

MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 7TH DAY OF JULY, 1981, AT 7:30 P.M.

On the 7th day of July, 1981, 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
Percy A. Simond, Jr.	Commissioner, Ward No. 1
Don E. Boyd	Commissioner, Ward No. 2
Bob McCurry	Commissioner, Ward No. 3
Pat Foley	Commissioner, Ward No. 4
Richard Thompson	Commissioner, Ward No. 5
E. C. Wareing	Commissioner, Ward No. 6
Harvey Westerholm	City Manager
Roger G. Johnson	Assistant City Manager
Robert L. Flournoy	City Attorney
Ann Griffin	City Secretary

being present when the following business was transacted.

1. Meeting opened with prayer by Rev. Stephen Bancroft, Pastor of St. Cyprian's Episcopal Church of Lufkin.
2. Mayor Garrison welcomed visitors present.
3. Approval of Minutes

Minutes of regular meeting of June 23, 1981, were approved on motion by Commissioner Pat Foley. Motion was seconded by Commissioner Richard Thompson and a unanimous affirmative vote was recorded.

4. OPEN HEARING - Revenue Sharing Funds - 1982 Fiscal Year

Mayor Garrison officially opened hearing and stated that the Treasury Department of the Federal Government requires that a hearing be conducted at this stage of the City's budget preparation for the Fiscal Year 1982 indicating proposed allocation of Revenue Sharing Funds.

City Manager Westerholm stated that the City anticipated receiving \$500,000 in Revenue Sharing Funds in 1982, and the following expenditures were suggested:

Audit	\$ 2,500
Exposition Center	100,000
Ladder Truck	215,000 (Fire Dept.)
Street Improvements	
Hill Street	50,000
Cain Street	51,800
Glenn Street	43,200
Sewer Line Extention	<u>36,000</u>
Total	<u>\$498,500</u>

City Manager Westerholm stated that in October the City would receive information indicating the amount of Revenue Sharing Funds to be received. City Manager Westerholm stated that the purpose of the Public Hearing was to receive input from the public about disbursement of funds received.

Mayor Garrison stated that due to the absence of persons appearing in regard to the use of Revenue Sharing Funds, he would officially close public hearing. Mayor Garrison further stated that the City budget would be published in September at which time the Revenue Sharing Funds would be included.

5. Presentation of Service Awards - Retiring Members - Plumbing Appeals & Advisory Board - Zoning Board of Adjustment & Appeals

Mayor Garrison stated that citizens serving on various City Boards provide an invaluable service to the City. Mayor Garrison further stated that there were three (3) retiring members of the Plumbing Appeals & Advisory Board to include, J. A. Bryan, George Ricks, and James E. Lawrence. Mayor Garrison then presented service awards to J.A. Bryan and George F. Ricks who were present at the meeting.

Mayor Garrison stated that there were three (3) retiring members of the Zoning Board of Adjustment & Appeals to include Karl E. Lemke, Carl Lively, Mrs. Emily Shelton, and the loss of Lynn Durham through death. Mayor Garrison then presented service awards to Karl E. Lemke and Carl Lively who were present at the meeting.

6. Appointments - Approved - Zoning Board of Adjustment & Appeals Oaths of Office Administered

Mayor Garrison stated that appointments to the Zoning Board of Adjustment & Appeals had been discussed in Executive Session and each person had accepted. Motion was made by Commissioner E. C. Wareing and seconded by Commissioner Percy Simond that appointments be approved to the Zoning Board of Adjustment & Appeals as discussed in Executive Session. A unanimous affirmative vote was recorded.

Mayor Garrison announced the appointment of Ray Henson to serve an additional term on the board, and the new appointments of Jerry Benson, Gus Lyons, Thomas Moore, and Fenner Roth. Mayor Garrison then administered Oaths of Office to Gus Lyons, Fenner Roth, and Thomas Moore who were present at the meeting.

