

MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 17TH DAY OF NOVEMBER, 1987, AT 5:00 P.M.

On the 17th day of November, 1987, 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
Danny Roper	Commissioner, Ward No. 3
Pat Foley	Commissioner, Ward No. 4
Louis Bronaugh	Commissioner, Ward No. 6
Harvey Westerholm	City Manager
Brian Boudreaux	Assistant City Manager
Ron Wesch	Public Works Director
Robert Flournoy	City Attorney
Atha Stokes	City Secretary

being present, and

Jack Gorden, Jr.	Commissioner, Ward No. 5
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being absent when the following business was transacted.

1. Meeting was opened with prayer by Rev. Bob Lewis, Minister, First Assembly of God Church, Lufkin.

2. Mayor Garrison welcomed visitors present.

Mayor Garrison presented a copy of a Resolution, which was passed unanimously at the November 3, 1987 City Commission meeting in commemoration of the life of Oscar Brookshire, to Mrs. Dot Brookshire and Laurie and Lance Brookshire.

3. APPROVAL OF MINUTES

Minutes of meeting November 3, 1987 were approved on a motion by Commissioner Don Boyd and seconded by Commissioner Louis Bronaugh. A unanimous affirmative vote was recorded.

4. CONFIRMATION OF APPOINTMENT - FIRE CHIEF - KENNETH SNYDER

Mayor Garrison stated that City Manager Westerholm had submitted the name of Kenneth "Buzz" Synder as the new Chief of the Fire Department and was requesting that the City Commission confirm the appointment.

Motion was made by Commissioner Louis Bronaugh and seconded by Commissioner Pat Foley that appointment of Kenneth Snyder as the new Fire Chief for the City of Lufkin be confirmed as presented. A unanimous affirmative vote was recorded.

5. PUBLIC HEARING - EASEMENT CLOSING - O. R. DUE - ESTHER BOULEVARD AND DORIS DRIVE OFF BETTY DRIVE

Mayor Garrison stated that the next item for consideration was a Public Hearing to consider request for easement closing by O. R. Due covering property located off Betty Drive between Esther Boulevard and Doris Drive.

Mayor Garrison stated that minutes of the Planning and Zoning Commission reflect that this is a 10 foot easement between two lots and had been kept open for access to a proposed shopping center. Mayor Garrison stated that the Planning and Zoning Commission had

unanimously approved the application to have the easement released and recommended that the City Commission release the easement to Mr. Due.

In response to question by Mayor Garrison, City Attorney Bob Flournoy stated that the Planning and Zoning Commission had considered the property as an alley, and the City should be compensated like any other alley closing.

Mayor Garrison officially opened Public Hearing and recognized Mr. O. R. Due. Mr. Due stated that in 1958 when he purchased his lot in the Shearer Addition, he was told by the builders that an easement of 10' x 120' would be left as access to a proposed shopping center.

Mayor Garrison stated that it would need to be determined if the easement is dedicated as an easement or an alley. City Attorney Flournoy stated that the plat shows the property as an alley.

There was no opposition present.

Mayor Garrison closed Public Hearing due to lack of discussion.

6. ORDINANCE - APPROVED - SECOND READING - PERSONAL PROPERTY FINANCE CONTRACT

Mayor Garrison stated that the Commission now had for consideration Second Reading of Ordinance approving a Personal Property Finance Contract. Mayor Garrison stated that the City had entered into the agreement to borrow approximately \$750,000 to buy some needed equipment.

In response to question by Commissioner Percy Simond, City Manager Westerholm stated that he had talked with attorneys at Rauscher, Pierce and had been told that the computerized water system could be considered as personal property. City Attorney Flournoy stated that the system could not be included in the present contract.

Commissioner Simond stated that talking with the Public Works Department he was told that in one day there were 20 reported leaks in the same area.

Mayor Garrison stated that he would like for the City Manager to pursue the feasibility of financing the computerized water system through the Personal Property Finance Contract.

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

7. ENGINEERING FIRMS - TABLED - HERTY PARK

Mayor Garrison stated that the next item for consideration was the recommendation from the Parks and Recreation Director regarding the selection of an engineering services firm for Herty Park. Mayor Garrison stated that the City had received a grant from the Texas Parks and Wildlife Department for this project on a participating basis.

Mayor Garrison stated that the Parks and Recreation Department had received proposals from seven engineering firms to design the projects. Mayor Garrison stated that the proposals had been examined by Mr. Hannabas and Mr. Boudreaux, and Mr. Hannabas has made a recommendation that the firm of Everett Griffith and Associates be chosen as the engineer for the Herty Park project.

Commissioner Percy Simond stated that, in his opinion, Everett Griffith and Associates gets a lot of work from the City and he would

like to see one of the other engineering firms be given some consideration for this project. Commissioner Simond stated that Mr. Griffith's proposal was not the lowest proposal.

Mayor Garrison stated he personally felt an obligation to award the contract to the firm who submitted the lowest proposal. Mayor Garrison stated that Goodwin-Lassiter had submitted a proposal for \$8,800 and Everett Griffith and Associates proposal was for \$9,400.

Commissioner Don Boyd stated that the proposal from Goodwin-Lassiter was \$8,800 plus consultant's costs, printing, travel, phone and other direct costs, and it is not clear what the total cost will be. Commissioner Boyd stated that Everett Griffith and Associates' proposal was \$9,400 total. Commissioner Boyd stated that Goodwin-Lassiter will be utilizing the services of a Houston-based consultant.

