MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 4TH DAY OF JANUARY, 1977, AT 7:30 P.M.

On the 4th day of January, 1977, 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. Curtis Keith, Pastor of First Christian 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 December 21, 1976, be approved. Motion was seconded by Comm. Jack McMullen and a unanimous affirmative vote was recorded.

4. Open Hearing-Crown Colony Sub-Division-Request for Annexation & Permanent Zoning-Date Established for First Reading of Ordinance

Mayor Garrison stated that the Crown Colony Sub-Division was being considered for annexation and permanent zoning on request by Sabine Investment Company as represented by Mr. Ray Faircloth who was present. Mayor Garrison officially opened hearing on this request for annexation and permanent zoning which had been recommended by the City Planning and Zoning Commission during a previous meeting.

There were no persons present appearing in opposition to either the annexation of zoning of this property as recommended. Members of Commission had no questions regarding application and Mr. Ray Faircloth, who was present, presented no additional information regarding same.

Mayor Garrison declared hearing officially closed regarding this request and stated that same would be considered for first reading of ordinances at next regular meeting in accordance with recommendation of the Planning and Zoning Commission for annexation and permanent zoning respectively.

5. Standard Building Code Amended 2nd Reading-Addition of Appendices A-K

Mayor Garrison stated that ordinance had been approved on first reading at last regular meeting amending the Standard Building Code to add appendices "A" through "K". There was no further discussion regarding proposed amendment as approved at last regular meeting. Comm. E. G. Pittman made motion to approve this amendment on second and final reading to provide for the addition of appendices "A" through "K". Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

6. FM 1271-Authority Granted City Manager for Purchase of ROW

City Manager Westerholm stated that members of Commission had been informed at last regular meeting regarding the possibility of ROW acquisition along FM 1271 for the purpose of widening Pershing Avenue to a point approximately 200 feet West of the North entrance to Trailwood Village Sub-Division. City Manager Westerholm further stated that City Tax Assessor-Collector had provided appraisals of this ROW for review by members of Commission which could be used in determining whether or not same was feasible for purchase as indicated below:

Parcel No. 1 - $362.63
Parcel No. 2 - $1,804.46
Parcel No. 3 - $624.12 Total - $2,791.21

City Manager Westerholm stated that total amount for purchase of these three parcels could be offered to three property owners involved.

Following a brief discussion, Comm. W. O. Ricks, Jr., made motion that City Manager Westerholm be authorized to proceed with the acquisition of this ROW by offering for purchase of same in an amount not to exceed $3,000. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

7. Carrothers Const.Co.-Approval of Change Order #5 & Release of Final Retainage

City Manager Westerholm stated that Carrothers Construction Company had, under protest, made payment of electric machinery in the amount of $1,116.31 previously unpaid which prevented his recommendation to this Commission for payment of final retainage. City Manager Westerholm stated that inasmuch as this amount had been received from Carrothers Construction Company, he would recommend payment of final retainage in the amount of $7,000.00 and recommend approval of Change Order #5 in the amount of $165.98.

There being no discussion regarding payment of retainage and approval of Change Order #5 as discussed, Comm. W. O. Ricks, Jr., made motion to authorize approval of Change Order #5 in the amount of $165.98 and payment of retainage balance in the amount of $7,000.00 to Carrothers Construction Company. Motion was seconded by Comm. E. G. Pittman and a unanimous affirmative vote was recorded.

8. Zone Change Approved 1st Reading-W. L. Mewborn from RL to RM District

Mayor Garrison stated that zone change application by W. L. Mewborn from RL to RM District covering property located West of & fronting on Renfro Drive between Lufkin Avenue & Ford Chapel Road, containing 2.997 acres, had been recommended for approval by the City Planning and Zoning Commission.

There were no persons present appearing in opposition to same. Comm. Pat Foley made motion that zone change application by W. L. Mewborn from RL to RM District be approved on first reading of ordinance. Motion was seconded by Comm. R. A. Brookshire and a unanimous affirmative vote was recorded.

9. Zone Change Approved 1st Reading-Robert E. Ray from C to C & CB District and from RS to C District

Mayor Garrison stated that zone change application by Robert E. Ray from C to C & CB District and from RS to C District covering properties located (1) East of & fronting on Chestnut, North of Lee Avenue; and (2) North of & fronting on Lee Avenue between Chestnut & Henry, being portions of Blocks 21 & 22, Townsend Addition, had been recommended for approval by the City Planning and Zoning Commission.

