MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 18TH DAY OF FEBRUARY, 1992 AT 5:00 P.M.

On the 18th day of February, 1992, 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
Paul Mayberry	Commissioner, Ward No. 6

being present when the following business was transacted.

1. Meeting was opened with prayer by Chaplain Cindy Goza, Memorial Medical Center.

A moment of silence was observed in memory of Reverend L. D. Bell, Minister of the Mt. Olive Baptist Church, who led the City Commission in the opening prayer at last meeting, and who passed away on Sunday, February 16.

2. Mayor Bronaugh welcomed visitors present.

3. **APPROVAL OF MINUTES**

Minutes of Regular Meeting of February 4, 1992 were approved on a motion by Commissioner Paul Mayberry and seconded by Commissioner Don Boyd. A unanimous affirmative vote was recorded.

4. **ORDINANCE - APPROVED - SECOND READING - CLASSIFICATION PLAN - FIRE DEPARTMENT - LOWERING HIRING AGE FROM 21 YEARS OF AGE TO 18 YEARS OF AGE**

Mayor Bronaugh stated that the first item for consideration was Second Reading of an Ordinance adopting the Classification Plan for the Fire Department, and lowering the hiring age in the Lufkin Fire Department from 21 years of age to 18 years of age.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Danny Roper that Ordinance adopting the Classification Plan for the Lufkin Fire Department be approved on Second and Final Reading, and that lowering the hiring age from 21 years of age of 18 years of age in the Lufkin Fire Department be approved as presented.

The following vote was recorded:

Aye: Commissioners Mayberry, Roper, Bowman, and Mayor Bronaugh
Nay: Commissioners Boyd and Simond

Motion carried by a vote of 4 to 2.*

*Commissioner Gorden was late arriving at the meeting and was not present to vote on this item.

5. **ORDINANCE - APPROVED - SECOND READING - ZONE CHANGE - JACK R. POWELL - RESIDENTIAL LARGE TO LOCAL BUSINESS, SPECIAL USE (GOLF DRIVING RANGE) - SOUTH JOHN REDDITT DRIVE BETWEEN HURRICANE CREEK AND SCENIC ACRES MOBILE HOME PARK**

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance for a Zone Change as requested by Jack R. Powell from Residential Large to Local Business, Special Use (Golf Driving Range) on approximately 6.9 acres of land fronting the south side of John Redditt Drive between Hurricane Creek and the Scenic Acres Mobile Home Park.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Bob Bowman that Ordinance be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

6. **ORDINANCE - APPROVED - SECOND READING - AMENDMENT TO ZONING ORDINANCE - ESTABLISHMENT OF NEW ZONING DISTRICT - SINGLE-FAMILY DWELLING/MIXED USE "SF/MX"**

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance for an Amendment to the Zoning Ordinance by the establishment of a new zoning district classification to be known as Single-Family Dwelling/Mixed Use "SF/MX".

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Paul Mayberry that Ordinance be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

7. **ORDINANCE - APPROVED - SECOND READING - ESTABLISHMENT OF CERTAIN PHYSICAL REQUIREMENTS - ZONING CLASSIFICATION OF MOBILE HOME "MH", MANUFACTURED DWELLING "MD", OR SINGLE-FAMILY DWELLING/MIXED USE "SF/MX"**

Mayor Bronaugh stated that the next item for consideration was Second and Final Reading of an Ordinance for establishing certain physical requirements for single-family residential dwelling structures located within the City limits on property with a zoning classification of Mobile Home "MH", Manufactured Dwelling "MD", or Single-Family Dwelling/Mixed Use "SF/MX".

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

8. **ORDINANCE - APPROVED - FIRST READING - SPECIAL USE PERMIT - PRIVATE CLUB - DON PROFFITT - 112 S. FIRST STREET- CENTRAL BUSINESS ZONING DISTRICT**

Mayor Bronaugh stated that the next item for consideration was First Reading of an Ordinance as requested by Don Proffitt, on behalf of Jerry Moore, for approval of a Special Use Permit for a Private Club at 112 S. First Street and within a Central Business Zoning District.

Mayor Bronaugh stated that when this request was heard by the Planning & Zoning Commission there was a 3-3 vote, which in affect denied the application. Mayor Bronaugh stated that the applicants are now appealing to the City Commission, and it would take a 4/5's vote, or six out of seven votes, to pass.

In response to question by Commissioner Simond, City Attorney Flournoy stated that the 4/5's rule is in the Zoning Ordinance, and what it basically says is if a zone change comes to the City Commission without the recommendation of the Planning & Zoning

Commission, then it requires a 4/5's vote. City Attorney Flournoy stated that 4/5's vote is 5.6, which is more than 5. City Attorney Flournoy stated that the City Commission has the authority to change the Ordinance to where it will require five affirmative votes.

