MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 18TH DAY OF SEPTEMBER, 1990, AT 5:00 P.M.

On the 18th day of September, 1990, the City Commission of the City of Lufkin, Texas, convened in regular meeting in the Council Chambers of City Hall with the following members thereof, to wit:

Louis A. Bronaugh	Mayor
Percy Simond, Jr.	Commissioner, Ward No. 1
Don Boyd	Commissioner, Ward No. 2
Danny Roper	Commissioner, Ward No. 3
Bob Bowman	Commissioner, Ward No. 4
Jack Gorden	Commissioner, Ward No. 5
Harvey Westerholm	City Manager
Ron Wesch	Public Works Director/ Assistant to City Manager
Bob Flournoy	City Attorney
Atha Stokes	City Secretary
David Cochran	Purchasing Agent

being present, and

Paul Mayberry	Commissioner, Ward No. 6

being absent when the following business was transacted.

1. Meeting was opened with prayer by Rev. Bill McCall, Minister, Herty Baptist Church.

2. Mayor Bronaugh welcomed visitors present.

3. APPROVAL OF MINUTES

Minutes of regular meeting of September 4, 1990 were approved on a motion by Commissioner Danny Roper and seconded by Commissioner Bob Bowman. A unanimous affirmative vote was recorded.

4. ORDINANCE - APPROVED - SECOND READING - ZONE CHANGE - CLYDE HERRINGTON ET AL/JOHN R. FUTCH ET AL - DUNAWAY ASSOCIATES, INC. - EAST OF AND ADJACENT TO U.S. 59 AND NORTH OF AND ADJACENT TO WHITE HOUSE DRIVE - COMMERCIAL, RESIDENTIAL LARGE, AND MOBILE HOME TO COMMERCIAL, SPECIAL USE (SHOPPING CENTER) WITH THE FOLLOWING AMENDMENTS: 6' PRIVACY FENCE RUNNING THE ENTIRE DISTANCE OF THE REAR OF THE PROPERTY, REVIEW AND AGREE ON A SUITABLE SIGN, INCREASE MOST NORTHERLY ENTRANCE AND EXIT RADIUS TO 50', LIGHTING TO BE REVIEWED WITH FINAL SITE PLAN APPROVAL, AND SUBMIT FINAL SITE PLAN FOR REVIEW

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance for Zone Change request by Clyde Herrington et al and John R. Futch et al for Dunaway Associates Inc. covering property located east of and adjacent to U.S. 59 and north of and adjacent to White House Drive from Commercial, Residential Large, and Mobile Home to Commercial, Special Use (Shopping Center) with the following amendments: 6' privacy fence running the entire distance of the rear of the property, review and agree on a suitable sign, increase most northerly entrance and exit radius to 50', lighting to be reviewed with final site plan approval, and submit final site plan for review.

Tom Galbreath, representing Wal-Mart and the property owners, stated that he had met with the Planning and Zoning Commission on

September 10th as requested by the City Commission at the September 4th meeting. Mr. Galbreath stated that the signage and final site plan was unanimously approved by the Planning and Zoning Commission at that meeting. Mr. Galbreath stated that prior to tonight's meeting he met with Fire Marshal Clayton Havard to work out some fire lane considerations at the rear of the store (there will be a 20' X 300' fire lane and a fire hydrant at the rear of the store).

Mr. Galbreath stated that one of the property owners (Johnny Futch) had presented a letter to the Commissioners requesting that the hearing be postponed until October 2nd due to some transactions that need to be finalized. Mr. Galbreath stated that he had met with Mr. Futch and they have reached an agreement that everyone associated with the project can accept. Mr. Galbreath stated that Mr. Futch's concerns are that since he does not presently have a contract with Wal-Mart and he is in the process of finalizing the deal, should something occur and the transaction not go through then he would be left with a mobile home park that was not properly zoned. Mr. Galbreath stated that he would like to suggest going ahead with the Zone Change request subject to his property being closed with Wal-Mart before the zoning goes into effect. Mr. Galbreath stated that in other words, the City Commission approves the Zone Change request tonight and if Mr. Futch's property never closes with Wal-Mart, then he retains his present Mobile Home zoning, and once the property is closed he can write the City a letter saying that he has closed with Wal-Mart and has no problem with the "Commercial, Special Use" zoning being put in place.

