

**MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE**  
**CITY OF LUFKIN, TEXAS, HELD ON THE**  
**18TH DAY OF MAY, 1993 AT 5:00 P.M.**

On the 18th day of May, 1993 the City Council 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
Don Boyd	Mayor pro tem
Percy Simond	Councilman, Ward No. 1
Larry Kegler	Councilman, Ward No. 3
Bob Bowman	Councilman, Ward No. 4
Jack Gorden, Jr.	Councilman, Ward No. 5
Tucker Weems	Councilman, Ward No. 6

being present when the following business was transacted.

1. Meeting was opened with prayer by Rev. N. C. Simmons, Minister, Mt. Beulah Baptist Church.

2. Mayor Bronaugh welcomed visitors present.

3. **APPROVAL OF MINUTES**

Minutes of the Regular Meeting of May 4, 1993 were approved on a motion by Councilman Don Boyd and seconded by Councilman Tucker Weems. A unanimous affirmative vote was recorded.

4. **BOND ELECTION - LETTER OF SUPPORT - PLANNING & ZONING COMMISSION**

Mayor Bronaugh stated that the first item for consideration was a letter from the Planning & Zoning Commission in support of the upcoming Municipal Bond Election.

5. **ORDINANCE - APPROVED - SECOND READING - ZONE CHANGE - RESIDENTIAL LARGE AND APARTMENT TO LOCAL BUSINESS - CATHY J. MARBERRY - C. J. INTERIORS WITH UNDERFOOT DESIGN - LOTS 3, 4, 7 & 8 - BLOCK 1 - TOWNSEND ADDITION - 405 CHURCH STREET**

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance for a Zone Change from Residential Large and Apartment to Local Business on approximately four acres of land known as 405 Church Street, and legally described as Lots 3, 4, 7 & 8, Block 1, Townsend Addition, as requested by Cathy J. Marberry, on behalf of C. J. Interiors with Underfoot Design.

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

6. **ORDINANCE - APPROVED - FIRST READING - CUSTOMARY HOME OCCUPATIONS - RESIDENTIAL LARGE ZONING DISTRICT - DON WOOD**

Mayor Bronaugh stated that the next item for consideration was request of Don Wood to amend the Comprehensive Zoning Ordinance to allow "customary home occupations" within Residential Large Zoning Districts.

Don Wood stated that he is currently residing outside the City limits and is in the process of trying to relocate in the City. Mr. Wood stated that since his wife has an

arts and crafts business he is looking for a home in a zoning district that allows customary home occupations. Mr. Wood stated that the business would not detract from the neighborhood in terms of noise, traffic, signs or customers coming to their home. Mr. Wood stated that there would not be a showroom and most people in the neighborhood would not even know that there was a business in his home.

City Manager Maclin stated that the Planning & Zoning Commission unanimously denied the request that "Customary Home Occupations" be granted within Residential Large Zoning Districts.

In response to question, City Attorney Bob Flournoy stated that amending the Ordinance will not effect the deed restrictions; deed restrictions will prevail.

Motion was made by Councilman Bob Bowman and seconded by Councilman Don Boyd that Ordinance be approved on First Reading as presented, and that Ordinance No. 2867 be amended to include "Customary Home Occupations" in Residential Large Zoning Districts. A unanimous affirmative vote was recorded.

#### **7. APPEAL - DENIED - RICKI DALE BUTLER - REINSTATEMENT OF ELECTRICIAN'S LICENSE**

Mayor Bronaugh stated that the next item for consideration was a request of appeal by Ricki D. Butler for reinstatement of his electrical license in the City of Lufkin.

City Manager Maclin stated that included in the Councilmember's packets is a letter by Mr. Butler requesting an appearance before the Council, a letter from Building Official Jack Bresie and minutes from a Called Meeting of the Examining and Supervising Board of Electricians of the City of Lufkin.

