

**MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF
THE CITY OF LUFKIN, TEXAS, HELD ON THE
20TH DAY OF MAY, 1997 AT 5:00 P. M.**

On the 20th day of May, 1997 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
Don Boyd
Percy Simond
Betty Jones
Bob Bowman
Jack Gorden, Jr.
Tucker Weems
C. G. Maclin
Darryl Mayfield
Bob Flournoy
Atha Stokes
Keith Wright
Stephen Abraham

Mayor
Mayor pro tem
Councilmember, Ward No. 1
Councilmember, Ward No. 3
Councilmember, Ward No. 4
Councilmember, Ward No. 5
Councilmember, Ward No. 6
City Manager
Asst. City Manager/Finance
City Attorney
City Secretary
City Engineer
Director of Planning

being present when the following business was transacted.

1. Meeting was opened with prayer by Dr. Robert Schomp, Minister, First Christian Church.

2. Mayor Bronaugh welcomed visitors present, and stated that the Fire Department was observing this week as EMS Week.

3. APPROVAL OF MINUTES

Motion was made by Councilmember Don Boyd and seconded by Councilmember Bob Bowman that the minutes of the Regular Meeting of May 6, 1997 be approved as presented. A unanimous affirmative vote was recorded.

**4. ORDINANCE - APPROVED - SECOND READING - SPECIAL USE PERMIT -
LOCAL BUSINESS - DAY CARE CENTER - 910 E. DENMAN - CANDI RHODES -
IRWIN McWILLIAMS**

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance to grant a Special Use Permit on property zoned "LB" Local Business to allow a day care center located at 910 E. Denman Avenue as requested by Candi Rhodes on behalf of Irwin McWilliams.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Betty Jones that Ordinance to grant a Special Use Permit on property zoned "LB" Local Business to allow a day care center located at 910 E. Denman Avenue as requested by Candi Rhodes on behalf of Irwin McWilliams be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

**5. ORDINANCE - APPROVED - SECOND READING - ANNEXATION - ZONING
CLASSIFICATION - WHITE HOUSE DRIVE - BRENTWOOD DRIVE - CHESTNUT
STREET (HIGHWAY 58)**

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance for annexation of, and appropriate zoning classification for, approximately 418 acres of land generally located south of White House Drive north and east of Brentwood Drive and west of Chestnut Street (Highway 58).

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Betty Jones that Ordinances for annexation of approximately 418 acres of land generally located south of White House Drive north and east of Brentwood Drive and west of Chestnut Street (Highway 58) be approved on Second and Final Reading as presented, and that the Ordinances for the appropriate zoning classification (Residential Large and Local Business) be approved on Second and Final Reading as presented.

The following vote was recorded:

Aye: Councilmembers Bowman, Gorden, Jones, Simond, Boyd and Mayor Bronaugh

Nay: Councilmember Weems

Mayor Bronaugh stated that motion carried by a 6 to 1 vote.

In response to question by Mayor Bronaugh, City Manager Maclin stated that this information will be forwarded to the Justice Department for review and consideration for compliance with the City's single member voting requirements.

6. ORDINANCE - APPROVED - SECOND READING - SPEED LIMIT - NORTH LOOP 287 - US 69 NORTH - TXDOT

Mayor Bronaugh stated that the next item for consideration was Second Reading of an Ordinance to lower the speed limit on North Loop 287 and U. S. 69 North as requested by TxDOT.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Tucker Weems that Ordinance lowering the speed limit on North Loop 287 and U. S. 69 North as requested by TxDOT be approved on Second and Final Reading as presented. A unanimous affirmative vote was recorded.

7. SERVICE CONTRACT - APPROVED - WATER AND SEWER SERVICE - ANGELINA FRESH WATER DISTRICT - ANRA

Mayor Bronaugh stated that the next item for consideration was a service contract for water and sewer for Angelina Fresh Water District.

City Manager Maclin stated that as was discussed at the last meeting, the staff has reviewed this contract with Mr. Neighbors. City Manager Maclin stated that in Mr. Neighbor's letter he addressed notification of rate increase, and terms of the contract that he specifically wanted to seek Council's response on.

Councilmember Bowman asked if the request was still for 1 1/4 times the City rate. Mayor Bronaugh stated that was the recommendation of the City Staff. Councilmember Bowman stated that, in his opinion, the City should be consistent in what they are charging other people. Councilmember Bowman stated that as far as he knows this will be the only such contract that we are charging less than the standard outside the City rate; we should be charging 1 1/2 times the rate just as we do all the others. Councilmember Jones stated that she concurred.

Councilmember Bowman stated that he will make a motion to approve the contract at 1 1/2 times the rate. Councilmember Jones stated that she would second the motion.