John Fleming, attorney representing Jerry Moore and Don Proffitt, stated that the designated persons to speak on behalf of Mr. Moore and Mr. Proffitt were himself, Sid Medford and Bob Brown. Mr. Fleming stated that he would like to remind the Commission that this request is a hearing on a zoning matter and the item before the Commission is a "land use" question. Mr. Fleming stated that the land use question before the Commission is, "Is the request for a private club zoning Special Use for the purpose of opening a restaurant in downtown Lufkin an appropriate use for the old Abrams building and is this use consistent with the Comprehensive Plan of the City of Lufkin.

Mr. Fleming stated that the request is for a restaurant with a Private Club which will permit a restaurant operation to offer alcoholic beverages in connection with food service, and is not for a nightclub or a bar as it is commonly known. Mr. Fleming stated that the Ordinance for Private Clubs set forth by the City Commission states that a Private Club must demonstrate that the majority of their revenues be derived from the sale of food and not the sale of alcoholic beverages.

Sid Medford, realtor, stated that his interest in the restaurant is that he has a building for sale, and if the building is sold there is the possibility of two or three other buildings in the downtown area on the market that could result in a sale. Mr. Medford stated that in keeping with the Main Street theme, the restaurant will be called Abrams, which is an old established name in Lufkin, and the street side of the building will have an artist's rendition of what the original building looked like. Mr. Medford presented a drawing of the building showing the entrance at the Calder Square side. Mr. Medford stated that from 6 to 10 p.m. each evening the restaurant will offer valet parking. Mr. Medford stated that David Searls has been contracted to be the Restaurant's Manager. Mr. Medford stated that the club will have a showcase of steaks and seafood and the customer will be able to see their food being prepared. Mr. Medford stated that this is a three-level building and the restaurant will be on the second level and the actual bar where alcoholic beverages will be served from is on the first level. Mr. Medford stated that it will be possible to enter the building and go to the restaurant without ever seeing the bar. Mr. Medford stated that the third level of the building will ultimately be used as space for company Christmas parties, going away parties, wedding receptions, etc. Mr. Medford stated that this type of use for the third floor will be greatly appreciated by the public since the closing of the Holiday Inn and Ramada Inn, where these functions were formerly held.

Mr. Medford stated that it is estimated that the sales ratio of food and alcohol will be comparable to that of El Chico's and Casa Ole, which is 85/15%.

Mr. Medford stated that the Comprehensive Plan points out that Lufkin's "Central Business District must provide the goods and services that people want or the area will continue to decay", and that "the downtown business community should seek out entrepreneurs who want to start new businesses and who will take advantage of existing buildings." Mr. Medford stated that the Plan goes on to say that the "services" should be limited to food and entertainment.

Bob Brown, representing the Chamber of Commerce as Chairman of the Economic Development Board, stated that he would be speaking from an economic standpoint of what this business will mean to Angelina County and the City of Lufkin. Mr. Brown stated that there are 27 proposed jobs with a payroll of $400,000 per year, which means a turnover of nearly $2 million in Angelina County. Mr. Brown stated that this restaurant is proposed to generate approximately $1.5 million per year, which could mean an income of $30,000 a year in taxes for the City.

Dawn Glover, Director of Main Street Lufkin, requested that all those present who would be effected by the restaurant to stand, approximately 20 people stood.

Don Duran, a downtown property owner and President of Main Street Lufkin, stated that not only does this restaurant conform to the Comprehensive Plan but a use also suggested by the Main Street experts around the country, which has been successful in towns of similar size to Lufkin. Mr. Duran stated that this proposed use will take advantage of an otherwise empty building which has recently been renovated. Mr. Duran stated that it is his opinion that this proposed use will have the potential of bringing people to downtown Lufkin at night.

Jim Riggs of Lufkin Industries stated that his firm had been a neighbor of the downtown area for 90 years and they are very interested in its vitality and economic good health and its appearance. Mr. Riggs stated that his firm entertains a lot of clients from all over the country and they would appreciate having a place to take them for dinner without having to go out of the county.

Josephine Hughes, Pastor of the New Day Deliverance Holiness Church in downtown Lufkin, stated that she was present in opposition of alcoholic beverages that would be served in the new restaurant. Pastor Hughes stated that her work is to try and get people off of alcohol and drugs. Pastor Hughes stated that a few years ago Casa Tomas attempted to open a restaurant with a club opposite another church in Lufkin and it was defeated. Pastor Hughes stated that if she could not come to the club as a Christian then, it should not be there, because it should be for all people. Pastor Hughes stated that parking in downtown was inadequate. Pastor Hughes stated that Christians should stand up for Christ, and that the Church should be respected.

Pastor Hughes stated that she had a petition that had been signed by 269 people who were opposed to having alcohol in the downtown area.

