

MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 17TH DAY OF AUGUST, 1976, AT 5:00 P.M.

On the 17th day of August, 1976, 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:

Pat Foley	Commissioner, Ward No. 2
Jack McMullen	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, and

Pitser H. Garrison	Mayor
R. A. Brookshire	Commissioner, Ward No. 1

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

1. Meeting opened with prayer by Rev. Danny Bullock, Pastor of First Baptist Church of Keltys, Lufkin, Texas.
2. Mayor Pro Tem Wareing 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 August 3, 1976, be approved. Motion was seconded by Comm. E. G. Pittman and a unanimous affirmative vote was recorded.

4. Zone Change Approved 1st Reading-Helen Whisenant from RM to RM & LB District, Special Use (Dress Shop)

Mayor Pro Tem Wareing requested that zone change application by Helen Whisenant be moved up on the agenda due to Mrs. Whisenant's physical condition and requested that same be considered out of the regular order of business by the Commission.

With agreement by Council, Mayor Pro Tem Wareing explained that zone change application by Helen Whisenant had been recommended unanimously for approval by the Planning & Zoning Commission, from RM to RM & LB District, Special Use (Dress Shop), covering property fronting on Frank Avenue, being Southwest corner of Frank and Thompson intersection. There was no opposition present. Comm. W. O. Ricks, Jr., made motion that zone change application by Helen Whisenant from RM to RM & LB District, Special Use (Dress Shop), be approved on first reading of ordinance. Motion was seconded by Comm. E. G. Pittman and a unanimous affirmative vote was recorded.

5. Annexation Approved 1st Reading-Mossfield Road & Loop 287

Mayor Pro Tem Wareing stated that hearing had previously been held by the City Council for the annexation of Mossfield Road covering a triangular portion of property between Southridge Sub-Division and West Loop 287. Mayor Pro Tem Wareing asked if individuals were present appearing in opposition to this annexation request.

Mr. John Pounds, Sr., was recognized, who owned property in this area and stated that he desired to reserve any comments regarding annexation of this property until members of Commission had reviewed West Loop development policy which was on the agenda for consideration later in meeting.

Comm. Pat Foley questioned the proposed boundaries recommended for annexation of this property and asked why it was necessary for annexing the North portion of property owned by Mr. J. F. Burris. It was determined that annexation was proposed to evenly square area. Mr. Burris was not present to make any specific suggestion to the annexation of his property. Comm. Pat Foley made motion that annexation of the Mossfield Road area be approved by Commission on first reading of ordinance, with the exception of the North side of property owned by Mr. J. F. Burris. Motion was seconded by Comm. E. G. Pittman and a unanimous affirmative vote was recorded.

6. Cablecom General, Inc.-Approval of New Franchise Postponed

Mayor Pro Tem Wareing stated that it was his understanding the City Commission had previously agreed to approve a new franchise for a 15-year period with the privilege of reviewing same on five-year intervals for cancellation. Mayor Pro Tem Wareing expressed his personal opinion that Section 15 of the proposed franchise should not be included.

Comm. W. O. Ricks, Jr., expressed his opinion that the 150-foot limitation was not adequate and same should be changed to at least 200 feet for extension purposes to particular areas.

Mr. Wayne Neal, who was present, stated that the 150 feet included distances from pole connection to the house or service area. Comm. Ricks agreed that this was adequate from pole to house, but clarification should be made as to the distance cable would be extended into a particular area for connection to the pole prior to extension of services to dwellings.

Mayor Pro Tem Wareing suggested clarification of this particular section of the proposed new franchise prior to approval of same on second and final reading. City Attorney Flournoy stated that there had been a misunderstanding in this regard and same should be clarified.

Comm. E. G. Pittman was of the opinion that this service extension should be the same as the gas company and increased to 200 feet, if necessary.

Mr. Neal stated that the distribution plant housing cable outlets must be installed within 150 feet from pole connection inasmuch as the cost of extending this particular cable beyond 150 feet was considerable.

Comm. Jack McMullen made motion that further consideration for approval of new franchise for Cablecom General, Inc., be postponed until next regular meeting to clarify service extension distances. Motion was seconded by Comm. W. O. Ricks, Jr., and a unanimous affirmative vote was recorded.