Commissioner Foley stated that if a firm was selected at tonight's meeting, the Commission could authorize the City Manager to negotiate a price for the project and possibly set the price at \$8,800.

Commissioner Bronaugh stated that in the letter from Goodwin-Lassiter it appears that the \$8,800 figure is not the final figure.

Motion was made by Commissioner Louis Bronaugh and seconded by Commissioner Don Boyd that the proposal of Everett Griffith and Associates be selected as the engineering firm for the design plan and topographic plan for Herty Park.

Commissioner Simond stated that he was still concerned that there was only a difference of \$600 between the bid of Everett Griffith and Associates and Goodwin-Lassiter, and he wasn't convinced that the additional charges by Goodwin-Lassiter would total \$600.

Commissioner Simond stated that he was of the opinion that the State required that the contract be awarded to the low bid.

City Attorney Flournoy stated that professional services are not considered in the bidding process.

Commissioner Bronaugh stated that the staff had done a study approximately six months ago compiling a list of how much money the City was spending with each engineer, and he would like for a copy of this information to be made available to the Commission before next meeting.

The following vote was recorded: Aye - Commissioners Danny Roper, Louis Bronaugh, Don Boyd. Nay - Commissioners Pat Foley, Percy Simond, Mayor Garrison.

Mayor Garrison stated that motion failed by a tie vote of 3 to 3.

In response to question by City Manager Westerholm, Parks and Recreation Director Don Hannabas stated that since the project was to be completed by July, 1989, in his opinion, a selection would not have to be made at tonight's meeting.

Mayor Garrison stated that perhaps City Manager Westerholm could clarify some of the questions the Commission has and present the answers at the next meeting.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Louis Bronaugh that item be tabled until next meeting of the Commission. A unanimous affirmative vote was recorded.

8. ORDINANCE - APPROVED - FIRST READING - EASEMENT CLOSING -

O. R. DUE - BETWEEN ESTHER BOULEVARD AND DORIS DRIVE OFF BETTY DRIVE

Mayor Garrison stated that the next item for consideration was First Reading of Ordinance on easement closing off Betty Drive between Esther Boulevard and Doris Drive.

Motion was made by Commissioner Pat Foley and seconded by Commissioner Louis Bronaugh that Ordinance be approved on First Reading and that determination of property as an easement or an alley be presented at Second Reading. A unanimous affirmative vote was recorded.

9. ORDINANCE - APPROVED - FIRST READING - ZONE CHANGE REQUEST - JENNY AND JIMMY HORTON - DENMAN AND CHARLTON - RS TO C

Mayor Garrison stated that the Commission would now consider First Reading of Ordinance for Zone Change Request by Jenny and Jimmy Horton covering property located at the corner of Denman and Charlton from Residential Small to Commercial.

Mayor Garrison stated that this request had been unanimously approved by the Planning and Zoning Commission.

There was no opposition present.

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

10. ORDINANCE - APPROVED - FIRST READING - PRE-CONSTRUCTION PERIOD AGREEMENT - LAKE EASTEX PROJECT - ANRA

Mayor Garrison stated that the next item for consideration was First Reading of an Ordinance authorizing execution of a pre-construction period agreement for the Lake Eastex project with Angelina and Neches River Authority.

In response to question by Mayor Garrison, Charles Thomas, Executive Director of ANRA, stated that the cost to the City to reserve 7 1/2% of water in Lake Eastex would be \$5,216 a year.

Motion was made by Commissioner Danny Roper and seconded by Commissioner Don Boyd that Ordinance be approved on First Reading as presented. A unanimous affirmative vote was recorded.

Mayor Garrison stated that the City had received a letter from the City of Whitehouse wanting to acquire the rights to 2% of the lake water. Chuck Thomas stated that the City of Whitehouse had contacted all cities who owned 5% or more of the water rights to Lake Eastex and so far had not received a positive response. Mr. Thomas stated that whether or not the City of Lufkin wished to sell some of their rights, the City of Whitehouse would like a response.

11. ORDINANCE - APPROVED - FIRST READING - POLICE CLASSIFICATION PLAN

Mayor Garrison stated that the Commission would now consider First Reading of an Ordinance adopting a Police Classification Plan as recommended by the Civil Service Commission.

In response to question by Commissioner Foley, Civil Service Director Brian Boudreaux stated that there are some variances in the law regarding discipline and termination of classified versus unclassified positions, and that classified personnel actually have more protection.

City Attorney Bob Flournoy stated that updating of the Classification Plan should be done annually, and, in his opinion, the best time to do so would be at the time the budget is approved.

Motion was made by Commissioner Pat Foley and seconded by Commissioner Don Boyd that First Reading of Ordinance adopting Police Classification Plan as recommended by Civil Service Commission be approved as presented. A unanimous affirmative vote was recorded.

12. ORDINANCE - APPROVED - FIRST READING - REPEALING CHAPTER 9 OF CODE OF ORDINANCES - REPEALING PERSONNEL RULES FOR EMPLOYEES OF FIRE AND POLICE DEPARTMENT FOR THE CITY OF LUFKIN, TEXAS, 1961

Mayor Garrison stated that the Commission now had for consideration First Reading of Ordinance repealing Chapter 9 of the Code of Ordinances and repealing Personnel Rules for Employees of the Fire and Police Departments of the City of Lufkin, Texas, 1961, as recommended by the Civil Service Commission due to the fact that State law, 1269M, as codified by Section 143 of the Local Government Code, governs the operation of the Police and Fire Departments.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Louis Bronaugh that First Reading of Ordinance repealing Chapter 9 of the Code of Ordinances and repealing Personnel Rules for Employees of the Fire and Police Departments of the City of Lufkin, Texas, 1961, as recommended by the Civil Service Commission be approved as presented. A unanimous affirmative vote was recorded.

