

MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 17TH DAY OF JULY, 1984, AT 5:00 P.M.

On the 17th day of July, 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 Nix	Assistant City Secretary
Ron Wesch	Public Works Director
Nicholas Finan	City Planner

being present when the following business was transacted.

1. Meeting opened with prayer by Rev. Kenneth Goodell, Pastor of St. Paul's Methodist Church.
2. Mayor welcomed visitors present.

**3. APPROVAL OF MINUTES**

Motion was made by Commissioner Louis Bronaugh and seconded by Commissioner Don Boyd that minutes of regular meeting of July 3, 1984, be approved as presented. A unanimous affirmative vote was recorded.

**4. ZONE CHANGE - APPROVED - SECOND READING - JOAN BENTLEY WARREN  
RL TO RS**

Mayor Garrison stated that zone change request for permanent mobile home by Joan Bentley Warren covering property located at 508 Shady Pine between Lufkin Avenue and South Medford Drive from Residential Large to Residential Small 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.

**5. ZONE CHANGE - APPROVED - SECOND READING - JAMES KIZZIE -  
A TO RS**

Mayor Garrison stated that zone change request for permanent mobile home by James Kizzie covering property located at 212 Oak Avenue between Cain and Maple Streets from Apartment to Resi-

dential Small 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.

**6. ZONE CHANGE - APPROVED - SECOND READING - DON & BENITA GRAHAM  
RL TO RM**

Mayor Garrison stated that zone change request by Don and Benita Graham covering property located at 905 Shady Pine between Lufkin Avenue and South Medford Drive from Residential Large to Residential Medium 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 zone change be approved on second and final reading as presented. A unanimous affirmative vote was recorded.

**7A. ORDINANCE - APPROVED - SECOND READING - CURB AND GUTTER -  
FRANKLIN STREET**

Mayor Garrison stated that a curb and gutter petition had been approved on first reading at last meeting of this Commission for curb and gutter on Franklin Street. Mayor Garrison further stated that 70 percent of the property owners had agreed to the curb and gutter but Mr. C.C. Steed, one of the larger property owners on the street, had not signed the petition.

City Manager Harvey Westerholm stated that he had talked with the Steeds who had respectfully declined to participate in the curb and gutter cost.

Mayor Garrison stated that in light of Mr. Steed's refusal to sign the City would pay for the curb and gutter in front of this property in anticipation of receiving the money due when the property is sold.

In response to question by Commission Pat Foley, City Manager Westerholm stated that a lien would be attached to Mr. Steed's property

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

**7B. ORDINANCE - TABLED - SECOND READING - CURB AND GUTTER -  
CALVIN STREET**

Mayor Garrison stated that an Ordinance approving curb and gutter installation on Calvin Street had been approved on first reading at last meeting of this Commission.

City Manager Westerholm stated that the curb and gutter petition for Calvin Street had been withdrawn due to Troy Nash, property owner in the area, withdrawing his participation because James Brookshire, property owner adjacent to Mr. Nash, would not sign the petition.

Motion was made by Commissioner Pat Foley and seconded by Commissioner Don Boyd that Ordinance be tabled until next meeting of the City Commission to allow discussion with property owners. A unanimous affirmative vote was recorded.

**8. ORDINANCE - APPROVED - SECOND READING - SEWER RATE**

Mayor Garrison stated that an Ordinance establishing a new sewer rate to comply with the EPA Administrative Order had been approved on first reading at last meeting of this Commission.

City Manager Westerholm stated that because of discussion at last meeting of this Commission regarding the new sewer rates and how they would affect users with low consumption, a table indicating sewer rates for residential customers had been submitted for City Commission consideration. City Manager Westerholm stated that sewer rates would be approximately the same or show very little increase for customers with small consumption. City Manager Westerholm stated that based on March's consumption records, 53 percent of residential customers use 5,000 gallons or less. City Manager Westerholm stated that rates for small commercial users, such as small offices, would be the same as residential rates unless it is a business with a higher percentage than 250 BOD or 300 TSS. City Manager Westerholm stated that the table also indicates that if industrial customers attempt to reduce the strength of their effluent, their sewer bill would be decreased accordingly. City Manager Westerholm further stated that the proposed rate for industries is based on the permit issued to them by the City of Lufkin.

Commissioner Percy Simond stated that the chart indicates that if Pluss-Tex Poultry did something to decrease their sewer strength by spending \$500,000 on equipment their sewer bill would decrease but they would have to pay additional taxes on the equipment they have purchased. Commissioner Percy Simond stated that this would amount to a double increase for firms attempting to install additional equipment.

Mayor Garrison stated that if the industries reduce the strength of their effluent in an effort to reduce the sewer rate they would not reduce the operation of the Sewer Plant by that amount. Mayor Garrison stated that the City should not reduce the customers' bill until the reduction of strength reduces the cost of the plant's operation. Mayor Garrison stated that he understood that some industrial plants in Waco, Texas, have spent up to 2 million dollars to install a pretreatment plant. Mayor Garrison further stated that this is a new area that the Environmental Protection Agency has required the City of Lufkin to enter, and sewer rate charges must now be based on the cost of treating the inflow brought into the Water Pollution Control Plant by the industries. Mayor Garrison stated that the City of Lufkin would need to review the results of the increased sewer rates on a regular basis to determine if the strength of the effluent has been reduced. Mayor Garrison stated that the cost could be reassessed after monitoring the industrial effluent. Mayor Garrison further stated that the formula to arrive at the sewer rates had been given to the City of Lufkin by the Environmental Protection Agency.

Commissioner Lynn Malone stated that he had not understood that the residential users were creating the problem within the Water Pollution Control Plant to the extent of the violations. Commissioner Malone further stated that within the last two (2) years an increase had been made in the residential users total bill and it is unfair for residents to absorb some of the cost that should be allotted to industrial users creating the problem.

