MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF LUFKIN, TEXAS HELD ON THE 17TH DAY OF AUGUST, 1999 AT 5:00 P. M.

On the 17th day of August, 1999, 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
Bob Bowman	Mayor pro tem
R. L. Kuykendall	Councilmember, Ward 1
Don Boyd	Councilmember, Ward 2
Betty Jones	Councilmember, Ward 3
Jack Gorden, Jr.	Councilmember, Ward 5
Dennis Robertson	Councilmember, Ward 6
C. G. Maclin	City Manager
James Hager	Assistant City Manager
Atha Stokes Martin	City Secretary
Bob Flournoy	City Attorney
Keith Wright	City Engineer
Kenneth Williams	Director of Public Works
Stephen Abraham	Director of Planning

Being present when the following business was transacted.

1. Meeting was opened with prayer by Rev. Michael Murphy, Pastor, Parkwood Baptist Church.

2. Mayor Bronaugh welcomed visitors present which included members of Leadership Lufkin and government students from Lufkin High School. Sheila Adams introduced Leadership Lufkin members: Diana Chatman, James Nowak, Linda Daniel, Tina Turner, Bambi Shofner, and Libby McKnight.

3. APPROVAL OF MINUTES

Minutes of the regular meeting of the August 3, 1999 meeting were approved, with corrections to include Jack Gorden, Jr. as being present, on a motion by Councilmember Don Boyd and seconded on a motion by Councilmember Bob Bowman. A unanimous affirmative vote was recorded.

4. PRESENTATION OF CERTIFICATE OF APPRECIATION TO BILL SHOOP

Mayor Bronaugh stated that a Certificate of Appreciation had been prepared to present to Bill Shoop at tonight's meeting, however, due to illness Mr. Shoop could not be present . Mr. Shoop served as a member of the Civil Service Commission from 1992 to 1997.

5. AMENDMENT - DENIED - COMPREHENSIVE PLAN - FUTURE LAND USE - LOOP 287 - SOUTH CHESTNUT STREET - SANDYBROOK LANE - PONDEROSA DRIVE

Mayor Bronaugh stated that the first item for consideration is to review and consider amending the Future Land Use Map of the Comprehensive Plan in the area bounded by Loop 287, South Chestnut Street, Sandybrook Lane and Ponderosa Drive.

City Manager Maclin stated that included in the Council packet is a memorandum of explanation from the Planning Department staff. Mr. Maclin stated that there was a great deal of study and consideration that went into the request from the Council at a meeting a few weeks ago to ask the Planning & Zoning Commission and Planning Department to review the Comprehensive Plan for this area in question between FM 58 and Ponderosa Drive on the southeast side of town south of the Loop. Mr. Maclin stated that they reviewed the information, looked at the surrounding area and after review they believed that the Comprehensive Plan does correctly establish the dividing lines between residential and non-residential and the recommendation coming to the Council today from the Planning & Zoning Commission is a unanimous vote recommending the Comprehensive Plan not be amended but remain residential as it currently is.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Dennis Robertson to accept the recommendation of the Planning and Zoning Commission that Amendment to the Future_Land Use Map of the Comprehensive Plan in the area bounded by Loop 287, South Chestnut Street, Sandybrook Lane and Ponderosa Drive be denied.

The following vote was recorded:

Aye: Mayor Bronaugh, Councilmembers Bowman, Robertson, Jones, Kuykendall, Boyd
Nay: Councilmember Gorden

Motion carried with six affirmative votes.

6. <u>ORDINANCE – TABLED – ZONE CHANGE – RESIDENTIAL LARGE TO COMMERCIAL – RICE R. TURNER SURVEY – TRACTS 1 AND 11 – LOOP 287 BETWEEN SOUTH CHESTNUT STREET AND PONDEROSA DRIVE – SYBIL DRIVE</u>

Mayor Bronaugh stated that the next item for consideration was the request of Alan Wade to change the zoning from "Residential Large" to "Commercial" on approximately 8.7 acres of land described as a part of Tracts 1 and 11 of the Rice R. Turner Survey (Abstract No. 718) and located south of Loop 287 between South Chestnut Street and Ponderosa Drive and approximately 400 feet east of Sybil Drive.

City Manager Maclin stated that this is the item that was related to the Comprehensive review at the meeting of July 20th when this was first brought to Council. Mr. Maclin stated that Council tabled the request and directed the Planning & Zoning Commission and Planning staff to review the Comprehensive Plan, which is what Council just addressed in item 5, and now this item is back before Council to consider the request of Alan Wade.