Also speaking in opposition of the restaurant/club were:

Vincent James, a recovering alcoholic, who asked if there would be a policeman on duty who would be giving sobriety tests to those people leaving the club; and, if there would be a designated driver to drive home those people who have been drinking.

Sherry Martin, who stated that she was opposed to alcohol.

Buddy Leach, who was opposed to alcohol, and was also interested in economic development of businesses that did not sell alcohol.

Kim Harper, pastor of a church located several doors down from the New Day Church, was opposed to alcohol downtown when the church met several nights a week and had services for youth between the ages of 10 and 18 who would be influenced by those people attending the club.

Kenneth Leach, a recovering alcoholic and ex-convict, was opposed to alcohol.

O. W. Williams, Pastor of the Eastview Pentecostal Church, presented a petition to the Commission containing 60 names of adult members of his church who were opposed to alcohol.

Dwight Thrash, downtown merchant, opposed to the restaurant serving alcohol, stated that there had been trouble in the past from clubs in the downtown area. Mr. Trash stated that in order for the club to be legal, the entrance has been moved to the back of the building opening out onto Calder Square.

In rebuttal Mr. Fleming stated that he had a great deal of respect for everyone who had spoken in opposition to this request. Mr. Fleming stated that he was not present to debate the scriptural basis for the use or non-use of alcohol, or whether the abuse of alcohol as opposed to the use of alcohol is a problem in our society--obviously it is.

Mr. Fleming stated that this makes a gigantic leap to say that the opening up of a restaurant of the caliber that is proposed will automatically do all of these devastating things to vast numbers of people and introduce all sorts of unsavory characters downtown. Mr. Fleming stated that he doesn't believe this will be true because of the quality of the project that is going in. Mr. Fleming stated that he doubted that the people who will be patrons of this restaurant will be any more susceptible to the use of crack cocaine than the people who frequent El Chico, Tejas or Casa Ole.

Mr. Fleming stated that with respect to the location in connection to the church - one, the building does face Calder Square, so there is an increased distance from the front of this business to the church, and secondly, even if it were to be considered fronting on First Street, given the way the distances are measured, it would still be sufficiently distant from the front door of the church to pass the 300' requirement. (State law dictates that it be measured from portal to portal, and it has been measured and it complies.)

Mr. Fleming stated that there has been some reference to a previous zoning application by Casa Tomas for a Private Club, Special Use that was denied. Mr. Fleming stated that tonight Nacogdoches has a Casa Tomas, and Lufkin does not.

Mr. Fleming stated that an upscale, national or regional restaurant chain will not consider opening up a restaurant unless it can open in conjunction with a facility for serving alcoholic beverages. Mr. Fleming stated that this is one of the reasons Lufkin people are going to Nacogdoches and Houston to restaurants.

Mr. Fleming stated that the arguments against the restaurant do not relate to zoning, they do not relate to land use--they relate to issues of personal choice.

Pastor Hughes stated that there is vandalism downtown. Pastor Hughes stated that she would ask the Commission if they would like to have a club in front of their church. Pastor Hughes asked that everyone stand who was opposed to the request.

In response to question by Commissioner Mayberry, City Attorney Flournoy stated that the State has pre-emptied the cities' rights in these areas and though the City has some regulations about how far the distance a club must be from a church, they have written their own law in the State statue and the courts have upheld that and said that the City cannot enforce its regulations if it is in conflict with the State statute.

In response to question by Commissioner Boyd, City Attorney Flournoy stated that the City's Ordinance states that the distance must be 300', but the State statute doesn't say that, it is the way they measure the distance.

Commissioner Boyd stated that the Casa Tomas restaurant would have been further away from the First Christian Church than what this restaurant will be from the two churches downtown. Commissioner Boyd stated that a lot of people opposed the Casa Tomas restaurant and, in his opinion, these people should be considered too. Commissioner Boyd stated that what is good for one church is good for the other, and perhaps this club could find another location. Commissioner Boyd asked if there was a way that the percentage of food and alcohol could be guaranteed. Commissioner Boyd admonished everyone to be fair in their decision.

Motion was made by Commissioner Jack Gorden and seconded by Commissioner Danny Roper that Ordinance be approved on First Reading as presented.

The following vote was recorded:

Aye: Commissioners Gorden, Roper, Mayberry, Bowman, Simond, Mayor Bronaugh
Nay: Commissioner Boyd

Motion carried by a vote of 6 to 1.

9. **ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - BROOKSHIRE BROS. (JIM ARNOLD) - RESIDENTIAL MEDIUM TO LOCAL BUSINESS - TRACTS 13-16 OF J. L. QUINALTY SURVEY**

Mayor Bronaugh stated that the next item for consideration was First Reading of an Ordinance as requested by Jim Arnold, on behalf of Brookshire Brothers, for approval of a zoning change from Residential Medium to Local Business on the most western seventy-five feet of Tracts 13, 14, 15 and 16 of the J. L. Quinalty Survey.