In response to a question by Councilmember Simond, City Manager Maclin stated that staff had met with Mr. Neighbors on several occasions to address various aspects of the contract and their feeling was that the leadership that ANRA could provide for the district was something that was in the best interests of the City. City Manager Maclin stated that Mr. Neighbors requested the 1 1/4 as a method of helping keep the rates affordable for the residents and members of the Angelina

Fresh Water District, while at the same time being able to incorporate the management fee that ANRA would need to provide the day-to-day operations of the water district.

In response to question by Councilmember Simond, City Manager Maclin stated that "Yes, this agreement is peculiar to the Cedar Grove area".

In response to question by Councilmember Simond, City Manager Maclin stated that the rate charged used to be the same that City residents pay, but in 1992 it was revised and changed to 1 1/2 times the rate.

Gary Neighbors, General Manager of the Angelina Neches River Authority, stated that approximately one year ago his firm entered into a management contract with the Angelina Fresh Water District, and have managed the district on a no fee basis. Mr. Neighbors stated that if they incur actual cost for repair he would pass it onto the District. Mr. Neighbors stated that the three different requests in this contract are to try and make sure that they can keep the rates lower for the fee payer. Mr. Neighbors stated that he was very sensitive to any operation that he goes into that it is not perceived that he has to raise the rates to meet the expenses. Mr. Neighbors stated that the need he talked about in his letter to be able to finance improvements at lower interest rates to get long term contracts is why he has asked for the 10 year contract with a 10 year option that would allow him to have long term financing with not only the Texas Water Development Board but also the Federal Government. Mr. Neighbors stated that the issue of notification would mean that he would not incur any additional expenses, but would be able to pass on any rate that was raised without any loss to the District.

Councilmember Gorden stated that he was one of the ones at the last meeting who questioned this contract, and agreed with Councilmembers Jones and Bowman about being consistent. Councilmember Gorden stated that he had come to believe that for whatever reason, some prior Council 35 years ago elected to give some kind of different status to the relationship with the Cedar Grove Water District, and he has now changed his mind. Councilmember Gorden stated that he was in favor of approving the contract to help the Angelina Fresh Water District get their affairs in order, be a good neighbor, and do what we can. Councilmember Gorden asked if there could be some kind of limitation so that at some future time some other Council would have the option of looking and saying that Mr. Neighbors has gotten the system in great shape and now there is no need to have this reduction any more. Councilmember Gorden asked if it were possible in this relationship, by chance some large new industry came into this area and decided to locate, how much of an obligation would the City of Lufkin have, and how much of a strain would it put on the City's system. City Manager Maclin stated that the quantity of water they could receive is already spelled out in the contract under A.1 (not to exceed 2 million gallons per month or 50 million gallons per day.) In response to question by Councilmember Gorden, City Manager Maclin stated that Pilgrim's Pride uses 1.8 million gallons a day.

City Manager Maclin stated that in reference to the time frame of 1 1/4 versus 1 1/2, Mr. Neighbors has a request also about a change in the options on the contract in terms of duration of the contract. Mr. Neighbors stated that he had looked at this situation for over a year to make sure that whenever ANRA did bring something to Council it would be realistic and they would not be running the District without having any funds. Mr. Neighbors stated that this will give them the opportunity for a short period of time to have the funds. Mr. Neighbors stated that if ANRA ever got to where they could not run the Angelina Fresh Water District profitably, on a break even basis, then they could not exit, which would jeopardize their organization. Mr. Neighbors stated that the difference between 1 1/4 and 1 1/2 for ANRA to manage the Angelina Fresh Water District will be \$7,000 per year, because of the low volume of water. Mr. Neighbors stated that at this time ANRA has a little more than that invested already in management fees, helping them with accounting, flushing their lines, making some calls, etc. Mr. Neighbors stated that

the only other option to achieve this is to raise their fees and they already, in comparison to the City of Lufkin's rate, are high. (They pay over \$6 per gallon as opposed to \$2.11 for the City of Lufkin.) Mr. Neighbors stated that he did not want to raise the rate for the Angelina Fresh Water District customers.

In response to a question by Councilmember Gorden, City Manager Maclin stated that currently the contract with the Angelina Fresh Water District is for five years with a five-year option and Mr. Neighbors is seeking a 10 year contract with a 10-year option. City Manager Maclin stated that the other request is for a 60 day notice rather than a 30 day notice on rate increases. City Manager Maclin stated that we will not know what the City's rate increases will be until the first meeting of September when Council approves second reading of all the budget ordinances. City Manager Maclin stated that typically the City's rate changes go into effect in October and Mr. Neighbors would be seeking for his rate changes to go into effect in November to give him adequate time to notify customers and make the adjustments in the rates.

