

MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 7TH DAY OF MAY, 1974, AT 7:30 P. M.

On the 7th day of May, 1974, 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
Joe E. Rich	Commissioner, Ward No. 3
E. C. Wareing	Commissioner, Ward No. 4
W. O. Ricks, Jr.	Commissioner at Large, Place A
Harvey Westerholm	City Manager
Robert L. Flournoy	City Attorney
Roger G. Johnson	City Secretary

being present, and

E. G. Pittman	Commissioner at Large, Place B
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being absent, constituting a quorum, when the following business was transacted:

1. Meeting opened with prayer by Hubert Yount, Area Missionary for Unity Baptist Association, 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. W. O. Ricks, Jr., made motion that minutes of regular meeting of April 16, 1974, be approved. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

4. Texas Power & Light Company & Others - Annexation & Permanent Zoning

Mayor Garrison briefly reviewed previous hearing held by the City Commission on April 16, 1974, concerning annexation and permanent zoning of Texas Power & Light Company property and others located immediately North of FM 1194 and West of Loop 287 (John Redditt Drive). It was determined that no objections had been made during previous hearing and no persons were present appearing in opposition to annexation and permanent zoning request as submitted.

Mayor Garrison stated that during last regular meeting, members of Commission had discussed the question as to whether or not Texas Power & Light Company would pay for the extension of a sewer line to the existing City Limits. Mayor Garrison explained that the City could complete this sewer line extension, but no definite time period could be established. Mr. J. B. Manning, who was present representing Texas Power & Light Company, informed members of the Commission that Texas Power & Light Company would pay for the extension of the proposed sewer line from their property to the existing City Limit line. Following a brief discussion, City Attorney Flournoy read caption of ordinance for first reading approving annexation of Texas Power & Light Company property and other property located immediately North of FM 1194 and West of Loop 287 (John Redditt Drive). Comm. R. A. Brookshire then made motion that ordinance be approved on first reading annexing Texas Power & Light Company property and others as read by City Attorney Flournoy and recommended by the City Planning and Zoning Commission. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

Mayor Garrison stated that permanent zoning of this property, as previously advertised and recommended by the City Planning and Zoning Commission should be considered for first reading in conjunction with annexation request as provided by ordinance. There were no persons present appearing in opposition to proposed zoning of this property as advertised and City Attorney Flournoy read caption of ordinance for first reading permanently zoning Texas Power & Light Company property and other property located immediately North of FM 1194 and West of Loop 287 (John Redditt Drive). Comm. W. O. Ricks, Jr., then made motion that ordinance be approved on first reading permanently zoning Texas Power & Light Company property and others as read by City Attorney Flournoy and recommended by the City Planning and Zoning Commission. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

5. Proposed Park Conduct Regulations - Ordinance Approved

Mayor Garrison asked City Attorney Flournoy to comment on proposed park conduct regulations as discussed during last regular meeting. City Attorney Flournoy stated that errors in previous ordinance as proposed for park conduct regulations had been corrected and could be distributed among members of the Commission for final consideration, if necessary.

Comm. E. C. Wareing suggested that, in order to expedite ordinance, members of the Commission consider first reading of ordinance as amended by City Attorney Flournoy and any additional changes could be made prior to second and final reading of ordinance during next regular meeting, if necessary. Members of Commission were in agreement with suggestion as proposed by Comm. E. C. Wareing who made motion that ordinance be approved on first reading establishing regulations of conduct in City parks as previously discussed. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

6. Proposed Motorcross Development - Disc.

City Manager Westerholm reported that the local National Guard had volunteered to assist the City toward construction of a motorcross for the City in the Kit McConnico Park area. City Manager Westerholm also explained that the City would only have to pay expenses for diesel fuel to power machines furnished by the National Guard. Following a brief discussion, Comm. W. O. Ricks, Jr., made motion that City Manager Westerholm be authorized to proceed with this proposal as discussed within existing budget. Motion was seconded by Comm. Joe E. Rich and a unanimous affirmative vote was recorded.

7. Zone Change Application - Mrs. J. A. (Dorothy) Flechtner from R-1 District to C District

Mayor Garrison stated that zone change application by Mrs. J. A. (Dorothy) Flechtner from R-1 District to C District covering property located parallel to Loop 287, immediately South of Loop 287 on West side of FM 58 had been recommended by the City Planning and Zoning Commission for approval by majority vote of four to two. Mayor Garrison further stated that as a result of this recommendation, applicant had withdrawn a portion of this property being considered for zone change located on the North side of Loop 287 primarily due to property owner objection.

