

**MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF LUFKIN, TEXAS, HELD ON THE
21ST DAY OF JUNE, 1994 AT 5:00 P. M.**

On the 21st day of June, 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 Dr. Gary Halbrook of the Samaritan Counseling Center.
2. Mayor Bronaugh welcomed visitors present.
3. **APPROVAL OF MINUTES**

Mayor Bronaugh stated that the next item for consideration was approval of Minutes of Budget Workshop Meeting of May 18, 1994, Regular Meeting of June 7, 1994 and Called Workshop Meeting of June 9, 1994.

Motion was made by Councilman Don Boyd and seconded by Councilman Larry Kegler that Minutes of Budget Workshop Meeting of May 18, 1994, Regular Meeting of June 7, 1994 and Called Workshop Meeting of June 9, 1994 be approved as presented. A unanimous affirmative vote was recorded.

**4. PUBLIC HEARING - ANNEXATION - BROOKHOLLOW ADDITION NO. 13 -
LIVE OAK LANE BETWEEN AZALEA STREET AND GOBBLERS KNOB ROAD**

Mayor Bronaugh stated that the first item for consideration is a Public Hearing to consider request of R. H. Duncan Construction, Inc. to annex approximately 8.714 acres of land known as Brookhollow Addition No. 13 and located east of Live Oak Lane between Azalea Street and Gobblers Knob Road.

There was no opposition to this request.

Mayor Bronaugh closed Public Hearing.

**5. PUBLIC HEARING - ANNEXATION - MARK LOWERY - PATRICIA
CARITHERS WILLIAMS - T U ELECTRIC - FM 58 - WHEELER ROAD**

Mayor Bronaugh stated that the next item for consideration is a Public Hearing to consider request of Mark Lowery, Patricia Carithers Williams, and T U Electric for annexation of approximately 217.616 acres of land located on the east side of FM 58 and bounded by the existing City limit to the north and Wheeler Road to the south.

There was no opposition to this request.

Mayor Bronaugh closed Public Hearing.

6. ORDINANCE - APPROVED - SECOND READING - SMOKING IN PUBLIC PLACES

Mayor Bronaugh stated that the next item for consideration is Second Reading of an Ordinance regulating smoking in public places.

Mayor Bronaugh stated that this item will be discussed among the Councilmembers tonight and asked that there not be any input from the public. Mayor Bronaugh stated that the public had provided input at two other meetings. Mayor Bronaugh stated that prior to the meeting being called to order he had been presented a petition by Sonny Lewis with approximately 3,000 names of people in opposition of the Smoking Ordinance. Mayor Bronaugh stated that this has not been an easy task for the Councilmembers. Mayor Bronaugh stated that the original request for the Smoking Ordinance was made by both hospitals because they did not have an Ordinance to enforce no smoking in the hospitals.

Mayor Bronaugh stated that Council had asked the City Attorney to consider some changes in the Ordinance, as discussed at last meeting, and give a recommendation to that affect.

City Attorney Flournoy stated that based on the First Reading of the Ordinance it basically provides that smoking will not be permitted in any enclosed establishment in the City that does not fall in a couple of categories: Residences (prohibited in homes where there is childcare), motel/hotel rooms, bars (where it is enclosed, separated and served by a separate air conditioning unit). Mr. Flournoy stated that this is the Ordinance that is before Council tonight on Second Reading.

Mr. Flournoy stated that Council has requested that he draft an Ordinance that would include some suggested changes that would provide either 100% smoking in some establishments or designated smoking in certain establishments provided they are served by separate air conditioning systems and are enclosed. Mr. Flournoy stated that an enclosed area is closed from ceiling to floor and served by a separate air conditioning system and adequately marked or designated. Mr. Flournoy stated that in places of employment, other than restaurants or bars, there could be a designated area (served by a separate air conditioning and enclosed) and cannot be an area where non-smoking employees are required to go. Mr. Flournoy stated that the newly drafted Ordinance does permit a restaurant to elect the entire establishment for smoking provided they put up a sign showing that it is 100% smoking and that there are no non-smoking areas available.

Councilman Simond stated that he had said that he would not under any circumstance deviate from the original plan of non-smoking, but he now realizes that compromise is the art of politics. Councilman Simond stated that he feels comfortable with the newly drafted Ordinance. Councilman Simond stated that in reference to the 3,000 petitions brought in, he would like it known that the Council does not operate under petitions.

