

MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 5TH DAY OF FEBRUARY, 1985 AT 7:30 P.M.

On the 5th day of February, 1985, 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
Ron Wesch	Public Works Director
Robert Flournoy	City Attorney
Ann Griffin	City Secretary
Nicholas Finan	City Planner

being present when the following business was transacted.

1. Meeting opened with prayer by Reverend James Anderton, Minister of First Congregational Methodist Church, Lufkin, Texas.

2. APPROVAL OF MINUTES

Minutes of the regular meeting of January 22, 1985, were approved on a motion by Commissioner Pat Foley and seconded by Commissioner Don Boyd. A unanimous affirmative vote was recorded.

3. PUBLIC HEARING - REINVESTMENT ZONE - TAX ABATEMENT PROGRAM - DOYLE OLIVER

Mayor Garrison stated that a request had been received from Doyle Oliver that property located in the 800 block of North Raguet be considered for designation as a reinvestment zone for the Tax Abatement Program.

Mayor Garrison officially opened public hearing and asked if there were a representative present in regard to the application. Representative was not present and there was no opposition present. It was a consensus of opinion of the City Commission that the Public Hearing be held in the absence of the applicant. City Manager Westerholm stated that Mr. Oliver had requested a reinvestment zone on another piece of property, but because of a problem in securing a clear title, Mr. Oliver was now attempting to purchase the property being considered at tonight's meeting.

Commissioner Pat Foley stated that he was concerned because this property was not in the downtown area, and he was under the impression that the intention of the Tax Abatement Program was to upgrade the downtown area. Commissioner Foley further stated that the request was to abate the taxes for a 15 year period, and because the property will increase in value over that period, the taxes will be quite high the first time Mr. Oliver is required to pay.

City Manager Westerholm stated that the City staff had prepared maps indicating that the downtown area has more reinvestment zones approved for the 15 year period, but the criteria for a

reinvestment zone as any area that is deteriorating and that the City would like to see improved. City Manager Westholm further stated that this property is a vacant lot and would be appraised at its full value at the end of the 15 year period to determine the amount of taxes.

Commissioner Louis Cronquist stated that the area has been deteriorating and this will be of great benefit to that area. Mayor Harrison stated that 15 years is a long period of time for a tax abatement and in his individual judgment, he would be inclined to grant the 15 year tax abatement. Mayor Harrison further stated that even a 15 year abatement period would be an inducement to improve property but he would personally prefer that Tax Abatements be less than 15 years.

Mayor Harrison stated that we should encourage all development in deteriorating areas and the City Commission should decide whether the period of time should be 15 years or less. Mayor Harrison officially closed public hearing due to lack of discussion.

4. ORDINANCE APPROVED - FIRST READING - REINVESTMENT ZONE - TAX ABATEMENT PROGRAM - JOYLE OLIVER

Mayor Harrison stated that the Commission now had for consideration the First Reading of the Ordinance Designating a Reinvestment Zone for Tax Abatement Program as requested by Joyle Oliver covering property located in the 400 block of North 3rd St.

Mayor Harrison stated that the City Commission might consider establishment of a policy for future reference in regard to the limits for tax abatement programs. Commissioner Pat Foley stated that Mr. Oliver had made his application under the ordinance that he would receive the 15 year Tax Abatement and the policy could be established for future applications. Commissioner Cronquist stated that in the past it had been suggested that time limits be established according to the amount of investment. The applicant was going to spend on the investment zone.

Mayor Harrison stated that the City Staff had presented a proposed plan that would designate certain zones for 5, 10 and 15 year tax abatements and under that proposed plan Mr. Oliver's property would be in the 15 year time limit. Mayor Harrison further stated that he would like to have a consistent policy that would not be deviated from and the commission proposed by the City Staff should be outlined by streets rather than circles that cut across boundary lines.

Action was made by Commissioner Pat Foley and seconded by Commissioner Louis Cronquist that Ordinance be approved on first reading. It is presented for the 15 year abatement period. A unanimous affirmative vote was recorded.

Mayor Harrison stated that establishment of uniform guidelines for the time limit could be considered at next meeting of City Commission.