Mr. Neighbors stated that it is easier when he goes to the bank for a 15 year loan to have a contract longer than five years. Without a long term contract it is not possible to get a long term loan. Mr. Neighbors stated that at this time he does not see any major improvements that need to be made, but he does not know what the infiltration problems are. Mr. Neighbors stated that he had talked to Keith Wright and they will be putting in a meter to measure receiving waste because they do not know how much they are losing in the collection system at this time. Mr. Neighbors stated that this is an old system, and the District has a grant to replace some lift stations. Mr. Neighbors stated that if he finds out later on that there are other problems, this gives him the flexibility to address those issues. Mr. Neighbors stated that it takes away the District's ability to finance any improvements or make any replacements on a long term contract if they do not have a long term supply contract.

In response to a question by Councilmember Simond, Mr. Neighbors stated that his field manager could probably talk about the size of the water lines, but he could not. Councilmember Simond stated that several years ago he received a complaint about the size of the lines, and he had talked to Ron Wesch about it, but did not know if anything had ever been done. Mr. Neighbors stated that this is one of the issues he will be addressing and they may have to replace some of the lines. Mr. Neighbors stated that he will also be exploring the collection system for the waste system to see how bad a shape it is in.

In response to question by Councilmember Simond, Mr. Neighbors stated that he has been working on this Contract for approximately three months.

Mr. I. D. Henderson, County Commissioner for the Cedar Grove area and past President of the Angelina Fresh Water District, stated that they have already started construction on the sewer system and are approximately 50% complete. Mr. Henderson stated that the Angelina Fresh Water District Board would like to complete this construction as quickly as possible. Mr. Henderson stated that one of the problems has been the weather.

In response to question by Councilmember Simond, Mr. Neighbors stated that because he could not comment on the size of the water lines he did not mean to convey the message that he did not care because it makes a difference on the capacity you have and the pressure you have for the residents. Councilmember Simond stated that, in his opinion, if these residents are going to pay the same price as the City of Lufkin residents pay, or everyone else pays, they should have the same equipment that everyone else has. Councilmember Simond stated that he would like to know the size of the lines before this Contract is voted on.

Mayor Bronaugh stated that Council has a request of the Angelina Fresh Water District Board to ask ANRA to manage the program for them, and ANRA has done

that for the last year at no charge.

City Manager Maclin stated that there were some clarifications in the Contract that needed to be brought forth. City Manager Maclin stated that Mr. Henderson and Mr. Wade Johnson, who are the officers of the Angelina Fresh Water District have been running this system for 35 years and they were looking for some relief. City Manager Maclin stated that the City Staff felt like having ANRA as the operator would be in the City of Lufkin's best interest.

Mr. Henderson stated that Angelina Fresh Water District had requested that ANRA take over management of the water system in the Cedar Grove area because they were having a lot of problems maintaining Board of Directors, and did not have the expertise to continue managing the system. Mr. Henderson stated that they found out that ANRA does have the expertise to manage the system and they are grateful that they are helping to do this. Mr. Henderson stated that long after he and Mr. Johnson are gone from the scene, he wanted to make sure the residents of the Cedar Grove area had water and sewer service.

Councilmember Bowman stated that, in his opinion, the most logical solution to resolve the problem is to go ahead and annex this area. Councilmember Bowman stated that the City could go in there with our equipment when they become a part of the City, and be treated like we treat all the other areas. Councilmember Bowman stated that he did not understand why the City has not addressed the issue of annexation when the residents are receiving water and sewer service and not paying City taxes, and we will be allowing them a lower water rate than what they are now paying.

City Manager Maclin stated that one thing that has not been mentioned is that if the City were to annex we would inherit the debt that they have to HUD, and would be responsible for all that debt. Councilmember Bowman asked if the City inherited debt from the Fuller Springs Water District.

City Manager Maclin stated that both of the issues as addressed by Mr. Neighbors in the cover letter are things that he feels like are essential in order to provide the customer service level that the constituents would expect in Cedar Grove. Mr. Neighbors stated that ANRA would be amenable to a period of time for re-evaluation of the rate; once they are fully operating and have time to see where they are. Mr. Neighbors stated that he did not want to raise the rates to the fee payers at this time, but some other time when he has achieved all the objectives and could go back to the 1.5, that's what they should do.

Councilmember Simond asked Mr. Neighbors if he would agree to a five year contract with a 10-year option, and the first five years at 1 1/4 and after that at 1 1/2. Mr. Neighbors stated that he would be more amenable to evaluate the contract at that time rather than to pre-ordain what it would be. Mr. Neighbors stated that he would be willing at the end of five years to evaluate the financial circumstances and see what can be done. Mr. Neighbors stated that then the record will speak for itself whether it is proving it or not. City Attorney Flournoy stated that this would not be a good option for ANRA. Mr. Neighbors stated that he had conferred with Mr. Henderson, and he did not want to tie this Contract in with an automatic increase at five years.

