

MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 2ND DAY OF OCTOBER, 1984, AT 7:30 P.M.

On the 2nd day of October, 1984, the City Commission of the City of Lufkin, Texas, convened in regular meeting in the Council Chambers of City Hall with the following members thereof, to-wit:

Pitser H. Garrison	Mayor
Percy Simond, Jr.	Commissioner, Ward No. 1
Don Boyd	Commissioner, Ward No. 2
Lynn Malone	Commissioner, Ward No. 3
Pat Foley	Commissioner, Ward No. 4
Jack Gorden, Jr.	Commissioner, Ward No. 5
Louis Bronaugh	Commissioner, Ward No. 6
Harvey Westerholm	City Manager
Brian Boudreaux	Assistant City Manager
Robert Flournoy	City Attorney
Ann Griffin	City Secretary
Lori Ann Nix	Assistant City Secretary
Nicholas Finan	City Planner
Ron Wesch	Public Works Director

being present when the following business was transacted.

1. Meeting opened with prayer by Major Cecil Sellers, Minister of Salvation Army, Lufkin.
2. Mayor Garrison welcomed visitors present.

3. APPROVAL OF MINUTES

Minutes of the regular meeting of September 18, 1984, were approved on a motion by Commissioner Pat Foley and seconded by Commissioner Don Boyd. A unanimous affirmative vote was recorded.

4. ORDINANCE - APPROVED - FIRST READING - REINVESTMENT ZONE - TAX ABATEMENT PROGRAM - OLIVER PLUMBING, INCORPORATED

Mayor Garrison stated that the City Commission now had for consideration a request by Oliver Plumbing, Incorporated for a Reinvestment Zone under the Tax Abatement Program covering property located at Lot 7 and 8 of Block 3, of the Clark Addition (1314 and 1316 North Raguet). Mayor Garrison stated that the purpose of the Reinvestment Zone was to remove blight in different areas in the City and to renew older parts of the City by granting tax consideration to applicants who renovate property in such areas. Mayor Garrison further stated that Mr. Oliver was proposing to spend approximately \$200,000 on the renovations.

Mr. Doyle Oliver stated that he was interested in renovating his facility and improving the image of his company in the City of Lufkin. Mr. Oliver stated that he was not aware application could be made for more than a 10 year tax abatement, and the renovations were needed in this area of town.

Mayor Garrison stated that the area where Mr. Oliver's Company is located could definitely be classified as blighted.

Commissioner Lynn Malone stated that applicants should submit a list of proposed improvements to thier property. Mayor Garrison stated that the list would be submitted when the applicant signs the agreement with the City. City Attorney Robert Flournoy stated that the applicant would be required to submit proof of the actual cost of renovations to the City for a determination to be made on the amount of abatement.

* Motion was made by Commissioner Pat Foley and seconded by Commissioner Don Boyd that Oliver Plumbing, Incorporated be approved as a Reinvestment Zone for the Tax Abatement Program. A unanimous affirmative vote was recorded.

(* The above motion was rescinded. See Item #5.)

5. ORDINANCE - FIRST READING - REINVESTMENT ZONE - TAX ABATEMENT PROGRAM - EAST TEXAS ENGINEERING AND SURVEYING, INCORPORATED

Mayor Garrison stated that a request had been received from East Texas Engineering and Surveying, Incorporated, to participate in the Tax Abatement Program by designation as a Reinvestment Zone covering property located at Lot 10, Block 10 of the Original Town of Lufkin (118 and 120 East Lufkin Avenue). Mayor Garrison stated that Mr. Moreau with East Texas Engineering was requesting a 15 year period of Tax Abatement.

Mr. Moreau stated that he had been coordinating the building renovation through the Mainstreet Program and the State Architect. Mr. Moreau further stated that when he made application for the Tax Abatement Program, it was recommeded that he apply for 15 year tax abatement because the Angelina Hotel had received this amount of time. Mr. Moreau stated that he and his wife owned the building which they will lease to East Texas Engineering for a retirement income.

Mayor Garrison stated that this should be the time when the City Commission determines if more than 10 years will be granted on Reinvestment Zones. Commissioner Percy Simond stated that he did not believe that the City Commission could fairly state that all future applications would be granted for 10 years when 15 years had been granted in the past.

Mayor Garrison stated that the City has power over other taxing agencies and because a Reinvestment Zone is granted by the City these agencies have to abate their taxes for the term approved by the City Commission. Mayor Garrison stated that a policy should be established by the City Commission and if it is determined that 15 years should be the normal length of time in the future, the policy should be made retroactive.