7. Thoroughfare Development Policy - Adoption as General Guideline

Mayor Garrison stated that the Commission had received a suggested Thoroughfare Development Policy from City Planner Edward Richie, and the Planning & Zoning Commission. Mayor Garrison stated that he would like further clarification of the statement: "Any property which abuts or is adjacent to a designated thoroughfare or falls within an area 400 feet either side of the center line of a designated thoroughfare." City Planner Edward Richie stated that if an establishment is located on a side street, and congestion of the thoroughfare is anticipated by the nature of the business, same would be regulated by the guidelines of the policy. Mr. Richie further stated that it was the intent of the policy to give the City Planning Department authority to request property owners to comply with the policy setback requirements, but the property owner could appeal to the Planning & Zoning Commission. In answer to question from Commissioner E. C. Wareing, Mr. Richie stated that the 30 foot setback under the apartment district provided enough room for a drivethrough and several parking spaces in the area.

Commissioner E. C. Wareing stated that the requirement of outside storage being screened by a 6 foot sight bearing fence would be very expensive for the property owners.

Mr. Richie stated that the Planning & Zoning Commission was requesting the endorsement of the Thoroughfare Development Policy by the City Commission to allow enforcement of same.

Motion was made by Commissioner E. C. Wareing and seconded by Commissioner Pat Foley that the Thoroughfare Development Policy be adopted as a general guideline with each case being considered on its own merit. A unanimous affirmative vote was recorded.

8. Private Club Ordinances - Amendment to Zoning Ordinance - Approved
First Reading - Ordinance Regulating Private Clubs - Postponed

Mayor Garrison stated that there were three (3) pending zone change applications before the City Commission awaiting the passage of ordinances pertaining to private clubs. Mayor Garrison further stated that in addition to ordinance submitted by the City Attorney, Commissioner Richard Thompson and Clay Dark, local attorney, had submitted sample ordinances.

City Attorney Bob Flournoy stated that he had developed two (2) separate ordinances; one (1) to amend the zoning ordinance by eliminating "Beer Taverns" in a Commercial zone and redefining a private club; two (2) an ordinance regulating the operation of private clubs. City Attorney Flournoy stated that he included the provision to establish a two (2) year term for private clubs that could be renewed indefinitely, but the City Commission could deny renewal if State Laws had been violated. City Attorney Flournoy further stated that the ordinance would require the applicant for private club permit to submit a plan indicating proximity of facility to schools, churches, and hospitals.

City Attorney Flournoy stated that the private club must be secondary to the operation of a restaurant, motel, hotel, etc, and 70% of the revenue must be derived from the sale of food. City Attorney Flournoy stated that the ordinances were presented to City Commission for any changes they deem necessary, and the ordinance regulating private clubs provided for a penalty of \$200 a day for each violation of the ordinance.

Commissioner Richard Thompson stated that he used the ordinances submitted by City Attorney Flournoy as a guideline, but expanded several sections, and each addition is indicated by underlining or parentheses. Commissioner Thompson contended that private clubs should be included in the "NR" District or less restrictive district, because this is the zone governing restaurants, and the definition of private club was enlarged to include the language of Vernons Annotated Statutes 666-15E. Commissioner Richard Thompson stated that the private club definition in his ordinance was included in the sample ordinance from the City of Greenville.

City Attorney Flournoy stated that his ordinance adequately covered the definition of private clubs because the State Law speaks to all additional points included in Commissioner Thompson's definition.

Commissioner Richard Thompson stated that a private club was a place rather than a person, firm or organization. Mayor Garrison stated that the State Law refers to private clubs owning or leasing a building which indicates the private club is considered a person, firm or organization.

Commissioner Bob McCurry stated that the proposed ordinances were similar to the present ordinance. Commissioner E. C. Wareing stated that the present zoning ordinance does not include a definition of a private club as provided by the new ordinances, but regulations of private clubs should be separate from the Zoning Ordinance.

Commissioner Percy Simond stated that the ordinances were received from the City Attorney for prior consideration, but two (2) additional ordinances were received at the meeting which made consideration of same impossible.

Mayor Garrison stated that he approved of all private clubs being reviewed by the City Commission on a regular basis providing control over the special use designation. Commissioner E. C. Wareing stated that the special use zone for private clubs would be the only zone eligible to be repealed, and regulation of same should be included in a separate ordinance.

