

**MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF
THE CITY OF LUFKIN, TEXAS, HELD ON THE
21ST DAY OF OCTOBER, 1997 AT 5:00 P. M.**

On the 21st day of October, 1997 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
Percy Simond	Councilmember, Ward No. 1
Don Boyd	Councilmember, Ward No. 2
Betty Jones	Councilmember, Ward No. 3
Bob Bowman	Councilmember, Ward No. 4
Jack Gorden, Jr.	Councilmember, Ward No. 5
Tucker Weems	Councilmember, Ward No. 6
C. G. Maclin	City Manager
Bob Flournoy	City Attorney
Atha Stokes	City Secretary
Keith Wright	City Engineer
Stephen Abraham	Director of Planning
Kenneth R. Williams	Public Works Director

being present when the following business was conducted.

1. Meeting was opened with prayer by Glendon Sanders, Program Director, Love, Inc.
2. Mayor Bronaugh welcomed visitors present.
3. **APPROVAL OF MINUTES**

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Jack Gorden, Jr. that the minutes of the Regular Meeting of October 7, 1997 be approved as presented. A unanimous affirmative vote was recorded.

4. **ORDINANCE - APPROVED - SECOND READING - ZONE CHANGE - NEIGHBORHOOD RETAIL TO LOCAL BUSINESS DISTRICT - 1212 S. CHESTNUT STREET - BOBBY TUCKER - ROY TRUSS**

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance to change the zoning from "NR" Neighborhood Retail to "LB" Local Business District on property located at 1212 S. Chestnut Street as requested by Bobby Tucker on behalf of Roy Truss.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Bob Bowman that Ordinance for a zone change as requested by Bobby Tucker on behalf of Roy Truss from "NR" Neighborhood Retail to "LB" Local Business District on property located at 1212 S. Chestnut Street be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

5. **ORDINANCE - APPROVED - SECOND READING - ZONE CHANGE - RESIDENTIAL LARGE SINGLE FAMILY TO "RPO" RESTRICTIVE PROFESSIONAL OFFICE - J. L. QUINALTY SURVEY - WILLOW BEND DRIVE - CHESTNUT STREET - DEAN LEGGETT - JENNIE CATON**

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance to change the zoning from "RL" Residential Large Single Family to "RPO" Restrictive Professional Office on 1.86 acres known as tracts 118-121 of the J. L. Quinalty Survey and generally located one half block south of the intersection of Willow Bend Drive and Chestnut Street as requested by Dean Leggett on behalf of

Jennie Caton.

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember Tucker Weems that Ordinance for a zone change from "RL" Residential Large Single Family to "RPO" Restrictive Professional Office on 1.86 acres known as tracts 118-121 of the J. L. Quinalty Survey and generally located one half block south of the intersection of Willow Bend and Chestnut Street requested by Dean Leggett on behalf of Jennie Caton be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

6. ORDINANCE - APPROVED - SECOND READING - SPECIAL USE PERMIT - PRIVATE CLUB - RESIDENTIAL LARGE SINGLE FAMILY, COMMERCIAL, SPECIAL USE - LUFKIN MALL - CHILI'S RESTAURANT

Mayor Bronaugh stated that the next item for consideration was an Ordinance to grant a Special Use Permit for a restaurant with a private club on property located in the "RL, C, SU" Residential Large Single Family, Commercial, Special Use District located within the Lufkin Mall as requested by Chili's Restaurant.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Jack Gorden, Jr. that Ordinance for a Special Use Permit for a restaurant with a private club on property located in the "RL, C, SU" Residential Large Single Family, Commercial, Special Use District located within the Lufkin Mall be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

7. ORDINANCE - TABLED - FIRST READING - ZONE CHANGE - APARTMENT TO LOCAL BUSINESS - GOBBLERS KNOB ROAD - SOUTHWOOD DRIVE (FM 324) - PHIL MEDFORD - NATHAN S. TAYLOR

Mayor Bronaugh stated that the next item for consideration was request of Philip M. Medford & Gann Medford Realty on behalf of Nathan S. Taylor to change the zoning from "A" Apartment to "LB" Local Business on approximately four acres of land located at the southwest corner of the intersection of Gobblers Knob Road and Southwood Drive (FM 324).

