

MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 18TH DAY OF DECEMBER, 1973, AT 5:00 PM

On the 18th day of December, 1973, the City Commission of the City of Lufkin, Texas, convened in regular meeting in the regular meeting place of said City, with the following members thereof, to-wit:

Pitser H. Garrison	Mayor
R. A. Brookshire	Commissioner, Ward No. 1
J. T. Hopson	Commissioner, Ward No. 2
Joe E. Rich	Commissioner, Ward No. 3
E. C. Wareing	Commissioner, Ward No. 4
W. O. Ricks, Jr.	Commissioner at Large, Place A
E. G. Pittman	Commissioner at Large, Place B
Harvey Westerholm	City Manager
Robert L. Flournoy	City Attorney
Roger G. Johnson	City Secretary

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

1. Meeting opened with prayer by Rev. Jim Salles, Associate Pastor, Denman Avenue Baptist Church, Lufkin, Texas.
2. Mayor Garrison welcomed a small group of visitors who were present in connection with items on the agenda or as observers.

3. Approval of Minutes

Comm. J. T. Hopson made motion that minutes of regular meeting of December 4, 1973, be approved. Motion was seconded by Comm. Joe E. Rich and a unanimous affirmative vote was recorded.

4. Proposed Civic Center Design Determined

Mayor Garrison called on Mr. Jerry E. Hill, of Hill, Weiner, Morgan & O'Neal Architectural Firm, who was present to discuss additional designs indicating proposed Civic Center as requested from last regular Commission meeting. Mr. Hill referred to his letter of December 14, 1973, to members of the Commission which explained three different schemes and seating and dining room capacities including costs analysis as requested. The following designs and costs were discussed:

<u>SCHEME A</u>	<u>SCHEME B</u>	<u>SCHEME C</u>
\$1,109,000	\$1,644,654	\$1,775,308
25,600 Sq.Ft.	28,616 Sq.Ft.	31,632 Sq.Ft.
1,500 DR Cap.	1,750 DR Cap.	2,000 DR Cap.
2,000 Seating Cap.	2,300 Seating Cap.	2,600 Seating Cap.

In regard to information as listed above, Mr. Hill reported that Scheme A cost as listed above included estimates only for the building, while the fixtures, equipment with exterior work, moveable equipment, fees, etc., were excluded from cost breakdown. Mr. Hill further reported that Scheme B would cost \$130,654 more than the original cost breakdown, and Scheme C would cost \$261,308 above original breakdown.

Considerable discussion developed among members of the Commission and Mayor Garrison expressed his personal concern to enlarge the seating capacity of this building, if possible, and then asked Mr. Hill if Scheme A could be enlarged for future use, if necessary. Mr. Hill stated that Scheme A could be enlarged and Mayor Garrison asked City Manager Westerholm how much money was available in the Bond Fund for this construction. City Manager Westerholm reported that \$1,370,000 remained in the Bond Fund which was short of the anticipated cost for construction of the Civic Center under Scheme A. Mr. Hill informed members of the Commission that the estimated \$1,464,000 would only be an approximate cost for the total completion of Scheme A and this amount could fluctuate

in either direction depending on the increased cost of materials for construction purposes and effect of energy crisis upon construction. Mayor Garrison then expressed his concern that Scheme A should be considered, which would appear to be an accomplishment in view of available money and circumstances involved.

A brief discussion developed regarding the possibility of the City considering a Hotel-Motel Occupancy Tax as a possible method of securing revenues to apply toward Civic Center construction. Mayor Garrison deferred continued discussion of this item until later in the meeting.

Comm. R. A. Brookshire made motion that Scheme A be considered as the design to be used for the proposed Civic Center and Hill, Weiner, Morgan & O'Neal Architectural Firm be authorized to prepare information for bidders. Motion was seconded by Comm. Joe E. Rich and a unanimous affirmative vote was recorded.