City Manager Maclin stated that approval of this request will allow Brookshire Bros. to expand their facilities on North Timberland. The Manager stated that arrangements have been made to purchase the additional property on the back side, and that all the property owners have been agreeable to the expansion.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Bob Bowman that Ordinance be approved on First Reading as presented. A unanimous affirmative vote was recorded.

10. **ORDINANCE - APPROVED - FIRST READING - AMENDMENT TO ZONING ORDINANCE - LOCATION OF MOBILE HOMES - REPEALING ORDINANCE NO. 1580**

Mayor Bronaugh stated that the next item for consideration was First Reading of an Ordinance for an amendment to the Zoning Ordinance of the City of Lufkin, Texas with regard to the location of mobile homes by repealing Ordinance No. 1580.

City Manager Maclin stated that this is the final step relating to the Single Family Dwelling/Mixed Use in revising the Permanent Mobile Home Permit process.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Paul Mayberry that Ordinance be approved on First Reading as presented. A unanimous affirmative vote was recorded.

11. **ORDINANCE - APPROVED - FIRST READING - CITY ELECTION**

Mayor Bronaugh stated that the next item for consideration was First Reading of an Ordinance providing for the calling of a City election, establishing polling places, and setting a date for the election.

Mayor Bronaugh stated that the City Election will be held on Saturday, May 2nd to elect Commissioners for Wards No. 1 and No. 3.

Mayor Bronaugh stated that Early Voting will take place in the City Hall Atrium beginning April 13 and ending on April 28, from 8:00 a.m. to 5:00 p.m.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Don Boyd that Ordinance calling for a City Election be approved on First Reading and setting the day of the Election as May 2, 1992. A unanimous affirmative vote was recorded.

12. **ORDINANCE - APPROVED - FIRST READING - DANGEROUS DOGS**

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

City Manager Maclin stated that the 1988 session of the State Legislature spent a good deal of time dealing with the establishment of State statutes defining "dangerous dog" ordinances. The Manager stated that there was a lot of discussion at that time regarding "breed specific" ordinances. The Manager stated that there is a need in Home Rule cities like Lufkin to make sure that all precautions necessary have been taken to protect the citizens and to establish laws and ordinances that can give citizens some peace of mind and assurance that there are ways that dangerous dogs can be regulated. The Manager stated that there has been an increase in certain types of animals that have a history of a proven propensity towards viciousness and this growth in these breeds of dogs has prompted numerous cities to implement dangerous dog ordinances to help protect their citizens.

The Manager stated that the Animal Control Officer has been working for quite some time on this Ordinance with the Assistant City Manager of Public Works and the City Attorney for a thorough and complete Ordinance to address dangerous dogs and to provide ways to define what a dangerous dog is.

In response to question by Commissioner Roper, Cathy Clark stated that State statutes prohibits cities from being breed specific.

City Attorney Flournoy stated that this Ordinance gives the Animal Control Department the authority to dispose of a dog immediately if it is determined that the dog is dangerous. City Attorney Flournoy stated that there are also provisions in the Ordinance for the potentially dangerous dog that are very specific.

Commissioner Mayberry complemented Ms. Clark and her department for a well-run organization and their good response to the citizens of Lufkin.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Jack Gorden that Ordinance be approved on First Reading as presented. A unanimous affirmative vote was recorded.

13. **ANIMAL SHELTER AGREEMENTS - APPROVED - CITIES OF DIBOLL, HUNTINGTON, HEMPHILL**

Mayor Bronaugh stated that the next item for consideration was animal shelter service agreements with the Cities of Diboll, Huntington, and Hemphill.

In response to question by Commissioner Mayberry, Ms. Clark stated that the changes to the agreement are inclusion of the quarantine fee and changing the holding time for the City of Hemphill. Ms. Clark stated that Hemphill is currently asking the shelter to hold their animals five days, when she is only holding Huntington and Dibolls for three days. Ms. Clark stated that Hemphill is holding their animals for three days to a week before they are bringing them to the shelter. Ms. Clark stated that the charge is $15 for a three-day hold.

Mr. Wesch stated that the shelter would prefer having the space rather than charging for holding the animals two extra days.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Bob Bowman that Animal Shelter Service Agreements for the Cities of Hemphill, Huntington and Diboll be approved as presented. A unanimous affirmative vote was recorded.

14. **ORDINANCE - TABLED - REPEALING ORDINANCE NO. 216 - SPEED OF ENGINES, LOCOMOTIVES, RAILWAY TRAINS WITHIN CITY LIMITS OF CITY OF LUFKIN**

Mayor Bronaugh stated that the next item for consideration was First Reading of an Ordinance repealing Ordinance No. 216 regulating the speed of engines, locomotives and railway trains within the City limits of the City of Lufkin.