Alan Wade, applicant, stated that he was present with a recommendation from the P & Z Commission that the 8.7 acres be changed to Commercial. Mr. Wade stated that he really did not know how the process worked and didn't know where to check, and sometimes he came up at a disadvantage because of that. Mr. Wade stated that some of the emphasis he wanted to point out was in the P&Z minutes. Mr. Wade stated that his opening comments to the P&Z were that he was not aware of how the system worked and when the request was sent back to P&Z he really thought there would be "town meeting" on the request and they would look into all the different options and decide whether there would be "give and take", do all of the request or nothing. Mr. Wade stated that previous to that Council received a copy of all the letters that were sent in, and in his opinion, the voting was done before the meeting. Mr. Wade stated that he took offense to that because he knew nothing about it. Mr. Wade asked Council to look at the map on page 4 of this agenda item. Mr. Wade stated that this map was mailed out to all the residents and property owners in that area. Mr. Wade stated that he did not think it was a deliberate thing to skew against him, but he did feel like he ended up at a disadvantage because the entire collection was highlighted. Mr. Wade stated that he had stated in his letter and at the meeting that he never had any intention of going back to Sandybrook, because he did not think the zone change should go back to Sandybrook. Mr. Wade stated that he thinks that the 8.7 acres that he presented is a good way to back up residential to Commercial. Mr. Wade stated that also in the minutes it says that Ms. Barbie Luce spoke and answered some questions, but omitted that she had stated that she was in favor of the request. Mr. Wade stated that another omission was a question by a Mr. Crager. Mr. Wade stated that in his opinion this is a good opportunity for him to go in and make something of the land where there is nothing there. Mr. Wade stated that Mr. Abraham had done a good job of drawing some residential areas on the map, but he also used several other plots of land that adjoin to that. Mr. Wade stated that Mrs. Lawrence, at a previous P & Z meeting, stated that the land next door to his, immediately to the west, is full of creeks and gullies and can never be used for anything. Mr. Wade asked how he could make a residential development out of the property if it is full of gullies. Mr. Wade stated that, in his opinion, this is a good buffer zone for those people on Chestnut who don't want land behind them to go Commercial because the land is full of gullies and creeks. Mr. Wade stated the he personally does not know why the people on Chestnut were even polled about this request because he is so far away from them. Mr. Wade stated that he really believed that this section of land ought to be Commercial and the residential drawings would not be viable for just that single piece of property.

Mr. Wade stated that the Earth and Stone man wants to expand his business and sell more stones, and in his opinion, this is the best use of the property. Mr. Wade stated that the property backs up to the residents on Sandybrook and Ponderosa and has frontage on the Loop, and he thinks it is the best use of the land, and hoped that Council would agree.

In response to question by Mr. Kuykendall, Mr. Wade stated that Larry Byrd, who owns some of the lots that face Sybil Street, came to the P&Z meeting and spoke. Mr. Wade stated that, in his opinion, the lots on Sybil Street and Chestnut will eventually go Commercial. Mr. Wade stated that this property does not join his land and he doesn't see how it could be affected. Mr. Wade stated that he certainly does not feel that it would affect Sandybrook or Ponderosa because there is enough space between there. Mr. Wade stated that his boundary lines are different than the ones Mr. Abraham drew on the map. Mr. Wade stated that he and Mr. Abraham differ on how much difference it would make to rezone his property to Commercial, and how deep they need to go off of the Loop. Mr. Wade stated that because this land is laying in just like it is, it should be Commercial, and does not harm the neighborhoods. Mr. Wade stated that most of the responses to the letters sent by the Planning Department say that the residents like the country living and like the trees. Mr. Wade stated that if he cuts his trees next week he would be ruining their environment just because he clear cuts. Mr. Wade stated that he did not feel that providing the neighbors an environment should come into this. Mr. Wade stated that he is saying that they are far enough away from the Loop that this zone change will not bother them.

Mr. Wade stated that they really did not get to address in the P&Z when they went back and studied the Comprehensive Plan what the different options were. Mr. Wade stated that the letter says "please attend the hearings", and he thought they would at least have a couple of hearings and then take a vote. Mr. Wade stated that people voted, sent in their letters, and it was a done deal. Mr. Wade stated that he asked at P&Z if this could not be done under another format.

In response to question by Mr. Kuykendall, Stephen Abraham stated that he had not drawn any boundary lines but had accepted the ones that were there and tried to provide a planning explanation for why they were drawn there. Mr. Abraham stated that he did not think that the lines that were adopted in 1987 are incorrect. Mr. Abraham stated that the attachments are explained in his memo because of the vacant property that abuts the entire west side and that land that is just west of Mr. Wade's property is less likely to be developed for Single Family Residential if you have a Commercial zoning district running 300-400 feet down its side. Mr. Abraham stated that he would apologize if there are some questions in the minutes that were not included, and that this is a summary of the meeting minutes because they only have two days to get the minutes done. Mr. Abraham stated that the minutes have not been approved by the P & Z Commission and if they are misleading the Commissioners will correct them.

Mr. Abraham stated that, in his opinion, his memo explains the reason why the boundary was put in place at the time. Mr. Abraham stated that it was his opinion that these are legitimate planning reasons and therefore, with those being sound planning practice it was his recommendation that it remain the same.

