MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 16TH DAY OF DECEMBER, 1975, AT 5:00 PM

On the 16th day of December, 1975, the City Commission of the City of Lufkin, Texas, convened in regular meeting in the Council Room at City Hall with the following members thereof, to-wit:

Pitser H. Garrison	Mayor
R. A. Brookshire	Commissioner, Ward No. 1
Pat Foley	Commissioner, Ward No. 2
Joe E. Rich	Commissioner, Ward No. 3
E. C. Wareing	Commissioner, Ward No. 4
W. O. Ricks, Jr.	Commissioner at Large, Place A
E. G. Pittman	Commissioner at Large, Place B
Harvey Westerholm	City Manager
Robert L. Flournoy	City Attorney
Roger G. Johnson	City Secretary

being present, constituting a quorum, when the following business was transacted:

1. Meeting opened with prayer by Rev. John Greene, Pastor of Harmony Hill Baptist Church, Lufkin, Texas.

2. Mayor Garrison welcomed a large group of visitors who were present in connection with items on the agenda or as observers.

3. Approval of Minutes

   Comm. Joe E. Rich made motion that minutes of regular meeting of December 2, 1975, be approved. Motion was seconded by Comm. E. G. Pittman and a unanimous affirmative vote was recorded.

4. Open Hearing-A. B. Youngblood, Jr.-Annexation & Permanent Zoning Request-Recommendation for Ordinance

   Mayor Garrison officially opened hearing for annexation and permanent zoning request by A. B. Youngblood, Jr., covering property located South of Loop 287, West of Tulane Drive and North of Harmony Hill Drive to existing City Limits. Mayor Garrison explained that advertisements had been placed in local paper and applicant was present to answer any questions members of Commission may have regarding same.

   Mayor Garrison recognized Mrs. A. B. Youngblood, Jr., who added no additional information to request and there was no opposition present. Mayor Garrison declared hearing officially closed.

   Mayor Garrison recommended members of Commission consider whether or not they desired to consider annexation and permanent zoning request by Mrs. A. B. Youngblood, Jr., for first reading of ordinance at next regular meeting. Comm. W. O. Ricks, Jr., made motion that first reading of ordinance be considered for annexation and permanent zoning of this property as previously described at next regular meeting of January 6, 1976. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

5. Open Hearing - Taxi Cab License - Jim Glawson - Approved

   Mayor Garrison officially opened hearing and explained that Mr. Jim Glawson had made application for a taxi cab license for consideration by this Commission and was present to answer any questions members of Commission may have regarding same.

   No additional information was presented by Mr. Glawson and City Manager Westerholm explained that the City staff would recommend consideration of application and all information had been furnished as required. City Manager Westerholm explained that Mr. Glawson was purchasing the Yellow Cab Company from Mr. Glenn Wideman who had been owner and manager of same since 1954.

   Mayor Garrison declared hearing officially closed.

There were no persons present appearing in opposition to permit request and Comm. E. C. Wareing made motion that application for taxi cab permit by Mr. Jim Glawson be approved in accordance with recommendation from City Manager. Motion was seconded by Comm. Joe E. Rich and a unanimous affirmative vote was recorded.

6. Open Hearing - Community Development Block Grant for 1976

Mayor Garrison opened hearing for consideration of Community Development Block Grant projects for FY 1976. Mayor Garrison stated that previous hearing had been held by City staff on December 9, 1975, to fulfill a two-hearing requirement essential for submitting a preapplication for a Community Development Block Grant for 1976. Mayor Garrison stated that this hearing was the second of the two hearings and information had been presented by the City Manager involving items to be considered for the preapplication. There were no persons present appearing in opposition to following items as discussed for consideration and Mayor Garrison declared hearing closed:

a. Lake Street from Abney to Kurth Drive: 2,900 ft. of 33 ft. wide curbed and guttered street, 2,900 ft. of 5 ft. sidewalk, drainage structures along entire project.................................... $160,000

b. Opening street from Morris Frank Park to Lotus Lane: 2,600 ft. to be cleared, shaped & oiled.... 26,000

