

MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 17TH DAY OF JUNE, 1986, AT 5:00 P.M.

On the 17th day of June, 1986, the City Commission of the City of Lufkin, Texas, convened in regular meeting in the Council Chambers of City Hall with the following members thereof, to wit:

Pitser Garrison	Mayor
Percy Simond	Commissioner, Ward No. 1
Don Boyd	Commissioner, Ward No. 2
Danny Roper	Commissioner, Ward No. 3
Pat Foley	Commissioner, Ward No. 4
Jack Gorden	Commissioner, Ward No. 5
Louis Bronaugh	Commissioner, Ward No. 6
Harvey Westerholm	City Manager
Brian Boudreaux	Assistant City Manager
Ron Wesch	Public Works Director
Nick Finan	City Planner
Bob Flournoy	City Attorney
Atha Stokes	City Secretary

being present when the following business was transacted:

1. Meeting was opened with prayer by Rev. Roger Lewis, Minister, Glad Tidings Assembly of God Church, Lufkin.

2. Mayor Garrison welcomed visitors present.

3. APPROVAL OF MINUTES

Minutes of regular meeting of June 3, 1986, were approved on a motion by Jack Gorden and seconded by Louis Bronaugh. A unanimous affirmative vote was recorded.

4. OATH OF OFFICE - ROYCE GARRETT - CIVIL SERVICE COMMISSION

Mayor Garrison administered Oath of Office to Royce Garrett who was recently reappointed to the Civil Service Commission.

5. ORDINANCE - APPROVED - SECOND READING - INDUSTRIAL DISTRICT NON-ANNEXATION AGREEMENT

Mayor Garrison stated that the Commission now had for consideration Second and Final Reading of an Ordinance designating an Industrial District and authorizing a Non-Annexation Agreement with HBJ Beckley-Cardy, Inc. Mayor Garrison stated that the Ordinance had been heard on First Reading at last meeting of the Commission.

City Manager Westerholm stated that a corrected copy of the Ordinance had been included in the Commissioner's packet for review.

Motion was made by Commissioner Louis Bronaugh and seconded by Commissioner Don Boyd that Non-Annexation Agreement be approved as submitted. A unanimous affirmative vote was recorded.

6. ORDINANCE - APPROVED - SECOND READING - SPEED ZONE - FM HWY. 58

Mayor Garrison stated that the Commission now had for consideration Second Reading of Speed Zone Ordinance on FM Highway 58.

Motion was made by Commissioner Louis Bronaugh and seconded by Commissioner Jack Gorden that Ordinance be approved as presented. A unanimous affirmative vote was recorded.

7. CONTRACT - APPROVED - COUNTY APPRAISAL DISTRICT - COLLECTION OF CITY TAXES

Mayor Garrison stated that the Commission now had for consideration the proposed contract with the County Appraisal District for collection of city taxes. Mayor Garrison stated that at the last meeting the Commission had requested City Manager Westerholm and City Attorney Bob Flournoy to work out the details of the proposed contract with the Appraisal District and a copy of the proposed contract had been included in the Commissioner's packets.

Commissioner Jack Gorden stated that in Provision 3 of the Contract it was stated that the Jurisdiction authorizes the Appraisal District to contract with private legal counsel for the collection of delinquent taxes, and he was under the impression that the City wanted to retain the right to collect delinquent taxes through City Attorney Bob Flournoy. Commissioner Gorden stated that he did not see a provision for an adjustment on rates when additional entities are added.

City Attorney Bob Flournoy stated that by law the Appraisal District could not charge more than the cost of providing the services, and that as other entities are added, the cost will be reduced. City Attorney Flournoy stated that the Contract would be in effect from July 1, 1986 through September 30, 1986 at a cost of \$2,895 per month, and will be renewed automatically October 1, 1986 for one year at a cost of \$34,740. City Attorney Flournoy stated that in the Contract it states that "the fee for such service shall be determined by a Jurisdiction and District using the actual cost of providing such services as a basis for establishing the fee".