It was further determined that only one objection had been submitted to application following amendment as previously discussed. There were no persons present appearing in opposition to zone change application as presented and Mayor Garrison called on Mr. Walter Borgfeld who was present to represent applicant.

Mr. Borgfeld stated that application had been adequately reviewed by members of the City Commission and invited any questions from members regarding same. Comm. Pat Foley asked Mr. Borgfeld if alterations in application would make provisions for outlets on feeder road. Mr. Borgfeld stated that outlets would be made available and angled in accordance with recommendations made by the City staff in order to promote a safe entrance and exit with the traffic flow. Mayor Garrison inquired as to whether or not the City must approve these entrances and City Manager Westerholm stated that the City had authority to approve these entrances in accordance with drive-way access manual previously adopted by the City Commission which was the same as the Texas Highway Department regulations.

City Attorney Flournoy then read caption of ordinance for first reading approving zone change application by Mrs. J. A. (Dorothy) Flechtner from R-1 District to C District on property as previously described. Comm. Pat Foley then made motion that zone change application by Mrs. J. A. (Dorothy) Flechtner from R-1 District to C District covering property as previously described and recommended by the City Planning and Zoning Commission be approved on first reading. Motion was seconded by Comm. W. O. Ricks, Jr., and a unanimous affirmative vote was recorded.

8. Zone Change Application - Mrs. Cecil Tilley from R-1 and R-3 Districts to LB District

Mayor Garrison stated that zone change application by Mrs. Cecil Tilley from R-1 and R-3 Districts to LB District covering property located South of Highway 69 and West of Esther Boulevard had been recommended for approval by the City Planning and Zoning Commission by majority vote of five to one. It was determined that this one vote was an abstention. There were no persons present appearing in objection to zone change application as presented.

City Attorney Flournoy read caption of ordinance for first reading approving zone change application by Mrs. Cecil Tilley from R-1 and R-3 Districts to LB District on property as previously described. Comm. E. C. Wareing made motion that ordinance be approved on first reading approving zone change application by Mrs. Cecil Tilley from R-1 and R-3 Districts to LB District covering property as previously discussed and recommended by the City Planning and Zoning Commission. Motion was seconded by Comm. W. O. Ricks, Jr., and a unanimous affirmative vote was recorded.

9. Zone Change Application - John W. Haney from R-3 District to A District

Mayor Garrison explained that zone change application by John W. Haney from R-3 District to A District covering property located immediately South of Denman Avenue and North of Conn Avenue had been unanimously recommended for approval by the City Planning and Zoning Commission during a previous meeting. There were no persons present appearing in opposition to zone change application and Mayor Garrison asked City Attorney Flournoy to read caption of ordinance for zone change as submitted.

Comm. R. A. Brookshire made motion that zone change application by John W. Haney from R-3 District to A District covering property as previously described and recommended by the City Planning and Zoning Commission be approved on first reading of ordinance. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

10. Water Pollution Control Plant - Change Order #5

City Manager Westerholm stated that members of the Commission had been furnished copies of Change Order #5 which contained seventeen items involving work changes made for the Water Pollution Control Plant. City Manager Westerholm further stated that HDR representatives were present to explain requested changes as submitted.

Mayor Garrison stated that he desired to hear explanations from HDR representatives concerning the exact reasons for changes as submitted under Change Order #5. Mayor Garrison stated that he was of the opinion that these changes should have been items covered in the original specifications.

Comm. E. C. Wareing expressed his opinion that these requests were not unreasonable and appeared to be a small number of changes for the project the size of the Water Pollution Control Plant. Comm. E. C. Wareing further stated that some of the materials being considered for use by engineers were no longer available at reasonable costs. Comm. E. C. Wareing questioned Item #16 of Change Order #5 as to the difficulty being encountered by engineers.

City Manager Westerholm explained that this particular item should not be paid by the City at a cost of \$726. Comm. E. C. Wareing stated that he was of the opinion that the \$726 charge under Item 16 originally requested was unreasonable and should be provided at no cost to the City. Comm. E. C. Wareing then made motion that Change Order #5 be approved as outlined and that no charge be made under Item 16. Motion was seconded by Comm. W. O. Ricks, Jr.

Mayor Garrison expressed his concern over continued changes requested by HDR engineers and, prior to vote on motion, requested that the City receive a written explanation from HDR representatives to justify each change as submitted in Change Order #5. The following vote was then recorded on motion as previously made and seconded:

Voting Aye: Mayor Garrison, Comms. Pat Foley, Joe E. Rich,
E. C. Wareing and W. O. Ricks, Jr.