Mayor Garrison stated that the sewer rates were not originated by the City of Lufkin but the Ordinance was the result of a requirement imposed on the City of Lufkin by the Environment Protection Agency. Mayor Garrison further stated that the City of Lufkin had been commanded to assess sewer rates on the basis of the effluent of individual users. Mayor Garrison stated that in the past the City of Lufkin had been charging a sewer rate that was not based on the actual cost of the Plant usage, and as a result, the Water Pollution Control Plant had been subsidized by water revenue.

Bobby Mott, Water Pollution Control Plant Superintendent, stated that the Water Quality Board had designated that the City of Lufkin initiate an industrial pretreatment program.

Commissioner Lynn Malone stated that he was opposed to increasing residential bills but was not opposed to increasing the rates for industrial users.

Commissioner Louis Bronaugh stated that the Ordinance was suggesting that reconnection of services after working hours should be assessed an additional fee. City Manager Westerholm stated that if the City Commission would like to include an additional fee in the Ordinance, it could be added but at the present time, the first reconnection after a cut-off results in a \$7.50 charge to the customer, the second reconnection is \$15.00, and the third is \$22.50. Commissioner Lynn Malone stated that if the City has to pay overtime for reconnections after hours an additional charge should be levied.

In response to question by Commissioner Louis Bronaugh, Drew Squyres, Utility Collection Supervisor, stated that the percentage of collections is approximately 90 percent of the amount billed but the City of Lufkin loses approximately \$30,000 per year on bad debts that are incurred due to persons running up a bill of \$50 and changing their address or moving out of the City. Drew Squyres further stated that the deposit required for a water meter is \$15,000.

Mayor Garrison stated that legislation provides that Federal Grants to the City can be affected if sewer rates are not based on usage of the Water Pollution Control Plant. Mayor Garrison further stated that 2,000 users in the City of Lufkin will have a reduction in their sewer bill.

Commissioner Don Boyd stated that the sewer rate is based on water consumption and residents should not be charged for water that does not go into the Water Pollution Control Plant such as water used for lawns and washing cars. City Manager Westerholm stated that the residential customer is not charged for anything over 12,000 gallons of effluent to provide a cost break for water not processed through the Water Pollution Control Plant. Commissioner Don Boyd stated that the City might consider compu-

tation of effluent by another method. Mayor Garrison stated that it would not be practical for the City to attempt to determine what percentage of residential effluent is not processed in the Water Pollution Control Plant.

Commissioner Don Boyd stated that the increase in industrial rates such as Land O' Pines will be passed to the customers buying milk from the Lufkin plant, and in the long run the industrial users increase in sewer rates will be paid by their customers. Mayor Garrison stated that the person using the products will pay for the production of them in every case. Commissioner Pat Foley stated that the industries in the City of Lufkin have customers outside the City and the cost will be shared by other areas. Mayor Garrison stated that Pluss-Tex Poultry will sell most of their production outside the Lufkin area.

Commissioner Pat Foley stated that he was sympathetic with the residential users because the sewer rate will also be increased but the City of Lufkin does not have any other choice but to charge the user's of the Water Pollution Control Plant.

Mayor Garrison stated that the City of Lufkin can review the sewer rates and change them accordingly as the City Administration becomes more familiar with the operation of the Water Pollution Control Plant. Commissioner Pat Foley stated that the rates should be reviewed within six (6) months to determine if the rates are fair. Mayor Garrison stated that he would like for the City Commission to consider the Sewer Rate Ordinance six (6) months after it is initiated.

Bobby Mott stated that the industries would be monitored and that his office had talked with the different industries on numerous occasions regarding the proposed Sewer Ordinance. City Manager Westerholm stated that he had visited with each industry and designed a plan for each individual plant. City Manager Westerholm further stated that a flow meter would be installed at each industry to measure the flow that is introduced from their plant into the Water Pollution Control Plant and procedures have been established to inform the personnel of the requirements regarding how often their flow has to be monitored. City Manager Westerholm stated that in the past monitoring of the flow from the different industrial users has been done at the City's cost and that cost will now be borne by the different industries.

Mayor Garrison stated that even with industries experiencing a large increase in their sewer costs, they have not come to the City Commission meetings to protest the Sewer Use Ordinance and City Manager Westerholm and Bobby Mott should be commended on their work with each individual industry. Mayor Garrison stated that it would seem that the industries are willing to come into compliance with the proposed Ordinance.

In response to question by Commissioner Percy Simond, Mayor Garrison stated that the formula used to determine the cost to residential and industrial users was provided by the Environmental Protection Agency.

In response to another question by Commissioner Percy Simond, Mayor Garrison stated that unless there is a major mechanical breakdown at the Water Pollution Control Plant the proposed Sewer Ordinance should bring the City of Lufkin into compliance. Mayor Garrison further stated that there had been no new developments on the lawsuit by the Environmental Protection Agency against

the City of Lufkin and the approval of the Ordinance would help reduce the likelihood of the lawsuit.

Maury Stiver stated that the Civil Ordinance was not a guarantee that the City would be in compliance because rates do not guarantee compliance by the industries. Mr. Stiver stated that equipment had been bid for purchase and design documents have been prepared.

Commissioner Percy Simond stated that Maury Stiver had assured the City Commission in the past that he would bring the plant into compliance and that through his connections the City of Lufkin would not be subjected to a lawsuit. Mr. Stiver stated that he did not say that but he had analyzed the Plant and provided a projective analysis of items that his firm believed would bring the Water Pollution Control Plant into compliance with the Environmental Protection Agency. Mr. Stiver stated that application had been made to the State indicating work being proposed, but the State has not responded, and it was decided that needed work should be started. Mr. Stiver stated that the State of Texas and the Environmental Protection Agency have agreed that the proposed work is needed and the results will be submitted when the work is finished.