Commissioner Cronquist alone stated that if any Reinvestment Zone applications are received before next meeting, the applicant should be informed that the time period was under consideration by the City Commission.

5. CITY HALL EXPANSION - RESOLUTION APPROVED - ARCHITECTURAL PLANS APPROVED

Mayor Harrison stated that it was decided at the City Commission works up that this item would be placed on this agenda to move

forward with the City Hall project and the question of whether to approve the architectural plans and financing of the City Hall was now for consideration.

In answer to question by Commissioner Pat Foley, City Manager Westerholm stated that "Mr. Tom Wolf of First Northwest was present to answer any questions but, in regard to the events in order of occurrence if certificates of obligation were issued to finance the project were the Certificates would be issued as invoices were received and the City would negotiate with a bank to "pick up" the certificates of obligation. City Manager Westerholm further stated that at the end of the project, the certificates of obligation could be "called-in" and a possible sale, similar to a bond sale, could be held. City Manager Westerholm stated that the interest rate would be established before certificates of obligation were issued at a rate attractive to the banks for a short term.

Tom Wolf stated that the next opportunity the City would have to effect a tax rate would be in October, 1955, and the amount of money needed would be computed from the amount of debt incurred by the City up to that point. Mr. Wolf further stated that the principal amount of certificates of obligation issued and the interest rate would indicate the amount of money the City would need within the coming year with the first actual payment of the certificates of obligation due in January, 1956.

In response to question by Commissioner Pat Foley, Mr. Wolf stated that it would be possible to spend 30 minutes with Jerry Hill, architect, and provide a figure to the City Commission that would be required for the coming year. Commissioner Pat Foley stated that it had been suggested at the Jackson that the revenue sharing money be used to finance the City Hall project and he would suggest that revenue sharing funds combined with tax increase funds be used for the financing. Commissioner Foley stated that he could vote for a 3% tax increase to be used in conjunction with the revenue sharing money.

In response to question by Mayor Harrison, Mr. Wolf stated that under this section of the certificates of obligation is because the City would be constructing a building which requires that certificates of obligation be issued monthly. Mayor Harrison stated that when a contract is signed the City would be creating an obligation and should contract with a banking institution to to pay the certificates of obligation as they come payable.

Mr. Wolf stated that the resolution that authorizes obligation of an intent to issue certificates of obligation should be published for two (2) weeks on the same day each week, and if the City were not petitioned to call an election, City Commission could meet and vote on ordinance authorizing the City Commission to issue up to a certain amount of certificates of obligation without being challenged by the citizens. Mr. Wolf stated that as a practical matter the City Commission might effect an agreement with the banking community or others to agree to "pick up" the certificates of obligation, and in effect, the contractor would receive cash each time he presents an invoice with the certificates of obligation parcels. But under the law, Mayor Harrison stated that he would hope the certificates of obligation could be placed with local banking institutions.

In response to question by Commissioner Jack Gordon, Mr. Wolf stated that at the present time the interest rate would be approximately 4 1/4% to 4 1/2% average but the City could indicate that the bonds would bear 3 3/4% or 4% interest for two (2) years, and at the end of the two (2) year period half the certificate of obligation

... could be reduced to 1 1/4 or 1 1/2 ... allowances for the market going back to 11 or 12. interest to allow the banks to increase their profit. Mr. Holt stated that at the present time the rate is selling at 3 3/4 and the interest rate would depend on the willingness of the banking community with interest payments due within the next budget year.

In response to a question by Commissioner Percy Simon, Mayor Harrison stated that in his opinion, once the contract was let and the city knew how much money was to be issued in certificates of obligation to be paid out as invoices were received, a contract could be made with a bank to handle certificates on an interest basis. City Attorney J. O. Flournoy stated that the City Commission can only make obligations for a one (1) year term unless they use devices such as certificates of obligation, permitted under law and a contract cannot be signed by the City Commission to extend beyond a one (1) year period. Mayor Harrison stated that the City Commission could go to a bank or bank's interest contract at a rate of interest designated for them to make the certificates of obligation for payment of invoices as submitted. Mayor Harrison further stated that tonight the City Commission could only approve the resolution indicating their intent to issue certificates of obligation which will be issued at a later date.

