

MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 13TH DAY OF JUNE, 1978, AT 7:30 P. M.

On the 13th 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
R. A. Brookshire	Commissioner, Ward No. 1
Pat Foley	Commissioner, Ward No. 2
Jack McMullen	Commissioner, Ward No. 3
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

E. C. Wareing	Commissioner, Ward No. 4
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being absent, constituting a quorum, when the following business was transacted:

1. Meeting opened with prayer by Rev. Bill Hines, Pastor of Parkview Baptist Church, Lufkin, Texas.
2. Mayor Garrison welcomed a small group of visitors who were present in connection with items on the agenda or as observers.
3. Approval of Minutes

Comm. W. O. Ricks, Jr., made motion that minutes of regular meeting of May 16, 1978, be approved. Motion was seconded by Comm. Richard Thompson and a unanimous affirmative vote was recorded.

4. Animal Control Proposition-Public Information Opinion Poll Approved

City Attorney Flournoy reported that he had personally reviewed state law requirements for elections concerning previous meeting discussion regarding an animal control ordinance for the City. Mr. Flournoy stated that it was his opinion members of Commission only desired an opinion of the public and it was his recommendation that an opinion poll be considered by members of Commission without following normal election requirements. Mr. Flournoy further stated that if members of Commission desired to hold a binding election, standard formal election procedures must be followed in accordance with state law provisions. Mr. Flournoy recommended that in the event members of Commission desired to conduct an opinion poll, then no formal processes would have to be completed except adequate notice to the public and the voters registration roster could be used to help in verifying qualified voters.

Comm. R. A. Brookshire made motion that members of Commission establish Saturday, July 22, 1978, from 7:00 a.m. to 7:00 p.m. as the public opinion information poll date and that the Lufkin Civic Center be used as the only central polling place for the City and absentee voting be conducted in the office of City Secretary July 5 through July 18 regarding this proposition. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

Comm. Richard Thompson made motion that City Manager Westerholm be authorized to appoint election judges and assistants and establish adequate notice throughout the city regarding same. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

5. Texas Power & Light Company-Establishment of PUC Decision

Mayor Garrison explained that the Texas Power & Light Company had made application for rate increase to the City of Lufkin at approximately the same time the same application was made before the Public Utility Commission. Mayor Garrison explained that a number of Cities served by Texas Power & Light Company, to include the City of Lufkin, had intervened before the Public Utility Commission to resist the rate increase request. Mayor Garrison stated that the City of Lufkin must take action prior to

June 26 or the established PUC rates would become effective. Mayor Garrison stated that no additional information was available to this Commission which could be presented to the PUC to reduce the rate and if Commission should establish a rate less than what was approved by the PUC, the action of this Commission would most probably be overruled by the PUC. Mayor Garrison further stated that additional action by this Commission seemed to be meaningless.

Mayor Garrison then read from a proposed resolution which recommended that this Commission provide for the decision of the PUC to become effective by operation of law by the failure of this Commission to take any action. A copy of proposed resolution is attached to minutes for permanent record.

Following review of proposed statement, it was determined that the City of Waco had considered similar action and allowance of PUC order to take effect. Members of Commission were in unanimous agreement that the powers of this Commission were of no consequence in this proposal. Mayor Garrison stated that if this action was taken by the City Commission, possible encouragement may be afforded to the legislature to give more local control or consider these powers exclusively at the state level.

Comm. Jack McMullen then made motion that proposed resolution, as reviewed by Mayor Garrison, be approved which would provide that the PUC decision would become effective by operation of law after June 26, 1978. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

Mayor Garrison stated that by this action, a rate increase of 6.8 percent would become effective across the board after June 26, 1978. Mayor Garrison also recognized Mr. James Kerbo who was present from Texas Power & Light Company representing rate increase request. Mr. Kerbo thanked members of Commission for their consideration and patience in this rate increase proposal.

6. Zoning Ordinance-Proposed Amendment to "Family Units"-Definition Postponed

Mayor Garrison stated that members of Commission had been considering a proposed Zoning Ordinance definition change regarding "family units" and invited comments from members of Commission.

Comm. R. A. Brookshire inquired as to the necessity for making this change. Comm. Brookshire stated in his opinion no governmental body should consider a definition of this nature which would essentially abuse the privileges of a home owner.

Comm. W. O. Ricks, Jr., explained the problem recently experienced when two families had purchased a home within the city. City Attorney Flournoy explained that multiple ownership brought about some of the definition problem, which was not clarified under the existing definition of the Zoning Ordinance, which provided that as many as four families could live within one home as long as the family was living as a family unit. City Attorney Flournoy stated that the existing regulation of the City seemed to be too broad inasmuch as four individuals could live in a residence which were unrelated by blood and living as a single family unit.

