

MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS HELD ON THE 7TH DAY OF OCTOBER, 1986, AT 5:00 P.M.

On the 7th day of October, 1986, 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
Jack Gorden	Commissioner, Ward No. 5
Louis Bronaugh	Commissioner, Ward No. 6
Harvey Westerholm	City Manager
Brian Boudreaux	Assistant City Manager
Ron Wesch	Public Works Director
Nick Finan	City Planner
Tommy Deaton	Assistant City Attorney
Atha Stokes	City Secretary

being present when the following business was transacted.

1. Meeting was opened with prayer by Rev. Dale McClafin, Minister, Bethel Church of the Nazarene.

2. Mayor Garrison welcomed visitors present.

3. APPROVAL OF MINUTES

Minutes of regular meeting of September 16, 1986, were approved on a motion by Commissioner Don Boyd and seconded by Commissioner Louis Bronaugh. A unanimous affirmative vote was recorded.

4. PRESENTATION OF RESOLUTION - LUFKIN EMERGENCY MEDICAL SERVICES PERSONNEL

Mayor Garrison stated that it is with much pleasure that the City Commission has taken notice of some of the exceptional service of the Emergency Medical Services operated through the Fire Department. Mayor Garrison stated that there are four gentlemen who were engaged in a very important mission which was made known to the press and resulted in considerable publicity, and much gratitude in the community. Mayor Garrison stated that the City Commission passed a Resolution at last meeting expressing it's appreciation to the Emergency Medical Service for this fine performance. Mayor Garrison stated that the four men involved in this particular episode were present and requested that Tom Carrington, Steve Howland, Tom Brazil and R. K. Lewis come forward for reading of the Resolution.

Mayor Garrison presented the Resolution to Chief Billy Stephens of the Fire Department.

5. ORDINANCE - APPROVED - FIRST READING - TAX ABATEMENT/REINVESTMENT ZONE - JOHN ROSS KAY - 200, 200-A, 202 and 204 EAST LUFKIN AVENUE 105 SOUTH SECOND STREET

Mayor Garrison stated that the Commission now had for consideration First Reading of Ordinance for Tax Abatement/Reinvestment Zone for John Ross Kay covering property located at 200, 200-A, 202, and 204 East Lufkin Avenue and 105 South Second Street.

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

DATE 10/7/86

PAGE 1

Mayor Garrison stated that this is the second property that Mr. Kay has improved and the Commission was grateful to Mr. Kay for his improvements to downtown Lufkin.

6. ORDINANCE - WITHDRAWN - FIRST READING - ZONE CHANGE REQUEST
LARRY BYRD - 116 NORTH FIRST STREET - CB TO CB, SU (DAY CARE)

Mayor Garrison stated that the application of Larry Byrd for a zone change request covering property located at 116 N. First was scheduled for the last meeting of the City Commission and at his request, it was delayed until today, and he has requested that it be removed from the agenda, and he doesn't wish to pursue that application any further.

7. ORDINANCE - APPROVED - FIRST READING - TEXAS MUNICIPAL
RETIREMENT SYSTEM - UPDATED SERVICE CREDITS

Mayor Garrison stated that the next item for consideration is an Ordinance which must be adopted annually so that City retirees retirement will be based on their most recent three years of salary. Mayor Garrison stated that the Ordinance also allows the present retirees 70% of the increase in the Consumer Price Index. City Manager Westerholm stated that the effective contribution costs to the City will be lowered from 5.48% to 5.46%.

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

Commissioner Percy Simond stated that if it was in order he would like to go back to item 6 and would like to know if the City's zoning is by a Charter item or if it is done by Ordinance.

Mayor Garrison stated that the City had been operating under the Zoning Ordinance since 1966.

Commissioner Simond stated that he would like to know what the purpose of zoning is as opposed to deed restrictions. Commissioner Simond stated that he has been opposed to telling people what they can do and can not do with their property.

Mayor Garrison stated that, in his opinion, deed restrictions is a better way because no one can undo deed restrictions. Mayor Garrison stated that basically zoning is simply to protect certain uses of the property and to protect residential property.

8. INVOICE - APPROVED - COMPREHENSIVE PLAN - BUCHER-WILLIS-RATLIFF

Mayor Garrison stated that the Commission now had for consideration an invoice from Bucher, Willis and Ratliff for payment of professional services for Comprehensive Plan.

Motion was made by Commissioner Pat Foley and seconded by Commissioner Jack Gorden that invoice in the amount of \$4,581.23 from Bucher, Willis and Ratliff be approved as presented. A unanimous affirmative vote was recorded.