Commissioner Percy Simond stated that the City Commission could state that from this time forward, 15 years would be the term for the Tax Abatement Program.

Commissioner Pat Foley stated that the 15 year tax abatement is the maximum term under State law and was concerned about the City Commission limiting the 15 year approval to previously approved reinvestment zones.

Commissioner Lynn Malone stated that the City Commission could use the amount of money spent by the applicant on renovations as a guideline for the 15 year term.

In response to question by Commissioner Lynn Malone, City Attorney Robert Flournoy stated that within a specific Reinvestment Zone the City has to be consistent in the amount of abatement and the length of term, but the City of Lufkin has consistently made each specific request a Reinvestment Zone. Commissioner Jack Gorden stated that another means might be used to induce people to participate in the Tax Abatement Program other than the amount of money spent.

City Attorney Flournoy stated that the percentage of Tax Abatement could be increased for larger projects because, at the present time, if one million dollars is spent on the Tax Abatement Program only 25 percent of the taxes are abated.

Bill Moreau stated that the City Commission could consider the term of the applicant's loan because he understood that the Tax Abatement Program was designed to help applicants during the payment period. Commissioner Pat Foley stated that the Tax Abatement Program's main purpose is to stimulate redevelopment of the Downtown area.

Mayor Garrison stated that one advantage of the Tax Abatement Program is the effect renovation of one building has on adjacent buildings. Mayor Garrison further stated that Bill Windsor had indicated to him that construction of the Federal Building had a great influence on upgrading of property in that area of town.

Commissioner Pat Foley stated that the City Commission could approve a 15 year tax abatement for Oliver Plumbing, Incorporated, East Texas Engineering and Surveying, Incorporated, and Bill Windsor at the meeting tonight and establish a policy at a later date.

Motion was made by Commissioner Jack Gorden and seconded by Commissioner Pat Foley that East Texas Engineering and Surveying, Incorporated, be approved as a Reinvestment Zone for Tax Abatement Program for a period of 15 years and same be reviewed at next meeting of this Commission to determine Tax Abatement terms. A unanimous affirmative vote was recorded.

Mayor Garrison stated that it might be wise to revise the Reinvestment Zone for Oliver Plumbing, Incorporated, to 15 years and consider his application again at next meeting of this Commission. Mayor Garrison stated that he would entertain a motion to rescind action on the Reinvestment Zone of Oliver Plumbing, Incorporated, and then open the floor for a new motion regarding the length of the Tax Abatement Program.

Motion was made by Commissioner Pat Foley and seconded by Commissioner Don Boyd that the action taken on Reinvestment Zone of Oliver Plumbing, Incorporated, be rescinded. A unanimous affirmative vote was recorded.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Pat Foley that ordinance for Reinvestment Zone for the Tax Abatement Program for Oliver Plumbing, Incorporated, be approved

with the 15 year tax abatement period. A unanimous affirmative vote was recorded.

6. ORDINANCE - APPROVED - REINVESTMENT ZONE - TAX ABATEMENT PROGRAM - BILL WINDSOR

Mayor Garrison stated that the third Reinvestment Zone for the Tax Abatement Program was requested by Bill Windsor covering Lots 1, 2, and 3 of Block 106 of the Original Town of Lufkin (corner of Angelina, Laurel, and First Streets) was now for consideration by the City Commission.

Motion was made by Commissioner Jack Gorden and seconded by Commissioner Pat Foley that Reinvestment Zone be approved on first reading for a period of 15 years Tax Abatement. A unanimous affirmative vote was recorded.

Commissioner Lynn Malone stated that the applicant should advise the City Commission what type of renovations are planned for the building.

Mayor Garrison stated that this information should be available to the City Commission for second reading of the Ordinance. Mayor Garrison stated that City Manager Westerholm should contact each applicant and obtain information regarding type and cost of renovations for presentation at next meeting to provide concrete evidence of the value of the property at the time renovations begin.

7. ORDINANCE - APPROVED - ZONE CHANGE - SECOND READING - DENNIS F. DUNTON - RL to RL, SU (HOME OCCUPATION-CARPET CLEANING SERVICE)

Mayor Garrison stated that zone change request by Dennis F. Dunton covering property located at 607 Sunset Boulevard between Moss and Vine Streets from Residential Large to Residential Large, Special Use (Home Occupation-Carpet Cleaning Service) had been approved on first reading at last meeting of this Commission. There was no opposition present.

Motion was made by Commissioner Percy Simond and seconded by Commissioner Louis Bronaugh that zone change be approved on second and final reading as presented. A unanimous affirmative vote was recorded.