In response to question by Mr. Robertson, Mr. Abraham stated that there is nothing objective about this request and there is no place in any planning book where you will find exactly the right answer that comes across every time. Mr. Abraham stated that you need to look at the intent of the Comprehensive Plan and see if it establishes a development pattern. Mr. Abraham stated that, in opinion, when you look at this requested zone change and compare it to the existing Comprehensive Plan, and look at the ramifications, the possibility of it changing a whole development intent there, he would say that it is inconsistent with the Comprehensive Plan, and Council has to come to its own conclusions. Mr. Abraham stated that the question needs to be asked "does this fundamentally alter what was proposed by the Comprehensive Plan or is it just a minor adjustment." If it is a minor adjustment in Council's minds, then it is not inconsistent, but if it does change the fundamentals or alters the externalities, or would cause a domino effect of the development potential of the neighboring properties, then it is consistent and should be denied.

Mr. Wade stated that he would like to address the fact that it keeps coming back to the undeveloped property west of his property. Mr. Wade asked why he should be penalized because this land is undevelopable and has creeks and gullies on it. Mr. Wade stated that he did not think he should be penalized because somebody next door hasn't done anything with their land. Mr. Wade stated that in his opinion a good use for this land is for the City to take part of the land for a gathering place for water, which would help Mr. Lawrence.

Mr. Robertson stated that one of the concerns he had in terms of Commercial zoning against Residential, is even though Earth & Stone's proposal as Mr. Wade has outlined might be compatible with residential boundaries, but with commercial development the City can also allow any number of things to come in with Commercial zone classification that may be incompatible next to a neighbor that would cause those neighbors some grief down the road. Mr. Robertson stated that that is one of his concerns about abutting commercial right up against residential. Mr. Wade stated that he understood that, and knew that P&Z was on the "hot seat" about that and he knew that ultimately it comes down to the City Council for a decision. Mr. Wade stated that land on the Loop is prime and is high. Mr. Wade stated that development on the Loop will be retail and service oriented that needs traffic or else they will not pay the price for it.

Mayor Bronaugh stated that looking at the property layout of the lot and the shape of the lot, the narrowest end just outside the Loop is very difficult for Commercial in the future. Mayor Bronaugh stated that the last time Council voted on this request he voted on allowing it to go Commercial because it is in the best interest of a group of properties with the odd shapes and angles that make it very difficult to develop. Mr. Wade stated that he knew that it made Mr. Abraham's job a lot more difficult because there is not a delineation.

Jimmy Lawrence stated that he had been living at his property at 2101 S. Chestnut for 43 years. Mr. Lawrence stated that he had been before Council on numerous occasions to speak for neighborhood protection in each instance, or the neighbors rights or a water problem, or some future development. Mr. Lawrence stated that he respected Mr. Wade's request, but believes that if this property goes Commercial it will have a snowball effect and he will be caught up in it. Mr. Lawrence stated that he wanted to protect his property and the residential outlook of it as long as he can. Mr. Lawrence stated that he would not continue to live there if something undesirable comes in. Mr. Lawrence stated that he is interested in the Comprehensive Plan and knows that someday this area will change but he did not want it to be Commercial, but rather some zone that is more compatible with the neighborhood.

In response to question by Mr. Bowman, Mr. Lawrence stated that he had not measured how far his property was from the requested zone change, but he was speaking for the whole block of land that is bounded by Sandybrook, Ponderosa, the Loop and Chestnut. Mr. Lawrence stated that he has brought up numerous times that every bit of the water shed within this total area eventually comes through his property.

Lisa Wade stated that she definitely sympathizes with Mr. Lawrence. Mrs. Wade stated that their property is approximately 1/2 mile from the Chestnut property. Mrs. Wade stated that she did not think that the drainage problem was caused by their property or because of their property. Mrs. Wade stated that it is her understanding that as a property owner they have the right and privilege to harvest any number of trees on their own property. Mrs. Wade stated that if it remains Residential Large, and they do want it to make money, then she thinks that she understands that she has the right to go through there and totally, completely, annihilate every tree, clear cut it, send it off to the pulp mill Mrs. Wade asked what happens to the drainage problem if she goes through there and clear cuts the land. Mrs. Wade asked if the drainage problem on Chestnut would be her responsibility if she clear cuts her land. Mr. Maclin stated that that is a matter that the Courts sometimes determines in civil lawsuits. Mr. Maclin stated that no one can give Mrs. Wade an answer to that until the courts have ruled in a particular case if you have a civil suit filed. Mr. Maclin stated that in answer to Mrs. Wade's question, you can clear your trees without a building permit in the City of Lufkin. Mrs. Wade stated that people do that everyday, they cut trees and make money off of it.

