

MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF
LUFKIN, TEXAS, HELD ON THE
15TH OF JULY 2003

On the 15th day of July 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
Keith Wright	City Engineer
Kenneth Williams	Director of Public Works
David Koonce	Director of Human Resources
Stephen Abraham	Director of Planning

being present when the following business was transacted.

1. Meeting was opened with prayer by Rev. Bob Klund, Believer's Bible Church.
2. Mayor Bronaugh welcomed visitors present.

3. APPROVAL OF MINUTES

Minutes of the Regular Meeting of July 1, 2003 were approved on a motion by Councilmember Dennis Robertson and seconded by Councilmember Rose Faine Boyd as presented. A unanimous affirmative vote was recorded.

4. ORDINANCE – APPROVED – SECOND READING – ZONE CHANGE – LARGE SINGLE-FAMILY DWELLING AND LOCAL BUSINESS TO LOCAL BUSINESS – JOHN R. THOMPSON – JOYCE STARLING – 409 LARGENT STREET

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance changing the zoning from a combination of "Large Single-Family Dwelling and Local Business" to a single "Local Business" zoning classification on approximately 1.55 acres of land described as Tract 201 out of the J. A. Bonton Survey (Abstract No. 5) and located between Largent Street and Loop 287 and more commonly known as 409 Largent Street as requested by John R. Thompson on behalf of Joyce Starling.

City Manager Maclin stated that this is a routine Second Reading of this Ordinance.

Motion was made by Councilmember Rose Faine Boyd and seconded by Councilmember Jack Gorden, Jr. that Ordinance to change the zoning from "Large Single-Family Dwelling and Local Business" to a single "Local Business" Zoning classification on approximately 1.55 acres of land described as Tract 201 out of the J. A. Bonton Survey (Abstract No. 5) and located between Largent Street and Loop 287 and more commonly known as 409 Largent Street as requested by John R. Thompson on behalf of Joyce Starling be approved on Second and Final Reading. A unanimous affirmative vote was recorded.

5. ORDINANCE – APPROVED – FIRST READING – ZONE CHANGE – RESTRICTIVE PROFESSIONAL OFFICE TO NEIGHBORHOOD RETAIL – MERRICK ROCHE – 1502 JOHN REDDITT DRIVE

Mayor Bronaugh stated that the next item for consideration was the request of Merrick Roche to change the zoning from “Restrictive Professional Office” to a “Neighborhood Retail” zoning district on approximately 1.072 acres of land described as Tract 8 out of the J. A. Bonton Survey (Abstract No. 5) located at the southwest corner of Hanks Street and South John Redditt Drive and more commonly known as 1502 South John Redditt Drive.

City Manager Maclin stated that this item was tabled at the last Council meeting at the request of the applicant to allow him adequate time to seek some Counsel regarding the potential implementation of voluntary deed restrictions to this tract of property. Mr. Maclin stated that Council, at the meeting in June, had indicated a willingness to further consider this zone change if perhaps there were some deed restrictions in place that would protect the neighborhood residents. Mr. Maclin stated that there obviously was the consideration that next spring when the new zoning ordinance is presented and adopted by Council there could be some relief for his particular situation, but in the interim, this was a tool that perhaps could be used and the deed restrictions would then provide the same type of protection to the neighboring property owners as we currently have.

Dr. Roche stated that he was initially trying to have a rezoning to Residential Retail and if this would not pass maybe the Council would consider having a deed restriction to Professional Office use only. Dr. Roche stated that he would be in agreement if he could do that with the understanding that when the City rezones that he be included in that rezoning at a later date and those deed restrictions would be thrown out. City Manager Maclin stated that under the premise that the new zone change would eliminate the need for those restrictions as it relates to the protection of the area under the current format with Planned Unit Development. Dr. Roche asked if the City Attorney could arrange for this legal document for his review. Mr. Maclin stated that if the City Attorney is willing to provide that draft of information for Dr. Roche, then what Council would do today is approve the request on First Reading pending the actual deed restrictions to be drafted and recorded for the proposed subdivision plat. Mr. Maclin stated that once that is completed then it would be time for the Second and Final Reading of the Ordinance.