8. ORDINANCE - APPROVED - ZONE CHANGE - SECOND READING - JOHN R. LARUE - RS TO C

Mayor Garrison stated that zone change request by John R. LaRue covering property located on Kurth Drive between Sellers and McMullen Streets from Residential Small to Commercial had been approved on first reading at last meeting of this Commission. There was no opposition present.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Pat Foley that Ordinance be approved on second and final reading as presented. A unanimous affirmative vote was recorded.

9. ORDINANCE - APPROVED - ZONE CHANGE - SECOND READING - LOIS RUTH TAYLOR - RL TO C

Mayor Garrison stated that zone change request by Lois Ruth Taylor covering property located on South Medford Drive and Shady Pine Street from Residential Large to Commercial had been approved on first reading at last meeting of this Commission. There was no opposition present.

Motion was made by Commissioner Louis Bronaugh and seconded by Commissioner Don Boyd that zone change request be approved on second and final reading as presented. A unanimous affirmative vote was recorded.

10. AMENDMENT - APPROVED - PARKING ORDINANCE - SECOND READING

Mayor Garrison stated that an Amendment to the Parking Ordinance had been approved on first reading at last meeting of this Commission. There was no opposition present.

Motion was made by Commissioner Louis Bronaugh and seconded by Commissioner Percy Simond that Amendment to Parking Ordinance be approved as presented. A unanimous affirmative vote was recorded.

11. ALTERNATE WATER SUPPLY - KINDLE, STONE ASSOCIATES - APPROVED

Mayor Garrison stated that proposals had been invited to conduct an alternate water supply study and requested that City Manager Westerholm provide Staff recommendations.

City Manager Westerholm stated that at last meeting of the City Commission it had been requested that the City Staff evaluate the proposals received from various firms to determine their qualifications and the City Staff would like to recommend the proposal of Goodwin-Lassiter/Turner, Collie Braeden/Guyton Associates which received the highest rating of all the firms. In response to question by Mayor Garrison, City Manager Westerholm stated that the price factor was not considered.

Commissioner Don Boyd stated that the size of the firm should not be considered as a factor. Mayor Garrison stated that he was in agreement that size of the firm should not be considered.

Commissioner Pat Foley stated that he was concerned about the rating guidelines used and he was disappointed that he was not made aware of how the rating process was to be conducted. Commissioner Foley stated that the guidelines used by the City Staff did not address the type of work the firm would be doing for the City of Lufkin because the main interest of the City was in obtaining information about surface water. Commissioner Foley stated that if the firms had an adequate Staff to complete the project, he would be satisfied and the factor of age appeared to be a minor consideration. Commissioner Foley stated that the main objective was to find a firm with experience in surface water in the Lufkin area. Commissioner Foley stated that the possible cost should not be the main concern of the City of Lufkin but it should play a part in the selection.

Assistant City Manager Brian Boudreaux stated that in his proposal to the different firms, it had been requested that a study of future water needs of the City of Lufkin be considered whether surface water, ground water, or a combination of both.

In response to question by Commissioner Percy Simond, City Manager Westerholm stated that the main or principal engineer of the firm recommended by the City Staff would be Lassiter and Goodwin. Commissioner Simond stated that this firm had been in business only about a year.

In response to question by the Commission, City Manager Westerholm stated that Guyton is principally involved in the study of ground water.

Commissioner Percy Simond stated that a different criteria should be established for determining which engineering firm would complete the work for the City of Lufkin.

Commissioner Lynn Malone stated that the choice of the firm had been hanging in the balance for approximately two months and the action taken by the City Commission tonight would only allow negotiations with the firm chosen by the City Staff to discuss what type of study should be conducted and whether the firm could handle the job to the satisfaction of the City Staff or if an additional firm would be considered at that time.

Commissioner Percy Simond stated that in the past, the City had accepted the low bid in almost all instances and taxpayers' money would be spent for the study.

Mayor Garrison stated that all the firms had been requested to do specific items and an estimate of the cost had been provided to the City with the lowest cost being that of Kindle, Stone and Associates. Mayor Garrison stated that the City of Lufkin should accept the low bid.

City Attorney Robert Flournoy stated that at last meeting of this Commission all the engineering firms agreed that they were not permitted to bid and that the estimates of each firm might be based on different criteria.

Commissioner Louis Bronaugh stated that the most difficult process for the City of Lufkin had been selecting architects or engineers and the City might want to consider establishing a group to meet and interview these types of firms and recommend which should be employed by the City to conduct studies.

City Manager Westerholm stated that the City had received a challenge from the Engineering Council on the methods that were used by the City of Lufkin to choose engineers in the past. City Attorney Robert Flournoy stated that the Attorney General has stated that an estimate cannot be used when making a decision on an Engineering firm and the State Statute prohibits the engineers from bidding on possible jobs.