Voting Nay: Comm. R. A. Brookshire

Mayor Garrison declared motion approved by majority vote of five to one. Mayor Garrison stated that he could not present an abstaining vote and had, therefore, voted in favor of motion in respect to Comm. E. C. Wareing's judgement.

Comm. R. A. Brookshire stated that he had voted against motion inasmuch as the City had limited funds at the initial start of this project and was not totally in agreement that this money would have been spent if originally bid as stated by HDR representatives. City Manager Westerholm explained that, in connection with Change Order #5, a letter had been received from Mr. Bobby Scalf requesting a decision from members of Commission regarding the preparation of an operational and maintenance manual for the Water Pollution Control Plant and operator training of employees. City Manager Westerholm further stated that the preparation of this manual, as discussed by Mr. Scalf, would require considerable time and should be initiated prior to completion of plant. City Manager Westerholm further stated that proposed costs for completion of this manual were estimated between \$15,000 and \$18,000. Mr. Scalf, who was present, stated to the best of his memory, that this item was in the budget under technical assistance.

It was further determined by the Commission that this operational manual was required by the Environmental Protection Agency and the City must provide a manual prepared under Government guidelines.

City Manager Westerholm stated that he was made aware of this manual approximately three months previous to this discussion. Mayor Garrison stated that until this meeting, he had not been aware of manual as proposed. Mr. Scalf stated that proposed manual would be written in order that any individual could operate the plant. Mayor Garrison asked City Manager Westerholm to investigate every possible cost that would be anticipated for the future involving the Water Pollution Control Plant construction project prior to next regular meeting.

Comm. E. C. Wareing asked Mr. Scalf if the proposed cost of this manual would be drawn from the contingency item within the original estimate of the plant's total cost. Mr. Scalf stated that he was of the opinion that this item was under the technical service provision of this original estimate. City Manager Westerholm explained that the total budget for the plant project was 7.4 million dollars and the City anticipated the cost at the present time for completion of the project to be 6.6 million dollars.

Comm. E. C. Wareing asked that members of the Commission be furnished information indicating the specific inclusion of this manual as a budgeted provision within the original cost estimate of the Water Pollution Control Plant at next regular meeting. Comm. R. A. Brookshire asked why the City staff could not investigate the possibility of writing this required manual with specifications provided by the Government. Comm. Pat Foley inquired as to the amount of time required to prepare manual as proposed.

In answer to both questions, it was determined that a manual of this type would require approximately three months to be written. Mr. Bobby Mott, Water Pollution Control Plant Superintendent, who was present, stated that a manual of this type would be necessary to operate the plant and essential to train personnel.

Comm. E. C. Wareing requested City Manager Westerholm provide members of Commission a cost breakdown analysis of this manual prior to next regular meeting indicating dollar amounts for each portion of the manual's cost. Members of the Commission unanimously agreed that decision regarding the purchase of this operational manual be postponed until next regular meeting in order to provide a period for investigation of same.

11. Stephens Contracting Company - Request for Arbitration - Change Order #6

Mayor Garrison called on City Attorney Flournoy to explain request for arbitration by Stephens Contracting Company as requested. City Attorney Flournoy related a brief history of this request for arbitration and explained to members of the Commission that Stephens Contracting Company had previously installed sewer lines inside encasement pipe that had been bored and tunneled under highways in Lufkin which had been completed by threading-carrier pipe through the encasements. City Attorney Flournoy further explained that Stephens Contracting Company had claimed this item was not listed in their contract under threading-carrier pipe and had submitted a charge for this work which was approximately in line with the cost for boring and tunneling and more expensive than the "open cut" method. City Attorney Flournoy further explained that the City's inspector had recommended HDR representatives determine whether charge for threading-carrier pipe was proper.

HDR representatives agreed that this work was included under the item "open cut" and should be charged on the same basis as an "open cut" item. It was also explained that the difference between the two rates would approximate \$50,000.

City Attorney Flournoy explained that based on the engineers disapproval, Stephens Contracting Company had requested arbitration as provided in contract between City and Stephens Contracting Company. City Attorney Flournoy further stated that HDR representatives agreed no change order was necessary and increase payment request should be denied contrary to request of Stephens Contracting Company. City Attorney Flournoy stated that he was of the opinion that arbitration could not be avoided under these circumstances.