Councilmember Simond stated that he had noticed that this item was placed under "Old Business" and wanted to know if it had been discussed at last meeting.

Councilmember Bowman asked if any increase in rates that are passed along to City subscribers in the normal course of events, would they be passed along to the Cedar Grove residents. City Manager Maclin stated that their contract will pay 1 1/4 the commercial rate, and if the commercial rate goes up 5 cents a thousand on October 1st, then that will be passed on to them and anybody else who buys water from the City. Councilmember Bowman stated that he still adhered to the philosophy that

the City needs to treat everyone alike and should not make any exceptions.

Mayor Bronaugh stated that there was a motion on the floor made by Councilmember Bowman and seconded by Councilmember Jones. The following vote was recorded:

Aye: Councilmembers Bowman and Jones

Nay: Councilmembers Gorden, Simond, Boyd, Weems and Mayor Bronaugh

Mayor Bronaugh stated that motion failed by a 2 to 5 vote.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Percy Simond that the service contract with ANRA for water and sewer service for the Angelina Fresh Water District be approved for a 10 year contract-10 year option, with a review of the rate of 1 1/4 in five years, and a 60-day notification, be approved as presented. A unanimous affirmative vote was recorded.

Councilmember Bowman requested that City staff provide him with a complete history of how the City got involved with the Angelina Fresh Water District .

8. ORDINANCE - APPROVED - FIRST READING - SPECIAL USE PERMIT - PRIVATE CLUB - CENTRAL BUSINESS DISTRICT - 109/111 E. SHEPHERD

Mayor Bronaugh stated that the next item for consideration was a request of Darrell Barnhill on behalf of Service Datsun, Inc. for a Special Use Permit to allow for a restaurant with a private club in a "CB" Central Business District on property at 109/111 E. Shepherd Street.

City Manager Maclin stated that included in the Council packet is the memorandum from the Planning Department and a recommendation from the Planning and Zoning Commission on a 5 to 1 vote that recommends approval of the Special Use Permit with the following condition: That the Special Use Permit be for the sale of alcoholic beverages only in conjunction with a full service restaurant facility; and shall not be construed as allowing the structure to be used in a manner which constitutes a night club, tavern, lounge, dance hall or commercial amusement establishment.

City Manager Maclin stated that this request had been heard by Council at a meeting in April and came to Council on a 5 - 1 recommendation from the Planning & Zoning Commission. City Manager Maclin stated that the request received a 3-2 vote at the previous Council meeting, and although it passed by a simple majority. It did not have the four affirmative votes required by Charter. City Manager Maclin stated that the request has gone back to P&Z and is now before Council for consideration.

Larry Byrd, attorney for Mr. Barnhill, stated that would like to show the Council tonight that Mr. Barnhill is an experienced restaurant person, and is not an experienced club owner. Mr. Byrd stated that in the past Mr. Barnhill operated the Barnhill's restaurant on the Loop for his brother Charles Barnhill. Mr. Byrd stated that Mr. Barnhill's family has a history of being restaurant people. Mr. Byrd stated Mr. Barnhill is from Arkansas and is well known there for his restaurants.

Mr. Byrd stated that he was approached by Mr. Barnhill to purchase the restaurant in the name of a company owned by his family, Service Datsun. Mr. Byrd stated that he agreed to do this without finding out if Mr. Barnhill would be able to get a liquor license. Mr. Byrd stated that he was basing his judgment upon the fact that the Roma's restaurant in downtown has been very successful. Mr. Byrd stated that Mr. Barnhill will put in a full size restaurant specializing in smoked meats and will also have pizza. Mr. Byrd stated that these facilities need to be used as a restaurant. Mr. Byrd stated that Mr. Barnhill had expressed to him that due to the small size of the building, he is concerned about the profitability of the venture.

Mr. Byrd stated that Mr. Barnhill feels that he will need to sell beer, wine and mixed drinks in order to make this a profitable establishment. Mr. Byrd stated that as a property owner in downtown Lufkin, and as an attorney for Service Datsun, and for Mr. Barnhill he would ask Council to consider the ramifications if this request is refused. Mr. Byrd stated that at the present time Mr. Barnhill is a person who is willing to invest money and is willing to proceed with the restaurant providing that it can be profitable. Mr. Byrd stated that, in his opinion, it would be unjust to refuse Mr. Barnhill this permit based on the fact that it would be unequal treatment. Mr. Byrd stated that the people who own the restaurant known as Roma's were given the zone change to encourage business in downtown Lufkin, and were issued a Special Use Permit for the sale of alcohol. Mr. Byrd stated that he and Mr. Barnhill were asking for the same treatment.

