

**MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF LUFKIN, TEXAS, HELD ON THE
7TH DAY OF JUNE, 1994 AT 5:00 P. M.**

On the 7th 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
Percy Simond
Don Boyd
Larry Kegler
Jack Gorden, Jr.
Tucker Weems
C. G. Maclin
Ron Wesch
Darryl Mayfield
Bob Flournoy
Atha Stokes

Mayor
Councilman, Ward No. 1
Mayor pro tem
Councilman, Ward No. 3
Councilman, Ward No. 5
Councilman, Ward No. 6
City Manager
Asst. City Manager/Public Works
Asst. City Manager/Finance
City Attorney
City Secretary

being present, and

Bob Bowman

Councilman, Ward No. 4

being absent when the following business was transacted.

1. Meeting was opened with prayer by Rev. Rick Williams, Minister, First Baptist Church. Mayor Bronaugh extended a warm welcome to Rev. Williams who has recently moved to Lufkin.

2. Mayor Bronaugh welcomed visitors present.

3. PRESENTATION OF CERTIFICATES OF APPRECIATION - ADOPT-A-STREET PROGRAM

Mayor Bronaugh presented Certificates of Appreciation to volunteers participating in the Adopt-A-Street Program. Mayor Bronaugh, with assistance by Frances Ripley, presented certificates to Sheila Collins of the First Church of the Nazarene, to Frank Denton, to the Kennedy Kids (LaShae Kennedy, Chairman), and Rev. Bettye Kennedy. Mayor Bronaugh stated that Governor Ann Richards has recognized Rev. Kennedy for her work with the Lufkin Day Care Center Kids and the Adopt-A-Street Program. Councilman Larry Kegler read a letter of appreciation to Rev. Kennedy. Councilman Kegler stated that the Kennedy Kids are residents of his Ward (Ward 3).

4. APPROVAL OF MINUTES

Mayor Bronaugh stated that the next item for consideration was approval of Minutes of Called Meeting of May 10, 1994, Called Meeting of May 16, 1994 and Regular Meeting of May 17, 1994.

Motion was made by Councilman Don Boyd and seconded by Councilman Tucker Weems that Minutes of Called Meeting of May 10, 1994, Called Meeting of May 16, 1994 and Regular Meeting of May 17, 1994 be approved as presented. A unanimous affirmative vote was recorded.

5. 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
6/07/94

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.

6. 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.

7. ORDINANCE - TABLED - 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.

The following people spoke in opposition of the Ordinance:

Bill Pate - He owns his own business and has one employee; they both smoke. He thinks that he should have the right to smoke in his own business.

Sherine Boston - Urged Council to reconsider the Ordinance. Stated that the government is slowly taking over every liberty that people have.

David Youngblood - Stated he had petitions from people who felt that their rights were being taken away from them.

Sonny Lewis - Stated he was not concerned about health problems related to smoking. Also had a petition with names of people opposing Ordinance.

Nadine Moore - Was a non-smoker but would like to see people have the opportunity to vote on this issue.

Chris Carson - Stated she works at the Silver Dollar Diner and was opposed to a violation of people's rights.

Claire Greer - Stated that the Federal and State governments were taking away their right and now the City is also trying to take away their rights.

Patricia Hill - Stated that people should have the right to vote on this issue.

Bob Mason - Stated that he represented the VA, VFW, and DAV and this Ordinance would jeopardize the bingo halls. Urged Council to abandon this idea.

The following people spoke in support of the Ordinance:

John Bautch - Administrator of the Angelina County/Cities Health District. Urged Council to pass Ordinance on Second Reading. Stated that this is a health issue and not a rights issue. Stated that the opposition present was organized by the tobacco industry.

Dr. George Fidone - A local pediatrician. Spoke on behalf of children who don't have a vote. Cited statistics related to second hand smoke.

Don Sapp - Administrator for a local health care concern. Urged Council to pass Ordinance. Stated that there was new information out today that the Council should read before voting on Ordinance.

Dr. Sid Roberts - Stated that this is not a rights issue but is a health issue.

Mayor Bronaugh thanked the audience for their participation. Mayor Bronaugh stated that since one of the Councilmembers was absent he would suggest postponing the vote on Second Reading until there was a full seven member Council.