City Manager Maclin stated that Southern Pacific had a court case in the Fifth Circuit Court of Appeals in New Orleans that ruled that municipal governments cannot legally regulate train speeds because this is reserved for State and Federal agencies. The Manager stated that Southern Pacific is asking the City to voluntarily repeal the current Ordinance that does regulate the speed of trains. The Manager stated that if the City refuses, Southern Pacific's alternative would be to sue the City in Federal Court to force repealing the Ordinance. The Manager stated that this is in essence an Ordinance that would fall in the category of, "We don't have any enforcement capabilities, so it becomes somewhat useless for it to remain on the books at that point." The Manager stated that he had spoken to the City of Rosenburg, who was another City that was sued in order to have their Ordinance repealed, and the City Manager assured him that his legal council determined that the City had no jurisdiction to regulate the speed of trains. The Manager stated that if the City has a problem, the fastest method would be to seek the aid of their U. S. Congressman or U. S. Senator for quicker action.

In response to question by Commissioner Gorden, Mr. Flournoy stated that Federal law sets the speed limits for trains. Mayor Bronaugh stated that he thought it was important that the City know what the speed limit is. Mr. Flournoy stated that the would get a copy of the Federal statute that sets the speed limits and bring it back to the Commission.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Jack Gorden that Ordinance repealing Ordinance No. 216 regulating the speed of engines, locomotives, and railway trains within the City limits of the City of Lufkin be tabled.

The following vote was recorded:

Aye: Commissioners Gorden, Bowman, Simond, Boyd, Roper, and Mayor Bronaugh
Nay: Commissioner Mayberry

Motion carried by a vote of 6 to 1.

Commissioner Mayberry requested that this item be brought back to the Commission for further consideration at their next meeting on March 3.

15. **HEALTH INSURANCE TRUST FUND - APPROVED - STATUS AND RECOMMENDATION**

Mayor Bronaugh stated that the next item for consideration was status and recommendations relating to the Health Insurance Trust Fund.

City Manager Maclin stated that in relationship to the status of the Health Insurance Trust Fund there is a insurance report that is a summary for the year, and there is another sheet that folds out that gives a breakdown month-by-month in terms of the premiums, the interest, the administrative expense, claims experience and the totals for each of those. The Manager stated that the Health Trust Fund as of January 1, 1992 has a deficit of $179,863.86.

The Manager stated that he had two recommendations relating to this status--#1 is to implement proposed rates on the sheet that was handed out prior to the meeting. The Manager stated that these rates reflect those suggested rates or premiums that were in the Washington National bid, which is the City's current carrier, that went into effect January 1, 1992. The Manager stated that Washington National had a suggested rate for full funding. Full funding means that if the City puts this amount in based on the census makeup of the employees and includes the expense for specific stop-loss insurance and aggregate stop-loss insurance, then the City will be fully funded. The Manager stated that means that the worst the City could come out at the end of the year is a balance of zero dollars, if there is maximum claims experience that triggers aggregate insurance coverage and /or specific stop-loss coverage. The Manager stated that in the past the City has not been fully funding this Health Trust Fund and that is why there is a deficit of $179,000. The Manager stated that staff has put together suggestions for the employee portion, spouse, child and family which represent an increase, but not a significant increase by comparison. The Manager stated that the last increase voted on by the Commission was in 1989 for dependent rates.

In response to question by Commissioner Bowman, City Manager Maclin stated that these are monthly rates and compare extremely favorably with other government entities in Angelina County as far as the rates the City is charging.

The Manager stated that the second part of his recommendation is to transfer $200,000 from the Insurance Loss Fund to cover the shortfall which this administration inherited from previous years of under-funding. The Manager stated that the deficit as of January 1, 1992 is $179,863.86. The Manager stated that the amount needed for the increase in employee rates is approximately $200,000 for the balance of the year. The Manager stated that the Insurance Loss Fund currently has a balance of $765, 964.28, and with this transfer, the balance would be $565,964.28. The Manager stated that it is his opinion that this is the appropriate time to make this transfer because the City does have a new carrier, and if these rates are adopted the City will be fully funded. The Manager stated that staff can communicate through the Employees Newsletter that if the City's claims experience is on the positive side where it does not exceed premiums, then the Fund can build up and at that point offer some other incentives to the employees for health insurance benefits without having to go up on the rates.

The Manager stated that he had some of the same reservations that the Commission probably had of having to make a $200,000 draw down on the Insurance Loss Fund, but the City has no other source to get this amount from that would not adversely impact the financial position of the City. The Manager stated that he had discussed this at length on two occasions with the City's auditor, Lynn Montes, and he was strongly in support of this recommendation that the City go ahead and take the responsibility of catching up the shortfall of the past, and he agreed that now was the appropriate time also to take this action.