13. ROOFING CONTRACT - APPROVED - OLD CITY HALL BUILDING - CARNEY ROOFING COMPANY

Mayor Garrison stated that the next item for consideration was approval of roofing contract for the old City Hall building.

Mayor Garrison stated that the roof on the old City Hall building has been deteriorating, and ANRA, who occupies the building, has agreed to pay half the cost of the re-roofing. Mayor Garrison stated that City Manager Westerholm is recommending that the City pay half of the cost at \$4,574.

Mayor Garrison stated that through some hard work on the part of the City Attorney in getting the insurance company to pay a portion of the defense of a 1984 lawsuit, the City will be reimbursed in excess of \$25,000. Mayor Garrison stated that the City Manager is recommending that the City's half of the re-roofing cost be taken from these funds.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Louis Bronaugh to accept the recommendation of ANRA that Carney Roofing Company be accepted as the low bid and that funds be taken from the reimbursement of insurance refund.

Commissioner Pat Foley stated that he had reservations about this particular firm since he had a bad experience with them concerning a warranty which was not any good.

Mr. Thomas stated that the International EPDM rubber roof will have an International 15 year warranty covering defects in materials and a Carney Roofing Company five year warranty covering defects in workmanship.

The following vote was recorded: Aye - Commissioners Danny Roper, Louis Bronaugh, Don Boyd, Percy Simond, Mayor Garrison. Nay - Commissioner Pat Foley

Mayor Garrison declared motion carried by a vote of 5 to 1.

14a. BIDS - FIRE DEPARTMENT - STEP VAN - APPROVED - ANGELINA CHEVROLET - HIGH CUBE VAN - REJECTED

Mayor Garrison stated that the Commission would now consider bids for vehicles to be used in the Fire Department.

Mayor Garrison stated that \$27,500 had been budgeted for a step van and the only bid received was from Angelina Chevrolet in the amount of \$18,831.16.

Acting Fire Chief Brown stated that the van will be used as a command post for hazardous materials.

Motion was made by Commissioner Pat Foley and seconded by Commissioner Don Boyd that bid of \$18,831.16 from Angelina Chevrolet be accepted as presented. A unanimous affirmative vote was recorded.

Commissioner Foley stated that he would like to see the difference from what was budgeted and the actual bid amount placed in the Contingency Fund.

City Manager Westerholm stated that this van was not being purchased from funds in the budget, but was included in the Personal Property Finance Contract.

Chief Brown stated that additional money will be needed to buy lights for this vehicle.

Chief Brown stated that he had also received bids for a high cube van which would be used as a rescue vehicle. Chief Brown stated that he was recommending that the City not accept the low bid because it did not have the engine that was specified. Chief Brown stated that he needed a 7.3 diesel engine for speed since this is the vehicle that takes the jaws of life to accidents.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Pat Foley that low bid of \$15,883.35 from Angelina Chevrolet for high cube van be rejected and vehicle rebid. A unanimous affirmative vote was recorded.

14b. BID - APPROVED - FIRE DEPARTMENT - AMBULANCE - SOUTHWESTERN PROFESSIONAL VEHICLES

Mayor Garrison stated that the Commission would now consider bids for an ambulance to be used by the Fire Department.

Acting Chief Brown stated that he was recommending that the City accept the bid from Southwestern Professional Vehicles for the Wheel Coach. Chief Brown stated that this is not the low bid, but the Fire Department has used the Wheel Coach for the last four ambulances they have purchased and have had good service from the vehicles. Chief Brown stated that this vehicle will be over the budgeted amount of \$31,500.

Motion was made by Commission Don Boyd and seconded by Commissioner Louis Bronaugh that bid of \$33,095 from Southwestern Professional Vehicles be accepted as the best bid. A unanimous affirmative vote was recorded.

14c. BID - APPROVED - JAWS OF LIFE - FIRE DEPARTMENT - RUSSELL BROS.

Mayor Garrison stated that the Commission would now consider bids for the Jaws-of-Life for the Fire Department.

Acting Chief Brown stated that he was recommending that the City

accept the bid from Russell Bros. in the amount of \$9,950 be accepted as the best bid.

Motion was made by Commissioner Louis Bronaugh and seconded by Commissioner Don Boyd that bid from Russell Brothers in the amount of \$9,950 be accepted as the best bid. A unanimous affirmative vote was recorded.

14d. BID - APPROVED - FIRE HOSES - FIRE DEPARTMENT - CASCO INDUSTRIES

Mayor Garrison stated that the Commission now had for consideration fire hoses for the Fire Department.

Acting Chief Brown stated that he recommended the low bid from Casco Industries in the amount of \$11,185.

In response to question, Chief Brown stated that old fire hoses were given to volunteer fire departments in the area.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Louis Bronaugh that bid of Casco Industries in the amount of \$11,185 be accepted as the lowest and best bid. A unanimous affirmative vote was recorded.

14e. BID - APPROVED - RE-ROOFING FIRE STATION NO. 1 - CARNEY ROOFING COMPANY

Mayor Garrison stated that the next item for consideration was for re-roofing of Fire Station No. 1.

