

MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 21ST DAY OF AUGUST, 1979, AT 5:00 P.M.

On the 21st day of August, 1979, 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
Don E. Boyd	Commissioner, Ward No. 2 (new plan)
Dayle V. Smith	Commissioner, Ward No. 2 (old plan)
Pat Foley	Commissioner, Ward No. 4 (new plan)
E. C. Wareing	Commissioner, Ward No. 4 (old plan)
W. O. Ricks, Jr.	Commissioner at Large, Place A (old plan)
Richard Thompson	Commissioner at Large, Place B (old plan)
Harvey Westerholm	City Manager
Robert L. Flournoy	City Attorney
Roger G. Johnson	Assistant City Manager
Gayle Dickey	Assistant City Secretary

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

1. Meeting opened with prayer by Rev. Joe Bisby, Associate Pastor of First United Methodist Church, Lufkin, Texas.
2. Mayor Garrison welcomed visitors present.
3. Approval of Minutes

Motion was made by Comm. Pat Foley that minutes of regular meeting of August 7, 1979, be approved. Motion was seconded by Comm. Richard Thompson and a unanimous affirmative vote was recorded.

4. Zone Change Approved 2nd Reading - Charles R. Stewart from RL to RS District

Mayor Garrison stated that zone change application by Charles R. Stewart from RL to RS District covering property located at 206 Loop Lane, immediately North of and adjacent to Loop Lane between Loop 287 and North Raguet Street had been approved on first reading of ordinance at last regular meeting.

There were no persons present appearing in opposition. Motion was made by Comm. W. O. Ricks that zone change application by Charles R. Stewart from RL to RS District be approved on second and final reading of ordinance. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

5. Zone Change Approved 2nd Reading - Angelina Nursing Home from LB to C District

Mayor Garrison stated that zone change application by Angelina Nursing Home from LB to C District covering property located between Frank and Ellis Avenues and immediately East of Budgie's Drive-In Grocery had been approved on first reading of ordinance at last regular meeting.

There were no persons present appearing in opposition. Motion was made by Comm. W. O. Ricks that zone change application by Angelina Nursing Home from LB to C District be approved on second and final reading of ordinance. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

6. Ordinance Approved 2nd Reading - Air Conditioning and Heating Contractors

Mayor Garrison stated that ordinance regulating air conditioning and heating contractors for the City of Lufkin had been approved on first reading of ordinance at last regular meeting, subject to numerous changes. Mayor Garrison then asked City Attorney Robert Flournoy to review these changes for members of Commission.

City Attorney Flournoy stated that a definition for "air conditioning unit" had been added to the proposed ordinance; definition for "window unit" had been clarified; final appeals would be to the City Commission, which could be requested by either the City Commission or the individual requesting appeal;

experience requirement for master's license (Classes 1 or 3) would be five (5) years, and experience requirement for journeyman's license (Classes 2 or 4) would be two (2) years; re-examination time requirements changed from ninety (90) days to date of next regular examination, and if examination was failed on second attempt, individual taking examination would be required to wait six months before being allowed to take the exam for a third time.

Comm. Pat Foley stated that it was his opinion five (5) years was too long a time period for experience in order to take the master's license examination. Comm. Foley also stated he was of the opinion that the air conditioning and heating contractors code should contain the same provisions for revocation of license as the City's present electrical code.

Mayor Garrison recognized Mr. Phil Ford of the air conditioning and heating contractors group who stated that the five-year experience requirement would not be inconsistent with present electrical and plumbing trades.

Mayor Garrison recognized City Building Inspector Hubert Stubblefield who stated that the City's electrical and plumbing codes required three years experience for a journeyman's license, and then after one more year an individual would be qualified to take the master's examination, for a total of four years experience.

Following discussion, motion was made by Comm. Pat Foley that penalty clause regarding revocation of license be adopted for the air conditioning and heating contractors code for the City of Lufkin. Motion was seconded by Comm. Dayle V. Smith and a unanimous affirmative vote was recorded.

Comm. Pat Foley then made motion that experience requirement for Classes 1 and 3 be four years (master's license). Motion was seconded by Richard Thompson and a unanimous affirmative vote was recorded.

Comm. Pat Foley then made motion that ordinance regulating air conditioning and heating contractors for the City of Lufkin be approved on second and final reading of ordinance with amendments as presented. Motion was seconded by Comm. Don E. Boyd and a unanimous affirmative vote was recorded.

