

MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 4TH DAY OF FEBRUARY, 1975, AT 7:30 PM

On the 4th day of February, 1975, the City Commission of the City of Lufkin, Texas, convened in regular meeting in the Council Room at City Hall with the following members thereof, to-wit:

Pitser H. Garrison	Mayor
R. A. Brookshire	Commissioner, Ward No. 1
Pat Foley	Commissioner, Ward No. 2
Joe E. Rich	Commissioner, Ward No. 3
E. C. Wareing	Commissioner, Ward No. 4
W. O. Ricks, Jr.	Commissioner at Large, Place A
E. G. Pittman	Commissioner at Large, Place B
Harvey Westerholm	City Manager
Robert L. Flournoy	City Attorney
Roger G. Johnson	City Secretary

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

1. Meeting opened with prayer by Rev. C. B. Bass, Retired Baptist Minister, Lufkin, Texas.
2. Mayor Garrison welcomed a small group of visitors who were present in connection with items on the agenda or as observers.
3. Approval of Minutes

Comm. Pat Foley made motion that minutes of regular meeting of January 17, 1975, be approved. Motion was seconded by Comm. Joe E. Rich and a unanimous affirmative vote was recorded.

4. Report on Civic Center Construction

City Manager Westerholm reported that Mr. Boley Thomas had reviewed construction at the Civic Center site as requested by members of Commission and had written a letter of recommendation concerning recent problem with a "bowed beam". City Manager Westerholm stated that Mr. Thomas had met with structural engineers in regard to this problem and corrective measures had been agreed upon by all parties. Members of Commission briefly reviewed a sketch of repairs as outlined in available drawing and no further questions were presented.

5. Water Rate Study - Disc.

Mayor Garrison stated that the City Commission had previously requested a review of the existing City water rates following prepared study made by Finance Director Royal Dunlap. Mayor Garrison discussed various conclusions presented by the Finance Director in addition to previous report submitted.

Considerable discussion developed regarding this most recent study involving questions as to whether or not the City of Lufkin actually needed the large commercial water users. Mayor Garrison pointed out the fact this report concluded that the City was not losing money by selling water at its lowest rates to commercial users, and that providing the City did not have its eight largest commercial users, the total net income for same would decrease in excess of \$63,000 annually.

Comm. W. O. Ricks, Jr., expressed his concern for increasing the lowest rate for commercial users.

Mayor Garrison stated that he was basically concerned that these rates be adequate to meet the City's bond obligations.

Comm. Pat Foley asked City Manager Westerholm what the City's ability was to increase its elevated storage capacity. City Manager Westerholm stated that this situation was reviewed on an annual basis and should eventually be considered in future plans.

Comm. W. O. Ricks, Jr., made motion that ordinance be approved on first reading amending the lowest rate for commercial water users by increasing same from 21¢ to 30¢ per 1,000 gallons. Motion was seconded by Comm. Pat Foley.

Prior to vote on motion, Comm. E. C. Wareing stated that he was of the opinion that the City's total water consumption would decrease if the above rates were implemented, and that the City's eight top commercial water users could easily reduce their use of water to provide for difference in the cost increases since these commercial concerns were in the best position to cut back on their use. Comm. E. C. Wareing further explained that providing any increases were finally approved by this Commission, adjustments should be considered for all customers to include new fixed costs for sizes of various water meters inasmuch as costs for meter size were the same for all sizes. Comm. E. C. Wareing stated that an adjustment in these fixed costs could create a considerable amount of additional annual revenue.

Comm. R. A. Brookshire inquired as to whether or not the City was meeting its present bond requirements in this regard. City Manager Westerholm stated that the City was currently meeting this requirement, but it was possible existing water and sewer revenues could indicate a deficiency by the end of this fiscal year. Comm. R. A. Brookshire then expressed his concern that no rates should be increased until actual deficiencies were realized.

Comm. W. O. Ricks, Jr., expressed his opinion that an increase in rates as previously proposed would assist in the stabilization of the City's water table and conserve water throughout the area to the advantage of all concerned. The following vote was recorded on previous motion by Comm. W. O. Ricks, Jr., to raise lowest commercial rates as indicated:

Voting Aye: Comms. Pat Foley and W. O. Ricks, Jr.

Voting Nay: Mayor Garrison, Comms. R. A. Brookshire, Joe E. Rich, E. C. Wareing and E. G. Pittman

Mayor Garrison declared motion denied by majority vote of five to two.

Comm. E. C. Wareing suggested that members of this Commission seriously consider changing fixed costs per meter in accordance with the following recommendation:

- 5/8-Inch Meter - No Change
- 1-Inch Meter - \$9.00
- 1½-Inch Meter - \$15.00
- 2-Inch Meter - \$35.00
- 4-Inch Meter - \$100.00
- 6-Inch Meter - \$150.00

Comm. E. C. Wareing requested that Commission minutes reflect the above listed fixed meter cost changes.

