MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 20TH DAY OF JUNE, 1978, AT 5:00 P. M.

On the 20th day of June, 1978, 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
Pat Foley	Commissioner, Ward No. 2
Jack McMullen	Commissioner, Ward No. 3
E. C. Wareing	Commissioner, Ward No. 4
W. O. Ricks, Jr.	Commissioner at Large, Place A
Richard Thompson	Commissioner at Large, Place B
Harvey Westerholm	City Manager
Robert L. Flournoy	City Attorney
Roger G. Johnson	Asst. City Manager

being present, and

R. A. Brookshire	Commissioner, Ward No. 1

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

1. Meeting opened with prayer by Rev. Charles Roberts, Pastor of Denman Avenue 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. Jack McMullen made motion that minutes of regular meeting of June 13, 1978, be approved. Motion was seconded by Comm. Richard Thompson and a unanimous affirmative vote was recorded.

4. WTI Properties-Street Closing Approved-Portion of Regal Row

Mayor Garrison stated that it had been requested that consideration of WTI Properties street closing request for a 150-foot portion of ROW extending North from T.S.E. ROW be advanced on the agenda in order that applicants may attend a special meeting. There was no opposition to this consideration in variation from normal agenda sequence.

Mayor Garrison stated that this request had been recommended by the City Planning and Zoning Commission for closing and no opposition was present regarding same. City Manager Westerholm reported that an appraisal would be made available and property could be sold for the fair market value if Commission approved consideration of request. Comm. E. C. Wareing made motion to approve request for street closing and authorization of Mayor to execute necessary documents to convey property for appraised fair market value. Motion was seconded by Comm. W. O. Ricks, Jr., and a unanimous affirmative vote was recorded.

5. Open Hearing-Permanent Zoning of Harmony Hill Area-Ord. Set for 1st Reading

Mayor Garrison stated that the City Planning and Zoning Commission had recently recommended permanent zoning of the Harmony Hill area covering property located between U. S. Highway 59 South and FM 58. Mayor Garrison formerly opened hearing regarding this permanent zoning request and invited questions and comments from individuals present regarding same.

Mayor Garrison recognized Mr. Howard Walker who made reference to previous restrictions for residential use on this property which had recently expired in 1976. Mr. Walker stated that he desired to keep this area residential if possible and expressed his personal opposition to apartment use activity on the Perry property if same would require an exit to Harmony Hill. Mr. Walker stated that he did not oppose apartment activity on the Perry property, if an exit would be planned for Loop 287.

Mayor Garrison recognized Mr. Mark Miller who expressed his opposition to zoning of commercial property at the southwest intersection of Loop 287 and FM 58. Mr. Miller stated that he did not personally oppose the special use office building on the Henderson property if no construction was being planned at this location for future offices.

Mayor Garrison recognized Mr. Walter Borgfeld appearing in representation of Mr. Tom Gann who owned property at the southwest intersection of FM 58 and Loop 287 being considered for commercial purposes. Mr. Borgfeld stated that Mr. Gann proposed to zone the balance of his property commercial to accomodate his existing car wash operation on this property. Mr. Borgfeld stated that under a non-conforming zone, it would not be possible for Mr. Gann to add to his existing structure which he proposed in this area unless same was zoned for commercial use.

Mayor Garrison then recognized Mr. Eddie McFarland appearing in representation of Mr. Gene Alexander. Mr. McFarland stated that Mr. Alexander was in opposition to the proposed commercial zoning at the southwest intersection which included Mr. Gann's property and property owned by the Eaton Corporation and others. Mr. McFarland stated that Mr. Alexander opposed commercial zoning at the Loop 287 and FM intersection, and that residential property should be protected inasmuch as considerable investment had been made in residential property on Harmony Hill Drive.

Mayor Garrison also recognized Mr. William Winston, a property owner immediately south of the Eaton Corporation property being considered for extension of commercial zoning. Mr. Winston stated that he opposed the extension of commercial zoning of this property inasmuch as same would be adjacent to his north boundary line and the Eaton Corporation would be too noisy for residential dwellings if extended further south. Mr. Winston stated that he was also in opposition to the A District proposal being considered by Mrs. Bruce Perry regardless of whether the property proposed a driveway exit on to Harmony Hill or Loop 287.