Commissioner Lynn Malone stated he is hesitant to vote on the resolution without a chance to review the findings and the City would be taking a gamble by depending on revenues sharing funds to build the proposed City Hall. Mayor Harrison stated that the resolution simply says that the City Commission proposes to issue certificates of obligation and that in (2) weeks must be done before the City Commission can decide what actually will be done in regard to financing. Mayor Harrison stated the resolution is not making any commitment for the City Commission, it would simply be an expression of the intentions of the Commission. Mayor Harrison further stated that there is a definite need to improve the City Hall regardless of where the funds are derived.

Action was taken by Commission on the policy and secondly by Commissioner Louis Harrison to the resolution as approved. A roll call vote with the amount not to exceed \$4,000,000. A unanimous affirmative vote was recorded.

Action was taken by Commission on the policy that plans proposed by Jerry Hill either "A", "B", or "C" would be approved at next meeting of this Commission. A unanimous affirmative vote was recorded.

6. INDIVIDUAL POLICE UNITS - CONSIDERATION TABLED

Mayor Harrison stated that the City Commission has requested that this item be placed on the agenda for consideration and request City Manager Westerholm to provide staff recommendations.

City Manager Westerholm stated that no information had been received from the Internal Revenue Service in regard to taxes being paid by city employees for the use of City vehicles.

Action was taken by Commission on the policy and secondly by Commissioner Louis Harrison to the policy that this item be tabled until further information is received from the Internal Revenue Service. A unanimous affirmative vote was recorded.

Commissioner Lynn Malone stated that he will see a Federal representative and that exceptions would be made to the tax law.

of employees using city owned cars if the car is used for commu-
tation but not for personal use. City Manager Westerman stated
that it was possible for the City to rule that a police car
used by an officer for an in personal trip could be considered
duty. Mayor Harrison stated that he understood the City of
Houston had prohibited personal use of police vehicles.

7. PROPOSAL WORKING APPROVED - COMPREHENSIVE PLAN - REQUEST TO ENGINEERING CONSULTANTS

Mayor Harrison stated that following the workshop held by the
City Commission it was requested that consideration of the draft
of an invitation for proposals to complete a comprehensive plan
be reconsidered at this session. Mayor Harrison stated that the
City staff and Chairman Griffin, Chairman of the Planning & Zoning
Commission, had been requested to develop a proposal for a com-
prehensive plan and a letter had been submitted outlining recom-
mendations for submission to the planning firms.

Mayor Harrison stated that he was impressed with the idea that
information available from other sources would be useful in
developing the comprehensive plan. Mayor Harrison stated
that the City Commission was tonight seeking to authorize the
letter requesting proposals be mailed and very not commitment to
completion of the comprehensive plan. Commissioner Pat Foley
stated that he liked this draft of the letter because it was
"short and to the point" to give the firms a better idea of what was
needed, but he would prefer to leave several items out of the proposal.

Chairman Griffin stated that six (6) or eight (8) of the firms would
receive the request for proposal and many may not be qualified,
but when the proposals are received, firms that could do the best
job on the comprehensive plan would then be considered for final
approval. Chairman Griffin stated that he could foresee a joint
committee from the Planning & Zoning Commission and the City
Commission to review the suggestions and ask questions of those
firms to determine their expertise in certain areas before a rec-
ommendation would come from the committee in regard to the firm
that should be hired.

City Planner Dick Smith stated that the amount of time that
would be spent on each area could be determined and the City
Commission might want to select the areas that would be very
time consuming. Chairman Griffin stated that there would be a
need to personally visit with each representative before a de-
cision is made.

