grasp or understanding of Texas Law relating to the ED tax as Standard & Poor's did and stated that since we as a City of Lufkin were so dependent on sales tax (41% of our General Fund revenues), that they would really prefer a 30% fund balance. Mr. Maclin stated that they did not give staff a direct answer, but the implication was that a reduction in fund balance would certainly not help the City's bond rating with Moody.

Mr. Maclin stated that if the City Council approves this change in its financial policy with a full understanding that it is a temporary move and that the Council would set goals of 2% - 3% per year to try and restore the General Fund Balance policy to the 25% level, the rating agencies would not severely penalize the City. Mr. Maclin stated that if the City did not issue any debt for a while, then certainly there would not be an impact on the bond rating because rarely will the rating agencies give a new bond rating unless you are about to issue new debt.

Mr. Maclin stated that with the $1,104,524 available from the change in policy from 25% to 20%, the City would be able to absorb a successful ED tax election of 1/8th cent and provide other opportunities to meet budget needs of the City. Mr. Maclin stated that if the Council held the election on the next available date, the first Saturday in February (February 7, 2004), and it was approved by the voters, the Council could implement that and it would actually begin collection of funds to the economic development corporation on July 1, 2004. Mr. Maclin stated that the funds after that received from the Comptroller's office in sales tax, the 1/8th of a cent will then be placed in the Economic Development Corporation account. Mr. Maclin stated that it would require separate accountability as is common when you have a separate corporation of that nature.

In response to question by Councilmember Robertson, City Manager Maclin stated that the Council would direct the formation of the ballot and by law the City would have to pre-determine which option would be taken to the voters. Mr. Maclin stated that if Council wanted to be a 4-b it would be so stated on the ballot.

In response to question by Councilmember Robertson, Mr. Maclin stated that Council does not have to make that decision tonight but would have to make it in adequate time prior to the election which would be approximately 90 days, to meet all the requirements for the Secretary of State and for the City Secretary to meet all the requirements as it relates to calling the election.

Councilmember Robertson stated that based on his understanding of the two classifications (4-a or 4-b), he would go on record as saying that he would go for the 4-b and would be very reluctant for a 4-a request to the public. Councilmember Robertson stated that, in his opinion, we would have a better opportunity to present and get the citizens to accept the 4-b option rather than 4-a. Mr. Maclin stated that just as a point of clarification, the 4-b does give the City a lot more latitude in terms of quality of life issues including parks and infrastructure that is not necessarily totally related to industrial park development, whereas 4-a is more stringent by limitation of the funds expenditure primarily for industrial infrastructure and related economic development programs.

Councilmember Robertson stated that if Council puts the 4-b in place, it should generate somewhere in the range of $700,000. Councilmember Robertson asked if Council would let this cap out at a certain point and re-evaluate the program at that point or just let it keep building. Mr. Maclin stated that most cities allow it to build in order to, as they say, have the "rainy day fund" when they get a prospect that is a highly desirable job creator, that would create good paying jobs, it would be environmentally clean, would be an asset to Lufkin and Angelina County. Mr. Maclin stated that in some cases there are millions and millions of dollars that have been accumulated by cities so they will have what they feel like is an adequate war chest to be competitive to seek and be successful in obtaining quality jobs that are good paying jobs that will enhance their community.

Councilmember Langston stated in doing some research, the beauty of the 4-b provision is that Council remains in control of how that money is utilized and does have the opportunity as Mr. Maclin pointed out for infrastructure and other uses. Councilmember Langston stated that as he understands it, it remains a directive of Council and to go a step further, in looking at the City of Tyler's web page, the City of Tyler has successfully used their ED tax to off-set the need to go to the public for bonds for infrastructure improvements, etc. Councilmember Langston stated that they simply let it build to a point and have utilized it for economic development issues, attracting businesses, but also to not have to go to the public every time they had a need for infrastructure improvements within the city. Councilmember Langston stated that to him it has a two-fold purpose; and certainly at the direction of this Council and any future Council there seems to be enough latitude there to allow that Council to meet the current need that exists for that City at that time. Councilmember Langston stated that it was comforting to him to know that we not simply putting money aside for a single focused purpose, but that it has multiple opportunities for the City. Councilmember Langston stated that over the last six years according to Tyler's web site, they have been able to reduce their ad valorem taxes over the development that they have been able to attract to come into their city. Councilmember Langston stated that that is the direction he would like to see ultimately this economic development sales tax lead us. Councilmember Langston stated that hopefully, over time, with an improved economy we can also share that same reward from investing a little bit now into the future growth of this city. Councilmember Robertson stated that as the fund would build it would save us interest on doing some infrastructure things that we talked about in June in terms of the needs of some of the neighborhood areas that are deteriorating and need some upgrading of streets or sidewalks or curbing, etc. Councilmember Robertson stated that if we have that option and the direction at the time we have funds available to do that then that fits the category of what he talks about in terms of economic development that we make the quality of life things attractive for a company wanting to bring employees in to an attractive city rather than one that has a lot of deteriorating areas.

