

MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF
LUFKIN, TEXAS, HELD ON THE
4th DAY OF MAY 2004

On the 4th day of May 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
Jack Gorden, Jr.	Mayor pro tem
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
Chief Larry Brazil	Interim 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 when the following business was transacted.

1. Meeting was opened with prayer by Rev. Frank Starr, Pastor, First Lutheran Church.
2. Mayor Bronaugh welcomed visitors present. Councilmember Torres recognized LHS students who were present satisfying their government class requirement.
3. **APPROVAL OF MINUTES**

Minutes of the Regular Meeting of April 20, 2004 were approved on a motion by Councilmember Lynn Torres and seconded by Councilmember Rose Faine Boyd. A unanimous affirmative vote was recorded.

4. **ORDINANCE – APPROVED – FIRST READING - ALLEY CLOSING – BLEDSOE STREET BETWEEN FRANK AVENUE AND MOORE STREET**

Mayor Bronaugh stated that the next item for consideration was First Reading of an Ordinance to close an alley off Bledsoe Street between Frank Avenue and Moore Street.

Chief Brazil stated that included in the Council packet is a memorandum from Debbie Fitzgerald, Assistant Public Utilities Director. Chief Brazil stated that a request had been made inquiring about the possible closure and purchase of the alleyway just off Bledsoe Street between Frank and Moore Avenue. Chief Brazil stated that Jake Lyons & Associates have appraised the property at a value of \$11,120. Chief Brazil stated that the Engineering Department is recommending that the Council approve the closure of this alley and the property be sold to the interested person.

In response to question by Councilmember Robertson, Mrs. Fitzgerald stated that the alley is 20' wide and is 99.94' long. Mrs. Fitzgerald stated that a plat had been included in the packet information. City Attorney Flournoy stated that it is approximately 20,000 SF.

Motion was made by Councilmember Rose Faine Boyd and seconded by Councilmember R. L. Kuykendall that Ordinance to close an alley off Bledsoe Street between Frank Avenue and Moore Street be approved on First Reading as presented and that the property be sold at a fair market value of \$11,120. A unanimous affirmative vote was recorded.

5. ELECTRIC CONTRACT RENEWAL – TXU ENERGY

Mayor Bronaugh stated that the next item for consideration was the electric contract renewal with TXU Energy.

Chief Brazil stated that the City's electric agreement with TXU Energy would expire May 31, 2004. Chief Brazil stated that a new agreement prepared by TXU Account Manager Tim Allen is included in the Council packet that reflects an increase in the proposed electric rates.

Mr. Allen complimented the City staff on their efforts with the shuttle disaster.

Mr. Allen stated that so much has changed in the market place since the last time he was before Council, and he wanted to keep Council updated and let them know exactly what was happening in the market. Mr. Allen stated that on page one of the packet information is a four-month, four-year strip of natural gas. Mr. Allen stated that natural gas has a high impact on the electric rates in Texas. Mr. Allen stated that the two blue triangles on the right side of the page are the dates that the City of Lufkin locked in the rates on their first two contracts since deregulation started. Mr. Allen stated that the red triangle on the left represents where the gas market is today. Mr. Allen stated that you could see that there is a considerable increase and because of that, the electric rates are going up. Mr. Allen stated that on page 2 is the same chart but it is in a linear basis and it illustrates where those same points are, and you can see that since the last time the City signed the contract the market has gone up and is having a hard time coming back down. Mr. Allen stated that page 3 is kind of conflicting data and really does not make sense. Mr. Allen stated that every week they get a natural gas storage report and the natural gas rig count. Mr. Allen stated that the green line on the chart on the left represents where the storage levels are. Mr. Allen stated that gas storage is back on the incline. Mr. Allen stated that on the right side is the rig count and it is the highest that it has been in five years. Mr. Allen stated that natural gas is being heavily influenced by the crude oil market. Mr. Allen stated that he was not sure we had a bright future in the short term. Mr. Allen stated that the government is working on some programs trying to get more production going, but there is the threat of terrorism. Mr. Allen stated that the threat of terrorism is helping to drive up the cost of natural gas.

