MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 18TH DAY OF MAY, 1976, AT 5:00 P. M.

On the 18th day of May, 1976, 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
Jack McMullen	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 of 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. Pat Foley made motion that minutes of regular meeting of May 4, 1976, be approved. Motion was seconded by Comm. R. A. Brookshire and a unanimous affirmative vote was recorded.

4. Zone Change Approved 2nd Reading-C. D. Bragg from RL to C Dist.

   Mayor Garrison stated that zone change application by C. D. Bragg from RL to C District covering property located South of Paul Avenue and immediately East of Loop 287 at intersection with Loop 287, had been approved on first reading of ordinance at last regular meeting.

   There were no persons present appearing in opposition to same. Comm. Pat Foley made motion that zone change request by C. D. Bragg from RL to C District be approved on second and final reading of ordinance. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

5. Zone Change Approved 2nd Reading-Dr. Royce E. Read-RM to LB Dist.

   Mayor Garrison stated that zone change application by Royce E. Read, M.D., from RM to LB District covering property fronting on Kiln Avenue, between Bynum and Franklin Streets, being Tracts 16, 17, 18 E and 18F, had been approved on first reading of ordinance at last regular meeting.

   There were no persons present appearing in opposition to same. Comm. Pat Foley made motion that zone change request by Dr. Royce E. Read from RM to LB District be approved on second and final reading of ordinance. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

6. Code of Ordinances Amended-Section 24-62 - Speed Limits Greater Than 30 MPH in Certain Zones

   Mayor Garrison stated that ordinance amending City Code of Ordinances, Section 24-62, providing for speed limits greater than 30 MPH in certain zones had been approved on first reading of ordinance at last regular meeting.

   Comm. Pat Foley made motion that ordinance amending City Code of Ordinances, Section 24-62, providing for speed limits greater than 30 MPH in certain zones be approved on second and final reading. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

7. Code of Ordinances Amended - Section 15-36 - Abandoned/Junked Vehicles

Mayor Garrison stated that ordinance amending City Code of Ordinance, Section 15-36, providing for the removal of abandoned/junked vehicles and providing for regulations regarding same had been approved on first reading of ordinance at last regular meeting.

Comm. Pat Foley made motion that ordinance amending City Code of Ordinances, Section 15-36, providing for the regulations of abandoned/junked vehicles be approved on second and final read- of ordinance. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

8. Cablecom General, Inc.-Request for New Franchise-Postponed-Rates Increased for Certain Services

Mayor Garrison stated that Cablecom General, Inc., had made request to this Commission to adopt a new franchise and certain rate increases which had been reviewed in information furnished members of Commission. Mayor Garrison recognized Mr. Tom Lacey and Mr. Wayne Neal, representatives present regarding request as presented.

Mr. Neal, as local manager of Cablecom General, explained his proposal for increase in monthly service charges. A copy of this proposal is attached to minutes for permanent record.

The following basic information was reviewed by members of Commission:

	Suggested April '76	Nov. 1975 Increase Request
1. Monthly Service Charge:		
(a) All residential and commercial units, one outlet	$6.45	$7.75
(b) Apartments and trailer parks as a unit, per occupied unit	$6.45	$7.75
2. Monthly Additional Outlet Charge:		
Additional outlets, each	$1.00	$1.50
3. Connection Charges:		
(a) Any installation, reconnection or relocation of first outlet	$15.00	$15.00
(b) Any installation, reconnection or relocation of each additional outlet:		
1. If done at same time first outlet is connected	$7.50	$7.50
2. If requires separate trip	$15.00	$15.00

In addition, the new franchise would provide for a 3% gross receipts tax. It was formerly 2% but new FCC regulations require a minimum 3% gross receipts tax.

Mr. Neal stated that he was of the opinion that the local Cablecom service was a good cable system and above average, but same had incurred extreme operating costs. Mr. Neal explained that this proposal was a reduced monthly rate increase request from the 1975 increase request which was denied by this Commission and he felt that his company had made considerable decrease in the new request. Mr. Neal stated that providing these increases were approved by the Commission, his company would be able to extend services into additional parts of the City which were outlined on Page 10 of proposal. Mr. Neal stated that additional revenue was necessary to continue operation of the system in the city of Lufkin.

