

**MINUTES OF REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF LUFKIN, TEXAS, HELD ON THE
19TH DAY OF APRIL, 1994 AT 5:00 P.M.**

On the 19th day of April, 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
Don Boyd
Larry Kegler
Bob Bowman
Jack Gorden, Jr.
Tucker Weems
C. G. Maclin
Ron Wesch
Darryl Mayfield
Bob Flournoy
Atha Stokes

Mayor
Mayor pro tem
Councilman, Ward No. 3
Councilman, Ward No. 4
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

Percy Simond

Councilman, Ward No. 1

being absent when the following business was transacted.

1. Meeting was opened with prayer by Rev. Bettye Kennedy, Long Chapel CME Church.

2. Mayor Bronaugh welcomed visitors present.

3. **APPROVAL OF MINUTES**

Minutes of Regular Meeting of April 5, 1994 were approved on a motion by Councilman Bob Bowman and seconded by Councilman Larry Kegler. A unanimous affirmative vote was recorded.

4. **ORDINANCE - APPROVED - SECOND READING - ZONE CHANGE - JIMMY E. HORTON - RESIDENTIAL LARGE TO COMMERCIAL - 2502 N. MEDFORD DRIVE SOUTH TO 2401 N. MEDFORD DRIVE**

Mayor Bronaugh stated that the first item for consideration was Second Reading of an Ordinance for a Zone Change of a strip of land that fronts the west side of Loop 287 and runs from 2502 N. Medford Drive south to 2401 N. Medford Drive from Residential Large to Commercial as requested by Jimmy E. Horton.

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.

5. **ORDINANCE - TABLED - FIRST READING - SMOKING IN PUBLIC PLACES**

Mayor Bronaugh stated the next item for consideration was First Reading of an Ordinance regulating smoking in public places in the City of Lufkin.

City Manager Maclin stated that basically a few weeks back staff was approached by some area businesses and public entities about the consideration for some type of expansion of the City Smoking Ordinance. City Manager Maclin stated that the City passed a policy that applied to City-owned buildings approximately one year ago

that restricted smoking inside those buildings. There were no punitive damages or penalties in the Ordinance. City Manager Maclin stated that there has been good compliance by City employees.

City Manager Maclin stated that the businesses requesting the No Smoking Ordinance stated that they had policies in place but felt like they were lacking in enforcement authority. City Manager Maclin stated that staff reviewed No Smoking Policies from six other cities and found some sample models which were referred to the City Attorney for drafting purposes. City Manager Maclin stated that a draft of the policy being presented to the Council at tonight's meeting had been shown to some of the interested area businessmen and they concurred that they liked the approach the City is using. City Manager Maclin stated that a copy of letters from the Directors of Memorial Medical Center of East Texas and Woodland Heights Hospital expressing their comments about the draft Ordinance had been placed at each Councilmember's place at the Council table. City Manager Maclin stated that staff had pursued this from the standpoint that the Ordinance would give those businesses and public entities the ability to have some kind of enforcement vehicle or enforcement mechanism for those who chose to adopt this policy. City Manager Maclin stated that as this Ordinance is drafted, it does not automatically apply to every public building in town, but does provide some stipulations as far as definitions of smoking in public areas, smoking in the workplace, and enforcement. City Manager Maclin stated that basically what the Ordinance says is that if a business chooses to have this enforcement authority then they must adopt this Ordinance as a written policy for that particular location and must post "No Smoking" signs accordingly. City Manager Maclin stated that without adopting this Ordinance as a policy for their building, and without posting the "No Smoking" signs, then this Ordinance is not enforceable. City Manager Maclin stated that this Ordinance was written in such a way to allow those who want to participate to have the vehicle they need for proper enforcement; for those who choose not to participate, it would not impact their public business.

City Attorney Flournoy stated that primarily there are several things that are specific or prohibitive in whether or not the business adopts the Ordinance or posts the No Smoking signs. City Attorney Flournoy stated that those places outlined in the Ordinance that prohibits smoking are (1) an elevator used by the public; (2) a hospital or nursing home corridor (3) conference rooms, meetings rooms, or public service area of any facility owned, operated, or managed by the City (4) any retail or service establishment serving the general public, including, but not limited to any department store, grocery store, or drug store (5) an area marked with a No Smoking sign in accordance with Subsection (b) by the owner or person in control of a hospital, nursing home, or retail or service establishment serving the general public; or (6) any facility of a public primary or secondary school; or an enclosed theater, movie house, library, museum, or transit system vehicle.