Mr. Allen stated that page four is just an index of several rate proposals that he has brought to the City. Mr. Allen stated that the first year of deregulation there was basically just a flat rate and since then the market has progressed enough and his company has gotten innovative and creative and are constantly looking for ways and ideas and rate structures to bring flexibility to the customer. Mr. Allen stated that the next page is a summary of the rates taken on April 27 and the market has changed a little since then. Mr. Allen stated if you are looking at a one-year fixed rate you are looking at a little over six cents per kilowatt hour. Mr. Allen stated that we are almost back to the rate of the old regulated rates, but in that time there have been four fuel increases. Mr. Allen stated that even though rates are going up, it's still representing probably at least a 20% savings over the old regulated rates that you can always go back to because those options are still there. Mr. Allen stated that the next pages support each rate option. Mr. Allen stated that the first set of rates are just flat rates and is nothing more than a price per kilowatt hour, 24 hours a day, each day of that year. Mr. Allen stated that the second set of pricing is the extendable pricing and those are considerably lower than flat rates. Mr. Allen stated that TXU gives a discount up front for the first term for the option of extending it for the second term at that same price.

Mr. Allen stated that they have found that in the market there are opportunities for them to purchase power in the future at discounted rates. Mr. Allen stated that in the past they never had a way of capturing that market. Mr. Allen stated that if prices continue to go up there is no way they can bring that same price back to the City at that level. Mr. Allen stated that today we are looking for the best option for the City, but at the same time you are getting the discount up front.

Mr. Allen stated that on page 5 there is an option called Market Participation Service and is a flat rate. Mr. Allen stated that basically they have found a way to cap that rate and if gas prices come down, the City's rate comes down with it. Mr. Allen stated that pages 6, 7, 8 and 9 are illustrations of that and it is based on a quarterly basis. Mr. Allen stated that the City's budget could move even lower if the average futures price for a calendar quarter settles at or below the predetermined target. Mr. Allen stated that the benefits are that they monitor the market and automatically apply the quarterly discount. Also, the rate can go no higher than the initial contracted price and it is tied directly to NYMEX.

Mr. Allen stated that the next few pages are kind of "busy", but basically in simplistic terms if gas drops, you drop with it. Mr. Allen stated that page 10 is a little more creative rate option. Mr. Allen stated that the fixed rate has two components to it – it has what is called a heat rate or conversion factor and the natural gas prices. Mr. Allen stated that natural gas right now is high. Mr. Allen stated that on page 11 it gives the definition of what that conversion factor is. It is nothing more than power prices divided by gas prices and right now this conversion factor has a good price on it. Mr. Allen stated that in general, as gas prices rise, the conversion factor declines, therefore, now is a good time to lock in a conversion factor and create a window of opportunity to catch a dip in the gas market.

Mr. Allen stated that for the last couple of years the City had the real good rates at a little over 12 to a 14 heat rate, and right now heat rates are running below 11. Mr. Allen stated that you can always lock in that side of the equation and try to ride out the gas side and lock that in at any time. Mr. Allen stated that the City will have the flexibility to go out four or five years and start locking in the long term months.

Mr. Allen stated that the last trading day in the NYMEX in May locks in June's rates.

Mr. Allen stated that he just got a report today that it is being anticipated that this will be one of the hottest summers, which means that things will be going up.

In response to question by Councilmember Langston, Mr. Allen stated that before deregulation the City was paying a little over eight cents.

In response to question by Councilmember Gorden, Mr. Allen stated that compared to the rate the City has now, in his opinion, the City could estimate right at \$400,000 a year difference in electric costs from the last 17 months. Councilmember Langston stated that would be approximately \$200,000 in this budget year.

Mr. Allen stated that the City's contract that is about to expire cut over one-half cent per kilowatt hour from the previous contract. Mr. Allen stated that there is about a 30% difference from the first contract.

In response to question by Councilmember Robertson, Mr. Allen stated that the City's contract was a 17 month contract with a 17 month extendable and that rate is locked in for the first term. Mr. Allen stated that with that discount, it is TXU's option for the second term. Mr. Allen stated that the last time he discussed the contract with the City he was pushing the 29 month plan and there was concern that it could turn into a three to five year contract and the City was not sure if they wanted to lock in for that long. Mr. Allen stated that in hindsight that would have been the best decision they could have made. Mr. Allen stated that since the time the contract was signed prices have

gone up so they were never able to find that price again to bring it back to the second term. Mr. Allen stated that contractually the City is not obligated for that second term. Mr. Allen stated that if they could have brought the same price or lower then the City would have been contractually obligated. Mr. Allen stated that it doesn't matter which of the terms the City picks, if the market drops and he can restructure the contract and bring the City a better price, he will do that. Mr. Allen stated that there are several ways they can restructure their contract. Mr. Allen stated that they have already done it on an extendable price this year; the second term came up and they couldn't match the price but could restructure and get a better price and so the customer allowed them to do that. Mr. Allen stated that part of his responsibility is to constantly look at the City's account and find ways to drive the cost down.