City Attorney Flournoy stated that the deed restriction is for the part that Dr. Roche is going to convey, not the part he is going to keep. Dr. Roche concurred. Mr. Flournoy stated that when the zoning ordinance changes, then Dr. Roche would be able to fit all of the land into that new category. Mr. Abraham stated that the deed restriction would need to be placed on the entire property because the entire property is being changed to Neighborhood Retail.

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember Lynn Torres that Ordinance changing the zoning from “Restrictive Professional Office” to a “Neighborhood Retail” zoning district on approximately 1.072 acres of land described as Tract 8 out of the J. A. Bonton Survey (Abstract No. 5) located at the southwest corner of Hanks Street and South John Redditt Drive and more commonly known as 1502 South John Redditt Drive be approved on First Reading with the stipulations provided by the City Attorney for the deed restrictions to last until such time as the zoning changes. A unanimous affirmative vote was recorded.

6. BUDGET AMENDMENT NO. 4 – APPROVED

Mayor Bronaugh stated that the next item for consideration was Budget Amendment No. 4.

Mayor Bronaugh stated that Council had a budget workshop this morning and in the workshop fund balances were being discussed. Mayor Bronaugh stated that between that time and now, some new information had been found out. Mayor Bronaugh stated that the City of Longview, with their 2003 budget has an ending balance of the year of

\$11,039,969. Mayor Bronaugh stated that Mr. Langston had earlier said that the fund balance was \$1 million. Councilmember Langston stated that the 2001 budget that was on the City of Longview's web page had the \$1 million fund balance, so they have made some great strides and he was proud for them. Councilmember Langston stated that if the fact that that is a reserve fund and not just an accumulation of utility funds, etc. Councilmember Langston stated that really has very little to do with his real question this morning and that is just, how is the City's policy set.

City Manager Maclin stated that as mentioned in the Workshop this morning, this year staff has worked diligently to cut cost and decrease expenditures. Mr. Maclin stated that in the past when we would go through the budget review process, staff would ask department heads if they had \$20,000 allocated for supplies and they had only spent \$5,000 through the first eight months of the budget, how much more would they need from now until September 30 and if they said they need \$5,000 more to finish out the year that leave \$10,000 of the original \$20,000 that was not anticipated to be spent. Mr. Maclin stated that that \$10,000 would then be put in abeyance and it would roll over as fund balance come September 30th if it wasn't spent. Mr. Maclin stated that what staff is attempting to do through this Resolution is make a \$1.4 million reduction in the General Fund budget for the current fiscal year and several others in the Civic Center Fund, Special Recreation Fund, Zoo Building Fund, the Debt Service Fund, the Water-Wastewater Fund, and the Solid Waste/Recycling Fund. Mr. Maclin stated that these are based on things that primarily are expenses that we are not going to need, or think we are going to need, between now and September 30th, and one or two are actually transfers to a debt service fund and the Civic Center fund, for example. Mr. Maclin stated that the purpose of this was to reduce our spending in this fiscal year to more closely match our revenues in this fiscal year. Mr. Maclin stated that in the event that there is an emergency or some unforeseen need or some significance expense, staff may have to come back to Council between now and September 30th for a small amendment to cover that unexpected, unanticipated cost.