Comm. W. O. Ricks, Jr., inquired of Mr. Neal if monthly increases would expedite services to areas as outlined on Page 10 of proposal. Mr. Neal stated that additional revenue would speed this process.

Comm. R. A. Brookshire stated his opinion that the present franchise provided Cablecom General, Inc., would extend service to all citizens within the corporate limits. Mr. Neal stated that the present franchise did make this provision, but additional funds would, as previously stated, encourage the rapid extension of these services. Comm. Brookshire further stated his opinion that Cablecom General, Inc., should live up to its obligation as outlined in the contract and provide these services. Mr. Neal stated that expansions of the cable system throughout the city had added additional costs to the operation. Comm. Brookshire stated that individuals who lived very close to the system deserved the cable service as much as services that were provided presently by the telephone company and other utility companies, which were available for use by citizens within the corporate limits.

Considerable discussion developed regarding areas that were not presently served by the Cablecom operation within the corporate limits. Mr. Neal explained that most of these areas had been annexed within the last year and involved services which would be extended beyond 150 feet. Mr. Neal explained that any connections beyond this distance would not be adequate and he would not recommend connections contrary to FCC standards.

Mayor Garrison inquired of Mr. Neal as to how much money had been budgeted for extension purposes in the cable system for 1976. Mr. Lacey stated that he did not have these figures available, but estimated approximately $50,000 would be used in this area for 1976. Mr. Lacey also explained that each new house drop cost the company $24.00. Mayor Garrison brought attention to the fact that $69,000 net profit from the 1975 fiscal report was indicated as profit and appeared to be a substantial rate of return on investment. Mayor Garrison pointed to the fact that other utility companies were pleased with an approximate rate of return of 7% which he was of the opinion seemed to be fair.

Mr. Neal stated that the $69,000 profit figure would not hold true for the 1976 report, which should be substantially lower than this amount. Mayor Garrison stated that most performance reports were based on previous years performances and it was the obligation of this Commission, in his opinion, to hold true-to-form contract obligations which were made approximately 20 years in the past.

Mayor Garrison stated that previous problems with Cablecom, which had been experienced by the citizens of Lufkin, and numerous delays in repairs had brought about high costs for updating the present system. Mayor Garrison stated his opinion that contract was in effect as indicated for a 20-year period, but he was willing to support a connection charge and re-connection charge with no increase to the monthly base rate figure.

Mayor Garrison complimented Mr. Neal for his recent improvements in the system and expressed his opinion that a good job was being done by the Cablecom corporation. Mayor Garrison stated that it appeared a too-tight control of money by the Denver office was being implemented on the local service and the Denver office should provide more money to the local system, inasmuch as considerable funds were forwarded to the Denver office as profit from the 1975 fiscal year.

Comm. W. O. Ricks, Jr., was in agreement with information presented by Mayor Garrison and made motion that members of Commission support connection charge increases to $15.00 for any installation, re-connection or re-location of first outlet and a $7.50 charge if this installation was made at the same time first outlet was connected; additional outlets and all separate trips made by the company would provide for a $15.00 charge. Motion was seconded by Comm. E. C. Wareing.

Prior to vote on motion, Mayor Garrison recognized Mr. Joe Register, a local citizen who was without cable service. Mr. Register explained his personal concern to approve rate increase request by Cablecom if it would enhance his chances to be served by the cable system inasmuch as his new dwelling was beyond the 150-foot maximum distance normally served from the main line. It was determined that Mr. Register was approximately 375 feet from the cable service and services had not been extended based on this condition.