Mayor Bronaugh stated that a letter had been faxed to City Hall by Phil Medford stating that he and Mr. Gann and Mr. Taylor would all be out of town this evening and was requesting that this item be tabled until the next Council meeting.

Motion was made by Councilmember Jack Gorden, Jr. and seconded by Councilmember Betty Jones that Ordinance to change the zoning from "A" Apartment to "LB" Local Business on approximately four acres of land located at the southwest corner of the intersection of Gobblers Knob Road and Southwood Drive (FM 324) be tabled until next meeting of the Council on November 4. A unanimous affirmative vote was recorded.

8. ORDINANCE - APPROVED - ZONE CHANGE - RESIDENTIAL SMALL SINGLE FAMILY - SINGLE FAMILY/MIXED USE - WALTERS STREET - KNIGHT AVENUE - HODGE STREET - WOOD AVENUE - MARK PARTINS - LARRY PARKS

Mayor Bronaugh stated that the next item for consideration was the request of Mark Parkins on behalf of Larry Parks to change the zoning from "RS" Residential Small Single Family to "SF/MX" Single Family/Mixed Use on approximately 8.79 acres located between Walters Street, Knight Avenue, Hodge Street and Wood Avenue.

City Manager Maclin stated that included in the Council packet was a memoranda of explanation from the Planning Department and a unanimous recommendation for approval by the Planning & Zoning Commission.

Motion was made by Councilmember Bob Bowman and seconded by

Councilmember Don Boyd that Ordinance for zone change from "RS" Residential Small Single Family to "SF/MX" Single Family/Mixed Use on approximately 8.79 acres located between Walters Street, Knight Avenue, Hodge Street and Wood Avenue be approved on First Reading as presented. A unanimous affirmative vote was recorded.

9. ORDINANCE - APPROVED - ZONE CHANGE - RESIDENTIAL SMALL SINGLE FAMILY - SINGLE FAMILY/MIXED USE - PRAIRIE STREET - MCKINNEY STREET - FREEMAN STREET - STEPHANIE CAWTON-CHURCH

Mayor Bronaugh stated that the next item for consideration was a request by Stephanie Cawthon-Church on behalf of Edith Stark to change the zoning from "RS" Residential Small Single Family to "SF/MX" Single Family/Mixed Use on approximately 69.54 acres of land bounded by Prairie Street on the north, McKinney Street on the west, Freeman Street on the south and the City limits on the east.

City Manager Maclin stated that included in the Council packet is an explanation from the Planning Department along with some maps (the first map in the grey shading shows the area in question, the second map shows the zoning classifications in the area). City Manager Maclin stated that this request comes to the Council with a 5-1 vote recommending denial. City Manager Maclin stated that part of the reason for denial had to do with the size of the land in question. City Manager Maclin stated that the Planning Department tried to seek additional input from the Planning & Zoning Commission about natural boundaries for the location and reducing the area in question, but there was not a consensus at that time.