Councilmember Robertson stated that at last meeting when the Street Overlay Program was presented and \$50,000 was shown for paving Mantooth, he had requested that that street be taken off the list. Councilmember Robertson asked if that was shown in the Street section with part of that amount being saved for the Whistlehollow drainage. Mr. Maclin said no. Mr. Maclin stated that Councilmember Robertson had mentioned to him after the Council meeting about exchanging the money because he did not feel there was enough urgency or need for Mantooth at this time. Mr. Maclin stated that Mr. Robertson had indicated his desire to re-channel those funds from Mantooth overlay to a storm sewer drainage project on Whistlehollow. Mr. Maclin stated that he felt like we needed the rest of the Council and the minutes to reflect that, if that was going to be an official part of the 2003 summer paving program. Mr. Maclin stated that \$50,000 had been set aside for repaving Mantooth and the cost estimate to replace the pipe at Whistlehollow, which is a street that is about three blocks east of Gaslight on Pershing Drive, is approximately \$35,000. Mr. Maclin stated that the problem there is that the culvert is undersized and the culvert has collapsed. Mr. Maclin stated that this causes a temporary drainage problem for the people who live on the cul-de-sac end of the street if they are trying to get back out to Pershing when we have a three or four inch rain. Mr. Maclin stated that the water will puddle up in the street about six or eight inches deep and cause a temporary problem as far as access back out to Pershing. Mr. Maclin stated that there is one gentleman who lives in the cul-de-sac who has been visiting with staff for several months now and he has been persistent about the desire to fix this problem, but obviously the City has a lot of drainage problems that are localized like this and we don't have the funds to fix all of them. Mr. Maclin stated that since we are talking about a Budget Amendment, and what Mr. Robertson is suggesting or requesting the rest of the Council to concur is that he substitutes from what was going to be spent in Ward 6, probably \$35,000 of the \$50,000 to be spent on the Whistlehollow drainage project, or up to that.

In response to question by Councilmember Gorden, Mr. Maclin stated that the amount for Whistlehollow is between \$30,000 and \$35,000 based on the engineer's estimates that Debbie Fitzgerald prepared. Councilmember Robertson stated that \$50,000 had been placed in the budget for an overlay on Mantooth but he said to wait and see when the water line replacement would take place. Councilmember Robertson stated that Mantooth has a fairly decent surface right now and in his opinion the overlay could be

diverted for a few years and that money could be used to fix the drainage problem. Mr. Wright stated that the over all project was much higher than \$35,000 and you might not be able to solve the problem by just doing that portion. Mr. Wright stated that you might be able to get the pipe under the road on Whistlehollow but it might not solve the flooding problem because downstream there is still a bottleneck. Mr. Maclin stated that the Whistlehollow project started out at about \$200,000 and staff kept trying to find what they would call temporary solutions that would at least replace the broken pipe or the place where the pipe was collapsed and increase the capacity of the pipe to appropriate diameter. Mr. Maclin stated that there were a couple of projects that would actually take the water, route it out to Pershing, put it in a storm sewer and run it down Pershing, which was the \$225,000 project. Mr. Maclin stated that obviously it was going to be difficult to come up with \$225,000 for a localized project that does not threaten getting water in people's homes. Mr. Maclin stated that it does threaten, if you live at the end of the cul-de-sac, your ability to get to Pershing in an emergency after a three or four inch rain. Mr. Maclin stated that technically the project could be up to \$50,000 and if Council wanted to approve the project up to that amount, then certainly that could be done.

In response to question by Councilmember Boyd, Mr. Maclin stated that if the \$50,000 was not used in the Street Overlay Program for 2003, it would be rolled over to be considered for use in next year's budget. Mr. Wright stated that he would not want to spend the \$35,000 if it did not resolve the problem on Whistlehollow. Mr. Maclin stated that staff could come back at next meeting with an updated number for this project.

Motion was made by Councilmember Lynn Torres and seconded by Councilmember Rose Faine Boyd that Budget Amendment No. 4 be approved as presented. A unanimous affirmative vote was recorded.

7a. BID – APPROVED – SPRAY/ PLAY EQUIPMENT – KIWANIS PARK – COX CONTRACTORS – TEXAS LOCAL GOVERNMENT PURCHASING COOPERATIVE

Mayor Bronaugh stated that the next item for consideration was bids for the Spray/ Play at Kiwanis Park.

City Manager Maclin stated that included in the Council packet is a bid tabulation for the installation of the spray/play and a bid for the actual equipment from Water Odyssey Company. Mr. Maclin stated that there is also a letter of support for this project from the Parks Advisory Board.