Mayor Bronaugh stated it was his understanding that if the property is not utilized for Special Use designation, it would automatically revert back to it's original zoning.

City Attorney Flournoy stated that he would have a problem with passing the Zone Change and making it conditioned upon some future transaction. Mr. Flournoy stated that if the Ordinance is to be passed, it needs to be final at this point in time, and if the zone needs to be changed back it can be handled later. Mayor Bronaugh stated it appears that Mr. Futch's concerns are covered with the Special Use designation. Mr. Futch stated that he would be amenable to the Zone Change being finalized at tonight's meeting if he could be absolutely sure that it will revert back to "Mobile Home Park" if his contract with Wal-Mart does not go through.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Percy Simond that Ordinance be approved on Second and Final Reading. A unanimous affirmative vote was recorded.

Mayor Bronaugh stated that at this time he would open the meeting up for a Public Forum for anyone who would wish to speak to the next five Ordinances: Tax Levying Ordinance, Appropriations Ordinance, Water Rate Ordinance, Sanitation Rate Ordinance and Sewer Rate Ordinance. There was no response from the audience.

5. <u>ORDINANCE - APPROVED - SECOND READING - TAX LEVYING ORDINANCE</u>

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

City Manager Westerholm stated that this Ordinance sets the tax rate at $0.3862, of which $0.2818 goes to maintenance and support of general government, and $0.1044 goes to the interest and sinking fund.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Jack Gorden that Ordinance be approved on Second and Final Reading. A unanimous affirmative vote was recorded.

6. ORDINANCE - APPROVED - SECOND READING - APPROPRIATIONS ORDINANCE

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

City Manager Westerholm stated that this Ordinance adopts the budget for the various departments.

In response to question by Commissioner Simond, City Manager Westerholm stated that the new person hired in the Parks and Recreation Department is a replacement for the Parks Superintendent Walter Williamson, who recently retired.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Danny Roper that Ordinance be approved on Second and Final Reading.

The following vote was recorded:

Aye: Commissioners Bowman, Roper, Gorden and Mayor Bronaugh

Nay: Commissioners Simond and Boyd

Motion carried by a vote of 4 to 2.

7. ORDINANCE - APPROVED - SECOND READING - AMENDMENT TO WATER RATES

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Amendment to the Water Rate Ordinance.

City Manager Westerholm stated that this Ordinance applies to those water users who use more than 500,000 gallons of water a month.

Motion was made by Commissioner Danny Roper and seconded by Commissioner Bob Bowman that Ordinance be approved on Second and Final Reading. A unanimous affirmative vote was recorded.

8. ORDINANCE - APPROVED - SECOND READING - AMENDMENT TO SANITATION RATES

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Amendment to the Sanitation Rate Ordinance.

City Manager Westerholm stated that there had been a 9% increase in the sanitation rates, changing the basic rate from $6.16 to $6.71.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Danny Roper that Ordinance be approved on Second and Final Reading. A unanimous affirmative vote was recorded.

9. ORDINANCE - APPROVED - SECOND READING - AMENDMENT TO SEWER RATES

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Amendment to the Sewer Rate Ordinance.

City Manager Westerholm stated that the sewer rates were being increased on a recommendation by the City's consultant Maury Stiver.

Motion was made by Commissioner Danny Roper and seconded by Commissioner Jack Gorden that Ordinance be approved on Second and Final Reading. A unanimous affirmative vote was recorded.

10. <u>REQUEST FOR PURCHASE OF WATER - TABLED - BURKE WATER SUPPLY CORPORATION</u>

Mayor Bronaugh stated that the next item for consideration was Burke Water Supply Corporation's request for purchase of water from the City of Lufkin.