Murphy George stated that he was representing Memorial Medical Center of East Texas, the Dairy Queen stores of East Texas, and numerous food establishments within the City of Lufkin. Mr. George introduced the following people from the medical profession who spoke in support of the Ordinance:

Mary King, Director of Development - Woodland Heights Hospital
David Hinson, Director of Respiratory Therapy - MMCof ET
Sid Roberts, Director of Radiology - MMCofET and the President of the
American Cancer Society

Mr. George asked that the Council give serious consideration to this Ordinance.

In response to question by Mayor Bronaugh, City Manager Maclin stated that to make the Ordinance mandatory it would require some modification in terms of the participation requirements from a standpoint of the items listed on page 3 (4, 5 and 6). City Manager Maclin stated that the part of the Ordinance that requires participation or requires adoption of the policy and posting of the signs would have

to be removed in order to take it to that next step of mandatory participation.

City Attorney Flournoy stated that the next step in making the Ordinance mandatory would be to take out the Section that says that the businesses themselves can make the decision by posting the No Smoking signs (Section 1).

Councilman Gorden stated that he would be interested in exploring the possibility of making the Ordinance mandatory. Councilman Gorden stated that an extension of time could be given to get input from businesses.

In response to question by Mayor Bronaugh if the City could say to a particular business owner that he had no choice, that if there was public participation in his business there would be no smoking, City Manager Maclin stated that the City could pass an Ordinance that would be inclusive of those areas. City Manager Maclin stated that some type of exceptions could be drafted into the Ordinance.

Councilman Bowman stated that he would like to see staff and Council explore a stronger Ordinance. Councilman Bowman stated that he would concur with Councilman Gorden in that there should be an extension of time for input from businesses.

City Manager Maclin stated that Council could direct the City Attorney to re-draft this Ordinance to reflect discussion of Council this evening and bring it back for consideration at next meeting.

In response to question by Councilman Kegler, Mayor Bronaugh stated that there was an article in Sunday's newspaper stating that the City would discuss passing a No Smoking Ordinance at tonight's meeting. Mayor Bronaugh stated that it was possible to have a Public Hearing some afternoon at 5:00 p.m. where people could come in after work and make their comments.

Gilbert Cox stated that he hated to see the rights of the people infringed upon and would not want to see the Ordinance as being mandatory.

The City Attorney was directed by Council to make the changes to the Ordinance as discussed; the Ordinance will be on the next agenda for further discussion.

Jack Bailey of Memorial Medical Center of East Texas, Bob McBride of Woodland Heights Hospital, and approximately 40 people from the medical profession were in attendance to support the Ordinance.

6. REQUEST - APPROVED - SEWER SERVICE - OUTSIDE CITY LIMITS - WALTER FUTCH/TRINITY BAPTIST CHURCH

Mayor Bronaugh stated that the next item for consideration is a request by Walter Futch on behalf of Trinity Baptist Church for sewer service outside the City limits.

City Manager Maclin stated that included in the Councilmember's packet was a letter from Asst. City Manager Ron Wesch recommending approval of this request, a letter of request from Rev. Futch, and a sketch diagram showing the service location.

Motion was made by Councilman Tucker Weems and seconded by Councilman Don Boyd that request by Walter Futch on behalf of Trinity Baptist Church for sewer service outside the City limits be approved as presented. A unanimous affirmative vote was recorded.

7. REQUEST FOR ANNEXATION - APPROVED - FM ROAD 58 - WHEELER ROAD - PATRICIA CARITHERS WILLIAMS - MARK LOWERY - TU ELECTRIC

Mayor Bronaugh stated that the next item for consideration is a request of Mark

Lowery, Patricia Carithers Williams and TU Electric to initiate annexation proceedings on approximately 217.616 acres of land located on the east side of FM Road 58 and bounded by the existing City limit to the north and Wheeler Road to the south.