c. Drainage improvements in the area of Williams and Glenn Streets: 5,000 ft. of drainage structures and ditch cleaning................................ 70,000

d. Chestnut Street from Frank Avenue to Laurel Ave: 3,600 ft. of curbed and guttered street, 33 ft. wide... 180,000

e. Sewer line extensions in area of Renfro Drive and Shady Pine: 27,000 ft............................ 191,000

f. Drainage improvements in the area of Jones Street and Denman Avenue: 1,100 ft. of drainage structures and riprap................................ 50,000

g. Removal of dilapidated structures from blighted lots in various areas of the City and clearance of overgrown vacant lots............................... 5,000*

*This cost could be later assessed to property owners.

City Manager Westerholm explained that projects listed above involved a considerable amount in excess of funds that would actually be sought in the 1976 application to which only $250,000 could be applied. City Manager Westerholm suggested that members of Commission consider which of the above listed projects they would prefer be submitted in application. City Manager Westerholm explained that Item #1 listed above was left over from 1975 application, Item #3, information submitted from hearing held on December 9, 1975, Item #5, local citizens input due to recent discussions and Item #7, from hearing of December 9, 1975.

Comm. W. O. Ricks, Jr., expressed his opinion that Item 4 of the above listed information be considered a priority due to the public need.

Comm. Pat Foley stated that members of Commission should consider improvements to Paul Avenue from Timberland Drive to an intersection with Chestnut Street inasmuch as completion of the Civic Center would draw additional need for wider streets to move larger amounts of traffic. Comm. Foley further stated that improvements on Paul Avenue would be in a minority area and within guidelines of grant application.

Mayor Garrison was in agreement with suggestion submitted by Comm. Foley and Comm. E. G. Pittman expressed consideration for several stop signs along Paul Avenue that should be added.

Comm. Foley stated that the City should give consideration of his proposal at the present time unless other areas deserved more priority.

A lengthy discussion developed regarding possible review of this preapplication by the Deep East Texas Council of Governments. City Manager Westerholm explained that these items as listed above to include additional information as discussed at this meeting could be reviewed during the January 6 meeting of Commission. City Manager Westerholm stated that preapplication could be later reviewed by the review committee of the Deep East Texas Council of Governments. Mayor Garrison suggested that members of Commission consider final priorities and information to be placed in grant at next regular meeting of Council on January 6 unless it was necessary to call special meeting regarding same for review committee.

Comm. R. A. Brookshire asked City Manager Westerholm to check with DETCOG in this regard and report to members of Commission to determine whether or not special meeting would be essential.

Further discussion of this item was then deferred until next regular meeting by Mayor Garrison on his own volition pending further information from City Manager.

7. Cablecom General, Inc.-Request for Monthly Rate Increase-Denied

Mayor Garrison stated that Mr. Tom Lacey and Mr. Wayne Neal of Cablecom General were present to speak in regard to previously discussed monthly increase request. Mayor Garrison recognized Mr. Tom Lacey who distributed information to members of Commission regarding recent request for verification of legal justification for rate increase. Copies of this information are attached to minutes for permanent record.

Mr. Lacey referred to four cases involving decisions by Texas courts. Mr. Lacey also referred to Section 4.5 of present franchise and expressed his opinion that these particular cases applied to the Lufkin area. Mr. Lacey stated that he was of the opinion that request for monthly rate increase by Cablecom General was justifiable inasmuch as inflation rate had grown from a 2% figure in 1959 and was currently 12%.

Mr. Lacey also referred to Section 16 of the existing franchise which provided for only five-channel service, and since the initial contract, additional channels had been added to the service, at the request of this Commission. Mr. Lacey asked members of Commission to consider this information as presented and also explained that his company was willing to compromise and further discuss request.

Mayor Garrison, in regard to Section 16, stated that this Commission, to his knowledge, had not in the past requested Cablecom General to add additional channels to their service. Comm. E. C. Wareing, in agreement with Mayor Garrison in this regard, explained that these additional channels were offered by Cablecom in lieu of other requested improvements by City Council.