City Manager Westerholm stated that architect Jerry Hill had designed the new roof for Fire Station No. 1, and it was similar to the roof on the new Federal Building. City Manager Westerholm stated that the Fire Station had a bad problem with leaks. Jerry Hill stated that the internal gutters had been replaced with copper gutters with a rubber liner.

Mayor Garrison stated that the low bid from Carney Roofing was \$25,675 and is \$9,675 over the budget. City Manager Westerholm stated that \$16,000 had been budgeted for maintenance and repairs on the Central Fire Station and was supposed to include roofing.

In response to question by Commissioner Pat Foley, Mr. Hill stated that the existing roof will be removed, but the built-up roof will be left and insulation placed on top of it before the new roof is installed.

In response to question by Commissioner Foley, Mr. Hill stated that there was a 10-year warranty on the material and 10-year warranty on labor. Mr. Hill stated that there is only a two-year warranty on the metal roof.

Motion was made by Commissioner Louis Bronaugh and seconded by Commissioner Don Boyd that bid of Carney Roofing in the amount of \$25,675 be accepted as the lowest and best bid.

In response to question by Commissioner Louis Bronaugh, City Manager Westerholm stated that he had requested Mr. Hill to submit a bid on the roof because of the complicated type of roof on the Fire Station.

In response to question by Commissioner Percy Simond, City Manager Westerholm stated that Mr. Hill's fee would be paid out of the maintenance for the Fire Department. City Manager Westerholm stated an invoice had not been received from Mr. Hill for the design of the roof, but it should be 10 or 11% of the cost of the job.

In response to statement by Commissioner Simond, City Manager Westerholm stated that 10% of the budgeted amount of \$16,000 would have been within the limits of his authority.

In response to question by Mayor Garrison, Mr. Hill stated that he had gone over to the Fire Station and analyzed the building as to what was there and how to put a roof on that would last as long as the last one. Mr. Hill stated that the metal roof was the most appropriate type of roof for the slope part. Mr. Hill stated that asphalt or fiberglass shingles could be used, and it would be less costly, but the roof would not last longer than 10-12 years. Mr. Hill stated that the roof he is proposing should last for 20 years.

Mayor Garrison called for the vote. A unanimous affirmative vote was recorded.

14f. BIDS - APPROVED - VEHICLES - CITY BUDGET - WATER COLLECTIONS, WATER DISTRIBUTION, SEWER DISTRIBUTION - PERSONAL PROPERTY FINANCE CONTRACT: INSPECTIONS, STREET DEPARTMENT, GARAGE DEPARTMENT, PARKS AND RECREATION DEPARTMENT, FIRE MARSHALL: CITY BUDGET

Mayor Garrison stated that the Commission now had for consideration bids for vehicles to be used in various City departments.

Mayor Garrison stated that bids had been received for two sedans for the Inspections Department, two pickup trucks and one dump truck for the Street Department, two pickups for the Garage, one pickup for the Parks and Recreation Department and a 3/4 ton wagon for the Fire Marshall, and the low bids totalled \$104,711.19.

In response to question by Commissioner Simond, Public Works Director Ron Wesch stated that the 1/2 ton pickup used by the Water Department was for repairing meters and the economy pickups were used by meter readers.

In response to question by Commissioner Simond, David Cochran stated that the basic specifications were for the sedans and were inadvertently placed in the packet. Mr. Cochran stated that power windows, inside deck, and cruise control had been deleted from the specifications.

Mayor Garrison stated that before going out for bids for vehicles again, it would be a good idea for the specifications to be submitted to the City Commission.

In response to question by Commissioner Foley, Fire Marshall Roy Carrell stated that he had used a sedan for quite a few years and could continue to do so, but he felt that it would be better for his camera, film and other equipment if he didn't have to keep them in the trunk. Mr. Carrell stated that, in his opinion, the suburban vehicle would also be a help in emergency runs. Mr. Carrell stated that his present vehicle is a 1979 model.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Louis Bronaugh that low bid of \$104,711.19 for vehicles to be purchased through the Personal Property Financing Program be accepted as the lowest and best bids.

The following vote was recorded: Aye - Commissioner Danny Roper, Louis Bronaugh, Percy Simond, Don Boyd, Mayor Garrison. Nay - Commissioner Pat Foley.

Mayor Garrison stated that motion carried by a vote of 5 to 1.

Commissioner Foley stated that he had voted against the motion because, in his opinion, \$14,939.82 was not warranted for the purchase of the suburban vehicle for the Fire Department. Commissioner Foley stated that he was in agreement with the remainder of the vehicles.

Mayor Garrison stated that the Commission now had for consideration vehicles purchased directly through the City budget. Mayor Garrison stated that the vehicles included a 1/2 ton pickup and an economy pickup for Water Collections, a 1/2 ton pickup and a 3/4 ton pickup for Water Distribution, and a 3/4 ton pickup with utility body for Sewer Distribution.

Mayor Garrison stated that \$65,000 had been budgeted for these vehicles and the low bids totalled \$56,027.97.

Motion was made by Commissioner Pat Foley and seconded by Commissioner Don Boyd to accept the low bids of \$56,027.97 for vehicles purchased through the City Budget and balance placed in the Contingency Fund. A unanimous affirmative vote was recorded.

14g. BID - APPROVED - PIPE - FARM ROAD 819

Mayor Garrison stated that the next item for consideration was bid on pipe and material for FM 819.