Stephen Abraham, Director of Planning, stated that the first thing the Planning Department does after receiving a request for an individual to place a mobile home on a single piece of property is to ask that person to go and canvass the neighborhood to see whether there is any interest in allowing mobile homes into the area. Mr. Abraham stated that once he gets some results back on that he then starts looking for logical boundaries using the typical planning standards that are used throughout the country, and as found in the City's Comprehensive Plan. Mr. Abraham stated that typically those boundaries are physical features on the ground such as creeks, streams, streets, etc. - anything that distinguishes one piece of property from another. Mr. Abraham stated that in looking at attachment #1, which is a location map, the street system provides the most logical boundary separation. Mr. Abraham stated that staff did discuss with the Planning & Zoning Commission the possibility of reducing the area, and it is something that the Planning Department had looked at from the standpoint of keeping the line inside McHale Street. Mr. Abraham stated that if he was looking simply to reduce the area that would be acceptable to the Planning Department, his question to the Planning & Zoning Commission was why wouldn't you allow the other side of the street since there are no distinguishing characteristics from one side of the street to the other. Mr. Abraham stated that in using separation techniques there really isn't very much that is available to them from a planning standpoint. Mr. Abraham stated that the orientation as you look at all the various ways the lots are layed out, one acceptable separation point would be the orientation of structures (back to back is a much better separation than side to side or across the street from each other). Mr. Abraham stated that there is really no way to have a back to back orientation in this area. Mr. Abraham stated that it was the Planning Department's feeling that the entire area that is shaded is pretty standard and should have the same zoning classification. Mr. Abraham stated that if it were the desire of the Planning Commission or the City Council to just reduce the area, he would suggest that it be wholly contained within that street and not east of Kent Street and north of McHale.

In response to question by Councilmember Gorden, Mr. Abraham stated that the area Mr. Gorden is referring to is a vacated subdivision and was part of the vacation the City went through as part of the Burke Center. Mr. Abraham stated that this was a subdivision that was never built and was actually held by three or four

different property owners. Mr. Abraham stated that the Freeman Street frontage is actually in the City limits and the yellow dotted line designates the City limit line.

In response to question by Councilmember Jones, Mr. Abraham stated that he believed that changing one lot would constitute "spot zoning", so common boundaries need to be found and he could not find any common boundaries short of that small area inside the street system he had previously discussed.

In response to question by Councilmember Gorden, Mr. Abraham stated that the property in which they are asking to place the mobile home is property owner #2, a one acre tract and currently has a house on it which would mean that the property would have to be subdivided if the mobile home were placed on the lot.

In response to question by Councilmember Gorden, Mr. Abraham stated that he recommended that the request be denied, but he also looked at logical boundaries. Mr. Abraham stated that it is a two part question - what are logical boundaries, and once logical boundaries are established what should the appropriate zoning be. Mr. Abraham stated that since it will have a tremendous impact on a large portion of the City, a lot of these lots can be further divided up and a series of mobile homes placed on individual lots in the area. Mr. Abraham stated that the question was asked if the zoning could be changed on lots 1, 2 and 3, and the answer is that the Council can do what they feel is in the best interest. Mr. Abraham stated that the question that was posed to the Planning & Zoning Commission was why would you not allow #11 to have the same rights and benefits of property owners 1, 2 and 3, and why not #19? Mr. Abraham stated that that is where they got into a quandry, where is the logical stopping point and why would you not allow a neighbor to have the same benefits as these people in the zone change area. Mr. Abraham stated that there is very little that distinguishes one part of this entire area from any other part.

In response to question by Mayor Bronaugh, Mr. Abraham stated that property owners on lots 5 through 10 are bound by the Zoning Ordinance within the City limits and are zoned "Residential Small".

Councilmember Gorden stated that the largest land owner in this area opposes the zone change request.

In response to question by Councilmember Boyd, Mr. Abraham stated that he and Mr. Beiniek drove this area several times and could not find anything that distinguishes one property from another.

In response to question by Councilmember Gorden, Mr. Abraham stated that the Council has the authority to redraw the lines. Mr. Abraham stated that staff will always recommend to the Planning & Zoning Commission and the City Council what they think is technically correct, which avoids any problems such as "spot zoning". Mr. Abraham stated that property owner #16 owns property on three streets, and his property is so oddly shaped that everything impacts his property and he impacts all the other property. In response to question by Councilmember Boyd, Mr. Abraham stated that property owner #16 opposes the zone change, and because he owns so much of the property it will require a 4/5's vote. Mr. Abraham stated that property owner #16 owns more than 20% of the land within a 200' radius.

In response to question by Mayor Bronaugh, Mr. Abraham stated that there are manufactured dwellings that would be appropriate for this situation, but they must be site built and cannot be assembled with an axle and transported from somewhere else. Mr. Abraham stated that the City's Ordinance stipulates that if the home is assembled with an axle so that it can be transported over the highways on its own axle, then it is considered a mobile home. Mr. Abraham stated that if it a pre-fab structure and doesn't have an axle, it is acceptable under the City's Ordinance.

