

MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 1ST DAY OF AUGUST, 1978, AT 7:30 P. M.

On the 1st day of August, 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
E. C. Wareing	Commissioner, Ward No. 4
W. O. Ricks, Jr.	Commissioner at Large, Place A
Richard Thompson	Commissioner at Large, Place B
Harvey Westerholm	City Manager
Robert L. Flournoy	City Attorney
Royal Dunlap	Asst. City Manager

being present, and

Roger G. Johnson	Asst. City Manager
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being absent, constituting a quorum, when the following business was transacted:

1. Meeting opened with prayer by Rev. Bob Lewis, Pastor of First Assembly of God 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. E. C. Wareing made motion that minutes of regular meeting of July 11, 1978, be approved. Motion was seconded by Comm. Jack McMullen and a unanimous affirmative vote was recorded.

4. Resolution of Appreciation - A.A.R.P.

Mayor Garrison stated that members of the American Association of Retired Persons (A.A.R.P.) had voluntarily conducted the recent animal control opinion poll with distinction, and that the City was extremely grateful for their assistance. Motion was made by Comm. Jack McMullen that the City present a resolution of appreciation to the A.A.R.P. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

5. Animal Control Ordinance - Approved 1st Reading

Mayor Garrison presented the results of the recent public opinion poll on animal control as certified by Mr. Lynn Durham, Polling Officer. The official results were:

PROPOSITION NO. 1: Are you in favor of an Ordinance which would require owners to restrain DOGS by leash or other effective controls?

	<u>Total Number of Votes Received</u>
YES	1,436
NO	381

PROPOSITION NO. 2: Are you in favor of an Ordinance which would require owners to restrain CATS by leash or other effective controls?

	<u>Total Number of Votes Received</u>
YES	857
NO	889

TOTAL VOTES CAST	1,790
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Motion was made by Comm. W. O. Ricks, Jr., to accept results of poll. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

Considerable discussion evolved regarding adoption of a possible animal control ordinance to restrain dogs by leash or other effective control. Several comments were received from the audience. Comm. R. A. Brookshire suggested that the effective date for implementation be extended from three months to six months. Comm. Richard Thompson read the proposed ordinance and made motion that the ordinance be adopted to become effective January 1, 1979. Comm. R. A. Brookshire seconded the motion and the following vote was recorded:

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

Voting Nay: Comm. E. C. Wareing

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

Motion was made by Comm. E. C. Wareing to pass no ordinance restraining cats under the new animal control ordinance. Motion was seconded by Comm. W. O. Ricks, Jr., and a unanimous affirmative vote was recorded.

Mayor Garrison stated that he felt the language within the ordinance was somewhat ambiguous. Comm. E. C. Wareing stated that he did not vote "Aye" because he felt the language "keeper at heel" was not clear.

6. Permanent Zoning Approved 2nd Reading - Harmony Hill Area

Mayor Garrison stated that an ordinance permanently zoning recently annexed Harmony Hill Area covering property located between U. S. Highway 59 South and FM 58 had been approved on first reading of ordinance at last regular meeting.

There were no persons present appearing in opposition to this permanent zoning. Comm. W. O. Ricks, Jr., made motion that the permanent zoning be approved on second and final reading of ordinance. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

7. Rate Increase Request Denied - Cablecom of Lufkin

Mayor Garrison recognized Mr. Wayne Neal and Mr. Steve Fox appearing as representatives of Cablecom of Lufkin. Mayor Garrison stated that a rate study had been completed by City staff and from this special study, it appeared that Cablecom of Lufkin was in no way justified to receive any increase in monthly service rates. Furthermore, Cablecom's return on stockholders' equity had been found to be in excess of 15% which was considered an adequate rate of return for this type of business.

Motion was made by Comm. W. O. Ricks, Jr., to deny the request for rate increase because Cablecom of Lufkin is making an adequate rate of return on their investment. Motion was seconded by Comm. R. A. Brookshire and a unanimous affirmative vote was recorded.

8. Zone Change Approved 2nd Reading-Berl Atkins from A to C District

Mayor Garrison stated that zone change application by Berl Atkins from A to C District covering property being Lot 2, Block 46, Denman Addition, located at Southwest corner of intersection of E. Kerr and S. Third, South of E. Denman Avenue, had been approved on first reading of ordinance at last regular meeting.

There were no persons present appearing in opposition to zone change application. Comm. W. O. Ricks, Jr., made motion that zone change application by Berl Atkins from A to C District be approved on second and final reading of ordinance. Motion was seconded by Comm. Jack McMullen and a unanimous affirmative vote was recorded.

9. Zone Change Approved 2nd Reading-Sabine Investment Company from A & SU to A & SU District (Townhouses)

Mayor Garrison stated that zone change application by Sabine Investment Company from A & SU to A & SU District (Townhouses), Items 16, 23 & 25c, covering property located in the Crown Colony Subdivision, East of U. S. Highway 59 South, across from Angelina College, 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 Sabine Investment Company from A & SU District to A & SU District (Townhouses), Items 16, 23 & 25c, be approved on second and final reading of ordinance. Motion was seconded by Comm. Jack McMullen and a unanimous affirmative vote was recorded.