Considerable discussion developed regarding the location of this building and Mr. Hill informed members of the Commission that one building location plan for future expansion would necessitate the closing of Second Street unless building was located differently to allow for future expansion. Mayor Garrison stated that City Manager Westerholm had made studies concerning various sized Civic Centers and building size did not seem to be any problem indicating that most Civic Centers did not need full capacities under most circumstances. Mayor Garrison then suggested that Mr. Hill consider locating the Civic Center on the available property in order to best serve the Scheme A proposal. Mr. Hill further stated that he would return to the Commission within approximately two to three months. Mr. Hill also stated that he would work to the best of his ability in order to have plans ready for review by March 1, 1974, as requested by Commission.

5. Hotel-Motel Occupancy Tax - Discussion

Mayor Garrison stated that Comm. W. O. Ricks, Jr., had previously inquired about the possibility of the City considering a Hotel-Motel Occupancy Tax and City Manager Westerholm had earlier reported that Nacogdoches was yielding considerable income on this same tax at the rate of 2% which could go as high as 3% as provided for by law. Mayor Garrison also asked if opinions were available from local motel owners concerning this tax since the construction of the Civic Center would be to their advantage.

Comm. R. A. Brookshire stated that he had discussed the Hotel-Motel Occupancy Tax with the Nacogdoches City Secretary and was impressed with the success of this tax. Comm. R. A. Brookshire requested that City Attorney Flournoy secure a copy of the Nacogdoches ordinance and consider a 3% Hotel-Motel Occupancy Tax for Lufkin with funds to be pledged for bonds and operations necessary for the construction of the Civic Center. Members of the Commission unanimously agreed with the suggestion as presented by Comm. R. A. Brookshire and requested that City Attorney Flournoy prepare a proposed Hotel-Motel Occupancy Tax ordinance for consideration at next regular meeting.

6. Texas Power & Light Company - Rate Increase Request

Mayor Garrison asked Mr. J. B. Manning, District Manager of Texas Power & Light Company, who was present, if he had any additional information to present to members of the Commission concerning the proposed rate increase presented at last regular meeting. Mr. Manning briefly reviewed information presented at previous meeting and stated that he had answered all questions as presented by members of the Commission.

Comm. W. O. Ricks, Jr., asked Mr. Manning if he believed the rate increase, as proposed by Texas Power & Light Company, would solve the current problem being experienced by Texas Power & Light Company. Mr. Manning stated that the current problem would be solved as a result of this increase, but future increases could not be predicted. There were no persons present appearing in objection to proposed rate increase requested by Texas Power & Light Company and Comm. R. A. Brookshire made motion that rate increase request by Texas Power & Light Company as presented to Commission be approved on first reading of ordinance. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

7. Texas Power & Light Company - Street Rental

Mayor Garrison stated that Texas Power & Light Company was currently paying a 2% street rental use tax and had agreed to increase this 2% street rental tax to 3% of their gross revenues. Mayor Garrison further stated that a formal proposal for this increase had been obtained from Texas Power & Light Company. Comm. E. G. Pittman made motion that proposal as submitted by Texas Power & Light Company to increase street rental gross revenues receipt returns from 2% to 3% be approved on first reading of ordinance. Motion was seconded by Comm. Joe E. Rich and a unanimous affirmative vote was recorded.

8. Zone Change Application-Fred Lee Walker from LB to CB District

Mayor Garrison explained that zone change application application by Fred Lee Walker from LB District to CB District covering property located North of Laurel Avenue and East of North First Street between Abney Avenue and Second Street had been approved on first reading of ordinance at last regular meeting. There were no persons present appearing in objection to zone change application. Comm. W. O. Ricks, Jr., made motion that zone change application by Fred Lee Walker from LB District to CB District be approved on second and final reading. Motion was seconded by Comm. Joe E. Rich and a unanimous affirmative vote was recorded.