Mayor Garrison stated that, in his opinion, the Appraisal District did not anticipate any other entity joining other than the City and the Lufkin Independent School District at this time. Mayor Garrison stated that at last meeting he had commented that the City should have the right to approve whatever lawyer was selected by the Appraisal District, but after attending a meeting of the Appraisal District, he had changed his mind. Mayor Garrison stated that if the Appraisal District contracted with several other cities and each city insisted on their own lawyer, it would, in his opinion, create a burdensome problem on the Appraisal District. Mayor Garrison stated that he had expressed his opinion that the Appraisal District should contract with a local lawyer, everything else being equal.

In response to a question by Commissioner Simond, Mayor Garrison stated that at this time a lawyer for the Appraisal District had not been chosen. Mayor Garrison stated that at the Appraisal District meeting last Thursday, local lawyers were given the opportunity to make proposals and submit them in time for a decision to be made at the next meeting.

Commissioner Simond stated he would like for Mayor Garrison to use his considerable influence to see that John Kay was given consideration by the Appraisal District. Mayor Garrison stated that the people from Austin had recommended John Sloan who is the attorney for the Appraisal District to represent them locally. Mayor Garrison stated that, in his opinion, the Appraisal District would get better service from a local lawyer as opposed to a lawyer from out of town.

City Attorney Flournoy stated that, in his opinion, for practical consideration, one law firm should handle the collection for delinquent taxes. City Attorney Flournoy stated that there was a lot of duplication of effort and a slowing down of process when the City files a suit for collections and the school's attorney and the county's attorney are contacted to file an intervention in the law suit and you are trying to coordinate three lawyers for hearings, etc. City Attorney

Flournoy stated that one law firm can file a petition and handle the suit without any additional effort.

In response to question by Commissioner Boyd, City Manager Westerholm stated that the cost to the City would be \$34,740 contingent upon Lufkin Independent School District joining in, and if they do not participate, the cost to the City would be \$44,997.

Commissioner Simond stated that he had some reservations with the City dismantling an experienced taxing unit and turning it over to an agency for a few years, and the possibility that the City would have to re-open a tax office with people who are not experienced.

Commissioner Simond stated that he had been under the impression that John Kay had collected delinquent taxes for the school and the City. City Manager Westerholm stated that perhaps Commissioner Simond had reached that impression because the school had considerably more delinquent taxes than the City and Mr. Kay often called on City Attorney Flournoy for assistance. City Manager Westerholm stated that the collection of ad valorem tax is the school's major source of income while the City has sales tax and other sources of income.

Commissioner Foley stated that he was under the impression that City Attorney Flournoy would take care of delinquent taxes for the City and, in his opinion, the City would have more rapport with an attorney on a local level. Commissioner Foley stated that he wondered if it would be possible to write into the Contract that legal counsel for delinquent taxes be a local person.

In response to question by Commissioner Simond, City Manager Westerholm stated that if the school joins in, they will be paying the same cost per unit as the City.

In response to question by Mayor Garrison, City Manager Westerholm stated that the tax roll must be ready by July 1st, and forms ordered so the forms will be ready to be mailed out October 1st.

In response to question by Commissioner Bronaugh, City Attorney Flournoy stated that generally the attorney's fees are set by statute, about 15%. City Attorney Flournoy stated that he doesn't presently charge for the collection of City taxes. City Attorney Flournoy stated that the City's tax department had done a good job in coordinating with his office on the paperwork involved in the lawsuits.

Mayor Garrison stated that, in his opinion, it would take longer than one year to determine whether the attorney is performing satisfactorily, but if at the end of a year the City is not satisfied, then the Contract will not be renewed.

In response to question by Commissioner Gorden, City Attorney Flournoy stated that the cost of collecting delinquent taxes will be borne by delinquent property owners.

In response to question by Commissioner Gorden, Mayor Garrison stated that the attorney can get penalties before the delinquent taxes develop into a law suit. Mayor Garrison stated that the penalty is added on to the tax bill of the person who is delinquent. Mayor Garrison stated that when the delinquent tax accounts are referred to the lawyer that's where the fee comes in, and he gets a fee whether it becomes a law suit or not.