City Manager Westerholm stated that a letter from A. T. Underwood, President of the Burke Water Supply Corporation, had been included in the Commissioner's packet, requesting that they purchase from the City of Lufkin a firm supply of water not to exceed 300,000 gallons per day. City Manager Westerholm stated that he has reservations about granting the request because this end of town is an area of lowest supply because of it's distance from elevated storage tanks, and the size of the distribution mains that lead to that area; and until there is a more adequate supply of water in the south end of town that consideration of this issue should be withheld.

Commissioner Bowman stated that he shared the same concerns as the City Manager since this area is in his Ward and during the very hot days this summer the water pressure has been very low.

City Manager Westerholm stated that in this year's budget a 12" water main has been provided for on U.S. 59 down Brentwood to the back of Crown Colony.

In response to question by Mayor Bronaugh, Mr. Underwood stated that if acceptance of the water customers along Brentwood Drive is approved it will not alleviate the problem.

Mr. Underwood stated that he is asking permission at this time primarily to be ready when the tower is completed and there is an additional water supply available. Mr. Underwood stated that Burke is not out of water now, but they are planning for water 3-5 years from now and would like to begin construction to facilitate a tie-in with the City of Lufkin to be used only in case of an emergency until the City's new water is in place and an additional amount of water is available.

In response to question by Mayor Bronaugh, City Manager Westerholm stated that the City has an agreement with Burke at this time which provides for City of Lufkin water in the event of emergency but it is on a 3" line and Burke would like to have emergency water on a 6-8" line.

Mr. Underwood stated that Burke's water tower capacity is 150,000 gallons. Mr. Underwood stated that Burke is experiencing a very pronounced growth, and they were not able to borrow any funds to facilitate the drilling of wells at this time.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Danny Roper that this item be tabled at this time and reconsidered at a later date. A unanimous affirmative vote was recorded.

11. ACCEPTANCE OF WATER CUSTOMERS - APPROVED - BRENTWOOD DRIVE - BURKE WATER SUPPLY CORPORATION

Mayor Bronaugh stated that the next item for consideration was acceptance of water customers along Brentwood Drive from the Burke Water Supply Corporation.

City Manager Westerholm stated that this seems to be a reasonable request since the City will be installing a 12" water main on Brentwood Drive, and this area will eventually be in the City of Lufkin's service area.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Percy Simond to accept the water customers along Brentwood Drive from the Burke Water Supply Corporation with the understanding that service to this area will not commence until after the 12" water main is installed. A unanimous affirmative vote was recorded.

12. REQUEST - APPROVED - ALCOHOL AND DRUG ABUSE COUNCIL - ELEVATOR REPAIRS - PARKS AND RECREATION DOWNTOWN CENTER

Mayor Bronaugh stated that the next item for consideration was a request from the Alcohol and Drug Abuse Council concerning elevator repairs in the downtown Parks and Recreation Center.

Russ Robinett, Executive Director of the Deep East Texas Alcohol and Drug Abuse Council, stated that United Elevator had inspected the elevator and found that the safety edge switch was inoperable. Mr. Robinett stated that after the report from United Elevator was received, Don Hannabas recommended that the elevator be shut down.

Mr. Robinett stated that he has received an estimate of $1,192.40 for seven hours of labor for two mechanics. Mr. Robinett stated, on behalf of the Alcohol and Drug Abuse Board, he was requesting that the City pay half of the cost at $596.20.

In response to question by Mayor Bronaugh, Mr. Robinett stated that Alcoholics Anonymous meets in the upstairs portion of the building, and at least one client is in a wheelchair.

Mr. Robinett stated that the Drug and Alcohol Abuse Council anticipates paying $850 in repairs to the heater this year, and will not ask the City to participate in the cost.