9. Angelina Junior College-Closing of McCall Drive-Traffic Recommendation Completed-Speed Limit Approved

Mayor Garrison reviewed circumstances from last Commission meeting of December 4, 1973, at which time hearing had been called for the purpose of closing a portion of McCall Drive extending through Angelina Junior College campus. Mayor Garrison called on City Manager Westerholm to review results of studies made by City staff. City Manager Westerholm reported that information had been forwarded to members of the Commission for review concerning proposed traffic recommendations submitted by the Traffic Safety Coordinator and meetings with Al Luedecke, Traffic Engineer with State Highway Department, and Traffic Safety Coordinator. As a result of these meetings, City Manager Westerholm stated that Traffic Safety Coordinator had submitted a list of recommendations to alleviate traffic problems in this area which were acceptable to the Angelina Junior College representatives. City Manager Westerholm further stated that in addition to the recommendations made by Denzel Percifull, college officials had requested the City include in the City Budget available funds for the improvement of McCall Drive from existing exit of the north parking lot East of McCall Drive a distance of approximately 1,000 feet to the exit of the south parking lot West of McCall Drive. City Manager Westerholm further reported that additional improvements requested were to lower the existing hill within this area to provide for better vision, installation of curb and gutter section and pavement of street with 24-foot width pavement in order that "no parking" would be available on McCall Drive.

Mayor Garrison asked City Manager Westerholm if proposals included the installation of a stop sign on McCall Drive to adequately slow on-coming traffic. Traffic Safety Coordinator, Denzel Percifull, who was present, stated that standards provided in the Uniform Traffic Code did not recommend the installation of a stop sign at this location. Mayor Garrison and other members of the Commission were of the opinion that a stop sign should be installed at this location in order to adequately slow traffic prior to arriving at pedestrian crossing.

City Attorney Flournoy read caption of proposed ordinance to set speed limits in this area at 20 MPH. Comm. R. A. Brookshire then made motion that ordinance be passed on first reading as read by City Attorney Flournoy establishing a 20 MPH speed limit within stated defined area along McCall Drive through Angelina College campus. Motion was seconded by Comm. E. G. Pittman and a unanimous affirmative vote was recorded.

Comm. E. G. Pittman suggested that a speed limit sign be posted at the entrance to McCall Drive off U. S. Highway 59 South in order that moving traffic could be quickly informed of existing speeds within this area.

Mayor Garrison asked that members of the City staff consider existing traffic conditions at the South entrance to McCall Drive which appeared to be a dangerous intersection.

Comm. E. C. Wareing made motion that members of the Commission adopt recommendations as submitted by Traffic Safety Coordinator with one change being the installation of stop signs on both sides of cross-walk to be located at least 20 feet wide. Motion was seconded by Comm. E. G. Pittman and a unanimous affirmative vote was recorded.

Members of the Commission unanimously agreed that future recommendations for improvements within this area as previously discussed by City Manager Westerholm could be made providing the implementation of Traffic Safety Coordinator's traffic recommendations were not completely adequate.

10. Property Damage Liability Insurance Coverage - Disc.

City Manager Westerholm reported that effective August 27, 1973, property damage liability with \$10,000 amount limit was added to the Texas Tort Claims Act and the City did not presently carry this type insurance and could be liable. City Manager Westerholm further reported that City losses had not been extensive, but City Attorney Flournoy would be required to review, adjust and defend cases that arose in the future and it would be time consuming and expensive for the City to self-insure. City Manager Westerholm further stated that this insurance would cost approximately \$8,311 and recommended that members of the Commission approve its purchase for adequate protection.

Mayor Garrison expressed his concern that members of the Commission seriously consider the purchase of this insurance due to the high cost of conducting investigations. Comm. W. O. Ricks, Jr., then made motion that the City purchase property damage liability insurance in accordance with information as presented by City Manager Westerholm while also purchasing this insurance for the balance of the fiscal year. Motion was seconded by Comm. Joe E. Rich and a unanimous affirmative vote was recorded.