Mayor Garrison stated that he was of the opinion extra work had not been authorized or ordered in writing by the HDR engineers. City Manager Westerholm informed members of the Commission that this request was a pay item and not to be considered as extra work. Mayor Garrison requested City Manager Westerholm furnish copy of letter from Stephens Contracting Company to justify their request to invoke arbitration.

Comm. Pat Foley inquired as to what recourse would develop if arbitration was not invoked. City Attorney Flournoy stated that provisions of contract indicated that providing arbitration was not invoked, an arbiter would be appointed to carry out this responsibility.

Comm. W. O. Ricks, Jr., stated that he was in favor of decision rendered by HDR engineers who were of the opinion this item was within the original bid and then made motion to reject payment of claim for extra funds as requested by Stephens Contracting Company. Motion was seconded by Comm. R. A. Brookshire and a unanimous affirmative vote was recorded.

City Manager Westerholm explained that Change Order #6 submitted by Stephens Contracting Company requested an additional 150 calendar days extension under conditions as presented which would involve no additional cost. Mr. Bobby Scalf, HDR representative who was present, asked if Mr. Stephens had signed Change Order #6. It was determined that Mr. Stephens had not signed Change Order #6 and request for 150 day extension was passed for consideration until a later meeting.

12. Street Extension - Teener Park to Hill Street

City Manager Westerholm explained that Comm. E. C. Wareing, during last regular meeting, had requested members of the City staff investigate the possibility of extending a street from Teener Park to Hill Street to relieve congestion of traffic flow on Raguet Street. Members of Commission reviewed a proposed drawing of this street which would extend approximately 1,000 feet from Graham Street. City Manager Westerholm explained that this street could be completed within the existing budget with minimal cost. Comm. E. C. Wareing explained that he was of the opinion the City could complete the extension of this street in a reasonable length of time within the existing budget. Comm. W. O. Ricks, Jr., then made motion that the City staff be authorized to complete this street extension accordingly. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

13. Board of Equalization - Appointment of Members

City Manager Westerholm stated that Mr. Lee Friesen and Mr. Leeland Petty had been recommended to serve on the City's Board of Equalization as replacements for two members who would be unable to serve on existing Board membership. Comm. Joe E. Rich made motion that Lee Friesen and Leeland Petty be appointed to serve on the Board of Equalization as replacements for members who would not be able to serve from the 1973 membership and confirming the following total membership for the year 1974:

Leeland Petty, Lee Friesen, Travis Carrington, Arthur Bresie and Earl Handley

Motion was seconded by Comm. W. O. Ricks, Jr., and a unanimous affirmation vote was recorded.

14. Mental Health & Retardation Reachout Center-Request for Office Space

City Manager Westerholm explained that the Mental Health & Retardation Reachout Center had requested members of the Commission consider providing two rooms on the top floor of the downtown Parks and Recreation Department building for office use. City Manager Westerholm further explained that, under the existing program, a building must be furnished by the community in

order to receive government funds for operational costs. City Manager Westerholm also stated that these rooms were available and could be used by the Mental Health & Retardation Reachout Center with all utility bills being paid by the Retardation Center. Comm. Joe E. Rich made motion that area be provided for office space for use by the Mental Health & Retardation Reachout Center in the downtown Parks & Recreation Department building as explained by City Manager Westerholm. Motion was seconded by Comm. W. O. Ricks, Jr., and a unanimous affirmative vote was recorded.

15. Neighborhood Parks - Donation of Property

City Manager Westerholm explained he had received a letter from Dr. Peyton L. Denman who agreed to make available two lots at Mantooth and Raguet Streets for the purpose of providing a neighborhood park with condition that this park be named Mantooth Park in honor of E. J. and Callie Mantooth. City Manager Westerholm stated that this property would be dedicated for a 25-year period subject to a 30-day written lease cancellation notice by either party. City Manager Westerholm stated that this property would be a good area for a neighborhood park and the City would not build any permanent structures within this area. Following a brief discussion, Comm. W. O. Ricks, Jr., made motion that this property be accepted in accordance with agreement by Dr. Denman and named Mantooth Park as requested. Motion was seconded by Comm. Joe E. Rich and a unanimous affirmative vote was recorded.

16. Chambers Park - Request for Tennis Center - Temporarily Approved

City Manager Westerholm explained that he had received a letter from Max Griffin, Parks & Recreation Director, who recommended members of the Commission consider the possibility of locating a tennis center in Chambers Park. It was determined the shop would be a privately owned business to work in coordination with the City. City Manager Westerholm explained that Mr. Jerry Kimmey, a local resident, desired to maintain proposed tennis shop under conditions as established by City Commission.

