

MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 5TH DAY OF APRIL, 1977, AT 7:30 P. M.

On the 5th day of April, 1977, 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
Jack McMullen	Commissioner, Ward No. 3
E. C. Wareing	Commissioner, Ward No. 4
W. O. Ricks, Jr.	Commissioner at Large, Place A
Harvey Westerholm	City Manager
Robert L. Flournoy	City Attorney
Roger G. Johnson	City Secretary

being present, and

E. G. Pittman	Commissioner at Large, Place B
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being absent, constituting a quorum, when the following business was transacted:

1. Meeting opened with prayer by Rev. L. D. Bell, Pastor of New Zion 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. Pat Foley made motion that minutes of regular meeting of March 15, 1977, be approved. Motion was seconded by Comm. Jack McMullen and a unanimous affirmative vote was recorded.

4. Canvass of Election Returns-Regular City Election April 2, 1977

Mayor Garrison stated that the City's Regular City Election was held April 2, 1977, and announced that election judges had forwarded all materials for review by members of Commission for official canvass. The following returns indicating results of the City Election were reviewed for election of Commissioner, Ward No. 2 and Commissioner at Large, Place A, from a total of 2654 votes cast for the two positions and 1301 voters:

<u>Commissioner, Ward No. 2</u>	<u>Votes</u>
Pat Foley	862
Ray L. Beard	407
<u>Commissioner at Large, Place A</u>	<u>Votes</u>
W. M. Welch	67
Orren Schmidt	87
Robert A. McGee	551
W. O. Ricks, Jr.	680

Mayor Garrison stated that the above election results had been reviewed and tabulated which indicated winners of the election to be Pat Foley, Commissioner of Ward No. 2, and W. O. Ricks, Jr., Commissioner at Large, Place A. Comm. E. C. Wareing made motion that the above listed election results be made official and Pat Foley be declared winner as Commissioner of Ward No. 2 and W. O. Ricks, Jr., winner for position of Commission at Large, Place A, each for three-year terms ending April of 1980. Motion was seconded by Comm. R. A. Brookshire and a unanimous affirmative vote was recorded.

Mayor Garrison then administered oaths of office to the above newly elected members of the Commission and congratulated them for their accomplishments.

Comm. R. A. Brookshire made motion that election returns be delivered to the City Secretary for safe keeping. Motion was seconded by Comm. Jack McMullen and a unanimous affirmative vote was recorded.

5. Annexation & Permanent Zoning Request-Tom Gann-1st Reading of Ordinance Postponed

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Mayor Garrison recognized Mr. Tom Gann in behalf of his request for annexation and permanent zoning of property between FM 58 and Highway 59 South near Whitehouse Cemetery and North of Whitehouse Road as previously considered by this Commission at last regular meeting.

Mr. Gann stated that he had discussed this annexation as requested by members of Commission with Mr. John Henderson regarding whether or not he desired to have his property included. A copy of Mr. Henderson's letter was furnished members of Commission for review which indicated Mr. Henderson's desire to be annexed under certain conditions. Mr. Gann stated that he had checked ROW on Whitehouse Road and discovered that 60-foot ROW existed except for a very small area. Mr. Gann stated that Mr. Woody Gann would give ROW on his property.

Mayor Garrison recognized Mr. Natt Gann and Mrs. M. L. Gann who again informed members of Commission of their opposition to this application and requested that their property be withdrawn from consideration.

Mayor Garrison also recognized Dr. Michael Sabo who expressed his opposition to annexation in this area if the City was not going to acquire the ROW to maintain Whitehouse Road to include maintenance of water lines.

Comm. W. O. Ricks, Jr., asked City Manager Westerholm to give report regarding findings of information requested at last regular meeting. Mr. Westerholm stated that he had recently discussed this annexation with County Commissioner Robert Caldwell who explained to him that he would provide materials for resurfacing 1200 feet of Whitehouse Drive across from Forest Hills Sub-Division.