City Attorney Flournoy stated that basically Mr. Butler failed to renew his license within the 90 days extension period that was provided. Mr. Flournoy stated that an Ordinance passed in 1982 states that if an electrician does not get his license renewed within the 90-day time frame, then he has to be re-examined. Mr. Flournoy stated that it is his opinion that this Council does not have any authority in this matter. Mr. Flournoy stated that the Council could amend the Ordinance by granting an extension period longer than 90 days, but could not do this just for Mr. Butler. Mr. Flournoy stated that Mr. Butler's ability and performance are not in question. Mr. Flournoy stated that a fine or late charge might also be considered in an amendment to the Ordinance.

Councilman Bowman stated that the Council is not an appeals forum, and that Mr. Butler needs to appeal to the Variance Board. It was stated that the Variance Board did not want to create a precedent.

In response to question, Mr. Bresie stated that at this time there are 65 licensed master electricians and 80 journeymen in the City.

In response to question by Councilman Bowman, Mr. Butler stated that at this time he is basically shut down.

Mr. Flournoy stated that Mr. Butler could appeal to District Court to re-instate his license, but his appeal to this Council could only be to change the Ordinance. Mr. Flournoy stated that this 90-day extension is consistent with most cities.

In response to question by Councilman Simond, Mr. Butler stated that he went to Beaumont and paid \$45 to re-take the examination. City Manager Maclin stated that Mr. Bresie has been in contact with the Examining Board to try and expedite the test results for Mr. Butler.

City Attorney Flournoy stated that this Council has adopted the National Electrical Code and by City Ordinance has set up the Board of Variance. Councilman Simond

stated that he would like to see the rules and regulations of the electrical board in its entirety. Councilman Simond stated that he would like for Council to rewrite the Ordinance to include a penalty as opposed to revoking a license. Mr. Flournoy stated that he will need some guidelines and direction from members of the Council in order to comply with this request.

Councilman Simond stated that he would like to challenge the notion that the City Council does not have any authority over a Board. Councilman Simond stated that the City Council has the authority to remove members of a Board.

Motion was made by Councilman Larry Kegler and seconded by Councilman Bob Bowman to concur with the Electrical Board's decision regarding Mr. Butler's expired license.

The following vote was recorded:

Aye: Councilmen Kegler, Bowman, Gorden, Weems, Boyd and Mayor Bronaugh  
Nay: Councilman Simond

Motion carried by a vote of 6 to 1.

#### **8. REGIONAL BIO-SOLIDS PARTICIPATION - APPROVED - ANRA**

Mayor Bronaugh stated that the next item for consideration was participation by the City of Lufkin in a regional Bio-Solids Study through ANRA.

City Manager Maclin stated that included in the Councilmember's packets is a letter from Gary Neighbors, General Manager of ANRA, a Study Agreement, a Study Concept, and a Potential Participant List. City Manager Maclin stated that the study is an attempt to find some other alternatives as to what might be classified as recycling in the disposal of certain waste products. The City's potential use of the study comes in the form of sludge disposal from the Sewage Treatment Plant.

City Manager Maclin stated that the study is partially funded by a grant from the Texas Water Commission, with the City's part being approximately \$2,400, and not to exceed \$3,600.

Mr. Neighbors gave a brief overview of the study.

Motion was made by Councilman Bob Bowman and seconded by Councilman Jack Gorden, Jr. for the City to participate in the study to the extent as recommended by the City Manager and that the grant matching fee, not to exceed \$3,600, be taken from the contingency of the Utility Fund. A unanimous affirmative vote was recorded.

#### **9. INVOICE - APPROVED - ANGELINA COUNTY - RIGHT-OF-WAY - FM ROAD 2021 (DAVISVILLE ROAD)**

Mayor Bronaugh stated that the next item for consideration was payment of an invoice from Angelina County for right-of-way purchase on FM Road 2021 (Davisville Road).

City Manager Maclin stated that in 1990 the City Council adopted a Resolution accepting the provisions of the Texas Highway Department Commission's Minute Order relating to acquisition of right-of-way along FM Road 2021. City Manager Maclin stated that the final parcel of property has now been acquired and the County has submitted an invoice for payment in the amount of \$19,187.32.

