

MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 17TH DAY OF APRIL, 1979, AT 5:00 P.M.

On the 17th day of April, 1979, 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                                     |
| Don E. Boyd        | Commissioner, Ward No. 2 (new plan)       |
| E. C. Wareing      | Commissioner, Ward No. 4 (old plan)       |
| Pat Foley          | Commissioner, Ward No. 4 (new plan)       |
| Richard Thompson   | Commissioner at Large, Place B (old plan) |
| Harvey Westerholm  | City Manager                              |
| Robert L. Flournoy | City Attorney                             |
| Roger G. Johnson   | Assistant City Manager                    |
| Gayle Dickey       | Assistant City Secretary                  |

being present, and

|                  |                                           |
|------------------|-------------------------------------------|
| W. O. Ricks, Jr. | Commissioner at Large, Place A (old plan) |
|------------------|-------------------------------------------|

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

1. Meeting opened with prayer by Rev. Richard Hume, Pastor of St. Paul's United Methodist Church, Lufkin, Texas.
2. Motion was made by Comm. E. C. Wareing that minutes of regular meeting of April 3, 1979, be approved. Motion was seconded by Comm. Richard Thompson and a unanimous affirmative vote was recorded.
3. Canvass of Election Returns - Regular City Election April 7, 1979

Mayor Garrison stated that the City's regular election had been held on April 7, 1979, and announced that election judges had forwarded all materials for review by members of Commission for official canvass.

The following returns indicating results of the City Election were reviewed for election of Mayor, Commissioner of Ward No. 2, and Commissioner of Ward No. 4 under the City of Lufkin's new single member district plan:

|                    | -----Votes Received----- |               |               |               |               |               |              |
|--------------------|--------------------------|---------------|---------------|---------------|---------------|---------------|--------------|
| <u>Mayor</u>       | <u>Ward 1</u>            | <u>Ward 2</u> | <u>Ward 3</u> | <u>Ward 4</u> | <u>Ward 5</u> | <u>Ward 6</u> | <u>Total</u> |
| Earl Nisbet        | 45                       | 73            | 47            | 122           | 162           | 94            | 543          |
| Pitser H. Garrison | 122                      | 223           | 82            | 264           | 480           | 169           | 1,340        |

| <u>Commissioner, Ward No. 2</u> | <u>Votes Received</u> |
|---------------------------------|-----------------------|
| Dayle V. Smith                  | 120                   |
| Don E. Boyd                     | 193                   |

| <u>Commissioner, Ward No. 4</u> | <u>Votes Received</u> |
|---------------------------------|-----------------------|
| Pat Foley                       | 193                   |
| Ray Henson                      | 190                   |

Mayor Garrison stated that the above election results had been reviewed and tabulated which indicated winners of the election to be Pitser H. Garrison, Mayor; Don E. Boyd, Commissioner of Ward No. 2; and Pat Foley, Commissioner of Ward No. 4.

Comm. Jack McMullen made motion that above listed election results be made official as reported by election judges and Pitser H. Garrison be declared winner of Mayor's position for a three-year term to terminate in April of 1982, Don E. Boyd be declared winner of Commissioner of Ward No. 2 for a three-year term to terminate in April of 1982, and Pat Foley be declared winner of Commissioner of Ward No. 4 for a three-year term to terminate in April of

1982. Motion was seconded by Comm. Richard Thompson and a unanimous affirmative vote was recorded.

Mayor Garrison congratulated newly elected Commissioner Don E. Boyd as being the City's first black Commissioner and expressed his personal willingness to assist him with any problems which he may encounter as a new Commissioner. Mayor Garrison also explained that the members of the present City Commission exemplified an attitude of good will and public service, and very few disagreements had existed in the recent past. Mayor Garrison stated that it had been a pleasure to have served on this Commission in the past and he was personally looking forward to future service in the same capacity as Mayor. Mayor Garrison inquired as to whether or not the newly elected Commissioner Boyd desired to make any statement regarding his election.