Comm. R. A. Brookshire inquired as to the insurance cost City was currently paying. City Manager Westerholm reported that a Workmen's Compensation proposal would be made to the City Commission on a later date in January or February with a cost of approximately \$50,000 to \$55,000 per year as required by law. Comm. R. A. Brookshire expressed his personal opinion that the City should consider the possibility of bidding its insurance. Mayor Garrison stated, however, that proposed Workmen's Compensation Plan would save money through instruction and assistance of the Deep East Texas Council of Governments.

11. Bids on Curb & Gutter Paving Projects-Moore Bros.Const.Co.

Mayor Garrison asked City Manager Westerholm to comment on bid submitted by Moore Brothers for various street improvement construction. City Manager Westerholm stated that only one bid for street construction was received, being from Moore Brothers Construction Company, and a copy of the bid summary had been furnished members of the Commission for consideration. City Manager Westerholm stated that ample notices were forwarded and bidders were allowed six weeks to prepare and submit bids as requested. City Manager Westerholm also stated that various individuals in the street construction business were experiencing difficulties in obtaining asphalt and other companies may not desire to compete with a local company.

Mayor Garrison asked City Manager Westerholm if entire bid submitted by Moore Brothers in the amount of \$252,627.37 had to be accepted or could members of the Commission accept only portions of this bid by street as submitted. City Manager Westerholm reported that individual portions of this bid could be accepted but did not recommend this action since additional cost would be incurred due to rising cost of materials if future bids were required. City Manager Westerholm further reported that approximately \$10,000 was represented within this bid to cover the cost of lime which had been recommended due to the considerable amount of moisture within this area and recommended members of the Commission accept the entire bid submitted by Moore Brothers in order to firm up the price even though only \$172,254 had been set aside for this street work. City Manager Westerholm explained that this improvement project would require more than a year to complete and extra expenses could be allowed in next year's budget or earmarked from Revenue Sharing Contingency Fund.

Comm. W. O. Ricks, Jr., commended Moore Brothers Construction Company for their fine work in the past and made motion that their bid in the amount of \$252,627.37 be accepted for various street improvements as recommended by City Manager Westerholm. Motion was seconded by Comm. E. G. Pittman and a unanimous affirmative vote was recorded.

Comm. E. G. Pittman inquired as to additional curb and gutter requests made by citizens and City Manager Westerholm reported that no additional petitions had been filed. Comm. E. G. Pittman also inquired as to the priority of paving petitions for construction improvement as of this date. City Manager Westerholm reported that he would provide a copy of these street construction priorities for review at next regular meeting.

12. Carrothers Construction Co. - Change Orders #3 and #4 - Water Pollution Control Plant

City Manager Westerholm reported that Carrothers Construction Company had requested an extension of its contract completion date of the Water Pollution Control Plant from July 6, 1974 to October 4, 1974. City Manager Westerholm further reported that a considerable amount of working days had been lost due to unseasonably wet conditions and this request was a reasonable extension. Comm. W. O. Ricks, Jr., then made motion that Change Order #3 to Carrothers Construction Company, Inc., extending completion date on Water Pollution Control Plant to October 4, 1974 be approved. Motion was seconded by Comm. Joe E. Rich and a unanimous affirmative vote was recorded.

City Manager Westerholm reported that Change Order #4 to Carrothers Construction Company, Inc., contained several important changes which had been requested by the Sewer Treatment Plant personnel and also that Frank Razor and Bobby Scalf from HDR were present to answer any questions regarding these items. Members of the Commission discussed these changes with representatives from HDR and following considerable discussion, Comm. E. G. Pittman made motion that Change Order #4 be approved in accordance with information as presented. Motion was seconded by Comm. W. O. Ricks, Jr., and a unanimous affirmative vote was recorded.