Mayor Garrison stated that the State Law requires the premises of a private club to be suitable and adequate for the members with adequate food service. Mayor Garrison further stated that regulation of food service could only be accomplished by reviewing the special use zone, and the Alcoholic Beverage Commission does not have enough manpower to investigate same.

Motion was made by Commissioner E. C. Wareing and seconded by Commissioner Richard Thompson that ordinance amending the Zoning Ordinance be adopted as presented by Commissioner Richard Thompson with the following changes: Section Three (3) the definition of private club beginning with the words, "An Association of persons . . ."; that applications be reviewed every three (3) years; that private clubs be in a NR or less restrictive district.

Commissioner Pat Foley stated that the reconsideration of special use zones for private clubs every three (3) years would be a problem.

City Attorney Flournoy stated that provision for reconsideration of special use zones for private clubs should be included in the ordinance regulating private clubs. Commissioner Richard Thompson stated that the reconsideration provision could be the initial step toward all special use zones returning for review on a regular basis.

Commissioner E. C. Wareing amended his previous motion to omit Section Two (2) Subsection (a) from Zoning Ordinance amendment and addition to ordinance regulating private clubs or as a separate ordinance. Motion was seconded by Commissioner Pat Foley, and a unanimous affirmative vote was recorded.

Commissioner E. C. Wareing made motion that consideration of ordinance regulating private clubs be delayed until next regular meeting to allow time for consideration of ordinances presented to the City Commission for consideration. Motion was seconded by Commissioner Pat Foley and the following vote was recorded: Aye: Mayor Garrison, Commissioners Simond, Boyd, Foley, Thompson and Wareing; Nay: Commissioner McCurry. Mayor Garrison declared motion approved by a majority vote of 6 to 1.

Commissioner Bob McCurry stated that he voted nay because he did not want to delay consideration of the ordinances any further. Commissioner E. C. Wareing stated that the Commission would be passing a law with the approval of the ordinance, and to provide a good law, all avenues should be considered.

Commissioner Percy Simond stated that he was opposed to several areas of the proposed ordinance which he viewed as being unfair to the small operator.

9. Bids - Rejected - Relocation of Buildings from Republic Bank Property

Mayor Garrison stated that the Republic Bank had offered two (2) buildings to the City of Lufkin for use as a service center with the requirement that the City pay the expenses of removing and relocating same. Mayor Garrison further stated that bids were invited, and L. Richardson & Son submitted the only bid.

City Manager Westerholm stated that the cost of moving the buildings was more expensive than constructing a new building which would better fit the needs of the City. City Manager Westerholm stated that it was his recommendation that bid be rejected and the idea of moving the buildings be abandoned because it would not be advantageous to the City.

Motion was made by Commissioner Pat Foley and seconded by Commissioner Don Boyd that recommendation of the City Manager be accepted. A unanimous affirmative vote was recorded.

10. Participation - Deferred - 1982 Federal-Aid Railroad Grade Crossing Improvement Program (Pershing Avenue)

Mayor Garrison stated that the Texas Department of Highways and Public Transportation has suggested that federal aid is available for installation of gates on Pershing Railroad grade crossing.

City Manager Westerholm stated that the City has requested funds from the Highway Commission for widening of Angelina and Pershing Streets, and action on participating in the railroad grade crossing improvement program should be delayed until the Highway Commission makes a decision on widening the streets. City Manager Westerholm further stated that refusal of the City to participate in the railroad grade crossing improvement program would be a deterrent to receiving funds from the Highway Commission because of the safety factor.

Motion was made by Commissioner Don Boyd and seconded by Commissioner E. C. Wareing that the City consider participation in the program based on the information received from a joint field inspection by the railroad, Department of Highways, and City personnel at a later date. A unanimous affirmative vote was recorded.

