

MINUTES OF SPECIAL MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON 13th DAY OF SEPTEMBER, 1966, AT 6:00 P.M.

On the 13th day of September, 1966, the City Commission of the City of Lufkin, Texas, convened in special meeting in the regular meeting place of said City, with the following members thereof, to-wit:

Jim Waters	Mayor
William F. Prince	Commissioner, Ward No. 1
Dayle V. Smith	Commissioner, Ward No. 2
Byron McNeil	Commissioner, Ward No. 3
Earl Nisbet	Commissioner, Ward No. 4
Gene H. Nerren	Commissioner at Large, Place A
Basil E. Atkinson, Mr., M.D.	Commissioner at Large, Place B
Reagan Parker	City Manager
Lynn Durham	City Secretary
David Walker	City Attorney

being present, constituting a quorum, when the following business was transacted:

1. Meeting called to order with prayer by Commissioner Earl Nisbet.
2. Mayor stated special meeting was called for the purpose only of considering Change Order No. 1 dated August 30, 1966, covering changes in Contract Plans and Specifications on Water Distribution System Improvements by Gulfline Constructors, Inc. for a deduction of \$2,616.00 from Contract as recommended by Bernard Johnson Engineers, Inc. and also to discuss the duties of the Consulting Engineers.
3. Mr. Robert K. Burchard introduced Mr. Jerry Dietrich, Vice-President of Bernard Johnson Engineers, Inc. and Ray Terrell, one of their representatives. Mr. Dietrich spoke to the City Commission in detail and at the outset advised that Bernard Johnson Engineers, Inc. recognized the City Commission had the authority to approve any Change Order and that they also recognized the fact that any work due to a Change Order should not be started until approval was given by the City Commission. He stated that the substitution of casing from 24" to 20", as covered by the above Change Order, had already been installed in the ground, which he stated was grossly improper and that such Change Orders in the future covering work on any Contract would certainly get official approval by the City Commission before such work was started. He further stated that Mr. Ray Terrell would be assigned to the Capital Improvements Work at Lufkin and would be following through on such matters in the future. He apologized to the City Commission for any errors or oversights that had been made in the past by his firm and gave assurance there would be no recurrence in the future and that proper communication would be set up.

Mr. Dietrich stated he would like permission to include work in connection with Change Order No. 1 as well as other items which should be included in a Change Order covering Schedule 1, 2 and 3, Water Distribution System Improvements. He further stated that in the future a monthly progress report would be furnished the City Comm. in order that all concerned would be informed on all details covering the Capital Improvement Program for the City of Lufkin. Mr. Dietrich ask for any questions or comments the City Commission members might have and would try to answer same if possible.

Commissioner Byron McNeil inquired as to why it was necessary to change electrical plans at pump station and why this information was not given to the City Commission 6 months earlier.

Mr. Dietrich stated he could not answer intelligently on this but that the matter no doubt had been discussed with their electrical people who probably recommended the change.

Commissioner Byron McNeil had a number of other inquiries regarding why the City was not given prior information on Change Order covering \$17,000.00 additional cost due to abandonment of the original well site No. 9 to the present well site.

Mr. Dietrich stated he could not answer this particular question and called on Mr. Robert K. Burchard who stated that at regular meeting of the City Commission on June 21, 1966, he went into detail explaining the change in Well site and the obvious additional cost that would be incurred. Commissioner Byron McNeil had a number of other inquiries on which he stated he was not satisfied with answers previously given.

Commissioner Gene H. Nerren stated he had several questions to raise regarding advice received from Mr. E. C. Kobs, Vice-President of Bernard Johnson Engineers, Inc. with regard to future water supply for City of Lufkin. He stated that Mr. Kobs had recommended that the City Commission enter into a long term contract with Consultants to receive water from Lake Poncha when it was constructed, but that the City Commission had only authorized the Engineers to proceed to give the City within one month, date, scope, cost and time of study on water needs and supply, pursuant to application, without any cost or obligation on part of City. Commissioner Nerren also stated that the City Commission had never at any time been informed that water would be available from the Sam Rayburn Reservoir; in fact, Mr. Kobs had advised on previous occasion that such water would not be available. Mr. Nerren stated that it now develops that water will be available to the City of Lufkin from Sam Rayburn Reservoir and that this item was being followed through with the Manager of the Sam Rayburn Reservoir. Mr. Dietrich stated he could not answer details on this water supply situation since he had not discussed it with Mr. Kobs.

Commissioner Gene H. Nerren also called attention to drainage conditions in the City of Lufkin and the Cedar Creek drainage problem wherein Bernard Johnson Engineers, Inc. were desirous of proceeding with the study of this area.

Coy Milligan, City Engineer, stated that he was the one who brought this matter to the attention of the City Commission instead of Mr. Burchard, since it was an item discussed by the City Planning and Zoning Commission previously and who had requested that the matter be considered by the City Commission.

