MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON 21st DAY OF APRIL, 1964, AT 7:30 PM

On the 21st day of April, 1964, 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:

Jim Waters	Mayor
Jack W. Tucker	Commissioner, Ward No. 1
Dayle V. Smith	Commissioner, Ward No. 2
S. Harry Kerr	Commissioner, Ward No. 3
H. E. Rowin	Commissioner, Ward No. 4
Granville Wright	City Manager
Lynn Durham	City Secretary
William Drew Perkins	City Attorney

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

1. Meeting opened with prayer by Ivis Teer, Building Inspector, in absence of Chaplain.

2. Minutes of previous meeting were read and approved.

3. The drainage problem on Reen and Evans Street was discussed in detail and City Attorney's letter to City Manager relating to this subject, copy of which was furnished members of the City Commission.

   City Engineer stated the real solution to the problem would be to open up natural drainage in rear of property owners on Reen Street which had been filled in by them; however, in past City had not been able to get easement from all property owners. City Engineer stated ditch on Reen Street could be opened but this would necessitate deep cut and if curb and gutter are desired in future, storm sewer would be required.

   Commissioner S. Harry Kerr suggested the property owners be contacted and advised about opening the ditch unless they desire to give surface drainage easement in rear of their property. Commissioner Jack W. Tucker made motion that City Manager and City Engineer contact property owners in regard to securing drainage in rear of property and, if such easements were refused, that ditch be cut on both sides of Reen Street to handle drainage of water. Commissioner S. Harry Kerr seconded motion and a unanimous affirmative vote was recorded.

4. City Attorney read ordinance covering zone change from R-1 District to A District and Special Use Permit on Tracts shown as Lot 12, 13A, 13B and 13C, Map 3 of the J. A. Bonton League, located on north side of Ellis between Franklin and Randolph Streets, by Charles K. Ruth.

   City Attorney stated City Planning and Zoning Commission recommended City Commission approval of this zone change to allow for construction of dental or medical clinic with apothecaries after proper written agreement between Mr. Ruth and Dr. Granville Wright had been executed, wherein Dr. Wright removes present restrictions on Lots 13B and 13C to allow for construction of dental or medical clinic with apothecaries only, and Mr. Ruth places this provision on Lots 12 and 13A.

   City Attorney stated proper instrument had not been drawn up but would be ready at next meeting and stated ordinance could be passed on first reading at this time.

   Commissioner Jack W. Tucker made motion that ordinance be passed on first reading with provision that said instrument be executed before second reading be considered. Commissioner Dayle V. Smith seconded the motion and a unanimous affirmative vote was recorded.

5. City Attorney read ordinance for second reading changing zone from R-2 District to A District on Lot 4 and west 50' of Lot 3, Block 54, Original Townsite of Lufkin, Texas, located at corner of North Raguet and Persimmon, by R. B. Thompson.

Mr. Thompson was present and requested City Commission approval of the ordinance and stated he contemplated constructing a 16-unit apartment building at this location, if change was approved, which would enhance the value of adjoining property and beautify the area; also that this apartment building would tend to be a buffer for any future requests for zone changes for business establishments requiring a lower designation.

Mr. Thompson further stated that this property was surrounded by zone designation of District LM and District NR which would allow for establishments the surrounding property owners should consider much more objectionable than an apartment building and cited from the present ordinance such allowances.

Mr. Thompson also stated that Hollin and Hunter, City Planning Consultants now preparing Comprehensive Plan for City, per contract, did not make any specific recommendations for location of apartments, but left such planning to judgement of the City Planning and Zoning Commission and the City Commission in determining such locations. Mr. Thompson stated the City was in need of apartments.

Mr. J. T. Maroney, Jr., Attorney, as well as Mr. and Mrs. L. W. Rowe, Mr. and Mrs. E. J. Johnson, and Mr. Riley Haygood appeared before the City Commission to protest the change.

Mr. Maroney stated he represented approximately 80% of property owners within 200 feet of the property (including those present) who have been, and still are, protesting the change. Mr. Maroney stated that it was his intention to be present at previous meeting when ordinance was passed on first reading but other matters had detained him.

Mr. Maroney discussed the ordinance in detail and the objections of his clients. He further stated the proposed change was illegal and cited a similar case in San Antonio, Texas (Bexar County) that was heard by the Supreme Court of Texas, July 12, 1950 (232SW Second 704) case styled Weaver vs Hamm wherein City of San Antonio had granted similar zone change for an apartment building in residential area and the Supreme Court rendered a judgement that voided the City's ordinance covering the change. Mr. Maroney stated this ruling spelled out the law on spot zoning and each of the City Commissioners by oath were obligated to uphold the laws of the State.

City Attorney stated that he had on previous occasions advised City Planning and Zoning Commission and individual members of City Commission on the invalidity of spot zoning and of any proposed zone change unless it is shown through regular process that such proposed change would be for the benefit of the whole City.

City Attorney further stated, in his opinion, this proposed change would not be valid. Commissioner Jack W. Tucker stated that he had never been apprised of the legal problems involved in spot zoning.