In response to question by Commissioner Percy Simond, Maury Stiver stated that at the first City Commission meeting he attended, he had informed the Commission the approximate cost of the total engineering fees would be \$48,000 and at the present time he has finished approximately half of the design portion of the Plant. Mr. Stiver stated that in addition to the engineering and design work he has also performed consulting services in relation to the enforcement order from the State of Texas and the total cost for the work could be \$24,000 or one-half of the original estimated cost.

Commissioner Jack Gorden stated that he understood that Mr. Stiver had completed the study part of the work and the only thing remaining was Plant construction. Commissioner Gorden further stated that he would like to talk more about completion of the Plant when the equipment bids are considered.

City Attorney Flournoy stated that the Ordinance would be effective ten (10) days after publication and initiated with the next billing period.

Mayor Garrison stated that within one (1) month all billing cycles would be regulated by the Sewer Ordinance.

Commissioner Louis Bronaugh stated that the variables in the proposed Sewer Ordinance should be decided. City Attorney Flournoy stated that Section 2.1 would be deleted and Section 8 would state that the Ordinance would be in effect with the next billing following. City Attorney Flournoy stated that in Section 4 the words, "... ten days after billing is mailed..." should be inserted in the first blank and the fee should be \$7.50 for the first disconnection and reconnection, \$15.00 for the second, \$22.50 for the third, and the fee for reconnection after normal working hours should be deleted.

Motion was made by Commissioner Louis Bronaugh and seconded by Commissioner Pat Foley that Ordinance be approved on second and final reading as amended. The following vote was recorded: Aye:

Mayor Garrison, Commissioners Foley, Gorden, Bronaugh, Nay, Commissioners Boyd, Malone, Simond. Mayor Garrison declared motion approved by a vote of four (4) to three (3).

Commissioner Percy Simond stated that he was voting against the residential increase. Commissioner Pat Foley stated that he was against the residential increase and had seconded the motion reluctantly.

9. ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - BOBBY E. CONNER - RL TO RL, SU ( BEAUTY SHOP)

Mayor Garrison stated that Ordinance for zone change request by Bobby E. Conner covering property located at 1719 Allendale between Haylane and John Redditt Drive from Residential Large to Residential Large, Special Use (Beauty Shop) had been recommended to City Commission for approval by the Planning and Zoning Commission. Mayor Garrison stated that the zone change had been heard before the Planning and Zoning Commission three (3) times and been revised with the following restrictions placed on approval of the zone change:

- A. One (1) chair beauty shop with one (1) operator.
- B. Hours of operation are 7:00 a.m. to 7:00 p.m., Monday through Saturday.
- C. No signs outside the house.
- D. No external change in appearance of the home.
- E. Special use ceases to exist when the beauty shop is not operated for a six (6) month (180 day) period.
- G. Number of parked cars in the driveway limited to three (3) business related cars.

Mayor Garrison stated that there was some opposition at the Planning and Zoning Commission but zone change was recommended by the Planning and Zoning Commission by a vote of four (4) to one (1).

Mayor Garrison recognized Mike Askins, local Attorney, appearing for the applicant, Bobby E. Conner. Mr. Askins stated that his client was requesting that he be allowed to change the zone of his property to Residential Large, Special Use and had agreed to the restrictions of the Planning and Zoning Commission. Mr. Askins stated that his client wanted to use their home for operation of the beauty shop in a special portion of the house and the reason Mrs. Conner needed to move her beauty shop to her home was that Mr. Conner had need of the entire building where the beauty shop is presently located. Mr. Askins stated that the opposition to the proposed zone change has basically come from residents of the area who do not wish to see commercial activity in their area and his clients have no desire to change the neighborhood into a commercial area. Mr. Askins stated that adequate space was provided for off-street parking and the operation of the beauty shop would be for Mrs. Conner's long time customers and friends. Mr. Askins stated that there is another beauty shop within two blocks of this location operated by Mrs. Connie Lee and there had been no complaints regarding this operation which was zoned as a Neighborhood Retail, Special Use, while his client was only asking for a special use subject to provisions previously stated.

The following persons were present in opposition to the proposed zone change: Mrs. Dewey Burrows, Kenneth Nelson, Faye Johnson, John Lenderman.

The following points of opposition were voiced:

- A. There is an existing beauty shop in the area.
- B. Approval of the special use would encourage other commercial activity.
- C. The shop has been operating without approval.
- D. Approval would only benefit one (1) family.
- E. Residential nature of the neighborhood would be destroyed.
- F. Special use designation would devalue adjacent property.

Mrs. Dewey Burrows stated that the permission for Mrs. Lee to operate her beauty shop had been granted under a hardship case to allow her to be home with a small child and no such conditions exist for Mrs. Conner. Mrs. Burrows further stated that if the zone change were approved, Mrs. Conner should not be allowed to employ a manicurist or shampoo girl and only beauty related products should be allowed for sale at the home. Mrs. Burrows stated that the majority of names on the petition for the zone change did not live in southwest Lufkin, some do not live in the City, and some have signed the petitions more than once.

Mr. Askins stated that he did not supervise the signing of the petitions and the documents were given to him immediately prior to the Planning and Zoning Commission meeting so he could not speak for the validity of the signatures. Mr. Askins stated that his clients have attempted to comply with the wishes of the neighbors by agreeing to the restrictions, and the Conners do not want the home life of the neighborhood disrupted. Mr. Askins stated that the Conners have one of the nicest homes in the neighborhood and they do not wish to devalue their property and there are some personality problems with the neighbors.

Commissioner Percy Simond stated that the fact that the signatures on the petitions were not checked is an indictment of the City Staff responsible for checking signatures. City Manager Westerholm stated that City Staff has not been checking signatures on petitions because all people within the City limits can voice their opinion on a zone change. Mayor Garrison stated that he did not pay much attention to petitions because signatures were easy to obtain, but if the people live outside the City of Lufkin their signature is not appropriate.

Commissioner Jack Gorden stated that he was sympathetic to the Conner's request and he had no problem with residential property being used as a business under a special use if there is no opposition from the neighborhood. Commissioner Gorden stated that if there is opposition in the neighborhood, he was concerned. Commissioner Pat Foley stated that it would be difficult to vote for a zone change when the neighborhood is in opposition.