Commissioner Gene H. Nerren called attention to proposal by Bernard Johnson Engineers, Inc. for a study of conditions at the Sewer Treatment Plant at an estimated cost of \$6,600.00 whereas the information was actually obtained for \$375.00. Mr. Burchard stated that his firm was instructed by the City Manager to bring a proposal before the City Commission covering this particular study of the Sewer Treatment Plant.

Commissioner Basil E. Atkinson, Jr., M.D. had a number of questions regarding Change Orders and why they were not considered at the time contract details were being worked out by the Consultants Engineers. Mr. Dietrich stated that these matters could and should have been given more study at that time.

Commissioner Basil E. Atkinson, Jr., M.D. called particular attention to the new Water Well and the additional cost incurred as well as the recommended change in the pump specifications. He thought the pump specifications should have been figured out by Engineering principles to fit the needs that might be encountered in new Water Well regardless of location.

Commissioner Earl Nisbet inquired of Mr. McCurley of Gulfline Constructors, Inc. as to the size casings he installed as covered by Change Order No. 1 mentioned above. Mr. McCurley stated the original contract called for 24" steel casings and actual installation consisted of 20", 14" and 12" casings, and that he had written a letter on June 15, 1966, requesting Change Order be made up for approval prior to work being started and he assumed that all arrangements had been taken care of.

Coy Milligan, City Engineer, advised that he gave Mr. McCurley the authority to go ahead with this work.

Commissioner Dayle V. Smith inquired as to why we experienced a failure on Water Well No. 8 in approximately 1 year after construction. Mr. Burchard stated that this was a situation that could not be anticipated or controlled by the Contractor or the Consulting Engineers.

A considerable amount of discussion was had and Commissioner Gene H. Nerren made motion that City of Lufkin exercise the option of paragraph 8 in Contract with Bernard Johnson Engineers, Inc. and terminate this contract immediately. Commissioner Basil E. Atkinson, Jr., M.D. seconded the motion.

Mayor stated he was against this action since it would no doubt cost the City and that City would certainly have to pay for work now in progress by the Consultants and also that City would be the loser in the long run since a new firm of Consulting Engineers would be unable or would probably not desire to use information now developed by Bernard Johnson Engineers, Inc. City Attorney stated that this matter would have to be given close study in order that an amicable settlement could be made.

Mr. Dietrich stated he would certainly regret to see the City of Lufkin take this action since his firm was willing to do everything possible to get the Capital Improvement Program in the City of Lufkin in such a condition that would be satisfactory to all concerned.

Commissioner Gene H. Nerren asked Mr. Dietrich if his firm would be willing to discuss the possibility of negotiating contract on each particular phase of our Capital Improvement Program instead of the overall contract now in effect. Mr. Dietrich stated his firm would discuss any matter, contract or otherwise, and negotiate with the City since they certainly desired to continue their operations here in Lufkin.

Commissioner Basil E. Atkinson, Jr., M.D. inquired as to the fee schedule that might be used if such contracts were negotiated and entered into. Mr. Dietrich stated the fee schedule set out by the TSPE would be followed.

Parker McVicker, local Attorney, who was present, was given permission to speak and he requested the City Commission to give this matter serious thought since there was a possibility of a law suit against the City. He suggested that the words "reasonable" and "equitable" in paragraph 8 of the contract be considered in great length.

Commissioner Gene H. Nerren stated that since Mr. Dietrich was willing to negotiate on the basis of a contract for each phase for Capital Improvement Program in the future, he would withdraw his motion of terminating the contract. Commissioner Basil E. Atkinson, Jr., M.D. withdrew his second to the motion.

Mr. Dietrich requested the City Commission to let his firm be represented at next regular meeting and present Change Orders

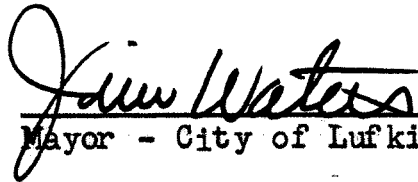
incorporating all changes that have been made or contemplated being made in Schedules 1, 2 and 3, Water Distribution System Improvements, and that he be allowed to also give a progress report in detail on cost, work done to date, etc. on entire Capital Improvement Program for the City of Lufkin.

Mayor asked the City Commission members if it would be satisfactory for Mr. Dietrich or his representatives to appear at next regular meeting with Change Orders mentioned above as well as a complete progress report on the entire Capital Improvement Program.

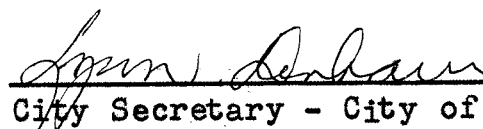
Commissioner Basil E. Atkinson, Jr., M.D. stated he would not be present at next regular meeting and desired to be in attendance when the progress report was submitted. However, it was satisfactory with him for Mr. Dietrich or a representative to appear at next regular meeting with Change Order.

Mayor inquired of other City Commission members if this was satisfactory. There were no objections and Mayor instructed Mr. Dietrich to appear at next meeting.

4. There being no further business for consideration, meeting was adjourned at 9:00 P.M.

  
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Mayor - City of Lufkin, Texas

ATTEST:

  
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City Secretary - City of Lufkin, Texas