Mr. Byrd stated that the building is a beautiful art deco type building with ceramic tile on the front, neon lights on the front, and has been converted by the previous owner to a full service restaurant. Mr. Byrd stated that the prior owners did not have good service according to one of the P&Z Commissioners, but also failed because they were not profitable. Mr. Byrd stated that the previous owners did not receive enough income from selling sandwiches at lunch and coffee in the evening. Mr. Byrd stated that, in his opinion, Mr. Barnhill's business plan needs to be respected because as a business person he knows what he needs to operate his business. Mr. Byrd stated that the business Mr. Barnhill has presented to him and to the Council is a respectable business, and is one that will add to the downtown area. Mr. Byrd stated that the restaurant would add 15 - 20 employees and would add to the sales tax revenue and tax base. Mr. Byrd stated that, in his opinion, this restaurant, with the liquor permit, should be considered as a positive addition to downtown Lufkin. Mr. Byrd stated that the building is here, it is vacant, and it is sitting without any income coming in to the company, and without any sale tax revenue coming in. Mr. Byrd stated that the issue here is not whether they are infringing upon a church, but that he is adding to the downtown business climate what is intended to be there in most cities like this. Mr. Byrd stated that Mr. Barnhill is adding a business that comes within the City's comprehensive plan, a business that will be viable, and will bring customers to downtown. Mr. Byrd stated that he urged Council to consider the fact that it is not our judgment today to determine whether or not alcohol is legal in the United States or in the State of Texas or in the City of Lufkin. Mr. Byrd stated that alcohol is legal and it is legal to be sold in restaurants and facilities. Mr. Byrd stated that the issue is not whether it is right for a person to drink or not to drink, this is an issue for each person to decide. Mr. Byrd stated that he respects Mrs. Hughes, who has a very positive outlook on life, with a very positive ministry in the City of Lufkin. Mr. Byrd stated that Mrs. Hughes is very outspoken and speaks her beliefs and he respects that. Mr. Byrd stated that at the same time, this business does not intend to infringe in any way upon her church or her members who go to her church. Mr. Byrd stated that this restaurant is located around the corner from that facility. Mr. Byrd stated that Mrs. Hughes does have a back door that opens up into an air conditioning area that is fenced off. Mr. Byrd stated that there is no traffic flow from her building into the area of the restaurant and there cannot be because of the location of the air conditioners and the way it is set up. Mr. Byrd stated that as an addition to downtown Lufkin he would urge Council to approve the request of Mr. Barnhill to occupy this building, to open his restaurant and to serve alcoholic beverages.

Mr. Barnhill stated that he was not present to propose the use or non-use of alcoholic beverages, that is a personal conviction. Mr. Barnhill stated that he was present strictly from a business standpoint. Mr. Barnhill stated that in the City of Lufkin the restaurants are all out on the Loop where the higher traffic count is. Mr. Barnhill stated that restaurants are all believers in the high car count. Mr. Barnhill stated that the car count in the downtown area does not approach U. S. 59 or the Loop. For the smaller individual like himself to be able to succeed in a downtown area, he has to be able to play with a full deck of cards, and has to have every advantage that he can. Mr. Barnhill stated that at night when this area vacates he has to have something that will pull people back down into this area.

Josephine Hughes, the Pastor of the Covenant of Love Ministry, stated that she was present again to oppose this request. Mrs. Hughes stated that she has talked to several people and downtown is really not as booming as people say it is. Mrs. Hughes stated that if Mr. Barnhill intends to use the back door of his building he will be stepping out onto her property. Mrs. Hughes stated that she is questioning parking because there are serious problems with downtown parking. Mrs. Hughes stated that with Lufkin being a "dry" town it seems to be getting very wet. Mrs. Hughes stated that the request says that it is for a private club, but Mr. Byrd is insisting that this is not a private club. Mrs. Hughes stated that she sees some unfair practices going on with other churches. Mrs. Hughes stated that Roma's is directly across the street from the church and she feels that it is right to treat God's people right. Mrs. Hughes stated that she realizes that alcohol in itself is not a sin but over indulgence is. Mrs. Hughes stated that she feels that all citizens need to be treated equal and she thinks that she deserves this respect. Mrs. Hughes stated that on May 2 there was a very bad fight at Roma's that ended up across the street. Mrs. Hughes stated that the minister that was running the revival at her church had to help stop the fight. Mrs. Hughes stated that one of the participants in the fight was a waiter at Roma's. Mrs. Hughes stated that the owner of Anthony's is considering going out of business because business is so slow.

Mrs. Hughes stated that she feels that Lufkin has been spared a lot of tornados because there are a lot of praying people here, a lot of saints here, and because it is not a wet county. Mrs. Hughes stated that, in her opinion, if Council keeps going the way it is going something will happen to Lufkin to wake it up. Mrs. Hughes stated that whatever decision is made, she is on the Lord's side and that is where she takes her stand. Mrs. Hughes asked the Council to remember in all their dealings that they should be fair.