Mr. Lacey stated that he neither desired to create ill will between the public and his company due to this increase request, nor become involved in litigation in this regard and re-emphasized the fact that his company was open to compromise. Comm. Ricks expressed his opinion that Cablecom should remain under the present franchise for the full 20-year period without revision.

Comm. Rich inquired of Mr. Lacey if rates would have a tendency to go in a downward direction as new areas were added and new customers were gained by Cablecom. Mr. Lacey stated that costs were experienced by the company for equipment and other items to a greater extent and the company realized very little benefit, if any, in this regard.

Mayor Garrison recognized Mr. Harold Smith, a citizen of Lufkin, who read a prepared statement in opposition to Cablecom General increase request. This request is attached to minutes for permanent record.

In regard to opposition presented by Mr. Smith, Mr. Lacey stated that he would be available for discussion of this complaint with Mr. Smith at his convenience, but was not personally aware of the specific circumstances involved and could not comment at the present time.

Comm. Foley stated that he desired to review possible compromises with Cablecom prior to making final decision regarding rate increase request.

Comm. Ricks made motion to allow Cablecom an outlet change rate increase and an installation fee increase with no change in present rate structure for monthly customers at $5.95. Motion was seconded by Comm. E. C. Wareing.

A brief discussion developed regarding additional service connection fees and installation costs. Comm. Brookshire expressed his opinion that Cablecom owed a favor to the citizens of Lufkin inasmuch as they had paid the $5.95 per month rate for several years without adequate service. Comm. Brookshire further stated that it was his opinion Cablecom had made bad business judgements and the citizens of this city should not be punished by experiencing increased rates. Mr. Lacey stated that it was for these reasons his company was willing to consider compromises. Mr. Lacey explained that his company could not provide a trouble-free service and could not promise same.

Mayor Garrison stated that a motion and second was before Council to consider allowance of Items 2 and 3 of proposal as presented by Cablecom with no change in monthly rate. Mayor Garrison explained to Mr. Lacey that he had reviewed previous minute records when application was initially considered with the Vumore Company and a question of monthly rate was a major item inasmuch as another company had proposed lower rates. Mayor Garrison further stated that it was also his opinion the citizens of this city had experienced a poor service for the past six or eight years and it was only now that Cablecom had shown reasonable improvement. Mayor Garrison further stated, in this regard, that possibly members of this Commission would be more understanding of a rate increase request following several years of reliable service. Mayor Garrison stated that he did not personally feel inclined to change the present rate structure inasmuch as only three more years existed prior to expiration of contract and Cablecom should be more concerned with building good will under its present structure toward consideration of renewing franchise.

Mayor Garrison also recognized Mr. Wayne Neal who explained that his company should not be blamed for making poor business judgements by purchasing inferior equipment as previously discussed inasmuch as first equipment purchased was experimental in nature and very complex.

Mr. Lacey expressed his concern that members of Commission consider increase in the monthly rate inasmuch as revenues he sought were depending on monthly rate increase. Comm. Foley asked City Attorney Flournoy to comment regarding legality of request as presented by Cablecom. City Attorney Flournoy stated that he was personally concerned about the legal obligations of the City inasmuch as Cablecom service was not a utility and should not be treated as such. City Attorney Flournoy further stated that the City was, therefore, under no legal obligation to change rates unless it would be to the benefit of the citizenry. City Attorney Flournoy stated that a change in the service charge would not affect the contract and no provision was made for this in the contract.

Comm. Brookshire expressed his opinion that he was not willing to accept statements from the Cablecom Denver office regarding the financial condition of Cablecom without an independent audit. Comm. Brookshire stated that he preferred to review an independent audit prior to making final decision on rate request.

A vote of four to three against motion as previously made by Comm. Ricks was then recorded and Mayor Garrison declared motion defeated based on the following votes:

Voting Aye: Comms. Joe E. Rich, E. C. Wareing and W. O. Ricks, Jr.

Voting Nay: Mayor Garrison, Comms. R. A. Brookshire, Pat Foley and E. G. Pittman

Mayor Garrison stated that members of this Commission would continue to review any information Cablecom submitted regarding increase request and Commission should decide whether or not to grant any type of increase based on previous motion.