City Manager Westerholm stated that this item was not budgeted, but that the Highway Department had required the City to relocate approximately 1600' of 8" water line on College Drive.

City Manager Westerholm stated that funds to pay for the pipe and material will have to come out of unencumbered funds from the Water and Sewer Fund.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Danny Roper that bid of \$13,393.58 from Utility Supply be accepted as the lowest and best bid and that budget be amended by taking funds from unencumbered Water and Sewer Fund. A unanimous affirmative vote was recorded.

14h. BID APPROVED - PARKS DEPARTMENT - ROTARY MOWER (PINEY WOODS TRACTOR) - FLAIL MOWER (PINEY WOODS TRACTOR) - DISC HARROW (W. A. DuBOSE)

Mayor Garrison stated that the next item for consideration was mowers for the Parks Department.

Parks and Recreation Director Don Hannabas stated that he was recommending that the bid of Piney Woods Tractor for the Mott Model 88 flail mower in the amount of \$2,750 be accepted as the best bid. Mr. Hannabas stated that \$3,500 had been budgeted for this item.

Mr. Hannabas stated that he was recommending that the bid of Piney Woods Tractor for the Sidewinder GB7 RCL rotary mower in the amount of \$1,825 be accepted as the best bid. Mr. Hannabas stated that this item was not in the budget.

Mr. Hannabas stated that he was recommending that the bid of W. A. DuBose for the disc harrow in the amount of \$1,043 be accepted as the best bid. Mr. Hannabas stated that \$2,000 had been budgeted for this item.

Motion was made by Commissioner Pat Foley and seconded by Commissioner Danny Roper that bid from Piney Woods Tractor for flail mower in the amount of \$2,750, the bid from Piney Woods Tractor for rotary mower in the amount of \$1,825, and the bid from W. A. DuBose for disc harrow in

the amount of \$1,043 be accepted as the best bids. A unanimous affirmative vote was recorded.

14i. BID - APPROVED - TYPEWRITERS - POLICE DEPARTMENT - PLANNING & ZONING DEPARTMENT - ACCOUNTING - PARKS AND RECREATION - PERSONNEL

Mayor Garrison stated that the Commission now had for consideration bids for typewriters to be used in the Police Department, Planning and Zoning Department, Accounting, Personnel, and Parks and Recreation.

Motion was made by Commissioner Don Boyd and seconded by Commissioner Danny Roper to accept the low bids as listed for the typewriters. A unanimous affirmative vote was recorded.

15. ORDINANCE - APPROVED - FIRST READING - POLICE DEPARTMENT - SALARY INCREASE

Mayor Garrison stated that the Commission now had for consideration a petition submitted on behalf of the Police Department in which salary raises are being requested. Mayor Garrison stated that the petition listed a schedule of minimum salaries they expected (approximately \$300 a month) to be effective February 1, 1988. Mayor Garrison stated that the petition had been signed by the required number of people and that one of the election dates available is January 16, 1988. Mayor Garrison stated that it was the obligation of the City Commission under the law to call an election 65 days from the date the petition is submitted. Mayor Garrison stated that the City Attorney has provided an Ordinance calling the election, designating six polling places and providing for absentee voting.

In response to question by Mayor Garrison, City Attorney Flournoy stated that the wording for the ballot was included in the petition and would include the classification of the police officers and the monthly salary.

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

In response to question by Commissioner Foley, City Secretary Atha Stokes stated that she had personally verified all the signatures on the petition.

In response to question by Commissioner Foley, City Manager Westerholm stated that the staff would have to see what funds were available from the Contingency Fund in order to finance the election, and that some items requested in the budget might have to be cancelled.

In response to question by Commissioner Foley, City Manager Westerholm stated that a three cent (3¢) tax rate increase would cover the approximate \$210,000 raise for the fiscal year. Mayor Garrison stated that taxes could not be increased until October of next year.

Commissioner Foley stated that he had heard that the Fire Department was also circulating a petition for a salary increase.

In response to question by Commissioner Roper, City Manager Westerholm stated that he would estimate that it would cost under \$1,000 to hold a special election.

16. RIGHT-OF-WAY ACQUISITION - APPROVED - WHITEHOUSE ROAD - HERRINGTON PROPERTY

Mayor Garrison stated that the next item for consideration was acquisition of right-of-way on Whitehouse Road. Mayor Garrison stated that the Highway Department is interested in making some changes at the intersection of Whitehouse Road and Rosedale Drive to make provision for an underpass at Whitehouse Road and it is necessary that the right-of-way be widened to accommodate that plan. Mayor Garrison stated that it would require the City to purchase a little more than one-half acre at a cost of \$7,905. Mayor Garrison stated that Mr. Herrington has agreed to the appraised market value of the property.

Motion was made by Commissioner Danny Roper and seconded by Commissioner Don Boyd authorizing the City Manager to acquire the right-of-way for Whitehouse Road at the current appraised market value of \$7,905. A unanimous affirmative vote was recorded.

17. LONG TERM LEASE AGREEMENT - APPROVED - MUSEUM OF EAST TEXAS

Mayor Garrison stated that the Commission would now consider a request from the Museum of East Texas for a long term lease agreement of City property.