Councilmember Torres asked if there was an estimate of how long it would take the City to get back to the 25% fund balance. Mr. Maclin stated that would be dependent on two things – how quickly our sales tax growth was in the future. Mr. Maclin stated that predicated on the eight or nine businesses we have either under construction or opening in the next six months, there is good reason to be optimistic about the ability to get back in a 5 – 7% sales tax growth range like we were in the late '90's. Mr. Maclin stated that the other thing would be for the City to continue to identify ways to cut costs and reduce our budget as we did by $2.1 million in the budget Council just approved. Mr. Maclin stated that there are two additional things that are advantages to the economic development corporation that we would not have access to without an economic development corporation – the first one is a low interest loan fund that the State of Texas provides specifically to cities that have the economic development corporation. Mr. Maclin stated that this low interest loan fund enables cities to leverage their dollars that are coming in on an annual basis to do long term economic development through industrial parks infrastructure. Mr. Maclin stated that you are able to leverage several million dollars with a few hundred thousand dollars on an annual basis and thereby issue the debt, build the industrial park and pay it back over a 20-year period to the State of Texas.

Mr. Maclin stated that secondly as an economic development corporation there is much more freedom ability for the city to invest in various types of economic development job creation activities. Mr. Maclin stated that the City does not currently have that type of authority under our City's General Fund to venture into some of those areas to stimulate and provide incentives for job creation, whereas with the economic development corporation we would have that access like the other 513 cities in Texas do.

Councilmember Robertson asked if the economic development partnership would have some opportunities for grant money that the City would not have on the General Fund basis. Mr. Maclin stated that it is actually access to a low interest loan fund and is not a grant fund.

Councilmember Gorden stated that when you talk about leveraging the funds, which is definitely one of the benefits of doing it, what are the mechanics of that, or is that up to the Board of the 4b infrastructure or does it come back to the City to do the leveraging and obligate those funds in the future. Mr. Maclin stated that historically it is a combination of both the Board and City Council, but the funds that you are obligating are limited to future receipts of the economic development sales tax or the 1/8th of a cent. Mr. Maclin stated that you are not obligating general fund, utility fund or solid waste fund – the only thing that you are obligating for the future are the anticipated receipts from the Comptroller's office of the 1/8th of a cent of sales tax annually

In response to question by Councilmember Gorden, Mr. Maclin stated that with other cities that have the economic development sales tax it is typically a combination of the CIP from the City Council and the Economic Development Corporation coming together and developing a plan.

In response to question by Councilmember Gorden, Mr. Maclin stated that his understanding is that when you issue the debt it is under the name of the City of Lufkin, but it is only obligating the sales tax. Mr. Maclin stated that the answer is, yes, it would require both.

Jay Shands, Chairman of the Angelina County Economic Development Partnership, stated that the Partnership believes very strongly for the future of our community that it is very important that we have this tax available to our citizens to create jobs. Mr. Shands stated that job creation has been very difficult over the past few years for most places, and it has affected the City as well. Mr. Shands stated that we need to do everything we can to create jobs so that our community continues to grow. Mr. Shands stated that he appreciated the Council taking the time and energy to delve into this subject because it is obvious that the Council does understand the 4-b tax. Mr. Shands stated that without Council support there isn't any way the citizens of Lufkin are going to be interested in doing this if they don't feel they have Council's support. Mr. Shands stated that he wanted to pledge the support of the Economic Development Partnership to do anything they can do to help the Council with this challenge. Mr. Shands stated that a number of the Partnership members were present at tonight's meeting. Mr. Shands stated that the Partnership, which the City contributes to each year, has done a lot with a small amount of money in a quiet way to help improve the job situation in Lufkin. Mr. Shands stated that Con-Agra has decided to move more of their employees to Lufkin rather than close down this plant because of what the partnership was able to offer them. Mr. Shands stated that American Color Graphics had other plants where they were doing consolidations and the partnership was a great benefactor because of being able to offer tax abatements and other things that are necessary to encourage them to come to Lufkin.