Motion was made by Commissioner Pat Foley and seconded by Commissioner Jack Gorden that City Manager Harvey Westerholm be authorized to negotiate a contract as with Kindle, Stone and Associates

as outlined in the proposal submitted, and the contract should be limited to \$30,000. A unanimous affirmative vote was recorded.

In response to question by Commissioner Percy Simond, City Manager Westerholm stated that \$50,000 had been budgeted for the alternate water supply study.

In response to question by Commissioner Don Boyd, Commissioner Pat Foley stated that if Kindle, Stone and Associates would not commit to the \$30,000 limit, City Manager Westerholm would have to return to the City Commission for further information.

City Attorney Robert Flournoy stated that he would investigate the Attorney General's opinion on submission of bids by engineering firms.

12. ORDINANCE - APPROVED - SECOND READING - ZONE CHANGE - WILBUR E. ALEXANDER - RL TO A, SU (ITEM #26)

Mayor Garrison stated that zone change request by Wilbur E. Alexander covering property located on South John Redditt Drive and Allendale between Mossfield and Gobbler Knob Road from Residential Large to Apartment had been tabled at last meeting of this Commission to allow the entire Commission to be present for consideration.

Mayor Garrison recognized Wilbur Alexander, who stated that the problems of drainage and traffic had been considered at previous meetings on the zone change request. Mr. Alexander further stated that he had agreed to provide a green area between the property line and the apartment buildings. Mr. Alexander stated that the zone change request had been approved by a vote of six (6) to one (1) in the Planning and Zoning Commission meeting and five (5) to one (1) at the City Commission meeting. Mr. Alexander further stated that the property on either side was not residential with one parcel being zoned Apartment and the other containing a lodge building. Mr. Alexander stated that he understood the property owners in the area felt the apartments would devalue their property but the nicer neighborhoods in the City of Lufkin all have apartments adjacent to single family residences.

In response to question by Commissioner Pat Foley, Mr. Alexander stated that he intended to leave all the trees and the landscaping possible in the 30 foot greenbelt area.

City Planner Nick Finan stated that he had met with Kenneth Vann, of the City Engineering Department, and who concurred that there would not be a drainage problem in the area and the greenbelt would impede the flow rate of the water. City Planner Finan further stated that erosion is occurring now without the apartment development and that the property had approximately an eight (8) to ten (10) foot drop in elevation over the total area. City Planner Finan stated that Mr. Alexander had indicated that his development would not be any closer than 30 feet to the creek and that the nearest building would be approximately one-half mile from the main creek. City Planner Nick Finan stated that Kenneth Vann, of the City Engineering Department has studied the maps and talked with Mr. Alexander's engineer which convinced him that erosion would not be increased by construction of the proposed apartments.

Mayor Garrison stated that the zone change might require an engineering plan of the surface water which could become a big problem for the people below subject property. Mayor Garrison further stated that simply walking over the land and offering an opinion was risky.

Mr. Alexander stated that he could obtain an engineering study. Mayor Garrison stated that he was reluctant to grant the zone change without an engineering study and that the natural flow of the water should be maintained to prevent flood damage.

City Attorney Robert Flournoy stated that the property owners below Mr. Alexander's property were predominately worried about a greater volume of water in the creek causing a greater erosion to the bank.

City Manager Westerholm stated that there are engineering techniques to retard water flow into the creek.

City Attorney Flournoy stated that if the zone was granted, plans would be submitted for building permits and drainage could be checked at that time. City Attorney Flournoy further stated that the City Commission could stipulate that the zone be granted if measures would be taken to prevent damage by water to property below Mr. Alexander's.

Mayor Garrison recognized James Hubbard, appearing in opposition to proposed zone change. Mr. Hubbard stated that similar zone changes on the Loop had been denied because of the problems that would be created, such as:

- A. Traffic.
- B. Trash problems.
- C. Devaluation of property.
- D. Addition of 128 families would destroy the residential nature of the neighborhood.

Mr. Hubbard stated that he was requesting the same consideration be given to this area of the Loop. Mr. Hubbard stated that Mr. John Pounds had requested that his name be removed from the petition presented at last meeting of this Commission but that 20 percent of the property owners would still be objecting to the zone change. Mr. Hubbard further stated that if the zone change were granted he would like to request that the 30 foot buffer zone retain trees and bushes that are presently existing, that the eight (8) foot sight-bearing fence be constructed and maintained and that Mr. Alexander be held responsible to the adjacent property owners for future drainage problems.