Commissioner Gorden stated that City Attorney Flournoy was on a retainer by the City and didn't charge for collecting delinquent taxes but another attorney would. City Attorney Flournoy stated that once the City gets into the lawsuit stage, obviously he does charge the City for his services.

City Attorney Flournoy stated that the City's Tax Office does a great deal of the preparation work for his office (i.e. demand letters that go out under his signature) that will be done as a part of what another lawyer would be paid for. City Attorney Flournoy stated that all of the demand letters, etc. will come out of the cost of the attorney that will represent the taxing agency. City Attorney Flournoy stated that right now a lot of the cost that will be borne by the attorneys in that case are now being borne, not by his office, but by the tax office itself, and that was not a good comparison.

City Attorney Flournoy stated that, in his opinion, the inefficiency that would be found from having more than one lawyer involved would cost more than would be saved by tacking on 15%. City Attorney Flournoy stated that if his office was handling, solely, the demand letters without being compensated, he couldn't do it for the City without being compensated additionally for it.

City Attorney Flournoy stated that the Tax Office does the paperwork under his supervision and his office handles all the lawsuits.

In response to question by Commissioner Simond, City Attorney Flournoy stated that regular penalty and interest for not paying delinquent taxes on time is set by statute.

City Attorney Flournoy stated that new legislation states that if you are on the delinquent role in July, you have been given 30 days notice prior to that, and the City then can automatically add on an additional 15% for a penalty and if lawyers are hired, they have to be paid from the 15%, the tax payer cannot be charged anymore than the 15%.

Mayor Garrison stated that the Commission could make a provision in the Contract that the attorney be a resident of Angelina County. Mayor Garrison stated that, in his opinion, he doesn't think there's any inclination on the Appraisal District's part to hire an out of town attorney.

Commissioner Foley stated that he would like for the Commission to be reminded on February 1st of the deadline for renewal of the Contract.

In response to question by Commissioner Foley, City Manager Westerholm stated that the necessary information was on the computer, and there shouldn't be any problem with preparing or mailing out the tax certificates on time.

Commissioner Foley stated that he had some minor reservations about not making deposits on a daily basis.

City Manager Westerholm stated that if there is a \$5.00 deposit one day and \$20 deposit the next day, daily deposits would be more trouble than they are worth. City Manager Westerholm stated that the contract states that deposits will be made on a weekly basis or whenever \$1,000 is collected, whichever comes first. David Cochran stated that his office presently collects around \$200 per day.

Commissioner Foley stated that he would like something written into the Contract that the City will have to approve any changes in the charges they have per parcel for subsequent years. Mayor Garrison stated that, in his opinion, the price should be negotiated each year. Mayor Garrison stated that on Page 4 of the Contract it states that "For subsequent tax years that this agreement shall remain in effect, the fee for such service shall be as determined by Jurisdiction & District using the actual cost of providing such services as a basis for establishing the fee."

Commissioner Gorden stated that he would like to see the Commission receive advance notice of the date for establishing the actual costs. Mayor Garrison stated that the Commission could have added into the statement..."using the actual costs on a date prior to May 31 of providing such services..."

Motion was made by Commissioner Jack Gorden and seconded by Commissioner Don Boyd that the Appraisal District will contract with legal counsel who is presently residing in Angelina County. A unanimous affirmative vote was recorded.

Motion was made by Commissioner Pat Foley and seconded by Commissioner Jack Gorden that the sentence on Page 4 under Payment for Services will read, "For subsequent tax years that this agreement shall remain in effect, the fee for such service shall be as determined by Jurisdiction and District before May 15th of each year using the actual costs of providing such services as a basis for establishing the fee". A unanimous affirmative vote was recorded.

Motion was made by Commissioner Percy Simond and seconded by Commissioner Louis Bronaugh authorizing the City of Lufkin to enter into an agreement with the Angelina County Appraisal District for the collection of City taxes. A unanimous affirmative vote was recorded.

Mayor Garrison stated that, in his opinion, the City's delinquent taxes in the next collection year are probably going to be greater because of the sluggish economy. Mayor Garrison stated that the Appraisal District is developing a written manual for procedures.