Mr. Maclin stated that this project goes back to when staff was approached by Wright Motors for the potential sale of a portion of the City's property – the old Tulane where it intersected Timberland Drive across from TCBY. Mr. Maclin stated that the City sold this property and in the minutes from the meeting designated the proceeds of that sale towards a spray/play in Kiwanis Park. Mr. Maclin stated that the total for the spray/play is \$86,000 for the installation and the equipment. Mr. Maclin stated that the budget was about \$77,000, so this a little over \$9,000 above the funds allocated. Mr. Maclin stated that staff would need to use about \$9,200 of that \$1.4 million that was approved in Budget Amendment No. 4.

Mr. Maclin stated that the staff recommendation is the low bid of Cox Contractors in the amount of \$58,890 and the bid for the equipment through the Local Government Purchasing Cooperative in the amount of \$27,277.

In response to question by Mayor Bronaugh, Mr. Maclin stated that the property at Tulane and Timberland sold for \$35,000 and then Council budgeted the remaining balance up to \$77,000. Mr. Maclin stated that it cost about that much for the Chambers Park spray/play, but it is a little higher now.

Councilmember Langston asked if the difference in the cost was in the equipment or maybe layout and location. Mr. Wright stated that there are two things that were done that staff learned from on the last project – the pad was made bigger this time to try and keep all the water in the concrete area, and also instead of putting an underground vault system because we did not have the luxury of putting the electrical into an existing

bathroom. Mr. Wright stated that an above ground small cinder block building was built for this purpose and he feels like there is where the cost is.

Mr. Wright stated that Cox Contractors had also built the spray/play in Chambers Park.

Motion was made by Councilmember Rose Faine Boyd and seconded by Councilmember Dennis Robertson that the bid of Cox Contractors in the amount of \$58,890 and the bid of Water Odyssey in the amount of \$27,277 through the Texas Local Government Purchasing Cooperative be approved as submitted. A unanimous affirmative vote was recorded.

7b. BID – APPROVED – DUMP TRUCK – WATER UTILITIES – H-GAC AREA COUNCIL PURCHASING COOPERATIVE

Mayor Bronaugh stated that the next item for consideration was bids for a Dump Truck for the Water Utilities Department.

City Manager Maclin stated that staff is recommending purchasing this truck through the Houston-Galveston Area Council Cooperative Purchasing Program in the amount of \$45,969. Mr. Maclin stated that this is a truck that has a lot of rust and depreciation. Mr. Maclin stated that we have spent between \$10-11,000 in maintenance and repairs. Mr. Maclin stated that the truck has reached a point in terms of expenditures where it is more cost effective for us to replace it than it is to keep repairing it. Mr. Maclin stated that we are having difficulty with the rear end as far as pulling with the truck.

In response to question by Councilmember Langston, Mr. Wright stated that the Water Utilities Department uses the truck for hauling material like road base and fill dirt for water cuts where we do utility patches due to a water leak, or taps for water and sewer. Mr. Wright stated that the Water Utilities Department prepares the patch and then the Street Department comes in and puts the asphalt on.

Motion was made by Councilmember Lynn Torres and seconded by Councilmember Jack Gorden, Jr. that the bid through H-GAC Area Council Purchasing Cooperative in the amount of \$45,969 be approved as submitted. A unanimous affirmative vote was recorded.

7c. BID – APPROVED – VAN – ANIMAL CONTROL DEPARTMENT – LAWRENCE MARSHALL CHEVROLET – TEXAS LOCAL GOVERNMENT PURCHASING COOPERATIVE

Mayor Bronaugh stated that the next item for consideration was bids for a van for the Animal Control Department.

Mr. Maclin stated that staff received a letter and a check a few weeks ago from the Austin Community Foundation gifting the City \$35,326 to be used for the purchase of a van to assist in our adopt an animal program. Mr. Maclin stated that Cathy Clark has been participating in a program for some time now where she would take animals from our shelter after several days of trying to adopt them and they were about to be euthanized, and would deliver the animals to one of the participants for adoption.