Mayor Garrison also recognized Mr. Frank Smith who was present to voice his concern for recent outage by Cablecom and brought attention to the fact that an outage had occurred in his area for a period of 1½ hours on Saturday, May 15, 1976. Mayor Garrison asked Mr. Neal to estimate the amount of costs that would be involved for extending cable services to Mr. Register at this distance. It was determined that extension of these services would cost approximately $375.

Mayor Garrison stated that a previous motion and second had been made to approve additional charges of $15.00 and $7.50 for second connection at same time of initial connection and all second trips $15.00. A unanimous affirmative vote was then recorded to previous motion and second to approve ordinance on first reading in this regard.

Comm. W. O. Ricks, Jr., made motion that charges for an additional outlet on the monthly service cost be increased from 50¢ to $1.00 per month and ordinance be approved on first reading providing for same. Motion was seconded by Comm. Pat Foley.

Prior to vote on motion, Comm. R. A. Brookshire stated that he had recently been informed that providing this Commission did not grant increase as proposed by Cablecom General, Cablecom General planned to take further action through the court systems. Comm. Brookshire expressed his opinion that Cablecom General did not deserve increases and a decision by this Commission to increase monthly service charges for additional outlets from 50¢ to $1.00 jeopardized the City's stand in further consideration of this action if same were to appear in courts.

Comm. E. G. Pittman inquired of Mr. Lacey as to why it was essential to make additional charges for second outlets. Mr. Lacey explained that in most instances individuals who used second outlets used older TV sets and most of the calls that were made for services were due to faulty TV sets and not faulty cable reception. Mr. Lacey further stated that as a result of these additional calls, it was necessary to provide an increase for this service.

Comm. E. G. Pittman also brought attention to the fact that a twelve-month projection for the operation of connection revenue would double for the 1976 fiscal year and same should be reviewed.

The following vote was then recorded on previous motion and second to increase monthly rate from 50¢ to $1.00 for second connections:

Voting Aye: Comms. Pat Foley, Jack McMullen, E. C. Wareing and W. O. Ricks, Jr.

Voting Nay: Mayor Garrison, Comms. R. A. Brookshire and E. G. Pittman

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

Considerable discussion developed regarding rate of return and Comm. Pat Foley inquired if Finance Director Royal Dunlap had reviewed financial statement presented by Cablecom General. Mr. Westerholm stated that the Finance Director had not reviewed this information, but it appeared from information that an approximate rate of return would be 7 to 8 percent.

Comm. Foley asked Mr. Lacey if he proposed to increase the franchise fee from 2 to 3 percent. Mr. Neal stated it was mandatory that the revenue receipts be increased and the new franchise would provide for 3 percent gross receipt tax, which was formally 2 percent, but new FCC regulations required a minimum of 3 percent gross receipts tax.

Comm. Foley inquired of City Manager Westerholm as to what amount this extra 1 percent would create. City Manager Westerholm stated that this amount was approximately $4,500. Comm. Foley inquired of representatives from Cablecom General if this $4,500 amount or 1 percent could be applied as a rate decrease and not be raised to 3 percent. Comm. Foley suggested that the 2 percent remain the same and the 1 percent figure, which was proposed as an increase, be extended to the customers as a reduction in their monthly rate.

Comm. Foley stated that he had no opposition to the request by Cablecom General inasmuch as their request for increase expressed a fair rate of return.

Comm. E. C. Wareing, regarding franchise consideration, stated he proposed that franchise presented members of Commission by Cablecom General was entirely different from the present franchise and he desired further information regarding the exact FCC regulations which were being imposed, prior to making decision regarding franchise request. City Manager Westerholm then furnished Mr. Wareing a copy of the FCC regulations in this regard and Comm. Wareing expressed his desire to be furnished opportunity to review these requirements before making decision on franchise request.

Comm. McMullen expressed his opinion that better services were being received from Cablecom, but he was also concerned about the new franchise and whether or not it implemented the FCC regulations requirements. Comm. McMullen stated he desired to see that the city continue to get good service.

Mayor Garrison expressed his opinion that the consideration of a new franchise should be held in abeyance until further disposition of possible court action by Cablecom General was revealed.