Councilmember Robertson stated that when he visited the nuclear power plant in Comanche Peak, he was impressed with the price structure as a generation for kilowatt of that compared to natural gas, and the question is, is TXU looking in the future to build any more nuclear plants. Mr. Allen stated that, in his opinion, the nation would need to go that way in the future. Mr. Allen stated that right now, because of all the regulations tied up in nuclear power, its cost prohibitive.

In response to question by Councilmember Gorden, Chief Brazil stated that tonight the only thing we have for consideration is the TXU proposal, and if Council decides not to re-contract with TXU, then staff would have to send out RFP's and get other proposals. Chief Brazil stated that the letter that was included in the Council packet is for informational purposes only.

Mr. Allen stated that these prices are good daily and are like any other commodity on the stock market. Mr. Allen stated that the City Council has authorized the City Manager to be able to negotiate with TXU daily and look for the best rates between here and the end of the month.

In response to question by Mayor Bronaugh, Mr. Allen stated that the two options he likes best are the 1 + 2 and 2 + 1 year extendable because you get about a 3-mil discount with it. Mr. Allen stated that if gas dropped in the first year with the 1 + 2 that would allow TXU to come back in that second year and restructure and they would be able to capture the drop in the market. Mr. Allen stated that the difference between that and the 2 + 1 would be how long you think it will take this market to correct itself. Mr. Allen stated that personally he would like the security of two years. Mr. Allen stated that the market has been so emotional this past year and a half and when you have emotions working in there that it is not following the principles behind the market. Mr. Allen stated that even with the 2 + 1, if a year from now the market drops significantly, he would be coming to Council to restructure the contract anyway. Mr. Allen stated that the option that he personally likes is fixing something short term in doing a long-term heat rate.

In response to question by Councilmember Langston, Mr. Allen stated that you could go out five years with the heat rate and you would be obligated for that period.

In response to question by Councilmember Robertson, Mr. Allen stated that on the 29 + 29 rate the City will have 29 months locked in instead of two years and it is a better rate. Mr. Allen stated that the last time a contract was negotiated this is the rate he had recommended to the City instead of the 17/17. Mr. Allen stated that it would have been a better rate for a longer period.

In response to question by Councilmember Langston about NYMEX in the next 12 months and gas futures, Mr. Allen stated that right now, you go some months and it is above \$6.70. Mr. Allen stated that when the last rate was locked in, a one-year average was \$3.80. Mr. Allen stated that in the next 12 months there are eight rates that are \$6.50 are above and after that it starts dropping off. Mr. Allen stated that the longer out you go the better gas prices that you will get. Mr. Allen stated that for the next

year, there is not anything attractive and if we have a hot summer like what has been predicted, you will see prices go up.

Councilmember Langston stated that the Council was in a situation where they are in the middle of a budget year plus trying to predict what the budget will be for a full year next year. Councilmember Langston stated that if Council goes a year's term they are still really exposed in the next budget year for six months and that concerns him because of the necessity of trying to anticipate what costs will be.

Councilmember Torres stated that the only thing that concerns her is making the budget year a little bit equal. Councilmember Torres stated that the 29/29 to her seems to get the City back in a budget year, and then two years from there to be more in line to where we are doing the budget.

Chief Brazil stated that Mr. Wood had brought him some budget figures and it appears that if this goes up \$200,000 for the remainder of the year, the City will have money budgeted to cover that.

In response to question by Councilmember Torres, Mr. Allen stated that the 29/29 is a fixed rate for 29 months.

In response to question by Councilmember Gorden, Mr. Allen stated that two years from now if there were a significant dip in the market, the City's contract would be restructured somehow. Councilmember Langston asked if the price takes a significant dip in the next 18 months would the contract be restructured, and Mr. Allen said, "Yes, they would do the same thing".

Motion was made by Councilmember Lynn Torres and seconded by Councilmember Don Langston that the electric contract with TXU Energy be renewed for the extendable pricing rate of 29+29 months. A unanimous affirmative vote was recorded.