Mr. Maclin stated that the letter received from the Austin Community Foundation stated that the check was from an anonymous donor from Lufkin. Mr. Maclin stated that the check is to be used to purchase a van to participate in this adoption program. Mr. Maclin stated that we had used City equipment and sometimes Cathy would use her own vehicle to take animals to Tyler to participate in this program. Mr. Maclin stated that basically this gift is saying that someone wants to buy the City a van and to get more animals adopted. Mr. Maclin stated that this is a cargo type mini-van and the Director of Purchasing ran the specifications for the van and the bid through the Texas Local Government Purchasing Cooperative Program is \$18,273. Mr. Maclin stated that Lawrence Marshall was the low bidder in the statewide competitive bidding. Mr. Maclin stated that staff is recommending tonight that Council allow staff to go ahead and use \$18,273 to purchase this van through the Texas Local Government Purchasing Cooperative Program and then the Animal Control Department will then use that van to continue to participate in this pet adoption program.

In response to question by Councilmember Robertson, Mr. Maclin stated that the balance of the funds would be used for additional cages or to outfit the van to be customized a little better to meet our needs for hauling pets. Mr. Maclin stated that maintenance and operation costs for the vehicle would also be eligible. Mr. Maclin stated that the way the money was gifted; it has to be spent towards the program.

Councilmember Robertson stated that the letter says that the funds are to be used for the purchase of the van and any other expenses needed for the shelter. Councilmember Robertson stated that it sounds like the City could use it for other shelter needs.

Rhonda McLendon, Animal Control Director, stated that some of these funds will be used to purchase traps.

Motion was made by Councilmember Rose Faine Boyd and seconded by Councilmember Dennis Robertson that the bid of Lawrence Marshall Chevrolet through the Local Government Purchasing Cooperative in the amount of \$18,273 be approved as submitted. A unanimous affirmative vote was recorded.

8. **BID – APPROVED – WHITEHOUSE DRIVE – UTILITY RELOCATION – J & D CONSTRUCTION**

Mayor Bronaugh stated that the next item for consideration was bids for Whitehouse Drive utility relocation.

City Manager Maclin stated that this is a relocation of water and sewer lines on Whitehouse Drive from U. S. 59 East over to Tulane. Mr. Maclin stated that this is the State portion of the upgrade on Tulane that will be going to bid in a few months and the City needs to relocate their water and sewer lines at this location.

Mr. Maclin stated that staff is recommending the low bid of J & D Construction in the amount of \$258,801.

In response to question by Councilmember Langston, Mr. Maclin stated that the City has had a good experience with J & D Construction.

Motion was made by Councilmember Don Langston and seconded by Councilmember R. L. Kuykendall that the bid of J & D Construction in the amount of \$258,801 be approved as submitted. A unanimous affirmative vote was recorded.

9. **BID – APPROVED – WELL SUPPLY LINE EXPANSION AND WELL #15 – J & D CONSTRUCTION**

Mayor Bronaugh stated that the next item for consideration was bids for well supply line expansion and Well #15.

City Manager Maclin stated that this will be the last well that the City has in it's CIP and in the program to increase production capability to a level that exceeds our peak pumping in previous years by a comfortable amount. Mr. Maclin stated that over the last several years the City has added water wells to improve our water distribution system.

Mr. Maclin stated that the staff recommendation is the bid of J & D Construction in the amount of \$436,294.60, and this is within the Engineer's budgeted estimate for the total cost.

In response to question by Councilmember Boyd, Mr. Maclin stated that there were four bidders on this project – Doughty Construction out of Huntsville, Terry Black Construction out of Alto, Duplichain out of Alto and J & D Construction. Mr. Maclin stated that looking at the bid tabulation; J & D Construction had the lowest bid. Mr. Maclin stated that over the past six or seven years J & D Construction has been the low bidder on multiple occasions, and the City has had good experience with the company.

Motion was made by Councilmember Rose Faine Boyd and seconded by Councilmember Dennis Robertson that the bid of J & D Construction in the amount of \$436,294 be approved as submitted. A unanimous affirmative vote was recorded.