Councilmember Boyd stated that he had previously expressed his feelings about the situation with alcohol. Councilmember Boyd stated that he wanted to make comments on the fact that it was stated that in order for a business to succeed they had to have alcohol; that's not true. Councilmember Boyd stated that Fuller's and Rodriguez are two restaurants in town that do not serve alcohol and have a viable business. Councilmember Boyd stated that there are several barbecue businesses in town that do not sell alcohol and they are doing good. Councilmember Boyd stated that if a restaurant has good service and serves good food they can make it. Councilmember Boyd stated that if a restaurant has bad service and serves sloppy food they will need people to get drunk so they can eat the food.

Councilmember Boyd stated that all the big churches get all the good praises and they are treated right, but the little churches get stepped on.

Motion was made by Councilmember Bob Bowman and seconded by Councilmember Tucker Weems that Ordinance for a Special Use Permit to allow for a restaurant with a private club in a "CB" Central Business District on property at 109/111 E. Shepherd Street be approved on First Reading as presented.

The following vote was recorded:

Aye: Councilmembers Bowman, Gorden, Jones, Weems, and Mayor Bronaugh
Nay: Councilmembers Simond and Boyd

Mayor Bronaugh stated that motion passed with a 5 to 2 vote.

Mayor Bronaugh stated that the decisions the Council makes on something of this nature is one they feel like is in the best interest of the City, and he hopes that Council is not stepping on anyone as has been implied.

9. ORDINANCE - APPROVED - FIRST READING - SPECIAL USE PERMIT - PAR THREE GOLF COURSE - COMMERCIAL DISTRICT - 2926 S. JOHN REDDITT DRIVE (LOOP 287) - RANDY MOON - JACK POWELL

Mayor Bronaugh stated that the next item for consideration was a request of Randy Moon on behalf of Jack Powell for a Special Use Permit to allow for a par three golf course on property zoned "C" Commercial District located at 2926 S. John Redditt Drive (Loop 287).

City Manager Maclin stated that included in the Council packet is a memorandum of explanation from the Planning Department and a recommendation from the Planning & Zoning Commission by unanimous vote for a Special Use Permit with the following conditions: 1) That all improvements to the golf course be made in accordance with the approved site plan; (2) That the final tee time shall be no later than 10:00 p.m. (3) That no alcohol sales shall be permitted after 10:00 p.m. and (4) That the lighting shall be designed to be directional and limit spillage beyond the perimeter of the property.

Randy Moon was present and stated that he would answer questions from the Council. In response to question by Councilmember Boyd, Mr. Moon stated that the request was for 20 acres due west of the driving range that were contiguous to the driving range.

In response to question by Mayor Bronaugh, Mr. Moon stated that it would be nine holes par three, it will be larger than a pitching put, there will a couple of holes in the 170-200 range and a couple of holes in the 100 yard range. Mr. Moon stated that he planned to offer a lower rate for junior and seniors and a lower rate for playing early. Mr. Moon stated that the rates will probably start as low as \$7 for nine holes and go up to \$15 for 18 holes on prime time nights and weekends. Mr. Moon stated that the course will also be open during the day time.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Betty Jones that request of Randy Moon on behalf of Jack Powell for a Special Use Permit to allow for a par three golf course on property zoned "C" Commercial located at 2926 S. John Redditt Drive be approved on First Reading as presented. A unanimous affirmative vote was recorded.

10. ORDINANCE - APPROVED - FIRST READING - SPECIAL USE PERMIT - PRIVATE CLUB - COMMERCIAL DISTRICT - 2926 S. JOHN REDDITT DRIVE (LOOP 287) - RANDY MOON - JACK POWELL

Mayor Bronaugh stated that the next item for consideration was a request of Randy Moon on behalf of Jack Powell for a Special Use Permit to allow for a private club to allow for the sale of alcohol in connection with par three golf course on property zoned "C" Commercial District located at 2926 S. John Redditt Drive (Loop 287).

City Manager Maclin stated that included in the Council packet is the memorandum of explanation from the Planning Department and a recommendation from the Planning & Zoning Department by unanimous vote for approval of the Special Use Permit for the private club only if the Special Use Permit for the three par golf course is approved, which it was, and only with the following conditions: (1) For the sale of alcoholic beverages only in conjunction with the par three golf course (2) Shall not be construed as allowing the property to be used in a manner which constitutes a night club, tavern, lounge, dance hall, commercial amusement establishment (4) At such time when the golf course ceases operation the Special Use Permit shall be void (5) No golf carts shall be permitted except those used by golf course employees for business purposes (6) Alcoholic beverages shall only be sold from either the club house or the concession stand located on the site plan, and (7) No alcoholic beverages shall be permitted on the driving range or in the parking lot area, only on the proposed golf course.