Commissioner Lynn Malone stated that she was disappointed with the
draft because when Commissioner MacFarland had requested that
the comprehensive plan be slanted toward industrial growth
Chairman Griffin had indicated that the plan will be done ob-
jectively. Commissioner Lynn Malone stated that he had requested
a study of the manager curb and gutter and widening of streets
in the industrial neighborhoods be included in the plan and they
were not. Chairman Griffin stated that if the word "recommen-
dation" in the sentence under 7.1 which reads "we would like to
see recommendations as to how to encourage selected industry in
conformance with the City's goals" was a problem for Commissioner Malone that
word could be replaced by "proposal" and so it was not neces-
sary to the sense of the sentence. Chairman Griffin stated that
the statement was simply there to start the firms and each firm would
approach this area of consideration and he felt that objections by
Commissioner Malone were a matter of which words were used.
Chairman Griffin stated that it had not been the intent to put
more emphasis on industry than the concerns of Commissioner
Malone.

In response to question by Mayor Garrison, Commissioner Malone stated that he would like to see the same emphasis placed on drainage, curb and gutter and widening of streets in low income neighborhoods as on the industry.

After much discussion and rewording of several items in the request for proposals, motion was made by Commissioner Bronaugh and seconded by Commissioner Jack Gorden that City Manager be authorized to submit the proposal to the planning firms with the proposed changes. A unanimous affirmative vote was recorded.

8. CIVIC CENTER USE FEES - TABLED - DANCES AND BANQUETS

Mayor Garrison stated that this item had been placed on the agenda for reconsideration with a report justifying the difference in fees for dances and banquets. Mayor Garrison stated that there had been a question as to whether the charges should be the same for dances and banquets, and studies had been made with reports being submitted by Ruth Brandenburg and James Fears in regard to these two events.

Commissioner Don Boyd stated that he was concerned about the charges for teenage dances with no drinking and only chairs needed, he did not understand why the floors would be waxed and polished prior to a dance. Commissioner Boyd stated that the dances he was concerned with were held by charitable organizations and there would be less setup with the maximum attendance being approximately 150 teenagers. Curtis Montgomery, Director of the Visitor and Convention Bureau stated that under the new rates the charge would be \$250 for charitable dances rather than \$150, which was the first increase in nine (9) years and the amount of time spent cleaning up would be equal to that of cleanup for a banquet. Ruth Brandenburg, Civic Center Director, stated that she didn't know how you could make a delineation between an adult and a teenage dance.

Mayor Garrison stated that he would like to suggest that Commissioner Don Boyd go to the Civic Center after a teenage dance to determine what the cleanup involves. Commissioner Percy Simond stated that he would like to see a schedule of rates developed for teenage dances and charitable organization, and the City should make sure that charitable organizations using the Civic Center receive some consideration according to the rent schedule. Mayor Garrison stated that he would like to have Mr. Montgomery restudy use of the Civic Center with possible development of a schedule for charitable teenage dances, and in the future, would suggest that Mr. Montgomery take pictures of the problems being caused by use of the Civic Center.

Commissioner Don Boyd stated that a deposit should be required for use of the Civic Center to be used in the event of damages. Mr. Montgomery stated that that provision is in the Civic Center regulations but has not been enforced.

It was a consensus of opinion of City Commission that a study would be done and fees would be reconsidered by this Commission.

9. ORDINANCE TABLED - FIRST READING - MOTION PICTURE RATINGS

Mayor Garrison stated that it was decided at last meeting of City Commission that City Attorney would meet with Jimmy Zeleskey, an attorney for Martin Theaters, to establish a proposal for consideration at this meeting.

City Attorney Bob Flournoy stated that he had not reached an

agreement with the theater people out on the street with Jimmy Zelesky and the Divisional Manager for Martin Theaters from Longview to go. City Attorney Flournoy stated that the theater people had identified areas that would be beneficial in stopping abuses that have been happening in the theaters and some of the incidents were because of poor management. City Attorney Flournoy further stated that by grouping movies much of the abuse could be prevented and the theater owners were now requiring River's License for admission to attend the restricted "A" and "B" rated movies. City Attorney Flournoy stated that the theater in the building is the most difficult to deal with but assurances from the Martin Theater Group that they will take care of the problem had been received.