Mrs. Wade stated that at the first P&Z meeting, to her understanding, they passed the zone change request saying that they don't mind this property going Commercial. Mr. Maclin stated that it passed on a 4 to 2 vote. Mrs. Wade stated that then the letters were sent out. Mrs. Wade asked if enough people had sent back the letters saying that they did not have a problem with this property going Commercial, she is thinking that they would not be here right now. Mrs. Wade stated that in reading the letters from the residents they are saying that they do not want to lose the trees, or the country atmosphere. Mrs. Wade stated that she could understand that because when she drove down Sandybrook the last few days most of the residents have cut practically all the trees in their yards and the only trees they have to look at are her trees. Mrs. Wade stated that she could understand their concern about the trees but she did not think it was her responsibility to provide the residents with a landscaped yard. Mrs. Wade stated that one of the letters said that they had seen all the dust, traffic and dead trees. Mrs. Wade stated that if they clear cut trees for profit so they can put a housing unit back there, there will be more noise and dust because there will not be anything between them and the Loop other than some apartment buildings. Mrs. Wade stated that the traffic will be worse because there will be an exit on the Loop and an exit on Sandybrook. Mrs. Wade stated that this is all speculation on her part. Mrs. Wade stated that they would be glad to leave a buffer and have Earth and Stone be able to put their flagstone and earth back there. Mrs. Wade stated that they are willing to compromise and be flexible, and she does not feel that they have had the opportunity to do that. Mrs. Wade stated that Mr. Abraham or someone had a map showing how the apartments or single family dwellings could be constructed and this was a little misleading to all the Commissioners because the apartment building is using property that did not belong to them. Mrs. Wade stated that, in her opinion, it is also misleading to Councilmembers because it would make them think that they could use it for another means other than storing earth and dirt on it. Mrs. Wade stated that they do not have any property on Sybil. Mrs. Wade stated that she objected to the way that the letters went out because of the residents she has spoken to since then have told her that they did not know that the trees could be cut or that apartments could be built. Mrs. Wade stated that the residents indicated to her that if they all got together and opposed this zone change request this property would remain undeveloped. Mrs. Wade stated that it did not state that in the letter but it had a flavor of that in the letter. Mrs. Wade stated that, in her opinion, the City should be more adept at telling the residents what all their options are before they are asked to vote on something, especially older residents. Mrs. Wade stated that she wished that the residents would have known all of their choices, and that the Committee would have discussed the drainage because that seems to be a lot of their concern. Mrs. Wade stated that she agreed with her husband in that they wished that there was a different forum for a zone change request rather than someone deciding its not going to happen, sending out the letters, scaring the residents, the residents voting, and then coming back and saying, "Sorry, Mr. Wade, you can't do it".

In response to statement by Mayor Bronaugh that Mr. Wade had said the vote was taken before the meeting, Mr. Wade stated that it was not the P&Z vote, but the letters were mailed out with a ballot, and there is a copy of the replies in the Council packet that asks if the residents oppose with a map showing property all the way over to Sandybrook over to Ponderosa. Mr. Wade stated that in his opinion, and some of the residents they had visited with thought that the vote was whether all of the entire area was going to go Commercial or none of it. Mr. Wade stated that it states further down in the letter "whether we do all or part." Mr. Wade stated none of that was discussed in P & Z. Mr. Wade stated that Council has a list of 32 property owners, and L. J. Conner's name or Pearson is listed on eight of those, and they did not respond eight times. Mr. Wade stated that that is one fourth of the property owners in that area. Mr. Wade stated that, in his opinion, the vote was taken and the recommendations were made to the P & Z Commission even before there was discussion on the request. Mayor Bronaugh stated that neither the P&Z Commission or the City Council can take a vote like that before there is discussion. Mr. Wade stated that he is asking Council to do the right thing in their mind, make their decision, and vote. Mr. Wade stated that he really thought this was the right way to do this without hurting anybody. Mayor Bronaugh stated that he thought it was an excellent use of the property.

In response to question by Mrs. Jones, Mr. Abraham stated that when staff looks at the update to the Comprehensive Plan, they start from scratch. Mr. Abraham stated that it will be the same process by which they did the last Comprehensive Plan, the same process by which staff evaluated this request – existing conditions, existing zoning and what is the probable impact, and what is the desired effect. Mr. Abraham stated that it will be in a City-wide setting, but it is not a tally, seeing how many are for and how many are against. Mr. Abraham stated that there needs to be good, sound planning practice behind every decision and recommendation they make, and that ties into this request. Mr. Abraham stated that the Planning Department is mandated by law to send out notices on every zone change to people within 200 feet. Mr. Abraham stated that he tries to make it easy for people by asking if they are in favor or if they oppose the zone change, wherein by rights he only has to notify them and they have to know that they have to send the notice in. Mr. Abraham stated that Council knew that he didn't have to count the number of people who are in favor of against a request to determine what his recommendation is going to be, because his recommendation or analysis is done before any of the letters are sent out. Mr. Abraham stated that when the letters are returned he does look at them to see if there is anything he missed that he wasn't thinking of that alters what he should have recommended. Mr. Abraham stated that in that instance letters can change the Planning Department's recommendation. Mr. Abraham stated that he could assure Council that he doesn't count the letters and then change his recommendation.