In response to question by Mayor Bronaugh, City Manager Westerholm stated that if the repairs could be made after October 1st, the cost could be taken from the General Fund contingency fund or it could be absorbed in the Parks and Recreation budget.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Jack Gorden to accept the responsibility of half the cost of repairs to the elevator at the Parks and Recreation Center ($596.20) and that the amount paid by the City will not exceed half the cost. A unanimous affirmative vote was recorded.

13. INVOICE - APPROVED - EGA - WASTEWATER TREATMENT PLANT IMPROVEMENTS

Mayor Bronaugh stated that the next item for consideration was authorization for payment of an invoice from EGA on improvements to the Wastewater Treatment Plant.

City Manager Westerholm stated that the City Commission had authorized expenditures not to exceed $54,364 for engineering services on this project, and to date this invoice will bring it up to $35,460.15. This will leave a balance of $19,000 to complete the job (awarding the bid, the inspection and closing down of the job).

Motion was made by Commissioner Percy Simond and seconded by Commissioner Don Boyd that invoice from EGA in the amount of $5,743.08 be approved as submitted. A unanimous affirmative vote was recorded.

14. BIDS - AUTHORIZED - WASTEWATER TREATMENT PLANT IMPROVEMENTS

Mayor Bronaugh stated that the next item for consideration was awarding of bids for improvements to the Wastewater Treatment Plant.

City Manager Westerholm stated the City has gone out for bids for improvements to the Wastewater Treatment Plant primarily to increase the capabilities of the aeration basins as part of the EPA enforcement order. City Manager Westerholm stated that even though additional time had been allowed on the bids, only one bid had been received at the time of the bid opening.

City Manager Westerholm stated that a letter from Jimmy Griffith had been included in the packet explaining what the bids were and the recommendations on what needs to be done. City Manager Westerholm stated that since the City has limited funds and the one bid came in higher than what was estimated, Mr. Griffith has recommended awarding only the base bid and item 13 which can be done in conjunction with the aeration basin work. City Manager Westerholm stated that on April 1, 1991 the City has to begin dechlorinating the wastewater at the plant. City Manager Westerholm stated that after the wastewater is chlorinated to a strength with a minimum of 1-part per million residual, the 1-part residual has to be taken out so there is no chlorine in the water when discharged to the creek.

City Manager Westerholm stated that of the $340,800 that is needed for the base bid and item 13, $213,000 is readily available in the bond construction fund. City Manager Westerholm stated that there is a $99,000 contingency in the Water and Sewer Fund plus the $46,000 set aside for utility relocation on Highway 94 that has been postponed for two years. City Manager Westerholm stated that a combination of those funds would fund the base bid and butterfly valves.

In response to question by Commissioner Roper, Mr. Griffith stated that the estimated time of delivery on the equipment is 5 to 6 months and that the project should be completed in 7 to 8 months.

In response to question by Commissioner Roper, Mr. Griffith stated that this is a fairly complicated type of project and requires a contractor who is familiar with wastewater plants, and that it is a renovation project and a more difficult project. Mr. Griffith stated that the people who normally have renovation experience and have wastewater experience would be more interested in a $2 million project as opposed to a $300,000/$400,000 project. Mr. Griffith stated that five (5) bidders had picked up plans but only one bid was submitted.

Mr. Griffith stated that it is conceivable that the equipment could be bid out on a material basis (aeration diffusers, stainless steel air piping, slide gates and valves). Mr. Griffith stated that labor could be bid out on an hourly basis or it could be negotiated. Mr. Griffith stated that industries normally do bid out the equipment separately on wastewater work and negotiate a contract with a general contractor to do the work on an hourly basis.

City Manager Westerholm stated that the material and labor can be bid out to effect some savings, but there will be some additional costs for engineering services and inspection of the work.

In response to question by Mayor Bronaugh, City Manager Westerholm stated there is a possibility that there will be additional costs for engineering services on this project.