Mayor Garrison requested that Finance Director Royal Dunlap consider a new cost study regarding projections of the water and sewer revenue fund for this fiscal year.

City Manager Westerholm stated that the new cost of the Water Pollution Control Plant was taking considerable money from the water revenues and Comm. E. C. Wareing asked if the Finance Director could prepare a Water Pollution Control Plant study similar to the study recently completed on water rates. Remaining members of the Commission were of the opinion that this study be completed for review at first City Commission meeting in March, 1975.

6. Zone Change Application-Larelco & Land O'Pines from LB District to LB and C District, Special Use (Erection of On-Premise Sign in Excess of 36 Square Feet)

Mayor Garrison stated that zone change application by Larelco and Land O'Pines from LB District to LB and C District, Special Use (Erection of On-Premise Sign in Excess of 36 Square Feet) covering property located between U. S. Highway 59 East and FM 58 intersection at present site of OK Food Store had been recommended for approval by the City Planning and Zoning Commission during a previous meeting.

There were no persons present appearing in opposition to zone change application as presented. Comm. E. C. Wareing made motion that ordinance be approved on first reading changing zone as requested by Larelco and Land O'Pines from LB District to LB and C District, Special Use (Erection of On-Premise Sign in Excess of 36 Square Feet). Motion was seconded by Comm. W. O. Ricks, Jr., and a unanimous affirmative vote was recorded.

Mayor Garrison requested that the official minutes indicate his voting abstinence due to personal interest in Land O'Pines Industries.

7. Zone Change Application-Larelco & Land O'Pines from NR District to NR and C District, Special Use (Erection of On-Premise Sign in Excess of 36 Square Feet)

Mayor Garrison stated that zone change application by Larelco and Land O'Pines from NR District to NR and C District, Special Use (Erection of On-Premise Sign in Excess of 36 Square Feet) covering property located West of Trenton Street near intersection with Highway 103 East at present site of OK Food Store, had been recommended for approval by the City Planning and Zoning Commission during a previous meeting.

There were no persons present appearing in opposition to zone change application as presented. Comm. E. C. Wareing made motion that ordinance be approved on first reading changing zone as requested by Larelco and Land O'Pines from NR District to NR and C District, Special Use (Erection of On-Premise Sign in Excess of 36 Square Feet). Motion was seconded by Comm. W. O. Ricks, Jr., and a unanimous affirmative vote was recorded.

Mayor Garrison requested that the official minutes indicate his voting abstinence due to personal interest in Land O'Pines Industries.

8. City Electrical Ordinance #239 - Amendment Approved

Mayor Garrison called on Mr. Leon Caver, Chairman of the City Examining and Supervising Board of Electricians, who was present, in representation of this Board regarding two changes in the Electrical Ordinance. Mr. Caver stated that a National Electrical Code requirement provided that ground fault protection be supplied on construction sites. Mr. Caver requested that this requirement not be enforced at the present time until adjustments could be made in equipment. Mr. Caver further stated that the Electrical Board was of the opinion the City ordinance requiring electrical examinations on a monthly basis should be amended to allow examinations on a quarterly basis.

Considerable discussion developed regarding information presented by Mr. Caver and City Manager Westerholm stated that it was the opinion of the City staff that the National Electrical Code requirement regarding ground fault wiring should not be amended. Comm. R. A. Brookshire made motion that ordinance be approved on first reading amending City Electrical Ordinance #239 providing for examinations on a quarterly basis and the City hold in abeyance the enforcement of the National Electrical Code provisions for ground fault wiring. Motion was seconded by Comm. Joe E. Rich and a unanimous affirmative vote was recorded.

Members of the Commission were of the opinion that prior to enforcement of the National Electrical Code provisions regarding ground fault protection, further information should be obtained from members of the Examining & Supervising Board of Electricians and presented to the City Commission.

Comm. E. G. Pittman and all members of the Commission expressed their appreciation for the fine job being done by the Examining & Supervising Board of Electricians.

9. Sewer Service Request Outside City Limits - Mrs. J. W. Hodge

Mayor Garrison stated that members of the Commission had been furnished a letter from Mrs. J. W. Hodge requesting sewer service for her mobile home park immediately South of the intersection of Fuller Springs Road and FM 58, and Mrs. Hodge was present to appear in representation of her request. City Manager Westerholm stated that the City's present policy provided individuals outside the City Limits would not receive sewer service unless prior commitments had been made by the City Commission. City Manager Westerholm further explained that the City had previously committed serving Mrs. Hodge, but she had declined. City Manager Westerholm stated that Mrs. Hodge's request was a question as to whether or not members of this Commission desired to honor this previous commitment.