In response to question by Mrs. Jones as to how will future projections of the growth and land use come into that, and what might be alright today and change five or ten years in the future and how will that be projected in an update process, Mr. Abraham stated that an analysis will be done of what the staff thinks is the projected growth over a specified time period (5-10-15 years). Mr. Abraham stated that another part of the Comprehensive Planning is the distribution of the property, with a good balance of residence, commercial, and manufacturing. Mr. Abraham stated that when it is overloaded on one side, then you do bring down the value all across the City because there are too many pieces of land that are competing for limited potential developers. Mr.

Abraham stated other things to consider are transportation, and that buffers are provided between residential and non-residential. Mr. Abraham stated that it is a long process and you bring the citizen's desires for their particular area in but then you use standard planning practices to determine how to make it balance and meet the desires of the development community and the residential. Mr. Abraham stated that his big concern with Commercial district is there is absolutely no buffer between the residents and the Commercial District, and doesn't require a site bearing fence like Local Business does.

Mr. Gorden stated that he would be in favor of Mr. Wade's offer, but did not know how it could be structured in creating a buffer, if that is possible. Mr. Abraham stated that a buffer cannot be required in a Commercial District. Mr. Gorden stated that he understood that but they have offered, and asked if there is a way to structure that. Mr. Abraham stated there is no way to do that in the Zoning Ordinance and the only way it could be done is in "good faith". Mr. Gorden asked if it could be done through an agreement or deed restriction.

Mr. Flournoy stated that in response to the question from Mr. Gorden, the City on numerous occasions has established buffer zones, such as we did by Target, and it can be done, but the City cannot require it. Mr. Flournoy stated that it can be done in a compromise settlement agreement. Mr. Abraham stated that the difference between Target and this request is that in our Zoning Ordinance we require a shopping center of three acres or more to have site plan approval and he simply told Target that he was not going to recommend approval of any plan that did not provide that buffer. Mr. Abraham stated that he does not have that option with a Commercial zoning district, and that he cannot require site plan approval. Mr. Abraham stated that he and Mr. Flournoy probably need to sit down and discuss this and make sure that they do not get in the realm of illegal contract zoning. Mr. Gorden stated that he sympathized with both sides but it seems to him that if the Wade's are offering to have a buffer and they are willing to tie that down into the future, that is almost a win-win deal. Mr. Maclin stated that the deed restriction is an option, but the City cannot enforce a deed restriction, it is a Court issue.

Mr. Robertson stated that in Planning & Zoning there are more options to deal with in Local Business, Neighborhood Retail and Planned Unit Development, but in Commercial there aren't as many options. Mr. Abraham stated that Commercial is a very intensive zoning classification, and allows a lot of outdoor uses and that is what separates it from Local Business, which is office and retail oriented primarily. Mr. Gorden stated that if it were up to him, and eventually this property could be Local Business, some retail or apartments, he personally would prefer the stone place with a nice buffer to any of the other things he had just mentioned. Mr. Abraham stated that he could understand what Mr. Gorden was saying, but he did not look at today's particular use, he is looking at the zoning classification. Mr. Abraham stated that typically there is not a whole lot of capital in this and for the right price it would not take long to move those piles of sand and gravel and have some other uses allowed in the Commercial district. Mr. Gorden stated that regardless of what the property is used for, with a nice buffer separating it from the residential, should be something to be considered. Mr. Abraham stated that it sounds as though he is arguing against the Council, but he is just trying to tell Council about the Ordinance he has to work with and making a recommendation based on the Comprehensive Plan and the rules he has to enforce.

Mr. Abraham stated that the Comprehensive Plan can be a lot more helpful in the guidance of the types of uses. Mr. Abraham that the current Comprehensive Plan doesn't give much specificity with the range of uses. Mr. Abraham stated that he has to put together a zoning map to provide to the consultants, and hopes that in two or three months he will go out for proposals, and hopefully he will get started on the new Plan in six or seven months.

Mr. Wade asked about the possibility of deeding a 20' buffer zone on all sides of this property and make it Residential Large for 20'. Mr. Wade stated that he is open for suggestions and asked if there was some way he could get approval based on the buffer zone.

Mayor Bronaugh stated that he would suggest that Mr. Wade get together with the Planning Department and discuss the possibility of a buffer zone. Mr. Bowman suggested that Mr. Wade get together with the other property owners and Mr. Abraham and work out some compromise. Mr. Wade stated that he would respectfully request for a vote on this request tonight.