In response to question by Commissioner Mayberry, the Manager stated that as long as the City is fully funded this shortfall situation cannot happen again. The Manager stated that if the City is fully funded it cannot lose any money.

City Manager Maclin stated that he was recommending to the City Commission that the suggested rates for dependent care, for spouse, child and family, go into effect April 1st, which will give the City employees the benefit of the old rates for three months.

Commissioner Gorden stated that he was in hopes that when it comes around to budget time we will remember to make some kind of evaluation of the Insurance Fund.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Jack Gorden to approve new health insurance rates for dependent care effective April 1st, and $200,000 be transferred from the Insurance Loss Fund to cover the shortfall. A unanimous affirmative vote was recorded.

Commissioner Mayberry requested that a report on the status of the insurance loss fund be reported at the Financial Quarterly Review.

16. **LEASE AGREEMENT - RENEWED - LUFKIN RECYCLING CENTER - 901 ELLEN TROUT DRIVE**

Mayor Bronaugh stated that the next item for consideration was renewal of lease agreement for Lufkin Recycling Center at 901 Ellen Trout Drive.

City Manager Maclin stated that in the packet there is a letter from the realtor representing the property owner dated January 7, a response from Mr. Wesch, and another letter from the realtor agreeing to Mr. Wesch's negotiations with them. The Manager stated that basically staff explained to the realtor that it was poor timing in notification on their part to try to go up on the lease in the middle of the fiscal year. The

Manager stated that it was explained that this could not be done until the next fiscal year and this would be dependent upon the City Commission's approval on a year-to-year basis. The Manager stated that staff also indicated to the property owner that the City could receive a lease agreement with a first right of refusal if we so desired. The Manager stated that part of staff's request this evening is to enter into this commercial lease agreement that has been included in the packet and then seek the City Commission's input and/or approval to begin negotiations to establish a price for the facility so that at some point in the future if staff felt like it was in the City's best interest to purchase the property, or that there were grant funds available to assist in the purchase, a fair market value could be established that the City could be comfortable with.

Phil Medford, realtor with Gann-Medford Realty, stated that Mr. Joplin purchased the property after the Company that owned the property went bankrupt. Mr. Medford stated that Mr. Joplin owned the building individually, but is now deceased. Mr. Medford stated that Mr. Joplin's heirs own a business in Houston that is known as the Oil and Gas Manufacturing Company. Mr. Medford stated that Mr. Joplin passed away after the City of Lufkin executed their first lease agreement with him.

Mr. Medford stated that he was not able to give the Commission the market value of the property today because the real estate market is depressed at this time. Mr. Medford stated that Mr. Joplin paid $250,000 when he purchased the six acres of property.

In response to question by Commissioner Mayberry, Mr. Medford stated that regardless of what the City is doing with the property, there are six acres of land, the building, the overhead crane, and the rail frontage at the rear, that has some commercial salient features that are important. Mr. Medford stated whether the City needs all of this for the recycling center is a point that Mr. Joplin is aware of but this will not be the ultimate determination of what the property is worth.

Mayor Bronaugh stated that the City had the property for the first six months without paying any rent because it was in such poor condition. Mayor Bronaugh stated that the City is not paying rent on five acres of the property.

Commissioner Simond stated that it would be more advantageous for the City to build its own building as opposed to paying rent. Commissioner Simond stated that Mr. Wesch and his employees built the City Garage and did as good a job as if a contractor had built it.

The Manager stated that on the bottom paragraph of the first page of the commercial lease agreement that this lease from year to year after September 30th of each year is subject to the City Commission's inclusion in the budget. The Manager stated that if the City Commission doesn't want to rent this building any more after September 30th this year, that's the end of it, or if next year you decide September 30, 1993, you don't want it included in the next year's budget, that's the end of the lease. The Manager stated that the purpose of that is that it gives the City a place to continue to operate while at the same time to take into account the possibility that if the City sees that it owns a piece of property or the ability to build a building cheaper than we can lease, or there is the opportunity to secure a grant that will assist the City in this, the door will be open to do so. The Manager stated that this is not a long term commitment. The Manager stated that the State has said that by 1994 the City will be mandated to reduce our waste at the landfill by 40%. The Manager stated that the area of recycling is changing daily, markets are changing daily, and legislature probably will be changing daily that will force recycling upon the American public in a greater way than it ever has in the past in order to meet the 40% mandate.

The Manager stated that it was premature for the City to go out and build a recycling facility today when we don't know what we will hopefully know in the next 24 months regarding the future of recycling.