Considerable discussion developed and Comm. W. O. Ricks, Jr., made motion that Mrs. Hodge's request be denied. Motion was seconded by Comm. E. G. Pittman.

Prior to vote on motion, Comm. E. C. Wareing expressed his concern that this request be favorably considered inasmuch as it would not be a precedent setting situation.

Mayor Garrison brought attention to the fact that Mrs. Hodge would most probably be in violation of the existing Mobile Home Park Ordinance, an ordinance which was very restrictive to individuals living inside the City. It was determined that the extraterritorial jurisdiction of the City would not apply to Mrs. Hodge in this regard inasmuch as same was only applicable to subdivision control.

Mrs. Hodge, who was present, stated that providing sewer service was not extended to her mobile home park at this location, she would have to close her facility.

Comm. E. G. Pittman inquired as to whether or not Mrs. Hodge could petition for annexation at this location. City Attorney Flournoy stated that he would investigate this possibility as an alternative to Mrs. Hodge's problem.

Previous motion by Comm. W. O. Ricks, Jr., to deny Mrs. Hodge's request for sewer service outside City Limits was considered and the following vote was recorded:

Voting Aye: Mayor Garrison, Comms. Pat Foley, Joe E. Rich, E. C. Wareing, W. O. Ricks, Jr., and E. G. Pittman

Voting Nay: Comm. R. A. Brookshire

Mayor Garrison declared motion approved by majority vote of six to one.

10. Carrothers Construction Co. - Retainage Lowered to \$25,000

City Manager Westerholm stated that Carrothers Construction Company had again requested the lowering of the retainage currently held by the City in the amount of \$100,000. City Manager Westerholm further stated that recommendations from the City Attorney and HDR had been furnished members of the Commission to lower this retainage to \$25,000.

Comm. W. O. Ricks, Jr., made motion that retainage for Carrothers Construction Company be lowered to \$25,000 in accordance with recommendations as submitted. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

Comm. E. G. Pittman inquired as to the current status of the Water Pollution Control Plant. City Manager Westerholm stated that minor difficulties being experienced were common to start-up operations and plant operators and equipment specialists were making progress and expected to have the plant operating at maximum efficiency within the next three months.

11. City Board of Development - Replacement of Member

City Manager Westerholm stated that Mr. Bob Browning, who had recently moved from the City of Lufkin, was a member of the City Board of Development who should be replaced by the City Commission at recommendation of Mr. Lester Adkison, Chairman of this Board. City Manager Westerholm further stated that he had received a letter from Mr. Adkison recommending Mr. Thomas Moore to replace Mr. Browning. Following a brief discussion, Comm. E. G. Pittman made motion that Mr. Thomas Moore be appointed as a member of the City Board of Development in accordance with recommendation as submitted. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

12. Monthly Court Report

Mayor Garrison stated that the monthly court report had been prepared and submitted to members of this Commission for review and consideration. There were no comments regarding report as submitted and Mayor Garrison expressed his appreciation for the fine work being completed as evidenced by the report as submitted.

13. Election Order Approved - April 1, 1975

Members of Commission were of the opinion that consideration of an Election Order should be made due to Charter requirements regarding same. City Attorney Flournoy read caption of ordinance for the calling and ordering of a regular City Election to be held at four polling places on April 1, 1975, between the hours of 8:00 a.m. and 7:00 p.m. for the purpose of electing a Commissioner from Ward No. 4 and Commissioner at Large, Place B for three-year terms. City Attorney Flournoy stated that the following polling places had been recommended for consideration by the City Commission to include names of Judges and Alternate Judges who had agreed to accept positions:

<u>Polling Place</u>	<u>Judge</u>	<u>Alternate Judge</u>
No. 1 (Lufkin Labor Temple)	Mrs. Elie Smith	Mrs. Charlene McClary
No. 2 (Old St. Cyprian's Church Bldg.)	Jerry Lumpkin	Mrs. Elizabeth Jenkins
No. 3 (Chambers Community Center Bldg.)	Claude Cook	Richard Haas
No. 4 (Shilo Baptist Church)	A. H. Charlton	Ms. Myrtis Prescott

Comm. Pat Foley made motion that Election Order be approved calling and ordering a regular City Election to be held on April 1, 1975. Motion was seconded by Comm. R. A. Brookshire.

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Prior to vote on motion, Comm. E. C. Wareing expressed his concern that members of the Commission defer passage of the Election Order until meeting with the Federal court on February 7, 1975, regarding pending civil action and proposed plans for the implementation of single member wards as a result of a recent suit by Kirkley David, et al vs City of Lufkin.

Considerable discussion developed regarding question presented by Comm. E. C. Wareing and it was the unanimous opinion of this Commission that any action approved by this Commission could later be amended if not presently appropriate.

A unanimous affirmative vote was then recorded to previous motion to approve election order as stated.