In response to question by Councilmember Boyd, Mr. Abraham stated that simply removing the axled does not make it not a mobile home. Councilmember Boyd stated that, in his opinion, a mobile home is on wheels and stays on wheels. In response to question by Councilmember Boyd as to where Mr. Abraham is basing his ruling on, Mr. Abraham stated that basically the definition of a mobile home is found in the City's Zoning Ordinance. Councilmember Boyd stated that the definition might need to be changed.

Mr. Flournoy stated that he had spent a lot of time on the issue of mobile homes with Mr. Abraham trying to make a workable solution.

Mr. Abraham stated that if the zone change is denied he would be happy to sit down with Mrs. Cawton-Church and let her know what some of her options are.

Motion was made by Councilmember Betty Jones and seconded by Councilmember Bob Bowman that Ordinance to change the zoning from "RS" Residential Small Single Family to "SF/MX" Single Family/Mixed Use on approximately 69.54 acres of land bounded by Prairie Street on the north, McKinney Street on the west, Freeman Street on the south, and the City limits on the east be denied.

Mrs. Stephanie Cawton-Church stated that she was not aware that the man who owned most of the land was not at home when she took her petition around and his wife signed in favor of the request. Mrs. Cawton-Church stated that she realized that her signature did not mean anything now. Mrs. Cawton-Church stated that the other half of Freeman, which is kind of disconnected from the half that she lives on has been zoned Single Family/Mixed Use and a mobile home has just been moved in on that half of Freeman Street. Mrs. Cawton-Church stated that Mr. Abraham said there was no reasonable boundary, but he said that a street is a reasonable boundary, and that is all of Freeman Street.

In response to question by Mayor Bronaugh, Mrs. Cawton-Church stated that there is another half of Freeman Street which is disconnected from the half that she lives on, and that is Single Family/Mixed Use. Mrs. Cawton-Church asked if it wouldn't be reasonable to say that the whole street is Single Family/Mixed Use.

Mayor Bronaugh stated that after this meeting is over he would suggest that Mrs. Cawton-Church and Mr. Abraham get together and talk over her options.

In response to question by Mayor Bronaugh, Mr. Abraham stated that "spot zoning" is a judgement call and that there is not a single book ever written that could tell exactly what "spot zoning" is, it just gives general guidelines.

Mrs. Cawton-Church asked if zoning that short part of Freeman Street would be considered "spot zoning".

The following vote was recorded:

Aye: Councilmembers Jones, Bowman, Gorden, Weems, Simond, and Mayor Bronaugh

Nay: Councilmember Boyd

Mayor Bronaugh stated that the motion carried with six affirmative votes.

Councilmember Boyd stated that his reason for voting no on this is because it looked like to him that something could be worked out.

10. RELEASE - APPROVED - DRAINAGE EASEMENT - LOTS 5 AND 6 - MORGAN-KNIGHT SUBDIVISION

Mayor Bronaugh stated that the next item for consideration was release of a Drainage Easement across lots five and six in the Morgan-Knight Subdivision.

City Manager Maclin stated that included in the Council packet is a letter from Kenneth Vann in the Engineering Department requesting a release of this 20' easement on lots 5 and 6. City Manager Maclin stated that the City will be granted a new 20' drainage easement to cover the new alignment of the drainage sketch, which in essence is how the drainage is functioning at the current time. City Manager Maclin stated that basically the City will just be trading one easement for another easement and the easement we will be trading for is the easement that is currently serving as the drainage easement for this location.

In response to question by Councilmember Weems, Mr. Wright stated that this is a recommendation from the Engineering Department and the reason this came up is because a house is fixing to be built on one of the lots and the easement is encumbering their house location. Mr. Wright stated that the channel is no longer where it was originally and the Engineering Department is trying to fix the problem to release the easement that is underneath their house and move the easement to where the channel is currently located.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Tucker Weems that release for a drainage easement on Lots 5 and 6 of the Morgan-Knight Subdivision be approved as presented.

