

**MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF LUFKIN, TEXAS, HELD ON THE
16TH DAY OF AUGUST, 1994 AT 5:00 P. M.**

On the 16th day of August, 1994 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	Councilman, Ward No. 1
Don Boyd	Mayor pro tem
Larry Kegler	Councilman, Ward No. 3
Bob Bowman	Councilman, Ward No. 4
Jack Gorden, Jr.	Councilman, Ward No. 5
Tucker Weems	Councilman, Ward No. 6
C. G. Maclin	City Manager
Ron Wesch	Asst. City Manager/Public Works
Darryl Mayfield	Asst. City Manager/Finance
Bob Flournoy	City Attorney
Atha Stokes	City Secretary

being present when the following business was transacted.

1. Meeting was opened with prayer by Rev. N. C. Simmons, Minister, Mt. Beulah Baptist Church.
2. Mayor Bronaugh welcomed visitors present.

3. **APPROVAL OF MINUTES**

Motion was made by Councilman Don Boyd and seconded by Councilman Larry Kegler that minutes of regular meeting of August 2, 1994 be approved as presented. A unanimous affirmative vote was recorded.

4. **ORDINANCE - APPROVED - SECOND READING - ZONE CHANGE - RESIDENTIAL LARGE TO COMMERCIAL - TIMBERLAND MANUFACTURED HOUSING, INC. - N. MEDFORD DRIVE AND SHADY PINE STREET**

Mayor Bronaugh stated that the first item for consideration was Second Reading of an Ordinance for a Zone Change of approximately .427 acres of land located between R & H Mobile Housing (1301 N. Medford Drive) and Shady Pine Street from Residential Large to a Commercial Zoning District as requested by Timberland Manufactured Housing, Inc.

There was no opposition to this request.

Motion was made by Councilman Larry Kegler and seconded by Councilman Jack Gorden, Jr. that Ordinance be approved on Second and Final Reading. A unanimous affirmative vote was recorded.

5. **ORDINANCES - APPROVED - FIRST READING - ANNEXATION/ZONING - SOUTHAMPTON SUBDIVISION - DENNIS BISHOP - BRYAN TANNEHILLE - T U ELECTRIC - FM 58 AND PLATT ROAD**

Mayor Bronaugh stated that the next items for consideration were annexation of, and appropriate zoning classification for, approximately 34.753 acres of land located west of FM 58 and south of Platt Road and known as the Southampton Subdivision as requested by Dennis Bishop, Bryan Tannehill and T U Electric.

City Manager Maclin stated that included in the Councilmember's packets was a memorandum from the City Planner recommending annexation of this property

and that it be zoned Residential Large.

Motion was made by Councilman Bob Bowman and seconded by Councilman Larry Kegler that Ordinances for annexation and zoning of property in the Southampton Subdivision be approved on First Reading as presented. A unanimous affirmative vote was recorded.

6. ORDINANCES - APPROVED - FIRST READING - ANNEXATION/ZONING - BROOKHOLLOW NO. 14 AND 15 - GOBBLER'S KNOB ROAD - COLUMBINE - COUNTY ROAD 58 - R. H. DUNCAN

Mayor Bronaugh stated that the next items for consideration were annexation of, and appropriate zoning classification for approximately 60.266 acres of land known as Brookhollow No. 14 and 15 and located west of Columbine, east of County Road 58 and north of Gobbler's Knob Road as requested by R. H. Duncan.

City Manager Maclin stated that the Planning & Zoning Commission recommended by unanimous vote that this property be annexed and zoned as Residential Large.

Motion was made by Councilman Don Boyd and seconded by Councilman Larry Kegler that the Ordinances for annexation and zoning of property in Brookhollow No. 14 and 15 be approved on First Reading as presented. A unanimous affirmative vote was recorded.

7. ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - RESIDENTIAL LARGE TO LOCAL BUSINESS - 2130 TULANE DRIVE - ROBBIE WARREN

Mayor Bronaugh stated that the next item for consideration was request of Robbie Warren for approval of a change of zoning from Residential Large to a Commercial Zoning District on approximately 1.391 acres of land known as 2130 Tulane Drive.

City Manager Maclin stated that included in the packet is a lengthy explanation from the City Planner highlighting the Comprehensive Plan. City Manager Maclin stated that the explanation gives some direction about the Comprehensive Plan and consideration for changing this request. City Manager Maclin stated that after discussion, the Planning & Zoning Commission voted unanimously to change the zoning from Residential Large to Local Business.