Comm. W. O. Ricks, Jr., requested that proposed franchise cover ROW distance extensions as well as private property.

7. Zone Change Approved 2nd Reading-Wayne Allen from RL to LB Dist.

Mayor Pro Tem Wareing stated that zone change application by Wayne Allen from RL to LB District covering property located North of Loop Lane, South of North Raguet Street at intersection, had been approved on first reading of ordinance at last regular meeting. There were no persons present appearing in opposition to same. Comm. E. G. Pittman made motion that zone change application by Wayne Allen from RL to LB District be approved on second and final reading of ordinance. Motion was seconded by Comm. W. O. Ricks, Jr., and a unanimous affirmative vote was recorded.

8. Policy for Annexation Petitions Postponed - Disc.

Mayor Pro Tem Wareing referred to annexation policy which had been proposed for consideration, a copy of which is attached to minutes for permanent record and same was reviewed by members of Commission.

Comm. W. O. Ricks, Jr., expressed his opinion that some amendments should be made to proposal to provide the levying of charges for for extension of City services under certain conditions. Comm. Ricks stated that it was his opinion sub-dividers should pay for the development of sub-divisions and he was in favor of changing proposal for implementation of a policy that would provide the payment of certain percentages of expenses for the services. Mayor Pro Tem Wareing stated that the proposal only covered the levying of charges providing individuals were unwilling to wait for services. Comm. Pat Foley expressed his opinion that resolution should not be approved unless provisions for these charges were provided under certain conditions.

Comm. E. G. Pittman inquired of City Manager Westerholm as to the limitations provided outside the City Limits. City Manager Westerholm stated that by the present population, the City's extraterritorial limits was one mile and the extension of these extraterritorial limits could be enlarged to two miles providing members of Commission desired to go through the necessary processes for legally establishing the new population in excess of 25,000. City Manager Westerholm stated that the City of Lufkin controlled all but zoning within the extraterritorial limits.

Comm. W. O. Ricks, Jr., stated that sub-divisions outside the City should not be served by City facilities at the expense of taxpayers.

Mayor Pro Tem Wareing stated that the City Commission had previously discussed this policy and it was his feeling that some provisions should be made for payment of these services. Mayor Pro Tem Wareing stated that it seemed to be the general feeling of the City Commission that proposal should reflect a charge for services when areas desired annexation and a provision should be made to pay for these services as in a sub-division.

A brief discussion developed regarding whether or not services should be charged to areas that were annexed similar to Mossfield Road which was being proposed and whether or not payment should be charged to newly annexed owners. It was the definite agreement of the City Commission that any area annexed by the City, which was not requested for annexation, should not be made to pay for City services.

Comm. W. O. Ricks, Jr., made motion that City Manager and City Attorney be authorized to further study the proposed annexation policy with specific regard for levying of payments by individuals under certain conditions, and reconsideration of policy at a later meeting. Motion was seconded by Comm. E. G. Pittman and a unanimous affirmative vote was recorded.

9. Non-Conforming Areas-Postponement of Policy for Identification

Mayor Pro Tem Wareing recognized City Attorney Flournoy who explained that he had reviewed the possibility of flagging particular non-conforming areas of the City to avoid parties from purchasing it without knowledge of non-conforming status, and it seemed to be impossible to locate all of these areas inasmuch as same were changing each day due to six-months discontinuity requirement. City Attorney Flournoy explained, however, that certain areas could be identified and a list provided, but he would personally recommend the posting of this list in the County Clerk's office due to the constant changing nature of non-conforming use areas. Mr. Flournoy suggested that a statement be filed in the Deed of Records at the County Courthouse that certain properties were non-conforming and attorneys be required to check in the office of the City Secretary prior to use of same. City Attorney Flournoy further stated that the City Commission must try to place the burden upon the individual who is trying to buy the property to establish the use of this property prior to making purchase of same.

Following discussion, it was unanimously agreed by members of City Commission that further discussion of this policy for identification of non-conforming areas be reconsidered after the first of next year to provide the City Attorney more time to send out notices to attorneys that some areas of the City were non-conforming and notice to this effect may be posted in the County Clerk's office deed records to give warning.