10. Zone Change Approved 2nd Reading-J. A. Conner, Sr., from C to LM District

Mayor Garrison stated that zone change application by J. A. Conner, Sr., from C to LM District covering property located between Newman Street and Red Town Road, adjacent to both streets, South of Kurth Drive, 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 J. A. Conner, Sr., from C to LM District be approved on second and final reading of ordinance. Motion was seconded by Comm. Jack McMullen and a unanimous affirmative vote was recorded.

11. Zone Change Approved 2nd Reading-Helen Whisenant from RM & LB District, Special Use, to LM District, Special Use (Pet Grooming Shop)

Mayor Garrison stated that zone change application by Helen Whisenant from RM & LB District, Special Use to LB District, Special Use (Pet Grooming Shop), covering property fronting on Frank Avenue, being Southwest corner of Frank & Thompson intersection, had been approved on first reading of ordinance at last regular meeting. Mayor Garrison stated that Mrs. Whisenant had agreed at last meeting to the placement of Special Use restriction on her requested LB zone, and had also agreed there would be no overnight boarding of animals.

There were no persons present appearing in opposition to zone change request. Comm. W. O. Ricks, Jr., made motion that zone change application by Helen Whisenant from RM & LB District, Special Use, to LB District, Special Use (Pet Grooming Shop), be approved on second and final reading of ordinance. Motion was seconded by Comm. Jack McMullen and a unanimous affirmative vote was recorded.

12. Zone Change Approved 2nd Reading-Charlie Jumper from RL to D District

Mayor Garrison stated that zone change application by Charlie Jumper from RL to D District covering property located South of & fronting on Rice Drive, West of intersection with Chestnut Street, 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 Charlie Jumper from RL to D District be approved on second and final reading of ordinance. Motion was seconded by Comm. Jack McMullen and a unanimous affirmative vote was recorded.

13. Bid Awarding Postponed - Morris Frank Park Baseball Complex

Mayor Garrison stated that bids had been received on the Morris Frank Park Baseball Complex, and recognized Mr. Jimmy Griffith of Griffith & Associates who provided the Council with a list of bids received.

City Manager Harvey Westerholm explained that approximately \$437,000 had been budgeted for construction of this project and that with removal of several items, the total needed was approximately \$459,000. Thus, with several of the larger items removed there still remained a \$22,000 difference. In addition, he explained that the original bids submitted to Griffith & Associates totaled \$650,000 for this project and thus before any cuts were made, the City would be \$213,000 short. City Manager Westerholm explained that time could be a critical factor depending on the weather situation. Jimmy Griffith explained that the bids would be good for thirty (30) days or more.

Considerable discussion evolved from members of the Council and Comm. Richard Thompson made motion that the Council postpone action until the next regular meeting in order that the Commissioners and City staff would have more time to plan and receive additional information. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

14. Street Easement Requested & Approved - Richard Warner

Mayor Garrison stated that a request had been received from Richard Warner for the possible use of street easement to make improvements to Mr. Warner's property located at 109 Second Street. The proposed construction involved placing 8-foot columns in front of the building supporting an overhead canopy. The columns would be located approximately six feet from the existing building line and would be approximately eight feet apart.

Comm. Pat Foley made motion that the City grant a street easement to make the improvements to the Warner property. Motion was seconded by Comm. R. A. Brookshire and a unanimous affirmative vote was recorded.

15. Zone Change Denied 1st Reading-R. H. Duncan from RL to A District

Mayor Garrison stated that zone change application by R. H. Duncan from RL to A District covering property fronting on West side of West Loop 287, North & South of Turtle Creek Drive had been recommended for approval by the City Planning & Zoning Commission.

Mayor Garrison recognized Mr. R. H. Duncan and Mr. Duncan stated that the property had been developed for sixteen years and that during that time no request had been made to build a single-family residence. He did feel that it would make suitable apartment property and described the total property as being approximately three acres with dimensions of 145' by 300'.

Comm. E. C. Wareing questioned Mr. Duncan concerning the 100-year flood level plan contained in the Planning & Zoning Commission minutes. Mr. Duncan explained that work on the creek has had a great effect on the flood level in that area.

Mayor Garrison recognized several individuals from the audience who voiced their opposition to the zone change request. The main reasons for oppositions centered around problems dealing with traffic and density.

Mayor Garrison next invited comments from members of the Council. Comm. W. O. Ricks, Jr., stated that he was concerned since a petition had been filed with the City Planning & Zoning Commission which contained 58 signatures of individuals living within the immediate area who had opposed the zone change request. Mayor Garrison next recognized Comm. E. C. Wareing who stated that he felt that basically the Planning & Zoning Commission had done a good job. He explained that the job of the Planning & Zoning Commission was to consider requests of this nature from a standpoint of what would be commonly called good zoning practice. He also stated that the City Commission, as elected representatives of the people, have to be more sensitive to what the individuals feel in a given area than the Planning & Zoning Commission. He concluded by saying that since there was a certain amount of objection at the present time, he would be in favor of denying the request. Mayor Garrison next recognized Comm. Pat Foley who stated that although he felt differently, he also agreed with Comm. Wareing.