Comm. Foley was in agreement with information presented by Comm. Brookshire for an outside audit and Comm. E. G. Pittman made motion to decline present proposal submitted by Cablecom General, Inc. for rate increase request. Motion was seconded by Comm. W. O. Ricks, Jr., and a unanimous affirmative vote was recorded.

Mayor Garrison explained to Cablecom representatives that request as submitted by Cablecom could not be granted in its present form, but members of this Commission were willing to review any future requests based on discussion regarding same at this meeting.

Prior to adjournment of this meeting, Mr. Lacey was again recognized by Mayor Garrison. Mr. Lacey explained that he had talked by phone to his management personnel who requested further information regarding request. Mayor Garrison reviewed comments from this Commission and explained to Mr. Lacey that three members of this Commission were willing to approve Items 2 and 3 of present proposal with no monthly rate increase and four members of Commission desired not to approve any part of request. Mayor Garrison informed Mr. Lacey that a new request would be considered if desired, but this Commission had voted to decline request; but in general, Council was not in favor of altering monthly rates without an outside audit.

Comm. E. C. Wareing informed Mr. Lacey that under the present request, members of Commission would vote denial for any part of same.

8. <u>Thousand Oaks Sub-Division - Disc. of Sewer Rates</u>

Mayor Garrison stated that due to the large number of individuals present regarding consideration of sewer rate revision in Thousand Oaks Sub-Division, this item had been advanced on the agenda and representatives of same were present.

Mayor Garrison then recognized Mr. Jim McDermott and Mr. R. V. Swor appearing in representation of a large group of individuals who were present regarding request. Mr. McDermott read a copy of letter furnished members of Commission requesting the base rate increase at the "2½" multiplier rate be continued in lieu of the "4" multiplier that was presently being implemented. A copy of this letter has been attached to these minutes for permanent record.

Considerable discussion developed and Comm. Pittman inquired as to how many homes were presently in the Thousand Oaks Sub-Division. It was determined that approximately 80 residential homes were constructed in this area. Comm. Wareing inquired as to whether or not individual lift stations were in this area and it was determined that a few private home-owners owned their own lift stations.

Mayor Garrison stated that this particular request by residents in Thousand Oaks Sub-Division pointed to a question which had many times been considered by this Commission involving whether or not certain areas should or should not have services extended from the City. Mayor Garrison further stated that two sides of the story existed and the initial extension of sewer service in this area was a gesture of good will by this Commission and future extensions of this nature should be more carefully considered.

Mayor Garrison recognized Mr. R. V. Swor who stated that individuals in this area did not object to the "2½" multiplier, but the "4" multiplier was extremely high. Mayor Garrison expressed his personal concern that he was inclined to give consideration to this request, but a level of fairness should be determined.

Comm. W. O. Ricks, Jr., expressed his concern that taxpayers were paying for these conveniences, but he was personally inclined to agree with Mayor Garrison that some reduction was in order.

It was determined from general discussion with individuals present from this area that FHA loans required applicants to reside outside the City and Mayor Garrision stated that this Commission had initially decided to extend sewer in this area.

Comm. Wareing stated that he did not object to the "2½" multiplier, but expressed concern that the $119,520 difference over a 20-year period between the "2½" and "4" multiplier should be replaced if same was in the present budget.

City Manager Westerholm inquired of Finance Director Royal Dunlap regarding the disposition of this additional money and Mr. Dunlap stated that he had not included the multiplier increasing from "2½" to "4" and same was not in present budget.

Comm. Foley requested that Finance Director Royal Dunlap review request in this regard and members of Commission be furnished more information regarding exact figures involved prior to making final determination on request. Comm. Foley then made motion that request as submitted by property owners be delayed until next regular meeting. Motion was seconded by Comm. Joe E. Rich and a unanimous affirmative vote was recorded.

Mayor Garrison explained to individuals present the importance of reviewing report prepared by Finance Director and informed individuals present that this request would again be considered by Commission at next regular meeting on January 6, 1976, at 7:30 p.m.