In response to question by Councilmember Weems as to whether this would prevent people from bringing their own alcoholic beverages on the range, City Manager Maclin stated that that is under TABC rules.

Mr. Moon stated that he wanted to make it clear that he is not in the business of serving alcohol, but is in the business of golf. Mr. Moon stated that he does feel like in the day and age of small margins, which most business people are aware of, that a person has to have in his arsenal whatever it takes to make a business work. Mr. Moon stated that this is a small business and will rely on revenues from the par three, driving range, equipment sales, repair, golf lessons, and food and beverage. Mr. Moon stated that he is requesting the alcohol permit to be service oriented to those people who wish to have one or two beers when they come out to play and also to generate some additional revenues to maintain the course and make it playable for everybody. Mr. Moon stated that there are a lot more restrictions than Mr. Maclin mentioned. Mr. Moon stated that there will be a house located on the course that will help monitor the 10:00 p.m. cut off, and they will serve alcoholic beverages to golfers only. Mr. Moon stated that there will be some other self imposed restrictions and a lot of signage. Mr. Moon stated that they plan to have various programs for junior golfers. Mr. Moon stated that he is requesting the special use permit only as a means to generate additional revenue to make sure this business stays viable.

In response to question by Councilmember Boyd, Mr. Moon stated that he plans to serve only beer and wine. Mr. Moon stated that the beverage house is about half way on the course which will allow people who are playing to stop and have a drink whether it is a beer or a coke. Mr. Moon stated that the course will have a marshal and will request identification.

In response to question by Mayor Bronaugh, Mr. Moon stated that the only membership he had planned to provide was for the alcohol use. Mr. Moon stated that he would also provide memberships to people who want to play on a monthly basis.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Betty Jones that request of Randy Moon on behalf of Jack Powell for a Special Use Permit to allow for a Private Club to allow for the sale of alcohol in connection with par three golf course on property zoned "C" Commercial District located at 2926 S. John Redditt Drive (Loop 298) be approved as presented. A unanimous affirmative vote was recorded.

11. RESOLUTION - APPROVED - CONDEMNATION - PARCEL 32 - TULANE STREET - LARRY CHOATE

Mayor Bronaugh stated that the next item for consideration was a Resolution authorizing condemnation of Parcel 32 on Tulane Street owned by Larry Choate.

City Manager Maclin stated that included in the Council packet is a copy of correspondence from the City's negotiator Sid Medford relating to this tract of property that is needed for the widening of the City's bond street, Tulane. City Manager Maclin stated that also included was a copy of the final offer, a copy of the appraisal as certified by William J. Lyons, an evaluation report, a plat showing the property, and the field note description of the .2028 acres needed for the street expansion. City Manager Maclin stated that as indicated by the letters, the City has been unsuccessful in finding an agreeable price with the property owner. City Manager Maclin stated that the next step for the City to be able to complete the project is to exercise the City's right of imminent domain and to initiate that process Council's approval of the Resolution included in the packet is needed.

Motion was made by Councilmember Tucker Weems and seconded by Councilmember Bob Bowman that Resolution authorizing condemnation of Parcel 32 on Tulane Street owned by Larry Choate be approved as presented. A

unanimous affirmative vote was recorded.

12. RESOLUTION - APPROVED - DESIGNATION OF INTERSECTION OF LOOP 287 AND U. S. 59 SOUTH - PRIORITY

Mayor Bronaugh stated that the next item for consideration was a Resolution requesting TxDOT to designate the intersection of Loop 287 and U. S. 59 South as the number one priority in order to meet the needs of our community.

City Manager Maclin stated that City staff has been working with the development community regarding property in the south Loop and U. S. 59 area. City Manager Maclin stated that staff has had several meetings with the Texas Department of Transportation regarding the congestion and traffic problems and safety issues relating to that intersection. City Manager Maclin stated that staff recently had a meeting with David Justice, District 11 Engineer, and Cheryl Flood, area resident engineer, and the net result of that meeting and conversation was the fact that there are some concerns that need to be addressed and they are becoming more and more imminent as the community grows and transportation traffic count increases at that intersection. City Manager Maclin stated that the recommendation of Mr. Justice was that the City Council consider a Resolution of this nature to provide a documented way of communicating, and this is something that they can use in their efforts to the State for funding and to seek a plan both short term and long term to address the needs of this intersection. City Manager Maclin stated that the Chamber of Commerce Board of Directors will likewise be addressing a Resolution similar to this tomorrow. City Manager Maclin stated that the staff recommendation based on conversation with TxDOT is that Council approve this Resolution.