Mayor Garrison stated that the next action which would be required to implement this new ordinance would be to appoint an air conditioning and heating contractors board in the near future.

7. Zone Change Tabled - T. Mitchell Gibson, et al, from RS & A to C District, Special Use (Office Buildings & Apartments)

Mayor Garrison stated that zone change application by T. Mitchell Gibson, et al, from RS & A to C District covering various properties located in portions of Blocks 42, 103, and 104 of the Original Townsite of Lufkin located between Second and Fourth Streets had been recommended for approval by the City Planning & Zoning Commission.

Mayor Garrison recognized Mr. David Porter, attorney appearing in representation of zone change application by T. Mitchell Gibson, et al. Mr. Porter stated that due to concern of various property owners in the area during the City Planning & Zoning Commission consideration of this application, his clients desired to amend their application from "Residential Small & Apartment to Commercial District" to read "Residential Small & Apartment to Commercial District, Special Use (Office Buildings & Apartments)". Mr. Porter further stated that this special use designation should provide assurance for property owners in the area regarding any future use of the zoned property.

Mayor Garrison stated that it appeared Mr. Gibson and his neighbors had made this zone change application in expectation of the construction of the proposed federal building in the area, in which case the zone change application would be rather premature due to the fact no final contract had been signed regarding the federal building.

Mayor Garrison recognized Mr. T. Mitchell ("Mitch") Gibson who stated that the General Services Administration had contacted his brother about a week ago and informed him of GSA's plans for an option to be signed by the middle of September, 1979.

Mayor Garrison then stated that should the federal building not be approved, the approval of this zone change application at this time would be ill-advised and constitute spot zoning, in his opinion.

Following discussion, motion was made by Comm. Dayle V. Smith that zone change application by T. Mitchell Gibson, et al, from RS & A to C District, Special Use (Office Buildings & Apartments) be tabled until further information and confirmation of federal building construction could be received from GSA and the Gibson family. Motion was seconded by Comm. W. O. Ricks and a unanimous affirmative vote was recorded.

8. Zone Change Approved 1st Reading - Jimmy L. & Joyce Tinkle from RL to LB District

Mayor Garrison stated that zone change application by Jimmy L. and Joyce Tinkle from RL to LB District covering property fronting on South First Street, located at Northwest corner of intersection of South First Street and Janeway Avenue had been recommended for approval by the City Planning and Zoning Commission. Mayor Garrison further stated that a petition had been received from property owners in the area of the proposed zone change stating their opposition to same. Mayor Garrison also stated that this petition was not filed in proper affidavit form to require a 4/5 vote of this Commission.

Mayor Garrison recognized Mr. Walter Borgfeld, attorney appearing in representation of zone change application by Jimmy L. and Joyce Tinkle who reviewed application by stating that the application had been prompted by the Tinkle's entering into an earnest money contract with Community State Bank, a proposed new bank for the Lufkin area. Mr. Borgfeld further stated that the proper zoning for a banking facility was Local Business, which was requested. Mr. Borgfeld further stated that the deed would contain a restriction on the property for banking purposes for ten years following date of sale. Mr. Borgfeld also exhibited a preliminary drawing of the proposed construction on the property, and stated the exit on Janeway would be between 200 and 260 feet from South First Street. Mr. Borgfeld also stated that initially temporary buildings would be constructed on the property and permanent buildings would be constructed at a later date.

Comm. Pat Foley inquired of Mr. Borgfeld as to the estimated length of time during which the temporary buildings would be utilized before permanent structures would be built. Mr. Borgfeld stated that the temporary structures would be on the property within eighteen months to two years.

Mayor Garrison recognized Mr. Bob Kaszczuk, attorney appearing in representation of property owners residing on Janeway Avenue. Mr. Kaszczuk stated that in his opinion approval of this zone change application would constitute spot zoning due to the fact that the property was surrounded by natural barriers such as South First Street, Janeway Avenue, a road on the Tinkle property, etc. Mr. Kaszczuk further stated that behind the property there was only Residential Large zoning. Mr. Kaszczuk also stated that the homes in the area on Janeway were all new homes constructed within the past two years, and property owners in the area were concerned as to what would be constructed on the remainder of the area being zoned, for which the bank had no plans or drawings. Mr. Kaszczuk also stated property owners in the area were of the opinion that some voting members of the City Planning and Zoning Commission had conflicts of interest with the banking facility due to their investments in same, and should have recused themselves from voting.