Property owners present appearing in opposition to this request, requested information with regard to why proper fire protection was not included in the Forest Hills area and why Fire Station #4 did not keep a man-power team at this location 100 percent of the time. Mayor Garrison requested these questions be answered by the City Manager. City Manager Westerholm stated that installation of fire plugs in this area was not in the budget for this fiscal year and he would be glad to review manpower team and personnel at Fire Station #4 for property owners if they desired.

Comm. Jack McMullen stated that he was of the opinion that in accordance with letter from Mr. John Henderson he would only agree to this annexation if the City annexed Whitehouse Road. Comm. Pat Foley suggested that property owners who were present, appear before the Fuller Springs Commission with regard to what Fuller Springs would do to help improve Whitehouse Road.

Comm. R. A. Brookshire inquired of Mr. Tom Gann as to whether or not he would be willing to spend any money on improvements to this road. Mr. Gann stated that he would be willing to contribute his fair share on his property frontage. Comm. Brookshire stated he was of the opinion that Sabine Investment Company and Mr. Tom Gann would be willing to spend additional monies if they planned to develop this area. Mr. Gann stated that he had no immediate plans for development of his property and he did not desire to make additional contributions to development of this roadway for the benefit of other developers.

Discussion developed with regard to whether or not the City Planning and Zoning Commission had the authority to require a developer to make improvements to a road leading to his proposed sub-division under these circumstances. City Attorney Flournoy stated he was of the opinion that the City Planning and Zoning Commission did not have this authority where there already existed a designated County or City road. City Attorney Flournoy stated that without Mr. Henderson's approval, the City could not annex this property because it did not qualify under the law as previously discussed.

Comm. W. O. Ricks, Jr., stated that he had no opposition to this annexation, but the Commission should consider annexation of property along the South side of Whitehouse Road for a distance of 300 feet in depth.

Mayor Garrison stated that he was of the personal opinion that Whitehouse Road should be considered in the annexation, but problems did exist with regard to expenses the City would incur as a result of this type annexation. Mayor Garrison also stated that this Commission had established a policy that would place undue burdens upon the City if areas of this nature were annexed.

Comm. E. C. Wareing stated that the City was not in a position to annex this property and improve the roads in this area at the present time due to obligations with regard to upgrading of the City's sewer system to meet Texas Water Quality Board standards. Comm. Wareing stated that the City should annex this property as soon as possible and obtain Whitehouse Road as previously stated, if property owners were agreeable to consideration of same.

City Manager Westerholm stated that Mr. Caldwell would complete road work in areas as previously explained whether or not the City annexed the property at the present time. Comm. E. C. Wareing stated that more information should be made available by the City staff for consideration in the future to include total cost of annexation and all liabilities to be assumed by the City.

Mayor Garrison stated that the Sub-Division Ordinance should reflect control of these type circumstances. City Attorney Flournoy stated that normally streets of this nature would be developed under the curb and gutter paving program provided by the City.

Mayor Garrison asked Mr. Tom Gann additional questions with regard to his request to include whether or not Mr. Gann would discuss participation with Sabine Investment Company and possible contributions toward developing this area. Mr. Gann stated that he would discuss this matter with them if members of Commission desired. Mayor Garrison stressed the importance of the City not becoming involved in an annexation of this nature which would set a precedent of annexing property not accessible by City streets.

Comm. E. C. Wareing stated that this annexation and permanent zoning request should be held in abeyance to allow the City Manager and City staff an opportunity to check with adjacent property owners in this area with regard to annexing additional property 300 feet South of Whitehouse Road and also allow feedback with regard to County reaction toward improvements to Whitehouse Road.

Comm. R. A. Brookshire stated that the City should not construct streets on undeveloped land when other streets in the City needed development and repairs.

Comm. E. C. Wareing suggested that the City Manager be authorized to proceed with research in this area to include the City's cost for development.