Motion was made by Councilman Bob Bowman and seconded by Councilman Tucker Weems that Ordinance be approved as presented. A unanimous affirmative vote was recorded.

8. LETTER OF REQUEST - APPROVED - BID ON MUNICIPAL BONDS - FIRST SOUTHWEST COMPANY

Mayor Bronaugh stated that the next item for consideration was a letter of request from the First Southwest Company to bid on municipal bonds.

City Manager Maclin stated that included in the packet is a letter from First Southwest Company represented by Mike Byrd requesting permission to submit a bid on this particular issue. City Manager Maclin stated that since First Southwest serves as the City's financial advisor, Council's authorization for this item is needed.

Motion was made by Councilman Don Boyd and seconded by Councilman Tucker Weems that letter of request from First Southwest Company be approved as presented. A unanimous affirmative vote was recorded.

9. ORDINANCE - APPROVED - AUTHORIZATION FOR ISSUANCE OF CITY OF LUFKIN, TEXAS GENERAL OBLIGATION BONDS, SERIES 1994 - EXHIBIT "A" - PAYING AGENT/REGISTRAR AGREEMENT

Mayor Bronaugh stated that the next item for consideration was First Reading of an Ordinance authorizing the issuance of "City of Lufkin, Texas, General Obligation Bonds, Series 1994", with Exhibit "A", Paying Agent/Registrar Agreement.

City Manager Maclin stated that on the Council table is a tabulation of bid sheets. City Manager Maclin requested that Mike Byrd read the bids.

Mike Byrd stated that his firm had prepared the official statement and notice of sale of the City of Lufkin, which has been widely distributed. Mr. Byrd stated that the sale has also been advertised in the Texas Bond Reporter and the New York Daily Bond Buyer. Mr. Byrd stated that Moody's confirmed the City's "A" rating and made very favorable comments about the changes the City has made that have strengthened their financial statement. Mr. Byrd stated that on this year's trip the City received an upgrade on Standard & Poor from a "BBB" to a "BBB+" rating.

Mr. Byrd stated that one of the rules for bidding is that each of the bidders submit a "good faith" check to the City in the amount of \$100,000. Mr. Byrd stated that he had in his possession checks drawn on Frost National Bank and NationsBank that will stand good for any bidder, in addition, thereto, some of the bidders chose to send their own "good faith" check. Mr. Byrd stated that if an award is made, this check will be held uncashed by the City pending delivery of the bonds. Mr. Byrd stated that in the event the bidder failed to pick up the bonds, then the City would retain the "good faith" check as liquidated damages.

Mr. Byrd read the following bids:

<u>Bidder</u>	<u>Effective Interest Rate</u>
First Southwest Company	5.6638
Griffin, Kubik, Stephens & Thompson	5.6867
Masterson Moreland Sauer Whisman	5.6637
Merrill Lynch & Co.	5.6623
Nike Securities	5.6499
Painewebber, Inc.	5.6616
Principal Financial Securities	5.6763
Prudential Securities Incorporated	5.6029
Southwest Securities	5.7028

Mr. Byrd stated that there were 12 prospective bidders, three of which passed. Mr. Byrd stated that it appears that the bid of Prudential Securities Incorporated at 5.60 is the best bid, followed by the bid of Nike Securities at 5.6499. Mr. Byrd stated that he would recommend to Council that they accept the bid of Prudential Securities Incorporated for this issue of bonds.

Motion was made by Councilman Jack Gorden, Jr. and seconded by Councilman Don Boyd that the bid of Prudential Securities Incorporated be accepted as submitted. A unanimous affirmative vote was recorded.

Motion was made by Councilman Jack Gorden, Jr. and seconded by Councilman Don Boyd that Ordinance and Exhibit "A", Paying Agent/Registrar Agreement be approved on First Reading as presented. A unanimous affirmative vote was recorded.

10. ORDINANCE - APPROVED - FIRST READING - LCTX TELEPHONE FRANCHISE AGREEMENT

Mayor Bronaugh stated that the next item for consideration was First Reading of an

Ordinance updating the City's telephone franchise agreement with LCTX.