Mayor Garrison called on Max Griffin, who was present, in regard to this request. Mr. Griffin stated that many other cities had resorted to this method of controlling city-wide tennis areas by charging a small court fee while providing supervision to control problems with vandalism and maintenance. Mr. Griffin explained he was of the opinion that the City would be better served under these conditions at a minimal cost to the participants.

Considerable discussion developed among members of the Commission and members asked Mr. Griffin a number of questions regarding proposal as submitted. Comm. Pat Foley made motion that Mr. Kimmey be allowed to establish a tennis shop in Chambers Park under conditions as explained by Parks & Recreation Director for a 30-day period. Motion was seconded by Comm. W. O. Ricks, Jr.

Mayor Garrison stated that courts, in their present condition, were not in good enough shape to charge fees at the present time, but should be in condition as soon as funds were available for necessary repairs. Prior to vote on previous motion and second, Comm. Pat Foley withdrew previous motion and amended motion to provide that Mr. Kimmey be allowed to establish a tennis shop without rental fee at Chambers Park on a trial basis and without charge to participants on a 90-day period subject to rules as established by the Parks & Recreation Director. Motion was seconded by Comm. W. O. Ricks, Jr., and a unanimous affirmative vote was recorded.

Mayor Garrison asked Max Griffin to write Mr. Kimmey a letter explaining decision of the City Commission regarding this proposal.

17. Water Department - Commendation for Work Completed

Comm. E. C. Wareing asked that members of the Commission review letter submitted by Mr. Hayne Stokes, Director of Public Works, indicating the completion of an 8-inch water line to the Water Pollution Control Plant by the City's Water Department. Comm. E. C. Wareing complimented the Public Works Department for a job well done in this regard which saved the City a considerable amount of money. Comm. E. C. Wareing then made motion that the Public Works Department in conjunction with the Water Department be commended for their efforts in this regard. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

18. KLUF Radio-Acknowledgement of Best Documentary Award

Comm. E. C. Wareing stated that he had received letter from David Anderson of KLUF Radio Station commending members of the City Commission for their cooperation which assisted radio station KLUF in receiving a Best Documentary Award presented by the Associated Press. Members of the Commission acknowledged the presence of David Anderson and thanked him for his cooperation with members of the City Commission in this regard.

19. Cablecom General - Monthly Report

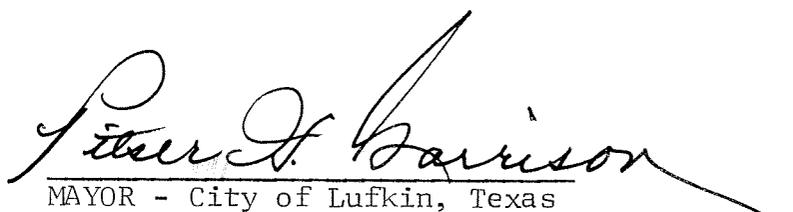
Comm. R. A. Brookshire stated that he had noticed the presence of Mr. Jim Adams, Manager of Cablecom General. Mayor Garrison asked if Mr. Adams had any comments to make in regard to monthly report presented to Commission. Mr. Adams stated that report was self-explanatory, but reminded members of Commission he had made arrangement for the Goodyear blimp to be in Lufkin May 10, 11 and 12 for the American Cancer Society Bake-a-thon. Mr. Adams extended invitations to all members of the Commission to attend the Bike-a-thon.

20. David Cook - Employment - City of Lufkin

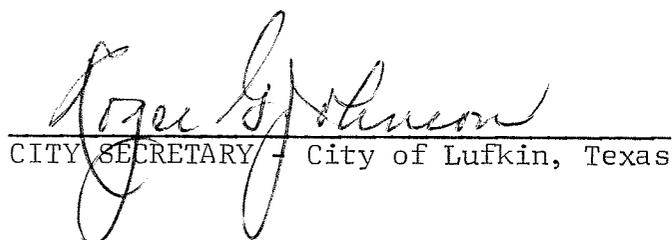
City Attorney Flournoy introduced David Cook to members of the Commission as a new employee of the City of Lufkin who had been employed by the Legal Department. Members of the Commission acknowledged Mr. Cook's presence and welcomed him to the City staff.

21. Adjournment

There being no further business for consideration, meeting was adjourned at 9:00 P. M.


MAYOR - City of Lufkin, Texas

ATTEST:


CITY SECRETARY - City of Lufkin, Texas