Mr. Flournoy stated there will be three options: (1) Either the entire establishment for smoking and no non-smoking areas; (2) A designated area where there is a sign posted stating "Smoking Area" and "Non-smoking area"; and (3) No smoking allowed in the establishment.

It was suggested that under Article VI. Where Smoking Not Regulated, Section 6, that the wording be changed to read "Any restaurant or bar or business".

Councilman Boyd stated that it should be left up to the individual owner as to whether or not their business would be smoking or non-smoking.

Councilman Kegler stated that the City and State have both designated their

buildings as no smoking facilities, and if an employee wants to smoke they have to go outside. Councilman Bowman suggested eliminating item C altogether.

Proposed Smoking Ordinance signs were shown on the overhead projector and Mayor Bronaugh stated that the signs would be made available through the City for businesses who choose to have them. The three signs read: (1) Smoking allowed only in designated areas per City Ordinance No. 3028; (2) Designated smoking business per City Ordinance No. 3028. Non-smoking areas are not provided. (3) No smoking allowed per City Ordinance No. 3028.

Councilman Gorden stated that he would agree with Mr. Simond and is willing to compromise some. Councilman Gorden stated that he does not think this is a rights issue, but is more a health issue. Councilman Gorden stated that he liked the way the City Attorney rewrote and modified the Ordinance.

Councilman Bowman stated that this has been a very emotional issue in the community but he hoped that the people in Lufkin would keep in mind that the City Council's only reason for doing this was to keep somebody from dying. Councilman Bowman stated that he hoped that the people of Lufkin would never fault the City or the medical community for trying to save lives.

Mr. Flournoy stated that he would like to address the question of rights from a legal standpoint. First and foremost it is a health issue. Mr. Flournoy stated that all employers and all businesses are probably facing a liability in the future for permitting smoking around their employees - this is a decision they have to make. Mr. Flournoy stated that from a rights standpoint, the real rights that are involved are the rights of the non-smoker and that is what the City is obligated to look after. Mr. Flournoy stated that the smoker under this Ordinance has a lot of options. Mr. Flournoy stated that every time the Council passes a law their obligation is to protect people, and that is what this issue is really all about.

Motion was made by Councilman Percy Simond and seconded by Councilman Bob Bowman that Ordinance regulating smoking in public places be approved on First Reading with the following amendments to Article VI - C by adding "or business" and replace "must place a sign at each entrance with letters at least 2" high that says "This is a 100% smoking establishment" with "place a sign at each entrance that says Designated Smoking Business Per City Ordinance #3028. Non-smoking Areas Are Not Provided". A unanimous affirmative vote was recorded.

7. ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - MOBILE HOME AND RESIDENTIAL SMALL - SINGLE FAMILY DWELLING/MIXED USE ZONING DISTRICT - JOE L. MOTT - 2703 AND 2705 PAUL STREET

Mayor Bronaugh stated that the next item for consideration is First Reading of an Ordinance for request of Joe L. Mott to change the zoning of approximately five acres of land known as 2703 and 2705 Paul Street from Mobile Home and Residential Small to a Single Family Dwelling/Mixed Use Zoning District.

City Manager Maclin stated that this request had been heard by the Planning & Zoning Commission and they had made a unanimous recommendation for approval.

There was no opposition present.

Motion was made by Councilman Bob Bowman and seconded by Councilman Jack Gorden, Jr. that Ordinance be approved on First Reading as presented. A unanimous affirmative vote was recorded.

8. ANNEXATION REQUEST - APPROVED - BROOKHOLLOW 14 & 15 - COLUMBINE - COUNTY ROAD NO. 58 - GOBBLERS KNOB ROAD - R. H. DUNCAN CONSTRUCTION, INC.

Mayor Bronaugh stated that the next item for consideration was request of R. H. Duncan Construction, Inc. to initiate annexation proceedings on approximately 60.266 acres of land known as Brookhollow No. 14 & 15 located west of Columbine, east of County Road No. 58, and north of Gobblers Knob Road as requested by R. H. Duncan Construction, Inc.

City Manager Maclin stated that the Planning Department is recommending that the annexation proceedings be initiated and that the proposed annexation schedule be adopted.

Motion was made by Councilman Don Boyd and seconded by Councilman Larry Kegler that request of R. H. Duncan Construction, Inc. to initiate annexation of approximately 60,266 acres of land known as Brookhollow No. 14 & 15 located west of Columbine, east of County Road No. 58, and north of Gobblers Knob Road be approved as presented. A unanimous affirmative vote was recorded.