Mr. Allen stated that he would keep Chief Brazil updated daily on what the market is doing. Mr. Allen asked if the market continues to climb like it did Monday, would the City consider rolling it back to a heat rate. Mayor Bronaugh said "yes".

6. CONSTRUCTION BUDGETS – APPROVED – UTILITY RENEWAL AND REPLACEMENT FUND

Mayor Bronaugh stated that the next item for consideration was approval of construction budgets from the utility renewal and replacement fund.

Chief Brazil stated that Keith Wright, City Engineer, would discuss several construction projects and request City Council consideration in establishing budgets for the projects.

Mr. Wright stated that there are several projects that need to be completed from the Renewal and Replacement Fund. Mr. Wright stated that the first project would be the project that was mentioned and discussed at the last meeting by Councilmembers Gorden and Robertson. Mr. Wright stated that this project would be to consider the overlay of Ellis Street. Mr. Wright stated that replacing the water and sewer lines prior to overlaying this area was discussed, and the budget for this project would be \$170,000 to upgrade these systems so that the City would not have to come back and repair the street once the overlay is completed.

Mr. Wright stated that the second project may or may not take place but he wanted to go ahead and present it so that if it were needed the City can move forward on it quicker, and if it is not completed, then the budget would be removed the next time the Renewal and Replacement Fund is considered by Council. Mr. Wright stated that this would be the extension of water and sewer lines along FM 842 from Hwy. 103 around to Kit McConnico Park along Moffitt Road.

Mr. Wright stated that the next project is the anaerobic digesters at the Wastewater Treatment Plant. Mr. Wright stated that these digesters build up sand over time that falls out into the digesters and taking up capacity. Mr. Wright stated that this project has been put off for a couple of years but it needs to be done because of some excessive build up and some damage that has occurred to some of the metal tank surfacing that needs to be repaired. Mr. Wright stated that the budget for this project is \$60,000 for two of the digesters for the sand to be removed and to complete some minor repairs.

Mr. Wright stated that the gravity thickener is another project that has been put off and it is exposed to some of the most severe wastewater. Mr. Wright stated that there are mechanical problems with the rake system and the rake needs to be replaced at an estimated cost of \$75,000.

Mr. Wright stated that the Council had approved a dump truck replacement in the previous budget year for a budget of \$40,000. Mr. Wright stated that as his department as gotten into the I & I (infiltration/inflow repair of sewer systems) having to go back into yards and alleys, etc., it is his opinion, that it would be more advantageous to go ahead at this point to go ahead and purchase a mini-excavator instead and eliminate one of the backhoes in the department to minimize the damage that occurs to the yards.

In response to question by Mayor Bronaugh, Mr. Wright stated that the dump truck is in the budget now and he would be asking to reduce the last request from \$40,000 to \$35,000.

In response to question by Councilmember Langston, Mr. Wright stated that the gravity thickener is fairly urgent because it is about to collapse. Mr. Wright stated that the digester cleaning is very important because the capacity being lost is affecting our treatment capabilities. Mr. Wright stated that the water line replacement projects could be delayed depending upon what the Council decides.

In response to question by Mayor Bronaugh, Mr. Wright stated that Council would be amending the budgets from the Renewal and Replacement Fund and not the typical budget.

Councilmember Langston stated that his only concern is that with the new City Manager about to come on board, if there is no emergency, he would like to see him be a part of the process.

Motion was made by Councilmember Lynn Torres and seconded by Councilmember Jack Gorden, Jr. that the replacement of water distribution and sewer collection lines on Ellis Street from Raquet Street to just west of Bynum at an approximate contracted cost of \$170,000 be approved as presented and the funds for this project be taken from the Water and Sewer Renewal and Replacement Fund (Deprecation Fund). A unanimous affirmative vote was recorded.

Motion was made by Councilmember Dennis Robertson and seconded by Councilmember Rose Faine Boyd that the extension of water distribution lines from the Kit McConnico Park entrance to State Highway 103 along Moffett Road and FM842 for an approximate contracted cost of \$235,000 not be approved at this time. A unanimous affirmative vote was recorded.

Motion was made by Councilmember Lynn Torres and seconded by Councilmember R. L. Kuykendall that the digester cleaning (removing sand build up from existing anaerobic digesters and repair any localized existing damage for two digesters for a total cost of \$60,000 be approved as presented. A unanimous affirmative vote was recorded.