Comm. Boyd expressed his gratitude in receiving the support of his ward and election as Commissioner of Ward No. 2. Comm. Boyd stated that he would exert his best effort as the newly elected Commissioner of Ward No. 2.

Comm. Pat Foley also expressed his thanks to the citizens of Ward No. 4 in his support and election as Ward No. 4 Commissioner. Comm. Foley stated that he was looking forward to an additional three years of service to the community.

4. Commissioners R. A. Brookshire & Jack McMullen - Service Awards Presented

Mayor Garrison recognized the presence of past Commissioners R. A. Brookshire and Jack McMullen and stated that members of the Commission had prepared service awards for their past services as members of this Commission.

Mayor Garrison then presented both Commissioners service awards and expressed his personal appreciation.

5. Annexation & Permanent Zoning - Ordinances Approved 2nd Reading - Sabine Investment Company - Crown Colony Subdivision Section V-A

Mayor Garrison stated that property located in Crown Colony Subdivision Section V-A located East of U. S. Highway 59 South in the Crown Colony Subdivision area had been approved on first reading of ordinance for annexation and permanent zoning at last regular meeting. There were no persons present appearing in opposition to either the annexation or permanent zoning. Comm. Pat Foley made motion that ordinance be approved on second and final reading annexing this property previously described in Crown Colony Section V-A. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

Motion was then made by Comm. E. C. Wareing to approve the permanent zoning of this property as previously advertised in Crown Colony Subdivision Section V-A on second and final reading of ordinance including Residential Large, Residential Medium, and Residential Small Districts as advertised. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

6. City Street Construction - Comparison of Asphalt and Concrete Materials - Further Information Requested

City Manager Westerholm reviewed information which indicated comparative costs of building concrete versus asphalt streets. After considerable discussion by members of Commission, motion was made by Comm. Pat Foley that action on this matter be tabled until additional information could be received from City Manager Westerholm concerning actual utilization by City construction crews regarding depth, etc., of concrete/asphalt being used by the City at the present time. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

7. Zone Change Approved 1st Reading - Mrs. Ann Dotson from RL to RL & LB District, Special Use (Pet Grooming Shop) - No Overnight Boarding of Animals

Mayor Garrison reviewed in extensive detail the past history of this zone change application which had been considered by the City Planning & Zoning Commission initially and later referred to the Zoning Board of Adjustment & Appeals prior to being considered by the City Planning & Zoning Commission a second time. Mayor Garrison further stated that Mrs. Ann Dotson was present if members of Commission desired to ask further questions regarding application. Mrs. Dotson explained to members of Commission that her present job required that she be away from her children twelve to sixteen hours per day and she had recently received a divorce which increased the necessity of being close to her children.

Comm. Pat Foley stated that in view of recommendations from both the City Planning & Zoning Commission and the Zoning Board of Adjustment & Appeals and the fact that no opposition was present regarding application, he would move that zone change application by Mrs. Ann Dotson from RL to RL & LB District, Special Use (Pet Grooming Shop - No Overnight Board of Animals) be approved on first reading of ordinance as presented. Motion was seconded by Comm. Don E. Boyd.

Prior to vote on motion, City Attorney Bob Flournoy made reference to recommendations of both the City Planning & Zoning Commission and the Zoning Board of Adjustment & Appeals. The City Attorney stated that he had not recommended the Zoning Board of Adjustment & Appeals grant a variance in this case due to the fact that same did not present a true hardship which was qualifiable under the appeal regulations outlined in the zoning ordinance. City Attorney Flournoy also made reference to the fact that he had recommended in a special letter to the Zoning Board of Adjustment & Appeals that this application not be granted a variance. Mr. Flournoy explained that members of Commission should very carefully consider this zone change application inasmuch as same appeared to be a spot zone and a commercial building fronting on an alley was in direct conflict with the ordinance which provided for this type activity.

City Attorney Flournoy stated that he also personally recognized the hardship situation to which Mrs. Dotson referred, but in his opinion, same was not applicable under the hardship conditions of the zoning regulation.