9. ANNEXATION REQUEST - APPROVED - FM 58 - PLATT ROAD - SOUTHAMPTON SUBDIVISION - DENNIS BISHOP - BRYAN TANNEHILL - T U ELECTRIC

Mayor Bronaugh stated that the next item for consideration is request of Dennis Bishop, Bryan Tannehill and T U Electric to initiate annexation proceedings on approximately 34.753 acres of land located west of FM 58 and south of Platt Road and known as the Southampton Subdivision.

City Manager Maclin stated that the Planning Department is recommending that the annexation proceedings be initiated and that the proposed schedule be adopted.

Motion was made by Councilman Don Boyd and seconded by Councilman Larry Kegler that request of Dennis Bishop, Bryan Tannehill and T U Electric to initiate annexation proceedings on approximately 34.753 acres of land located west of FM 58 and south of Platt Road and known as the Southampton Subdivision be approved as presented. A unanimous affirmative vote was recorded.

10. RESOLUTION - APPROVED - NOMINATING CHAMPION INTERNATIONAL - LUFKIN MILL - ENTERPRISE PROJECT

Mayor Bronaugh stated that the next item for consideration is a Resolution nominating Champion International Lufkin Mill as an Enterprise Project.

City Manager Maclin stated that included in the packet is an explanation and a letter of request from Champion. City Manager Maclin stated that staff had gone through the process of revising the Enterprise Zone so that Champion could be included in the City's Enterprise Zone. City Manager Maclin stated that in order to access numerous other benefits provided by the State of Texas including reduced electrical rates, sales tax rebates, and reduction in franchise taxes, they would need to apply for and receive a designation as an Enterprise Project. City Manager Maclin stated that basically tonight staff is asking for approval of a Resolution from the Council supporting Champion's designation as an Enterprise Project. Staff will submit the application prior to July 1st, and hopefully by the 1st of September they will let the City know if the application was approved.

City Manager Maclin stated that staff had been notified that Texas Foundries did receive designation as an Enterprise Project.

Motion was made by Councilman Larry Kegler and seconded by Councilman Don Boyd that Resolution nominating Champion International Lufkin Mill as an

Enterprise Project be approved as presented. Councilman Bob Bowman recused himself from voting. Motion carried with six affirmative votes.

11. REQUEST FOR PURCHASE OF POTABLE WATER - APPROVED - CITY OF HUNTINGTON

Mayor Bronaugh stated that the next item for consideration was a request by the City of Huntington for the purchase of potable water from the City of Lufkin.

City Manager Maclin stated that included in the Councilmember's packet is a letter from project manager Rick Freeman of EGA making this request on behalf of the City of Huntington.

Keith Wright stated that the City of Huntington, as in most areas in southern Angelina County, experienced poor water quality and a low quantity of water. Mr. Wright stated that the City of Huntington purchased the Fuller Springs system and have been operating off of it in the past, which has improved their situation but it is still limiting them as far as their capacity to supply water to their citizens. Mr. Wright stated that the City of Huntington would like to purchase water from the City of Lufkin on a long term basis similar to what the City of Lufkin has done with the Burke Water Supply Corp. Mr. Wright stated that the City of Huntington was a participant in the Regional Water Supply Corporation until that effort failed. The City of Huntington did issue bonds to lay water lines from the Fuller Springs area to the City of Huntington, which would have been used by the regional system, and they would have been reimbursed had the system gone into effect.

Also present was Mayor Dean McMullen and Mayor pro tem Ted Ivy.

In response to question by Councilman Kegler, City Manager Maclin stated that when the City of Lufkin made their plans for the upgrade which is currently 60/70% complete at this time, which includes the 16" line around the East Loop, and the 2 million gallon storage tank on White House Dr., the City included the capacity to handle both Huntington and Burke. City Manager Maclin stated that the Regional Water Plan started out with 15 entities and Lufkin, Huntington and Burke were the only entities that were willing to put their money on the line and work together to make the Plan work. City Manager Maclin stated that basically what this proposal would provide is that the City of Lufkin would sell water at the gates of the City limits to the entity at the same price that we sell to commercial customers.

City Manager Maclin stated that if in the future there are other entities that would come to the City of Lufkin for water, the City would ask them to bear any and all expense necessary to have the capacity and distribution capabilities to provide them with whatever their water needs are.