Discussion followed regarding zoning of this property being spot zoning due to the fact that the entire area on South First Street in the vicinity of the property being considered for zone change was Commercial District with various commercial uses at the present time, including Western Auto, Minit Market, various service stations, a motel, and automobile and equipment dealerships.

Mayor Garrison then inquired of City Attorney Flournoy as to his legal opinion regarding whether or not this property could be considered spot zoning. City Attorney Flournoy stated that in a spot zoning case various points must be considered regarding trends and growth in the area, and that a particular barrier would depend upon what growth had been experienced in the area in the past. City Attorney Flournoy further stated that it was his opinion this property being zoned Local Business would not be considered spot zoning.

Mayor Garrison recognized Dr. Steve Elliott, 506 Janeway, who was present appearing in opposition to zone change application. Dr. Elliott stated that property owners in the area were concerned regarding why a special use could not be added to this zone change application, if indeed the property was to be used only for banking. Dr. Elliott further stated that property

owners were concerned as to what types of commercial establishments could be allowed in the area if the bank were to fail, etc.

Mayor Garrison stated that the restriction placed in the deed by the Tinkle's regarding bank usage for ten years from date of sale of the property was much more binding than any zoning designation placed upon the property by the City's zoning ordinance.

Mayor Garrison inquired of Mr. Borgfeld as to whether or not the deed restriction could be so stated in the deed as to require the property owners in the neighborhood to be consulted in the event this restriction was to be removed.

Mayor Garrison then allowed Mr. Borgfeld to meet privately with directors of the proposed banking facility in order to determine if this provision would be allowed in the deed restriction clause.

Mr. Borgfeld and directors returned to meeting and stated that this provision would be included in the deed restriction.

Following discussion, motion was made by Comm. W. O. Ricks that zone change application by Jimmy L. and Joyce Tinkle from RL to LB District be approved on first reading of ordinance, including provision in deed restriction regarding property owner participation in removal of the deed restriction, should same be desired. Motion was seconded by Comm. Don E. Boyd and a unanimous affirmative vote was recorded.

9. Proposed City Budget - Hearing Date Established for Fiscal Year 10/1/79 - 9/30/80

Mayor Garrison stated that it would be necessary to set a public hearing date for consideration of the 1979-80 City Budget. Mayor Garrison further stated that the advertisement for the hearing should contain items as agreed by Commission at this meeting. Mayor Garrison stated that the major item of the budget to be considered at this time was the question of increases in salaries for municipal employees. Mayor Garrison explained that it would be possible to give tentative approval to the preliminary budget prior to a decision being made on the amount of increase in salaries to be approved for City employees.

Mayor Garrison stated that approximately \$361,000 had been placed in reserve in the City budget for salary increases for the 1979-80 fiscal year.

Comm. Pat Foley inquired of Mayor Garrison as to whether or not it would be in order to approve salaries based on presidential guidelines as they were set at the present time. Mayor Garrison stated that this would appear to be acceptable since the City of Lufkin was considered a public agency, and this decision would not remove the City Manager's prerogative to give merit raises at mid-year.

Discussion followed regarding the City's policies for awarding of merit increases, and City Manager Westerholm explained same.

Comm. Don E. Boyd stated that it was his opinion the City should raise the starting salaries for Police Patrolmen in the Police Department. Comm. Boyd stated that he felt this was the primary reason for a large amount of turnover in the City's Police Department.

Comm. Pat Foley expressed his compliments to the City Manager and his staff for a job well done on the preliminary budget. Comm. Foley stated that he had some questions as to automobile allowances being paid to certain City employees and the need for same.

Comm. Foley questioned the escalation in the City Attorney's retainer fee each year, and how this was computed.

City Manager Westerholm stated that he would accept responsibility for the 6% raise in the City Attorney's retainer fee in the past two years, and this had been his own decision.

City Attorney Flournoy stated that he had been employed with the City of Lufkin for the past ten years, and had not requested any increase in salary. City Attorney further stated that he would be content with whatever the City Commission deemed acceptable as increase in retainer fee.

Comm. Pat Foley stated that the preliminary budget had described an across-the-board adjustment for salary blocks. Comm. Foley also stated that he would propose percentage raises be allotted to various salary groups on a sliding scale as implemented in last year's budget.

City Manager Westerholm stated that the procedure used in last year's budget of a sliding scale for various salary groups was detrimental to the City's classification program. City Manager Westerholm stated that he would like to register this objection, but this decision would be a prerogative of the City Commission.