Mayor Garrison also recognized Mr. Simon Henderson III who expressed his opposition to any zoning in this area of a commercial nature to exclude property being considered for a business office use by Mr. John Henderson. Mayor Garrison closed formal hearing.

Mayor Garrison stated that he personally would like to acquire further information from the property owners at the southwest intersection as to how much of the property being considered for zoning was used for commercial purposes. Mayor Garrison also stated that he desired more information from Mr. John Henderson regarding what particular plans were being considered for the use of this property for an office building.

Comm. E. C. Wareing made motion that ordinance be set for first reading at next regular meeting permanently zoning areas as previously annexed with the stipulation that areas in question owned by Mrs. Bruce Perry and commercial property being considered at the southwest intersection of Loop 287 and FM 58 be zoned for residential purposes. Motion was seconded by Comm. W. O. Ricks, Jr., and a unanimous affirmative vote was recorded.

6. <u>Cablecom of Lufkin-Proposal for Rate Increase Request Deferred</u>

Mayor Garrison recognized Mr. Wayne Neal appearing in representation of Cablecom of Lufkin regarding request for rate increase. Mr. Neal introduced Mr. Jerry Cahill, Vice-President in charge of Finance and Treasurer, and Mr. Richard Forsling, President of Cablecom, who were present regarding request. Mr. Neal stated that Mr. Forsling had informed him prior to this meeting that regardless of the outcome of this request for rate increase, Cablecom would provide a 24-hour Christian broadcasting service for the city of Lufkin to include a new weather station as previously requested by property owners.

Mayor Garrison recognized Mr. Forsling who stated that his company owned and operated 39 systems in the United States and Mr.Neal had directed a good service for the city of Lufkin at Cablecom. Mr. Forsling invited questions from members of Commission regarding request.

Comm. E. C. Wareing inquired as to a reasonable rate of return on investment for a cable company as compared to a reasonable rate of return for a light and power company. Comm. Wareing stated that the Public Utility Commission had recently concluded that approximately 8.1 percent was considered a reasonable rate of return for Texas Power & Light Company. Comm. Wareing inquired that if this was a reasonable rate, how this rate compared to a 16 percent rate increase which had been determined to be a reasonable rate of return for Cablecom of Lufkin. Mr. Jerry Cahill informed Mr. Wareing that Cablecom could not be compared to a utility in the truest sense because a cable company was more subject to price increases.

Comm. E. C. Wareing also made reference to information supplied by Assistant City Manager Royal Dunlap regarding increase proposal. Comm. Wareing stated that in accordance with information furnished, a fair rate of return had been projected to be approximately 9.8 percent for Cablecom.

Mayor Garrison expressed his concern that other cities were paying lower rates which were a comparable size to the city of Lufkin that were within this same system, and inquired of Mr. Forsling regarding an explanation. Mr. Forsling stated that the city of Bryan was operating at a cheaper rate because it had two cable companies and no growth was being experienced.

Mayor Garrison also made reference to the fact that information supplied members of Commission reflected a 15 percent Cablecom growth in the past year which appeared to be a very good growth for a company its size. Mr. Cahill stated it appeared that the company would not grow to this extent in the future years without a rate increase. Mr. Cahill also stated that it appeared the company was being penalized for its efficiency and that the company had not had a rate increase in the past 20 years.

Mayor Garrison recognized Rev. Charles Roberts, Pastor of Denman Avenue Baptist Church, who inquired of Mr. Forsling regarding the new Christian broadcasting channel and as to whether or not the home box office would be made available, which provided adult movies to residences which could be exposed to minors. Mr. Forsling stated that within the system some of the cities had the home box office which was offered to residences for a premium and protective boxes were provided by lock and key. Rev. Roberts inquired of Mr. Forsling as to whether or not it would be necessary to approve this home box office with the City Commission. Mr. Forsling stated that the home box office was regulated by the Federal Communication Commission, and in his opinion, it could be added under their guidelines without City Commission approval.

Mayor Garrison also inquired about a conflict with respect to the availability of an NBC station at certain times as a necessary backup. Mr. Neal stated that he would review this problem and report back regarding same.