9. <u>Zone Change Approved-Mrs. Herman Adams from C District to R-3 & C District</u>

Mayor Garrison stated that zone change application by Mrs. Herman Adams from C District to R-3 & C District covering property located on Northwest corner of Paul Avenue and Judith Street intersection had been previously approved by this Commission on first reading of ordinance at last regular meeting.

There were no persons present appearing in opposition to zone change request. Comm. Pat Foley made motion that zone change application by Mrs. Herman Adams from C District to R-3 & C District be approved on second and final reading of ordinance. Motion was seconded by Comm. Joe E. Rich and a unanimous affirmative vote was recorded.

10. <u>Public Works Dept.-Bid on Uniforms Awarded-Uniforms by Factory Sales</u>

Mayor Garrison stated that decision to award bid for uniforms to be used by the personnel in the Public Works Department, had been deferred from last regular meeting to review bid specification information which had been prepared and presented to Commission. Mayor Garrison read a copy of letter setting forth deviation from specifications as submitted by Industrial Towel & Uniform Company.

City Manager Westerholm asked Public Works Director Hayne Stokes to comment regarding same and Mr. Stokes stated that bid information had been acquired from the City of Beaumont and he had been informed by the Industrial Towel management personnel that the City of Beaumont was in the process of changing their bid specifications in this regard. Mr. Stokes stated that after discussion with the Beaumont City officials he was informed that they had not changed their bid specifications.

Comm. W. O. Ricks, Jr., stated that he was of the opinion members of Commission should consider approval of next lowest bid submitted by "Uniforms by Factory Sales" which met bid specifications and these specifications were important items for consideration which had been omitted from low bid submitted by Industrial Towel & Uniform Company.

Comm. E. C. Wareing suggested that the City Commission consider approving present bids as received under specifications submitted and approve low bid meeting specifications or abandon all bids and re-advertise under new specifications.

Comm. W. O. Ricks, Jr., made motion that low bid meeting specifications submitted by "Uniforms by Factory Sales" in the amount of $31.20 per complete uniform be approved. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

Mayor Garrison asked City Manager Westerholm to review all bid specifications with the City staff in an effort to clarify similar future problems.

11. Lufkin National Bank - Approval of Bicentennial Capsule for Location in Lufkin Civic Center

Mayor Garrison stated that Robert Richardson, Duncan Garner and Rodney Wood were present as representatives from Lufkin National Bank to present a request for consideration of a bicentennail time capsule proposal. Mayor Garrison requested that Mayor Pro Tem Wareing conduct this section of the meeting due to his connection with the Lufkin National Bank and Mayor Garrision recused himself from formal vote on any issue in this regard.

Mayor Pro Tem Wareing recognized Mr. Robert Richardson and his associates in behalf of request as presented. Mr. Richardson explained that the Lufkin National Bank had accepted a bicentennial project which would involve the placement of a time capsule within the City of Lufkin in a specific location which would be stored for a period of 100 years and removed from its location and reviewed on this country's 300th centennial celebration. Mr. Richardson stated that it was the request of the Lufkin National Bank to locate this bicentennial capsule in a stone of the plaza of the new Civic Center building which would be marked by a plaque indicating its significance. Mr. Richardson further stated that provided members of this Commission agreed to locate this time capsule at the Civic Center, the Lufkin National Bank would agree to pay for all installation costs involved. It was further discussed that information would be placed within this capsule containing photographs of various City officials and other information that would be of significance from a future historical aspect.

Mayor Pro Tem Wareing recognized Mr. Jerry Hill, architect for Lufkin Civic Center, who explained that this time capsule would be approximately 7' x 7' and could be located in a concrete vault in an appropriate place at the Civic Center and involved no construction problems.

Comm. W. O. Ricks, Jr., made motion that the time capsule be located in an appropriate place at the Lufkin Civic Center and used for the purpose for which was explained by Mr. Richardson as sponsored by the Lufkin National Bank. Motion was seconded by Comm. E. G. Pittman and a unanimous affirmative vote was recorded, with one abstaining vote.