Motion was made by Councilman Tucker Weems and seconded by Councilman Don Boyd that invoice for purchase of right-of-way on FM Road 2021 (Davisville Road) in the amount of \$19,187.32 payable to Angelina County be approved as

presented and that this amount be taken from the Contingency Fund. A unanimous affirmative vote was recorded.

**10. BID - APPROVED - ELEVATED STORAGE TANK - LANDMARK STRUCTURES, INC.**

Mayor Bronaugh stated that the next item for consideration was award of bid for construction of elevated storage tank.

City Manager Maclin stated that staff recommendation is to award the low bid of Landmark Structures, Inc. in the amount of \$1,346,400.

Motion was made by Councilman Bob Bowman and seconded by Councilman Jack Gorden, Jr. that bid of Landmark Structures, Inc. in the amount of \$ 1,346,400 be approved as submitted. A unanimous affirmative vote was recorded.

**11. BIDS - APPROVED - AZALEA FITNESS TRAIL - SUSIE JORDAN - WILLIAM J. LYONS & ASSOCIATES**

Mayor Bronaugh stated that the next item for consideration was bids for property appraisals for the Azalea Fitness Trail.

City Manager Maclin stated that the City has now received a Contract from the Texas Parks and Wildlife. City Manager Maclin stated that there has to be two appraisals to meet the Department's guidelines. The two low bidders were Susie Jordan in the amount of \$7,500 and William J. Lyon and Associates in the amount of \$16,000.

Motion was made by Councilman Don Boyd and seconded by Councilman Tucker Weems to accept the low bids of Susie Jordan in the amount of \$7,500 and William J. Lyon and Associates in the amount of \$16,000. A unanimous affirmative vote was recorded.

**12. REPORT ON IMPACT OF THE COUNTY JAIL PRISONER SPACE SHORTAGE - CHIEF COLLINS**

Mayor Bronaugh stated that the next item for consideration was a report from Chief Sherman Collins regarding the impact of the County Jail prisoner space shortage on the Lufkin Police Department.

City Manager Maclin stated that he had recently sat in on a meeting when Sheriff Lawrence passed out a new set of rules for acceptance into the County jail, and where he made everyone present aware of the problems he has from a Federal Court Order standpoint, and how the "trickle" effect of that Court Order is impacting those that depend on Angelina County Jail to house prisoners. City Manager Maclin stated that, in his opinion, the impact of these changes were significant enough that it was appropriate that Chief Collins give Council a report to bring everyone up to date on how it can impact the City both financially and from a liability standpoint.

Chief Collins stated that the Court Order would effect the Police Department in two ways: (1) In the time of the employees and their ability to do their regular jobs; and, (2) monetarily. Chief Collins stated that the way the change in procedure has effected the employees time is that we no longer have the option of going directly to the County with felons and County prisoners. They are brought to the City jail and booked into the facility, and then if it is 8 to 5, Monday thru Friday, the City calls and makes an appointment with the County in order to transfer that person to the County jail, if they have room. Chief Collins stated that this has doubled the handling time that the Police Officers have to spend with all felon arrests and Class "A" and Class "B" misdemeanor arrests. It has increased the time in attending to prisoners. Chief Collins stated that normally, two out of three LPD arrests, will end up at the County. In the past, they have gone directly to the County and the

LPD had no involvement with the prisoners other than picking them up at the scene and delivering them to the Sheriff's office. Now, they are being kept in the LPD holding facility, and since these people have needs while they are in jail, the Department has to take care of those needs. Chief Collins stated that this is detracting from the officers ability to be out on the streets doing the primary function of their jobs. Chief Collins stated additionally, these people sometimes have problems while they are in jail including illnesses which require hospital checks and a lot of time is spent transporting them to and from the hospital and waiting for them to be seen and treated by the emergency room Doctor.

