

MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 21ST DAY OF SEPTEMBER, 1976, AT 5 PM

On the 21st day of September, 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:

R. A. Brookshire	Commissioner, Ward No. 1
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
Harvey Westerholm	City Manager
Robert L. Flournoy	City Attorney
Roger G. Johnson	City Secretary

being present, and

Pitser H. Garrison	Mayor
E. G. Pittman	Commissioner at Large, Place B

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

1. Meeting opened with prayer by Rev. Wayne Cummings, Pastor of Bethel Church of the Nazarene, 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. R. A. Brookshire made motion that minutes of regular meeting of September 7, 1976, be approved. Motion was seconded by Comm. Jack McMullen and a unanimous affirmative vote was recorded.

4. Open Hearing-Proposed City Budget for Fiscal Year 1976-77

Mayor Pro Tem Wareing invited comments from individuals present regarding proposed City Budget for fiscal year 1976-77. There were no persons present appearing in favor of or against proposed budget and no further discussion developed from members of Commission. Mayor Pro Tem Wareing closed budget hearing and informed individuals present that approval of Tax Levy Ordinance and Appropriation Ordinance adopting budget would be considered later in meeting.

5. Open Hearing-Request for New Franchise by Entex

Mayor Pro Tem Wareing opened hearing on new franchise request by Entex. There were no persons present appearing in favor of or against proposed franchise request by Entex and Comm. W. R. Ricks, Jr., inquired of Mr. Bill Presswood, District Manager of Nacogdoches office, who was present in representation of application for franchise, regarding the method for which sub-divisions would be supplied natural gas. Mr. Presswood stated that sub-divisions were normally piped by Entex if the majority of houses in a particular sub-division were being considered for gas installation. Mr. Presswood further explained various programs for supplying gas to sub-divisions and referred to Section 3 of the proposal which had been clarified regarding distances for certain services.

Formal hearing regarding franchise request was closed and Mayor Pro Tem Wareing explained that proposed franchise would be later considered during meeting for first reading of ordinance.

6. Zone Change Approved 2nd Reading-Will Zbranek from RL to C Dist.

Mayor Pro Tem Wareing stated that zone change application by Will Zbranek from RL to C District covering property located South of & adjacent to Loop 287 between FM 58 (Chestnut) and Highway 69 South had been approved on first reading at last regular meeting.

There were no persons present appearing in opposition to same. Comm. W. O. Ricks, Jr., made motion that zone change application by Will Zbranek from RL to C District be approved on second and final reading. Motion was seconded by Comm. R. A. Brookshire and a unanimous affirmative vote was recorded.

7. Zone Change Approved 2nd Reading-City of Lufkin from RL to RS Dist.

Mayor Pro Tem Wareing stated that zone change application by the City of Lufkin from RL to RS District covering property located between Knight & Wood Streets, East of Holland Street to Walter Street, had been approved on first reading of ordinance at last regular meeting.

There were no persons present appearing in opposition. Comm. W.O. Ricks, Jr., made motion that zone change application by the City of Lufkin from RL to RS District be approved on second and final reading. Motion was seconded by Comm. R. A. Brookshire and a unanimous affirmative vote was recorded.

8. Industrial Waste Ordinance-Amendment Approved 2nd Reading

Mayor Pro Tem Wareing explained that first reading of Industrial Waste Ordinance amendment had been approved at last regular meeting which established certain new definitions as previously discussed. There was no further information presented regarding this amendment and no individuals present appearing in opposition to same. Comm. R. A. Brookshire made motion that the Industrial Waste Ordinance amendment be approved on second and final reading establishing new definitions as previously discussed. Motion was seconded by Comm. Jack McMullen and a unanimous affirmative vote was recorded.

9. Franchise Request Postponed - Entex

Mayor Pro Tem Wareing recognized Mr. Bill Presswood appearing in representation of application for new 25-year franchise request by Entex. Mr. Presswood again requested that members of Commission consider this franchise with no major changes with the exception of Section 3 which had been previously discussed and his personal request for members of Commission to consider a 25-year franchise without five-year option which would show strength in the money market for Entex at no detriment to the City of Lufkin.