Commissioner Percy Simond stated that the Conners had applied for the zone change on April 19, 1984, and someone between April and July should have checked the signatures on the petitions for validity.

City Planner Nick Finan stated that the original application was for a zone change to Commercial and Special Use but after a hearing before the Planning and Zoning Commission, commercial designation was withdrawn because of property owners in the area. Mr. Finan stated that two weeks ago he was presented with the petitions at approximately 4:00 p.m. along with a letter and petitions from Faye Johnson. Mr. Finan stated that he only had



the telephone book to check signatures and many of the signers of the petitions did not have addresses. Mr. Finan further stated that at the request of Mayor Garrison the petitions were reviewed before the meeting tonight to check the signatures and it indicated that there were six (6) property owners within 200 feet in favor of the zone change and three (3) property owners within 200 feet opposed.

Commissioner Percy Simond stated that he was only faulting the City Policy and that there should be some way for the City Staff to check petitions to make sure that names are not duplicated and that people who sign have an interest in the problem. City Planner Finan stated that many zone change requests are accompanied by letters and petitions and that his office had operated on the honesty and integrity of the people providing the petitions. Mayor Garrison stated that there were many separate petitions and letters from several individuals withdrawing their opposition in the information presented for review by the City Commission. Mayor Garrison stated that as he went through the material he was not sure which petitions the withdrawals of opposition were referring to and he had requested that the City Staff analyze the petitions to provide a report of the different property owner's position within 200 feet of the proposed zone change.

Commissioner Louis Bronaugh stated that the petitions as such have no legal bearing on the zone change request and the only thing to be considered in granting the request would be property owners within the 200 foot limit regarding whether a four-fifths majority would be needed to approve the zone change. Mayor Garrison stated that in the event a zone change would result in additional traffic through an area to get to the 200 foot limit, information concerning property owners along the route might have a bearing on the zone change.

Motion was made by Commissioner Percy Simond and seconded by Commissioner Don Boyd that zone change be approved as presented with the restrictions recommended by the Planning and Zoning Commission. The following vote was recorded: Aye: Mayor Garrison, Commissioners Simond, Boyd, Malone, Bronaugh. Nay: Commissioners Foley, Gordon. Mayor Garrison declared motion approved by a vote of five (5) to two (2).

Mayor Garrison stated that he personally did not think a special use designation would damage any property within the area because the special use would only remain on the property while it was used for that purpose and the restrictions would allow the City Commission to revoke the special use if they were not followed.

**10. ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - BARRETT MACK TRUCK SALES AND SERVICE - RL TO C**

Mayor Garrison stated that zone change request by Barrett Mack Truck Sales and Service covering property located at 2502 North Medford Drive between Moffett Road and Teer Street from Residential Large to Commercial had been recommended to City Commission by the Planning and Zoning Commission for approval. There was no opposition present.

Commissioner Lynn Malone had a question regarding the plans of the property owner to reroute the creek on subject property. City Planner Nick Finan stated that any work on the creek would

have to be approved by the Engineering Department and could not cause any hardship on other property owners in the area.

Public Works Director Ron Wesch stated that he had visited with the property owner at City Hall and informed him that his plans would have to comply with Engineering requirements of Kenneth Vann and there are no residential areas below the property to be affected by the creek. Commissioner Jack Gorden stated that rerouting of the creek would be beneficial to the City as a whole.

Motion was made by Commissioner Percy Simond and seconded by Commissioner Pat Foley that zone change be approved on first reading as presented. A unanimous affirmative vote was recorded.

**11. ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - MALCOLM & DONNA EVANS - D TO D, SU (DAYCARE CENTER)**

Mayor Garrison stated that zone change request by Malcolm and Donna Evans covering property located on Charlton Street between Jody and Conn Avenues from Duplex to Duplex, Special Use (Daycare Center) had been recommended by the Planning and Zoning Commission for approval. There was no opposition present.

Mayor Garrison stated that the following stipulations were placed on the zone change approval by the Planning and Zoning Commission.

- A. Engineering Department guidelines would be followed.
- B. Buffer zone would be provided between the Daycare Center fence and the fence of adjacent property owner.
- C. Daycare center fence be erected three (3) feet inside the property line.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Percy Simond that zone change be approved on first reading as presented with Planning and Zoning stipulations. A unanimous affirmative vote was recorded.

**12. ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE - THE HOT BISCUIT OF LUFKIN - C TO C, SU (PRIVATE CLUB)**

Mayor Garrison stated that zone change request by the Hot Biscuit of Lufkin covering property located at 2115 South First Street between Harmony Hill and Kentwood Drives from Commercial to Commercial, Special Use (Private Club) had been recommended to City Commission for approval by the Planning and Zoning Commission. There was no opposition present.

Motion was made by Commissioner Percy Simond and seconded by Commissioner Don Boyd that zone change be approved on first reading as presented. A unanimous affirmative vote was recorded.

**13. ZONE CHANGE - APPROVED - FIRST READING - ANGELINA ASSOCIATES LIMITED - CB TO CB, SU (ITEM 4-PRIVATE HOUSING PROJECT)**

Mayor Garrison stated that zone change request by Angelina Associates, Limited, covering property located on Shepherd

Avenue between Angelina and First Streets from Central Business to Central Business, Special Use (Item 4-Private Housing Project) had been recommended by the Planning and Zoning Commission for approval by the City Commission.

Mayor Garrison recognized Larry Byrd, local Attorney, who stated that he was present to represent the Downtown merchants who were interested in making sure that the facility would be used strictly for the elderly from 62 years of age up and would not be used for any families with small children. Mr. Byrd stated that the Downtown merchants were interested in the revitalization of the hotel but wanted to make sure that the use of the property would not be changed in the future.