In response to question by Mayor Garrison, Mr. Hubbard stated that the creek covers approximately 125 feet of his property and at the present time he was putting timber, large stones, and other items in the creek to retard the erosion.

Mayor Garrison stated that the City Commission should make every attempt to avoid drainage problems such as those being experienced in other areas of the City but if the subject property were developed into a residential area the drainage problem could still exist.

City Attorney Robert Flournoy stated that the restrictions could be listed as a condition of occupancy and that a special use designation should be added to the zone to allow for restrictions requested by Mr. Hubbard.

Commissioner Pat Foley stated that the zone changes that had been denied on the Loop in the past year were in a more developed area while this application is for a relatively undeveloped area.

City Attorney Robert Flournoy stated that the zone change would have to be approved by a four-fifths majority of the Commission. City Attorney Flournoy stated that a site plan could be required indicating the drainage, the greenbelt, and eight (8) foot sight-bearing fence, and the certificate of occupancy could be withheld until the items were developed.

Motion was made by Commissioner Louis Bronaugh and seconded by Commissioner Don Boyd that zone change be approved for change to Apartment, Special use (Item #26) with provisions for:

- A. Thirty (30) foot greenbelt.
- B. Eight (8) foot sight-bearing fence.
- C. Maintenance of greenbelt and fence.
- D. Prevention of drainage problems to property owners downstream.

The following vote was recorded: Aye: Mayor Garrison, Commissioners Gordon, Foley, Simond, Boyd, Bronaugh. Nay: Commissioner Malone. Mayor Garrison declared motion approved by a vote of six (6) to one (1).

13. AMENDMENT - APPROVED - SECOND READING - HOTEL/MOTEL TAX
ORDINANCE - SIX (6%) PERCENT

Mayor Garrison stated that there were a number of hotel/motel owners present in the audience in regard to the proposed Amendment to the Hotel/Motel Tax Ordinance and requested that their spokesman present their case to the City Commission.

Kathy Crain, President of the Hotel/Motel Owners Association, and Betty Williams, Vice-President of the Hotel/Motel Owners Association, were present and stated that they represented managers, owners, and 600 employees of the hotel/motel business in the Lufkin area. Mrs. Crain stated that the organization was requesting that the proposed three (3) percent increase be reduced to the original proposal of a one (1) percent increase as recommended by the City Board of Development. Mrs. Crain further stated that the one (1) percent would be sufficient for the needs of the Civic Center and that the industry is in a depressed state in the City of Lufkin due to the over-building of hotels and motels.

Commissioner Percy Simond stated that he understood that the amount of increased hotel/motel tax could be reduced at this meeting.

Commissioner Louis Bronaugh stated that the increase was not just for the Civic Center but it had been brought to the attention of the City Commission that the Civic Center was operating with a \$46,000 deficit which would have to be paid out of the

operating budget of the City. Commissioner Bronaugh stated that if the three (3) percent increase were approved, a portion of it would be used for other areas. Commissioner Bronaugh stated that the money for parks is inadequate and increases to the policeman's salary were not available, but if the additional \$141,000 increase in revenue were approved, \$40,000 of the hotel/motel tax could go to the Civic Center and the balance could be deposited in an escrow account to be spent as the City Commission desired. Commissioner Bronaugh stated that the Texas Legislature had given the City authority to increase their tax to seven (7) percent and many cities in the area have adopted the seven (7) percent. Commissioner Bronaugh stated that the extra money could be used to entice conventions to come to the City of Lufkin.

In response to question by Commissioner Pat Foley, City Manager Westerholm stated that if additional monies were needed for the Civic Center and funds were not available from the rental or the Hotel/Motel Tax, the Commissioners would have to obtain the funds from the contingency fund of the general budget.

Mayor Garrison stated that the City Commission might want to consider having the users of the Civic Center pay an increased fee to provide for maintenance and upkeep and many users of the Civic Center do not spend the night in the area hotels and motels. Mayor Garrison stated that while it is true the Texas Legislature has authorized the increase to seven (7) percent, they will authorize anything on a local option basis and because the cities have been given the authority, they often fell it is a command to implement such increases. Mayor Garrison stated that the taxation of the City of Lufkin should be delegated fairly, and it was not fair to tax people for merely spending the night in the City.

Commissioner Louis Bronaugh stated that the money placed in an escrow account could also be used for construction of a Fine Arts Auditorium.

Commissioner Pat Foley stated that without a plan for spending the funds, he could not vote for the three (3) percent increase, but, the City of Lufkin should maintain the Civic Center in good condition. Commissioner Foley stated that he would like to have some input from the City Board of Development and that the hotels and motels in the area need to remain competitive. Commissioner Foley stated that he would only vote for the one (1) percent increase.