Comm. E. C. Wareing stated that it would be beneficial for the City's classification program if members of the City Commission met with the City Manager regarding same to clarify questions.

Mayor Garrison stated that the City's preliminary budget could be approved with presidential guidelines to be used for salary increases, and the City Commission could proceed with advertisement and reserve the privilege to discuss and allocate percentages of raises at a future meeting.

Comm. Pat Foley made motion that presidential guidelines be utilized for raises in salary for City employees, with allocation of percentages to be reserved for a future meeting. Motion was seconded by Comm. Richard Thompson and a unanimous affirmative vote was recorded.

Comm. Pat Foley then made motion that preliminary budget be tentatively approved and published accordingly, with date of public hearing to be held at next regular meeting of City Commission on September 4, 1979, at 7:30 p.m. Motion was seconded by Comm. Don E. Boyd and a unanimous affirmative vote was recorded.

Comm. Foley asked that the preliminary budget be presented to members of Commission at an earlier date next year. Mayor Garrison then added to Comm. Foley's prior statements concerning compliments to City Manager Westerholm and his staff for another well-prepared budget.

10. Hearing Date Established - 1979 Tax Rate - House Bill 18

Mayor Garrison stated that the City was required to publish an advertisement in the local newspaper stating the total tax income of the City, if the total tax income was increased more than 3% over last year.

Following discussion regarding this requirement, and the fact that the City's tax rate would remain the same for this year, Comm. E. C. Wareing made motion, under protest, and in accordance with requirements of House Bill 18 that advertisement regarding this requirement be published and hearing date set for next regular meeting of City Commission on September 4, 1979, at 7:30 p.m. Motion was seconded by Comm. Dayle V. Smith and a unanimous affirmative vote was recorded.

11. Resolution Approved - City Manager Authorized to Submit Application - Section VIII Housing

Mayor Garrison asked Comm. Pat Foley to offer comments on the Section VIII Housing Program to be considered for the City of Lufkin. Comm. Foley stated that in the last year he personally had changed his opinion about the City becoming involved in the Section VIII Housing Program. Comm. Foley further stated that the City's non-participation in this program had caused the City to be eliminated from federal Community Development Block Grant Programs, and money allocated by federal government tax money for these grants was going to other cities due to the fact that the City of Lufkin did not participate in the Section VIII Housing Program.

Mayor Garrison stated that a relatively small amount of government money would be involved in the Lufkin area, and Mayor Garrison expressed his disagreement with the government spending tax money on private property. Mayor Garrison further stated that Congress had passed this law which applied to cities nationwide, and tax money from the Lufkin area went to a program of this nature. Mayor Garrison then stated that he also had changed his mind regarding the Section VIII Housing Program, and the fact that non-participation in this program disqualified the City from C.D.B.G. grants was perhaps not being fair to the citizens of Lufkin. Mayor Garrison also stated that should the City decide to participate in the program and later reconsider participation, appropriate action could be taken at that time.

Comm. E. C. Wareing inquired as to what the beginning step would be for the City to enter into this program, and Comm. Pat Foley stated that it would be necessary for the City Commission to approve a resolution authorizing the City Manager to initiate application.

Comm. E. C. Wareing made motion that resolution be approved authorizing City Manager Westerholm to proceed with application for the City of Lufkin to participate in the Section VIII Housing Program and report back to the Commission at a later date for further action. Motion was seconded by Comm. Don E. Boyd and a unanimous affirmative vote was recorded.

12. Parking Lot Discussed - Between Ellis Avenue and Shepherd Street - Action Postponed

Mayor Garrison stated that Lufkin Industries, Inc., had made an offer to the City of Lufkin that the triangle-shaped tract of land located between Ellis Avenue and Shepherd Street be utilized as a municipal parking lot. The City estimated it could be done at a cost of \$3,300.00. Mayor Garrison further stated that this area would allow parking spaces for approximately 33 automobiles.

Comm. Dayle V. Smith expressed his concern for removing as much parking as possible off Angelina Street. Comm. E. C. Wareing agreed with Comm. Smith, and stated that the "temporary" parking which had been approved in the past on Angelina Street had become permanent. Comm. Wareing further stated that it would appear to be advantageous to the City to have this proposed parking lot. Comm. Wareing stated that it might be helpful to the City to put meters on Angelina Street in an attempt to discourage individuals from parking in this area, but he would prefer this parking be totally removed.

Comm. Pat Foley stated that he desired further information regarding the costs of installing parking meters on the proposed parking lot as well as the City's other municipal parking lot on the old First Bank & Trust property off Calder Square.