Comm. W. O. Ricks, Jr., inquired of Mr. Lacey if changes, which had been approved previously in this meeting, would provide services to individuals who had requested same and who lived within corporate limits. Mr. Lacey explained that the contract only obligated extensions up to 59 miles of wiring within the corporate limits and additions beyond these requirements would require monthly rate increases.

Comm. W. O. Ricks, Jr., expressed his concern that citizens of the city that were entitled to these services, should be extended same under the existing contract.

Mayor Garrison expressed his opinion that members of this Commission had not in the past requested additional channels for consideration even though Cablecom had provided an additional six channels. Mayor Garrison stated that in this regard, if the additional six stations which were not requested had added to the operational cost of the system. Mr. Neal stated that most of the cost for the installation of the additional six channels was an initial cost, but the cost of operating these channels was a factor in determining the monthly rate increase.

Members of Commission then reviewed various monthly rate increases which had been experienced by cities throughout this area for cable service and it was determined that the City of Diboll was paying $6.00 per month for cable service.

In regard to approving of new franchise and FCC regulations regarding same, Comm. Pat Foley inquired of the City Attorney as to recommendation. City Attorney Flournoy stated that the FCC rules would probably go into effect without approval of a new franchise under state law, but newly adopted franchise, when approved by this Commission, should coincide with new regulations of the FCC.

9. Zone Change Approved 1st Reading-Foy Bradshaw from RL to RL & LB District & Special Use (Farm Tractor Repair Shop)

Mayor Garrison stated that the City Planning and Zoning Commission had unanimously recommended approval of zone change application by Foy Bradshaw from RL to RL & LB District, Special Use (Farm Tractor Repair Shop)covering property located North of Wayne Street at intersection with Lawnview, being Lot 4, Block 2 of the Pinedale Drive Addition.

There were no persons present appearing in opposition to same. Comm. R. A. Brookshire made motion that zone change request by Foy Bradshaw from RL to RL & LB District, Special Use (Farm Tractor Repair Shop) be approved on first reading of ordinance. Motion was seconded by Comm. W. O. Ricks, Jr.

Prior to vote on motion, Comm. E. C. Wareing requested that City Attorney Flournoy comment regarding whether or not this would constitute a spot zone. City Attorney Flournoy stated that the application was close to his definition of a spot zone, but the Planning and Zoning Commission had requested that property revert back to a residential zone if ever sold and same had been agreed by applicant.

Mr. Foy Bradshaw, who was present, stated that he understood this requirement and same had been made a condition of the recommendation of the Planning and Zoning Commission.

Comm. R. A. Brookshire and Comm. W. O. Ricks, Jr., expressed their combined opinions that application, under conditions and circumstances as discussed, did not constitute a spot zone.

City Attorney Flournoy further informed members of Commission that inasmuch as property owners who lived in this area had not challenged the application and Mr. Bradshaw understood circumstances, members of Commission could make recommendation as submitted by Planning and Zoning Commission a requirement of the actual ordinance as proposed.

Comm. Brookshire requested that previous motion to approve zone change application by Mr. Bradshaw be amended to include the fact that provided property was ever sold same would revert back to residential large zone in accordance with recommendation by Planning and Zoning Commission and also due to the fact that there were no persons present appearing in opposition to application.

Previous motion and amendment as requested to motion by Comm. Brookshire was unanimously agreed by members of Commission and a unanimous affirmative vote was recorded to approve zone change application by Mr. Bradshaw on first reading of ordinance.

10. Mrs. George Powell-Approval to Purchase Property Fronting on Loop

Mayor Garrison stated that in a previous executive session members of this Commission had discussed the possibility of purchasing a triangular tract of land from Mrs. George Powell which fronted on Loop 287 South of the former sewer treatment plant site. Mayor Garrison stated that it had been recommended by the City staff that this property be purchased in the amount of $10,000 as agreed upon by property owner to enhance the value of City property in this area and increase the Loop frontage.