In response to question by Commissioner Gorden, Mr. Griffith stated that the original estimate on the project was $270,000. Commissioner Gorden stated that minutes of the May 15, 1990 City Commission meeting reflect that a figure of $416,792 was estimated for the project, and he would like to know if the figure for this project is now really $650,000. In response Mr. Griffith stated that as he got into the design of the project, typical of renovation, he discovered other problems that needed to be corrected at the same time. Mr. Griffith stated that an example is the gate valves that are controlling the flow from their rushing basin to the clarifiers. Mr. Griffith stated that when the aeration basin is taken down that is really the time that the gate valve needs to be repaired, but in May they were not aware of this, and it was not included in the original estimate. Mr. Griffith stated that those items included in the original estimate were aeration, dechlorination, some repairs to the sluice gates, and subsequently it was decided that they really needed to be replaced. Mr. Griffith stated that the original base bid included replacing one aerator and adding the dechlorination, and these other items that were found which needed to be corrected were included as well and they were beyond the original scope. Commissioner Gorden stated that there should of been some planning for additional funds as well. Mr. Griffith stated that these were items that were needed and until the bids were in he really did not know how much money was needed. Mr. Griffith stated that the City has the option to choose the items they want to go with and the ones that they did not want.

Commissioner Gorden stated that the Commission has spent several months working on the budget, and this situation seems to have been underlying and semi-brewing all this time and now that the budget has been finalized and approved as item #6 of this agenda, in item #14 it is discovered that there is a need for $150,000. Mr. Griffith stated that he would take responsibility for this - he should have kept the Commission updated and he did not. Commissioner Gorden stated that the Commission was relying on Mr. Griffith for dollar information on what this project was going to cost. Mr. Griffith stated that he felt like he was doing the City a favor by going ahead and doing the design and not asking for any additional fees to do the additional work.

Mr. Griffith stated that there are priority items that need to be done right now on this project and there are other items that it would be good if they were done right now but they are not critical.

Commissioner Gorden stated that the May 15th minutes refer to this work needing to be completed by January 1991. Mr. Griffith stated that he will be filing an amendment with the State now that he knows what the delivery times are on the equipment.

Mr. Griffith stated that it is important to keep in mind the items that really need to be done are the items on the original estimate and not the other additional items. In response to question by Commissioner Gorden, Mr. Griffith stated that the project is approximately $100,000 over the original estimate.

In response to question by Commissioner Gorden, Mr. Griffith stated that the costs will come up short if the bid is awarded to the one contractor who bid. Mr. Griffith stated that there is a possibility that the cost will come out close to the original estimate if the equipment and labor are bid out. Mr. Griffith stated that he would have to advise the Commission that they do not have this project completely under control and it is not possible to know the total dollar amount until the job is over with, so there is a "gamble factor" involved.

Commissioner Gorden stated that the minutes of the meeting also reflect that there is $248,000 available in the Water and Sewer bond fund. City Manager Westerholm stated that presently there is $219,000 left in that fund.

In response to question by Commissioner Gorden in regard to the yield from the increase in sewer rates being placed in a special account for capital improvements at the Wastewater Treatment Plant (as unanimously approved in the minutes of May 15, 1990), City Manager Westerholm stated that there is presently $800 in that account.

Mr. Griffith stated that several things have caused confusion - it started with the base aeration, which could probably be put in for $190,000, which would have been within the amount available and as he got into the piping he found that the piping had deteriorated and that with the flows that would be put through it, it would probably work for a year or a year and one-half and then there would be all sorts of problems with it. Mr. Griffith stated that would have taken the cost to approximately $240,000, then the EPA came out with new requirements for dechlorination. Mr. Griffith stated that the EPA deadline has come about since the May meeting.

Commissioner Gorden stated that when Mr. Porterfield attended the meeting in May, it came across that it was "dead certain" that the City was going to have to do something with dechlorination. Mr. Griffith stated that it was "dead certain" that the City would have to do something with dechlorination - it was not "dead certain" when it would have to be done. Mr. Griffith stated that he was trying to get this work included in the budget for this project. Mr. Griffith stated that he had been trying to anticipate the needs at the Plant over the next 2-3-4 year period.