City Attorney Flournoy stated that he had not reached a conclusion about the ordinance or the terms that should be included therein. Mayor Harrison stated that he had reviewed the ordinance and was in agreement with it, and to be in violation of the ordinance provisions, would require infractions on their knowledge. Mayor Harrison further stated that while the theater cannot prevent all children from going from one movie to another, they could file charges on the children or parents. City Attorney Flournoy stated that if a ticket is sold for one theater and that person goes to another movie that costs the theater money and the theater people will take steps to prevent this without passage of the ordinance. City Attorney Flournoy stated that the Martin Theater representatives were agreeable to finding a solution preferably without passage of the ordinance. City Attorney Flournoy stated that the Divisional Manager was present at the meeting and could explain what his people were willing to do in this regard. City Attorney Flournoy further stated that he could prepare a written report of the Martin Theaters promises to take care of the problem. City Attorney Flournoy stated that in order to violate the ordinance the management would have to be conscious that the infractions were taking place or the neglect of the manager would be great enough to show the behavior. City Attorney Flournoy stated that the theater was attempting to enforce the ordinance the children should be held responsible for their actions. City Attorney Flournoy stated that he could have a written report available for the commission by next meeting.

Discussion was held by Commissioner Percy Simons and seconded by Commissioner Lou Boyer for consideration of Ordinance 121 held until next meeting. Following vote was recorded: Mayor Harrison, Commissioners Connelley, City Commissioner, City Commissioner, Commissioner for Police, Mayor Harrison declared motion approved by a vote of six (6) to one (1).

Mayor Harrison stated that the theater owners should provide a statement regarding what they plan to do which could indicate interest in solving the problem by their expression of their interest.

Commissioner Jack Brice stated that he believed the theater owners were not concerned about the problem and they have not put much time into finding a solution. City Attorney Flournoy stated that it is the record straight, the lawyer for the Martin Theaters had contacted him early after the last meeting but due to circumstances meeting is impossible.

10. ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - RAYFORD MCKINNEY - C TO RS

Mayor Harrison stated that ordinance for Lot 17, Chan's Subst. 1, Rayford McKinney covering property located at 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39, 41, 43, 45, 47, 49, 51, 53, 55, 57, 59, 61, 63, 65, 67, 69, 71, 73, 75, 77, 79, 81, 83, 85, 87, 89, 91, 93, 95, 97, 99, 101, 103, 105, 107, 109, 111, 113, 115, 117, 119, 121, 123, 125, 127, 129, 131, 133, 135, 137, 139, 141, 143, 145, 147, 149, 151, 153, 155, 157, 159, 161, 163, 165, 167, 169, 171, 173, 175, 177, 179, 181, 183, 185, 187, 189, 191, 193, 195, 197, 199, 201, 203, 205, 207, 209, 211, 213, 215, 217, 219, 221, 223, 225, 227, 229, 231, 233, 235, 237, 239, 241, 243, 245, 247, 249, 251, 253, 255, 257, 259, 261, 263, 265, 267, 269, 271, 273, 275, 277, 279, 281, 283, 285, 287, 289, 291, 293, 295, 297, 299, 301, 303, 305, 307, 309, 311, 313, 315, 317, 319, 321, 323, 325, 327, 329, 331, 333, 335, 337, 339, 341, 343, 345, 347, 349, 351, 353, 355, 357, 359, 361, 363, 365, 367, 369, 371, 373, 375, 377, 379, 381, 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residential. All had been recommended for approval by the Planning & Zoning Commission. There was no opposition present.

Motion was made by Commissioner Conroy and seconded by Commissioner Pat Foley that Ordinance be approved on first reading as presented. Unanimous affirmative vote was recorded.

11. ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - FRED WALKER - RL TO C

Mayor Harrison stated that Ordinance for Zone Change was made by Fred Walker covering property located at Lotus Lane between Terran Brown Circle and Henderson Drive from Residential Large to Commercial had been recommended for approval by the Planning and Zoning Commission. There was no opposition present.

Commissioner Pat Foley stated that a fence had been recommended by the City Planner, but in the past, fences had been requested by adjoining property owners. Dick Finney, City Planner, stated that the Zoning Ordinance does not require a fence between commercial and residential property which was apparently an oversight in the Zoning Ordinance, and because there are few neighbors in the area at the present time, it would be a preventive measure to protect residential property.