Councilman Boyd stated that he would like for Council to do some soul searching before next meeting. Councilman Boyd stated that business people have a right to decide whether they want to have smoking and non-smoking in their businesses and that Council does not have the right to put people out of business.

Motion was made by Councilman Don Boyd and seconded by Councilman Tucker Weems that this item be tabled until next meeting on June 21st. A unanimous affirmative vote was recorded.

8. ORDINANCE - APPROVED - SECOND READING - SPECIAL USE PERMIT - AUTO UPHOLSTERY AND TRIM SHOP - NEIGHBORHOOD RETAIL ZONING DISTRICT - 902 PERSHING AVENUE - RICHARD L. JONES

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance for approval of a Special Use Permit for an Auto Upholstery and Trim Shop within a neighborhood retail zoning district located at 902 Pershing as requested by Richard L. Jones.

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

9. AMENDMENT - APPROVED - FUTURE LAND USE MAP - COMPREHENSIVE PLAN - BYNUM AND PERSHING AVENUE INTERSECTION

Mayor Bronaugh stated that the next item for consideration was an Amendment to the future land use map of the Comprehensive Plan at the Bynum Street and Pershing Avenue intersection.

City Manager Maclin stated that the Planning and Zoning Commission, by unanimous vote, recommends the Future Land Use Map of the Comprehensive Plan be amended to indicate that the Bynum Street and Pershing Avenue intersection should be considered "Commercial" land.

Motion was made by Councilman Don Boyd and seconded by Councilman Jack Gorden, Jr. that Amendment to the future land map of the Comprehensive Plan at the Bynum Street and Pershing Avenue intersection be approved as presented. A unanimous affirmative vote was recorded.

10. STREET IMPROVEMENTS - APPROVED - PILGRIM'S PRIDE & OTHERS - INDUSTRIAL EXPANSION

Mayor Bronaugh stated that the next item for consideration was a request from Pilgrim's Pride and others to improve Webber Street to accommodate industrial expansion.

City Manager Maclin stated that included in the Councilmember's packet is a letter from Bob Palm of Pilgrim's Pride indicating their potential for expansion in terms of an additional 100-125 employees, and a letter prepared by Ronnie Robinson of

Dunagan Warehouse seeking right-of-way approval from the various property owners along the street in question showing the support by the property owners for development of this into a street. City Manager Maclin stated that there are a lot of reasons as far as the economics, improvements and efficiency in operation of the Pilgrim's facility, and as far as this being a better route for hauling the live poultry and being able to maintain a higher success rate particularly this time of year when the weather is hot to be able to get the birds into the kill area. City Manager Maclin stated that there are several things that can be accomplished through this project. City Manager Maclin stated that Mr. Robinson has been working diligently on this for several months obtaining right-of-way permission and concurrence of all of the property owners in the area. City Manager Maclin stated that this is an opportunity to assist a local business to expand and create more jobs in our community through participation in the Texas Capital Fund. City Manager Maclin stated that the Texas Capital Fund is a grant program and loan program, and in this case an infrastructure grant program that will help communities expand the infrastructure to help expand and create jobs to local industry. City Manager Maclin stated that this looks like an excellent opportunity to participate in the program. City Manager Maclin stated that item #11 on the agenda, that will be considered after item #10, addresses the method staff feels like will best serve the City as far as utilization of Gary Traylor & Associates, probably the most successful grant consultant in the Texas Capital Fund and in East Texas, and perhaps the State of Texas. City Manager Maclin stated that this is an opportunity for the City to assist local industry at minimal cost to the City and not only will it help Pilgrim's Pride but it has potential for other industrial growth in the future also.

Bob Palm, Sr. Vice President of Pilgrim's Pride, stated that last July they had lost the slaughter portion of their processing plant. Mr. Palm stated that, in his opinion, Pilgrim's Pride had shown their commitment to Angelina County and East Texas by rebuilding the plant in 76 days. Mr. Palm stated that with the reconstruction they had added enough capacity for a fourth processing line, which would enable them to process another 350,000 birds per week bringing the plant up to 1,350,000 broilers per week. Mr. Palm stated that more importantly, this would mean another 100-125 jobs at the facility. Mr. Palm stated that to carry out this plan they would need to acquire some additional property around Webber Street for the processing area and to provide additional parking for their employees. Mr. Palm stated that it was not feasible to have one portion of their plant at one location and another portion at another location. Mr. Palm stated that if Webber Street were open they could use it to haul live birds to the plant from their live holding area without the concern of having their trucks cross the Loop.