In response to question by Mr. Gorden, Mr. Abraham stated that Council had tabled the request at last meeting and sent it back to the P&Z Commission for a recommendation on changing the Comprehensive Plan. Mr. Abraham stated that the P&Z Commission voted against amending the Comprehensive Plan, but Council did not ask them to reconsider the zoning. Mr. Abraham stated that the request originally came to Council on a 4 to 2 vote of approval for the zone change. Mr. Maclin stated that logically if you gave P&Z the chance to vote on this again, since they just voted 6-0 to uphold the Comprehensive Plan, they probably would vote for denial the second time around by virtue of that.

Mr. Maclin stated that Mr. Flournoy will have to be a part of any of the meetings in terms of establishing a legal enforcement of a buffer zone since it would be unique because it is not part of a Commercial zone classification. Mr. Flournoy stated that "all or nothing" is probably not the best thing for everybody. Mr. Flournoy stated that he firmly believed that there are ways that it could be structured, and there could be some compromise that could be enforceable. Mr. Flournoy stated that basically where Council is today is that they have a recommendation from P&Z in favor of the zone change and unless you have six out of seven votes to deny the zone change it basically is going to be out there and it could come back. Mr. Flournoy stated that Mr. Wade can bring it back again when he is ready. Mr. Flournoy stated that it seemed to him since a compromise was being talked about, if you could insure a buffer for the neighborhood that Council felt like was adequate, certainly that would be best for everyone. Mr. Flournoy stated that the use of this property will change from what it is today without a doubt. Mr. Flournoy stated that it might accomplish everything the neighborhood wants including the property owner. Mr. Flournoy stated that, in his opinion, the best thing to do is to table the request and see if there is some possibility of working out a compromise. Mr. Flournoy stated that he personally believes that there might be some grounds for compromise.

In response to question by Mayor Bronaugh, Mr. Flournoy stated that to override the recommendation from P&Z it will take six out of seven votes whether it is affirmative or negative. Mr. Flournoy stated that P&Z has recommended approval and to override their recommendation, it will take six out of seven votes, whether they are for it or against it.

Mr. Maclin stated that if we want to include the buffer as Mr. Gorden has indicated, we would table the request, get with Mr. Wade and see how much property he is willing to designate as a buffer, and bring that back to Council for a vote. Mr. Flournoy stated that the request would not have to go back to P&Z. Mr. Abraham stated that when he redid the Zoning Ordinance he made sure that it was written so that Council only has to have a 3/4's vote to override a recommendation of denial. Mr. Abraham stated that this is a fairly new Ordinance and he wanted to make that clear.

Mrs. Jones asked if Mr. Wade would have to pay another $100 fee if this request is tabled. Mr. Maclin stated that he would not because this is still a continuation of the zone change request and he would not be charged an additional fee.

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember Bob Bowman that Ordinance to change the zoning from "Residential Large to Commercial" on approximately 8.7 acres of land described as a part of Tracts 1 and 11 of the Rice R. Turner Survey (Abstract No. 718) and located south of Loop 287 between South Chestnut Street and Ponderosa Drive and approximately 400 feet east of Sybil Drive be tabled on First Reading. A unanimous affirmative vote was recorded.

7. ORDINANCE – APPROVED – FIRST READING – AMENDMENT – TREE ORDINANCE – REMOVAL OF DEAD OR DISEASED TREES ON PRIVATE PROPERTY

Mayor Bronaugh stated that the next item for consideration was First Reading of an Ordinance amending Section 98.10 of the Code of Ordinances of the City of Lufkin concerning the removal of dead or diseased trees on private property.

City Manager Maclin stated that included in the Council packet is a quote from the current Ordinance that if a property owner has a tree that is dead or diseased and becomes a risk or hazard, the City can require the owner to cut the tree within 60 days of service of notice, but currently the Ordinance reads that the City would have to remove the tree if the property owner refuses to remove it at no cost to the owner. Mr. Maclin stated that it is staff's opinion that should have read "at the owner's expense", because historically the City has not used City funds to cut a tree on private property. Mr. Maclin stated that if the Ordinance is changed to "at the owner's expense" it will then conform to the other City Ordinances, such as weedy lots, dilapidated house, etc., where staff invoices the property owner for conducting the activity on their property and then if they for some reason refuse to pay the City has the right to file a lien against the property.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Betty Jones that Ordinance amending Section 98.10 of the Code of Ordinances of the City of Lufkin concerning the removal of dead or diseased trees on private property be approved on First Reading as presented. A unanimous affirmative vote was recorded.

8. ORDINANCE – APPROVED – FIRST READING – MUNICIPAL COURT TECHNOLOGY FUND – TECHNOLOGY FEE – MISDEMEANOR OFFENCE – MUNICIPAL COURT

Mayor Bronaugh stated that the next item for consideration was First Reading of an Ordinance establishing a Municipal Court technology fund and assessing a technology fee for each misdemeanor offense in Municipal Court.

