

MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 4TH DAY OF AUGUST, 1981, AT 7:30 p.m.

On the 4th day of August, 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
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

being present, and

Bob McCurry	Commissioner, Ward No. 3
Ann Griffin	City Secretary

being absent when the following business was transacted.

1. Meeting opened with prayer by Rev. Charles McIlveene, Pastor of First Baptist Church of Lufkin, Texas.
2. Mayor Garrison welcomed visitors present.
3. Approval of Minutes

Minutes of regular meeting of July 21, 1981, were approved on motion by Commissioner Pat Foley. Motion was seconded by Commissioner Don E. Boyd, and a unanimous affirmative vote was recorded.

4. Ordinance Approved - Second Reading - Regulation of Private Clubs

Mayor Garrison stated that ordinance had been approved on first reading at last regular meeting concerning regulation of private clubs and the City Attorney had made certain changes to the proposed ordinance for consideration at this meeting on request by the City Commission. Mayor Garrison asked if individuals were present that desired to provide information that had not previously been discussed in favor of this ordinance. There were no individuals who expressed additional comments in this regard, and Mayor Garrison recognized Mr. Clay Dark representing opposition to approval of this ordinance.

Mr. Dark stated that he had conferred with Mr. Bill Fenley and City Attorney Robert Flournoy regarding the proposed ordinance concerning compliance with state law regarding fraternal organizations and additional materials regarding further clarification.

City Attorney Flournoy stated that he was in agreement with points of clarification mentioned by Mr. Dark, and same had been added to the ordinance proposed for consideration by members of Commission.

Mayor Garrison recognized Mr. Greg Owens appearing in behalf of Mr. Bill Fenley. Mr. Owens stated that he was in agreement with the changes as discussed by Mr. Dark and Mr. Flournoy.

Commissioner Pat Foley expressed his opposition to the proposed ordinance in its present form with specific reference to section four (4) and six (6).

There were no additional comments from members of Commission, and City Attorney Flournoy reviewed changes in the ordinance requested by members of Commission at last regular meeting. Commissioner

E. C. Wareing made motion that ordinance be approved on second and final reading restricting private clubs as previously discussed at last regular meeting. Motion was seconded by Commissioner Richard Thompson and the following vote was recorded: Aye: Commissioners E. C. Wareing, Thompson, Simond and Mayor Garrison; Nay: Commissioners Boyd and Foley. Mayor Garrison declared motion approved by majority vote of 4 to 2.

5. Zone Change Application - Approved - Second Reading - Exeter Investment Corporation - Commercial to Commercial, Special Use (Item 16-Private Club) - City Secretary Appointed as Designated Officer to Receive Private Club Licenses and Renewals

Mayor Garrison stated that zone change application by Exeter Investment Corporation covering property located at 3009 John Redditt Drive between Mott Road and Timberland Drive from Commercial District to Commercial District, Special Use, (Item 16-Private Club), had been approved on first reading at a previous meeting. Mayor Garrison then recognized Mr. Clay Dark, attorney representing application. Mr. Dark stated that he had no additional comment regarding application by Exeter, but desired to know designated City Official that would be appointed to receive license and renewals as expressed in the ordinance previously approved by Commission.

There was no opposition present. City Attorney Flournoy informed members of Commission that in order to expedite ordinance being considered for private clubs at this meeting, and in as much as it was required that penal ordinances be advertised ten (10) days, it would be necessary to require the ordinance previously approved by the City Commission restricting private clubs become effective on the same date application for private club zone change applications were approved. Clay Dark, attorney for Exeter, stated that he did not object to this requirement if same could be completed as soon as possible. Members of Commission unanimously agreed that August 20, 1981, could be established as the effective date of both the ordinance restricting the use of private clubs, and proposed zone change applications being presented at this meeting for private clubs.

Motion was then made by Commissioner Percy Simond to approve zone change application by Exeter Investment Corporation on second and final reading to include the stipulation that ordinance restricting the use of private clubs and this particular zone change application become effective on August 20, 1981, as explained by City Attorney Flournoy. Motion was seconded by Commissioner Pat Foley, and the following vote was recorded: Aye: Mayor Garrison, Commissioners Simond, Foley and Boyd; Nay: Commissioners Wareing and Thompson. Mayor Garrison declared motion approved by a majority vote of 4 to 2.

6. Zone Change Application - Approved - Second Reading - David D. Dunn - LB to C, Special Use (Item 16-Private Club)

Mayor Garrison stated that the zone change application by David D. Dunn covering property located at 207 N. Raguet between Frank and Moore Avenue, from Local Business to Commercial, Special Use, (Item 16-Private Club) had been approved on first reading at a previous meeting, and same was before this Commission for reconsideration based on approval of restrictions to private clubs.