Motion was made by Councilman Jack Gorden, Jr. and Councilman Larry Kegler that request of the City of Huntington for the purchase of potable water from the City of Lufkin be approved as presented. A unanimous affirmative vote was recorded.

12. ORDINANCE - APPROVED - T U ELECTRIC COMPETITIVE RATE FILING

Mayor Bronaugh stated that the next item for consideration was discussion of T U Electric competitive rate filing for the City of Lufkin.

Bob Brown stated that T U Electric has asked the City of Lufkin to allow them the opportunity to have competitive rates in their package, so that if an industry had a choice to leave Lufkin or stay in Lufkin and grow, if the rates at the place they were going were lower than Lufkin's, then T U Electric in Lufkin could try and negotiate a palatable rate in order to keep the industry in Lufkin.

Mr. Brown stated that the other side of the Ordinance is having an environmental

rate, where if an industry is willing to establish and install environmental things in their plant their would also be a demand discount. Mr. Brown stated that passage of this Ordinance would give T U Electric the opportunity to negotiate with industries or businesses.

Motion was made by Councilman Don Boyd and seconded by Councilman Jack Gorden, Jr. that Ordinance approving T U Electric competitive rate filing for the City of Lufkin be approved as presented. A unanimous affirmative vote was recorded.

13. EXECUTIVE SESSION

Mayor Bronaugh recessed Regular Session at 6:04 p. m. to enter into Executive Session. Regular Session reconvened at 6:36 p. m. and Mayor Bronaugh announced that Council had discussed appointments to boards and commissions and the DETCOG Board of Directors, and also discussed the professional services to be negotiated for the street improvements to Feagin, Tulane, Paul and MLK, Jr.

14. PROPOSALS FOR ENGINEERING SERVICES - BOND ELECTION - STREET IMPROVEMENTS

Mayor Bronaugh stated that the next item for consideration was a review of requests for proposals for engineering services relating to bond election for street improvements.

Motion was made by Councilman Bob Bowman and seconded by Councilman Tucker Weems to award the engineering project contracts as follows: Martin Luther King, Jr. Drive be awarded to East Texas Engineering & Surveying, Inc., Tulane Drive to Goodwin-Lasiter, Inc., Paul Ave. to KSA Engineers, Inc., and Feagin Street to Everett Griffith, Jr. & Associates, Inc. under their proposed revision contract of their previous work on Feagin Street in 1985; and also authorize the staff to work with the engineers to use the expertise of Gene Togio on structures for all four of the projects. A unanimous affirmative vote was recorded.

15. APPOINTMENTS - APPROVED - DETCOG BOARD OF DIRECTORS COUNCILMAN DON BOYD - COUNCILMAN LARRY KEGLER - COUNCILMAN TUCKER WEEMS - MAYOR LOUIS BRONAUGH

Motion was made by Councilman Jack Gorden, Jr. and seconded by Councilman Bob Bowman that Councilmen Don Boyd, Larry Kegler, Tucker Weems and Mayor Louis Bronaugh be re-appointed to the DETCOG Board of Directors. A unanimous affirmative vote was recorded.

16. COMMENTS

Councilman Larry Kegler stated that he would like to thank Officers Thomas, Jowell, Porter, Bean and Sgt. Marcotte of the LPD for their help on June 11 in cleaning up a park in his City Ward. Councilman Kegler stated that he would also like to thank Chief Collins and City Manager Maclin for implementing the Community Policing Program in Lufkin.

City Manager Maclin stated that in the FYI section of the Councilmember's packets is a sample Loitering Ordinance. City Manager Maclin stated that the Ordinance came from the Community Policing staff and will be considered at the next Council meeting.

City Manager Maclin requested that City Councilman inform the Administrative offices of the dates they will be unavailable during the month of July so that the budget workshop dates can be scheduled.

Mayor Bronaugh announced that the DETCOG meeting will be held in Nacogdoches

this Thursday.

Mayor Bronaugh stated that the Main Street Program will be sponsoring a Westfest fundraiser on Saturday, June 25th.

Mayor Bronaugh stated that on Wednesday, June 29, there will be a ribbon cutting at Loop 287 and Highway 94 with Mr. Raul Cardenas attending from the Valley.

17. There being no further business for consideration, meeting adjourned at 6:45 p.m.



Louis A. Bronaugh - Mayor

ATTEST:



Atha Stokes - City Secretary