Bill Ricks, Attorney for Angelina Associates, Limited, stated that his clients did not intend to have children in the facility but the HUD guidelines state that infants and very young children could reside in the HUD financed project but the children would not be old enough to vandalize the downtown area. Mr. Ricks stated that HUD guidelines indicate that the apartments could be rented by disabled or handicapped persons but the occupancy of the apartments would be limited to two (2) people in a one bedroom apartment. Mr. Ricks further stated that grandchildren would not be allowed to live there with their grandparents.

Mayor Garrison stated that he had three areas of concern in granting the zone change:

A. He had some doubts that housing for the elderly is proper without some area of green where people can see bushes and trees, and thought should be given to establishing a green area. Mayor Garrison stated that he understood the owners are considering installing a green area to the rear of the building.

B. He would like to know for sure that the building would be totally redone and look fresh, new, and clean, not like an old worn out 50 year old building. Mayor Garrison stated that he had no opposition to the building being renovated in its present style if it would enhance the appearance of the building in the downtown area.

C. He would like to know that unused, vacant space would not be exposed to the street as it is now. Mayor Garrison stated that he was fearful that the building might not sustain much retail business with only 86 residents, and he did not want elderly people living there with the outside showing vacancy.

Bill Ricks stated that he could assure Mayor Garrison that his concerns would be taken care of and that the businesses proposed for the building are a beauty shop, barber shop, and a small restaurant. Mr. Ricks stated that the commercial activities are for the residents on the top floors but could also be patronized by the citizens of Lufkin.

Mayor Garrison stated that he would like to be sure that the City of Lufkin would benefit by the appearance of the building once it is renovated. Mr. Ricks stated that he had slides and pictures of a hotel owned by his clients in Jacksonville, Florida, and testimonies regarding how pleased the City is with the results.

Mayor Garrison stated that through granting of the zone change he hoped to eliminate an eyesore in the downtown area, and he would

like to have specific assurances in a letter from the developer before second reading of the Ordinance.

Steve Lear, representative of Angelina Associates, Limited, stated that the hotel in Jacksonville, Florida has a green area that was provided for in the initial planning.

In response to question by Commissioner Lynn Malone, Bill Ricks stated that the commercial establishments were not exclusively for the tenants because it would be hard to have someone lease the facilities if only 86 customers could be guaranteed. Mr. Ricks further stated that the housing project would provide a bus for the tenants to use. Steve Lear stated that the tenants would form an organization of tenants and they would decide by majority vote where the bus would take them for recreational activities. Mr. Lear further stated that at this time, he did not know if the roof would be structurally sound to permit a recreation area.

Motion was made by Commissioner Louis Bronaugh and seconded by Commissioner Pat Foley that zone change be approved on first reading as presented. A unanimous affirmative vote was recorded.

Mayor Garrison stated that he would like to see a proposal of the building renovation that could be incorporated into the special use zone change with a time limit established for renovation. Commissioner Percy Simond stated that he would like to see a letter from HUD granting approval of the project at next meeting. Steve Lear stated that his company intended to act as quickly as possible to begin the project.

14. PROPOSED STREET CLOSING - DOZIER AVENUE - CARLISLE PROPERTIES - DISCUSSED

Mayor Garrison stated that the City Commission had received a request from Carlisle Properties regarding the closing of Dozier Avenue and he understood that Carlisle Properties had acquired an option to purchase property surrounding Dozier Avenue subject to approval of the closing to allow construction of a shopping center on the property. Mayor Garrison stated that the Planning and Zoning Commission had considered the request, for information only, and they could foresee no problems with the closing. Mayor Garrison stated that Carlisle Properties had requested that the City Commission consider closing the Street but a Public Hearing is required to inform the public.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Percy Simond that hearing date be established for August 7, 1984, to consider the request. A unanimous affirmative vote was recorded.

City Attorney Robert Flournoy stated that the first reading of the Ordinance for street closing could also be considered at that time.

Dave Hill, representative of Carlisle Properties, was present in regard to proposed street closing.

In response to question by Mr. Hill, Mayor Garrison stated that the City Commission could not take official action on the request

informally, and it was his opinion, that an advisory judgment could not be given before a public hearing was held because the City Commission might change their minds in the future. Mr. Hill stated that he was requesting some type of letter from City Manager Westerholm that would give assurance to Carlisle Properties that unless a Public Hearing brought out some problems with the street closing it would be approved. Mayor Garrison stated that City Manager Westerholm could not provide that type of letter because the decision is made by the City Commission not by City Staff.

City Planner Nick Finan stated that the discussion by the Planning and Zoning Commission was to get the feeling of the Commission. Mayor Garrison stated that the City Commission could not give advisory counsel and if Carlisle Properties had an option and exercised it a final decision could be made. Mr. Hill stated that Carlisle Properties would not be exercising their option until September.

Mayor Garrison stated that the street closing would have to be applied for and an appraised value of the property must be obtained to know what Carlisle Properties would pay for the street. Mayor Garrison suggested that action be taken before August 7, 1984, subject to the closing of the street.

Mr. Hill stated that in view of the comments he would have to withdraw his request at this time if a firm final decision was not possible. City Attorney Robert Flournoy stated that Carlisle Properties might want to leave the street closing set for Public Hearing and advise the City Manager if the Public Hearing should not be held.

Commissioner Louis Bronaugh stated that he attended the Planning and Zoning Commission meeting where a good response was obtained, and the City Commission response should be similar.

Mayor Garrison stated that if the City Commission agreed to sell the street to Carlisle Properties at an appraised price and Carlisle Properties did not exercise their option within a certain period of time, the street would not be closed. Mayor Garrison stated that the City Commission could agree to close the street subject to certain conditions and when money was paid to the City the deed to the property could be signed and approved. Mayor Garrison further stated that he could not foresee any problems being encountered with the City Commission approving the closing since Planning and Zoning Commission had stated that the street serves no special purpose.