City Attorney Flournoy stated that if the City desired to take additional property, another hearing would have to be held to comply with regulations regarding same.

Comm. R. A. Brookshire then made motion that the City not consider annexation and permanent zoning of this property at the present time. Motion was seconded by Comm. E. C. Wareing.

Prior to vote on motion, Comm. Pat Foley inquired as to whether or not the City would be continuing with the plan to review this area for future annexations. City Manager Westerholm stated that he had understood previous request by the Commission to continue the research of this property. Comm. Foley also asked City Attorney Flournoy if this request was denied, would Mr. Gann have to consider additional hearings. Mr. Flournoy stated if additional property was considered, this would be the requirement.

Mayor Garrison asked Comm. Brookshire if he would amend his motion to allow holding of this request in abeyance until further information was reviewed by members of Commission to prevent new hearings. Comm. Brookshire was in agreement with this suggestion and amended his motion accordingly, and a unanimous affirmative vote was recorded.

6. Zone Change Approved 2nd Reading-Vada Mae Singleton from RM to A District

Mayor Garrison stated that zone change application by Vada Mae Singleton from RM to A District covering property located North of & fronting on Kiln Avenue, West of Raguet Street intersection, had been approved on first reading of ordinance at last regular meeting.

There were no persons present appearing in opposition to application. Comm. W. O. Ricks, Jr., made motion that zone change application by Vada Mae Singleton from RM to A District be approved on second and final reading. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

7. Zone Change Approved 2nd Reading-A. B. Youngblood from RL to A District

Mayor Garrison stated that zone change application by A. B. Youngblood from RL to A District covering property located North of & fronting on Harmony Hill Drive, West of Tulane Drive, behind Holiday Inn and Ramada Inn, had been approved on first reading of ordinance at last regular meeting.

There were no persons present appearing in opposition to application. Comm. W. O. Ricks, Jr., made motion that zone change application by A. B. Youngblood from RL to A District be approved on second and final reading. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

8. Abandoned Vehicle Ordinance-1st Reading Postponed

Mayor Garrison stated that the City Attorney had prepared a proposed ordinance amending the City's present regulation with regard to abandoned vehicles. Comm. Pat Foley inquired of City Attorney Flournoy to give explanation to proposed ordinance.

City Attorney Flournoy stated that the proposed ordinance covered a 48-hour period which was not a provision of the present City ordinance and the proposed ordinance would provide removal of vehicles after notification within this period, to include a number of other items not previously given authority by the City as listed in the regulation.

Comm. R. A. Brookshire stated he had requested the City Attorney to consider an amendment to the abandoned vehicle ordinance because the City needed to establish an impoundment area and the City should maintain this vehicle impoundment area and not allow wrecking companies to sell these vehicles. Comm. Brookshire suggested that the ordinance as proposed by the City Attorney be amended to prevent these occurrences.

City Attorney Flournoy stated that the wrecker companies had this authority under the state law. Comm. Brookshire stated that he was aware of the fact that the wrecker companies had this authority, but was of the opinion the City should take the authority away from the wrecking companies by providing its own impoundment area. Comm. Brookshire suggested that the City remove these vehicles and store them at its pound. Comm. Brookshire suggested that the City establish its own fees for release of these vehicles to the owner and provide a protection to the property involved to avoid the possibilities of liabilities assumed on the part of the City for personal property.

Comm. Pat Foley was in agreement with Comm. Brookshire that the City should be responsible for the impoundment of these vehicles.

City Attorney Flournoy stated that the City Commission could go with whatever recommendation they desired as a matter of policy. Comm. Wareing suggested that the City consider acceptance of bids for this storage on an annual basis by contract to allow City control. City Manager Westerholm reported that a storage problem was involved and it was difficult to prevent items being stolen from these vehicles.

City Attorney Flournoy stated that he had left his proposed ordinance open for comments by the Commission inasmuch as it was a question as to what the City Commission could afford.