Mayor Garrison expressed his concern for the location of a business fronting on an alley and Comm. E. C. Wareing explained to City Attorney Flournoy that the property to which Mr. Flournoy had referred as being a spot zone was adjacent to an LB District and did not appear to reflect a spot zone situation. City Attorney Flournoy stated that he had not noticed this particular location.

Mayor Garrison expressed his concern that members of Commission clarify in more detail the guidelines of the Zoning Board of Adjustment & Appeals with specific regard to the definition of "hardship" before or after the fact. Mayor Garrison further stated that essentially the Zoning Board of Adjustment & Appeals could amend the commercial building requirements by their action in this particular case which appeared to be a considerable amount of authority to be granted to an appointed board. Mayor Garrison explained in his opinion that the regulation should be more definitive regarding these matters and members of Commission should possibly consider further clarification of regulation.

Comm. E. C. Wareing inquired of City Attorney Flournoy as to whether or not the decision of the Zoning Board of Adjustment & Appeals was a legal decision. City Attorney Flournoy stated that the question to which he was concerning was whether or not the Zoning Board of Adjustment & Appeals actually had the authority to grant a variance without absolute findings of an unnecessary hardship.

Comm. E. C. Wareing expressed his concern that no decision should be made by the City Commission until this particular question was resolved. Comm. Wareing further stated that if the decision of the Zoning Board of Adjustment & Appeals was a legal decision this Commission should grant the zone change as requested.

Mayor Garrison explained that if the decision of the Zoning Board of Adjustment & Appeals was binding it appeared this board had essentially usurped the authority of the City Commission; but the question of zoning on this application was still before Commission and same had received a motion and second to be approved on first reading of ordinance. A unanimous affirmative vote was recorded to previous motion and second to approve zone change application by Mrs. Ann Dotson as presented on first reading of ordinance.

Comm. Pat Foley expressed his concern that additional guidelines be recommended to this Commission for further clarification of the Zoning Board of Adjustment & Appeals authority under "hardship" situations prior to final approval of zone change as presented.

Mayor Garrison expressed his opinion that the legality of the decision by the Zoning Board of Adjustment & Appeals should be further researched to include whether or not it would be legal to issue Mrs. Dotson a building permit under these circumstances.

8. Bid Awarded - Fire Pumper Truck - Claude Wright & Associates

City Manager Westerholm reported that bids had been received and tabulated for members of Commission to review regarding the purchase of one (1) fire pumper truck as indicated:

|                                                   |             |
|---------------------------------------------------|-------------|
| Fire Fix Corporation (Peter Pirsch & Son Company) | \$89,240.00 |
| Martin Apparatus (Pierre)                         | \$95,890.00 |
| Claude Wright & Associates (American LaFrance)    | \$85,897.00 |

Alternate Bid

|                                                |             |
|------------------------------------------------|-------------|
| Claude Wright & Associates (American LaFrance) | \$82,445.00 |
|------------------------------------------------|-------------|

City Manager Westerholm stated that he would recommend bid submitted by Claude Wright & Associates for one (1) American LaFrance fire pumper truck, including equipment to be added, making total bid amount \$83,101.00. Motion was made by Comm. Pat Foley that bid be awarded to Claude Wright & Associates in the amount of \$83,101.00. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

9. Signalization of Abney Railroad Crossing - Action Postponed

City Manager Westerholm reviewed letter received from Mr. J. L. Beaird of the Texas Department of Highways & Public Transportation and stated that the Abney Street railroad crossing warranted signalization and had been placed on the 1979 Federal Railroad Signal Program. City Manager Westerholm also stated that the TDH&PT would provide 95% of the costs of construction of signals at this crossing and the City would be required to provide 5%, or approximately \$3,750.00. City Manager Westerholm then stated that proposed signalization construction at this crossing had been presented to the City Commission under a similar program in the past, but the Commission had voted not to participate.