13. HDR - Approval of Invoice #2

Comm. R. A. Brookshire inquired as to the status of Invoice #2 from HDR which had not been approved for payment by the Commission due to circumstances discussed during previous meetings. Mayor Garrison then asked Boley Thomas, City Inspector for Water Pollution Control Plant, to comment regarding history of this invoice. Mr. Thomas reviewed a thorough history of the problems encountered by the City with wet conditions including information concerning results of initial soil tests made by National Soil Testing Laboratories. Mr. Thomas further stated that it was his conclusion that construction of the particular building could not have been made under then existing soil conditions. Following another series of soil tests by Southwestern Testing Laboratories, Mr. Thomas informed members of the Commission that he recommended the City consider replacing the wet soils with adequate soils.

Comm. W. O. Ricks, Jr., expressed his opinion that the City should be responsible for replacing these soils and retracted his earlier opinion that the City was not responsible. Comm. W. O. Ricks, Jr., stated that his present opinion was arrived at after he had been able to further investigate all conditions involved.

Considerable discussion developed regarding payment of this invoice and Comm. J. T. Hopson expressed his concern that this particular area should have been checked for wet conditions as well as dry conditions when soil tests were initially conducted.

Mayor Garrison inquired if inadequate specifications were to blame since the City was following these specifications as prescribed by HDR firm, and expressed his opinion that HDR engineers should have written specifications to accomodate the wet soil problem.

Mayor Garrison then called on Mr. Bob Hogan representing HDR engineering firm. Mr. Hogan extensively reviewed the conditions within this area indicating that the foundations of his specifications were based on early National Soils Testing. Mr. Hogan also stated that his Company would pay the full amount of this invoice if the City determined it was proper for them to do so, but he stated that they did not feel it was their fault.

Comm. E. G. Pittman asked Mr. Bobby Scalf, Field Engineer, what the City's total contingency figure was for this project and what difference would have been experienced by the City if this soil correction problem had been incorporated into the original bid. It was concluded that a contingency figure of approximately \$250,000 was set for the entire project, and if this had been included in the original bid, there would have been a savings of \$300 to \$500.

Comm. E. C. Wareing made motion to pay the bill and approve Change Order #2 requiring the replacement of wet soils at the Water Pollution Control Plant site for approximately \$10,052. Motion was seconded by Comm. W. O. Ricks, Jr., and the following vote was recorded:

Voting Aye: Comms. Joe E. Rich, E. C. Wareing, W. O. Ricks, Jr., and E. G. Pittman

Voting Nay: Mayor Garrison, Comms. R. A. Brookshire and J. T. Hopson

Mayor Garrison declared motion carried by majority vote of four to three.

Mayor Garrison expressed his opinion that the City had no responsibility since the City had hired professional engineers on which the City was dependent for recommendations and decisions.

14. City Commission Meeting Date Changed

Comm. W. O. Ricks, Jr., made motion that the first regularly scheduled meeting in January be held on January 15, 1974, instead of January 1, which was New Year's Day and a resolution be approved setting next meeting date accordingly at 7:30 P.M. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

15. Southern Pacific Railroad Company - Proposed Railroad Crossing for Sanitary Landfill

City Attorney Flournoy informed members of the Commission that he had attempted to resolve an agreement between the City of Lufkin and Southern Pacific Railroad Company to allow the City a new railroad crossing for the Charles Marberry Landfill site. Mr. Flournoy concluded, however, that he had been unable to adequately resolve this agreement without assuming unnecessary liabilities for the City. City Attorney Flournoy asked members of the Commission for their opinions regarding the use of the existing crossing since it would not require an additional agreement and would accomplish the same purpose since Mr. Marberry had agreed to use the existing crossing. It was also determined that Champion Paper Company, who owned property in this area, did not object to the City using a portion of its property for a roadway.