Comm. R. A. Brookshire made motion that the consideration for approval of this ordinance on first reading be held in abeyance until next regular meeting. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

Comm. E. C. Wareing requested that the City Manager contact several of the wrecking companies within the City to consider whether or not they would assume bidding on contracts on an annual basis involving circumstances as discussed.

9. Homestead Exemption Tax Increased from \$3,000 to \$5,000 - Ordinance Approved 1st Reading

Mayor Garrison stated it had been the request of Comm. W. O. Ricks, Jr., for the City Manager to review possible increase of the Homestead Exemption Tax for City residents over age 65 from \$3,000 to \$5,000. City Manager Westerholm reported a cost of approximately \$16,000 in additional tax revenue which would be lost to the City.

Comm. W. O. Ricks, Jr., expressed his concern that individuals in this age bracket receive the additional benefit and made motion that the Homestead Exemption Tax be increased from \$3,000 to \$5,000 for all residents over age 65 and ordinance be approved on first reading regarding same. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

10. Zone Change Approved 1st Reading-Fred L. Walker from LB to RS District

Mayor Garrison stated that zone change application by Fred L. Walker from LB to RS District covering property fronting on West side of North Second Street, North of Laurel Avenue intersection, had been recommended for approval by the City Planning and Zoning Commission.

There were no persons present appearing in opposition to application. Comm. Jack McMullen made motion that zone change application by Fred L. Walker from LB to RS District be approved on first reading of ordinance. Motion was seconded by Comm. W. O. Ricks, Jr., and a unanimous affirmative vote was recorded.

11. Calvary Baptist Church-Request to Close Portion of Kerr Avenue Withdrawn

Mayor Garrison recognized Mr. Gene Childress regarding request by Calvary Baptist Church to close a portion of Kerr Avenue between Homer Boulevard and Montrose Street. Mr. Childress stated that he had appeared at three previous meetings of the City Planning and Zoning Commission and all requests had been fulfilled at those levels to include property owner notification beyond the standard amount of distance required and the City Planning and Zoning Commission had recommended approval of this request by a 4-2 majority vote. Mr. Childress stated that other members of the church were present to include Mr. Dick McKay, Langston Kerr and Pastor of his church, Rev. Herman Hendricks. Mr. Childress stated that the church was limited on parking space in this area and it would be of considerable benefit to the church to use the street for a proposed gymnasium type structure for the protection of children who would be constantly using this facility. Mr. Childress also stated that traffic counts in this area reflected 90 percent of the traffic was church oriented.

Comm. Jack McMullen inquired of Mr. Childress as to whether or not it would be feasible for the church to build a covered walk-way across the street from this area. Mr. Childress stated that the church had not planned to use this type construction, but if this plan was not approved, consideration for same may be requested. Mr. Childress stated that the church needed the space that would be involved in the street for building use.

City Attorney Flournoy stated that members of this Commission should consider a public hearing for this street closing if they were of the opinion that further consideration of this item was needed.

There were several individuals present appearing in opposition to this application to include Mr. R. M. Rosser, Mr. Arch C. Durham, Mr. & Mrs. Roscoe C. Gibson and Mr. Arch C. Durham announced that other individuals were in opposition to include Mr. Hershel Dixon, Mrs. Ruth Scoggins and Mr. Andrew Stockman. Property owners present appearing in opposition stated that considerable hindrance would be experienced because they would be deprived of direct access to their residences. It was also stated by opposition that a precedent would be set with regard to closing streets which should not be a practice established by this Commission.

Mr. Childress stated that this opposition was not previously announced at the recommending level and had he been aware of this fact, further consideration of this request may not have been continued inasmuch as surveys with regard to property owner comments only reflected three property owners who opposed this proposal.

Mayor Garrison stated that he was personally opposed to closing of streets even though one had been recently closed for the growth of Lufkin Industries based on an exchange for opening of another street and compensation for property involved.