14. Old Sewer Treatment Plant-Authority to Submit Bids for Salvageable Material

City Manager Westerholm stated that a considerable amount of salvageable material would be available for bids from the old Sewer Treatment Plant and the City staff desired authority to advertise for these bids accordingly.

Comm. Pat Foley made motion that City staff be authorized to advertise for bids to dispose of salvageable material at the old Sewer Treatment Plant. Motion was seconded by Comm. E. G. Pittman and a unanimous affirmative vote was recorded.

15. Street Dept. - Purchase of Used Equipment Approved

City Manager Westerholm explained that since the City no longer operates a sanitary landfill, a large dozer and dragline was available for various projects across the City. It was explained by the City Manager, however, that this large equipment was difficult to move and moving costs were extremely high and new equipment to provide for this activity was also extremely costly. City Manager Westerholm further explained that the City department heads had located equipment which would be adequate to move the dragline and dozer from various jobs. Appraisals had been made of this equipment which were in excess of actual amounts being requested by used equipment owners.

Following considerable discussion, Comm. W. O. Ricks, Jr., made motion that the City be authorized to purchase this equipment. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

16. Resolution Approved-Police Community Relations Project-Application to Criminal Justice Division

City Manager Westerholm explained that members of Commission should consider approval of a resolution authorizing the City of Lufkin to submit an application to the Criminal Justice Division for funding of Police Community Relations Project for the City of Lufkin in an effort to continue the City's Police Community Relations Project.

Following a brief discussion, Comm. Joe E. Rich made motion that this resolution be approved in accordance with information as explained by City Manager Westerholm. Motion was seconded by Comm. E. G. Pittman and a unanimous affirmative vote was recorded.

Comm. E. G. Pittman asked City Manager Westerholm to prepare a report in this regard to update members of Commission regarding the progress of the Police Community Relations Project throughout the City.

17. Outside City Sewer Service - Disc. of Policy

Comm. R. A. Brookshire requested that members of Commission consider as an official agenda item, as soon as possible, further discussion of City policy regarding outside City sewer service requests inasmuch as the new Water Pollution Control Plant had

now been completed and additional changes had been made regarding same.

Members of Commission were of the unanimous opinion this policy should be reviewed as soon as possible, but no definite date was set regarding same.

18. Denman Avenue, Second Street & Pershing Avenue - Disc.

Comm. Joe E. Rich asked City Manager Westerholm to comment regarding the extension of Second Street to Denman Avenue. City Manager Westerholm stated that he could have a report on this construction at next regular meeting to include ROW acquisition and additional information.

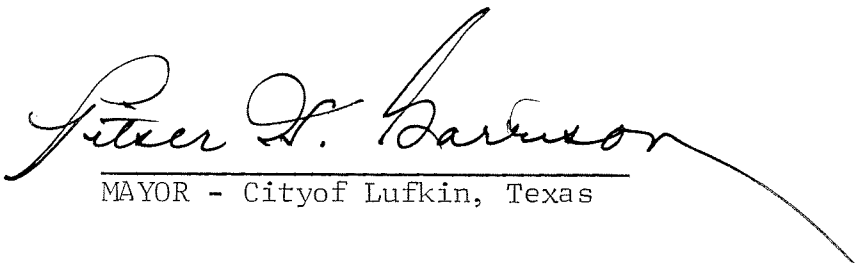
Comm. E. G. Pittman also inquired about progress being made on extension of Pershing Avenue. City Manager Westerholm reported that the Texas Highway Department was continuing their activities within this area and the City staff would review the area to consider additional ROW acquisitions for report at next regular meeting to be made in conjunction with additional requests for street extension report.

19. Executive Session Approved

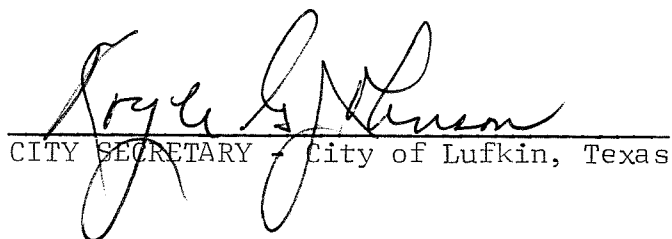
City Attorney Flournoy recommended that an executive session be called by members of Commission immediately following this meeting to consider pending litigation of law suit by Kirkley David, et al, vs City of Lufkin. Comm. Pat Foley made motion that executive session be called in accordance with recommendation by City Attorney Flournoy. Motion was seconded by Comm. Joe E. Rich and a unanimous affirmative vote was recorded.

20. Adjournment

There being no further business for consideration, meeting adjourned at 9:15 P. M.


MAYOR - City of Lufkin, Texas

ATTEST:


CITY SECRETARY - City of Lufkin, Texas