Comm. Jack McMullen made motion that further discussion of this item be tabled until next regular meeting to provide members of Commission a more complete review of information. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

7. Zone Change Approved 2nd Reading-Thomas & Thompson Employees from RL to C District

Mayor Garrison stated that zone change application by Thomas & Thompson Employees from RL to C District covering property located at Southwest corner of Loop 287 & FM 325 intersection, had been approved on first reading of ordinance at last regular meeting.

There were no persons present appearing in opposition to zone change application. Comm. Pat Foley made motion that zone change application by Thomas & Thompson Employees from RL to C District be approved on second and final reading of ordinance. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

Comm. Richard Thompson recused himself from discussion or vote on this item.

8. Zone Change Denied-R. A. Hunter & J. C. Clement, Jr., from RL to A and/or A District, Special Use

Mayor Garrison stated that zone change application by R. A. Hunter and J. C. Clement, Jr., from RL to A and/or A District & Special Use covering property located West of & fronting on Tulane Drive, North of Card Drive intersection, had been recommended by the City Planning and Zoning Commission for approval on a majority vote of four to two.

Mayor Garrison recognized Mr. Walter Borgfeld appearing in representation of applicants. Mr. Borgfeld stated that approximately 12½ acres were being considered for zoning in this area and property was located behind Morrow Buick-Pontiac and Etex International Tractor Company. Mr. Borgfeld stated that his clients had a prospective buyer for development of this property for apartments or townhouses and the proposed construction on this property would be a first-class construction. Mr. Borgfeld stated that townhouses and apartments were not uncommon in residential areas, and made reference to the fact that recent subdivision developments, to include Trailwood Village, Brookhollow and Crown Colony had successfully implemented the use of townhouse construction within their developments.

Mayor Garrison recognized Mr. Abb Roquemore appearing in opposition to thiz zoning. Mr. Roquemore was requested by Mayor Garrison to outline his specific oppositions to this application. Mr. Roquemore listed the following as primary oppositions to an application of this nature, as follows:

(1) additional traffic, (2) high density vs single family use, (3) physical appearance of buildings not compatible with residential surroundings, (4) encouragement of additional multi-family zoning requests that would further compound traffic and create a domino theory of zoning, (5) neighborhood would be less desirable for single-family and values would decrease in residential areas.

Mayor Garrison also recognized Mr. Milton Kinner who stated that the City Commission should use wisdom in development of Tulane due to the problem of traffic which would be an added burden on a very narrow street in this area.

Mayor Garrison also recognized, in opposition, Mr. Ralph Williams, Mrs. Alice Pelky, Mr. & Mrs. Guy Carlton and others appearing in opposition to application for reasons as outlined by Mr. Roquemore.

Mr. Borgfeld stated that he was of the opinion that the City could properly regulate the added traffic in this area and this was not a valid argument.

Mrs. Guy Carlton inquired as to the possibility of a street being considered from U. S. Highway 59 South and it was reported by Mr. Borgfeld that a street of this type could not be made available.

Comm. Jack McMullen made motion that zone change application by R. A. Hunter and J. C. Clement, Jr., from RL to A and/or A & Special Use District, not be approved in view of heavy opposition which was present. Motion was seconded by Comm. Richard Thompson. Comm. Thompson stated he was in opposition to this application because of the fact that Tulane did not appear adequate for the additional traffic. The following vote was recorded:

Voting Aye: Comms. R. A. Brookshire, Pat Foley, Jack McMullen, E. C. Wareing, W. O. Ricks, Jr., and Richard Thompson

Voting Nay: Mayor Garrison

Mayor Garrison declared motion approved by a majority vote of five to one.

9. <u>Zone Change Approved 1st Reading-Geraldine Bradford from RS to C District</u>

Mayor Garrison stated that zone change application by Geraldine Bradford from RS to C District covering property being Lots 9 & 10, West Eastwood Addition, fronting on East side of Locke Street, West of Timberland Drive, between Andrews & Nesbitt Streets, had been recommended for approval by the City Planning and Zoning Commission.

There were no persons present appearing in opposition to zone change request. Comm. W. O. Ricks, Jr., made motion that zone change application by Geraldine Bradford from RS to C District be approved on first reading of ordinance. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

10. <u>Zone Change Approved 1st Reading-J. C. Atkinson from RL to RM District</u>

Mayor Garrison stated that zone change application by J. C. Atkinson from RL to RM District covering property located South of intersection of Lilac and Whippoorwill Drive, had been recommended for approval by the City Planning and Zoning Commission.