Mayor Bronaugh stated that the Lufkin City Council was proud of the Partnership because there has been many an hour spent in meetings since it was conceived about six years ago.

In response to question by Councilmember Robertson, Mr. Maclin stated that the make up of the Economic Development Corporation Board is totally up to the City Council as far as the appointments to the Board. Mr. Maclin stated that the law does allow three Councilmembers to serve on the Board if the Council wants to do that. Mr. Maclin stated that is something that the Council would need to determine as a group as to what would be the makeup of the Economic Development Board. Mr. Maclin stated that Board would be responsible for the day to day oversight. Mr. Maclin stated that a similar comparison might be the Board of Development that Council established in 1990. The Board of Development oversees the day to day expenditure of the Hotel/Motel tax; they develop a budget, and that budget comes to Council as a part of the budget Council approved tonight including that expenditure as recommended by the Board of Development. Mr. Maclin stated that it would be similar to that with the difference being that the law does allow for Councilmembers to serve on the Corporation Board.

In response to question by Councilmember Robertson, Mr. Maclin stated that there are some limitations as to what you can and cannot do with 4b money as well as 4a money. Mr. Maclin stated that as far as the administrative costs to provide the marketing, to provide the recruitment, the targeted marketing surveys, the utilization of consultants, the utilization of ads in magazines, that is generically considered all acceptable utilization of the dollars. Mr. Maclin stated that a salary for an administrator would be a legitimate expenditure under 4a or 4b.

In response to question by Councilmember Langston, Mr. Maclin stated that in some cities the Board actually operates at the pleasure of the Council and in other cities the City empowers them with a little more autonomy or independence. Councilmember Langston stated that it makes good sense to him not just for the economic development issue but for the opportunity for us to take advantage of what the State has determined or perceives to be its vehicle to grow its economy. Councilmember Langston stated that the State believes in it enough to create opportunities for us to have funds available at a lesser cost than we might otherwise have, which has always good to him because it makes good business sense to the taxpayer. Councilmember Langston stated that he would like to see Council move forward with this and certainly not without everyone understanding fully what is involved. Councilmember Langston stated that he had the desire to see this Council move forward with calling an election.

Councilmember Gorden stated that he, too, was interested in the Council moving forward with doing the election and taking advantage of a unique opportunity. Councilmember Gorden asked what is next. In response to question by Councilmember Gorden, Mr. Maclin stated that there would be multiple steps involved and the first one would be before we go to the public to definitively develop a game plan of what we anticipate to be the utilization of the funds. Mr. Maclin stated that he bases that on the City of Nacogdoches, back in the mid-90's they tried two times unsuccessfully and that was before they were capped out as they are now when the Hospital District had an election that captured the full one cent for the County of Nacogdoches. Mr. Maclin stated that if you asked people in Nacogdoches like Judy McDonald, who is their current Economic Development Director, why it failed, they would tell you that it was because they did not do an adequate enough job of communicating to the public how they were going to spend the money. Mr. Maclin stated that his point is that this Council should get together with a game plan prior to the election to say this is the direction and the focus that we would see and how this would be utilized in our community to create jobs and to support the infrastructure necessary for industrial parks. Mr. Maclin stated that if you don't have industrial parks and sites you will not have new businesses move to your community and the Partnership for several years now has been bringing this to the attention of the Board of the Partnership that our single greatest need is available sites with adequate infrastructure to be able to attract new start up industry or expansion of industry, etc. Mr. Maclin stated that that would be an element determining to some extent a little bit of the makeup of the Board. Mr. Maclin stated that, in his opinion, it would be premature to select individuals until after the election has passed. Mr. Maclin stated that it would primarily be in preparation for educating and communicating to the public the justification and need for the tax and how that if we didn't pass the tax our belief that we would fall further behind the other 500 plus cities that have passed the tax. Mr. Maclin stated that it is a competition thing to be able to keep up and insure the job security, manufacturing future of Lufkin. Mr. Maclin stated that obviously we've seen a decline in things in recent months like the forest products industry and the telecommunications industry, and declines in jobs due to consolidations and a decline in the market in newsprint and other areas. Mfr. Maclin stated that the Council should work with the Partnership to put together a campaign where the public thoroughly understands why this is essential and important to the future of Lufkin and Angelina County. Mr. Maclin stated that secondly, as Mr. Gorden mentioned there would need to be some clear documentation through minutes of a Council meeting that relate to the changing of the Financial Policy. Mr. Maclin stated that the reason is that the trail we leave for the auditors is the trail that the bond rating agencies review in determining the City's bond rating. Mr. Maclin stated that if we have a clear trail that communicates the reason for the reduction based on the economic development sales tax and the intent of Council then to try to restore that at the earliest potential time frame, that would go a long, long way in minimizing any adverse impact from the rating agencies if we clearly document that through Council minutes and therefore through our audit.