Motion was made by Commissioner Percy Simon and seconded by Commissioner Conroy that Ordinance be approved on first reading without the requirement for a six-foot hearing fence. Unanimous affirmative vote was recorded.

In response to question by City Attorney Flannery, Dick Finney, City Planner, stated that the mobile home park had originally stated that a buffer zone would be left between residential property and the mobile home development but that buffer has since been cleared and the fence would have been a protection for the residential area.

12. ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - SUSIE WALL - LB TO LB, SU (DAYCARE)

Mayor Harrison stated that Ordinance for Zone Change was made by Susie Wall covering property located at 412 Ellis Avenue between Ryan and Hedson, from Local Business to Local Business, Special Use (Daycare) had been recommended to City Commission for approval by the Planning & Zoning Commission. There was no opposition present.

Motion was made by Commissioner Conroy and seconded by Commissioner Louis and that Ordinance be approved on first reading as presented. Unanimous affirmative vote was recorded.

Mayor Harrison stated that comment had been included in the City Commission packet regarding circle drives. Chairman C. Griffith stated that the Planning & Zoning Commission had reviewed their policy in regard to daycare centers and found that over the last four (4) years all daycare centers but two (2) had been required to have a circle drive. Mayor Harrison stated that there could be exceptions to that requirement if the safety of the children was protected. Commissioner Louis Griffith stated that he would like to have letters written to existing daycare centers without the circle drive to request that one be installed.

13. STREET NAME - ELLEN STREET - APPROVED

Mayor Harrison stated that the Planning & Zoning Commission had recommended the naming of a street which is located north of Loop

217 between Highway 123 East and 123 North and that the name be designated as "Hilltop".

Motion was made by Commissioner Pat Foley and seconded by Commissioner Louis Cronough that designated street be named "Hilltop" as requested by property owner. A unanimous affirmative vote was recorded.

14. STREET NAME CHANGE - APPROVED - KINGSTON PLACE TO DEERFIELD DRIVE - CROWN COLONY - SECTION VI-B

Mayor Garrison stated that Planning & Zoning Commission had recommended that the name of "Kingston Place" in the Crown Colony Subdivision be changed to "Deerfield Drive" to accommodate the Post Office Department because there was a street by the same name in the Fuller Springs area.

Motion was made by Commissioner Pat Foley and seconded by Commissioner Louis Cronough that street name be changed to "Deerfield Drive". A unanimous affirmative vote was recorded.

15 a. INVOICE - APPROVED - STIVER ENGINEERING - WATER POLLUTION CONTROL PLANT

Mayor Garrison stated that an invoice had been received from Stiver Engineering, and City Commission authorization was needed for payment of the invoice in the amount of \$1,715.57. Mayor Garrison stated that Mr. Stiver was the first man to improve the Lufkin sewer plant and the City is indebted to him for his work. Mayor Garrison further stated that Mr. Stiver was the first man to give the City a solution to the problem and his fee is less than estimated at the beginning of the project.

Mayor Garrison stated that City Manager Westholm and Mr. Stiver confer with the Water Utility Board, review City ordinances and establish quotas for industrial sewer users in addition to modification of the plant to bring the plant into compliance would have been done at twice the price. Mayor Garrison stated that Mr. Stiver had estimated the work would cost approximately \$25,000 and the amount of invoices has not reached \$25,000 because some invoices were for work done in connection with things other than renovation of the sewer plant.

City Manager Westholm stated that the total of all invoices received by Mr. Stiver was presently \$46,021.15 this invoice and probably 1 1/2 or 2 invoices. Mayor Garrison stated that due to Mr. Stiver's work the City had finally prevented a lawsuit and the effluent of the plant is being accepted by the Water Utility Board.

In response to question by Commissioner Pat Foley, City Manager Westholm stated that the plant was now in compliance because of the parameters established by Mr. Stiver and the plant had been in compliance before hauling of the sludge had begun.

Motion was made by Commissioner Louis Cronough and seconded by Commissioner Pat Foley that invoice be approved for payment. A unanimous affirmative vote was recorded.