There were no persons present appearing in opposition to same. Prior to vote on motion, City Attorney Flournoy explained that due to the fact that two separate zones were being considered, individual ordinances had been prepared for the change of each zone.

Comm. E. G. Pittman made motion that zone change application by Robert E. Ray from C to C & CB District and from RS to C District be approved on first readings of separate ordinances for the change of each zone from C to C & CB District and from RS to C District respectively. Motion was seconded by Comm. R. A. Brookshire and a unanimous affirmative vote was recorded.

10. Zone Change Approved 1st Reading-Ken Roland from RL to RL & LB District, Special Use (Conditions)

Mayor Garrison stated that zone change application by Ken Roland from RL to RL & LB District, Special Use (Conditions), covering property located West of & fronting on Chestnut Street, between Card Drive & Loop 287, North of Clifford Burns property, had been recommended for approval by the City Planning and Zoning Commission.

Mayor Garrison recognized Mr. Martin O. Glenn, a member of the City Planning and Zoning Commission who was present representing recommendations. Mr. Glenn explained that this application had been recommended subject to the approval of three conditions. Mr. Glenn explained each of these conditions as indicated in recommendation which involved the following:

(1) Office for carpet cleaning service & general sharpening on premises
(2) Approved advertising sign in accordance with existing conditions
(3) Applicant to reside in dwelling

Comm. Pat Foley inquired of Mr. Glenn as to whether or not application, as approved in accordance with recommendation, would provide applicant opportunity to construct a portable building on this property.

A brief discussion developed regarding question by Comm. Foley and it was determined that Item 1 of conditions be amended to add "in existing structures". Members of Commission were in agreement with this amendment to further restrict use of property. Comm. R. A. Brookshire made motion that zone change application by Ken Roland from RL to RL & LB District, Special Use (Conditions), listed above, be approved on first reading of ordinance in accordance with amendment as added. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

11. Zone Change Approved 1st Reading-Glenn Herron & Larry Strand from RL to C District

Mayor Garrison stated that zone change application by Glenn Herron & Larry Strand from RL to C District covering property located immediately East of & parallel to Loop 287, East of Teer Street between Hwy. 103 East & Moffett Road containing 7.803 acres, had not been recommended for approval by the City Planning and Zoning Commission.

Mayor Garrison further stated that Mr. Herman Bate, attorney, was present appearing in representation of applicants. Mayor Garrison stated that the primary reason the City Planning and Zoning Commission had denied this application was due to the fact that no specific use of property was presented at the time application was considered by the City Planning and Zoning Commission. Mayor Garrison stated that it was his present understanding a use was now intended for this property.

Mayor Garrison recognized Mr. Martin O. Glenn who acknowledged Mayor Garrison's comments. Mr. Glenn stated that it was his understanding a use was presently in mind for a portion of this property. Mr. Glenn further stated that he had personally checked with each member of the City Planning and Zoning Commission to determine whether or not they would now recommend approval of this application without formal consideration under these circumstances. Mr. Glenn stated that all members of the City Planning and Zoning Commission agreed and were of the opinion application should be recommended.

Comm. R. A. Brookshire expressed his personal opinion that members of this Commission not restrict use of property when no specific use of same was presented inasmuch as applicants could vary the use of property once application was approved as long as same was in the allowable use of a specific zone. Comm. Brookshire further stated that "use" should certainly not be made a strict requirement when objections were not brought forth by surrounding property owners.

Contrary to opinion submitted by Comm. Brookshire, Comm. E. C. Wareing expressed his opinion that the use of property was quite significant in determining the public need, orderly growth and development within the community. Comm. Wareing expressed his personal opinion that Commercial zone was reasonable for this area inasmuch as commercial property was near area being considered.

Mayor Garrison expressed his personal opinion that this application involved remote property and change would benefit the community.

Mr. Herman Bate, appearing in representation of applicants, explained that the proposed use of property would be for an air-conditioning repair shop and a prospective buyer was available.

Comm. Pat Foley referred to quotation of Planning & Zoning Commission minutes which indicated a recent practice of the City Planning and Zoning Commission to deny applications which did not indicate a specific use. Comm. Foley inquired of Mr. Glenn as to whether or not this was a recent practice of the City Planning and Zoning Commission and whether or not same was essential. Mr. Glenn explained that the City Planning and Zoning Commission had recently stipulated that a purpose for an application be presented but he could not recall specific applications.