Comm. W. O. Ricks, Jr., made motion that City Manager Westerholm be authorized to purchase this property in the amount of $10,000 as discussed by members of Commission containing .55 acres. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

Comm. Pat Foley requested that City Manager Westerholm be authorized to begin operations for improving the landscape of this property in certain low sections. Members of Commission were in agreement and City Manager Westerholm was authorized to make necessary improvements when time and funds were available.

11. Southern Standard Building Code-Mechanical Code-Postponement for Adoption of New Codes & Changes

City Manager Westerholm reported that the City was presently operating under the Southern Standard Building Code Congress for its construction standards in Lufkin and the Southern Standard Building Code Congress had adopted a new standard building code effective July 1, 1976. City Manager Westerholm stated that this new code differed from the former code in that it no longer included the mechanical code which dealt primarily with air-conditioning, heating, ventilation and refrigeration. City Manager Westerholm reported that the City Commission should consider adoption of two separate codes to be effective July 1, 1976.

Members of Commission discussed the feasibility of adopting these codes and Comm. E. C. Wareing stated that the City's present ordinance adopting the Southern Standard Building Code would provide for all provisions and amendments to this code without a new ordinance and members of Commission should only consider the necessity for adopting a standard mechanical code which was a separate item.

City Attorney Flournoy stated that the new name should be implemented, but Comm. Wareing was essentially correct in his assumption for the necessity of only one new ordinance adopting a mechanical code as a separate item and making necessary name changes from Southern Standard Building Code to Standard Building Code & Mechanical Code as recommended.

Mayor Garrison recommended that members of Commission should be allowed the opportunity to provide recommendations from home builders and contractors in this business prior to consideration of these amendments.

Comm. Brookshire made motion that further discussion for making necessary changes in the building code be postponed until next regular meeting to provide recommendations from home builders and contractors. Motion was seconded by Comm. Wareing and a unanimous affirmative vote was recorded.

12. Sabine Investment Co.-Approval for Extension of Water Outside City Limits for New Sub-Division

City Manager Westerholm stated that Mr. Ray Faircloth was present in regard to request by Sabine Investment Company to be furnished water on Whitehouse Drive to provide development of a new sub-division in this area. Mr. Westerholm stated that if members of Commission were of the opinion that this extension be approved, same should be recommended at the expense of Sabine Investment Company.

Mayor Garrison recognized Mr. Ray Faircloth who stated that Sabine Investment Company had an 80-acre tract in this area which they desired to develop as a sub-division.

Considerable discussion developed and it was concluded that a water main existed at the present City Limit line and same must be extended to the property for which Sabine Investment Company planned to develop at their expense. It was further determined that individuals living along Whitehouse Drive would not be affected by this water supply and no additional costs would be incurred by the City for the extension of same.

Comm. E. C. Wareing made motion that request by Sabine Investment Company for the extension of a two-inch water main to provide development of proposed sub-division in this area be approved at no cost to the City. Motion was seconded by Comm. E. G. Pittman and a unanimous affirmative vote was recorded.

13. Tax Equalization Board Appointed for 1976

City Manager Westerholm stated that previous nominations by the City Commission had been reviewed and the following five individuals had agreed to accept appointment to the Tax Equalization Board:

Arthur Bresie   Travis Carrington   Dick Gardemal
Earl Handley   Leeland Petty

City Manager Westerholm requested that the above listed individuals be considered for official appointment by members of the Commission if they desired. Comm. E. G. Pittman made motion that the above listed individuals be appointed to the Tax Equalization Board for the 1976 year. Motion was seconded by Comm. W. O. Ricks, Jr., and the following vote was recorded:

Voting Aye: Mayor Garrison, Comms. R. A. Brookshire, Jack McMullen, E. C. Wareing, W. O. Ricks, Jr., and E. G. Pittman

Voting Nay: Comm. Pat Foley

Mayor Garrison declared motion approved by majority vote of six to one.