**8. RESOLUTION - APPROVED - CERTIFICATES OF OBLIGATION - TRIBBLE & STEPHENS - CITY HALL CONSTRUCTION**

Mayor Garrison stated that the Commission now had for consideration a Resolution authorizing Certificates of Obligation for payment of invoice from Tribble & Stephens for City Hall Construction.

Motion was made by Commissioner Pat Foley and seconded by Commissioner Louis Bronaugh that Resolution be approved as presented for payment of invoice to Tribble & Stephens in the amount of \$414,930. A unanimous affirmative vote was recorded.

**9. INVOICE - APPROVED - GRIFFITH & ASSOCIATES - STEP 3-WASTEWATER TREATMENT PLANT**

Mayor Garrison stated the Commission now had for consideration an invoice from Griffith & Associates for Step 3-Wastewater Treatment Plant.

Motion was made by Commissioner Pat Foley and seconded by Commissioner Louis Bronaugh that invoice from Griffith & Associates in the amount of \$12,500.44 be approved as presented. A unanimous affirmative vote was recorded.

**10. BID - APPROVED - AIR CONDITIONER - ZOO**

Mayor Garrison stated that the Commission now had for consideration a bid for an air conditioning unit to be installed in the Isolation Clinic Building at the zoo.

City Manager Westerholm stated that \$7,000 had been budgeted towards improvements to the Animal Isolation Clinic building and the low bid of \$2,872 had been received from McWilliams and Son.

Motion was made by Commissioner Pat Foley and seconded by Commissioner Jack Gorden that low bid of \$2,872 from McWilliams and Son be

accepted as the lowest and best bid. A unanimous affirmative vote was recorded.

**11. PROPOSAL - DENIED - H.I.R.E.D. - BRANDON PARK**

Mayor Garrison stated that the Commission now had for consideration a proposal from H.I.R.E.D. for operating Brandon Park.

City Manager Westerholm stated that he had mailed out a proposal from Charles Thomas of the Heavenly Inspired for Religious and Economic Development several weeks ago to the Commission and hadn't received any comments.

City Manager Westerholm stated he and Parks and Recreation Director Don Hannabas were of the opinion that the park should be operated in the same manner as Chambers Park and the Downtown Center, and that the City should remain in charge of managing the operation of the Park.

Commissioner Foley stated that after reviewing the information sent out by the City Manager, he was satisfied with that recommendation.

Mayor Garrison recognized Mr. Thomas who stated that the events he had planned were scheduled events and would build up the City.

Mayor Garrison stated that if the City operates the Park and Mr. Thomas' group wanted to use it for their activities, something could be worked out with the Parks and Recreation Department. Mayor Garrison stated that the parks should be available to everybody.

Commissioner Don Boyd stated that he concurred with the City keeping control over the park, but available for use by everyone. Commissioner Boyd stated that Mr. Thomas had some good activities included in his proposal which could be worked into the schedule of the park, but management of the park would remain under the jurisdiction of the Parks and Recreation Department of the City.

Mayor Garrison stated that the use of the Park had been troublesome to the neighborhood and, in his opinion, the Parks and Recreation Department needs to keep a watch over it to see that the Park works to the benefit of the public. Mayor Garrison stated that working with Mr. Thomas would open an avenue to try to get it in the public's best interest.

Commissioner Simond stated that he had passed by the park several times and it didn't appear to him that anything was being done. Commissioner Simond stated that a citizen had given \$5,000 towards the improvements for playground equipment and he would like to know the current status of the improvements.

Parks and Recreation Director Don Hannabas stated that the exterior of the building had been painted. Mr. Hannabas stated that this is the busy season for his department trying to start up swimming pools and getting the Brandon Park Center back together. Mr. Hannabas stated that "No Parking" signs had been made which would state the hours when the park is open and that the "No Parking" would be enforced. Mr. Hannabas stated that basketball goals would be going up soon and picnic tables are being moved over to the Park. Mr. Hannabas stated that he had the specifications for the playground equipment to be purchased with the \$5,000 on his desk and would be advertising for bids soon. Mr. Hannabas stated that the park will be utilized this summer and that some playground equipment is already there.