Mr. Maclin stated that most of the activities relating to actually implementing it would come between February and June when we received our first payments. Mr. Maclin stated that we would begin collecting in June so it would be August receipts of the check before we actually have money to deposit in the account.

Councilmember Robertson stated that what he would like to see us do in that frame work is to develop the positive talking points that we could use in that process and development of it. Councilmember Robertson stated that would be fairly easy to do based on our discussion here tonight and other discussions. Councilmember Robertson stated that the better we can get that message out in clear concise statements, the better opportunity we'll have in having people buy into it.

Councilmember Gorden stated that when we've had elections in the past, the City even though we may have certain feelings about how we wanted the outcome to be, did not actively participate in it.

Mr. Maclin stated that he has told the Partnership numerous times in the past that it would be up to the Partnership to assist in the educational campaign and quite frankly for the campaign for the election to help insure its passage. Councilmember Gorden stated that they have already offered that.

In response to question by Councilmember Langston, Mr. Maclin stated that there is a specific process that the City Secretary has already gotten from the Secretary of State and the Comptroller's web site that declares the methodology for calling the election. Mr. Maclin stated that we would need to put the election on a Council agenda in early November.

Motion was made by Councilmember R. L. Kuykendall and seconded by Councilmember Don Langston that the Council expresses its intent to pursue the adopting of an Economic Development Sales Tax through an election to be called in the near future with details to be developed at a workshop to be scheduled in October. A unanimous affirmative vote was recorded.

14. <u>ORDINANCE – APPROVED – FIRST READING – ZONE CHANGE – APARTMENT TO LOCAL BUSINESS – SOUTHWOOD DRIVE – OLD GOBBLERS KNOB ROAD – FM HIGHWAY 1336 – PINEYWOODS MEDICAL DEVELOPMENT CORP. – PHILIP MEDFORD – TOM GANN</u>

Mayor Bronaugh stated that the next item for consideration was request of Pineywoods Medical Development Corp. on behalf of Philip Medford and Tom Gann to change the zoning from "Apartment" to a "Local Business" zoning district on approximately 11.365 acres of land described as Lots 1 and 2 of the Southwood Subdivision No. 2 and located west of Southwood Drive, between Old Gobblers Knob Road and FM Highway 1336.

City Manager Maclin stated that included in the Council packet is a memorandum of explanation from the Director of Planning. Mr. Maclin stated that this request comes to

Council from the Planning & Zoning Commission with a unanimous vote recommending the change from Apartment to Local Business be approved.

Motion was made by Councilmember Don Langston and seconded by Councilmember Lynn Torres that Ordinance to change the zoning from "Apartment" to a "Local Business" zoning district on approximately 11.365 acres of land described as Lots 1 and 2 of the Southwood Subdivision No. 2 and located west of Southwood Drive, between Old Gobblers Knob Road and FM Highway 1336 be approved on First Reading as presented. A unanimous affirmative vote was recorded.

15. **BUDGET AMENDMENT NO. 5 – APPROVED**

Mayor Bronaugh stated that the next item for consideration was Budget Amendment No. 5.

City Manager Maclin stated that this is the final budget amendment for fiscal year 2003 which ends in about 14 days. Mr. Maclin stated that this will make accounting activities corrected to reflect anticipated expense in these various areas. Mr. Maclin stated that some of these items Council actually discussed in previous meetings. Mr. Maclin stated that basically this is our clean up, final budget amendment to provide us with a clean slate for the auditors to begin. Mr. Maclin stated that staff would seek Council's approval of Budget Amendment No. 5 as submitted by Mr. Wood.

Motion was made by Councilmember Don Langston and seconded by Councilmember Rose Faine Boyd that Budget Amendment No. 5 be approved as presented. A unanimous affirmative vote was recorded.

16. SALE OF EXCESS PROPERTY – TABLED - FRANK AND ELLIS AVENUE

Mayor Bronaugh stated that the next item for consideration was the sale of excess property located at the intersection of Frank and Ellis Avenue.

