

MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 7TH DAY OF FEBRUARY, 1978, AT 7:30 P.M.

On the 7th day of February, 1978, 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
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	Asst. City Manager

being present, 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 Garrison welcomed a large group of visitors who were present in connection with items on the agenda or as observers. Mayor Garrison recognized the presence of students, Neal Miller, Jimmy Bradbury and Quentin Kaemmerling, from the sixth grade of Coston Elementary School who were completing assignments as a requirement of their local government class.
3. Announcement of Agreed Order-Kirkley David, et al, vs Pitser H. Garrison, et al-City Ward Suit

Mayor Garrison stated that the City had completed several years of involved and complicated court procedures in law suit concerning the City ward system and the City of Lufkin City Charter had been challenged in several courts under law suit brought by Kirkley David, et al, against the City of Lufkin. Mayor Garrison stated that the case was presently before the Federal court in Tyler and the City Attorney had met with the plaintiffs in this case to resolve the circumstances due to current decisions of Federal courts. Mayor Garrison recognized the presence of Mr. David Richards, attorney for plaintiffs, and other representatives of the plaintiffs who had reached an agreement with the City Attorney based on recommendations from the City Commission regarding the controversy. Mayor Garrison stated that this compromise agreement had been reached and he personally was of the opinion that same would be in the best interest of the City and bring about community progress. Mayor Garrison reviewed the present election process under the 4-3 system and stated that under the new proposal agreed upon in this law suit, 6 single-member districts would be established with one at-large position.

Mayor Garrison explained that an individual must reside in the ward in which he runs for election and only individuals who reside in that ward may vote for this individual. Mayor Garrison stated that only the Mayor's position would be elected at-large and available to be voted upon each three years in all City wards. Mayor Garrison stated that under this agreement, the court would designate a special Master to prepare and present to the court a proposed plan for dividing the City into six individual Commission districts, which would be based on population and principals established by the United States Supreme Court. Mayor Garrison also stated that this plan would not be implemented until the elections of April 1979. Mayor Garrison explained that City Commissioners presently serving would continue to serve until their elected terms had expired and by 1981 the City would be totally under the new plan. A copy of the proposed order agreed upon by Federal Court and plaintiffs is attached to minutes for permanent record outlining previous statements made by Mayor Garrison.

Mayor Garrison stated that he was of the opinion that this was a good plan and would be of benefit to the entire community. Mayor Garrison requested additional comments from members present representing the plaintiffs, but no additional comments were made. Mayor Garrison expressed his appreciation for all parties involved and their willingness to resolve differences for the benefit of the community.

Mayor Garrison explained that members of this Commission had initially formed the opinion that the City Charter presently used by this Commission should have been followed until the law provided to the contrary. Mayor Garrison stated that present laws invoked by the Federal courts appeared to reflect changes which would provide future alterations in line with the decision as agreed by the City and plaintiffs previously stated in order attached to minutes for permanent record.

Following public statements made by Mayor Garrison, regular meeting convened at 7:45 p.m.

4. Approval of Minutes

Comm. Pat Foley made motion that minutes of regular meeting of January 17, 1978, be approved. Motion was seconded by Comm. R. A. Brookshire and a unanimous affirmative vote was recorded.

5. Annexation & Permanent Zoning-Tom Gann-Whitehouse Drive-Approved 2nd Reading

Mayor Garrison stated that ordinances covering annexation and permanent zoning request by Tom Gann for development of a Residential Small Subdivision located North and South of Whitehouse Drive, between U. S. Highway 59 South and FM 58, had been approved on first reading at last regular meeting.

There were no persons present appearing in opposition to application. Comm. W. O. Ricks, Jr., made motion that ordinance annexing above described property be approved on second and final reading. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

Comm. W. O. Ricks, Jr., made motion that ordinance zoning this same property as advertised be approved on second and final reading. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

6. Annexation & Permanent Zoning-R. H. Duncan-Brookhollow #9-Approved 2nd Reading

Mayor Garrison stated that ordinances covering annexation and permanent zoning request by R. H. Duncan for development of a Residential Large Subdivision, Brookhollow #9, located South of and adjacent to Brookhollow Nos. 5 & 6 at end of Live Oak Lane, had been approved on first reading at last regular meeting.

There were no persons present appearing in opposition to application. Comm. W. O. Ricks, Jr., made motion that ordinance annexing above described property be approved on second and final reading. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

Comm. W. O. Ricks, Jr., made motion that ordinance zoning this same property as advertised be approved on second and final reading. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

7. Annexation-Herty Area Property Owners-Approved 2nd Reading

Mayor Garrison stated that ordinance covering annexation request by property owners in the Herty area, located South of Highway 103 East and East of existing City Limits, had been approved on first reading at last regular meeting.