City Manager Maclin stated that included in the packet is a copy of an Ordinance that has been negotiated with LCTX over the last several months. City Manager Maclin stated that the City's franchise agreement with LCTX expired January 1, 1994. City Manager Maclin stated that basically the changes that were made include the definition section so there was a more, clear concise definition of those items to be included for consideration for franchise fee assessment. City Manager Maclin stated that staff had depended heavily on Public Utility Commission language, that is basically law, from the regulation of the telephone company's standpoint. City Manager Maclin stated that staff made some amendments in the construction section so that the City could have more input with LCTX contracts for installation of underground lines in particular to minimize problems in the past where a subcontractor for LCTX used more space than was necessary for the telephone line thereby causing problems for other utilities that needed to go in the same right-of-way. City Manager Maclin stated that also included is a four-year review so that five times during the life of this 20-year agreement staff would have the ability to go back and review the agreement for updating purposes. City Manager Maclin stated that the tele-communication industry is undergoing phenomenal changes at a rapid rate and staff wanted to devise some way where the City could adjust accordingly to those changes in technology, and a four-year review will give staff an opportunity to do so. City Manager Maclin stated that finally, staff is proposing an increase in the franchise fee from 3% to 4.25%. City Manager Maclin stated that other cities comparable in size to Lufkin already have a 4% franchise fee.

City Attorney Flournoy stated that in general, this franchise is a non-exclusive franchise in that LCTX is not the only telephone company that could operate in the City of Lufkin. Mr. Flournoy stated that a great deal of work had gone into redrafting this franchise agreement, both by Dale Green and his staff at the telephone company, and the City staff.

City Attorney Flournoy stated that this agreement will be effective retroactive to January 1, 1994.

Councilman Simond stated that he would like to see a review clause in the Cablecom Contract.

Councilman Gorden stated that he did not want the good things that LCTX does for the community to be overlooked. Councilman Gorden stated that LCTX provides excellent service in addition to providing jobs for the community.

Dale Green expressed his appreciation to City staff for their cooperation in working together on the agreement renewal.

In response to question by Councilman Bowman, City Manager Maclin stated that this year the City received approximately \$68,00 from the franchise fees, and staff is projecting \$130,000 next year.

Motion was made by Councilman Tucker Weems and seconded by Councilman Larry Kegler that Ordinance be approved on First Reading as presented. A unanimous affirmative vote was recorded.

11. STAFF RECOMMENDATIONS - REMEDIATION OF ASBESTOS - CITY WATER SUPPLY

Mayor Bronaugh stated that the next item for consideration was staff recommendations regarding remediation of asbestos from the City's water supply.

City Manager Maclin stated that he wanted to make very clear the fact that the City staff has spent a lot of time and effort in investigating and trying to find documentable, factual information to address this problem in a prudent and

appropriate manner. City Manager Maclin stated that staff was also trying to address the problem in a very quick manner so there would be no risk of misperception on the part of the public about what danger or risk asbestos in the water has. City Manager Maclin stated that he had received volumes of information from the EPA and TNRCC in the last two weeks. City Manager Maclin stated that he and Mr. Wesch have spent hours of time on the telephone with professionals from the EPA in Washington, D. C., the EPA in Region VI in Dallas, and TNRCC in Austin including one of their field representatives in Beaumont. City Manager Maclin stated that he wanted to emphasize that the City administration has taken this problem very seriously and has worked extremely diligently to insure a safe water supply for the citizens of Lufkin.

City Manager Maclin stated that included in the Councilmember's packet is a proposal for the remediation of asbestos from the City of Lufkin public water supply. City Manager Maclin stated that he wanted to reiterate and make available to anyone who wishes, Councilmembers or the media, copies of all of this information so they can read it for themselves and come to their own conclusions. City Manager Maclin stated that the bottom line is there are no documentable health risks of asbestos in water in these studies dating back from 1983 to 1992 from the EPA. City Manager Maclin stated that TNRCC has very little knowledge about asbestos, and has referred the City to the EPA. City Manager Maclin stated that TNRCC has the responsibility for regulating quality of water but they do not have an asbestos testing capability in any of their facilities.