Mayor Garrison recognized James Haley, President of the Museum, in representation of the request. Mr. Haley stated that the Museum of East Texas is in the process of beginning a building program to improve and enlarge their facilities. Mr. Haley stated that in order to become an accredited museum with the American Association of Museums, they needed to have better exhibit space with appropriate security and climatic controls. Mr. Haley stated that the investigator for the Association did not feel that the Museum's current lease arrangement with the City was adequate for accreditation.

Mr. Haley stated that the Museum would like to build a new addition on Second Street facing the Civic Center on property currently owned by the City. Mr. Haley stated that the building will cost approximately one million dollars.

Mr. Haley stated that the Museum will continue to use the old St. Cyprian's Church facility for offices and storage.

Mr. Haley stated that he was requesting a 50-year lease for the facility as opposed to a year-to-year lease.

In response to question by Commissioner Foley, Mr. Haley stated that a detailed drawing of the facility was not available at this time, but that the facility would fit in with the existing building.

Mr. Haley stated that there are approximately 35 parking spaces behind the old sanctuary building, but most people park at the Civic Center.

In response to question by Commissioner Foley, Mr. Haley stated that the lease could be shorter than the 50 year lease he had initially requested.

Commissioner Foley stated that the City had purchased additional property north of this site with the thought of building a Fine Arts Facility at some further date. Mayor Garrison stated that since the City has acquired the Gipson property there would be adequate space to construct a Fine Arts Building, and the addition of the new museum facility would be a distinct asset.

In response to question by Commissioner Foley, Mr. Haley stated that a 25 year lease would be sufficient.

In response to question by Mayor Garrison, Mr. Haley stated that, in his opinion, the building would be completed in two years.

Motion was made by Commissioner Pat Foley and seconded by Commissioner Don Boyd that the City enter into a 25 year lease agreement with the Museum of East Texas contingent upon working out terms and conditions to be brought back to the City Commission for approval.

Commissioner Louis Bronaugh stated that he would have to recuse himself from voting as he is a trustee of the Museum.

Mayor Garrison declared that motion carried.

18. STATE DEPARTMENT OF HIGHWAYS AND PUBLIC TRANSPORTATION - PROJECTS
SELECTED FOR URBAN SYSTEM PROGRAM

Mayor Garrison stated that the Commission would now consider a request of the State Department of Highways and Public Transportation to identify recommended projects for urban system approval.

Mayor Garrison recognized Mr. Walker of the State Highway Department. Mr. Walker stated that the Federal Highway Act extended the Urban System program, which is one of many programs of the Highway Department. Mr. Walker stated that the City has utilized this program before with Paul Avenue.

Mr. Walker stated that he was before the Commission asking for recommendations for projects that the City would like to have. Mr. Walker stated that there are other urban areas within the District that are in competition for these funds. Mr. Walker stated that in addition to Lufkin, the district includes Nacogdoches, Center, Crockett and Diboll.

Mr. Walker stated that for projects that are off of the Highway system the City would be responsible for all the cost of right-of-way, utility adjustments, curb and gutter and storm sewers.

Mr. Walker stated that the Highway Department has had a policy change and if the project is on the Highway system, curb and gutter would be funded from the Highway Department's program fund.

Mr. Walker stated that projects that would be eligible for submission would be the extension of Paul Avenue, widening of Denman Avenue from South First toward Timberland or improving Feagin Drive out to the Loop.

Mr. Walker stated that the Highway Department had approximately two million dollars for this project.

In response to question by Mayor Garrison, Mr. Walker stated that recommendations would have to be submitted by December 1st. Mr. Walker stated that since five areas will be submitting recommendations, it is a possibility that none of the money will be spent in Lufkin.

In response to question by Commissioner Foley, Mr. Walker stated that the Highway Department's Chief Engineer will prepare cost estimates for the projects.

Commissioner Foley stated that he would like to see the widening of Denman Avenue and Paul Avenue extended out to the Loop given some consideration.

Commissioner Don Boyd stated that Martin Luther King Drive is very narrow and widely traveled and he would strongly recommend that this street be given some consideration.

Commissioner Foley stated that a lot of people cut through on Tulane to avoid the construction at the Loop and 59, and since it is a very narrow street, he would like to see it included as one of the possible locations for the project.

Commissioner Percy Simond stated that he would agree that some of the streets perhaps need more work than others, and he would like to see consideration given to Paul Avenue, especially the narrow bridge that is west of Timberland Drive.

Commissioner Simond stated that some consideration should be given in the determination of the projects that this is the largest City and largest County and more taxes are paid here.

In response to question by Commissioner Danny Roper, Public Works Director Ron Wesch stated that the projects recommended by the Comprehensive Master Plan were:

- 1) Martin Luther King Drive from Abney to the Loop
- 2) Paul Avenue extension from the end of Lubbock to Timberland
- 3) Paul Avenue from First Street to Timberland
- 4) Chestnut from Atkinson to Lufkin Avenue
- 5) Feagin Drive extending from Pershing to the Loop
- 6) Tulane from Timberland Drive to Harmony Hill

Mr. Walker stated that part of the State highways are on the Urban System and the advantage to selecting a project on the States numbered systems is that the Highway Department would pick up all the curb and gutters and storm sewers.

In response to question by Mayor Garrison, Mr. Walker stated that he would prefer that the City prioritize the projects. Mayor Garrison stated that since everyone would have their own particular preference in selecting a project, he would like to submit the entire list of projects for the Highway Departments consideration and for the City's further consultation with the Highway Department.

Commissioner Foley stated that the map did not include that portion of Tulane that is worse as far as narrowness and curves, from Harmony Hill to Brentwood.