15 b. INVOICE - APPROVED - FLOURVOY, DEATON, STEPHENS - FEDERAL COURT CASES

Mayor Garrison stated that an invoice had been received from Flourvoy, Deaton, Stephens and authorization of City Commission was needed for payment of this invoice in the amount of \$2,231.25 for work done in Federal Court.

Commissioner Percy Simon stated that the City should not receive this type of bill from the City Attorney when he is paid over \$2,000 a year. City Attorney Flournoy stated that the bill is related to an agreement that Federal Court cases will be paid on a hourly rate. He did not know the case was imminent because it was filed two (2) days before the Statute of Limitations expired.

Commissioner Percy Simon stated that the City Attorney should receive more money and not submit bills to the City.

Mayor Harrison stated that the agreement referred to by City Attorney Flournoy was not made before this City Commission and is never the policy of the City. Mayor Harrison further stated that it was not appropriate for the City to receive a bill when the City Attorney was on retainer. Mayor Harrison further stated that the City Attorney has never stated that he wanted to change the retainer agreement to receive extra pay for Federal cases.

City Attorney Flournoy stated that several cities were reviewed regarding payment of City Attorney and the City of Indianapolis has the same arrangement because the City does not know when a Federal case will be filed. City Attorney Flournoy stated that he strived to represent the City for a reasonable hourly rate in Federal Court where the cases are more involved. City Attorney Flournoy further stated that the City Commission might not have understood that extra pay was involved for Federal cases.

Mayor Harrison stated that when this was mentioned in the 1994 budget consideration, he had intended to discuss the extra fees after the budget was approved but never did. Mayor Harrison stated that he was willing to pay the invoice but the agreement should be re-examined. Mayor Harrison further stated that the budget approved stated \$15,000 for outside counsel but a budget item was not proposed for additional fees to City Attorney's firms. City Attorney Flournoy stated that the City could decide to hire outside counsel for Federal Court. Mayor Harrison stated that he did not object to paying the City Attorney for his work but he had asked that a time log be kept of City business.

City Attorney Flournoy stated that this is only the second bill he has submitted.

Commissioner Percy Simon suggested that City Attorney Flournoy and Mayor Harrison draft an agreement and he would not comment any further on the City Attorney's job. City Attorney Flournoy stated that legal service for the City of Lufkin costs less than in the State of Texas average and there will be fewer bills submitted in this case along with bills from the other law firms because there is no insurance coverage on the Plus-Tex shooting cases. Mayor Harrison stated that City Attorney Flournoy has done a good job for the City of Lufkin and he is not sure if Flournoy is a person but the budget did not show a change in the policy of the City. City Attorney Flournoy stated that he felt the change was very clear but obviously it was not well presented to the City Commission.

Action was tabled by Commissioner Simon and seconded. Commissioner Percy Simon stated that invoice is approved as presented. Unanimous affirmative vote was recorded.

16. BID - APPROVED - REHABILITATION & PAINTING - WATER TOWER AND STORAGE TANK - BUFFALO SANDBLASTING & COATING CO.

Mayor Harrison stated that bids had been invited for repairs to the 1001 Street clay pot storage tank and the ground storage tank.

and aerator pumps at the water plant and requested that City Manager Westerholm provide staff recommendations.

City Manager Westerholm stated that the 1001 Street elevated storage tank had sprung a leak previously and would be cleaned, sand blasted, repainted and the riser on the inside thereof changed. City Manager Westerholm stated that the staff would like to recommend three (3) base bids plus an alternate bid for a total of \$2,155 by the Buffalo Sandblasting & Coating Co. City Manager Westerholm stated that \$100,000 had been budgeted for this item.

Action was made by Commissioner Pat Foley and seconded by Commissioner Lynn Malone that bid of Buffalo Sandblasting & Coating Co. in the amount of \$89,165 be approved as presented with the Change Order on the riser. Unanimous affirmative vote was recorded.

16 b. BID - DEFIBRILLATOR/MONITOR CHARGING SYSTEM - APPROVED -
PHYSIO-CONTROL - FIRE DEPARTMENT AMBULANCE SERVICE

Mayor Harrison stated that bids had been received for the purchase of a Defibrillator/Monitor Charging System for use in the Fire Department and requested that City Manager Westerholm provide staff recommendations.