Mr. Dunn had no additional comments and Commissioner Pat Foley made motion that zone change application by David D. Dunn from LB to C, SU (Item 16-Private Club) be approved on second and final reading of ordinance to become effective August 20, 1981, in coordination with previously approved private club application. Motion was seconded by Don Boyd and the following vote was recorded: Aye: Mayor Garrison, Commissioners Boyd, Simond, Foley, and Wareing; Nay: Commissioner Thompson. Mayor Garrison declared the motion approved by a majority vote of 5 to 1.

7. Resolution Approved - Texas Department of Highways and Public Transportation - Improvement to FM 1271(Old Union Road - Pershing Ave.- West Loop 287)

Mayor Garrison stated that the City staff had conducted a study of property owners concerning curb and gutter improvements on FM 1271, Old Union Road or Pershing Avenue, west of Loop 287 as requested from last regular meeting, in conjunction with proposal by the State Department of Highways and Public Transportation.

City Manager Westerholm reported that property owners on Old Union Road were contacted concerning their participation on curb and gutter cost at the rate of \$2.00 per foot and 73.65% were in favor, 26.37% in opposition, and .069% undecided. City Manager Westerholm stated that in the event members of Commission approved, a resolution would be necessary to consider assessment for curb and gutter to property owners by special ordinance.

Commissioner Pat Foley inquired as to how the \$2.00 figure was considered. City Manager Westerholm stated that this amount was negotiated with property owners during an earlier meeting. Commissioner Foley stated that in his opinion, other areas of the City were more important for highway improvement than this particular section.

Commissioner Richard Thompson expressed his support for improvement in this area due to the fact that the Department of Highways and Public Transportation had recommended same. Commissioner E. C. Wareing expressed his support of the proposal as recommended, and stated that members of Commission should support this endeavor if money could be managed for the construction. City Manager Westerholm stated that money could be appropriated from next year's budget for this construction if members of Commission desired.

Mayor Garrison also expressed his support and Commissioner Richard Thompson made motion to approve resolution for improvements to this area as recommended by the Department of Highways and Public Transportation to include condition that curb and gutter assessment ordinance be prepared for next meeting assessing property owners at \$2.00 per foot. Motion was seconded by Commissioner Percy Simond and a unanimous affirmative vote was recorded.

8. Zone Change Application - Approved - Second Reading - Billy Ray Whiteside - HM to HM,SU(Item 15-Lodge-Knights of Columbus)

Mayor Garrison stated that zone change application by Billy Ray Whiteside from Heavy Manufacturing to Heavy Manufacturing, Special Use(Item 15-Lodge-Knights of Columbus) covering property located at 2007 Spence Street had been approved on first reading at last meeting.

Prior to discussion of application, Commissioner Pat Foley recused himself from vote or discussion because of a business relation in this application.

Mayor Garrison then recognized Clay Dark appearing in representation of this application. Mr. Dark thanked members of Commission for their previous support of this application and made no additional comments.

Mayor Garrison inquired as to whether or not individuals present desired to speak in opposition to application by furnishing members of Commission additional opposition that had not been previously discussed at last regular meeting. Mayor Garrison then recognized Mrs. Velma Baker who stated that she desired to clarify that this building when finally constructed would be located 138 feet from her bedroom which was previously represented as being approximately 265 feet. A brief discussion developed regarding the exact location with Mr. Pat Hartman who was present representing application, and Mr. Hartman stated that the previous 265 feet figure was only an estimate, and the 138 feet figure as stated by Mrs. Baker was correct.

There was no additional discussion by members of Commission, and Commissioner E. C. Wareing made motion that zone change application by Billy Ray Whiteside from HM to HM,SU(Item 15-Lodge-Knights of Columbus) be approved on second and final reading of ordinance. Motion was seconded by Commissioner Don Boyd and a unanimous affirmative vote was recorded.

9. Zone Change Application - Approved - Second Reading - Deep East Texas Piced Corporation - RS to RS, SU (Item 6-Day Care Center)

Mayor Garrison stated that zone change application by the Deep East Texas Piced Corporation covering property of Long Chapel CME Church education building located at 514 Lining Street between Paul and Milam had been approved at last regular meeting on first reading of ordinance.

There was no opposition present, and motion was made by Commissioner Percy Simond that zone change application as presented be approved on first reading of ordinance. Motion was seconded by Commissioner Don E. Boyd and a unanimous affirmative vote was recorded.