9. RESOLUTION - APPROVED - CERTIFICATES OF OBLIGATION - HENRICKS
TECHNOLOGIES - MARTIN ELECTRONICS - PINE ISLAND TURF FARM AND
SALES - NEW CITY HALL

Mayor Garrison stated that the Commission now had for consideration Resolution authorizing Certificates of Obligation for payment of invoices from Henricks Technologies, Inc., Martin Electronics, and Pine Island Turf Farm and Sales for construction of new City Hall.

City Manager Westerholm stated that these items were not the Contractor's responsibility. City Manager Westerholm stated that the

invoice from Martin Electronics was for radio cable, Henrick's Technologies invoice was for computer cable and the invoice from Pine Island Turf Farm and Sales is for centipede sod for landscaping around the new building. City Manager Westerholm stated that three (3) bids were received on the sod and Pine Island Turf was the low bid. City Manager Westerholm stated that he made the decision to accept the low bid so that the grass could be planted as quickly as possible to keep the soil from washing.

Motion was made by Commissioner Pat Foley and seconded by Commissioner Louis Bronaugh that invoices from Martin Electronics for \$3,699.12, Henricks Technologies, Inc. for \$3,474.27, and Pine Island Turf Farm and Sales for \$2,920.50, for a total of \$10,093.89 be approved as presented. A unanimous affirmative vote was recorded.

10. FUTURE CITY PARK - TABLED - OLD SEWER TREATMENT PLANT SITE

Mayor Garrison stated that the next item for consideration was the old sewer treatment plant site as a future City Park.

Mayor Garrison recognized Commissioner Simond in representation of the request. Commissioner Simond stated that he and City Manager Westerholm had driven out to the site and, in his opinion, it would make a good park. Commissioner Simond stated that he was most impressed by the people who had pledged their support of the park, after it is approved by the City Commission, to make it one of the best parks in East Texas.

Commissioner Louis Bronaugh stated that the people working on the Comprehensive Plan had stated that there was a need for more parks on the South side of town. Commissioner Bronaugh stated that with the creek situated on the property as it is it might be difficult to sell as Commercial and a park might be the best use for the land. Commissioner Bronaugh stated that money might not be available at the present time to develop a park, but the property could be preserved as a future park rather than sell the property and use the money for some other capital expenditure.

Mayor Garrison stated that there was a very strong advocate of the Park present at tonight's meeting and in talking with her prior to the meeting he had stated that before this site is established as a park other possible sites in the south side of town should be surveyed. Mayor Garrison stated that traffic patterns created by the construction at the Loop should also be taken into consideration. Mayor Garrison stated that he had taken the liberty of calling J. L. Beaird of the Highway Department regarding the traffic count in this area and Mr. Beaird stated that the traffic count at this time is 16,000 plus and they expect that within 20 years it will be as high as 43,000. Mayor Garrison stated that since the only entrance to the Park and the only access from it is on the Loop, this possibly might not be the best place where traffic entering and leaving the park are confronted with that kind of traffic pattern and especially where the traffic going West will come out from under an underpass which is not too far from the entrance into the park. Mayor Garrison stated that all the traffic that would enter from the West where the City is growing the most would have to go past the park and then cut across the traffic and turn back on the Loop to enter the Park. Mayor Garrison stated that, in his opinion, it would justify giving some consideration to the traffic situation before the site is hastily designated as a park.

Mayor Garrison stated that he was not aware that there were people who were ready to donate money towards the development of this site. Commissioner Simond stated that, in his opinion, there are

some citizens who are ready to help develop the site into a nice park once it is approved and leveled off.

Mayor Garrison stated that he would not be opposed to the designation of this property as a park if it were suitable, but he is not certain that it is suitable because of the traffic problems involved. Mayor Garrison stated that as far as the commercial aspect, the property had been appraised at \$400,000 several years ago, at which time it was offered for sale. Mayor Garrison stated that the highest offer for the property had been under \$200,000. Mayor Garrison stated that, in his opinion, the property would have a high commercial value even though the creek goes through the site. Mayor Garrison stated that, in his opinion, a complete study should be made and other alternatives and possibilities considered.

In response to question by Commissioner Louis Bronaugh, City Manager Westerholm stated that parts of the property are probably in the flood plain, but how much could not be determined without a map.

Commissioner Bronaugh stated that the Evening Lions Club was considering taking this proposed park as a project.

Commissioner Don Boyd stated that perhaps a street off of Tom Temple could be used as another entrance to the park. Mayor Garrison stated that Mott Street is a narrow, curved street, but if there was good access to Feagin Drive, it would be a good street for that purpose.