City Manager Maclin stated that his major concern is to assure the citizens of Lufkin that there are not health risks as documented by the EPA in the levels of asbestos that the City has in its water. City Manager Maclin stated that he is presenting the proposal and asking for Council's assistance and consideration of these proposals, both for a short-term remediation and a long-term removal so that the City will not have to worry about this problem in the future. City Manager Maclin stated that documentation of the testing results will be provided along with a letter he received from Steve Walden, TNRCC, Manager of the Monitoring and Enforcement of the Water Utilities Division in Austin, at 4:48 p.m. by fax today. (City Manager Maclin passed out this information to Councilmembers and the media.)

City Manager Maclin read the following proposal:

PROPOSAL FOR REMEDIATION AND REMOVAL OF ASBESTOS FROM THE CITY OF LUFKIN PUBLIC WATER SUPPLY

This proposal addresses the methodology for an aggressive plan for short term and long term or permanent resolution of the current problem of asbestos content in the City's water supply.

The origin of asbestos in the water supply comes from AC pipe (asbestos cement) located in the well field near Redland. We have approximately 11 miles of well field AC pipe, which is the primary conduit for transportation of raw water from the well heads to the City's water production/treatment facility. This AC pipe is between 35-40 years of age. When we pump our raw water from 1200 feet underground, a naturally occurring amount of hydrogen sulfide gas is present. This hydrogen sulfide gas attacks the cement portion of the AC pipe (AC pipe is 85% cement and 15% asbestos) and its deterioration causes the pipe to allow flakes of asbestos to fall into the water flowing through the pipe. Over a period of years, this deterioration has produced the current problem, whereby we now have measurable amounts of asbestos in the water.

According to an EPA study, asbestos is present in over 45% of the water systems in cities in the United States. However, the EPA has determined in recent years that the maximum recommended allowable level of asbestos in drinking water is 7 million long fibers (a long fiber is one which is 10 microns in length or longer) per liter. Testing for asbestos will be required in the near future. EPA recommends that

action should be taken to remedy the problem if levels above the 7 million fibers per liter are found.

After extensive investigation, we have determined that there are cartridge filtration systems that can be very effective in filtering out asbestos if properly installed at our production facility. These filter systems have been successfully used for removal of various types of particle contaminants. We propose to install eight of these 10 micron filters on the source water lines coming from our storage tanks at the production facility. The estimated cost for material and labor/installation is less than \$95,000. The cost for filter replacements for six months is estimated at \$138,000.

The long term solution for eliminating asbestos from our water supply is the replacement of the AC pipe in the well field. We recommend that Council immediately authorize for engineering plans and specifications to be prepared to construct an eleven mile replacement of the well field lines with 24" PVC pipe. According to our engineers, the quickest that this project could be completed is around six months. Normal construction time for a project of this nature is 9 - 12 months. The estimated cost of this project is \$1.4 million. We will need to either issue revenue bonds in this amount or seek financing from the Texas Water Development Board. Since we already have \$125,000 budgeted in the 1994-95 budget for waterline replacement in the well field, these funds could be used to satisfy this year's amortization of the debt, thereby funding this project without an additional water rate increase. We could also apply to the Texas Community Development Block Grant Emergency Fund for up to \$350,000 in grant funds from the State. Qualification under this program requires that a State agency such as TNRCC or the Public Health Department declare that a public health risk or danger exists in the project proposed.

I have discussed this proposal with the Region VI EPA office in Dallas with the TNRCC in Austin and they have verbally endorsed and encouraged this approach.

City Manager Maclin stated that according to EPA studies that were made available to him, if a person consumed two liters of water a day for a lifetime and in that two liters of water it has 7 million fibers per liter, then your risk from a health standpoint are one in ten million.

Mr. Wesch passed out test results of 10 water samples taken at the end of last week. City Manager Maclin stated that 2 of the 10 samples exceeded the 7 million fibers per liter. City Manager Maclin stated that because those 2 were so out of the ordinary from the other 8, these samples were taken again and the new results are noted with an asterisk on the test results.

City Manager Maclin stated that he is convinced that there is not an imminent health risk for drinking water with asbestos but because of the perception of the public and a fear of asbestos, City staff is recommending the short term and long term remediation proposal. City Manager Maclin stated that staff is recommending the installation of eight of the 10 micron filters, which can be installed in the next three weeks. The estimated cost for the material, labor/installation will be less than \$95,000.

City Manager Maclin passed out copies of a letter from Stephen Walden of TNRCC and read the letter to those present. (Letter on file in City Secretary's office.)