City Manager Maclin stated that this item was discussed a few months ago and was tabled until the Gaslight medical facility was approved and platted and brought to P & Z recently. Mr. Maclin stated that on the Council table is a 11x17 map and memo provided by EGA that shows this intersection. Mr. Maclin stated that there is a right turn lane and an excelaration lane on Frank Street, which are the two areas the City needed to retain some of that property that we received from TxDOT. Mr. Maclin stated that is all the property needs or is required to have in order to accommodate this intersection. Mr. Maclin stated that the City has a request from the property owner adjacent to this to purchase the property and by law we can do that at appraised value. Mr. Maclin stated that Council has the appraised value as prepared by Jake Lyons at a value of $2 a foot. Mr. Maclin stated that there is .389 acres, which makes a total of $33,889.68 based on the appraised value of the property. Mr. Maclin stated that staff is seeking Council's direction as to whether they would like staff to sell this property to the adjacent property owner or not.

In response to question by Councilmember Gorden, Mr. Maclin stated that everything has been cleared up with TxDOT and they have given us in writing that it is the City's property and should do with it what we see fit.

Councilmember Gorden stated that he was not in a hurry to sell this property if there is any possibility that the intersection would need anything in the future. Mr. Maclin stated that the City has no obligation to sell this property, this is at the request of the adjacent property owner. Councilmember Gorden stated that it is evident the situation where Gaslight intersects with Frank, and we can only envision what it might be in the future. Mayor Bronaugh stated that he agreed with Councilmember Gorden.

Mr. Maclin stated that staff needs Council to make a decision so they can tell the property owner "yes, we are selling", or "no, we are not". Councilmember Gorden stated that he says "no".

Councilmember Robertson stated that if we sell the property and something is developed on the property, the property will increase in value and there will be more property tax coming in. Councilmember Robertson stated that if the City does not have any use for the property he did not know why we would want to keep it.

Councilmember Gorden stated that to the south of this property a huge major medical complex is about to be built and the developers are going to build a street which will attach to Ellis. Councilmember Gorden stated that he can see the possibility of that intersection needing to be widened.

Councilmember Robertson stated that when the Council postponed a decision earlier on this property his question was, what is needed for the street intersection with Frank Street. Councilmember Robertson stated that he would question Jake Lyons appraisal of this property, that property is comparable to location wise as property at Frank and Raguet and that was on the market at $3 a square foot. Councilmember Robertson stated that there was a potential buy with the Dollar Store.

City Attorney Flournoy stated that he would like to make one comment about the appraisal, originally we all thought it was 2/10's of an acre as opposed to a little over 4/10's of an acre. Mr. Flournoy stated that that was what the Highway Department thought it was until we had the survey finalized. Mr. Flournoy stated that the $2 per foot was probably based on the fact that it was so small - 2/10's would be too small for anyone to do anything independently. Mr. Flournoy stated that that is probably how that number was determined. Mr. Flournoy stated that the adjacent property owner wanted to purchase it for additional parking and we went back to him after we found out it was more, still cutting out the amount we thought we would need, to see if he was willing to buy that much of the property since it was $15,000 more than he was expecting. Mr. Flournoy stated that he agreed to it but would have preferred that it was the 2/10's of an acre. Mr. Flournoy stated that it would be possible to sell some of the property and keep a larger share for the City's future use and it might be more consistent with that value too.

In response to question by Mayor Bronaugh, Mr. Maclin stated that the date of the appraisal was about nine months ago.

Councilmember Langston stated that he came into the meeting tonight with no opinion, other than knowing how busy it is on Frank Avenue now and about 40+ percent of the traffic load on Loop 287 at Frank intersection empties down Frank Avenue, which is about 12,000 cars a day, which is a lot of traffic. Councilmember Langston stated that sooner or later it seems there needs to be more street development on Frank Avenue at least to the hospital to better serve the traffic that's being generated on that roadway. Councilmember Langston stated that being new to this and not having visited this issue before, his only concern would be that if there is determined to be a need in the future then you are not necessarily buying the land you sold them but you are certainly going to have to condemn by this map some of his property to adequately provide for any increased right-of-way need. Councilmember Langston stated that with that said, can we not get any direction from TxDOT as far as what are their trigger points when it comes to what a road can handle traffic wise so that Council can draw some good judgment here. Mayor Bronaugh stated that a year ago we started a study from Industrial Boulevard to the Loop and back to Hill Street. Mayor Bronaugh stated that he would have to agree with Councilmember Gorden in that we do not need to sell the property.