10. Zone Change Application - Approved - First Reading - Mrs. Mamie Richards - Agent for George A. Sparks Estate - RI to C

Mayor Garrison stated that zone change application by Mrs. Mamie Richards, agent for the George A. Sparks Estate, covering property located on Sandy Lane between Lufkin Avenue and Loop 287 from Residential Large to Commercial, had been recommended for approval by the City Planning and Zoning Commission. There were no persons appearing in opposition to application and Commissioner E. C. Wareing questioned the necessity of the City obtaining a right-of-way for future use to the west of this property on Sandy Lane which was not a dedicated right-of-way.

Attorney for applicant, Bill Ricks, stated that Sandy Lane was not a dedicated right-of-way and information could be made available to the City Attorney if members of the Commission desired further research regarding names of property owners in this area.

There were no additional comments made by members of Commission, and Commissioner E. C. Wareing made motion that this zone change application be approved on first reading of ordinance. Motion was seconded by Commissioner Pat Foley, and a unanimous affirmative vote was recorded.

11. W. J. Harbuck - Proposed City Bus System - Ordinance Approved - First Reading

Mayor Garrison stated that City Attorney Flournoy had prepared an ordinance for members of Commission to consider regarding the regulation of a City Bus System as requested by Mr. W. J. Harbuck. City Attorney Flournoy then reviewed proposed ordinance for members of Commission. City Attorney Flournoy stated that the proposed ordinance covered basic information required of cities in this regard to include regulation of specific routes, limitation of a ten (10) year franchise, requirement for posting of rates, and related information.

Mayor Garrison expressed his concern that proposed ordinance speak to the liability insurance requirements being filed with the City, and requirement that the insurance company notify the City if insurance was discontinued by the franchise holder.

City Manager Westerholm also suggested that the ordinance be more specific as to how often gross receipts were to be paid, and it was concluded that same would be paid every three months.

Mr. W. J. Harbuck who was present, had no additional comments regarding ordinance. City Attorney asked Mr. Harbuck to report to the City as soon as possible the name of his bus company to comply with the ordinance.

Commissioner Pat Foley made motion that the proposed ordinance for bus regulation be approved on first reading as presented by City Attorney Flournoy with changes as previously stated to include insurance cancellation provisions and 90 day termination clause. Motion was seconded by Commissioner Percy Simond and a unanimous affirmative vote was recorded.

12. Parking Area Designated - Handicapped Ramps Approved - Downtown Area

City Manager Westerholm reported to the members of Commission that requests had been received for adjustments for the downtown intersections in order to provide handicapped persons in wheel chairs the opportunity to negotiate access to the streets and sidewalks.

City Manager Westerholm then reported to members of Commission the estimated cost for completing construction of the ramps in downtown area over a one (1) year period which would cost \$4,200. City Manager Westerholm also stated that some of the construction could possibly begin in this year's budget and the balance proposed in the new fiscal year. City Manager Westerholm stated that handicapped parking would have to be designated near these ramps for their convenience, but it would be necessary for members of Commission to approve this construction for budget purposes. It was also reported that ramps must be painted with a very visually noticeable color for the safety of walking traffic.

Commissioner Don E. Boyd asked City Manager Westerholm whether or not this program was in line with similar sponsored programs by the Department of Public Safety. City Manager Westerholm stated that the same provisions were being considered.

Commissioner Pat Foley then made motion that City Manager Westerholm be authorized to proceed with this construction project. Motion was seconded by Commissioner Don Boyd and a unanimous affirmative vote was recorded.

13. Housing Survey Authorized - Lufkin Area - Discussion of Proposed Housing Needs

Mayor Garrison stated members of Commission at last regular meeting asked that a proposed housing regulation should be placed on the agenda for discussion at this meeting and the City staff furnish various information regarding housing codes in neighboring cities, and the existing authority of the City of Lufkin.

Commissioner E. C. Wareing stated that he had recently heard Mr. Ward Burke, a local attorney, speak regarding the housing needs of this area at a Kiwanis meeting. Commissioner Wareing expressed his opinion that Mr. Burke had made an informative presentation, and members of Commission should look at the City's local housing problems as they presently exist. Commissioner Wareing then made reference to 1973 comprehensive master plan which was available for review by members of Commission. Commissioner E. C. Wareing stated that it would be helpful if the City made a local survey and investigated certain questions to include whether or not facilities were owner occupied or tenant occupied, and state of physical condition to determine present status. Commissioner Wareing stated that this information would be very helpful to determine whether or not a housing ordinance was necessary or if we should only enforce existing codes.