Commissioner Foley stated that as far as his Ward is concerned he would rather see that section of Tulane outside of the Loop improved instead of that portion inside the Loop at this time. Commissioner Foley stated that he would be willing to have the Highway Department make a traffic count and the portion that is most heavily traveled be improved.

Motion was made by Commissioner Louis Bronaugh and seconded by Commissioner Don Boyd that the projects as designated on the map identifying the eligible streets under the urban system program be submitted to the State Highway Department by the City. A unanimous affirmative vote was recorded.

19. AMENDMENT - DISCUSSED - DOG ORDINANCE - VICIOUS DOG REGULATION

Mayor Garrison stated that it had been suggested by some of the members of the Commission that there is a good deal of interest in providing a more stringent Dog Ordinance in the community.

Mayor Garrison stated that the Commission has been requested to consider the possibility of tightening up the Dog Ordinance.

City Attorney Bob Flournoy stated that the City has an existing Ordinance which provides that no person shall maintain or harbor

a vicious dog. Mr. Flournoy stated that it would help if the City had the authority to destroy a vicious animal. Mr. Flournoy stated that it would also help if the City could include in that Ordinance the authority to prohibit a person having more than three dogs and if they do have more than that, to classify it as a kennel and put other requirements on them. Mr. Flournoy stated that the Ordinance could require registration of all dogs and that all dogs be restrained at all times either behind a fence or on a leash.

Mr. Flournoy stated that the City can only fine someone for an offense and cannot put them in jail. Mr. Flournoy stated that the first offense is a minimum of \$5 and a maximum of \$20, and perhaps these fines could be increased. Mr. Flournoy stated that people could be encouraged to file where vicious dogs are concerned in the County Court at law where they have the authority not only to destroy the animal but also to incarcerate the individual.

In response to question by Mayor Garrison, City Attorney Flournoy stated that the legislature just passed Section 42.12 of the Penal Code which defines vicious conduct as being when there is an attack made by the dog on a person in which the dog initiated continued physical contact and fails to retreat, the attack resulted in bodily injury to the person, and the attack was unprovoked and the attack did not occur in a pen or other enclosure in which the dog was kept. Mr. Flournoy stated that the problem with the ordinance that the legislature has passed is that you obviously have someone bitten before anything can be done about the dog. Mr. Flournoy stated that if a person can prove that the attack was unprovoked and resulted in bodily injury then the owner can be required to have at least \$100,000 in liability insurance and restrain the dog.

Mr. Flournoy stated that, in his opinion, the City's ordinance is not as strong as it should be and there are some areas he would like to amend controlling and dealing with animals. Mr. Flournoy stated that he had been working with Cathy Clark, the Animal Control Officer, and trying to come up with an ordinance with more strength in it. Mr. Flournoy stated that he had looked at ordinances from five or six other states and the problem he had found was that they permit the City to file on a person not just for a fine but also permits the City to actually put the person in jail. Mr. Flournoy stated that the biggest problem the City is having is that people are not paying their fines.

Mr. Flournoy stated that he would also like to put into the ordinance provision for picking up a dog that is considered to be vicious and have the authority to hold that dog until the complaint is finalized.

Mr. Flournoy stated that he would have a more comprehensive ordinance available to the Commission at the next council meeting. Mr. Flournoy stated that, in his opinion, the citizens of Lufkin do not have the kind of protection they should have.

Commissioner Boyd stated that the ordinance needs to be enforceable.

Commissioner Simond stated that he would like to see a provision in the ordinance where the animal could be destroyed, and the fine raised to a maximum of \$200.

In response to question by City Attorney Flournoy, Cathy Clark stated that the City requires that when a dog is picked up, it is held for five days. Mr. Flournoy stated that the time frame of the confinement should be shortened.

In response to question by City Attorney Flournoy, Ms. Clark stated that when an animal that is picked up is over three months old, the owner must show proof of rabies vaccination by a licensed vet.

Ms. Clark stated that if the dog has not been vaccinated, the owner has to pay for the vaccination, \$3.50 per day boarding fee and \$12 pickup fee and any charge for fines filed at Municipal Court by the Animal Control Officers.

In response to question by City Attorney Flournoy, Ms. Clark stated that she does file charges on dog owners who allow their dogs to run at large.

In response to question by Commissioner Foley, Ms. Clark stated that the way the Ordinance is written she must actually see the dog off the premises. Ms. Clark stated that the suggested revision she has given to the City Attorney is that all dogs must be restrained.

Ms. Clark stated that other municipalities raise the impoundment fee for repeated offenders.

Commissioner Simond stated that, in his opinion, vicious dogs should be destroyed, and not released once they have been picked up, to go back and bite someone else.

In response to question by Commissioner Bronaugh, Ms. Clark stated that the Humane Society facilities had been expanded, but the number of employees had not been increased. Ms. Clark stated that presently there are three animal care attendants and each of these attendants have to be off two days a week, which means that an Animal Control Officer must stay in in the mornings to help get cleaned up before the shelter can open up at 10:00 A.M. Ms. Clark stated that there are usually between 75 and 105 dogs at the shelter and numerous cats. Ms. Clark stated that in 1979 the shelter took in approximately 3,500 animals, and this year it may well be in excess of 7,000 animals.