Comm. W. O. Ricks, Jr., expressed his concern that "family unit" should be redefined and limited to protect single-family dwellings.

Mayor Garrison was in agreement that a more effective definition should be considered and definition should be limited to individuals related by blood. Mayor Garrison further recommended that possible consideration of this item be tabled until a member of Commission could propose a more specific definition. Mayor Garrison also stated that he would take personal interest in regard to this item for report at a later date.

It was the unanimous agreement of Commission that this item be held in abeyance for consideration at a future meeting.

7. Zone Change Approved 2nd Reading-S. Harry Kerr from A District to A District, Special Use, Item 2 (Kindergarten)

Mayor Garrison stated that zone change application by S. Harry Kerr from A District to A District, Special Use, Item 2 (Kindergarten), covering property located on Schuller Street between Old Union Road (Pershing Ave-

nue) and Camp Street being Lots 4 & 5, Schuller Addition, had been approved on first reading of ordinance at last regular meeting.

There were no persons present appearing in opposition to zone change request. Comm. W. O. Ricks, Jr., made motion that zone change application by S. Harry Kerr from A District to A District, Special Use, Item 2 (Kindergarten), be approved on second and final reading. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

8. Cablecom of Lufkin-Rate Increase Request Postponed

Mayor Garrison recognized Mr. Wayne Neal appearing in representation of rate increase request by Cablecom of Lufkin. Mr. Neal apologized for not having all of the application for review by members of Commission prior to this meeting and Mr. Neal then distributed copies of the proposal to members of Commission for review.

Mr. Neal stated that he would be available for members of Commission to answer any questions regarding this proposal. Mr. Neal requested that this item be considered at next regular meeting if possible.

Mayor Garrison stated that in review of proposal it seemed that a profit and loss statement had not been included and it would be to the benefit of the Commission if this information could be made available in order that each annual profit and loss statement could be examined. Mayor Garrison also stated that a total revenue and detail expense statement should be included, to include all earnings of Cablecom from each year since rate increase was granted by this Commission.

Mr. Neal stated that he would provide this information prior to consideration of this proposal at next regular meeting. There were no additional questions from members of Commission and it was unanimously agreed that this item would be considered at next regular meeting if information was provided from Mr. Neal as requested.

9. Zone Change Approved 1st 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 recommended for approval by the City Planning and Zoning Commission.

There were no persons present appearing in opposition to this zone change request. Mayor Garrison recognized Mr. Price Allem appearing in representation of application. Mr. Allem stated that some question had been presented during the City Planning and Zoning Commission meeting regarding location of proposed building. Mr. Allem described location of this building which had been established and members of Commission reviewed plat regarding same.

Comm. Richard Thompson recused himself from discussion and vote on this item due to his business involvement with same.

Comm. W. O. Ricks, Jr., made motion that zone change application by Thomas & Thompson Employees from RL to C District be approved on first reading of ordinance. Motion was seconded by Comm. Jack McMullen and a unanimous affirmative vote was recorded.

10. Meeting Dates Set-Holiday Conflicts

Mayor Garrison stated that due to previous conflicts it would be necessary to consider a possible second meeting date for the month of June and an additional meeting date for the month July due to holiday conflicts.

Following considerable discussion, it was the unanimous decision of the City Commission to establish the regular meeting of June 20, 1978, at 5:00 p.m., as a final meeting date for June, and July 11, 1978, at 7:30 p.m., as the only meeting date for the month of July.

11. Harmony Hill Area-Hearing Date Set-Proposed Permanent Zoning

Mayor Garrison stated that the City Planning and Zoning Commission had recently recommended permanent zoning of the recently annexed Harmony Hill area covering property located between U. S. Highway 59 South and FM 58. Mayor Garrison stated that it would be necessary to establish a hearing date for this permanent zoning as recommended.

Comm. Pat Foley made motion that hearing date for permanent zoning of recently annexed Harmony Hill area be set for next regular meeting at 5:00 p.m., on June 20, 1978. Motion was seconded by Comm. Richard Thompson and a unanimous affirmative vote was recorded.

12. Approval of Bids-Sewer Cleaning Machine & Refuse Containers

City Manager Westerholm explained that bids had been received for a sewer cleaning machine and he personally recommended low bid received from the Naylor Corporation which was \$381 in excess of budgeted amount. Members of Commission reviewed the following bids:

Naylor Corporation	\$13,381.00
Environmental Sales	\$14,050.00
Uniflex, Inc.	\$16,202.00

Comm. Pat Foley made motion that the low bid by Naylor Corporation in the amount of \$13,381.00 be accepted for the purchase of one sewer cleaning machine. Motion was seconded by Comm. R. A. Brookshire and a unanimous affirmative vote was recorded.