Members of Commission expressed their concern that traffic may be slowed or stopped at this particular crossing if the use of cross arms were implemented and City Manager Westerholm was not sure as to whether or not cross arms were being considered. Members of Commission were in unanimous agreement that no decision be reached until information had been received regarding the type of signalization to be used. Comm. Richard Thompson then made motion that the signalization of Abney Street railroad crossing be postponed until further information could be obtained regarding same. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

10. Sewer Outfall Line Project - Mayor Designated as Signatory Agent

City Manager Westerholm stated that a resolution was needed in order for the City to begin application processing for the sewer outfall line from the Loop 287 lift station to the Water Pollution Control Plant as authorized by the City Commission in February, 1979. City Manager Westerholm also stated that the resolution was necessary to authorize Mayor Garrison as signatory agent for this project.

Motion was then made by Comm. Pat Foley that Mayor Garrison be authorized to make application for this grant assistance and also to serve as signatory agent for the City regarding same. Motion was seconded by Comm. E. C. Wareing and unanimous affirmative vote was recorded.

11. City Commission - Consideration for Appointment of Member to Fill Unexpired Term of Commissioner Pat Foley - Executive Session - Postponement of Decision

Mayor Garrison explained that the recent vacancy left by Comm. Pat Foley when he resigned as Commissioner of the old Ward No. 2 to run in the new Ward No. 4 should be considered for reappointment by members of Commission as required by Charter for a one-year period as the unexpired term of the three year requirement. Mayor Garrison stated that essentially the old Ward No. 2 involved the northeast quadrant of the City and Comm. Pat Foley had moved into the new Ward No. 4 under the City's new ward system and had resigned his post in Ward No. 2 of the City's old plan.

Mayor Garrison suggested a possible executive session be considered by members of Commission for consideration of this appointment.

Mayor Garrison then adjourned Commission to an executive session on his own volition with unanimous consensus of the balance of the Commission, at 6:10 p.m., for discussion of this appointment.

At 6:40 p.m., Mayor Garrison reconvened to regular session and announced that no final decision had been reached by members of Commission regarding an appointment to fill the unexpired term as discussed. Mayor Garrison further stated that final action had been deferred by members of Commission until next regular meeting. Mayor Garrison further stated that members of Commission would make announcements at next regular meeting regarding appointments to other boards of the City which should also be considered.

12. Copeland Street Bridge - Discussion of Completion of Construction

Comm. Richard Thompson inquired of City Manager Westerholm regarding the completion of reconstruction of Copeland Street Bridge. City Manager Westerholm reported that the rains had slowed the reconstruction process to some degree but it appeared that same would be completed in approximately two weeks.

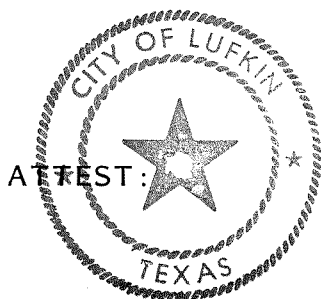
13. Angelina County Historical Society - Discussion of Proposed Plans For Centennial for City of Lufkin

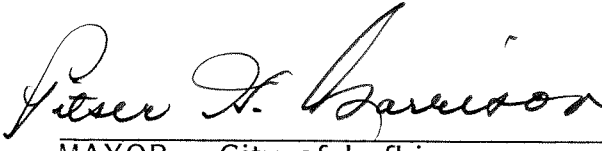
Mayor Garrison stated that there had been some discussion as to the official founding date of the City of Lufkin but information which he had received indicated that the City of Lufkin was well enough established in 1882 for this year to be considered as a centennial date, even though the City of Lufkin was not incorporated until 1890. Mayor Garrison stated that the Angelina County Historical Society had volunteered to conduct the City's centennial celebration from the 1882 date which would necessitate the City considering a 100-year celebration in 1982.

Comm. E. C. Wareing inquired as to whether or not Mayor Garrison would further discuss this matter with the Angelina County Historical Society to determine whether or not they would conduct sponsorship of the City's 100th year celebration as discussed. Members of Commission were in agreement and requested that Mayor Garrison proceed and same be discussed at a future meeting.

14. Adjournment

There being no further business for consideration, meeting adjourned at 6:55 p.m.



  
MAYOR - City of Lufkin

  
Assistant City Manager