10. REPORT FROM FINANCE COMMITTEE

Mayor Bronaugh stated that the next item for consideration is a report from the Finance Committee.

Councilmember Robertson stated that the Finance Committee met at 3 o'clock this afternoon with the City's consultant, Dick Long of Valleyview Consulting out of Virginia. Councilmember Robertson stated that Mr. Long had gone over the City's investments and with the condition that the economy is in the Federal funds are kind of lowered out at 1% right now and so the newly invested funds are not drawing very much interest. Councilmember Robertson stated that the City has approximately \$35 million in the investment portfolio and with that our interest for year to date is about \$510,000. Councilmember Robertson stated that the City is in a good financial position even with the downturn in the economy.

Councilmember Gorden stated that the committee had done a little closer analysis of the sales tax which is a big part of the budget deficit. Councilmember Gorden stated that the Committee talked about large retailers coming into town which may impact that deficit. Councilmember Gorden stated that the Committee had gone over the Budget Amendment Resolution that had been passed earlier in the meeting.

Motion was made by Councilmember Don Langston and seconded by Councilmember Lynn Torres that the Finance Committee report be accepted as presented. A unanimous affirmative vote was recorded.

11. EXECUTIVE SESSION

Mayor Bronaugh recessed Regular Session at 5:37 p. m. to enter into Executive Session. Regular Session reconvened at 6:51 p. m. and Mayor Bronaugh stated that Council had discussed Attorney/Client matters and no decisions were made.

12. PROPOSAL – APPROVED – LEGAL SERVICES – PIPELINE IN LUFKIN

Mayor Bronaugh stated that the next item for consideration is a proposal for legal services regarding possible litigation involving a pipeline in Lufkin.

City Manager Maclin stated that there has been some publicity in the newspaper and other sources about a possible lawsuit, and about a possible indication of some contamination in the pipeline. Mr. Maclin stated that to date there is not conclusive evidence regarding that, but what staff would like to do is be prepared should there be a need for legal services, or should there be a need for additional expertise on this, staff would seek Council's consideration to authorize the City Manager's office to obtain whatever legal services appear to be needed as this situation further develops in the coming weeks and months.

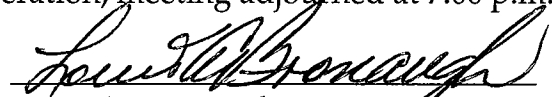
Motion was made by Councilmember Lynn Torres and seconded by Councilmember R. L. Kuykendall to authorize the City manager to seek whatever legal advice that is needed regarding possible litigation involving a pipeline in Lufkin. A unanimous affirmative vote was recorded.

13. CALENDAR NOTATIONS FROM MAYOR, COUNCILMEMBERS AND CITY MANAGER

City Manager Maclin stated that the Budget Workshops continue tomorrow with a lunch meeting at 12 o'clock. Mr. Maclin stated that staff will talk about the Solid Waste Fund and some proposals in the Solid Waste Budget to help overcome the issue with lack of prison labor at the Recycling Center. Mr. Maclin stated that Mr. Williams had just received notification that come July 31st the prison warden has said that the City would not be getting any more prisoners.

City Manager Maclin stated that if we do not get finished with the budget workshop on Wednesday afternoon there would be a workshop meeting on Thursday morning. Mr. Maclin stated that he would then propose that we present the formal budget draft to Council on Tuesday, July 29th. Mr. Maclin stated that the purpose of that meeting would be to take the information that we have garnered from Council over the workshops and incorporate it into a budget draft document, comprehensive detail, line item by line item. Mr. Maclin stated that this would be presented on the 29th and would give Council another opportunity on the 29th to make any changes that they want to it and from there schedule the Public Hearing at the regular Council meeting on August 5th followed by First Reading of the Ordinance at the second meeting in August.

14. There being no further business for consideration, meeting adjourned at 7:00 p.m.


Louis A. Bronaugh – Mayor

ATTEST:

Atha Martin – City Secretary