Mayor Pro Tem Wareing thanked members of Lufkin National Bank for their consideration in behalf of the City's bicentennial year.

12. Zone Change Revised & Approved 1st Reading - William T. Pennington from R-2 District to LB District

Mayor Garrison explained that zone change application by William T. Pennington from R-2 District to LB District had been presented as a revision to a previous application to C District which had been denied by this Commission due to opposition presented. Mayor Garrison further stated that request to LB District had now been presented covering property located on South First Street, South of Menefee Street on East side of South First Street. Mayor Garrison stated that Ken Smith, William T. Pennington and Jim Hurst were present in representation of application and Mr. Smith was recognized by Mayor Garrison.

Mr. Smith stated that he had discussed this amended proposal with Mr. R. L. Cunningham, spokesman for opposition on previous request, and Mr. Cunningham was in agreement with amended proposal which would provide certain construction features as requested by Mr. Cunningham and property owners within the area, who had previously objected to application. Mr. Smith then reviewed a plat of this area and explained information as discussed with Mr. Cunningham which provided for a site-bearing fence to be located in certain areas, an R-2 buffer zone established with deed restrictions, and approved entrances to back portion of proposed facility.

Mayor Garrison stated that members of Commission had received a letter from applicants explaining in more detail circumstances of this request which proposed the North corner lot, which was 60 x 100', remain R-2 District located at the corner of South First Street and South of Menefee Street which would create a buffer zone. Mayor Garrison stated that letter also proposed a deed restriction would be considered if this lot remained R-2 district.

Mayor Garrison recognized Mr. R. L. Cunningham, Ola Tenney, Mrs. Eldridge Ryman and other individuals who were present in behalf of request for amendment to zone change application.

Comm. R. A. Brookshire expressed his concern for the future sale of this property and deviation from proposal which would require construction of a site-bearing fence.

Mr. R. L. Cunningham stated that he and additional property owners who were present would be in agreement with this request if information could be recorded for permanent record and applicants were willing to proceed with agreement as discussed which would provide all requested items by property owners in specific areas. Mr. Cunningham further stated that he was particularly concerned with construction of a fence along South First Street to prevent the spread of debris and to cover unsightly conditions that may exist behind proposed businesses.

Mayor Garrison recognized City Attorney Flournoy who stated that the City ordinance only required a site-bearing fence between the LB and R-2 proposed districts and the City could not require fencing in other areas. City Manager Westerholm suggested that applicants meet with individual property owners and determine a specific agreement and City Attorney Flournoy stated that same would be the best recommendation in this regard and would provide specific uses of property as has been completed in previous zone change applications. City Attorney Flournoy further stated it was his opinion that these type agreements were enforceable.

Comm. E. C. Wareing suggested that a zone change be considered for LB District & Special Use which could outline specific requirements of applicant.

Mayor Garrison suggested that consideration of application be made at this meeting on first reading subject to inclusion of agreement between all individuals involved. Mayor Garrison complimented property owners in this area and applicants for an apparent compromise regarding this application and reminded all individuals present that zoning was implemented to protect residential property.

City Attorney Flournoy stated that he would meet with applicants and all individuals involved prior to consideration by this Commission on second and final reading regarding contract to outline specific requirements of applicants under an LB & Special Use category which would be agreeable to all parties concerned.

Comm. Joe E. Rich made motion that zone change application by William T. Pennington from R-2 District to LB District & Special Use, Item 27(E), be approved on first reading of ordinance subject to settlement of agreement between applicant and property owners. Motion was seconded by Comm. E. G. Pittman and a unanimous affirmative vote was recorded.

13. Civic Center Const. - Disc. of Completion Date

Comm. R. A. Brookshire inquired of City Manager Westerholm regarding the proposed completion date of the new Civic Center. City Manager Westerholm stated that to his knowledge, same would be completed by December 29, 1975.

14. Adjournment

There being no further business for consideration, meeting adjourned at 7:30 p.m.

Pitser H. Garrison

MAYOR - City of Lufkin, Texas

ATTEST:

Roy G. Johnson

CITY SECRETARY