In response to question by Mayor Bronaugh concerning whose responsibility it would be if in later years there was a problem with erosion, Mr. Wright stated that the new ditch was made many years ago. City Attorney Flournoy stated that, in his opinion, he did not think it would make any difference. Mayor Bronaugh asked if it were legal to change the line of a creek. Mr. Flournoy stated that it was not illegal, especially if the property owners agree to it.

A unanimous affirmative vote was recorded.

11a. BID - APPROVED - AMBULANCE REMOUNT - H-GAC COOPERATIVE PURCASHING PROGRAM - FIRE DEPARTMENT

Mayor Bronaugh stated that the next item for consideration was bids for an ambulance remount.

City Manager Maclin stated that included in the Council packet was a memo from the Purchasing Director David Cochran recommending approval for participation with the Houston-Galveston Cooperative Purchasing Program for the purchase of a remount for an existing ambulance body on a new cab and chassis in the amount of \$38,488.82.

In response to question by Councilmember Boyd, Murry Brown, Asst. Fire Chief, stated that this unit will be replacing the unit that serves the Central Fire Station and Station 5, and is a reserve unit.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Bob Bowman that bid of H-GAC Cooperative Purchasing Program in the amount of \$38,488.82 for an ambulance remount for the Fire Department be approved as submitted. A unanimous affirmative vote was recorded.

11b. BID - APPROVED - FILE SERVER - DP SOLUTIONS - DATA PROCESSING

Mayor Bronaugh stated that the next item for consideration was bids for a file server to be used in the Data Processing Department.

City Manager Maclin stated that included in the Council packet was a memo from the Purchasing Director recommending the bid that was received through DP Solutions of Lufkin in the amount of \$21,125.

In response to question by Councilmember Simond, City Manager Maclin stated that a file server is the computer that allows all the computers to be networked.

In response to question by Councilmember Gorden, City Manager Maclin stated that General Services Commission is the State and local government contract.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Bob Bowman that the bid of DP Solutions in the amount of \$21,125 for a file server to be used in Data Processing be approved as submitted. A unanimous affirmative vote was recorded.

12. EXECUTIVE SESSION

Mayor Bronaugh recessed Regular Session to enter into Executive Session at 5:55 p. m. Regular Session was reconvened at 6:07 p.m. and Mayor Bronaugh stated that Council had discussed appointments to Boards and Commissions and Attorney/Client matters.

13. APPOINTMENTS - APPROVED - ZONING BOARD OF ADJUSTMENT & APPEALS - TAXI CAB COMMITTEE - LT. GEN. OREN WHIDDON - DON DUREN - BENNY MOYE

Motion was made by Councilmember Don Boyd and seconded by Councilmember Bob Bowman that Lt. Gen. Oren Whiddon and Don Duren be re-appointed to the Zoning Board of Adjustments & Appeal. A unanimous affirmative vote was recorded.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Betty Jones that Benny Moyer be reappointed to the Taxi Cab Committee. A unanimous affirmative vote was recorded.

14. COMMENTS

Councilmember Jack Gorden stated that the Investment Committee had met at 3:00 p.m. and reviewed investments and what has taken place since May with the investments. Councilmember Gorden stated that he would like to request a review of the Investment Policy be placed on the Council agenda for next meeting to coincide with recent law changes.

Councilmember Betty Jones reported that the Tree Board had met at 4:30 p.m. and had recommended cutting three trees at the intersection of Card and Tulane, and the removal of three trees at the corner of Hanks and Southwood, and that site preparation work and removal of some trees and underbrush at the new Animal Shelter be approved.

Mayor Bronaugh reminded Council that the TML Conference would be held next week in Ft. Worth.

15. There being no further business for consideration, meeting adjourned at 6:10 p.m.

ATTEST:


Atha Stokes - City Secretary


Louis A. Bronaugh - Mayor