Mr. Maclin asked what about an alternative of leasing the property. Mr. Maclin stated that if the adjacent property owner needs the property for parking, it would be minimal cost for him to make the improvements. Mr. Maclin stated that from a maintenance standpoint the only motivation the City would have to get rid of it is that they would not have to keep mowing it. Mr. Maclin stated that it might be better in the City's long term interest just to see if the adjacent property owner wants to lease a portion of it and then the City still retains ownership and we get it maintained where we don't have to send a crew out to keep it clean.

In response to question by Councilmember Boyd, Mr. Maclin stated that staff would have to ask him if he is interested in leasing and it would have something to do with length of term predicated on the investment he would make for the parking area. Mr. Maclin stated that we would have to have an appraisal for lease value just to make sure we are accurate and Council would have to determine the length of terms of the lease. Mr. Maclin stated that if he is going to make an investment in the property he would probably want a 10-year lease.

Motion was made by Councilmember Lynn Torres and seconded by Councilmember R. L. Kuykendall that the sale of the property be postponed and to pursue other avenues until the construction of the Gaslight Medical Complex is completed and the status of the traffic flow is known. A unanimous affirmative vote was recorded.

Motion was amended by Councilmember Rose Faine Boyd and seconded by Councilmember R. L. Kuykendall that the City staff visit with the property owner regarding the option of leasing the property. A unanimous affirmative vote was recorded.

17. BID – APPROVED – WIER BAFFLES – WASTEWATER TREATMENT PLANT – McNISH CORPORATION

Mayor Bronaugh stated that the next item for consideration was award of bid for Weir Baffles at the Wastewater Treatment Plant.

City Manager Maclin stated that this is an item that is needed in order for this older clarifier to function property and meet our requirements in terms of our permit. Mr. Maclin stated that City staff will be making the installation. Mr. Maclin stated that staff is recommending the low bid of McNish Corporation in the amount of $27,760.

Motion was made by Councilmember Lynn Torres and seconded by Councilmember Don Langston that the bid of McNish Corporation in the amount of $27,760 for wier baffles at the Wastewater Treatment Plant, and that the funds be taken from the Utility Fund Renewal and Replacement account, be approved as submitted. A unanimous affirmative vote was recorded.

17. EXECUTIVE SESSION

Mayor Bronaugh recessed Regular Session at 6:17 p.m. to enter into Executive Session. Regular Session reconvened at 7:05 p.m. and Mayor Bronaugh stated that attorney/client matters had been discussed.

Motion was made by Councilmember Rose Faine Boyd and seconded by Councilmember R. L. Kuykendall that the dilapidated house at 113 McMullen that has been used as a "crack house" is approved for demolition as recommended by the City Attorney. A unanimous affirmative vote was recorded.

18. APPOINTMENTS – APPROVED – PARKS & RECREATION ADVISORY BOARD – LELA SIMMONS – CATHY TODD – RICHARD JOSEPH

Motion was made by Councilmember Dennis Robertson and seconded by Councilmember Lynn Torres that Richard Joseph, Lela Simmons and Cathy Todd be re-appointed to the Parks & Recreation Advisory Board. A unanimous affirmative vote was recorded.

19. APPOINTMENT – APPROVED – CIVIL SERVICE COMMISSION - JIM MYERS

Motion was made by Councilmember Dennis Robertson and seconded by Councilmember Lynn Torres that Jim Myers be re-appointed to the Civil Service Commission. A unanimous affirmative vote was recorded.

20. APPOINTMENT – APPROVED – TAXI CAB COMMITTEE – BENNIE MOYE

Motion was made by Councilmember Dennis Robertson and seconded by Councilmember Lynn Torres that Bennie Moye be reappointed to the Taxi Cab Committee. A unanimous affirmative vote was recorded.

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

City Manager Maclin stated that the DETCOG meeting will be held this Thursday at the Woodville Inn in Woodville.

City Manager Maclin stated that the DETDA meeting will be Friday, September 19th at Crown Colony. There will be a study presented with Tom Selman of TIP Strategies regarding retirees as a potential economic development focus for East Texas.

City Manager Maclin stated that on September 26th the Angelina County Landfill will have a fish fry.

City Manager Maclin stated that Tuesday, September 30th, is the 13th annual employee banquet and it will be held at the Ellen Trout Zoo at 6:30 p.m.

City Manager Maclin stated that Thursday, October 2, is the TML Region 16 meeting in Jasper.

23. There being no further business for consideration, meeting adjourned at 7:10 p.m.

Louis A. Bronaugh – Mayor

ATTEST: Atha Martin

Atha Martin – City Secretary