Mr. Childress stated that it was not the intent of the church to create any ill will on the part of surrounding property owners. Comm. W. O. Ricks, Jr., stated that he was personally opposed to closing of streets to acquire property and would only recommend this as a last resort consideration. Comm. Jack McMullen suggested that the church consider an overhead passageway in lieu of this proposal and possibly consider the closing of a nearby alley.

Comm. W. O. Ricks, Jr., inquired of Mr. Childress as to whether or not the church would consider withdrawing this application based on circumstances which were discussed. Mr. Childress stated that it seemed to be the opinion of representatives of the church board who were present that this application should be withdrawn based on the surprising opposition present at this meeting.

Mayor Garrison thanked members of the church for their consideration and understanding on the part of the Commission in this regard.

12. Sanitation Dept.-Bids Awarded for Purchase of Refuse Containers

City Manager Westerholm reported that the City staff had recently opened bids for the purchase of refuse containers for use in the Sanitation Department and War-Pack, Inc., was the low bidder and he would personally recommend the purchase of these containers on a trial basis as adaptable to the existing type facilities in the Sanitation Department. The following bids were reviewed by members of Commission:

<u>Company</u>	<u>Bid Amount</u>
American Environmental Systems Southwest, Inc.	\$3,616.80
Pak-Mor, Inc.	\$3,308.00
Benjamin Feld & Associates	\$3,299.00
Duncan Equipment, Inc.	\$4,352.00
War-Pack, Inc.	\$3,851.46

Comm. W. O. Ricks, Jr., made motion that War-Pack, Inc., be awarded bid in accordance with recommendation by City Manager Westerholm. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

13. Travis Ainsworth-Request to Build Across Sewer Easement Approved-Glade Street

Mayor Garrison recognized City Attorney Flournoy who requested Council authority for Mr. Travis Ainsworth to build over a sewer easement crossing his property. Mr. Flournoy stated that the City had recently had a mis-understanding with Mr. Ainsworth with regard to obtaining a sewer easement. Mr. Flournoy stated that Mr. Ainsworth would agree to accept \$500 for this easement with the provision that he be allowed to build over the easement.

City Manager Westerholm reported that Mr. Ainsworth did not have any plans to build over the easement at the present time, but desired it be allowed if he ever sold his property.

Comm. W. O. Ricks, Jr., made motion that Mr. Travis Ainsworth be paid \$500 to allow sewer line to remain on his property and authorization to build across this sewer easement, if necessary. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

14. Approval of Bid-Purchase of Sewer Pipe Materials

City Manager Westerholm stated that Can-Tex Company had submitted low bid in the amount of \$2,080.50 for sewer pipe materials to be used in the City's infiltration inflow repair work. Mr. Westerholm stated that this bid was \$80.50 over the required amount for City Commission consideration and recommended its approval.

Comm. W. O. Ricks, Jr., made motion that Can-Tex Company be awarded bid in the amount of \$2,080.50 for the purchase of these materials in accordance with recommendation by the City Manager. Motion was seconded by Comm. Jack McMullen and a unanimous affirmative vote was recorded.

15. Fred Walker-Purchase of Property-North First & Laurel

City Manager Westerholm stated that the City had purchased the Hawley property at North First & Laurel in 1975 and Mr. Fred Walker had requested the right to purchase the balance of the lot the City did not use for the street adjustment. Members of Commission reviewed a plat of this property.

City Attorney Flournoy stated that the condition of the contract would stipulate that the sale of this property would not allow access on to Laurel. It was further stated that this property would only allow a 22.5-foot opening on to North First Street, which was surrounded by Mr. Walker's property.

City Manager Westerholm further reported that the City Tax Office had appraised this property at \$2,755.17 and a copy of appraisal had been furnished members of Commission. City Manager Westerholm stated that authorization would be necessary to offer sale of this property to Mr. Walker at the appraised cost.