Motion was made by Councilmember Rose Faine Boyd and seconded by Councilmember R. L. Kuykendall that the gravity thickener to replace the existing mechanical rake system at a cost of \$75,000 be approved as presented. A unanimous affirmative vote was recorded.

Motion was made by Councilmember Rose Faine Boyd and seconded by Councilmember R. L. Kuykendall that the request that the currently approved dump truck replacement (380-6770-435) budget of \$40,000 be changed to allow the purchase of a mini-excavator with a budget of \$35,000 be approved as presented. A unanimous affirmative vote was recorded.

Mr. Wright stated that he wanted to be sure that it was recorded in the Minutes that that these requests are to be taken from the Renewal and Replacement Fund – Fund 380.

7. ASBESTOS CEMENT WATERLINE REPLACEMENT – APPROVED – PROJECT 2B - BROOKHOLLOW

Mayor Bronaugh stated that the next item for consideration was the asbestos cement waterline replacement Project 2B – Brookhollow.

Chief Brazil stated that this will be the remainder of the Brookhollow project and that Keith Wright and Debbie Fitzgerald would answer questions.

Mrs. Fitzgerald stated that over the last several years the City has been going through a replacement project of the A/C water lines, and this is the last portion of the Brookhollow area that will include Crooked Creek, Old Union Road, and part of the Trailwood area. Mrs. Fitzgerald stated that two bids were received and presently Oscar Crawford is the low bidder at \$1,053,000 and staff is recommending acceptance of this bid.

Motion was made by Councilmember Lynn Torres and seconded by Councilmember Don Langston that the bid of Oscar Crawford for \$1,053,000 for asbestos cement waterline replacement project 2B-Brookhollow be approved as submitted. A unanimous affirmative vote was recorded.

8. EXECUTIVE SESSION

Mayor Bronaugh recessed Regular Session at 6:00 p. m. to enter into Executive Session. Regular Session reconvened at 6:34 p.m. and Mayor Bronaugh stated that Council had discussed appointments to Boards and personnel.

9. APPOINTMENT OF ECONOMIC DEVELOPMENT BOARD MEMBERS - TABLED

Motion was made by Councilmember Rose Faine Boyd and seconded by Councilmember Lynn Torres that Mayor Bronaugh, Councilmember Jack Gorden, Jr., Councilmember Don Langston, Jay Shands, Bob Leslie, Reverend James Townes and Rod Pittman be appointed as the Economic Development Board for the City of Lufkin. A unanimous affirmative vote was recorded.

10. APPOINTMENT OF VOTING MEMBER OF FIREMEN'S PENSION FUND BOARD - TABLED

Motion was made by Councilmember Don Langston and seconded by Councilmember Jack Gorden, Jr. that appointment to the Firemen's Pension Fund Board be tabled. A unanimous affirmative vote was recorded.

11. APPOINTMENT – APPROVED – CIVIL SERVICE COMMISSION – ROYCE GARRETT

Motion was made by Councilmember and seconded by Councilmember that Royce Garrett be re-appointed to the Civil Service Commission. A unanimous affirmative vote was recorded.

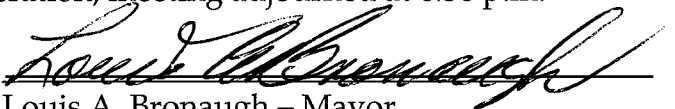
12. APPOINTMENTS – APPROVED – TREE BOARD – LYNN TORRES – DENNIS ROBERTSON – R. L. KUYKENDALL

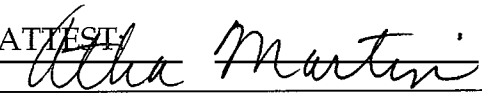
Motion was made by Councilmember Rose Faine Boyd and seconded by Councilmember Don Langston that Councilmembers Lynn Torres, Dennis Robertson and R. L. Kuykendall be reappointed to the Tree Board for a three-year term. A unanimous affirmative vote was recorded.

13. CALENDAR NOTATIONS FROM MAYOR, COUNCILMEMBERS AND INTERIM CITY MANAGER

Chief Brazil reminded Councilmembers of the First Friday luncheon and asked that they call the City Secretary for reservations.

14. There being no further business for consideration, meeting adjourned at 6:36 p.m.


Louis A. Bronaugh – Mayor

ATTEST

Atha Martin – City Secretary