10. Zone Change Approved 1st Reading-Eddie & Richard Smelley from RL to RM District

Mayor Pro Tem Wareing stated that zone change application by Eddie & Richard Smelley from RL to RM District covering property located South of Oaklawn Addition and East of Feagin Drive between Oaklawn Addition and Loop 287, had been recommended for approval by the Planning & Zoning Commission. There were no persons present appearing in opposition to same. Comm. W. O. Ricks, Jr., made motion that zone change application by Eddie & Richard Smelley from RL to RM District be approved on first reading of ordinance. Motion was seconded by Comm. E. G. Pittman and a unanimous affirmative vote was recorded.

11. Rental/Purchase Agreement for Backhoe Approved-Water & Sewer Dept.

City Manager Westerholm explained that a proposal had been prepared for the rental/purchase of a backhoe for use in the Water & Sewer Departments. A report had been previously distributed to members of Commission for review and an additional report regarding same was available for this meeting. City Manager Westerholm stated that the City would be constructing large sanitary sewer extensions in the next two years and the use of this backhoe would be essential. It was determined that the City, under this policy, could rent this machinery and purchase backhoe within a 28-month period at a rate of \$1,000 per month. City Manager Westerholm stated that at the end of this period, the machinery would belong to the City of Lufkin.

Comm. Pat Foley made motion to approve recommendation by City Manager for rental/purchase agreement of this machinery in the amount of \$1,000 per month for a 28-month period. Motion was seconded by Comm. E. G. Pittman and a unanimous affirmative vote was recorded.

12. J&S Development Co.-Rechannelization of Cedar Creek-Disc.

City Manager Westerholm informed members of Commission that a letter had been received from Mrs. Evelyn Johnson of J&S Development Company requesting City participation in financing channelization of Cedar Creek through the J&S Development Sub-Division. It was determined that the County did not previously enter into this agreement, but the City of Lufkin did participate to some degree in the past.

Mayor Pro Tem Wareing recognized Mr. Bill Fenley, attorney for J&S Development Company, who stated that the letter from Mrs. Evelyn Johnson to members of Commission was only a request to receive feedback from the Council regarding the possibilities of participation in this regard, and to authorize the City Manager to proceed with the feasibility of same.

Comm. E. G. Pittman made motion that City Manager Westerholm be authorized to investigate the details and possible circumstances, to include financing channel improvements in this area, for report and recommendation to City Commission at a later meeting. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

13. West Loop 287 Development Plan Reviewed-Commendation to City Planning & Zoning Commission

Mayor Pro Tem Wareing stated that members of Commission had received recommendations from the Planning & Zoning Commission regarding West Loop development from Old Union Road, South to railroad overpass on Southwood Drive. Mayor Pro Tem Wareing stated that this development was a recommendation only and would not prevent zone changes of any type in this area.

Considerable discussion developed regarding proposal recommended to the City Commission and members of Commission asked a number of questions regarding same. City Manager Westerholm reported that the additional lanes for the West Loop had been engineered, but the completion of same would take no less than four years, if begun now.

Comm. Pat Foley expressed his opinion that much of the property in this area had not been utilized inasmuch as property costs had increased. Comm. Foley also stated that he was of the opinion that certain residential areas should be protected, but each should be reviewed on an individual basis. Comm. Foley stated that application pending by Mr. Hargraves for the proposal of an office building in this area did not appear to be offensive to residential development. Comm. Foley also stated that the Trailwood Village area was complimented by the grocery business facility which was in this area and seemed to serve to the benefit of the community. Comm. Foley expressed his disagreement with Item 3 of development plan if the City was providing this access. It was explained by Raymond Moore of the Planning & Zoning Commission that this would only be in the overall plan and did not indicate that the City would provide access.

Mr. John Pounds, Sr., who was present, requested that a decision be reached in this regard because of Southridge Sub-Division development and a decision by this Commission would determine whether or not he would personally give his property to the North of this area for street extension.

Mayor Pro Tem Wareing expressed his appreciation to members of the City Planning & Zoning Commission who had exerted considerable time and effort preparing this West Loop development plan and expressed his hope that the City Planning & Zoning Commission would consider other segments around the Loop for continuation of the planning as well as the zoning, of this community.