Comm. W. O. Ricks, Jr., stated he was of the opinion that the price of this property was reasonable and the City should be authorized to sell to Mr. Walker. Comm. W. O. Ricks, Jr., then made motion that this property be sold to Mr. Walker for the fair market value as previously stated in accordance with conditions as explained. Motion was seconded by Comm. R. A. Brookshire and a unanimous affirmative vote was recorded.

16. Surcharges for Certain Commercial Operations-Ordinance Approved First Reading

City Manager Westerholm distributed information with regard to consideration of a surcharge ordinance for certain commercial operations for review which had also been discussed at a previous meeting to apply surcharges to sewer bills of all commercial operations based on national averages. City Manager Westerholm stated that the City estimated it would bring in an additional \$40,000 annually. City Manager Westerholm further stated that the City had furnished the sampling of approximate revenues to be derived from the various classes of commercial customers.

It was reported that information supplied reflected 97 percent of the revenue to be derived from restaurants and hospitals. City Manager Westerholm further reported that the City was responsible for furnishing enough revenue to pay for the sewer plant and sewer revenues were not adequate at the present time.

Mayor Garrison expressed his opinion that the City should base any additional taxes from its own observations instead of national averages and he was in agreement with Comm. Brookshire that a national figure not be set unless the City knew on a local basis what amount should be established.

City Manager Westerholm stated that the City ordinance provided for this activity and the primary question was whether or not they desired to accept these rates on the national average. City Manager Westerholm further stated that it was his opinion these rates were not substantial enough to cause severe financial hardships.

Comm. W. O. Ricks, Jr., stated that he was of the opinion the City should provide testing or establish these rates and made motion that proposal by City Manager Westerholm to adopt the national average rates be approved on first reading of ordinance. Motion was seconded by Comm. R. A. Brookshire.

Prior to vote on motion, Comm. E. C. Wareing stated that the establishment of these rates would become a part of the present City ordinance and any commercial operation that could show a rate less than what was determined on the national average by sampling, would be allowed to pay the cheaper rate.

Comm. W. O. Ricks, Jr., amended his previous motion to allow commercial users to use sampling in lieu of national average if they desired when same would reflect the cheaper cost.

Mayor Garrison stated he was of the opinion that many small users did not have the privilege of conducting sample surveys and same was not feasible. Mayor Garrison further stated that he was opposed to this activity because the City automatically assumed the effluent was bad.

The following vote was recorded to previous motion and second to adopt the national average rates:

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

Voting Nay: Mayor Garrison and Comm. Pat Foley.

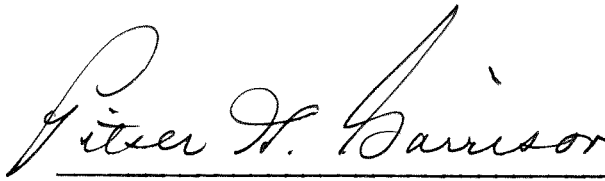
Mayor Garrison declared motion approved by majority vote of four to two on first reading of ordinance.

17. Annexation & Permanent Zoning Request - Tom Gann

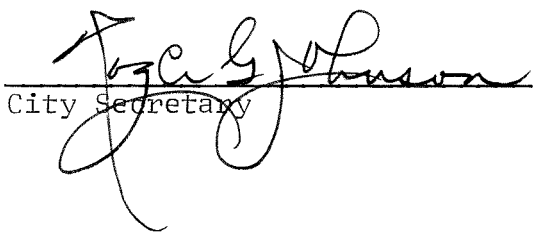
Comm. E. C. Wareing requested that City Manager Westerholm review the City's possibility of extending Darlington Street to Kentwood Street to provide access through property that was presently annexed to alleviate traffic problems in this area.

18. Adjournment

There being no further business for consideration, meeting adjourned at 10:27 p.m.

  
MAYOR - City of Lufkin, Texas

ATTEST:

  
City Secretary