City Manager Maclin stated that included in the Councilmember's packets is a memorandum from the City Planner recommending that the annexation schedule be adopted. Also, included are letters from the engineer on the project, TU Electric, Mrs. Williams, and field notes and a plat of the property. City Manager Maclin stated that the developer and engineer came to the Planning Department several months ago and began to discuss this project with the City Planner. City Manager Maclin stated that this will be a positive thing for the City of Lufkin in terms that they will be nice sized lots and it will be a quality housing addition. City Manager Maclin stated that staff is recommending that the Ordinance schedule be adopted to proceed with the annexation.

Motion was made by Councilman Don Boyd and seconded by Councilman Bob Bowman that request for annexation proceedings as requested by Mark Lowery, Patricia Carithers Williams and TU Electric be approved as presented. A unanimous affirmative vote was recorded.

8. REIMBURSEMENT - APPROVED UTILITY LINE RELOCATION - DAVIS STREET - WILLIAM GEORGE COMPANY

Mayor Bronaugh stated that the next item for consideration is reimbursement to William George Company for utility line relocation on Davis Street.

Mayor Bronaugh stated that earlier in the year there was an expansion at the William George Company and the City of Lufkin sold them a portion of Davis Street. There was some negotiations whereby the property across from City Hall was exchanged for the relocation of the utility lines on Davis Street.

City Manager Maclin stated that the total cost of the project is \$11,740, and staff is requesting that this amount be taken from the Water and Sewer Contingency Fund.

Motion was made by Councilman Don Boyd and seconded by Councilman Larry Kegler that reimbursement of \$11,740 to William George Company be approved as submitted and that this amount be taken from the Water and Sewer Contingency Fund. A unanimous affirmative vote was recorded.

9. BIDS - APPROVED - ORIGINAL TOWNSITE OF LUFKIN (OLD TSO BUILDING) - LARRY BYRD

Mayor Bronaugh stated that the next item for consideration was bids for property in the original townsite of Lufkin (old TSO building).

City Manager Maclin stated that several months ago the Main Street Office and Main Street committee were approached about acquiring this property for parking purposes. City Manager Maclin stated that developing a pocket park at this site had been discussed; however, no funds were available. The Main Street Committee concluded that this would be a positive thing if they could have some design criteria added in to insure continuity with the downtown facade and the redevelopment activity presently being pursued in the downtown area. City Manager Maclin stated that in compliance with State law, staff went out for bids and received four bids interested in this piece of property. The bid tabulation is included in the Councilmember's packets with a range from a low of \$350 to a high of \$7,559. City Manager Maclin stated that to protect the City and insure that the parking lot and any facades constructed would comply, staff included specifications for rehabilitation or new construction in the Central Business District (these specifications were a part of the bid process and were included in the packet information). City Manager Maclin stated that to insure timeliness in the

construction of these facilities, a proposed deed that requires these improvements to be made within 12 months from the date of conveyance, had also been included in the packet. City Manager Maclin stated that it is staffs recommendation that this lot be sold to the highest bid, which is Larry Byrd in the amount of \$7,559.

Motion was made by Councilman Don Boyd and seconded by Councilman Larry Kegler that bid of Larry Byrd in the amount of \$7,559 be approved as submitted.

In response to question by Councilman Gorden as to the appraised value of the property, City Manager Maclin stated that the lot had been appraised previously when the old dilapidated building was on it, which was removed.

David Cochran stated that the Appraisal District has the property appraised at \$1.50 per SF, but it is hard to establish a vacant land price on downtown property. Mr. Cochran stated that the size of the property is approximately 25' x 125', which works out to \$4,687.50 based on \$1.50 per foot.

A unanimous affirmative vote was recorded.

10. COMMENTS

Councilman Weems stated that the expenditures and revenues of the budget seem to be coming along real good for the year.

Councilman Kegler recited a situation that took place at the corner of his property where some wires caught fire in a tree, which involved calling TU Electric for an emergency. Councilman Kegler stated that he was concerned that there is no local person responsible for such emergencies and requested that some action be taken by staff to correct this situation. City Manager Maclin stated that he would draft a letter to Bob Brown.

Mayor Bronaugh announced that Councilman Boyd had been appointed to the Texas Attorney General's Municipal Advisory Committee and would be attending a workshop in Austin on Friday.

11. There being no further business for consideration, meeting adjourned at 5:57 p.m.



Louis A. Bronaugh - Mayor

ATTEST:


Atha Stokes - City Secretary