Comm. R. A. Brookshire expressed his personal concern that the City not commit itself to a franchise for a 25-year period inasmuch as same would tend to bind future City Commissions. Mr. Presswood stated that a five-year option would make a difference as far as strength on the money market for Entex was concerned and in this regard, affected Entex's ability to borrow money. Mr. Presswood stated that the City Commission could revise the franchise at any time justification was established in certain claims involving Entex's inability to furnish gas in accordance with requirements. Comm. Brookshire stated that other utility companies within the City had agreed to a five-year option and it appeared that Entex should not be treated any differently. Mr. Presswood explained that Entex best met the definition of a utility company than Texas Power & Light and Lufkin Telephone Exchange inasmuch as Entex sold a product and a service.

Comm. Pat Foley expressed his opinion that little difference existed in the five-year option plan and the straight 25-year franchise as long as the City Commission had the right of review and cancellation providing justification was established in certain claims. Comm. Foley inquired of Mr. Presswood as to whether or not he would personally object to this type provision. Mr. Presswood stated that he would have to discuss this proposal with Entex officials before same could be accepted.

Comm. W. O. Ricks, Jr., made motion that City Attorney Flournoy be authorized to prepare an ordinance for review by members of City Commission at next regular meeting establishing a new franchise with Entex for a 25-year period, indicating the right of review by the City Commission at any time subject to a 90-day written notification by either party. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

10. Zone Change Postponed - A. C. Barlow from RL to C District

Mayor Pro Tem Wareing stated that zone change application by A. C. Barlow from RL to C District covering property located East of & fronting on Ray Street between Chestnut & Denman, had been recommended by the Planning & Zoning Commission by a majority vote of four to one.

Mayor Pro Tem Wareing recognized Mr. Dale Decuir who was present in opposition to application. Mr. Decuir explained that the road into this property was too narrow and would not provide necessary widths for large trucks to supply this type commercial establishment. Mr. Decuir further stated that he had owned a residence in this area for 25 years and desired same be protected from commercial establishments.

Mayor Pro Tem Wareing then recognized Mr. A. C. Barlow, applicant, who stated that his proposed aluminum fabrication shop would be manufacturing screen doors and similar type products made from aluminum, and no sheet metal would be used. Mr. Barlow further stated that he proposed to construct a 30x60 building on a 150x150 lot and not more than five employees would be utilized in this business. Mr. Barlow stated that deliveries would be made to this property approximately once every two weeks and most of the deliveries would be made in a small half-ton truck.

Mayor Pro Tem Wareing inquired as to the right-of-way in this area along Ray Street and the City staff determined same to be approximately 20 feet. Mayor Pro Tem Wareing further stated that this small right-of-way did not produce the ideal conditions for a commercial activity and same would not appear to be adequate.

Comm. W. O. Ricks, Jr., then made motion that zone change application by A. C. Barlow from RL to C District be denied. Motion was seconded by Comm. Pat Foley.

Prior to vote on motion, Comm. R. A. Brookshire inquired of Mr. Barlow as to whether or not he could obtain an easement through the back portion of his property on Highway 69 to alleviate traffic on Ray Street as proposed.

Mr. Decuir stated that it appeared to him an easement of this nature could not be obtained for an access. Mr. Barlow informed members of Commission that they would have to personally observe the property in this area to make a judgement regarding access.

Comm. W. O. Ricks, Jr., was in agreement with this opinion and withdrew his previous motion to reject application until same could be personally reviewed on location by all members of Commission. Comm. Foley was in agreement with this suggestion and further consideration of item was postponed until next regular meeting.

Mayor Pro Tem Wareing requested that the City staff review the possibility of obtaining necessary right-of-way for the widening of Ray Street. Mr. Barlow stated that he would be desirous of deeding the necessary property on the North side of this street to provide right-of-way, but it appeared to him that right-of-way could not be obtained from the South side of Ray Street due to the storm sewer which had been constructed in this area.