Comm. Pat Foley stated that he had previously voted against the annexation of Herty area because new areas, as requested by developers for annexation, required that the developer provide necessary development of lots, sewer and water extensions, which did not place the burden on the City as would an annexation of this type proposed in the Herty area. Comm. Foley stated that he desired his comment be made a part of the record in this regard.

Comm. W. O. Ricks, Jr., inquired of Comm. Foley as to whether he proposed a substitute plan for annexation of this property in the Herty area to provide for property owner participation and development. Comm. Foley stated that this Commission had previously reviewed a policy of this type regarding property owner participation and he was of the opinion that a future policy of this type be implemented for annexations meeting this criteria.

Mayor Garrison was in agreement with Comm. Foley, but expressed his opinion that the City Commission had previously made exceptions to older developed neighborhoods, and this particular area was being considered in the interest of public health.

Comm. Wareing expressed his agreement with Comm. Foley, but did not desire to delay this particular annexation.

Comm. R. A. Brookshire desired that an annexation policy be reviewed by the City Commission at next regular meeting to establish development criteria for all type annexation requests. City Manager Westerholm reported that following the Briar Meadow annexation, the City Commission had discussed a proposal of this type to provide guidelines in this regard for undeveloped areas, but no plan had been established for this type annexation request.

There were no persons present appearing in opposition to this application. Members of City Commission were in unanimous agreement that an annexation policy be reviewed at next regular meeting to establish guidelines for this type annexation. Comm. E. C. Wareing made motion that ordinance annexing Herty area, on request by property owners, be approved on second and final reading. Motion was seconded by Comm. Jack McMullen and a unanimous affirmative vote was recorded.

8. Zone Change Approved - Eula B. Carney from RM to A District

Mayor Garrison stated that zone change application by Eula B. Carney from RM to A District covering property fronting on West side of Tulane Drive, across from Armory Drive intersection, had been approved on first reading of ordinance at last regular meeting.

There were no persons present appearing in opposition to this application. Comm. R. A. Brookshire stated that he desired the records indicate his abstention from discussion or vote on this item due to his personal interest regarding same. Comm. W. O. Ricks, Jr., made motion that zone change application by Eula B. Carney from RM to A District be approved on second and final reading. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

9. Zone Change Approved-Crown Colony Subdivision-Sabine Investment Company from D to C District on Tract 1; from RS & SU to C District on Tract 2; from RS & SU to D District on Tract 3; from RM to D District on Tract 4

Mayor Garrison stated that zone change application by Sabine Investment Company for Crown Colony Subdivision from D to C District on Tract 1; from RS & SU to C District on Tract 2; from RS & SU to D District on Tract 3; and from RM to D District on Tract 4, covering property located in Crown Colony Subdivision East of U. S. Highway 59 South, across from Angelina Junior College, had been approved on first reading of ordinance at last regular meeting.

There were no persons present appearing in opposition to this application. Comm. W. O. Ricks, Jr., made motion that zone change application by Sabine Investment Company for Crown Colony Subdivision from D to C District on Tract 1; from RS & SU to C District on Tract 2; from RS & SU to D District on Tract 3; and from RM to D District on Tract 4, be approved on second and final reading of ordinance. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

10. Civil Service Classification Plan Amended-Senior Captain/Training Officer Position Added

Mayor Garrison stated that ordinance adding the position of Senior Captain/Training Officer in the Fire Department under the Civil Service Classification Plan and amending the classification plan had been approved on first reading at last regular meeting.

There were no persons present appearing in opposition to proposed amendment. Comm. W. O. Ricks, Jr., made motion that ordinance amending the Civil Service Classification Plan to add the position of Senior Captain/Training Officer in the Fire Department be approved on second and final reading. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

11. Approval of Agreed Order-Formal Acceptance by City Commission-Kirkley David, et al, vs Pitser H. Garrison, et al

Mayor Garrison stated that the City Commission had recently met during executive sessions on two previous occasions at which unofficially the City Attorney was given authority to act in behalf of this Commission regarding their recommendations on law suit by Kirkley David, et al, vs Pitser H. Garrison, et al, but no official record had been recorded and Mayor Garrison entertained a motion from the Commission regarding formal acceptance of agreed order as previously reviewed prior to the beginning of this meeting. Comm. E. C. Wareing made motion that agreed order be approved as previously discussed establishing decisions by all parties involved in law suit by Kirkley David, et al, vs Pitser H. Garrison, et al. Motion was seconded by Comm. W. O. Ricks, Jr., and a unanimous affirmative vote was recorded.