The Manager stated that if the Commission through the Budget Workshops wants staff to pursue construction of a capital outlay for a recycling facility at another location, it can be done.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Bob Bowman to renew the lease agreement with Gann-Medford Realty for the Lufkin Recycling Center at 901 Ellen Trout Drive. A unanimous affirmative vote was recorded.

17. **DEMOLITION ASSISTANCE - APPROVED - SALVATION ARMY REQUEST - 344 CHARLTON STREET**

Mayor Bronaugh stated that the next item for consideration was assistance of demolition service for dilapidated building located at 344 Charlton Street for the Salvation Army.

City Manager Maclin stated that a letter from Captain Paul White, the Commanding Officer of the local Salvation Army, had been included in the Commissioner's packets. The Manager stated that also included in the packet is the response from the Assistant City Manager of Public Works Ron Wesch with some estimated costs.

Mr. Wesch stated that he had included two recommendations in his letter. Mr. Wesch stated that if Captain White can hold off on tearing down this building until the Public Works Department can acquire the tub grinder, which has been approved under the Temple Grant for recycling (with expected delivery within the next 90 days), that would give his Department the opportunity to turn the building materials into compost. Mr. Wesch stated that this would then allow items #1 and #4 of the cost estimate to be totally deleted. Mr. Wesch stated that the only cost to the City would then be items #3 which is the lease of the track front end loader for $1,120. Mr. Wesch stated that if in the event that the house needs to be torn down now in order for the Salvation Army to put a playground on the property, it is his recommendation that the Salvation Army pick up the cost of items #3 and #4 which are the track front-end loader and the landfill cost ($3,430).

In response to Commissioner Mayberry, Mr. Wesch stated that if the tub grinder comes in, the only cost the City will have is $1,120 for the lease of the track front-end loader.

In response to question by Mayor Bronaugh, Mr. Wesch stated that those parts of the house that will not go through the tub grinder will be taken to the landfill at a minimal cost as compared to what it would cost if all the debris was taken to the landfill.

In response to question by Mayor Bronaugh, Captain White stated that he had talked to three housemovers and they have all recommended tearing the house and garage apartment down. Captain White stated that the Salvation Army was thinking about keeping the house and using it for rental property, except that the house is 70-80 years old and it would cost too much to restore it and bring it up to City Code. Captain White stated that the house is currently occupied.

In response to question by Commissioner Gorden, Mr. Wesch stated that the house is liveable at this time but the two-story garage apartment could be considered dilapidated.

In response to question by Commissioner Gorden, Captain White stated that the Salvation Army Advisory Board recommended that since they were not in the rental business, for him to contact the City for assistance in demolishing the houses. Captain White stated that he is in the process of negotiating for the purchase of the property which is presently owned by Joe Rich and his sister.

Captain White stated that he plans to clean up the property, leaving ten of the trees, and making a playground and picnic area for the neighborhood children. Captain White stated that when visitors come into the City and turn off of Denman this property is an eyesore. Captain White stated that the closest playground areas are Kiwanis Park and Chambers Park.

Mayor Bronaugh stated that at the present time the City is not able to go forward with its demolition program for dilapidated houses because of conditions at the landfill.

The Manager stated that this would be considered a charitable contribution and when the City demolishes dilapidated houses it puts a lien against the property.

Mr. Wesch stated that a reasonable price for hauling the remaining debris to the landfill after the tub grinder is used would be $350-400.

Motion was made by Commissioner Paul Mayberry and seconded by Commissioner Don Boyd that the City participate in the demolition of the buildings, when the City equipment (tub grinder) comes in, for property located at 344 Charlton to the extent of the City's labor and equipment that they can provide to remove those structures if the Salvation Army will provide the money for leasing the additional equipment necessary to complete the project plus the landfill costs (approximately $1,500). A unanimous affirmative vote was recorded.

In response to question by Mayor Bronaugh, Commissioner Bowman stated that this property has special circumstances because it will be a playground, and that each case should be looked at on its own merit. City Attorney Flournoy stated that this is a United Way Agency, and that is why it can be looked at differently.

18a. **BID - APPROVED - RADIOS - POLICE DEPARTMENT - EASTEX COMMUNICATION**

Mayor Bronaugh stated that the next item for consideration was bid on radios to be used in the Police Department.

City Manager Maclin stated that the staff recommendation is to award the low bid that meets the City's specifications to Eastex Communication in the amount of $9,270. The Manager stated the radios are for Police Department vehicles.

Dave Hendricks of Diversified Electronics protested that he was the low bid and he did not understand where his bid did not meet the specifications. Chief Collins stated that this was an under the dash unit that is self-contained, and does not meet the specifications in the alpha numeric display that was specified.