Mayor Pro Tem Wareing stated that members of City Commission could take notice of the recommendation of the Planning & Zoning Commission for the Loop development and keep same in mind for future zoning requests, or adopt this planning development as a general policy with no intention to close out future applications for zoning of any sort in this area.

Comm. E. G. Pittman expressed his opinion that nothing in the development plan was so specific that recommendation could not be used as a general reference.

Mayor Pro Tem Wareing recognized Raymond Moore of the Planning & Zoning Commission, who stated that it was the conclusion of the Planning & Zoning Commission that members of the City Commission understand the completion of Loop 287 as a dual highway in this particular area would be the most outstanding accomplishment affecting zoning and a more concrete zoning plan could not adequately be determined until same was completed.

Comm. Foley expressed his opinion that all types of development along the Loop could create potential traffic problems, to include churches and other establishments, and each should be carefully regulated.

Comm. Pat Foley made motion that members of the City Planning & Zoning Commission be complimented for their outstanding efforts and contributions of considerable time for preparing the recommendation for Loop development in this area and that this Commission request the City Planning & Zoning Commission to continue work in other sections of the Loop which were in need of planning. Motion was seconded by Comm. E. G. Pittman and a unanimous affirmative vote was recorded.

14. Invoices Approved for Various Street Paving Projects-Moore Brothers Construction Company

Mayor Pro Tem Wareing stated that two bids had been received for various street improvement projects to include Hall Paving Company with a bid amount of \$16.55 per ton, and Moore Brothers Construction Company with a bid amount of \$16.40 per ton.

A list of the proposed streets to be resurfaced was furnished members of Commission for review as follows:

Everett Street.....From Hoskins to Paul
Dunlap Street.....From Everett to Warren
Lining Street.....From Paul to deadend
Rhodes Avenue.....From Chestnut to Lining
Paul Avenue.....From Chestnut to Third
Howe Avenue.....From First to Angelina
Wood Avenue.....From Canal to deadend
Mize Street.....From David to Kurth
Williams Street.....From Abney to Wilson
Henderson Street.....From Raguet to Lotus Lane
Gayle Street.....From Henderson to deadend west
Daniels Street.....From Henderson to McMullen
Berry Road.....From Hwy. 94 to City Limits
Lotus Lane.....From Grove to Loop 287
Bledsoe Street.....From Ellis to Mantooth
Leslie Lane.....From East Denman to end

City Manager Westerholm recommended acceptance of low bid from Moore Brothers Construction Company in the amount of \$16.40 per ton at a cost of \$32,800.

It was determined that Moore Brothers Construction Company could complete this project by September 30, 1976. Comm. W. O. Ricks, Jr., made motion to accept low bid submitted by Moore Brothers Construction Company in the amount of \$16.40 per ton. Motion was seconded by Comm. Jack McMullen and a unanimous affirmative vote was recorded.

15. Preliminary Budget Considered for Fiscal Year 1976-77

Mayor Pro Tem Wareing stated that the City staff had prepared a preliminary budget for consideration by members of Commission and invited comments from various Commissioners.

Considerable review of preliminary budget was made and various comments were expressed by members of Commission.

Comm. W. O. Ricks, Jr., expressed his opinion that the Parks Department should not continue further development in Kit McConnico Park as proposed in the amount of \$17,000 whether these funds were drawn from current operating budget or placed in revenue sharing inasmuch as the present park facilities seemed to be adequate without expansion in this area.

Mayor Pro Tem Wareing stated that he was of the opinion the rest-room facilities should be completed in this area inasmuch as softball fields were available and same were essential.

Comm. Pat Foley expressed his desire to reserve comments on certain sections of the preliminary budget until a more thorough personal review of same was made.

Comm. E. G. Pittman inquired regarding Item 32 of the Sanitation Department and proposed expenditures for a front-end loader. Comm. Pittman stated that he was not aware of the fact that the City began with 200 containers and now presently serviced 500 containers.

Comm. W. O. Ricks, Jr., expressed his opinion that the major problem in the Sanitation Department seemed to be the use of equipment that was too light.

City Manager Westerholm stated that a heavier vehicle could be purchased for \$45,000 in lieu of \$35,000 which had been proposed for the purchase of a new container truck.