City Manager Maclin stated that there is an additional Ordinance on the Council table and this request actually requires two different Ordinances in order to consider this. Mr. Maclin stated that the Ordinance in the Council packet is the technology portion and the Ordinance on the table is the security portion. Mr. Maclin stated that in the legislative session this past year, the State recognized the burden of financial responsibility on City government through municipal courts to provide adequate security as well as technology costs for computers and software, etc. in order to process municipal court activities. Mr. Maclin stated that the legislature passed a law that gives municipal courts through the City government the opportunity to collect a fee of help offset their costs to maintain the computer hardware and equipment, and to maintain appropriate security. Mr. Maclin stated that the security issues came in through metal detectors, x-ray machines and some things that are being installed in municipal courts now the same as in Federal courts. Mr. Maclin stated that before Council today for consideration is an Ordinance that would establish a technology fee and a security fee that would be tacked on to a fine paid by citizens who violated a law. Mr. Maclin stated that a $3.00 fee would be added on for technology and a $4 fee would be added for security, and these receipts would be designated in a special fund for security and technology for the Municipal Court. Mr. Maclin stated that in the future if we needed to have new security cameras, or purchase metal detectors, we would use that fund until it was depleted for those purchases. Mr. Maclin stated that likewise if we needed new hardware and software for Municipal Court we would use the technology fund as long as it would last towards the cost of those purchases.

In response to question by Mr. Gorden, Sylvia Crain, Municipal Court Clerk, stated that the Court costs at this time is $41.25, and as of September 1st it will go up to $42.25, and that amount goes to the State. Ms. Crain stated that this $7.00 will stay in Lufkin.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Dennis Robertson that Ordinance establishing a Municipal Court technology an Ordinance providing for a Municipal Court building security fund, be approved on First Reading as presented. A unanimous affirmative vote was recorded.

9. <u>ORDINANCE - APPROVED - FIRST READING - TAX LEVYING ORDINANCE</u>

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

Mayor Bronaugh stated that the next five items on the agenda are related to the budgeting process for the year 1999-2000. Mayor Bronaugh asked if Council would like to vote on all five items with one motion for approval.

Mr. Maclin stated that item 9 is the tax levying ordinance that sets the tax rate at 49.45 cents per $100 valuation. Mr. Maclin stated that item 10 is the appropriations ordinance which basically sets the available fund and how they would be expended. Mr. Maclin stated that item 11 sets the residential and commercial water rates. Mr. Maclin stated that item 12 sets the sewer rates and item 13 sets the solid waste rates. Mr. Maclin stated that the 2% increase in water and sewer rates is to off-set the bonded indebtedness towards the replacement of the asbestos/cement lines. Mr. Maclin stated that the 4% increase in solid waste rates was a recommended 10% rate increase last year to meet the City Council's financial policies and that was divided up in to a 6% and 4% increase to spread it out over two years to minimize impact to the customer.

Motion was made by Councilmember Betty Jones and seconded by Councilmember Don Boyd that the Tax Levying Ordinance be approved on First Reading as presented. A unanimous affirmative vote was recorded.

10. <u>APPROPRIATIONS ORDINANCE - APPROVED - FIRST READING</u>

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

Motion was made by Councilmember Betty Jones and seconded by Councilmember Don Boyd that Appropriations Ordinance be approved on First Reading as presented. A unanimous affirmative vote was recorded.

11. <u>ORDINANCE - APPROVED - FIRST READING - RESIDENTIAL AND COMMERCIAL WATER RATES REVISED</u>

Mayor Bronaugh stated that the next item for consideration was First Reading of an Ordinance revising residential and commercial water rates.

Motion was made by Councilmember Betty Jones and seconded by Councilmember Don Boyd that Ordinance revising residential and commercial water rates be approved on First Reading as presented. A unanimous affirmative vote was recorded.

12. <u>ORDINANCE - APPROVED - FIRST READING - SEWER RATES REVISED</u>

Mayor Bronaugh stated that the next item for consideration was First Reading of an Ordinance revising the sewer rates.

Motion was made by Councilmember Betty Jones and seconded by Councilmember Don Boyd that Ordinance revising the sewer rates be approved on First Reading as presented. A unanimous affirmative vote was recorded.

13. ORDINANCE – APPROVED – FIRST READING – SOLID WASTE RATES REVISED

Mayor Bronaugh stated that the next item for consideration was First Reading of an Ordinance revising solid waste rates.

Motion was made by Councilmember Betty Jones and seconded by Councilmember Don Boyd that Ordinance revising the solid waste rates be approved on First Reading as presented. A unanimous affirmative vote was recorded.

14a. BID – APPROVED – DIGITAL VOICE RECORDER SYSTEM – POLICE DEPARTMENT – DICTAPHONE CORP.

Mayor Bronaugh stated that the next item for consideration was bids for a digital voice recorder system to be used in the Police Department.