#### 15. PRESENT AND FUTURE WATER NEEDS, DISCUSSED - FUTURE BUDGET CONSIDERATION

Mayor Garrison stated that a report in regard to the water needs of the City of Lufkin had been received in the past and Commissioner Pat Foley had requested that this item be placed on the agenda for consideration at this time.

Commissioner Pat Foley stated that one of the most important things this City Commission could do, would be to plan the water supply for the next 25 or 50 years. Commissioner Foley stated that at the present time the City does not have a firm plan for future water needs and previous work done on the water study should be continued. Commissioner Foley stated that consideration

had been given to bringing water from Sam Rayburn Lake, that a contribution of \$7,500 had been made to the Mud Creek Project, and he would like to see the Commission explore other possibilities to establish a better water plan for the future.

Commissioner Jack Gorden stated that it should be decided where the water supply would be obtained when the current water needs expand beyond the capacity of the present system.

In response by Commissioner Lynn Malone, Mayor Garrison stated that at one time the City of Diboll was in need of water and a study was conducted to see if the City of Lufkin could furnish them with water. Mayor Garrison stated that the City Commission decided not to pursue the plan after studies indicated the planning and cost of obtaining water from Sam Rayburn Lake were excessive. Mayor Garrison stated that the City of Lufkin has been paying for water rights at Sam Rayburn Lake since 1969 but the cost of bringing the water to the Lufkin area would be in the neighborhood of 20 to 25 million dollars. Mayor Garrison suggested that the City of Lufkin might look to obtaining water from upstream. Mayor Garrison stated that the Mud Creek Project might not come into fruition and a possibility exists that there is some usable water from Stryker Lake on the Angelina River in the amount of approximately 5 million acre feet. Mayor Garrison stated that the problem with Stryker Lake is that in the hot summer the watertable is very low and the City of Lufkin would have to build a reservoir to impound the water for use during those times. Mayor Garrison further stated that 5 million acre feet to supplement the current water supply would increase the timeframe for useful water greatly and there is possibility that this could be part of the Sam Rayburn Lake allocation. Mayor Garrison stated that this plan would bring the water to the head of the Lufkin water supply system, within 4 or 5 miles, and the gravity flow would bring the water into our system. Mayor Garrison stated that in order to obtain water from Stryker and Light Company, and there is a possibility that they would not be willing to sell the water because of their estimated future needs. Mayor Garrison stated that the 1970 water study had indicated that the City of Lufkin would need more water by 1980 but figures reflect that water consumption has increased very little.

Commissioner Louis Bronaugh stated that if other cities drill into the aquifer used by the City of Lufkin the level could be drawdown and there are no laws to prevent other cities from using our aquifer. Commissioner Louis Bronaugh stated that the City Commission might consider using Trout Lake as a storage for water from Stryker Lake.

Mayor Garrison stated that a reservoir would have to be installed at the Angelina River for Stryker water and the level of Trout Lake could not be raised without flooding the highway. Mayor Garrison stated that he was in favor of raising water rates substantially at the present time and establishing a reserve fund for use in obtaining an additional water supply in the future. Mayor Garrison further stated that the money in the contingency fund could be invested in a sinking fund and increase substantially in the years before it is needed. Mayor Garrison stated that if the City of Lufkin were forced to spend 20 to 25 million dollars on a water system the result would be very high water rates for the citizens of Lufkin. Mayor Garrison stated that a study had shown that most water rates in the Lufkin area have a \$12.00 minimum bill.

Commissioner Louis Bronaugh stated that he would like to request

that the City Staff do research into water rates in the surrounding areas. Mayor Garrison suggested that the City Staff make preliminary inquiries in regard to obtaining Stryker Lake water.

Commissioner Pat Foley stated that the City should hire professional help to consider possible sources of additional water and include the price in the 1984-1985 budget. Mayor Garrison stated that Billy Sims had made a thorough study of the Sam Rayburn water and at the present time he did not know of any other sources of water.

In response to question by Commissioner Jack Gorden, Mayor Garrison stated that Legislature would determine if the Mud Creek Project were constructed and that engineering plans are complete and ready for presentation to the Board of Water Resources by the Angelina and Neches River Authority. Mayor Garrison stated that the City has a fifty year lease on 28,000 acre feet in Sam Rayburn Lake.

Commissioner Percy Simond stated that it would cost the City of Lufkin 25 million dollars to bring Sam Rayburn water to the City of Lufkin.

Commissioner Pat Foley stated that because of the lengthy process to develop a water supply the City of Lufkin would benefit by beginning on the project early and that water was not a pressing need at the present time.

In response to question by Commissioner Jack Gorden, Mayor Garrison stated that St. Regis would have information regarding projections of future water needs and that formal talks had not been held with St. Regis in regard to using Kurth Lake as a pick-up point. Mayor Garrison stated that the position of St. Regis management regarding sharing water at the present time is not known. Mayor Garrison stated that he had spoken informally with Mr. McMann, president of St. Regis, who indicated that he would be happy to consider a joint effort with the City of Lufkin and chances were good that St. Regis would look favorably on the City of Lufkin utilizing Stryker water. Mayor Garrison stated that City Manager Westerholm should approach the individuals involved in regard to Stryker water.

In response to question by Commissioner Percy Simond, City Manager Westerholm stated that the budget should be available to the City Commission within two (2) weeks and same had been delayed because of a problem with the computer.

Mayor Garrison stated that the water study could be considered again in connection with the budget of next fiscal year and if City Manager Westerholm could obtain a possible cost of the Stryker water that would be helpful.

In response to question by Commissioner Louis Bronaugh, Mayor Garrison stated that a rate study of the surrounding area would be available.

16. MAURY STIVER INVOICES - APPROVED

Mayor Garrison stated that the City Commission now had for

DATE 7/17/84

PAGE 15

consideration two (2) invoices from Maury Stiver of Stiver Engineering, Incorporated regarding work done for the City of Lufkin during the month of June, 1984.