In response to question by Councilmember Simond, City Manager Maclin stated that the City is seeking the State's cooperation since both of those highways are State owned to get the transportation problems resolved there in terms of the high volume of traffic, access, the weave problem that you have when you have east bound traffic coming from the west side of South 59 along with traffic that is turning left that is south bound and then turning east bound at that intersection combined with the north bound traffic coming from the Houston area. City Manager Maclin stated that basically the City is using this Resolution as a tool to encourage the State to invest some dollars both for planning and resolution of short term problems and long term problems that would consider bypass and things of that nature.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Bob Bowman that Resolution requesting TxDOT to designate the intersection of Loop 287 and U. S. 59 South as the number one priority in order to meet the needs of our community be approved as presented. A unanimous affirmative vote was recorded.

13a. BID - APPROVED - STAFF VEHICLE - WATER POLLUTION CONTROL PLANT - McCOMBS FLEET SERVICE

Mayor Bronaugh stated that the next item for consideration was bids for a staff vehicle for the Water Pollution Control Plant.

City Manager Maclin stated that included in the Council packet are the bid tabulations. City Manager Maclin stated that at the request of Council at a meeting back in April staff sought and received bids for a mini-van. City Manager Maclin stated that when staff came to Council previously the low bid for a sedan was \$18,700. City Manager Maclin stated that it was discussed at that meeting about the potential of utilization of a mini-van that could be used to transport City employees to various water association training meetings. City Manager Maclin stated that the low bid for a mini-van is from McCombs Fleet Service in the amount of \$15,738 for a Ford Aerostar Mini-Van.

Motion was made by Councilmember Betty Jones and seconded by Councilmember Bob Bowman that the bid of McCombs Fleet Service in the amount of \$15,738 be approved as submitted. A unanimous affirmative vote was recorded.

13b. BID - APPROVED - POTHOLE PATCHER - STREET DEPARTMENT - H. D. INDUSTRIES

Mayor Bronaugh stated that the next item for consideration was bids for a pothole patcher to be used in the Street Department.

City Manager Maclin stated that included in the Council packet is a review of the fact that Council had discussed this at the April 15th meeting about consideration of appropriation of funds from the Insurance Loss Fund. City Manager Maclin stated that the unit that this pothole patcher is replacing was burned beyond repair. City Manager Maclin stated that staff recommendation is the low bid of H. D. Industries in the amount of \$75,100.

Keith Wright, City Engineer, stated that at the Council Retreat he had presented a procedure for patching trying to emphasis a quality patch that would last a longer period of time. Mr. Wright stated that this patching machine will be a hot mix type of patching machine and will have all the tools built in with the truck. Mr. Wright stated that he and his staff went to Nacogdoches to view their machine at work. Mr. Wright stated that, in his opinion, this will give a long term repair and the Street Department will not be going back repeatedly to patch the same area.

Motion was made by Councilmember Don Boyd and seconded by Councilmember Jack Gorden, Jr. that the low bid of H. D. Industries in the amount of \$75,100 be approved as submitted. A unanimous affirmative vote was recorded.

14. EXECUTIVE SESSION

Regular Session was recessed at 6:32 p. m. to enter into Executive Session. Regular Session reconvened at 6:52 p. m. and Mayor Bronaugh stated that personnel matters had been discussed and no decisions were made.

15. COMMENTS

City Manager Maclin stated that on the table is a memo from the Chief of Police regarding the sale of seized forfeited property. City Manager Maclin stated that he is bringing this to Council's attention simply because in the past they have asked to be informed about these issues, and basically what he is seeking tonight is approval from Council by common consent to allow the Police Chief to move forward with a July auction on these items. City Manager Maclin stated that it delineates in the memo that all the sales related to fire arms are strictly in accordance with the same type of laws that apply to anybody who would sell as a dealer (the Brady law). City Manager Maclin stated that there are some jewelry items and some pistols and shotguns. City Manager Maclin stated that the Chief is having this sale in conjunction with the Sheriff's office. City Manager Maclin stated that if there is no opposition the Chief will be duly noted that he can proceed with this request. (There was no opposition by Council.)


City Manager Maclin stated that the DETCOG annual meeting will be held this Thursday at the Civic Center with John Sharp as the guest speaker.

City Manager Maclin stated that there is a DETDA meeting this Friday at Memorial Medical Center addressing potential trauma care including life flight helicopter service.

City Manager Maclin stated that next Monday, May 26th will be a City holiday, and that garbage service will be moved back one day.

Mayor Bronaugh stated that there is a birthday party for the Expo Center on Wednesday, May 21st.

16. There being no further business for consideration, meeting adjourned at 7:00 p.m.


Louis A. Bronaugh - Mayor

ATTEST:

Atha Stokes - City Secretary