11. Zone Change Approved 1st Reading-Marie Thompson Riley from RL to C District

Mayor Pro Tem Wareing recognized Mr. Jim Zeleskey who was present in behalf of zone change application by Marie Thompson Riley from RL to C District covering property located South of Highway 94, East of Loop 287 in the J. A. Bonton League containing 21.68 acres.

Comm. Pat Foley inquired of Mr. Zeleskey as to whether or not applicant had a particular use for this property. Mr. Zeleskey informed members of Commission that to his knowledge applicant proposed to use this property for retail or wholesale use and the rezoning of same would fit into the orderly growth of commercial property in this area.

There were no persons present appearing in opposition to same. Comm. W. O. Ricks, Jr., made motion that zone change application by Marie Thompson Riley from RL to C District be approved on first reading of ordinance. Motion was seconded by Comm. R. A. Brookshire and a unanimous affirmative vote was recorded.

12. Zone Change Approved 1st Reading-Larelco, Inc. from NR to NR & C District, Special Use (Erection of Sign)

Mayor Pro Tem Wareing stated that zone change application by Larelco, Inc., from NR to NR & C District, Special Use (Erection of On-Premise Sign in Excess of 36 Square Feet), covering property located West of Bynum near intersection with Pershing, had been recommended for approval by the Planning & Zoning Commission.

There were no persons present appearing in opposition to same. Comm. Jack McMullen made motion that zone change application by Larelco, Inc., from NR to NR & C District, Special Use (Erection of On-Premise Sign in Excess of 36 Square Feet), be approved on first reading of ordinance. Motion was seconded by Comm. R. A. Brookshire and a unanimous affirmative vote was recorded.

13. Zone Change Approved 1st Reading-Larelco, Inc. from LB to LB & C District, Special Use (Erection of Sign)

Mayor Pro Tem Wareing stated that zone change application by Larelco, Inc., from LB to LB & C District, Special Use (Erection of On-Premise Sign in Excess of 36 Square Feet), covering property located East of Loop 287 at intersection with Ford Chapel Road.

There were no persons present appearing in opposition to same. Comm. Jack McMullen made motion that zone change application by Larelco, Inc., from LB to LB & C District, Special Use (Erection of On-Premise Sign in Excess of 36 Square Feet), be approved on first reading of ordinance. Motion was seconded by Comm. R. A. Brookshire and a unanimous affirmative vote was recorded.

14. Zone Change Approved 1st Reading-John E. Moreland from RL to LB District

Mayor Pro Tem Wareing stated that zone change application by John E. Moreland from RL to LB District covering property located between Largent & Loop 287 & immediately South of property owned by Roscoe Starling, had been recommended for approval by the Planning & Zoning Commission.

Mayor Pro Tem Wareing recognized Mr. Moreland. Mr. Moreland stated that providing application was approved, his son desired to construct a beauty shop at this location.

There were no persons present appearing in opposition to same. Comm. W. O. Ricks, Jr., made motion that zone change application by John E. Moreland from RL to LB District be approved on first reading of ordinance. Motion was seconded by Comm. Jack McMullen and a unanimous affirmative vote was recorded.

15. Kiwanis-City Park Tennis Courts - Approval of Improvements - Moore Brothers Construction Company

Mayor Pro Tem Wareing stated that formal acceptance of the Kiwanis-City Park tennis courts was to be considered, but he had received information that due to illness in the Moore family, Mr. Raymond Moore of Moore Brothers Construction Company could not be present. Mayor Pro Tem Wareing suggested that members of Commission may desire to defer consideration of the acceptance of the tennis courts due to the absence of Mr. Moore at this meeting.

City Manager Westerholm explained that the tennis courts could not be accepted until members of Commission had approved payment of invoice in the amount of \$15,884.70 for a hot sand asphalt base 4" thick. Mr. Westerholm explained that the Commission had accepted the hot sand asphalt base because it was \$3,000 cheaper and a recent problem which had developed in an inadequate base had resulted because the surface was not substantial enough to support the hot mix previously applied.