Mr. Hendricks stated that he was told that the radio he bid did not meet the technical specifications, and, in his opinion, the radio meets or exceeds all the technical specifications. Mr. Hendricks stated that there is a physical difference, which has no bearing on its ability to perform at a technical level. Mr. Hendricks stated that with the description of the control head, that does not say what it does, forces a bidder to bid on a specific brand. Mr. Hendricks stated that he is bidding a Maxon unit.

Chief Collins stated that the City has been criticized in the past for writing specifications that were too specific. Chief Collins stated that two years ago his staff met with all the vendors of mobile radio equipment to write some very generic specifications. Chief Collins stated that they had reduced the specifications from three pages to 10 or 11 lines of specifications that have been included in this packet. Chief Collins stated that the radio bid that he is recommending is for an under the dash unit and is not a trunk mount with a remote head. Chief Collins stated that he had specified a trunk mount radio.

In response to question by Commissioner Mayberry, Mr. Hendricks stated that his equipment meets or exceeds all of the technical specifications, but it does not necessarily meet the physical dimensions or specifications that have been presented in the bid sheet. Mr. Hendricks stated that trunk mount radio has another connector and another cable resulting in loose connectors and cables. Mr. Hendricks stated that state-of-the-art equipment now is where a trunk mount radio is in effect obsolete at low power levels.

In response to question by Mayor Bronaugh, Mr. Hendricks stated that the others bids were for trunk mount radios in compliance with the description on the bid. Mr. Hendricks stated that he bid the entire system, all the labor and all the work for $5,495 with a five year warranty on parts and labor.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Danny Roper that bid of Eastex Communications in the amount of $9,270 be approved as submitted.

The following vote was recorded:

Aye: Commissioners Roper, Gorden, Bowman, Simond, Boyd and Mayor Bronaugh
Nay: Commissioner Mayberry

Motion carried by a vote of 6 to 1.

18b. **BID - APPROVED - TRUCKS - RECYCLING/WATER DISTRIBUTION/WATER POLLUTION CONTROL - AL MEYER FORD**

Mayor Bronaugh stated that the next item for consideration was bids on trucks to be used in the Recycling, Water Distribution and Water Pollution Control Departments.

City Manager Maclin stated that the staff recommendation is the low bid of Al Meyer Ford in the amount of $15,926.50 for the one ton unit to be used in the Recycling Department; $18,158.50 for the one ton unit with utility body to be used in the Water Distribution Department; and $15,079.50 for the 3/4 ton unit to be used in the Water Pollution Control Department.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Bob Bowman that bid of Al Meyer Ford be accepted as the low bid. A unanimous affirmative vote was recorded.

18c. **BID - APPROVED - GUNS - POLICE DEPARTMENT - EASTERN POLICE SUPPLY**

Mayor Bronaugh stated that the next item for consideration was guns for the Police Department.

City Manager Maclin stated that the staff recommendation is the low bid of Eastern Police Supply in the amount of $9,392.60.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Don Boyd that the bid of Eastern Police Supply in the amount of $9,392.60 be accepted as submitted. A unanimous affirmative vote was recorded.

19. **EXECUTIVE SESSION**

Mayor Bronaugh recessed regular session at 8:00 p.m. to enter into Executive Session. Regular session was reconvened at 8:21 p.m. and Mayor Bronaugh stated that the Commission had discussed real estate matters and appointments to several boards.

20. **APPOINTMENTS - APPROVED - PLUMBING APPEALS & ADVISORY/JOSEPH OLIVER - LUFKIN BOARD OF DEVELOPMENT/STANLEY NEW - PLANNING & ZONING COMMISSION/HERBERT CROSS - TREE BOARD/PERCY SIMOND**

Motion was made by Commissioner Don Boyd and seconded by Commissioner Bob

Bowman that Joseph Oliver be re-appointed to the Plumbing Appeals & Advisory Board. A unanimous affirmative vote was recorded.

Motion was made by Commissioner Bob Bowman and seconded by Commissioner Don Boyd that Stanley New be re-appointed to the Lufkin Board of Development. A unanimous affirmative vote was recorded.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Bob Bowman that Herbert Cross be re-appointed to the Planning & Zoning Commission. A unanimous affirmative vote was recorded.

Motion was made by Commissioner Jack Gorden and seconded by Commissioner Don Boyd that Percy Simond be re-appointed to the Tree Board. A unanimous affirmative vote was recorded.

21. **COMMENTS**

City Manager Maclin stated that a meeting of the Redistricting Subcommittee was scheduled for Thursday, February 20 at 3:00 p.m. in the Conference Room. City Manager Maclin stated that the next scheduled DETCOG meeting would be held in Crockett on Thursday, February 27.

22. There being no further business for consideration, meeting adjourned at 8:30 p.m.

Louis A. Bronaugh
Louis A. Bronaugh - Mayor

ATTEST:
Atha Stokes
Atha Stokes / City Secretary