City Manager Maclin stated that included in the Council packet is the information for the proposed purchase through the Houston-Galveston Area Cooperative Purchasing Program. Mr. Maclin stated that HGAC bid this item out and staff recommendation is to purchase the system from Dictaphone Corp. in the amount of $23,474.

In response to question by Mr. Bowman, Chief Collins stated that DETCOG will pay $20,000 toward the purchase of this equipment, and the old equipment will be sold and money will have to be refunded to the State. Chief Collins stated that it is a "washout".

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Jack Gorden, Jr. that the low bid of Dictaphone Corp. in the amount of $23,474 be approved as submitted. A unanimous affirmative vote was recorded.

14b. BID – APPROVED – DIGITAL IMAGING SYSTEM – POLICE DEPARTMENT – DIGITAL DESCRIPTOR SYSTEMS

Mayor Bronaugh stated that the next item for consideration was bids for a digital imaging system for the Police Department.

City Manager Maclin stated that staff recommendation is the low bid of Digital Descriptor Systems in the amount of $45,037.

In response to question by Mr. Boyd, Chief Collins stated that this is a computerized mug shot. Mr. Maclin stated that this purchase is being funded through a local law enforcement block grant the City received in 1997.

In response to question by Mr. Robertson as to whether this equipment will be interfaced with other law enforcement agencies in the County, Chief Collins stated that it will be an in-house system. Chief Collins stated that he could put the pictures on the Internet and anyone with a computer could have access to them for law enforcement purposes.

Motion was made by Councilmember Bob Bowman and seconded by Jack Gorden, Jr. that bid of Digital Descriptor Systems in the amount of $45,037 be approved as submitted. A unanimous affirmative vote was recorded.

14c. BID - APPROVED - AIR COMPRESSOR - SEWER REHAB - LUFKIN SUPPLY

Mayor Bronaugh stated that the next item for consideration was bids for an air compressor for sewer rehab.

City Manager Maclin stated that the staff recommendation is the low bid of Lufkin Supply in the amount of $20,000.

In response to question by Mr. Bowman, Mr. Wright stated that recently the Council approved a bid for some pipe bursting equipment and this is what drives the pipe bursting head through the pipe.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Bob Bowman that the bid of Lufkin Supply in the amount of $20,000 for sewer rehab be approved as submitted. A unanimous affirmative vote was recorded.

15. BID - APPROVED - O'QUINN AND COTTONBELT BRIDGE REPAIR - RONSON CONSTRUCTORS

Mayor Bronaugh stated that the next item for consideration was a bid for the O'Quinn and Cottonbelt bridge.

City Manager Maclin stated that included in the Council packet is the bid tabulation and the staff recommendation is the low bid of Ronson Constructors in the amount of $38,990.

In response to question by Mr. Gorden, Mr. Wright stated that $35,000 in designated funds were carried over from last year and the remainder will be taken out of this year's budget.

Motion was made by Councilmember Dennis Robertson and seconded by Councilmember R. L.Kuykendall that the bid of Ronson Constructors in the amount of $38,990 for the repair of the O'Quinn and Cottonbelt bridge be approved as submitted. A unanimous affirmative vote was recorded.

16. EXECUTIVE SESSION

Mayor Bronaugh recessed regular session at 6:25 p. m. to enter into Executive Session. Regular Session reconvened at 7:10 p. m. and Mayor Bronaugh stated that attorney/client matters and appointments to the Parks Advisory Board had been discussed.

City Attorney Flournoy made a recommendation that a dilapidated house located at 335 Charlton be demolished.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Betty Jones that a dilapidated houses at 335 Charlton be approved for demolition. A unanimous affirmative vote was recorded.

17. APPOINTMENTS - APPROVED - PARKS ADVISORY BOARD - VICTOR BRUCE - SUMNER OSGOOD

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Jack Gorden, Jr. that Victor Bruce and Sumner Osgood be reappointed to the Parks Advisory Board. A unanimous affirmative vote was recorded.

18. COMMENTS

Mr. Maclin stated that Jeff Moseley the new Director of the Texas Department of Economic Development will be the speaker at the DETDA meeting on Friday, October 22, at Crown Colony at 10:00 a.m.

City Manager Maclin stated that next Tuesday at 2:00 p.m. there will be a demonstration of the Doppler radar system in Room 102 of City Hall.

City Manager Maclin stated that the DETCOG meeting will be held at Westwood Shores in Trinity County on August 26th.

City Manager Maclin stated that the TML Region 16 meeting will be held in Jasper on August 26th at 6:30 p.m.

City Manager Maclin stated that a joint meeting of the City Council members and the P & Z Commission members will be held at the Brazos Cattle Company at 11:30 a.m. on September 7th.

19. There being no further business for discussion, meeting adjourned at 7:15 p. m.

Louis A. Bronaugh

Louis A. Bronaugh
Mayor

ATTEST:

Atha Stokes Martin

Atha Stokes Martin
City Secretary