Mr. Westerholm explained that the present problem with the facility was that the base did not provide a stable enough support for the heavy equipment and rollers had made ridges in the surface of the court providing low spots for puddled water. Mr. Westerholm stated that to complete the tennis courts it would be necessary to overlay the area with a 1½-inch coarse of hot mix asphalt 25% plus limestone screenings. Mr. Westerholm further explained that Mr. Moore did not feel an obligation to add the necessary 1½-inch coarse hot mix, but did agree to furnish all labor, machinery and hauling for applying this additional coarse with the City paying for the cost of the material in the amount of \$2,622.00 additional for a total cost of the courts at \$17,240.93.

Comm. W. O. Ricks, Jr., expressed his opinion that this Commission had made a bad decision on base stabilization and same should be corrected. Comm. W. O. Ricks, Jr., made motion to authorize City Manager Westerholm to pay invoice price in the amount of \$17,240.93 to include the 1½-inch coarse hot mix asphalt, the cost of which had been previously determined. Motion was seconded by Comm. R. A. Brookshire and the following vote was recorded:

Voting Aye: Comms. R. A. Brookshire, Jack McMullen, W. O. Ricks, Jr., and Mayor Pro Tem Wareing

Voting Nay: Comm. Pat Foley

Mayor Pro Tem Wareing declared motion approved by majority vote of four to one.

City Manager Westerholm was instructed by City Council to work with Moore Brothers Construction Company regarding the timing for making this final improvement to the existing facilities with the recommendation that same be completed in accordance with the best weather conditions.

16. Approval of Ordinance Levying Taxes-Interest & Sinking Fund-1977

Mayor Pro Tem Wareing stated that ordinance had been prepared for Levying Taxes for the use and support of the Municipal Government of the City and providing for the Interest & Sinking Fund for the year 1977 and apportioning each levy for the specific purpose. City Attorney Flournoy stated that this particular ordinance established \$1.45 per \$100 valuation at 50 percent of market value. There was no further discussion regarding proposed Tax Levy Ordinance. Comm. W. O. Ricks, Jr., made motion that same be approved on first and final reading, in accordance with information as previously stated. Motion was seconded by Comm. R. A. Brookshire and a unanimous affirmative vote was recorded.

17. Approval of Budget for Fiscal Year October 1, 1976 thru September 30, 1977

Mayor Pro Tem Wareing stated that members of Commission had previously held hearing earlier in this meeting regarding proposed budget for operation of the City Government for October 1, 1976, through September 30, 1977. There was no further information presented regarding proposed budget. Comm. Jack McMullen made motion that same be approved for fiscal year 1976-77 in accordance with previous proposals made by this Commission without further change. Motion was seconded by Comm. W. O. Ricks, Jr., and a unanimous affirmative vote was recorded.

18. Civic Center Formally Accepted-Approval of Change Orders 3 & 4-Herman Bennett Company

City Manager Westerholm reported that Mr. Jerry Hill of Weiner, Hill, Morgan & O'Neal Architectural Firm, was present regarding their final statement for total due less previous payments, in the amount of \$11,782.14. Mr. Westerholm further stated that Change Orders 3 & 4 from Herman Bennett Company were also available for approval in the amount of \$12,129.06 which included approved extras and approved deductions.

Mayor Pro Tem Wareing commented that deferrment of these final payments had been made by the Commission until final carpet work repairs could be completed by Taylor Brothers.

Comm. W. O. Ricks, Jr., made motion that the Civic Center be formally accepted and all payments be made in accordance with information as presented at this meeting, to include final architectural fee in the amount of \$11,782.14 and Change Orders 3 & 4 in the amount of \$12,129.06. Motion was seconded by Comm. Jack McMullen and a unanimous affirmative vote was recorded.

Mayor Pro Tem Wareing commented that Weiner, Hill, Morgan & O'Neal Architectural Firm should be complimented for completing a structure of this magnitude with as few change orders as four, which had been presented to this Commission for approval.