Commissioner Louis Bronaugh stated that in the past it had been difficult for the City of Lufkin to obtain conventions because the large number of hotel/motel rooms were not available and now the rooms are available, therefore, the selling of conventions in the Lufkin area should be easier.

Commissioner Jack Gorden stated that everything should be considered to help the hotel/motel establishments and that he had voted for the increase because he believed that this money could be spent to increase occupancy in the City's hotels/motels. Commissioner Gorden further stated that the increase would help the general economy of the City and he would like to propose the City Board of Development become an active body to help the City Commission use funds to the highest and best use. Commissioner Gorden further stated that he would be in favor of the City assuming the responsibility of spending money presently being delegated to the Chamber of Commerce for tourism. Commissioner Gorden stated that he did not want to tax unnecessarily but the

additional money could be used to develop programs to draw additional people into the City. Commissioner Gorden stated that the City Board of Development should become as active as the Planning and Zoning Commission.

Motion was made by Commissioner Louis Bronaugh and seconded by Commissioner Jack Gorden that amendment to the Hotel/Motel Tax Ordinance be approved with the three (3) percent increase. The following vote was recorded: Aye: Commissioner Bronaugh, Gorden, Malone. Nay: Mayor Garrison, Commissioners Boyd, Simond, Foley. Mayor Garrison declared motion defeated by vote of three (3) to four (4).

Commissioner Percy Simond stated that the problem with the Hotel/Motel Tax being increased to seven (7) percent was the extra expense that would be put on the companies sponsoring conventions in the City of Lufkin.

In response to question by Commissioner Simond, Public Works Director Ron Wesch stated that the roof of the Civic Center had been leaking around the flashing and air-conditioning units and that a roofer had been employed today to repair the roof for \$1,200.

Commissioner Louis Bronaugh stated that he did not recommend the three (3) percent increase to penalize the hotel/motel establishments but to challenge them to do a better job. Commissioner Bronaugh stated that the City of Nacogdoches is presently at six (6) percent and if the City Commission only approved a one (1) percent increase, Lufkin would be one cent behind the City of Nacogdoches. Commissioner Bronaugh stated that according to the report received from the Texas Municipal League, many towns across the State are presently at the seven (7) percent City Hotel/Motel Tax and each have used it in many different ways.

Motion was made by Commissioner Pat Foley and seconded by Commissioner Percy Simond that Amendment to the Hotel/Motel Tax Ordinance be approved with a one (1) percent increase in the City tax. The following vote was recorded: Aye: Mayor Garrison, Commissioners Foley and Simond. Nay: Commissioners Malone, Gorden, Boyd, Bronaugh. Mayor Garrison declared motion denied by a vote of three (3) to four (4).

Motion was made by Commissioner Don Boyd and seconded by Commissioner Lynn Malone that Amendment to the Hotel/Motel Tax Ordinance be approved with a two (2) percent increase. The following vote was recorded: Aye: Commissioners Malone, Gorden, Simond, Boyd, Bronaugh. Nay: Mayor Garrison, Commissioner Foley. Mayor Garrison declared motion approved by a vote of five (5) to two (2).

Motion was made by Commissioner Don Boyd and seconded by Commissioner Louis Bronaugh that the Ordinance be amended to show a six (6%) percent City tax for the Hotel/Motel. The following vote was recorded: Aye: Commissioners Boyd, Bronaugh, Simond, Malone, Gorden. Nay: Mayor Garrison, Commissioner Foley. Mayor Garrison declared motion approved by a vote of five (5) to two (2).

14. DRAINAGE PROBLEM - TABLED - BONTON ADDITION

Mayor Garrison stated that a possible solution to the drainage problem in the Bonton Addition between Franklin and Cordelia Streets had been tabled at last meeting of City Commission. Mayor Garrison requested that City Manager Westerholm provide Staff recommendations.

City Manager Westerholm stated that the City was obligated to provide a retaining wall on Mrs. Clark's property but an easement could not be obtained from Ed Wagoner to make it possible to construct a retaining wall so pilings were needed to protect Mrs. Clark's property. City Manager Westerholm stated that the cost of driving the pilings would be between \$5,000 and \$9,600.

In response to question by Commissioner Pat Foley, City Attorney Robert Flournoy stated that the City should not be obligated by employees which is what happened with Mrs. Clark, an employee had given her assurance that the City would build a retaining wall in exchange for her easement. City Attorney Flournoy stated that the City is probably obligated in this instance because of subsequent work and considerations that have been given in this area.