Mr. Maroney stated that, in his opinion, the City Commission had only one alternative in this instance--to not pass the ordinance. Mr. Thompson recommended that no action be taken this date by City Commission since he desired to consult with counsel. However, he stated the application was in order and had been handled according to City's ordinance and, due to City's need for apartment areas, that it should be eventually approved. Also, that if our present zoning ordinance was so rigid that progress could not be made in our City, a lot of money and time had been wasted on our zoning ordinance and changes that have been made in the past were illegal.

City Attorney stated that, in his opinion, most of the changes in the past fell in the category of spot zoning and were illegal. However, there were some exceptions and cited the particular change recently made covering acreage for industrial purposes requested by the Angelina County Chamber of Commerce.

Commissioner S. Harry Kerr made motion that no action be taken on second reading of ordinance until next meeting in order that further study may be given to same and the legality of this particular requested zone change. Commissioner Dayle V. Smith seconded the motion and a unanimous affirmative vote was recorded.

6. City Attorney read ordinance adopting, with certain amendments, the Southern Building Code for City of Lufkin to replace the National Building Code which has been in use for a number of years. City Attorney stated that he and Building Inspector had gone over and made several changes in the proposed ordinance to make it more applicable to City's needs and recommended its adoption.

   Earl Handley and L. E. Palmore, two local building contractors, were present and asked a number of questions regarding enforcement of the ordinance.

   Commissioner Jack W. Tucker made motion that ordinance be passed on first reading as recommended by City Attorney and Building Inspector. Commissioner S. Harry Kerr seconded the motion and a unanimous affirmative vote was recorded.

7. City Manager called attention to letter from City Attorney giving a comprehensive report on the Carroll Crager Civil Service case that will be heard before Court of Civil Appeals in Beaumont next month. City Manager will furnish copy of letter to members of City Commission for their information.

8. City Manager stated he would like for minutes to record motion, second and vote by City Commission that he be authorized to have old Mantooth house on Paul Avenue torn down for the lumber. Commissioner Jack W. Tucker made motion that City Manager be authorized to tear down said house for lumber. Commissioner Dayle V. Smith seconded the motion and a unanimous affirmative vote was recorded.

9. City Manager stated Fred Woods called this date to see if the Angelina County Humane Society could get the $2,000.00 which is in budget for pound and which City Commission recently approved be donated to them. Commissioner S. Harry Kerr made motion that City Manager be authorized to have $2,000.00 paid to this Society. Commissioner H. E. Rowin seconded the motion and a unanimous affirmative vote was recorded.

10. City Manager stated he was working on salary and wage information on Fire and Police Departments and would furnish copy to City Commission members for their study.

11. Open items were gone over and status developed with following special notations made:

    (a) City Attorney to write Hollin and Hunter on completion of work on comprehensive plan per contract with City.

    (b) City Attorney to report on finding on Vumore Service and improvement.

    (c) Commissioner Dayle V. Smith made motion that City Manager be authorized to officially name street in Industrial Addition "Industrial Boulevard" and that unnamed street be named "Webber Street". Commissioner S. Harry Kerr seconded the motion and a unanimous affirmative vote was recorded.

(d) Mayor to present names of 5 members of Board of Adjustment for approval by City Commission.

(e) Present pawn shop ordinance for first reading at next meeting deleting portion dealing with junk shops in line with Chief of Police recommendation.

12. Mayor stated he had received request from William Winston, Attorney, for City Commission approval for helicopter landing on lot next to Post Office for Gordon McClendon who is candidate for U.S. Senate. City Commission, without motion, granted this request.

13. Mayor submitted names of following citizens for appointment to Charter Study Commission:

Reagan Parker, Chairman
Walter Atwell
Carl Lively
Harold Kaemmerling
Lynn Metteauer
Ed Wareing
Gordon Horn
Mrs. B. E. (Frances) Atkinson, Jr.
Rev. H. E. Small
Oscar Brookshire
William Drew Perkins
Dr. George Thannisch
Mrs. Jeff (Flossie) Noble
David Walker
Bayo Hopper

Mayor stated that majority of these citizens had been contacted and had agreed to serve. Commissioner Jack W. Tucker made motion that these citizens be appointed as members of the Charter Study Commission and that Mayor be complimented for the selection of such a fine group. Commissioner Dayle V. Smith seconded the motion and a unanimous affirmative vote was recorded.

14. Mayor called attention to special meeting of City Commission scheduled for Thursday evening, April 23, 1964, for purpose of opening bids on new water well per recent advertisement.

15. Mayor called attention to letter from Mr. R. W. Wortham, Jr., acknowledging and thanking City Commission for Resolution regarding recently announced proposed expansion by Southland Paper Mills, Inc., and that the thoughts expressed in Resolution by City Commission would certainly be considered at proper time.

16. Manager read letter from Citizens National Bank of Lufkin requesting that City give consideration to depositing a portion of its funds in their bank. Mayor stated that matter would be considered when time comes for City Commission to again designate bank for our deposits.

17. Commissioner H. E. Rowin made motion that invoices be approved for payment. Commissioner Jack W. Tucker seconded motion and a unanimous affirmative vote was recorded.

18. There being no further business for consideration, meeting adjourned at 11:30 P.M.

Jim Walter
Mayor - City of Lufkin, Texas

ATTEST:

Lynn Auburn
City Secretary - City of Lufkin, Texas