Mayor Garrison expressed his opinion that the City should consider application of the standard building code for repairs of unsafe buildings which was presently available for use, and same had been approved by the Commission. Mayor Garrison suggested stronger enforcement of this particular code and made specific reference to Section 103.4 of local housing ordinances concerning unsafe buildings.

Commissioner Percy Simond inquired as to the amount of time required under our present ordinances for a person to remove a delapidated house. Mayor Garrison stated that in some cases the process would take approximately 30 days but further reference was made to flow chart requiring certain notices and meetings that would be much more time consuming than 30 days.

Commissioner Pat Foley indicated that Mr. Ward Burke had expressed the need for citizen involvement when housing conditions were being considered and emphasized that members of the Commission should also be aware of same.

Mayor Garrison suggested that members of Commission review the City's specific problem as soon as possible.

City Manager Westerholm suggested that members of Commission allow the City staff to prepare a survey which, in his opinion, would require approximately six (6) weeks to compile data as requested by Commissioner E.C. Wareing and other members of Commission.

Commissioner Wareing suggested that vacant dwellings should be processed as soon as possible and most immediate problems be considered first.

Commissioner Richard Thompson inquired as to whether we could enforce better lot cleanup after houses were demolished in certain areas. City Manager Westerholm stated that he would review this requirement as soon as possible.

Motion was then made by Commissioner Richard Thompson to authorize City Manager Westerholm to proceed with this study as soon as possible and report same to members of Commission at a future meeting. Motion was seconded by Commissioner E. C. Wareing and a unanimous affirmative vote was recorded.

14. Taxi Cab Ordinance - Proposed Amendment Regarding Cruising - Postponed

Mayor Garrison recognized Robert Flournoy, City Attorney, regarding proposed amendment to taxi cab ordinance concerning cruising. City Attorney reported that on May 5, 1981, members of Commission granted Mr. J. D. Gibson a taxi cab franchise, and Mr. Gibson requested consideration at this meeting for the allowance of cruising within the City. City Attorney Flournoy stated proposed ordinance involved removal of Section 25-24 from the existing ordinance.

Mayor Garrison recognized Mr. Smitty Langford who was present representing his cab company. Mr. Langford stated that he was in opposition to cruising prohibition if it disallowed a driver to stop and provide a ride to an individual who was asking for a ride which was commonly hailing, and he had no opposition to removing the cruising prohibition because same would cause traffic congestion and prevent proper fares from being charged to the cab company.

Considerable discussion developed regarding this ordinance, and Commissioner E. C. Wareing asked if City Attorney Flournoy would review the questions and report back to the Commission at a later meeting with an ordinance which would speak to the problem involved.

There was no further discussion regarding this item and members of Commission were in unanimous agreement with suggestions presented by Commissioner Wareing to postpone consideration until a later meeting.

15. Exposition Center - Approval of Bid Proposal - Angelina County Exposition Center, Inc.

Mayor Garrison stated that a letter had been received from Angelina County Judge Dan Jones reflecting the bid proposal accepted by the County which was for the construction of the Exposition Center. Mayor Garrison stated that only one bid had been received by Angelina County from the Angelina County Exposition Center, Inc., and bid was before this Commission for approval. Mayor Garrison further noted that this bid would require a payment of \$200,000 during the next fiscal year, and the City Manager has reported same could be paid from funds in the new City budget.

Mayor Garrison then recognized George Henderson who was present in representation of this consideration. Mr. Henderson explained various conditions of the bid and answered questions from members of Commission regarding same. In answer to various inquiries made by members of Commission, Mr. Henderson stated that, in the event money commitments were not made on dates indicated in bid proposal, the construction of the Exposition Center would not be completed in 1982, but when payment was made.

City Manager Westerholm stated that, in his opinion, the City should be able to meet these required payment dates as outlined in proposal.

Commissioner Pat Foley made motion that proposal be accepted as presented by Angelina County Exposition Center, Inc., in the amount of \$600,000. Motion was seconded by Commissioner Percy Simond and a unanimous affirmative vote was recorded.

Mayor Garrison recognized Mr. Charles Turner who was present. Mr. Turner inquired as to whether or not the public would have any input in this decision or if the decision would lie in the hands of the cities of Hudson, Lufkin, and Angelina County. Mr. Turner further asked what would happen if there was a default on the bonds. In answer to inquiry, Mayor Garrison stated that the City of Lufkin, Angelina County, and City of Hudson would have no responsibility in default on the bonds. Mr. Turner also inquired as to what would happen if insufficient revenue was generated to pay for these bonds. Mayor Garrison stated that the bond holders in the matter would be taking the chance.

Members of Commission then signed necessary documents creating authority as discussed.