11. Agreement with Texas Department of Highways & Public Transportation - Improvement to FM 1271 (Old Union Road - Pershing Ave. west to Loop 287) - Postponed

Mayor Garrison stated that the Texas Department of Highways and Public Transportation has submitted an agreement for the City's consideration that would provide for the improvement of FM 1271 (Old Union Road - Pershing Avenue west of Loop 287). Mayor Garrison stated that the street would be 48 feet, back to back curbed and guttered, two (2) lane with parking lanes on both sides, starting at Trailwood and continuing west to its junction with Liveoak Street, with an estimated cost to the City of \$85,000 payable in April, 1982.

Commissioner E. C. Wareing stated that provision should be made for property owners to participate in the cost of curb and gutter installation. City Manager Westerholm stated that in a residential area the property owners are asked to participate in the cost of curb and gutter if they request the improvements.

Motion was made by Commissioner Pat Foley and seconded by Commissioner Percy Simond that City Manager Westerholm should explore the possibility of property owners sharing in the cost and report back to the City Commission at next meeting. A unanimous affirmative vote was recorded.

12. Lufkin-Diboll Water Study - Report Considered - Next Phase of Study Authorized

Mayor Garrison stated that the second phase of the Lufkin-Diboll Water study had now been completed, and the Commission had received the report. Mayor Garrison recognized Mr. Mike Marcotte, representing Turner, Collie & Braden, Inc., who stated that the report provided estimates of availability of additional ground water. Mr. Marcotte stated that the Carizzo Sands Aquifer is now near maximum yield, and ground water level in City wells has been declining. Mr. Marcotte stated that water is now being removed from the aquifer faster than it is being replenished, and it is estimated that 13 or 15 billion gallons remain in the aquifer. Mr. Marcotte stated that in view of the ground water situation, it would not be prudent for Lufkin to serve Diboll on a long term basis. Mr. Billy Sims, Temple Associates, stated that if Lufkin plans to go to surface water it would be possible to serve Diboll's water needs. Mr. Sims further stated that in five (5) to ten (10) years, Lufkin

would have to rely on surface water, and preparation of the plant should begin now. Mr. Sims further stated that a water plant usually takes four (4) to five (5) years to complete, and the engineering fee would be approximately \$250,000. Commissioner E. C. Wareing stated that the next step of the water study should be proposed by Temple Associates indicating the cost and the Engineering fee along with the contents of the next scope of study. It was unanimously agreed by the City Commission that Temple Associates should submit a proposal for consideration regarding this information.

13. Request for Office Space - Approved - Deep East Texas Council on Drug and Alcohol Abuse

Mayor Garrison stated that the Deep East Texas Area Council on Alcohol and Drug Abuse had requested that the City provide them with office space in the downtown Recreation building which was formerly used by the Lufkin Adult Learning Center. Mayor Garrison recognized Rev. Stephen Bancroft, representative of the council.

Rev. Bancroft stated that he was a member of the board of the Deep East Texas Area Council on Alcohol and Drug Abuse which served 12 counties in Texas, and was presently housed in the County Courthouse Annex. Rev. Bancroft stated that more office space was needed by the Council, and they were requesting use of the office space over the downtown Recreation building with the same agreement that existed between the City and the Adult Learning Center. Rev. Bancroft stated that the hours would be 8 to 5 daily, and the space would only be used for offices.

Motion was made by Commissioner Pat Foley and seconded by Commissioner Bob McCurry that the Deep East Texas Area Council on Alcohol and Drug Abuse be granted a one (1) year lease on the upstairs office space in the downtown recreation building with the same agreement as previous occupant. A unanimous affirmative vote was recorded.

14. Inter-Governmental Agency Agreement - Approved - City of Lufkin and Angelina County - Construction & Operation of Agricultural and Horticultural Exposition Center

Mayor Garrison stated that the City had voted to participate in the construction of the new exposition center, and City Attorney Flournoy had drafted an agreement between the City and Angelina County for consideration.

City Attorney Flournoy stated that a State Statute permits City and County governments to enter into the construction of horticultural and agricultural exposition centers. City Attorney Flournoy stated that the contract should be entered into by the City and County to provide services and is an expression of intent to provide the facility. City Attorney Flournoy further stated that the City and County would jointly accept bids, and bids greater than \$600,000 would be rejected because this is the figure approved for construction.