In response to question by Commissioner Bronaugh, Ms. Clark stated that board fee and pickup fees were the only sources of revenue coming into the shelter. Ms. Clark stated that this year Board fees were around \$3,000 and pickup fees around \$900. Ms. Clark stated that if the City could get the veterinarians to serve as deputy licensees, people could get their dog license at the same time they had their dog vaccinated for rabies.

Ms. Clark stated that the shelter implements a rabies vaccination clinic for a reduced rate. Ms. Clark stated that it is a State requirement that all dogs be vaccinated for rabies, but that the dogs were not wearing their tags. Ms. Clark stated that between August 21 and November 11, one hundred forty-seven dogs were picked up and only eight were wearing tags.

In response to question by Commissioner Bronaugh, Ms. Clark stated that the shelter is not at this time in compliance with the Rabies Eradication Law of 1981. Ms. Clark stated that a local health authority should be designated to investigate bite cases and rabies suspects in the City. Commissioner Bronaugh stated that, in his opinion, some thought should be given to seriously enforcing the existing laws.

In response to question by Commissioner Foley, Ms. Clark stated that Animal Control Officers only respond to calls within the City, but that the City of Huntington, the City of Diboll and Angelina County Rabies Control bring all their animals to the shelter because it is a certified quarantine center. Ms. Clark stated that the citizens who own animals in the County are responsible for paying the board fee of \$3.50 per day for ten days, and if the citizen doesn't pay, the County is billed \$35 for the confinement. Ms. Clark stated that the Cities of Huntington and Diboll pay \$11.00 per animal as they are only held for three days, in accordance with the rabies law. Ms. Clark stated that the City of Lufkin animals are being held for five days.

Commissioner Foley stated that there have been instances on Bynum and on Moffett Road recently, and he would like to know if the changes the City Attorney is talking about would take these cases into consideration. City Attorney Flournoy stated that the changes would allow something to be done about the dog. Mr. Flournoy stated that if the City could put a person in jail there would be some compliance, but that you could not jail someone for a non-jailable offense.

In response to question by Commissioner Roper, City Attorney Flournoy stated that the City does not have the authority by State law to impose any punishment other than by fine, and that cannot exceed \$200.

City Attorney Flournoy stated that the City might have to set up some guidelines to determine what makes a person indigent.

City Attorney Flournoy stated that he has a responsibility in his opinions and recommendations to try and protect the City from liability, and he has grave concern about making a decision that a person is indigent.

Commissioner Foley stated that he would like to find out what other cities are doing, and he would like to see some people being jailed.

In response to question by Commissioner Foley, City Attorney Flournoy stated that Mr. Giles on Moffett Road has been ordered by the Judge to get rid of some of his dogs. Mr. Flournoy stated there have been some fines and others are outstanding.

Terry Clark, County Investigator, stated that Mr. Giles has until Monday to get the dogs out of Anglelina County. Mr. Clark stated that Mr. Giles had sixteen dogs and now has three.

Mr. Clark stated that there is a specific section of the Code of Criminal Procedures that applies to Municipal Courts and Justice of the Peace Courts which states that the Judge can put a person in jail for not paying their fine. Mr. Clark stated that the law also states that if a person cannot pay their fine a judgement can be served against property like any other civil judgement.

Mrs. Rosie Lightfoot stated that she lived on Moffett Road and was concerned about her child. Mrs. Lightfoot stated that Mr. Giles made a statement on television that he could not keep his dogs penned up, and she was concerned about the safety of people walking on the public street.

Commissioner Simond stated that he wondered how liable the City would be if a person in the City was bitten by an unregistered dog who did not have his rabies shot.

Mayor Garrison stated that the City Attorney needs to write a proposed ordinance with the suggested provisions and then the City would have something concrete to work with.

Mrs. Lightfoot stated that two people have been bitten on Moffett Road and the dogs have come out and charged people working on the street numerous times. Mrs. Lightfoot stated that area residents have been trying for two years to get this problem solved but have not been successful. Mrs. Lightfoot stated that there is a deaf child living in their neighborhood.

Mayor Garrison stated that he was sympathetic with Mrs. Lightfoot in that something has to be done while the new Ordinance is being written.

City Attorney Flournoy stated that under Section 42.12, apparently all the vicious dogs are gone.

City Attorney Flournoy stated that he was of the opinion that if the Judge could force Mr. Giles to get rid of the dogs it would be a more practical solution to the problem.

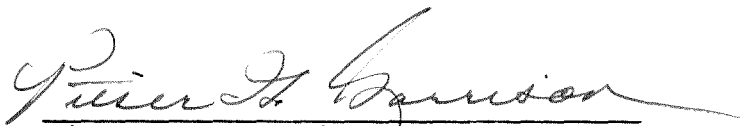
Mayor Garrison stated that he would like for the City Attorney to come up with an Ordinance for further consideration and, in the meantime, find some way to do some good about this situation.

Mayor Garrison stated that he would like to see something done before noon tomorrow.

Mayor Garrison stated that, in the meantime, there are two issues, one of the enforcement of the Animal Control Ordinance as a whole, and of special importance, is to try to find some way to eliminate vicious dogs. Mayor Garrison stated that the next course of action would be to go to the District Judge for an injunction and if he persists in violating the injunction, the District Judge can put him in jail.

Commissioner Bronaugh stated that, in his opinion, the same course of action should be applied to the situation on Bynum Street.

20. There being no further business for consideration, meeting adjourned at 8:50 P.M.


Pitser H. Garrison, Mayor

ATTEST:


Atha Stokes, City Secretary