City Manager Westerholm stated that the following bids were received for for the purchase of refuse containers and no recommendation had been submitted to this Commission inasmuch as the low bidder had experienced previous delivery problems with the City of Lufkin. City Manager Westerholm stated that the next lowest bidder, Scott-Hill was approximately \$500 higher, but good delivery had been experienced with this company:

Parks Metal Fabricators	\$23,047.10
War-Pak, Inc.	\$20,665.60
American Environmental Systems	\$23,685.00
Industrial Disposal Supply Co.	\$22,400.00
Scott & Hill	\$21,250.00

Considerable discussion developed and Comm. W. O. Ricks, Jr., made motion that City Manager Westerholm be authorized to accept low bid of Wak-Pak, Inc., by providing a penalty of \$500 earnest money or forfeit of bid if containers were not delivered within 45 days as stated, with the condition that further authorization be granted to purchase containers from the next lowest bidder, Scott-Hill, with the same provision. Motion was seconded by Comm. Jack McMullen and a unanimous affirmative vote was recorded.

13. FM 841-Acknowledgement of Amendment to State Highway System

City Manager Westerholm stated that he had received a letter from Mr. J. L. Beard desiring acknowledgement of this Commission to the fact that a small portion of FM 841 had been removed from the State Highway System following the extension of Lufkin Avenue.

City Manager Westerholm requested that members of Commission acknowledge this request by provision of same within the minute record.

Comm. Jack McMullen made motion that acknowledgement for removal of this portion of FM 841 be recorded in minutes for permanent record. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

14. AARP-Request for Building Use Space-Civic Center Annex-Action Deferred

Comm. W. O. Ricks, Jr., stated that Mr. J. F. Martin and Mr. Hammond Worrell were present regarding request by the AARP for the use of the Civic Center Annex. Mayor Garrison recognized Mr. Hammond Worrell appearing in representation of the AARP. Mr. Worrell stated that there was considerable need for a more permanent meeting area by the AARP inasmuch as membership had grown within the last year. Mr. Worrell also stated that it would be necessary to obtain a permanent meeting area to sustain a high membership in this organization which was independently supported. Mr. Worrell stated that it would be necessary to acquire the use of the Civic Center Annex cafetorium area each second Tuesday of the month from 10:00 a.m. to 12:00 p.m. for their meeting use. Mr. Worrell stated that he had been informed that the Lufkin Service League had a two-year lease on this property and the Civic Center had priority use in the event conflicts existed. Mr. Worrell stated that the AARP would be flexible if conflicts existed in the future use of the facility.

Mayor Garrison recommended that Mr. Worrell discuss this proposal with the Lufkin Service League and members of Commission would consider request as submitted.

15. Adjournment to Executive Session-Consideration of ROW Acquisition-Sales of Public Property-Pending Litigation

Mayor Garrison recessed formal open meeting of the City Commission at 8:45 p.m. and stated that members of Commission desired to consider an executive session for the purpose of discussing pending litigation in a City lawsuit, ROW acquisition and possible sale of City property.

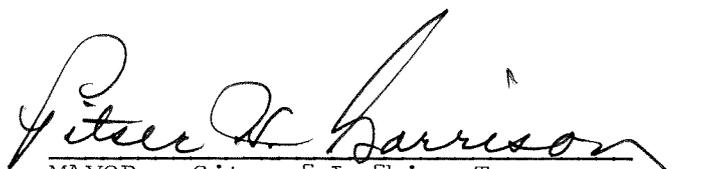
Mayor Garrison reconvened meeting of City Commission at 9:20 p.m. and announced that members of Commission had discussed ROW acquisition and authorized the City Manager to submit a further report with an alternate recommendation at a later meeting. Mayor Garrison also stated that a possible sale of a portion of City property had been reviewed and no formal announcement regarding this sale would be made until individual involved had agreed to accept proposal by the City Commission.

Mayor Garrison also announced that City Attorney Flournoy had been granted authority from this Commission to make necessary legal decisions regarding recent agreement in the City Ward Suit in Federal Court.

Mayor Garrison invited questions and comments and reporter Bill Hensel, who was present, inquired of Commission as to their specific opposition to proposed ward plan as agreed by City Commission. Mayor Garrison stated that Comm. W. O. Ricks, Jr., had some personal opposition to the lines as proposed. City Attorney Flournoy stated that it appeared Comm. Ricks had been individually separated from his present voting precinct inasmuch as the central boundary line extended in front of his existing residence.

16. Adjournment

There being no further business for consideration, meeting adjourned at 9:25 p.m.

  
MAYOR - City of Lufkin, Texas

ATTEST:

  
Assistant City Manager