Comm. Jack McMullen inquired as to whether or not the City Planning and Zoning Commission could consider planning commercial areas of the Loop where feasible similar to one being considered for zone change. Mr. Glenn informed Mr. McMullen that various areas of the Loop were currently being considered and made reference to area on Loop 287 from Copeland to Southwood as a target area.

Comm. E. C. Wareing stated that the City Planning and Zoning Commission was in the process of reviewing various sections of the Loop and the City Commission should be receiving recommendations from them regarding these Loop development areas within the near future.

Comm. E. G. Pittman inquired as to whether or not residential property should be set back from the Loop to control access in agreement with property immediately West of this area. Mr. Bate explained that a setback on this property would restrict one-third of the property's use and involved considerable hindrance on the developer.

Mayor Garrison explained that unless Loop setbacks could be established all around the Loop, they could not be as beneficial.

City Manager Westerholm reminded members of Commission that this proposed zone change to C District would involve allowance for no setbacks and construction could be adjacent to property line.

Comm. Foley requested that members of the City Planning and Zoning Commission review a requirement within Commercial zones which allows construction of buildings on the property line and same be submitted by way of recommendation to the City Commission in the future as to its feasibility.

Mr. Bate explained that a setback on this property did not appear to be a problem and his clients would not oppose same.

Comm. Pat Foley made motion to approve zone change application by Glenn Herron & Larry Strand from RL to C District on first reading of ordinance as recommended by the City Planning and Zoning Commission. Motion was seconded by Comm. R. A. Brookshire and a unanimous affirmative vote was recorded.

Mayor Garrison stated that prior to next meeting, members of City Commission would have benefit of City Planning and Zoning Commission recommendation on Loop setbacks and building lines for Commercial zones.

12. Lufkin Telephone Exchange-Request Approved for Utility Easement Across <u>Chambers Park Subject to Certain Conditions</u>

City Manager Westerholm explained that he had received a request by the Lufkin Telephone Exchange for a utility easement across Chambers Park property, more thoroughly explained in plat which involved a 15-foot easement. Mr. Westerholm stated that the proposed telephone cable construction would involve tunneling under of proposed extension of Angelina Street and existing tennis courts facility in Chambers Park.

Considerable discussion developed as to the feasibility of this request and Comm. W. O. Ricks, Jr., expressed his personal opposition to the extension of a utility easement underneath a proposed or existing street.

Comm. E. C. Wareing requested that Lufkin Telephone Exchange resubmit a new drawing of proposal which would show in more detail where the street was in relation to cable location.

Comm. R. A. Brookshire then made motion that request by Lufkin Telephone Exchange for extension of utility easement in area as described in drawing presented, be approved with the condition that in the event this line was ever in the City's way, Lufkin Telephone Exchange would have to remove same at their expense to satisfy the City's need. Motion was seconded by Comm. Pat Foley.

Prior to vote on motion, City Manager Westerholm explained that the conditions to which Comm. Brookshire had described in his motion were also required in franchise between the City and Lufkin Telephone Exchange.

There were no further comments or questions and Mayor Garrison stated that previous motion and second had been recorded to approve the request submitted by Lufkin Telephone Exchange for granting the utility easement on this property subject to conditions that the line would be moved as the City concluded it had needs for the property to build a street and same would be removed by Lufkin Telephone Exchange at their expense. The following vote was recorded to previous motion and second:

Voting Aye: Mayor Garrison, Comms. R. A. Brookshire, Pat Foley and Jack McMullen

Voting Nay: Comms. E. C. Wareing, W. O. Ricks, Jr., and E. G. Pittman

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

Following vote on motion, discussion continued as to alternatives for this proposal and Comm. W. O. Ricks, Jr., suggested that the telephone company consider extension of this line down the existing creek which crosses the City property in this area.

City Manager Westerholm reminded Comm. Ricks and other members of Commission that under the franchise agreement, the telephone company was authorized to cross streets under conditions as previously described at no cost to the City.

Mayor Garrison explained it was his opinion that the telephone company may consider a different plan with careful review of conditions under which this easement had been granted.

13. Adjournment

There being no further business for consideration, meeting was adjourned at 8:30 p.m.

Peter W. Garrison
MAYOR - City of Lufkin, Texas

ATTEST:

Roger G. Johnson
City Secretary