Members of the Commission were in unanimous agreement with suggestion as presented by City Attorney Flournoy and authorized the City Manager to resolve this situation as explained by the City Attorney.

16. Annexation & Permanent Zoning Request - Charles A. Pate, Jr., et al - Hearing Date Set

City Manager Westerholm informed members of the Commission that Mr. Charles A. Pate, Jr., et al, had recently requested annexation and permanent zoning of his property located on U. S. Highway 59 South running adjacent to and parallel with U. S. Highway 59, North of Texas Forest Service property and immediately East of existing City Limits. City Manager Westerholm further stated that the City Planning and Zoning Commission had recommended approval of this annexation and permanent zoning request during an earlier hearing and asked that members of the Commission set a hearing date for same. Comm. W. O. Ricks, Jr., made motion that annexation and permanent zoning request by Charles A. Pate, Jr., et al, be set for hearing date of January 15, 1974, at 7:30 P. M. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

17. Pershing Street ROW - Disc.

Comm. E. G. Pittman asked City Manager Westerholm to comment on the City's ROW acquisition along Pershing Avenue. City Manager Westerholm stated that City Engineers had completed their work within this area. Members of the Commission unanimously agreed that City Manager Westerholm should move forward as soon as possible to obtain necessary ROW in this area for improvements along Pershing Avenue as previously approved, and suggested a public meeting for all property owners affected to explain the City's proposed widening.

18. Delinquent Taxes - Disc.

Comm. R. A. Brookshire asked City Manager Westerholm to prepare another report on delinquent taxes for consideration at next regular meeting. City Manager Westerholm stated that he would prepare this information for review at next meeting as requested.

19. North First Street - Improvement of Property

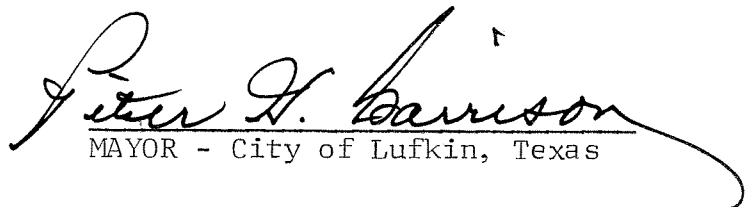
Comm. E. C. Wareing asked City Manager Westerholm to comment on efforts made by the City to improve the environmental quality of property located along North First Street as discussed in previous zone change application by Fred Lee Walker. City Manager Westerholm stated that the City had considerably improved the conditions of this area and had received the cooperation of property owners to clean their property. Comm. E. C. Wareing complimented the efforts of the City and expressed his personal opinion that the area was a definite improvement from its original conditions.

20. Laurel Avenue Extension

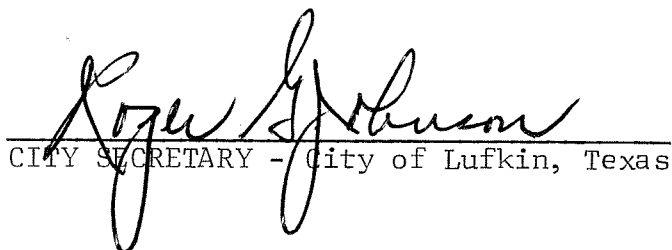
Mayor Garrison asked City Manager Westerholm to comment on the possibility of the City extending Laurel Avenue to Abney Avenue. City Manager Westerholm reported that the extension of Laurel Avenue to Abney Avenue would necessitate the City purchasing a portion of property owned by Mr. L. D. Hawley, 902 North First Street. City Manager Westerholm further stated that the extension of Laurel Avenue to Abney Avenue would definitely omit a bad intersection at North First Street and he would submit a complete study for members of the Commission to review at a later meeting.

21. Adjournment

There being no further business for consideration, meeting was adjourned at 7:15 P. M.


MAYOR - City of Lufkin, Texas

ATTEST:


CITY SECRETARY - City of Lufkin, Texas