19. Civil Aeronautics Board-Commuter Airline Assn. of America-Endorsement of Joint Fare System for Connecting Commuter Air Carriers

City Manager Westerholm stated that he had received a letter from the Commuter Airline Association requesting the City Commission's support by way of petition for the Commuter Airline Association of America and its establishment of domestic markets through service, joint fares and divisional fares between certified and connecting commuter air carriers under Document No. 29707. Mr. Westerholm further explained that petition would assist in the approval of this program which could establish joint fares with certified connecting air carriers affecting a savings of \$100,000 annually to customers in Lufkin and Angelina County while at the same time, encouraging additional use of airways under a more competitive program with surface transportation.

Following a brief discussion regarding this proposal, Comm. R. A. Brookshire inquired as to whether or not Angelina County Commissioners Court would support this same petition. City Manager Westerholm stated that he was not aware of their support and did not know if they had been asked. Comm. Pat Foley made motion that Mayor Pro Tem Wareing be authorized to sign official endorsement of this Commission in support of the petition for the Commuter Airline Association in accordance with information presented by City Manager Westerholm. Motion was seconded by Comm. R. A. Brookshire and a unanimous affirmative vote was recorded.

20. Elevated Water Storage Tank-Purchase of Construction Site Property-Beatrice Allen

Members of Commission, on request by City Manager Westerholm, had previously passed consideration of elevated water storage tank property purchase from Beatrice Allen as listed on agenda and adjourned to a brief executive session for discussion of same. Mayor Pro Tem Wareing reconvened regular meeting of Council and further discussion of item proceeded. Mayor Pro Tem Wareing explained that in the executive session, members of Commission had decided to purchase property owned by Mrs. Beatrice Allen for certain conditions. Comm. Pat Foley made motion that property owned by Mrs. Beatrice Allen containing 1.38 acres be purchased for the amount of \$500 for the future construction of an elevated water storage tank and further condition that the City provide a gas service line and a hard-surface roadway to the Allen property. Motion was seconded by Comm. W. O. Ricks, Jr., and a unanimous affirmative vote was recorded.

21. Civic Center - Disc. of Equipment for Future Purchase

Comm. Pat Foley stated that it had been brought to his attention that several items at the Civic Center should be purchased in the future to provide a more complete facility for use by the public of which he personally supported. A complete list of these items are listed below:

4 Drapes for windows in main hall	\$ 4,000
1 Master audio console & necessary rewiring	10,000
2 Marquees	4,000
1 Portable follow spotlight	500
2 Portable movie screens	100
2 Portable blackboards	350
1 8-tract tape deck	250
4 Glass enclosed directional signs	300
1 16mm Film projector	650
2 Expandable walls	20,000

Comm. R. A. Brookshire stated that he had been approached recently by certain citizens regarding the need for a film projector and marquees and he was of the opinion that this would be an asset for the Civic Center and that these items, as listed above, should be placed on the agenda for consideration at next regular meeting, to include a new statement of condition from the Civic Center.

Comm. Pat Foley stated that some of the local service organizations may desire to finance the cost on some of these items which are to be used by the public.

22. Hotel/Motel Occupancy Tax - Status of Delinquent Accounts

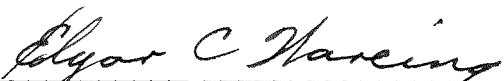
Comm. R. A. Brookshire inquired of City Attorney Flournoy as to the status of certain delinquent Hotel/Motel Occupancy Tax accounts. City Attorney Flournoy stated that delinquent accounts discussed at last regular meeting were being processed and he personally anticipated the arrival of a check from Shangri La facility on September 22.

23. Stephens Contracting Co. - Status of Suit

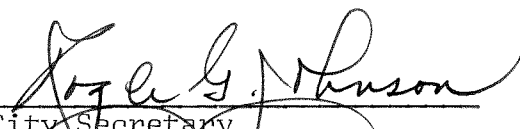
City Attorney Flournoy reported to members of Commission regarding the status of Stephens Contracting Company lawsuit indicating that the City had been released from further involvement in this lawsuit and verdict had been rendered against Dickey Clay Pipe Manufacturing Company in the amount of \$90,000.

24. Adjournment

There being no further business for consideration, meeting was adjourned at 6:57 p.m.


MAYOR PRO TEM - City of Lufkin, Texas

ATTEST:


City Secretary