City Attorney Flournoy stated that the County cannot legally make a grant which necessitated the agreement, and the law states that control of the exposition center must be jointly between the City and County with the seven (7) member board having two (2) representatives from the City, two (2) from the County, and three (3) independent members. City Attorney Flournoy further stated that the facility would be owned by the nonprofit organization that builds the facility.

Commissioner E. C. Wareing stated that he objected to the language in the agreement which stated, ". . . City of Lufkin have the duty to provide..." Commissioner E. C. Wareing further stated that he envisioned the exposition center would be available for use by private groups, and City Attorney Flournoy assured Commissioner Wareing that the exposition center would be available to groups.

Motion was made by Commissioner Pat Foley and seconded by Commissioner Bob McCurry that the City enter into the agreement with an addendum that the City does not consider it a duty to provide the facility, but considers it advisable to do so. A unanimous affirmative vote was recorded.

Commissioner Bob McCurry stated that the exposition center would be an asset to the City.

- 15. Zone Change Application - Approved - First Reading - Claude A. Konetzke & Florine Rhodes Konetzke - RL to C

Mayor Garrison stated that zone change application by Claude A. Knoetzke and Florine Rhodes Konetzke covering property located on South Medford Drive, tract 8 of the G.W. Massengill Survey west of Ford Chapel Road and south of South Medford Drive from Residential Large to Commercial had been recommended for approval by Planning & Zoning Commission. There was no opposition present.

Motion was made by Commissioner Pat Foley and seconded by Commissioner Don Boyd that zone change application be approved on first reading. A unanimous affirmative vote was recorded.

- 16. Zone Change Application - Approved - First Reading - Multiventures, Inc., RM to RM,SU (Item 6-Day Nursery)

Mayor Garrison stated that zone change application by Multiventures, Inc., covering property on Tulane Street adjacent to National Guard Armory between Tulane and South Third Street from Residential Medium to Residential Medium, Special Use (Item 6-Day Nursery) had been recommended for approval by Planning & Zoning Commission. There was no opposition present.

Motion was made by Commissioner Don Boyd and seconded by Commissioner E. C. Wareing that zone change application be approved on first reading. A unanimous affirmative vote was recorded.

- 17. Substandard Housing - Discussed - Police Officer in Commission Meetings - Discussed - Sewer Treatment Site Bids - Additional Information (Agenda Items) Received at Meetings - Discussed - City Manager to Attend ICMA Meeting - Approved

Commissioner Don Boyd stated that the recent newspaper article dealing with substandard housing in the City deserved consideration from the City Commission. Mayor Garrison stated that City Manager Westerholm should provide the Commission with sample ordinances from other cities dealing with the problem.

Commissioner Percy Simond stated that the City Commission should explore the possibility of having a police officer stationed in the Council Room during City Commission meetings. Mayor Garrison suggested that City Manager Westerholm meet with the Police Department to discuss the possibility of same.

In answer to question by Commissioner E. C. Wareing, City Manager Westerholm stated that bids for the sale of former Sewer Treatment Site would be opened July 16, 1981, and notification had been mailed to all realtors in the City.

Commissioner Bob McCurry stated that an attempt should be made to provide all information needed for the City Commission Meetings in the distribution that is delivered to each Commissioner the Friday before the Tuesday Meeting. Commissioner McCurry further stated that it was very confusing to attempt to assimilate information received upon arrival at the Commission Meetings.

City Manager Westerholm stated that he would like to attend the International City Manager Association Convention in Anaheim, California, due to his recent election as President of the Texas City Manager Association. Motion was made by Commissioner Percy

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Simond and seconded by Commissioner E. C. Wareing that City Manager Westerholm attend the ICMA Convention. A unanimous affirmative vote was recorded.

Mayor Garrison stated that the City Commission should take note of the tragedy in the family of Lt. Kelly Russell of the Fire Department in the loss of two (2) children in a fire at his home.

18. There being no further business for consideration, meeting adjourned at 10:45 p.m.



ATTEST:

Pitser H. Garrison
Pitser H. Garrison, Mayor

Ann Griffin
City Secretary