Mayor Bronaugh stated that the extension of Webber Street would also accommodate the needs of the people who signed the petition submitted by Mr. Robinson and own the other plants in the immediate area.

In response to question by Councilman Gorden, City Manager Maclin stated that Mr. Robinson had negotiated to use this as a temporary dirt street, not an improved street.

Mr. Robinson stated that the premise for extending Webber Street began when the Loop overpass was proposed and the subsequent construction and interlying traffic impeded the flow of the live haul chickens from their live haul yard which is adjacent to his property (Dunagan Warehouse). Mr. Robinson stated that he had asked the property owners for use of a temporary easement by their property - Lufkin Coca Cola, Moore Bros. Construction, Lufkin Concrete, all of which have an access road, and by signing the petition they allowed the temporary road to go directly to the plant. Mr. Robinson stated that at this point they perceived that there would be a much greater advantage to ask for a permanent road because there is approximately 60 acres of land that is landlocked and is owned by the G. H. Berry descendents (Verna Griffith, Doris Hammond and Larry Berry) that would not have any developmental potential unless there is some kind of access to the property. Mr. Robinson stated that Mrs. Franklin has intentions of developing some 26 acres

adjacent to her property. Mr. Robinson stated that most of the businesses that are there only have access through their own private road because the City's intervention stops almost at the railroad tracks adjacent to Pilgrim's Pride.

In response to question by Councilman Gorden, Mr. Robinson stated that they are proposing through Pilgrim's Pride, through the City, through potential Texas Capital Funds, to install a 32' wide concrete permanent road from Frank Street all the way through all those properties opening up that land and connecting Pilgrim's Pride live haul yard directly to their plant. In response to question by Councilman Gorden, Mr. Robinson stated that the property owners have agreed to this plan.

Councilman Gorden stated that Mr. Palm and Pilgrim's Pride need to be commended for their commitment to rebuild the plant and the speed that accomplished the rebuilding.

Motion was made by Councilman Tucker Weems and seconded by Councilman Jack Gorden, Jr. that request from Pilgrim's Pride and others to improve Webber Street to accommodate industrial expansion be approved as presented. A unanimous affirmative vote was recorded.

In response to question by Councilman Simond, City Manager Maclin stated that no City funds will be committed with the action Council is taking at this point, and if City funds are needed, staff will come back to Council at a future date. City Manager Maclin stated that staff is seeking Council's support for the Webber Street project and then in the next item, hopefully Council will approve Mr. Traylor to apply for the funds from the Texas Capital Fund that will pay for the street.

Councilman Simond asked how much the project would cost the City if the grant monies are not available. City Manager Maclin stated that budget justifications had been included in the Councilmember's packet, and the cost estimate from the engineer for the 32 foot concrete curb and gutter street is \$543,700 for the street and \$63, 650 for the drainage structures. City Manager Maclin stated that there are also estimates for utility easements and engineering activities, and water facility improvements at a cost of \$112,000. City Manager Maclin stated that staff is proposing to work with Mr. Traylor in seeing how many dollars can be accessed through the job creation that Pilgrim's Pride proposes. City Manager Maclin stated that the Texas Capital Fund triggers funding in this nature based on a dollars-per-jobs created. Some of the programs are as low as \$3,000 per job created and some are as high as \$15,000 per job created depending upon whether it is Texas Capital Fund, EDA or others. City Manager Maclin stated that staff will use the services of Mr. Traylor to help staff leverage to the greatest degree possible however many funds can be obtained for this project.

In response to question by Councilman Simond, City Manager Maclin stated that the cost would be from \$600-800,000 for the street. City Manager Maclin stated that if the City is unsuccessful in getting Texas Capital Funds, staff will come back to Council for a decision as to whether or not they want to pursue this request. Councilman Simond stated that it will take well over \$1 million in his opinion.

11. GRANT APPLICATION - APPROVED - TEXAS CAPITAL FUND - GARY TRAYLOR & ASSOCIATES

Mayor Bronaugh stated that the next item for consideration was utilization of Gary Traylor and Associates to apply for funding from the Texas Capital Fund.