Comm. E. C. Wareing expressed his opinion that if parking meters were installed on this new parking lot, which was located quite a distance from the downtown area, it would not be utilized as much.

Comm. Pat foley made motion that further information be obtained regarding installation of parking meters on the proposed parking lot, and action be tabled until a future meeting. Motion was seconded by Comm. W. O. Ricks and the following vote was recorded: voting "Aye" - Comms. Thompson, Smith, Foley, Ricks, & Wareing; voting "Nay" - Mayor Garrison and Comm. Don E. Boyd. Motion was declared approved by a vote of five to two.

Mayor Garrison stated that he had voted "nay" on this motion due to the fact that Lufkin Industries, Inc., had made an offer to the City, and he did not desire to postpone action on same. Mayor Garrison also stated that one of the responsibilities of the City Commission was to attempt to keep the downtown area more viable, and this parking lot could possibly assist in this effort.

13. Bid Approved - Asphalt Distributor - Street Department

City Manager Westerholm stated that bids had been opened on August 14, 1979, at 2:00 p.m., for the purchase of one (1) bituminous maintenance distributor for the City Street Department. City Manager Westerholm recommended low bid submitted by R. B. Everett & Company in the amount of \$5,881.80.

Motion was made by Comm. Pat Foley that low bid in the amount of \$5,881.80 from R. B. Everett & Company be approved. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

14. Bid Approved - Construction Labor for Extension of Sewer to North Industrial Area

City Manager Westerholm stated that City sewer would be extended from the City's lift station behind the animal shelter up and through Industrial Foundation property to Spence Street. City Manager Westerholm further stated that the Industrial Foundation would pay the costs of this sewer extension, and the City would provide pipe for same. City Manager Westerholm stated that bids had been opened for the construction labor of this sewer

extension on August 6, 1979, at 2:00 p.m., and low bid had been received from Oscar Crawford Construction in the amount of \$29,784.50. City Manager Westerholm further recommended that this low bid be accepted.

Motion was made by Comm. E. C. Wareing that low bid by Oscar Crawford Construction in the amount of \$29,784.50 be approved. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

15. Water Works Improvements - Grant Offer Accepted - Economic Development Administration

Mayor Garrison stated that a grant offer in the amount of \$800,000 had been received from the Economic Development Administration (EDA), for water line extension, water well, and erection of a storage tank. Mayor Garrison further stated that it would now be necessary for the City Commission to submit an acceptance of this grant offer.

Motion was made by Comm. Pat Foley that this grant offer be accepted as offered. Motion was seconded by Comm. Don E. Boyd and a unanimous affirmative vote was recorded.

16. Proclamation Approved by Mayor Garrison - "Inez Tims Day" - August 25, 1979

Mayor Garrison recognized representatives present appearing in interest of Mr. Inez Tims. Persons present stated they were part of a Committee as "Friends of Inez Tims", and that an appreciation banquet was planned for Mr. Tims for August 25, 1979, and they had come before the City Commission to request this date be proclaimed "Inez Tims Day" in the City of Lufkin. Representatives present read proposed proclamation.

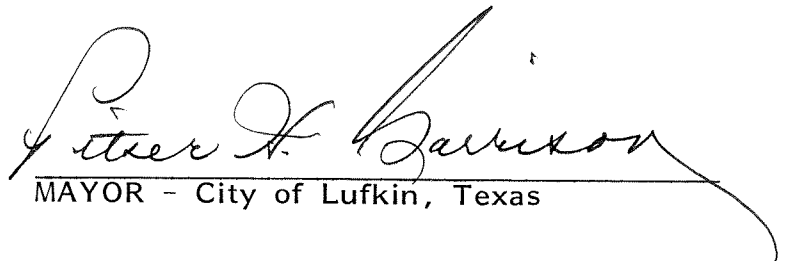
Motion was made by Comm. Don E. Boyd that proclamation be approved. Prior to second of motion, question was presented as to whether or not it would be legal to consider this item on the regular agenda due to new laws regarding posting of notices.

Mayor Garrison then stated that inasmuch as he had approved proclamations of this type in the past on his own volition, he would consider this request in absence of opposition from members of Commission. Mayor Garrison then acknowledged his approval of this proclamation and proclamation was signed as requested.

17. Adjournment

There being no further business for consideration, meeting adjourned at 8:20 p.m.



  
MAYOR - City of Lufkin, Texas

  
Assistant City Secretary