There were no persons present appearing in opposition to zone change request. Comm. W. O. Ricks, Jr., made motion that zone change application by J. C. Atkinson from RL to RM District be approved on first reading of ordinance. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

11. Downtown Merchants Assn.-Request for Construction on City Property-Robert Flournoy, John Warner, Joe Register and Roy Dale Lewis

Mayor Garrison stated that members of Commission had received a letter from Downtown Merchants Association requesting that certain buildings in the downtown area be recommended for consideration to construct various overhangs on City property, which would include construction of posts to add to the attractive nature of proposed remodeled building fronts at the Lewis Furniture Company and new legal offices of Robert Flournoy. Mayor Garrison stated that in addition to these requests, Mr. Joe Lee Register, a local attorney, and Mr. John Warner both proposed new office reconstructions which would be similar in nature to additions being proposed by Lewis Furniture Company and Robert Flournoy.

It was explained by City Manager Westerholm that the extension of the canopy into the City ROW was not a problem, but it would be necessary to obtain an easement to provide for the construction of posts on these properties, with the provision that in the event ROW was enlarged that the posts and canopies must be removed. It was also explained that the canopies to be constructed would be self-supporting and in the event posts were removed, the canopy could remain without being removed under the existing regulation.

Comm. E. C. Wareing suggested that City Attorney Flournoy prepare an instrument to accomodate the conditions as explained in general with each individual desiring construction be required to submit a specific drawing describing proposed construction for consideration by Commission.

City Attorney Flournoy suggested an easement varied to meet the specific requirements. It was explained that two requests required immediate attention to include those submitted by Mr. Robert Flournoy and Mr. Roy Dale Lewis who were under construction at the present time.

Comm. Pat Foley made motion that requests by Mr. Roy Dale Lewis be approved with the condition that proposal not exceed 5½-feet of construction onto City property and necessary authorization be approved to provide for this construction and specific instruction requirements involving a survey be made subject to the City Commission approval to include the provisions that the obligations would be incurred by subsequent land-owners and reasonable notice be afforded to owners if canopies and posts were required for movement in the widening of ROWs. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

Comm. W. O. Ricks, Jr., made motion that request by Mr. Robert Flournoy for construction on City property also be approved with the same conditions as required of Mr. Roy Dale Lewis. Motion was seconded by Comm. Jack McMullen and a unanimous affirmative vote was recorded.

It was explained that future requests could be considered on an individual basis by Mr. Richard Warner and Mr. Joe Register who were not in immediate need of approval of their construction at the present time.

12. Morris Frank Park Baseball Complex-Authority to Advertise for Bids

City Manager Westerholm reported that the Texas Parks & Wildlife had approved plans submitted by the City Commission and it was necessary that these plans be advertised for bids for construction of Morris Frank Park Baseball Complex as soon as possible. Comm. W. O. Ricks, Jr., made motion that construction plans be advertised for bids as soon as possible. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

13. Adjournment to Executive Session-Personnel-City Property Sale-Ecomet Burley Appointed to P&Z-City Property Purchase-Elmer Redd

Mayor Garrison stated that it was necessary to consider a brief executive session for the consideration of personnel appointment and City property sale, and regular meeting adjourned at 8:00 p.m.

Mayor Garrison reconvened regular meeting of the City Commission at 8:15 p.m. and stated that members of Commission had reviewed previous information as stated. Comm. E. C. Wareing made motion that Mr. Ecomet Burley be appointed as a new member of the City Planning and Zoning Commission for a three-year term to fill recent vacancy by Richard Thompson. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

Comm. E. C. Wareing made motion that property located at the old landfill site containing 6.75 acres be sold to Mr. Elmer Redd for the appraised value of $7,340.62 and Mayor Garrison be authorized to sign necessary documents regarding same. Motion was seconded by Comm. Jack McMullen and a unanimous affirmative vote was recorded.

14. Adjournment

There being no further business for consideration, meeting adjourned at 8:20 p.m.

Pitser H. Garrison
MAYOR - City of Lufkin, Texas

ATTEST:

Assistant City Manager