12. Plumbing Code-Proposed Amendment Disc.-ABS & PVC Pipe-Plumbing Assn.

City Manager Westerholm reported that members of Commission had discussed proposed amendment to Plumbing Code at last regular meeting which would prohibit all but cast iron, copper or lead pipe in plumbing systems subject to flooding. City Manager Westerholm also made reference to a letter from Mr. Doyle Oliver, Secretary-Treasurer of the Plumbing Association, and other related materials furnished by the Plumbing Association regarding this proposed amendment.

Mayor Garrison recognized members of the Plumbing Association who were present regarding this proposed amendment. Individuals present expressed their comments regarding the use of ABS and PVC pipe versus cast iron. It was the general consensus among the Plumbing Association representatives present that plastic pipe was superior to the cast iron pipe due to problems experienced in the cast iron pipe with corrosion and breakage. Mayor Garrison requested that Plumbing Association provide cost differences between the use of cast iron and plastic type materials and the best estimate provided was by Mr. Tim Hill of the Lufkin Plumbing Association who stated that it was his personal opinion that approximately \$250 to \$300 difference would be involved in the use of the two pipes, and the cast iron would cost approximately this amount above plastic pipe. Mayor Garrison also inquired as to an interpretation of the wording in the existing regulation and proposed amendment to the regulation as stated. Members of the Plumbing Association were of the opinion that the proposed amendment to the plumbing regulation did not clarify the existing circumstances. Members of the Plumbing Association stated that they would be willing to provide members of Commission additional information in this regard if they desired.

Comm. R. A. Brookshire requested as much information as available be provided to determine whether or not the ordinance could be amended to provide that an individual could use any type of pipe in his house construction if he desired and still be provided adequate protection.

Mayor Garrison requested that members of the Plumbing Association submit additional information regarding items discussed at this meeting with specific regard to cost comparisons between the use of cast iron and plastic pipe, and interpretation of the regulation regarding prohibitions of certain pipe under the slab and certain pipe in areas where flooding is a possibility.

Comm. R. A. Brookshire requested Public Works Coordinator and City Manager provide additional information at next regular meeting which would show why it was not advisable to use plastic pipe under the slab, to include expert opinions from professionals who make recommendations to use certain type materials in this regard. It was the unanimous agreement of the City Commission that this item be tabled until next regular meeting.

13. Texas Dept. of Highways & Public Transportation-Disc. of 20-Year Plan

Mayor Garrison recognized Mr. J. L. Beaird of the Texas Dept. of Highways & Public Transportation who reviewed the 20-year plan adopted in December 1977 by the Highway Commission and its affect on the City regarding future obligations. Mr. Beaird distributed copies of the 20-year plan to include maps, diagraming proposed construction locations of the various highways in the deep East Texas area. Mr. Beaird reviewed the work program for Angelina County in the immediate future and the next 20-years. Mayor Garrison thanked Mr. Beaird for information furnished the Commission for the cooperation experienced by this Commission and the Texas Highway Department.

14. City Election Order Approved-April 1, 1978 Election Date Established-Commissioner Ward No. 4 & Commissioner at Large, Place B

Mayor Garrison stated that the State Election Law provided that certain election dates be established and it had been proposed and experienced in the past that the first Saturday in April be designated as City Election Day and same would be April 1, 1978, as indicated in proposed Election Order to be considered for approval by this Commission for the positions of Commissioner Ward No. 4 presently served by incumbent Edgar C. Wareing and Commissioner at Large, Place B with incumbent E. G. Pittman.

Mayor Garrison requested that City Attorney review proposed Election Order and City Attorney Flournoy read caption of Election Order establishing four City voting locations, election judges and alternates.

Comm. Jack McMullen made motion that ordinance providing Election Order and establishing election day as Saturday, April 1, 1978, be approved on first and final reading. Motion was seconded by Comm. R. A. Brookshire and a unanimous affirmative vote was recorded.

15. Abandoned Vehicle Board-Appointment of Members-Rachel Summy, Perry Beaty and Cecil Massingill

City Manager Westerholm stated that the City Commission had recently approved an Abandoned Vehicle regulation which provided for the necessity of appointing Abandoned Vehicle Board to hear appeals in this regard. City Manager Westerholm stated that suggested names for consideration on this Board were Rachel Summy, Perry Beaty and Cecil Massingill.

No discussion developed among members of Commission and Comm. E. G. Pittman made motion that the Abandoned Vehicle Board members be appointed in accordance with recommended names as stated above and as provided under Section 15-38 of the City Code of Ordinances. Motion was seconded by Comm. W. O. Ricks, Jr., and a unanimous affirmative vote was recorded.