City Manager Maclin stated that as of this date, neither the TNRCC nor the EPA have issued any type of alert, warning, danger or hazard.

(Test results came in while the Council meeting was in progress and Mr. Wesch stated that testing from the location on Champions Drive came in at one million fibers per liter.)

City Manager Maclin stated that staff is recommending that Council authorize (1)

installation of the infiltration system for an intermediate remediation of the problem, (2) authorize that staff work with a local engineering firm to develop plans and specifications and go to bid for replacement of the line with 24" PVC , and (3) authorize staff permission to pursue a Texas Community Development Block Grant Emergency Fund Application for funds to assist in the cost of this project.

Councilman Bowman stated that he would like to commend Mr. Maclin and the City staff on their diligence and aggressive handling of this situation.

Motion was made by Councilman Bob Bowman and seconded by Councilman Larry Kegler to accept the City Manager's recommendation for the short-term and long-term remediation of asbestos in the City's water supply. A unanimous affirmative vote was recorded.

12a. BID - APPROVED - CONTAINERS - RECYCLING - EAGLE AMERICAN WASTE SERVICES, INC.

Mayor Bronaugh stated that the next item for consideration was bids for containers to be used in the Recycling Department.

City Manager Maclin stated that staff recommendation is to accept the bid of Eagle American Waste Services, Inc. in the amount of \$32,451.25. Funding for this item is appropriated in the FY 1993-'94 budget at \$30,000.

Motion was made by Councilman Bob Bowman and seconded by Councilman Larry Kegler to award the bid for \$30,000 worth of eight and four cubic yard containers. A unanimous affirmative vote was recorded.

12b BID - APPROVED - MULTI-STAGE BLOWER - WATER POLLUTION CONTROL - W. D. GRAUE INCORPORATED

Mayor Bronaugh stated that the next item for consideration was bids for a multi-stage blower to be used in the Water Pollution Control Department.

City Manager Maclin stated that staff recommendation is to award the bid of W. D. Graue Incorporated in the amount of \$38,700.

Motion was made by Councilman Don Boyd and seconded by Councilman Larry Kegler to accept the bid of W. D. Graue Incorporated in the amount of \$38,700. A unanimous affirmative vote was recorded.

13. EXECUTIVE SESSION

Mayor Bronaugh recessed Regular Session at 6:47 p. m. to enter into Executive Session. Regular Session reconvened at 7:30 p. m. and Mayor Bronaugh announced that Council had discussed demolition of dilapidated houses, appointments to Boards and attorney-Council legal matters.

Motion was made by Councilman Percy Simond and seconded by Councilman Larry Kegler that the following dilapidated houses be approved for demolition:

1. 1917 Spence Street
2. 1905 Sunrise
3. 1920 Williams St.
4. 405 Ridge St.
5. 203 S. Garvan St.
6. 1501 Paul Ave.

A unanimous affirmative vote was recorded.

14. COMMENTS

Councilman Jack Gorden stated that he will be unable to attend the Council meeting on Friday but would like to express his opinion on the budget. Councilman Gorden stated that part of the budget where Council has the opportunity to create the depreciation funds on the water and sewer area is one of those things that certainly deserves a lot of attention and thought from the Council. Councilman Gorden stated that this is probably one of the largest opportunities that this Council will have to truly have a bearing on the future of this City. Councilman Gorden stated that the creation of this vehicle is obviously quite momentous and literally generations from now will make the City pre-eminent in whatever size City it happens to be at that time from the standpoint of quality of facilities for the cost to the citizens. Councilman Gorden encouraged Councilmembers to support the depreciation funds at Friday's meeting.

City Manager Maclin stated that the packet for Friday's noon meeting is on the Council table.

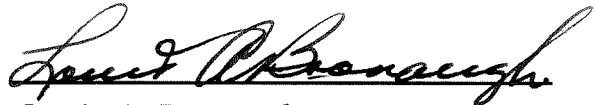
Mayor Bronaugh stated that the DETCOG meeting will be held Thursday, August 25, in Trinity County.

15. There being no further business for consideration, meeting adjourned at 7:40 p.m.

ATTEST:

A handwritten signature in cursive script, reading "Atha Stokes", written over a horizontal line.

Atha Stokes - City Secretary

A handwritten signature in cursive script, reading "Louis A. Bronaugh", written over a horizontal line.

Louis A. Bronaugh - Mayor