Commissioner Jack Gorden stated that he was very interested in this site as a park and, in his opinion, most of the reasons the Mayor stated were actually reasons why the park should be located at this particular site. Commissioner Gorden stated that a park at this location would be easily accessible for citizens living on the South side of town. Commissioner Gorden stated that a park at this location would be especially accessible to out-of-town visitors. Commissioner Gorden stated that, in his opinion, Kit McConnico is too far out and almost useless unless you are going to play softball or archery.

Mayor Garrison stated that, in his opinion, this was a major step to be taken without a study being made and it seemed as if some of the Commissioners had more information regarding the park than he had.

Commissioner Foley stated that his initial reaction had been that the property was more suited to Commercial, but since he had been listening to the comments and plans, he was willing to work with the people wanting to utilize the property as a park. Commissioner Foley stated that he hoped that if the site is designated as a park, that a master plan could be used where the park would be well planned and not become overly crowded.

Commissioner Danny Roper stated that he felt strongly that this part of town needed a park, but he was concerned that this particular site had formerly been a location where sewer, chemical and metal deposits were disposed of.

Commissioner Roper stated that with the number of liabilities that other cities have incurred with chemical and waste deposits, perhaps some consideration should be given to this possibility.

Commissioner Roper stated that perhaps the Commission should exercise prudence in designating this particular site tonight and that possibly there are other alternative locations which might be considered.

Commissioner Pat Foley stated that he was somewhat familiar with feasibility studies on commercial property and wondered if feasibility studies are ever done on park sites. Parks and Recreation Director Don Hannabas stated that sometimes other cities use consultants for master plan work or an in-house study could be made. Mr. Hannabas

stated that a survey of the area is usually conducted. In response to question by Commissioner Roper, City Manager Westerholm stated that the proposed park site had 34.1 acres of land.

Commissioner Roper stated that the site would be a good place for a park, all things considered, but he still would like to see a soil test taken before any firm decision is made.

Commissioner Bronaugh stated that it was his understanding that a park site could not be designated as such unless Federal or State money was used and if it was designated as a park site, and found to be unsuitable due to chemical contamination or traffic problems, it could not be unconverted as a park site. City Manager Westerholm stated that once you operate a park using State money it is difficult to close the park.

Mayor Garrison stated that, in his opinion, the City's Park Department could conduct the study of the park site. Mayor Garrison stated that he was not in favor of rushing into designating the site as a park without looking further to investigate all of the aspects of the situation.

In response to question by Commissioner Simond, City Planner Finan stated that the old sewer plant was mentioned in the Citizens Committee report in the Goals and Objectives section of the Preliminary Report of the Comprehensive Plan. City Planner Finan stated that on the Future Land Use Map areas for suggested park sites were shown in circles on the map and this particular property was just inside one of the circles or very close by.

Commissioner Simond suggested that the administration look into the feasibility of this site becoming a park and bring a report back to the City Commission at the first meeting in November.

Mr. Hannabas stated that sixty days would be adequate for a soil test in order to present a complete report.

Motion was made by Commissioner Percy Simond and seconded by Commissioner Louis Bronaugh that the Parks and Recreation Department make a study of the potential establishment of a park at the old sewer treatment plant to be presented to the City Commission in not less than sixty days. A unanimous affirmative vote was recorded.

11. NOISE ABATEMENT ORDINANCE - APPROVED

Mayor Garrison stated that Commissioner Simond had suggested that the City adopt a Noise Abatement Ordinance and City Attorney Bob Flournoy had done some research on the subject. Mayor Garrison stated that copies of ordinances from Houston and Austin had been included in the Commissioner's packets for review.

Commissioner Simond stated that he had gone over the Ordinances and was especially concerned about loud radios in cars with amplifiers. Commissioner Simond stated that it was very dangerous when radios in vehicles were so loud that a person was unable to hear emergency vehicles approaching.

Commissioner Simond stated that a proposed Ordinance could also include prohibiting loud radios on City buses.

Motion was made by Commissioner Percy Simond and seconded by Commissioner Don Boyd that the City Attorney prepare a proposed Ordinance for the City embracing the items discussed at this meeting. A unanimous affirmative vote was recorded.

12. ORDINANCE - APPROVED - FIRST READING - DELINQUENT TAX PENALTY

Mayor Garrison stated that the Commission now had for consideration an Ordinance imposing a 15% penalty on delinquent taxes.

Mayor Garrison stated he was of the opinion that when delinquent taxes are turned over to an Attorney a 15% penalty is automatically added.

In response to question by Mayor Garrison, Attorney John Kay stated that the 15% penalty can be added when the lawyer brings suit or it can be added across the board if you send out a notice that you are going to add it not less than 30 or more than 60 days prior to July 1st.