City Manager Westerholm stated that if the pilings were installed the City would spend between \$5,000 and \$9,600 but a ditch would still remain. City Manager Westerholm stated that the City might want to consider spending \$8,000 to provide the storm sewer and a solution to the drainage problem in the area.

In response to question by Commissioner Pat Foley, City Attorney Robert Flournoy stated that because Mr. Wagoner would only pay half of his total cost, or \$1,100, the City could assess the additional cost against his property but could not collect because a valid lien could not be obtained on property without a written agreement and this property was Mr. Wagoner's homestead.

In response to question by Commissioner Louis Bronaugh, City Attorney Robert Flournoy stated that an ordinance assessing the cost and establishing the lien on Mr. Wagoner's property would have to be developed and the item placed on the next City Commission agenda for consideration.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Percy Simond that solution to the drainage problem in the Bonton Addition be tabled until next meeting of this Commission. A unanimous affirmative vote was recorded.

15. RESOLUTION - APPROVED - LUFKIN HOUSING FINANCE CORPORATION - BONDS - ANGELINA HOTEL

Mayor Garrison stated that the City Commission now had for consideration approval of the Resolution approving issuance by the Lufkin Housing Finance Corporation of Housing Development Bonds not to exceed \$1,700,000 for development of the Angelina Hotel.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Percy Simond that Resolution be approved as presented. A unanimous affirmative vote was recorded.

16. ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - ROBERT E. ADAMS - RL TO RL, AND LB, SU (GREENHOUSE AND NURSERY)

Mayor Garrison stated that zone change request by Robert E. Adams at 129 West Kerr Street between South First Street and South Raguet from Residential Large to Residential Large, and Local Business, Special Use (Greenhouse and Nursery) had been recommended to City Commission for approval by the Planning and Zoning Commission with the following stipulations:

- A. No signs.
- B. Present sight-bearing fence be maintained.
- C. Limit of three (3) customers cars.
- D. Entrance and exit off of Raguet via circle drive.
- E. Exterior of residence be unchanged.

Motion was made by Commissioner Louis Bronaugh and seconded by Commissioner Pat Foley that ordinance be approved on first reading as presented. The following vote was recorded: Aye: Mayor Garrison, Commissioners Gorden, Foley, Simond, Malone, Bronaugh. Nay: Commissioner Boyd. Mayor Garrison declared motion approved by vote of six (6) to one (1).

17. ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - ROBERT L. MCCLELLAN - A TO A, SU (SALES OFFICE-LOG HOME DEALERSHIP)

Mayor Garrison stated that zone change request by Verne L. McClellan covering property located on Old Union Road between Trailwood Boulevard and Loop 287 West from Apartment to Apartment, Special Use (Sales Office-Log Home Dealership) had been recommended to City Commission for approval by the Planning and Zoning Commission. There was no opposition present.

Commissioner Pat Foley stated that he would recuse from vote and discussion on the zone change request because Home Savings, his employer, recently sold the land to Mr. McClellan.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Jack Gorden that zone change request be approved on first reading as presented. A unanimous affirmative vote was recorded with Commissioner Foley recusing himself from voting.

18. APPOINTMENT - CITY SECRETARY - COMMITTEE FOR ELECTION IMPROVEMENT.

Mayor Garrison stated that the County of Angelina is in the process of re-aligning their election precincts to coincide with those of the City and that City Attorney Robert Flournoy had suggested that City Secretary Ann Griffin be appointed to serve with the County in this regard. Mayor Garrison further stated that the City's single member districts also need to be re-aligned as reflected in the population imbalance and the final recommendation must be submitted to the Federal Court for approval.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Jack Gorden that City Secretary Ann Griffin be appointed to serve with the County. A unanimous affirmative vote was recorded.

19. RESOLUTION - APPROVED - FIVE (5) FOOT UTILITY EASEMENT - TREY HENDERSON

Mayor Garrison stated that a request had been received from Trey Henderson that the City relinquish five (5) feet of a ten (10) foot utility easement on Block 54, Brookhollow Addition #9.

City Manager Westerholm stated that City Staff had reviewed this request by Mr. Henderson and decided that the ten (10) foot easement should not be maintained and that five (5) foot of the existing utility easement should be relinquished to Mr. Henderson.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Louis Bronaugh that the west five (5) feet of the east ten (10) foot utility easement of Block 54, Brookhollow Addition #9 be relinquished to Trey Henderson. A unanimous affirmative vote was recorded.

20A. BID - APPROVED - FLOW METER - WATER POLLUTION CONTROL PLANT - PAN-TECH CONTROLS COMPANY

Mayor Garrison stated that bids had been invited for the purchase of flow meters for use in the Water Pollution Control Plant and requested that City Manager Westerholm provide Staff recommendations.