City Manager Maclin stated that Mr. Traylor, in his opinion, has had more experience in his consulting firm than any other consulting firm in economic development fund securing such as the Texas Capital Fund.

Mr. Traylor stated that the first step his firm would take if they are engaged by the City for this project would be to develop a Notice of Intent. The Notice of Intent

constitutes a pre-application for these funds and would be circulated back among the Councilmembers prior to it being submitted so Council would have full knowledge of what the total budget of the project was and the sources and uses of all the project funds. Mr. Traylor stated that the Texas Capital Fund currently has two feasible uses by communities that are interested in promoting economic development. The first of those uses is the construction of necessary water, sewer, streets, drainage or other types of supporting infrastructures to open up sites where industries are located or are interested in expanding. Those funds are currently being proposed by the Department to be provided on a grant basis (they do not have to be repaid). Mr. Traylor stated that there have been some proposals circulated that may in the future make some of those types of activities into zero-interest loans. Mr. Traylor stated that he hopes that that does not come about and it is possible that those loans will be left alone for this year, which is good news for this project.

Mr. Traylor stated that another type of assistance that can be made available through the Texas Capital Fund is where the City takes the grant proceeds and passes them through to the industry itself for expansion on their property for their plant facilities. Mr. Traylor stated that in the last year his firm has worked on two important poultry projects in East Texas (Green Acre Foods in Nacogdoches and Tyson Foods in Carthage).

Mr. Traylor stated that the services of his firm would be provided to the City on this project on the same basis that he works for all of his clients, and that is - no grant, no fee. Mr. Traylor stated that for funded projects he charges a fee that is equal to 10% of the grant funds that are secured. The State has a wide range of authority to negotiate with the applicant up or down, although mostly down, in the amounts that are requested. Mr. Traylor stated that his goal will be to develop a notice of intent, submit a pre-application that requests the maximum amount of funds that are available under this program, and then to have it fully justified and be prepared to negotiate for the maximum grant.

City Manager Maclin stated that he would point out to Councilman Simond that there is more than \$800,000 worth of numbers estimated for the improvements, and the \$800,000 is the maximum that the grant can approve. The City will only do those improvements that stay within the \$800,000 grant maximum. Mr. Traylor stated that if his firm can identify some alternative sources of financing to go with the Capital Fund money through other grant programs they will be doing that.

Motion was made by Councilman Don Boyd and seconded by Councilman Tucker Weems authorizing Gary Traylor & Associates to apply for funding from the Texas Capital Fund for the Webber Street project. A unanimous affirmative vote was recorded.

12. REQUEST FOR ADDITIONAL FUNDS - APPROVED - TEXAS DEPARTMENT OF TRANSPORTATION - RIGHT-OF-WAY - KURTH DRIVE AT LOOP 287

Mayor Bronaugh stated that the next item for consideration was Texas Department of Transportation's request for additional funds for right-of-way on Kurth Drive at Loop 287.

City Manager Maclin stated that included in the Councilmember's packet are a letter from Asst. City Manager Ron Wesch and a letter from James Blackburn, Right-of-Way Administrator, Lufkin District, Texas Department of Transportation. City Manager Maclin stated that as is the case in most of these projects the City's responsible to help share by 10% of the cost of the right-of-way acquisition. City Manager Maclin stated that the City made a contribution towards the right-of-way acquisition for this project approximately 1 1/2 years ago and those funds have been expended throughout the balance of this fiscal year, and TxDOT will need an additional \$2,500 on some parcels they are now negotiating. City Manager Maclin stated that staff is seeking \$2,500 from the Contingency Fund to pay the City's portion of the match. City Manager Maclin stated that later on the City will have

an additional cost of approximately \$45,000 which will appear in the 1994-'95 budget for Council's approval.

Motion was made by Councilman Percy Simond and Councilman Don Boyd that request of Texas Department of Transportation for an additional \$2,500 for the right-of-way project on Kurth Drive at Loop 287 be approved, and that the funds be taken from the Contingency Fund. A unanimous affirmative vote was recorded.

13. BID - APPROVED - TRAFFIC PREEMPTION SYSTEM - CONSOLIDATED TRAFFIC CONTROLS INCORPORATED - FIRE & POLICE DEPARTMENTS

Mayor Bronaugh stated that the next item for consideration was bids for traffic preemption system for the Fire and Police Departments.