City Manager Westerholm stated that the staff would like to recommend the low bid of Physio-Control in the amount of \$7,204. City Manager Westerholm stated that the budget will need to be amended because only \$6,000 had been budgeted for this item. Chief Billy Stephens stated that the Fire Department could be able to absorb the \$734 over budget because of an increase in the ambulance fees.

Action was made by Commissioner Don Boyd and seconded by Commissioner Pat Foley that bid of Physio-Control in the amount of \$7,204 be approved for payment and that the budget be amended to provide for the \$734 overage in this department. A unanimous affirmative vote was recorded.

16 c. BID - APPROVED - 12 WATT PORTABLE RADIO - FIRE DEPARTMENT
AMBULANCE SERVICE - MOTOROLA

Mayor Harrison stated that bids had been received for the purchase of a 12-watt portable radio for use in the Fire Department Ambulance Service and requested that City Manager Westerholm provide staff recommendations.

City Manager Westerholm stated that one (1) bid had been received from Motorola in the amount of \$7,699. City Manager Westerholm stated that \$6,500 had been budgeted for this item but Chief Stephens had assured him that the excess could be absorbed by the increase in ambulance fees.

Action was made by Commissioner Don Boyd and seconded by Commissioner Jack Porter that bid from Motorola in the amount of \$7,699 be approved and that the budget be amended to provide for the \$1,199 overage in this department. A unanimous affirmative vote was recorded.

17. 1984 TEXAS UTILITIES ELECTRIC RATE CASE - PARTICIPATION
APPROVED

City Manager Westerholm stated that a resume of the status of the Texas Power & Light - Texas Utilities Electric Rate Case had been submitted by Texas Municipal League and an authorization will be included if the City of Larkin would like to continue to partici-

pate in the case.

Motion was made by Commissioner Pat Foley and seconded by Commissioner Don Boyd that City of Lufkin continue to participate in the electric rate case. A unanimous affirmative vote was recorded.

18. ORDINANCE - APPROVED - ELECTION ORDER - REGULAR CITY ELECTION - APRIL 6, 1985

Mayor Garrison stated that the term for Mayor, Commissioner, Ward No. 2 and Commissioner, Ward No. 4, would expire on April 6, 1985, and an election order calling the election is required at this time to meet notice deadlines.

Motion was made by Commissioner Louis Bronaugh and seconded by Commissioner Pat Foley that Ordinance be approved on First Reading as presented. A unanimous affirmative vote was recorded.

19. EXECUTIVE SESSION - LAWSUIT DISCUSSED - KELLY NEWMAN, CITY JUDGE, DISCUSSED

Mayor Garrison stated that City Commission would now go into Executive Session to discuss items with the City Attorney. Mayor Garrison recessed formal open meeting of City Commission at 10:55 P.M. Mayor Garrison reconvened meeting of City Commission and made announcements to those present regarding results of the Executive Session at 11:20 P.M.

Mayor Garrison stated that the City Commission had discussed with the City Attorney a lawsuit that was pending and had received opinions regarding the lawsuit and the course of action being taken. Mayor Garrison stated that the Commission was not ready to make any announcements in this regard at the present time.

Mayor Garrison further stated that the City Commission had received factual information regarding a complaint against Judge Kelly Newman. Mayor Garrison stated that City Commission had discussed it in detail and the members of the Commission have expressed to the City Manager their thoughts about the case with the general consensus of opinion being conveyed to City Manager that because he has direct authority over Judge Kelly Newman, the City Manager will visit with him in the morning giving Judge Newman the benefit of the City Commission recommendation and requirements after which a statement will be made by the City Manager to the public.

20. MAPS AND DISTRIBUTION, DISCUSSED

Commissioner Lynn Malone stated that he would like to suggest that maps given to the City Commission in their distribution be made clearer by each street bearing a name.

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


Pitser H. Garrison, Mayor

ATTEST:



DATE 2/05/85

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~~and Griffin, City Secretary~~