16. Bids Awarded-Seven Police Patrol Units-Morrow Buick/Pontiac

The following bids were reviewed as tabulated by City staff for seven police units:

<u>Name</u>	<u>Amount</u>
Greater Lufkin Ford Sales	\$29,779.76
Village Chrysler-Dodge	\$31,932.94
Morrow Buick-Pontiac	\$29,304.41

City Manager Westerholm stated that Morrow Buick-Pontiac had submitted the low bid in the amount as stated above which was approximately \$3,700 greater than the budgeted figure due to a miscalculation on trade-ins.

Comm. E. O. Ricks, Jr., made motion to approve low bid submitted by Morrow Buick-Pontiac in the amount of \$29,304.41 for the purchase of these seven vehicles to include trade-ins. Motion was seconded by Comm. R. A. Brookshire.

Prior to vote on motion, Comm. W. O. Ricks, Jr., inquired as to whether or not the budget should be amended to provide for this over-run. City Manager Westerholm explained that the Police Department should be afforded the opportunity to balance its budget in this regard to off-set the loss through another saving opportunity. A unanimous affirmative vote was then recorded to previous motion and second to approve low bid submitted by Morrow Buick-Pontiac.

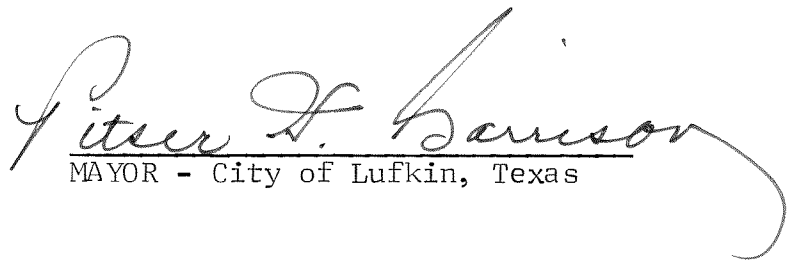
17. LISD-Angelina Street Extension-Junior High West Campus

Comm. E. G. Pittman inquired as a result of information furnished members of Commission by City Manager Westerholm regarding LISD and negotiations to be considered. City Manager Westerholm reported that LISD had approved deeding the City the needed property for extending Angelina Street behind the Junior High West campus subject to negotiated considerations and made reference to a plat reflecting these requests and anticipated material costs which were also submitted to members of Commission for review.


Due to additional information which was requested, Comm. E. G. Pittman made motion that discussion of Angelina Street extension be placed on the agenda for consideration at next regular meeting. Motion was seconded by Comm. Jack McMullen and a unanimous affirmative vote was recorded.

18. Adjournment

There being no further business for consideration, meeting adjourned at 9:10 p.m.


MAYOR - City of Lufkin, Texas




Assistant City Manager

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

KIRKLEY DAVID, ET AL.)
)
V.) CIVIL ACTION NO. TY-73-113-CA
)
PITSER GARRISON, ET AL.)

AGREED ORDER

The Parties by and through their Attorneys of Record have announced to the Court that the matters in dispute between them have been resolved and this Order reflects that Agreement and it is accordingly ORDERED as follows:

I.

The existing at-large system for election of the City Commission of the City of Lufkin does not satisfy requirements of the Fourteenth and Fifteenth Amendments of the Constitution of the United States and in accordance with controlling precedent a singlemember district plan of representation, should be established for the election of the City Commissioners for the City of Lufkin, on the following basis:

1. In accordance with the procedures provided in the City Charter, the Commission of the City of Lufkin, the governing body of the City of Lufkin, shall hereafter be composed of seven (7) members, a mayor elected at-large and six (6) Commission members residing in and elected from individual districts by the voters of the City.

2. The Court will appoint a special master to prepare and present to the Court a proposed plan for the City of Lufkin with six (6) individual districts. The plan shall be prepared based on population and with due regard for the principles established by the United States Supreme Court in White v. Regester, 412 U.S. 755 (1972); upon completion

of the Master's Report and the approval thereof by this Court, the plan shall be implemented for the elections of April, 1979 and thereafter; it being understood that the elections of April, 1979 will be only those commission member seats expiring in 1979.

(c) The 1978 elections for the City Commissioners of the City of Lufkin shall be conducted in accordance with the existing City Charter and it is further intended that the implementation of the single-member district plan for the election of 1979 and thereafter will be effectuated in a manner to enable incumbent members of the City Commission to complete their terms of office, and the final Order entered following receipt of the Master's Report will contain appropriate provisions effectuating this purpose;

(d) To the extent enforcement of the existing City Charter of the City of Lufkin conflicts with any provisions of this Order, the Charter will be deemed amended to conform to this Order.

It is so with respect to attorney's fees and costs as hereinbefore provided for in the foregoing Order.

IT IS SO ORDERED this 20th day of February, 1978.