City Manager Maclin stated that this was a Decision Package that was included in the budget for fiscal year 1993-'94. City Manager Maclin stated that this item has now been bid out and the City will be able to get two parts of the system which would include detectors at four intersections, and the individual detectors which will be installed in 10 Police Department vehicles and 12 Fire Department vehicles.

City Manager Maclin stated that staff is recommending the low bid of Consolidated Traffic Controls Incorporated in the amount of \$22,944. City Manager Maclin stated that staff will be coming back to Council in next year's budget to get more devices until all emergency vehicles are equipped accordingly, and then as the City can afford it, to get more and more intersections of the major thoroughfares equipped with the optical detector. City Manager Maclin stated that the State will give the City four of the devices that go on the signals. These four devices will go on signal lights closest to fire stations.

Motion was made by Councilman Don Boyd and seconded by Councilman Jack Gorden, Jr. that bid of Consolidated Traffic Controls Incorporated in the amount of \$22,944 be approved as submitted. A unanimous affirmative vote was recorded.

14. EXECUTIVE SESSION

Mayor Bronaugh recessed Regular Session at 6:25 p. m. to enter into Executive Session. Regular Session reconvened at 7:37 p. m. and Mayor Bronaugh announced that Council had discussed legal matters and appointments to boards and commissions.

15. COMMENTS

Councilman Simond stated that he had received a number of telephone calls inquiring about cleaning up Jones Lake. Mayor Bronaugh stated that he had been called by Linda Pendland who helped to sponsor a fishing tournament at Jones Lake recently and told him about the problems. Mayor Bronaugh stated that two weeks ago there was a complaint about Ellen Trout Lake from the person who operates the train saying that the odor from the lake was making people sick. Mayor Bronaugh stated that staff approached Paul Sidensticker of the Texas Parks & Wildlife who has been working on both lakes for the past six years. Mr. Sidensticker gave the Parks Department a chemical they were to apply on both lakes to stop the algae growth which was causing the bad odor. Mayor Bronaugh stated that he has asked that the U. S. Forest Service inform Mr. Sidensticker when they put fish in the lake. City Manager Maclin stated that in terms of cleaning up the lake, the City staff can clean up to the waters edge with City equipment, but as far as cleaning in the water, chemicals can be used to help control the aquatic plant growth. City Manager Maclin stated that beyond that, the City cannot make the water clear because of a muddy run off in the lake.

Councilman Kegler stated that on Saturday morning residents of LufkinLand will be cleaning up at the corner of Dale and Higgins Street, where hopefully a City park

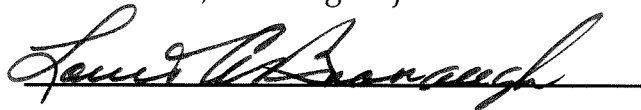
will be located.

Asst. City Manager Ron Wesch stated that the City has a 24" main that comes out of the water plant and runs down Martin Luther King, Jr. Drive, that has been in existence for approximately 40 years. Mr. Wesch stated that this morning the City's elevated storage tank pressure began dropping rapidly and was losing quite a bit of water in a short period of time. Mr. Wesch stated that prior to getting all the valves shut down and uncovering the waterline to determine where the problem was, staff made the decision to release a notice to the media for residents to stop using unnecessary water for washing cars, watering grass, etc. Chief Collins had his units out advising residents of the request. Mr. Wesch stated that about 2 p.m. this afternoon the City discovered that they would be able to fix the leak without calling an out-of-town firm for repairs. Mr. Wesch stated that he anticipates that by 6 a.m. Wednesday morning the water pressure will be back to normal.

City Manager Maclin stated that there will be a Called Workshop Meeting on Thursday, June 9 at 11:30 a.m. in Room 202 to hear a proposal for recodification of City Ordinances.

Mayor Bronaugh invited Councilmembers to join him at Morris Frank Park in the morning at 8:30 a.m. to attend a send-off of the Lufkin Panthers Baseball Team.

16. There being no further business for consideration, meeting adjourned at 7:48 p.m.



Louis A. Bronaugh - Mayor

ATTEST:



Atha Stokes - City Secretary