Commissioner Gorden stated that in the minutes of that meeting it says: "In response to question, Mr. Mott stated that the EPA permit has to be renewed June 1st and the City has been informed that one of their requirements will be dechlorination". Commissioner Gorden stated that the City did know about this in advance and something should have been done about it when the budget was prepared. Commissioner Simond stated that he has the same concerns as Commissioner Gorden and he would like to know where the City will get the money. City Manager Westerholm stated that the staff has visited with Mr. Griffith and a local contractor about those two items and going out for bids for the material and labor separately.

City Manager Westerholm stated that funds to pay for this project could be taken from the balance in the sewer plant construction fund ($219,000), the contingency in the Water and Sewer Fund

($99,000), and the funds that were budgeted for the utility relocation at the Loop and Highway 94 ($46,000).

Commissioner Gorden stated that he did not understand why the staff did not inform the Commissioners when the budget was being finalized (item 6 of this agenda) that the $46,000 budgeted for this project would now be unencumbered.

Mr. Griffith stated that one option for bidding the labor would be to bid on the job, but clearly define what the limit of the job is, and anything beyond that is an extra and would be paid for on an extra basis. Mr. Griffith stated that you have to add the risk in or leave it out, which means that the City gambles or the contractor gambles.

Motion was made by Commissioner Danny Roper and seconded by Commissioner Bob Bowman to reject the bid submitted by Allco, Inc. A unanimous affirmative vote was recorded.

Motion was made by Commissioner Danny Roper and seconded by Commissioner Bob Bowman authorizing the City Manager to go out for bids on labor and material, separately, for the Wastewater Treatment Plant renovation. A unanimous affirmative vote was recorded.

15a. BID - APPROVED - TRACTOR AND BUSH HOG - WATER POLLUTION CONTROL - W. A. DUBOSE

Mayor Bronaugh stated that the next item for consideration was bid on tractor and bush hog to be used at the Water Pollution Control plant.

City Manager Westerholm stated that $13,250 had been budgeted for this item, and the low bid of $12,300 had been received by W. A. DuBose.

Commissioner Simond stated that he had received a letter from Fish and Still saying that they will not submit any further bids to the City.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Percy Simond that bid of W. A. DuBose in the amount of $12,300 be accepted as submitted. A unanimous affirmative vote was recorded.

15b. BID - APPROVED - CHIPPER - SANITATION DEPARTMENT - L & J CHIPPER SALES

Mayor Bronaugh stated that the next item for consideration was bid for a chipper to be used in the Sanitation Department.

City Manager Westerholm stated that the low bid of $13,828 had been received from L & J Chipper Sales for a diesel chipper.

Ron Wesch, Public Works Director, stated that the chipper will speed up the limb process by 50%.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Jack Gorden that bid of L & J Chipper Sales in the amount of $13,828 be approved as submitted. A unanimous affirmative vote was recorded.

16. ANIMAL EXCHANGE - APPROVED - ELLEN TROUT ZOO

Mayor Bronaugh stated that the next item for consideration was an animal exchange at Ellen Trout Zoo.

City Manager Westerholm stated that Gorden Henley is requesting authority to negotiate an animal exchange of lions for breeding purposes.

Mr. Henley presented the newest member of the lion collection, a 9-month old male cub who was named "Bruno", to the City Commission.

17. EXECUTIVE SESSION

Regular meeting adjourned at 6:42 p.m. for Executive Session. Mayor Bronaugh reconvened regular session at 7:20 p.m. and stated that personnel and real estate matters had been discussed.

18. COMMENTS

Mayor Bronaugh stated that a press release had been handed out which basically states that the City of Lufkin has reviewed the Census Bureau's preliminary report and can find no additional uncounted areas and accepts their figure of 30,029.

19. There being no further business for discussion, meeting adjourned at 7:25 p. m.

Louis A. Bronaugh

Louis A. Bronaugh, Mayor

ATTEST:

Atha Stokes

Atha Stokes, City Secretary