In response to question by Mayor Garrison, Attorney John Kay, quoting from an Attorney General's opinion, stated that "The penalty provided by the Tax Code, Section 3307, applies to all taxes currently delinquent in the year in which the penalty is imposed, it's application is limited to the use including and subsequent to the adoption of the Code provision by the appropriate taxing unit or appraisal district. It's application is limited to years including and subsequent to the adoption of this Code provision by the appropriate taxing unit or appraisal district. The July 1st date set forth in the Tax Code, Section 3307, the date on which the penalty on taxes is mandatory, does not provide any means whereby a taxing unit or appraisal district may extend the July 1st date or select a different date on which the penalty attaches".

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

13. EXECUTIVE SESSION - APPOINTMENTS - CITY PLANNING & ZONING COMMISSION - EXAMINING AND SUPERVISING BOARD OF ELECTRICIANS -

Mayor Garrison stated that the Commission would now go into Executive Session to discuss appointments to various boards. Mayor Garrison recessed formal open meeting of City Commission at 6:05 P.M. Mayor Garrison reconvened meeting of City Commission at 6:45 P.M. and made announcements to those present regarding results of the Executive Session.

14. APPOINTMENTS - APPROVED - CITY PLANNING & ZONING COMMISSION - EXAMINING & SUPERVISING BOARD OF ELECTRICIANS

Mayor Garrison stated that appointments to the Planning & Zoning Commission and the Examining and Supervising Board of Electricians had been discussed in Executive Session and the floor was now open to nominations.

Motion was made by Commissioner Jack Gorden and seconded by Commissioner Pat Foley that Robin Mercer be appointed to serve on the Planning and Zoning Commission subject to her acceptance. A unanimous affirmative vote was recorded.

Motion was made by Commissioner Danny Roper and seconded by Commissioner Percy Simond that Charlie Caver be appointed to serve on the Examining and Supervising Board of Electricians subject to his acceptance. A unanimous affirmative vote was recorded.

15. NO SMOKING ORDINANCE ON BUSES - NO SMOKING ORDINANCE AT CIVIC CENTER - JANITORS

Commissioner Percy Simond stated that he was very pleased to have attended a luncheon at the Museum the other day where he was able to look over the new buses the City would soon be purchasing. Commissioner Simond stated that he was concerned about smoking on the buses and would like to see an Ordinance prohibiting same. Commissioner Simond stated that he was also concerned about smoking in the Civic Center. Commissioner Simond stated that he would like to have Ordinances prepared for the next Commission meeting prohibiting smoking on buses and smoking in the Civic Center.

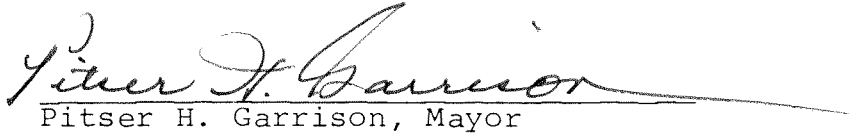
Mayor Garrison stated that there is a Resolution prohibiting smoking in the Civic Center, but it is not being enforced.

Commissioner Simond stated that he had recently seen two articles in the paper concerning what the City Manager had said regarding replacing the janitors in the new City Hall with a contract janitorial firm. Commissioner Simond stated that City Manager Westerholm had stated that a contract janitorial firm would save money for the City. Commissioner Simond stated that he did not want to interfere with City Manager Westerholm's management of the City, but it was very sad to him to see these two ladies being fired from their jobs. Commissioner Simond stated that he was under the impression one of the ladies was the only breadwinner in the family and the other lady's husband was disabled. Commissioner Simond stated that he was not too sure that the citizens of Lufkin would agree to depriving these people of their jobs in order to save \$903 a month. Commissioner Simond stated that, in his opinion, the City Manager had been ill-advised and hoped that he would re-consider his decision.

In response to question by Commissioner Don Boyd, City Manager Westerholm stated that the move into the new City Hall was anticipated for Friday, October 10th.

In response to question by Commissioner Louis Bronaugh, City Manager Westerholm stated that a copy of the proposed TML Resolutions had been distributed to all Commissioners. Commissioner Bronaugh stated that as a member of the Resolution's Committee he would appreciate the Commissioners reviewing the Resolutions prior to the TML meeting and if there were any suggestions for changes or any objections to advise him of same.

16. There being no further business for consideration, meeting adjourned at 7:00 P.M.


Pitser H. Garrison, Mayor

ATTEST:


Atha Stokes, City Secretary