Mayor Pro Tem Wareing suggested that the \$45,000 for the purchase of this container truck be drawn from the Revenue Sharing money and the balance of monies proposed in budget for the purchase of container truck be placed in the current operating budget for possible salary increases. Mayor Pro Tem Wareing suggested the consideration of salary adjustments in the five to five and one-half percent category, if possible.

Comm. W. O. Ricks, Jr., asked City Manager Westerholm to contact other Cities to determine the success of diesel operated equipment which were heavier and seemed to be more serviceable. It was discussed that the use of heavy equipment would reduce overtime, downtime for repairs and maintenance.

Mayor Pro Tem Wareing expressed his opinion that the City Manager and staff had completed a good preliminary budget for recommendation to City Commission which was balanced and seemed to cover the most needed items of the City without increases in taxes.

Comm. W. O. Ricks, Jr., expressed his opinion that the City personnel and administrative staff were to be commended for their efforts in this regard.

Mayor Pro Tem Wareing stated that the City Commission could still remain in its time table by discussing the preliminary budget at next regular meeting. City Manager Westerholm stated that if preliminary budget was approved at next regular meeting, same could be advertised for public hearing the following meeting for finalization of the budget at the last meeting in September.

Mayor Pro Tem Wareing asked if members of Commission were in agreement to authorize the City Manager to advertise for bids on a diesel container truck for consideration by first meeting in October to provide purchase opportunity of this equipment if members of Commission desired. Members of Commission were in unanimous agreement and City Manager Westerholm was authorized to advertise for bids for the possible purchase of this diesel container truck.

16. Tennis Court Const.-Kiwanis-City Park - Disc.

Comm. Pat Foley inquired of Mr. Raymond Moore, who was present, regarding the completion date of tennis courts at Kiwanis-City Park. Mr. Moore stated that all the base was installed on these courts and new surface should be completed within the next week.

17. Winston Park - Disc. of Personnel

Comm. Pat Foley made reference to a recent letter published in the Lufkin News regarding personnel in charge of Winston Park swimming pool and asked City Manager Westerholm as to whether or not problems as discussed had been resolved. City Manager Westerholm stated that the Winston Park facility was due to close on Thursday of this week so the facility had been closed.

18. Civic Center - Disc. of Operation

Mayor Pro Tem Wareing recognized Mr. Barry Hays, new director of Lufkin Civic Center who was present, and several questions were asked by members of Commission regarding activities at the Center. Mayor Pro Tem Wareing stated that he had recently reviewed statement from Civic Center operation and was pleased to see that Civic Center was self-sustaining.

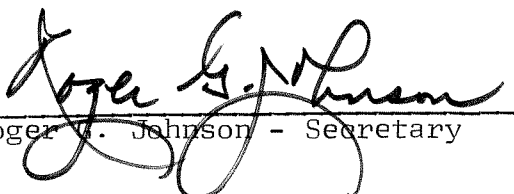
Comm. E. G. Pittman inquired as to future engagements at the Civic Center and Mr. Hays stated that at least 12 new engagements had been planned and he proposed to acquire bookings into 1977. Mr. Hays further stated that he had received considerable inquiries regarding the use of this facility on a monthly basis.

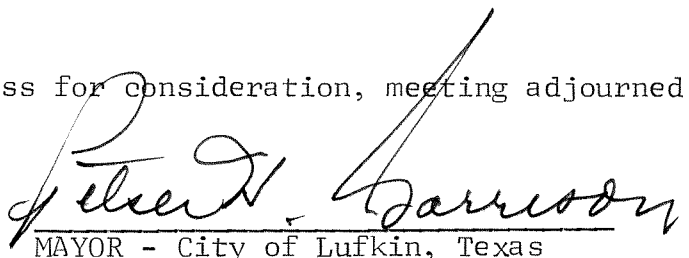
19. City Court Report - Request for Consideration

Mayor Pro Tem Wareing requested City Manager Westerholm encourage the legal staff to prepare City Court report for review by members of Commission as soon as possible by forwarding same to members of Commission on August 18, 1976.

20. Adjournment

There being no further business for consideration, meeting adjourned at 7:30 p.m.


Roger G. Johnson - Secretary


MAYOR - City of Lufkin, Texas