14. Briar Meadow Addition - Hearing Date Set for Annexation

Mayor Garrison stated that members of the Planning and Zoning Commission had recommended annexation of Briar Meadow Addition to include property West of Briar Meadow extending along the City Limit line on FM 58 and property between Loop 287 and Fuller Springs Drive. Mayor Garrison stated that it was the decision of this Commission to set a hearing date for annexation of this property.

Mayor Garrison recognized Mrs. Velma B. Reese, a member of the Planning and Zoning Commission, who was present. Mrs. Reese stated that members of the Planning and Zoning Commission recommended consideration of this area to form a more logical line of annexation as a primary consideration.

City Manager Westerholm reported that providing this property was approved for annexation, extension of sewer services to this area would cost the City approximately $21,600.

Considerable discussion developed regarding annexation of this property and Comm. Pat Foley brought attention to the fact that a previous decision by this Commission was to determine the cost for all annexations and consider the possibility of individuals who requested annexation to contribute to the cost of furnishing sewer service to their areas due to the list of individuals that had already been established on a priority basis to be furnished sewer as soon as possible.

Comm. Pat Foley made motion that hearing date be set for next regular meeting for consideration of annexation of this property and City Manager Westerholm be authorized to prepare necessary information to include obligations already incurred by the City for furnishing of sewer service to property owners newly annexed to the City of Lufkin. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

15. Drainage Problem Disc. - W. M. Welch

Mayor Garrison recognized Mr. W. M. Welch who was present regarding a drainage problem at the North Chestnut and North Third intersection. Mr. Welch stated that approximately 10 years in the past he appeared before this Commission to complain regarding the drainage system which had been installed at the North Chestnut and North Third intersection which was causing a serious problem. Mr. Welch stated that there was an approximate four-foot obstruction inside the storm sewer which created a dam and made water back up and overflow which created stench and pollution in this area. Mr. Welch stated that he had been involved with this polluted area for 10 years and desired to discuss this problem with Commission.

City Manager Westerholm reported that Public Works Director had met with Mr. Welch regarding this problem and Mr. Stokes had advised Mr. Welch that the situation would be resolved as soon as weather permitted.

Comm. E. G. Pittman stated that the City staff was aware of Mr. Welch's problem and had begun to resolve the situation.

Mr. Welch stated that Mr. Ricks' sewer was leaking into the line and causing serious pollution problems at this location.

Mayor Garrison reminded Mr. Welch that the City staff was aware of the problem and would correct same as soon as the weather permitted.

Comm. W. O. Ricks, Jr., expressed his concern that a very shallow sewer line existed in this area and same had broken in the past which seemed to have caused the problem.

Mayor Garrison thanked Mr. Welch for his comments and stated that members of the City staff would correct the problem as soon as possible.

16. Pershing Street Construction-Report by City Manager

City Manager Westerholm stated that in six weeks to two months all curb and gutter and paving could be finished from Pierce Street West to Loop 287 and further reported that if it was necessary for traffic to pass through this area, provisions could be made for same in approximately two weeks.

17. Kiwanis-City Park-Disc. of Tennis Court Construction

Comm. E. G. Pittman stated he had recently received information that contract deadline had been reached with Moore Brothers Construction Company for the construction of four tennis courts at Kiwanis-City Park. Comm. Pittman asked City Manager Westerholm to give report regarding same.

City Manager Westerholm stated that he had met with Commissioners and Mr. Moore at this construction site and it was determined that providing members of Commission desired to spend $3,000 to lime the area, immediate construction could begin according to recommendations from Mr. Moore.

Comm. Pittman stated that the Lufkin Tennis Association had scheduled a tournament for this area based on the completion of the tennis courts by contract deadline on May 1, 1976.

City Manager Westerholm stated that these courts could be completed by August if weather permitted or if members of Commission desired to spend an extra $3,000 to apply lime in the base of the court facilities.

18. Adjournment

There being no further business for consideration, meeting adjourned at 7:00 p.m.

Peter W. Garrison
MAYOR - City of Lufkin, Texas

ATTEST:

Doyle G. Johnson
City Secretary