In response to question by Commissioner Boyd, Mr. Hannabas stated that there is curb and gutter around two sides of the park and the pipe has been installed on the church property side of the park.

In response to question by Commissioner Boyd, Mr. Hannabas stated that signs in accordance with the Ordinance prohibiting motor vehicles being driven on the park grounds had been posted.

Mayor Garrison stated that if Mr. Thomas will meet with Mr. Hannabas, he will discuss the proposal for the Park's reopening.

Motion was made by Commissioner Pat Foley and seconded by Commissioner Louis Bronaugh that the City continue the management of Brandon Park according to the proposed outline by the Parks and Recreation Department. A unanimous affirmative vote was recorded.

**12. LOCAL ECONOMIC DEVELOPMENT CONFERENCES - PROBLEMS IN BLIGHTED AREAS - BEAUTIFICATION PROGRAM**

Commissioner Simond stated that he had received literature from the Local Economic Development Conferences regarding topics to be discussed and, in his opinion, it would be money well spent to have the City Manager and staff members to attend.

Commissioner Simond stated that he had some problems with people questioning him why there are blighted areas in his district. Commissioner Simond stated that there were abandoned houses, grass growing five and six feet tall on vacant lots, grass causing blind corners and raw sewerage in the streets. Commissioner Simond stated that he had reported these things to Code Enforcement Officer James Fears and he stated that he couldn't get anything done.

City Attorney Flournoy stated that most of the time these problems are handled administratively and that there is a procedure that has been set up for abandoned houses. City Attorney Flournoy stated that if the owner of an abandoned house states that he is going to do something about the house, the City tries to give him an opportunity to do it. City Attorney Flournoy stated that as far as blind corners and mowing are concerned, he sends letters to the property owners and sometimes the City even sends crews out to do the mowing and assess the labor.

In response to question by Commissioner Simond, City Manager Westerholm stated that the problem with the raw sewerage could be handled fairly quickly. City Manager Westerholm stated that some of the owners of the abandoned houses are people living in old folks homes and the City can mow the grass, but has to pay the mower, but can't collect from the property owner unless the property changes ownership. City Manager Westerholm stated that there's no budget for this activity. City Manager Westerholm stated that sometimes the vacant lots have old wire and junk that tear up the City's equipment.

In response to question by Commissioner Boyd, City Attorney Flournoy stated that the City has a schedule for the abandoned houses which starts with the Building Official and he meets with the Fire Department personnel and they determine whether it's safe or unsafe.

City Attorney Flournoy stated that on the building which had been a feed store and burned, there were problems with the railroad who actually owns the land and the people who own the building and the insurance company.

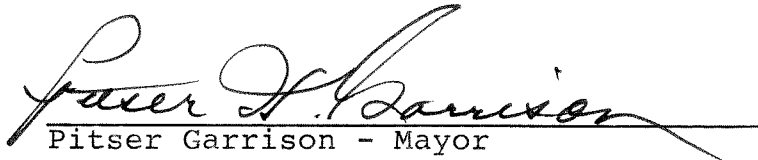
Commissioner Boyd stated that on the burned out houses that have been abandoned for five or six years, the Fire Department should be given the opportunity to practice on them.

City Manager Westerholm stated that the City is pursuing these problems but it is not a fast process.

Commissioner Simond stated that he would like to meet with City Manager Westerholm and drive through the area tomorrow.

Commissioner Jack Gorden stated that he had not seen any official acknowledgement of Lufkin winning the Governor's Beautification Award, but he hoped that some of the Commissioners could attend the presentation of the award in Austin on July 3rd. Commissioner Gorden stated that while Kay Alderman and Nancy Chancellor had worked hard on the project, in his opinion, some of the credit should go to City Manager Harvey Westerholm and the City staff.

13. There being no further business for consideration, meeting adjourned at 6:32 P.M.

  
Pitser Garrison - Mayor

ATTEST:

  
Atha Stokes - City Secretary