

MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF
LUFKIN, TEXAS, HELD ON THE
10th DAY OF FEBRUARY 2004

On the 10th day of February 2004 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
R. L. Kuykendall	Councilmember, Ward No. 1
Rose Faine Boyd	Councilmember, Ward No. 2
Lynn Torres	Councilmember, Ward No. 3
Don Langston	Councilmember, Ward No. 4
Dennis Robertson	Councilmember, Ward No. 6
C. G. Maclin	City Manager
Atha Martin	City Secretary
Bob Flournoy	City Attorney
Keith Wright	City Engineer
David Koonce	Director of Human Resources
Kenneth Williams	Director of Public Works
Douglas Wood	Director of Accounting
Stephen Abraham	Director of Planning

being present and

Jack Gorden, Jr.

Mayor pro tem

being absent when the following business was transacted.

1. Meeting was opened with prayer by City Manager C. G. Maclin.
2. Mayor Bronaugh welcomed visitors present. Councilmember Torres welcomed Lufkin High School seniors.

3. APPROVAL OF MINUTES

Minutes of the Regular Meeting of January 20, 2004 were approved on a motion by Councilmember Dennis Robertson and seconded by Councilmember Lynn Torres. A unanimous affirmative vote was recorded.

4. CANVASS OF FEBRUARY 7, 2004 ELECTION

Mayor Bronaugh stated that the first item for consideration was to canvass the votes of the February 7, 2004 election that was a 4B Economic Development Sales Tax election.

Mayor Bronaugh announced the results of the election by Ward.

Early Voting:

Repeal of the 1/8 th cent sales tax	For:	1,012	Against:	396
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Adoption of 4-B Sales Tax	For:	876	Against:	503
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Total number of votes for Early Voting: 1,423

Ward 1:

Repeal of the 1/8 th cent sales tax	For:	28	Against:	4
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Adoption of 4-B Sales Tax	For:	19	Against:	9
Total number of votes for Ward 1:		32		

Ward 2:

Repeal of the 1/8 th cent sales tax	For:	21	Against:	11
Adoption of 4-B Sales Tax	For:	12	Against:	19
Total number of votes for Ward 2:		63		

Ward 3:

Repeal of 1/8 th cent sales tax	For:	51	Against:	27
Adoption of 4-B Sales Tax	For:	41	Against:	36
Total number of votes for Ward 3:		79		

Ward 4:

Repeal of 1/8 th cent sales tax	For:	166	Against:	35
Adoption of 4-B Sales Tax	For:	139	Against:	60
Total number of votes for Ward 4:		202		

Ward 5:

Repeal of 1/8 th cent sales tax	For:	187	Against:	43
Adoption of 4-B Sales Tax	For:	160	Against:	73
Total number of votes for Ward 5:		241		

Ward 6:

Repeal of 1/8 th cent sales tax	For:	87	Against:	33
Adoption of 4-B Sales Tax	For:	64	Against:	57
Total number of votes for Ward 6:		123		

Mayor Bronaugh stated that 693 ballots had been cast on election day.

Mayor Bronaugh stated that there were 1,423 ballots cast for Early Voting but when the ballots were counted on Saturday by the Early Voting Ballot Board it was determined that six ballots were found to be ineligible by the Board. The new total for Early Voting is 1,417.

Mayor Bronaugh stated that the Provisional Ballots were sent to Mr. Shanklin at the Court House Monday morning. Mayor Bronaugh stated that he would read the State's definition of a provisional ballot, which is new this year. Mayor Bronaugh stated that provisional ballots are cast by voters whose names do not appear on the precinct roster, but they may still cast a ballot. Mayor Bronaugh stated that the voters use a regular precinct ballot which is then placed in a special envelope that they must sign. On Monday after the election on Saturday the provisional ballots are taken to the County Registrar's office and every effort is made to find the voter on the roster. Once verified, the ballot is added to the official count; however, if the County Voter Registrar finds that the voter is ineligible to cast a ballot, then the ballot is not counted. Once a provisional ballot is cast, the voter has the right to know if his ballot was counted and is notified by mail. By voting a provisional ballot, it will allow voters to registration status before the next election.

Mayor Bronaugh stated that the totals that were published in the Lufkin Daily News are a little different than what has been said here today, and that is the reason. Mayor Bronaugh stated that if there is anyone having a question regarding the provisional votes, it will be clarified after this meeting.

Mayor Bronaugh recognized the Early Voting Ballot Board: Chairman Bennie Moya LaFrancis Kelley, Maurice Johnson and Anne Martinez.

Mayor Bronaugh gave the results of the Provisional Ballot votes:

Repeal of the 1/8 th cent sales tax	For:	10	Against:	3
Adoption of the 4-B Sales Tax	For:	9	Against:	4

Mayor Bronaugh stated that the totals for the repeal of the 1/8th cent sales tax are:

For: 1,552

Against: 549 for a total of 2,101 votes cast

Adoption of the 4-B Sales Tax:

For: 1,311

Against: 757 for a total of 2,068 votes cast

Motion was made by Councilmember Don Langston and seconded by Councilmember Lynn Torres to accept the canvass of the February 7th election as presented. A unanimous affirmative vote was recorded.