Commissioner Lynn Malone stated that he had understood from the workshop session at which Mr. Stiver was present that if the City of Lufkin wanted to terminate Mr. Stiver's project same could be done at any time. Commissioner Malone stated that he further understood that the City of Lufkin would retain Mr. Stiver to implement his proposed program. City Manager Westerholm stated that Mr. Stiver has not finished his work for the City of Lufkin and that he was being used for consultation and improvements to the physical plant as well as technical work in obtaining bids for equipment that is needed by the plant.

Mayor Garrison stated that Mr. Stiver had been engaged by the City of Lufkin to bring the Water Pollution Control Plant into compliance and recommend plant revisions and modifications. Commissioner Louis Bronaugh stated that if Mr. Stiver's work proves to be beneficial, the City of Lufkin might want to consider retaining him as a problem solver.

Commissioner Jack Gorden stated that he thought the study had been completed and from this point the construction phase of the project would begin.

Maury Stiver stated that in the past he had assisted the City with evaluations, made recommendations in general, conducted rate study evaluation, met with the Texas Department of Water Resources, and as long as the City requests services from his firm he would be willing to provide them. Mr. Stiver further stated that if his firm were not requested to do consulting work there would not be an invoice for that service.

In response to question by Commissioner Lynn Malone, Maury Stiver stated that while waiting for the sewage pumps and the belt filter press to be delivered, he was reviewing the drawings that would arrive within ten (10) days, evaluating electrical work that is going on at the plant right now, review bids for installation of the equipment, and respond to questions about those bids from contractors.

In response to question by Commissioner Jack Gorden, Mayor Garrison stated that the Texas Department of Water Resources and the Attorney General's Office have been informed regarding what the City of Lufkin is doing at the Water Pollution Control Plant and the City had been informed by knowledgeable individuals that a ruling from these two entities is not necessary before continuing with needed work as long as they are kept advised. City Attorney Flournoy stated that the Attorney General's Office and the Texas Department of Water Resources had told the City Staff that it will not inform the City of Lufkin whether the steps recommended will work.

In response to question by Commissioner Jack Gorden, Mayor Garrison stated that he had confidence in Mr. Stiver's recommendations because of his previous professional work, because Bobby Mott agrees with Mr. Stiver, and Jimmy Griffith of Griffith Engineers has indicated that it would help with the problem at the Water Pollution Control Plant. Commissioner Gorden stated that he understood that the City of Lufkin had to place their faith in someone but these recommendations were made by one man.



Mayor Garrison stated that one engineer had informed the Commission that it would take over 6 million dollars to get the City of Lufkin into compliance and Mr. Stiver had indicated that he could bring us into compliance with an expenditure of \$300,000. Mayor Garrison stated that he did not believe that Mr. Stiver's plans were just a temporary measure.

In response to question by Commissioner Percy Simond, Mayor Garrison stated that the City Commission had requested a guarantee from Jimmy Griffith that his plan would bring the City into compliance when he wanted to build a new plant at a cost of over 6 million dollars.

Commissioner Percy Simond stated that he was not opposed to approving Mr. Stiver's fee, but did have some reservations about where the belt and the sludge pumps should be purchased. Commissioner Simond stated that the City Staff should have the responsibility for the bids. Maury Stiver stated that the City Staff had received the bids, the bids were opened at City Hall and handled by the City Staff. City Manager Westerholm stated that bids were opened at City Hall and sent to Mr. Stiver for his recommendations.

Motion was made by Commissioner Percy Simond and seconded by Commissioner Jack Gorden that the two (2) invoices of Maury Stiver in the amount of \$3,544.52 be approved for payment. A unanimous affirmative vote was recorded.

Maury Stiver stated that the contract between his firm and the City does not have a statement that his fee is not to exceed a certain amount but he had given the estimate of \$48,000 to the City Commission based on what he believes the work would entail. Mr. Stiver stated that at the present time he had received approximately \$20,000 for consultation work and \$8,000 for the actual design. Mr. Stiver further stated that he has no control over the amount of work that is required as a consultant with the State and the EPA but his firm would only do what the City of Lufkin requested. Commissioner Percy Simond stated that in view of Mr. Stiver's comment the City of Lufkin does not have a guarantee in writing that Mr. Stiver's fee will not exceed the \$48,000. Mr. Stiver stated that he had given that figure to the City Commission and if it were required that he give a fixed price he would have to include contingencies.

In response to question by Commissioner Percy Simond, City Manager Westerholm stated that he had requested that Mr. Stiver attend tonight's City Commission meeting because he knew the City Commission would have questions regarding the bids and that Mr. Stiver had also brought bid information on installation of the pumps.

**17A. BID - APPROVED - SLUDGE PUMPS - SEWER TREATMENT PLANT - PUMP AND POWER EQUIPMENT COMPANY**

Mayor Garrison stated that bids had been requested and received for the purchase of two (2) activated sludge pumps for installation at the Water Pollution Control Plant.

City Manager Westerholm stated that Mr. Stiver had provided the City Commission with his recommendation that the base bid from

Pump and Power Equipment Company of Houston, Texas, in the amount of \$22,688 for Worthington pumps be approved.

Motion was made by Commissioner Percy Simond and seconded by Commissioner Louis Bronaugh that bid from Power and Pump Equipment Company of Houston, Texas, in the amount of \$22,688 be approved as presented. A unanimous affirmative vote was recorded.

17 B. BID - APPROVED - BELT FILTER PRESS - SEWER TREATMENT PLANT  
ASHBROOK-SIMON-HARTLEY

Mayor Garrison stated that bids had been requested and received for the purchase of a belt filter press for installation at the Water Pollution Control Plant.

City Manager Westerholm stated that Mr. Stiver had provided the City Commission with his recommendation that the base bid of Ashbrook-Simon-Hartley in the amount of \$76,559 and a special nylon coating for the rollers for an additional cost of \$3,718 be approved.