City Manager Westerholm stated that the City would like to recommend the low bid of Pan-Tech Controls Company in the amount of \$6,460.

Motion was made by Commissioner Louis Bronaugh and seconded by Commissioner Don Boyd that bid of Pan-Tech Controls Company be approved as presented. A unanimous affirmative vote was recorded.

20B. BID - APPROVED - MORROW BUICK PONTIAC - POLICE VEHICLES

Mayor Garrison stated that bids had been invited for the purchase of new police cars and requested Staff recommendation from City Manager Harvey Westerholm.

City Manager Westerholm stated that the low bid of Morrow Buick Pontiac in the amount of \$86,990 was recommended for approval and that \$87,000 had been budgeted for the purchase.

Motion was made by Commissioner Louis Bronaugh and seconded by Commissioner Don Boyd that bid of Morrow Buick Pontiac be approved as presented. A unanimous affirmative vote was recorded.

21. CARLISLE PROPERTY COMPANY - FINAL SITE PLAN - APPROVED

Mayor Garrison stated that a final site plan had been received from the Carlisle Property Company covering a shopping center to be constructed at the intersection of Timberland and Lufkin Avenue.

City Manager Westerholm stated that the final plat had been approved unanimously by the Planning and Zoning Commission after several proposals. City Manager Westerholm stated that the final plan had dispelled concerns in regard to drainage, parking, entrances, and the floodway.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Louis Bronaugh that final site plan be approved as presented. A unanimous affirmative vote was recorded.

22. INVOICES - APPROVED FOR PAYMENT - ATTORNEY FEES - GONZALEZ LAWSUIT

Mayor Garrison stated that the City had received bills from various attorneys representing the Police Officers in the Gonzalez lawsuit that needed authorization for payment.

In response to question by Commissioner Percy Simond, City Attorney Robert Flournoy stated that litigation handled by him outside the local courts was paid on an hourly basis per the agreement made with the City when his salary was increased. City Attorney Flournoy stated that the policy is the same that is observed by many cities in the State of Texas, as well as Nacogdoches.

Mayor Garrison stated that he would like to re-examine the contract that the City has with the City Attorney. City Manager Westerholm stated that he did not remember that the City paid City Attorney Flournoy for this type of litigation.

City Attorney Flournoy stated that the agreement states that if the litigation is outside the County, the City of Lufkin has the option to hire someone else to take the case or they could pay the City Attorney to handle same.

Commissioner Percy Simond stated that he remembered City Attorney Flournoy indicating that if he had to appear in Federal Court he would be paid extra from his regular salary.

City Attorney Flournoy stated that he had originally asked for a \$65,000 increase in the 1983-1984 budget but had agreed to \$50,000 because the City had decided to hire him for outside litigation.

Motion was made by Commissioner Percy Simond and seconded by Commissioner Don Boyd that invoices for attorney fees in the Gonzalez lawsuit be approved for payment. A unanimous affirmative vote was recorded.

23. EXECUTIVE SESSION - TABLED

Mayor Garrison stated that because of the lateness of the hour it was the consensus of opinion of the City Commission that the Executive Session should be tabled until next meeting of this Commission.

24. GROUND BREAKING, ANGELINA HOTEL RENOVATION - USE FEES OF CITY FACILITIES - CITY HALL FEASIBILITY STUDY - SHEPHARD LAWSUIT

Mayor Garrison stated that the developers of the senior citizens' housing project at the previous Angelina Hotel had requested that the City Commission along with Charles Wilson sponsor the ground breaking to be held on November 3, 1984. It was the consensus of opinion of the City Commission that they would sponsor proposed ground breaking, but would be unable to attend due to the Texas Municipal League Conference.

Commissioner Louis Bronaugh stated that he would like to have a study of the use fees of all City facilities.

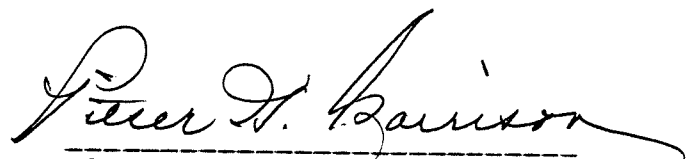
In response to question by Commissioner Percy Simond, City Manager Westerholm stated that the City Hall feasibility study should be available in the near future.


City Attorney Robert Flournoy stated that the Shepherd lawsuit would be tried on October 9, 1984.

25. There being no further business for consideration, meeting adjourned at 11:24 P.M.



ATTEST:


Peter H. Garrison, Mayor


Ann Griffin, City Secretary