5. PARKING ORDINANCE – APPROVED – SECOND READING

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance amending the Parking Ordinance.

Motion was made by Councilmember Rose Faine Boyd and seconded by Councilmember Lynn Torres that the Amendment to the Parking Ordinance be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

6. ORDINANCE – APPROVED – SECOND READING – CLOSURE OF ALLEY – ANGELINA TO FIRST STREET PARALLEL TO TOWNSEND AND BURKE

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance for closure of alley from Angelina to First Street parallel to Townsend and Burke.

In response to question by City Attorney Flournoy, Mr. Wright stated that the appraisal for the property had come in today.

Motion was made by Councilmember Don Langston and seconded by Councilmember R. L. Kuykendall that Ordinance for closure of alley from Angelina to First Street parallel to Townsend and Burke be approved on Second and Final Reading as presented and that the City Attorney be authorized to prepare a deed transferring the property to The District (Brazos Transit). A unanimous affirmative vote was recorded.

7. ORDINANCE – APPROVED – FIRST READING – MAY 15th GENERAL ELECTION

Mayor Bronaugh stated that the next item for consideration was First Reading of an Ordinance setting a time and date for the May 15th General Election.

City Manager Maclin stated that on the Council table is the proposed Ordinance prepared by the City Secretary in both English and Spanish. Mr. Maclin stated that this is the normal time for a Council election for Wards 1 and 3. Mr. Maclin stated that the State legislature changed our election date to the third Saturday in May instead of the first Saturday in May for the first time in a long time. Mr. Maclin stated that it was his understanding that in 2005 that will go back to the first Saturday in May.

Motion was made by Councilmember Rose Faine Boyd and seconded by Councilmember R. L. Kuykendall that First Reading of an Ordinance setting a time and date for the May 15th General Election be approved as presented. A unanimous affirmative vote was recorded.

8. **RESOLUTION – APPROVED – FAIR SHARE FOR FEDERAL HIGHWAYS**

Mayor Bronaugh stated that the next item for consideration was a Resolution for Fair Share for Federal Highways.

City Manager Maclin stated that this is a Resolution of support to encourage our Texas Legislature, both in the House and in the Senate, to do due diligence on their part to try to get us up to 95% of return on our gasoline tax dollars that we pay as Texans that go to Washington. Mr. Maclin stated that Texas is what's known as a donor state and we've been a donor state for many years. Mr. Maclin stated that we are trying not to be so much of a donor state; we'd like to be closer to a "get back what we pay in" since basically every time you buy a gallon of gasoline so many cents of Federal gasoline tax are collected and that goes to Washington. Mr. Maclin stated that currently we are getting 88 cents but there is a move to get 95 cents on each dollar that we send to Washington. Mr. Maclin stated that states like Massachusetts send in a dollar and get three dollars back. Mr. Maclin stated that if we can go from 90 cents to 95 cents that would add an additional \$200 million in highway funds for the state of Texas. Mr. Maclin stated that we are part of many other cities and organizations across the State who are encouraging our legislatures through this Resolution to support a 95 cent return to Texas for the highway fund.

Motion was made by Councilmember Dennis Robertson and seconded by Councilmember R. L. Kuykendall that the Resolution for the Fair Share for Federal Highways be approved as presented. A unanimous affirmative vote was recorded.

9. **RESOLUTION – APPROVED – COUNCIL MEMBERS SERVING AS VOLUNTEERS**

Mayor Bronaugh stated that the next item for consideration was a Resolution providing that members of the Lufkin City Council may serve as volunteers in organizations that protect the health, safety or welfare of the community.

City Manager Maclin stated that this is an item brought to staff's attention by Mr. Robertson and there was some confusion about this in the past and the legislature tried to address it where there was some question about whether a Councilmember could serve dual service – on City Council and on another volunteer group. Mr. Maclin stated that basically what staff is seeking tonight is a Resolution on the part of the Council to set the opportunity then to make it clearly allowable for Councilmembers to serve both as a Councilmember since our Councilmembers do receive no pay and to serve as a volunteer in organizations that protect the health, safety or welfare of the community. City Manager Maclin stated that this is the format that TML and others have utilized to accomplish this task thereby making it clear that our City Councilmembers, if they so desire, can serve in a volunteer capacity.

Councilmember Robertson stated that he had asked Mr. Maclin to put this item on the agenda, but he has a problem with the Resolution as it is stated because there is important information left out of the Resolution that is in the Act. Councilmember

Robertson read, "A member of the governing body of a municipality may serve as a volunteer for an organization that protects the health, safety or welfare of the municipality *regardless of whether the organization is funded or supported in whole or in part by the municipality*. Councilmember Robertson stated that it makes a distinction between organizations that we might volunteer to whether or not the City either funds those wholly or in part. Councilmember Robertson stated that, in his opinion, that is an important distinction between that and an organization that does not receive any funding from the City. Councilmember Robertson stated that we need to make that distinction clear and he would make the recommendation based on him having suggested putting this on the agenda, tabling this until we get the wording corrected so it can be analyzed properly.