Chief Collins stated that the second factor is increased costs. The two full weeks and three weekends since this procedure began has shown that the cost for prisoners meals have tripled for the weekends and have doubled during the weekdays. Chief Collins stated that weekends are significant in that the Department cannot make transfers on weekends. Chief Collins stated that at this time the Department is budgeted at \$5,800 per year to buy prisoner meals, and this amount will be sufficient for this year because it was anticipated that this would happen. Chief Collins stated that he does not think that there will be any relief from the situation for the next 18 months, and in the next fiscal year additional money may be required while these prisoners are being held at the LPD holding facility. Chief Collins stated that repairs and supplies will also be impacted.

Chief Collins stated that several new forms have had to be developed which increased printing costs. Chief Collins stated that the LPD has gone into the Personal Recognizance Bond business as a result of this change. The Department will now also have to administer prescription medication, which will involve time and money.

Chief Collins stated that his biggest concern as to how this change will effect he LPD is how drastically it has increased the Department's liability. Chief Collins stated that when this problem is resolved he hoped that he would be able to tell the Council that there have not been any civil suits that actually cost the City any money. Chief Collins stated that the more people that are in jail and the longer they are incarcerated, the greater the liability is for in-jail injuries (deliberate and accidental). A certain percentage of prisoners tend to be suicidal and destructive.

Chief Collins stated that on certain types of offenses (Type "A" and "B" misdemeanors), where the jail is full and it is not likely that the prisoner will ever get a bed in County jail, he has authorized his supervisors to examine the person on a fixed criteria (whether or not they are a resident of the County or a neighboring county--whether or not they are working, etc.). If a person meets this criteria, the supervisor is authorized to release the person from jail on his written promise to appear in Court and take care of his business on a Personal Recognizance Bond.

Chief Collins stated that he would like to personally encourage the Council as a body to support the County in trying to solve the jail problem, and to support an effort for the County to build a jail big enough to solve the problem for Angelina County and the citizens of Lufkin.

In response to question by Councilman Simond, Chief Collins stated that the State law is very clear that the County has an obligation to take any person who has been lawfully arrested for any violation of State law. Chief Collins stated that if the County does build a jail that is big enough to accommodate the prisoners of Angelina County, then he would recommend that the City of Lufkin get out of the jail business.

### **13. SECTION 504 GRIEVANCE PROCEDURE - APPROVED - ADA REGULATIONS**

Mayor Bronaugh stated that the next item for consideration was approval of the Section 504 Grievance Procedure for compliance with ADA regulations.

City Manager Maclin stated that a sample grievance procedure had been included in the Councilmember's packets. City Manager Maclin stated that a 504 Grievance Procedure in this format is one of the essential elements in the City's housing rehabilitation participation.

City Manager Maclin stated that the official notification has not been received from the Governor's office or Senator Haley's office, but we do have a letter from the Texas Department of Community Affairs informing us that the City did receive a \$500,000 grant for housing rehabilitation. This grant was applied for last fall, and the target area will be everything north of Lufkin Avenue. This \$500,000 grant should make it possible to rehabilitate approximately 35 homes.

Motion was made by Councilman Bob Bowman and seconded by Councilman Don Boyd to approve the Section 504 Grievance Procedure as presented. A unanimous affirmative vote was recorded.

#### 14. EXECUTIVE SESSION

Regular Session recessed at 7:06 p.m. to enter into Executive Session. Regular Session reconvened at 7:45 p.m. and Mayor Bronaugh stated that legal matters and dilapidated houses had been discussed.

Motion was made by Councilman Percy Simond and seconded by Councilman Larry Kegler that the following houses be demolished as recommended by the City Attorney:

106 Penson Street  
Three houses on South Garvan St.  
212 S. Garvan St.  
2705 Minnie Lou  
910 Wilson  
1702 Wood St.  
Four houses on Mize St.

A unanimous affirmative vote was recorded.

#### 15. COMMENTS

City Manager Maclin stated that there will be a DETCOG meeting at 10 a.m. on Friday, May 27th.

16. There being no further business for consideration, meeting adjourned at 7:52 p.m.



Louis A. Bronaugh - Mayor

ATTEST:



Atha Stokes - City Secretary