16. Accounting Department - Proposal of Implementation of Accrual System
Alexander & Rogers - Proposal Tabled

Mayor Garrison stated that City Manager Westerholm had recommended acceptance of the accrual system of accounting for the City of Lufkin based on recommendations from the last City Audit and Alexander & Rogers Audit Firm, current auditors for the City of Lufkin. Mayor Garrison made reference to the proposal submitted by Alexander & Rogers and requested clarification regarding comments in their letter. Mayor Garrison further stated that banks had a greater need for the accrual system of accounting. City Manager Westerholm stated that previous accounting firms had also recommended the City use an accrual system of accounting, and this type system would allow better budget control.

Considerable questions were asked by members of Commission concerning why accrual system would be better than the existing system, and if the City's annual audit would be cheaper under the system. Members of Commission were in agreement that additional clarification was necessary from auditors to determine why an accrual system would be better for the City. It was unanimously agreed by members of Commission that this item be tabled until next regular meeting to allow City Manager Westerholm time to receive additional information.

17. Texas Power & Light - Rate Increase Request - Suspension of Increase
Request Approved

Mayor Garrison stated that members of Commission had received recommendation from the City's consultants in the Texas Power & Light rate request who had recommended City suspend the company's requested increase for an additional 30 days from August 7, 1981, to September 7, 1981, to allow time to determine whether the negotiations with the company regarding the provisions of the fuel adjustment clause would be resolved. Mayor Garrison stated that action to suspend should be determined no later than August 7, 1981, and the company had the right to place increased rates into effect under bond. Mayor Garrison stated it was expected that the rates approved by the PUC would be put into effect under bond on a uniform system wide basis. Following discussion, motion was made by Don E. Boyd that suspension of 30 days be granted from August 7, 1981, to September 7, 1981, as requested. Motion was seconded by Commissioner E. C. Wareing and a unanimous affirmative vote was recorded.

18. Lufkin Diboll Water Study - Approval of Change Order No. 2

Mayor Garrison recognized Mr. Billy Sims, engineer from Temple Associates, appearing in representation of change order #2 regarding the Lufkin Diboll Water Study. Mr. Sims reviewed in detail a brief history of this proposal and early phases of engineering. Mr. Sims stated that the proposal before the Commission was change order #2 involving a cost of \$18,557, for a new contract in the amount of \$29,157. Mr. Sims then reviewed complete contract and invited comments from members of Commission. Mr. Sims also reminded members of Commission that this study was based on previous request of the City Commission concerning a study of water use from Rayburn Lake and City water wells. Mr. Sims stated that this phase of the operation could be completed in a 60 day period.

Various questions were asked by members of Commission, and Commissioner E. C. Wareing confirmed the amount payable by the City which would amount to payment of the engineer by the City of Lufkin for 60% shared cost with the City of Diboll paying 40%.

Commissioner Pat Foley expressed his opinion to move forward with the project at this point, and Commissioner E. C. Wareing stated, in his opinion, the City should obtain this information for future City growth use. It was explained that this study would provide Diboll a cost to receive water from the City of Lufkin.

Commissioner E. C. Wareing then made motion that the City of Lufkin accept proposal as submitted by Temple Associates for approval of change order #2 in the amount as previously stated. Motion was seconded by Commissioner Pat Foley, and a unanimous affirmative vote was recorded.

19. City Secretary - Appointment as Designated Officer to Receive Application for License and Renewals of Private Club Permits

Commissioner Pat Foley stated that inasmuch as request had been made by Clay Dark to designate a City Official to receive license and renewal for private club permits, he would propose that the City Secretary be appointed as the officer.

Commissioner Pat Foley then made motion that the City Secretary be appointed as the designated officer for this assignment. Motion was seconded by E. C. Wareing, and a unanimous affirmative vote was recorded.

20. City Budget - Fiscal Year 81-82 - City Lawsuit - Discussion ...

City Manager Westerholm inquired of Commission if they desired to place discussion of the City's annual budget for 81-82 on the next regular meeting agenda. Members of Commission were in agreement, and City Manager Westerholm stated that same would be placed on the agenda for their discussion at next regular meeting.

City Attorney Flournoy reported that he would be in court Thursday and Friday of next week regarding lawsuit of Gossage, et al vs. City of Lufkin, and if members of City Commission desired to attend, he anticipated the trial would take from two (2) to three (3) days. City Attorney Flournoy stated that this lawsuit involved alleged charge of wrongful discharge of City employees at the Water Pollution Control Plant.

21. There being no further business for consideration, meeting adjourned at 10:13 p.m.



E. C. Wareing
E. C. Wareing, Mayor Pro Tem

Ann Luffman
City Secretary