City Manager Maclin stated that we can add it exactly as Mr. Robertson said it tonight but if he wants it tabled that's find too.

Councilmember Robertson stated that he made this recommendation primarily because he was volunteering to the Angelina Beautiful/Clean organization and the Lufkin Landscape Task Force, both of which receive funding and support from the City. Councilmember Robertson stated that he has resigned from both of those organizations based on his own personal concern about the ethics that can be involved in this and he doesn't think that it is proper that a City Council person should volunteer for those organizations because of the perception either by the organization or the public that that City Councilperson has leverage for that organization with the City in the budgeting process and it can be construed that that person would favor budgets for those organizations when it came up for a vote. Councilmember Robertson stated that he is not for this Resolution because of the ethics involved and just his personal conclusion with how the way City governments and organizations ought to run and the ethics involved between those.

Mayor Bronaugh stated that we were not aware of this particular problem. Mayor Bronaugh stated that he volunteers on the Angelina City/Counties Health District Board and there are many things that he volunteers on. Councilmember Robertson stated that this did not come into play until 2001 when it was passed by the legislature. Councilmember Robertson stated that up until that time it was a mute point. Councilmember Robertson stated that since 2001 we should have been made aware of this fact and passed this Resolution or not passed it back in 2001.

City Manager Maclin stated that the difference between Angelina Beautiful/Clean and the City/County Health Board are two totally different situations. Mr. Maclin stated that the Mayor serves as the City's representative for the oversight of the total funds that go into that budget. Mr. Maclin stated that he did not want Council to get too confused with volunteer organizations versus an organization that has a much longer history than a 2001 Bill and to say that the Mayor could not legally serve to represent the City – he did not know if that would be appropriate.

Councilmember Robertson asked if there was a provision on health districts and where library boards have been established that a Council person or the Mayor would be appointed to that Board, and that would make a difference. City Manager Maclin stated that if this Resolution is going to be tabled and rewritten we would need to take those kinds of things into account to minimize any confusion. Mr. Maclin stated that Mr. Robertson is bringing up a point that could be confused from the Mayor's standpoint and the example he just gave. Councilmember Robertson stated that if the City Council agrees that a person on the Council is assigned as a representative from the City to that organization, like the City/County Health District, he didn't see that as quite the same situation as the other things he mentioned.

Motion was made by Councilmember Dennis Robertson and seconded by Councilmember Lynn Torres that a Resolution providing that members of the Lufkin

City Council may serve as volunteers in organizations that protect the health, safety or welfare of the community be tabled for further review by the City Attorney.

The following vote was recorded:

Aye: Councilmembers Robertson, Torres, Boyd, Kuykendall and Mayor Bronaugh
Nay: Councilmember Langston

Motion carried with five affirmative votes.

10. **BID – APPROVED – SANITARY SEWER MATERIALS**

Mayor Bronaugh stated that the next item for consideration was bids for sanitary sewer materials.

City Manager Maclin stated that included in the Council packet is a bid tabulation for the sewer line that will be used to upgrade the City's sanitary sewer system in the Ellis Street area. Mr. Maclin stated that the staff recommendation is the bid of Hughes Supply at a unit price of \$13.70 per foot for an estimated total of \$16,577.

Motion was made by Councilmember Don Langston and seconded by Councilmember Rose Faine Boyd that the bid of Hughes Supply in the amount of \$16,577 be approved as submitted. A unanimous affirmative vote was recorded.

11. **EXECUTIVE SESSION**

Mayor Bronaugh recessed Regular Session at 5:31 p. m. to enter into Executive Session. Regular Session reconvened at 5:57 p.m. and Mayor Bronaugh stated that Council had discussed personnel and Attorney/Client matters.

City Attorney Flournoy made recommendation that the following dilapidated buildings be demolished:

1404 Bowers Street (Also has a burned out trailer house on lot illegally and is also condemned.)

807 Thompson

503 N. Banks

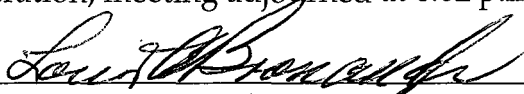
803 Jordan

Motion was made by Councilmember Rose Faine Boyd and seconded by Councilmember R. L. Kuykendall that the houses recommended by the City Attorney for demolition be approved as submitted. A unanimous affirmative vote was recorded.

12. **CALENDAR NOTATIONS FROM MAYOR, COUNCILMEMBERS AND CITY MANAGER**

City manager Maclin stated that the next Council meeting is a week from today.

13. There being no further business for consideration, meeting adjourned at 6:02 p.m.


Louis A. Bronaugh – Mayor

ATTEST:

Atha Martin – City Secretary