Motion was made by Commissioner Percy Simond and seconded by Louis Bronaugh that the base bid of Ashbrook-Simon-Hartley for the belt filter press and the special nylon coating be approved in the amount of \$80,277 as recommended by Maury Stiver. A unanimous affirmative vote was recorded.

Jimmy Griffith of Griffith Engineers stated that his initial reaction to the plan of Maury Stiver was that it had a possibility to succeed but he no longer believed that. Mr. Griffith stated that his 7.5 million dollar project included expansion of the plant and other modifications. Mayor Garrison stated that Maury Stiver had indicated that the City could be brought into compliance with his \$300,000 figure.

18. EXECUTIVE SESSION - PLANNING AND ZONING MEMBERS - TREE BOARD  
MEMBERS - TABLED

Mayor Garrison stated that an Executive Session had been scheduled for the City Commission meeting to consider appointments to the Planning and Zoning Commission and the Tree Board, but due to the late hour, if there were no objections from the City Commission Members he would like to have this item tabled until next meeting of the Commission. It was a consensus of opinion that the Executive Session should be tabled until the next meeting.

19. KU KLUX KLAN- USE OF CIVIC CENTER, DISCUSSED - RAILROAD CROSS  
INGS, DISCUSSED - SMALL CLAIMS COURT, DISCUSSED - ORDINANCES  
REGARDING UPKEEP OF PROPERTY, DISCUSSED - POLICE ENTRANCE  
EXAM, DISCUSSED - WORKSHOP BENEFITS MENTIONED

Commissioner Lynn Malone stated that if the City of Lufkin could not prevent the Ku Klux Klan from renting the Civic Center he would be interested in the development of an Ordinance to deny the Klan members entrance to the center if wearing hoods. Commissioner Malone stated that this is the first time the City of Lufkin could not find a way to prevent use of the Civic Center by an undesirable group, and he did not know if it was a lack of interest in the problem. Commissioner Malone stated that

he would like to go on record as inviting Congressman Charles Wilson to help the City of Lufkin to prevent this use of the Civic Center in the future.

Commissioner Pat Foley stated that if Congressman Wilson is interested in helping the City of Lufkin he should introduce legislation to prevent the Ku Klux Klan from meeting but he did not know how interested Congressman Wilson was or if it was for publicity.

Mayor Garrison stated that the entire City Commission feels the same as Commissioner Malone but a wise man once said that, "I vehemently disagree with what you say but will fight to the death for your right to say it." Mayor Garrison stated that if the City Commission desired to pass an ordinance preventing use of the Civic Center by the Ku Klux Klan he would join in it.

Commissioner Lynn Malone stated that if the City of Lufkin cannot prevent use of the Civic Center, an ordinance should be passed mandating that they come into the Center without their hoods and that six (6) other cities have passed ordinances to prevent Klan members from wearing hoods.

Mayor Garrison stated that the City Commission has an obligation to protect the Constitutional rights of every person. Commissioner Lynn Malone stated that it is not their right to come in with their faces covered.

City Attorney Flournoy stated that he did not advise the City Commission about policy, and he believed that the Ku Klux Klan was a despicable group, but under the Constitution they have a right to meet, the same as right that allows Black citizens to meet. City Attorney Flournoy stated that the problem is adopting a policy that is not discriminatory. City Attorney Flournoy stated that the people of Lufkin were outraged, but the law is very clear on the requirement that they be allowed to meet. City Attorney Flournoy stated that there was nothing that the City Commission could do, but the covering of their faces could be regulated by an ordinance. Commissioner Lynn Malone stated that he was convinced that the Ku Klux Klan could not be prevented from renting the Civic Center as an organization and no city or state has an ordinance to prevent that.

Mayor Garrison stated that suggestions by Commissioner Malone should be taken under consideration and City Attorney Flournoy might obtain some information regarding an ordinance to prevent covering of their faces and perhaps Congressman Wilson should be written in regard to what he can do on the matter.

Commissioner Percy Simond stated that he did not agree that the law was clear because the Supreme Court changes their mind every day. Commissioner Simond stated that he had been reading City Attorney Flournoy's law book which stated that you could deny rental of a building in the interest of public order and safety. Commissioner Simond stated that Congressman Wilson took a stand on the issue, but the Lufkin News also took a stand and they should be commended.

Commissioner Malone stated that he would like to be informed when the lights are to be turned out at the end of a meeting so that Commission members will not be left in the dark.

Commissioner Percy Simond stated that railroad crossings had been discussed by the City Commission on many occasions and he would like to see the City of Lufkin pass an ordinance much like that of the City of Houston regarding maintenance of railroad crossings.

Mayor Garrison stated that at Pershing and Angelina recently the lights at the railroad crossing were flashing and there was one railroad car a fourth of a mile down the track just sitting there and traffic was going through the gates because they felt there was no danger from the train. Mayor Garrison further stated that this is a very serious action and effort should be made to prevent the need for it by an unnecessary closed crossing.

In response to question by Commissioner Percy Simond, City Attorney Flournoy stated that the Small Claims Court is located at the Justice of the Peace's office.

In response to question by Commissioner Percy Simond, City Manager Westerholm stated that the City of Lufkin has an Ordinance requiring property owners to clean their property but has a problem with enforcement.

Commissioner Don Boyd requested information regarding the entrance test for the Lufkin Police Department. Civil Service Director Ann Griffin stated that the test would be held on July 19, 1984, and approximately 14 applications had been received for two position in the Police Department.

Commissioner Louis Bronaugh stated that at the present time he would like to go on record as saying that a workshop would have shortened tonight's four (4) hour meeting while providing for discussion of railroad crossings, Sewer Rate Ordinance, Ku Klux Klan, and Bobby Conner zone change request.

20. There being no further information for consideration, meeting adjourned at 9:00 p.m.



ATTEST:

*Ann Griffin*  
ANN GRIFFIN, CITY SECRETARY

*Pitser H. Garrison*  
PITSER H. GARRISON, MAYOR