Comm. W. O. Ricks, Jr., made motion that zone change request by R. H. Duncan from RL to A District be denied. Motion was seconded by Comm. E. C. Wareing and the following vote was recorded:

Voting Aye: Comms. Pat Foley, Jack McMullen, E. C. Wareing and W. O. Ricks, Jr.

Voting Nay: Mayor Garrison, Comms. R. A. Brookshire and Richard Thompson

Mayor Garrison declared motion approved to deny zone change by majority vote of four to three.

16. Zone Change Approved 1st Reading-Josephine DiStefano from RS & C District to A District

Mayor Garrison stated that zone change application by Josephine DiStefano from RS & C Districts to A District covering property located between Chestnut Street & Atkinson Drive, adjoining each street, Southeast of intersection, had been recommended for approval by the City Planning & Zoning Commission.

There were no persons present appearing in opposition to zone change request. Comm. E. C. Wareing made motion that zone change application by Josephine DiStefano from RS & C Districts to A District be approved on first reading of ordinance. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

17. Zone Change Approved 1st Reading-J. P. Thomas from RL to C District

Mayor Garrison stated that zone change application by J. P. Thomas from RL District to C District covering property located inside East Loop 287, South of FM 325 (Lufkin Avenue), East of Renfro Drive, had been recommended for approval by the City Planning and Zoning Commission.

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

18. Zone Change Approved 1st Reading-Cleve Day from C to RS District

Mayor Garrison stated that zone change application by Cleve Day from C District to RS District covering property fronting on West side of Maxwell Street, East of Loop 287 (Medford Drive), & South of Highway 103 East, had been recommended for approval by the City Planning and Zoning Commission.

There were no persons present appearing in opposition to zone change request. Comm. Pat Foley made motion that zone change application by Cleve Day from C to RS District be approved on first reading of ordinance. Motion was seconded by Comm. Richard Thompson and a unanimous affirmative vote was recorded.

19. Appointment of City Officials to Serve on DETCOG Board of Directors

Mayor Garrison stated that the City Manager's memorandum indicated that in the past, four senior members of the City Council had been elected to serve on the Board of Directors of the Deep East Texas Council of Governments. At present, these would include Mayor Garrison, Comm. E. C. Wareing, Comm. W. O. Ricks, Jr., and Comm. R. A. Brookshire.

Mayor Garrison recognized Comm. Brookshire who made motion that the above individuals be elected to serve on the Board of Directors of the Deep East Texas Council of Governments with the exception of himself, and that Comm. Pat Foley take his place as a member of this Board. Motion was seconded by Comm. Richard Thompson and a unanimous affirmative vote was recorded.

20. Bid Awarded for Purchase of Storm Sewer Pipe-Angelina Street Extension

Mayor Garrison stated that the following bids had been received from several firms to furnish storm sewer pipe for the extension of Angelina Street:

<u>Name of Company</u>	<u>Bid Amount</u>
Gifford-Hill & Company	\$51,746.00
Austin Concrete Work, Inc.	\$54,177.40
Texas Concrete Works	\$66,112.04

City Manager Westerholm recommended the low bid of Gifford-Hill Pipe Company totaling \$51,746 be accepted. Motion was made by Comm. W. O. Ricks, Jr., that low bid of Gifford-Hill Pipe Company totaling \$51,746.00 be accepted. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

21. Bid Awarded for Curb & Gutter Construction - Cunningham Drive

Mayor Garrison stated that the following bids had been received from several firms for the curb and gutter construction project on Cunningham Drive totaling approximately 4,150 feet:

<u>Name of Company</u>	<u>Bid Amount</u>
D. S. Sparkman	\$30,750.00
F. R. Lewis Construction	\$20,537.50

City Manager Westerholm recommended the low bid of \$4.25 per foot which totaled \$20,537.50 from F. R. Lewis Construction Company of Nacogdoches. Comm. W. O. Ricks, Jr., made motion that this low bid be accepted. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

22. City Solicitation Ordinance-Approval Postponed

Mayor Garrison recognized City Attorney Robert L. Flournoy concerning the City's Itinerate Vendor Ordinance. City Attorney Flournoy stated that due to the federal court decree in Tyler, these types of ordinances requiring bonds, licenses and fees could not be enforced against religious organizations because it violated rights in the first amendment to the Constitution. He further stated that he could do nothing to prohibit registration so that the City might know whether or not a group was affiliated with a religious organization. City Attorney Flournoy was asked to prepare an ordinance with the appropriate changes to reflect the recent federal court decree.

23. Angelina-Nacogdoches Counties Nutrition Program-\$2,500 Contribution

Mayor Garrison stated that the City had received a request from Angelina-Nacogdoches Counties Nutrition Program for Senior Citizens and recognized Ms. Mary Jo Gorden who gave a brief breakdown and history of the program. Ms. Gorden further stated that the organization needed a kitchen facility to continue the program and temporary plans consisted of using the Mabel Melear campus to continue their program. Ms. Gorden stated that the approximate cost of a portable building which would contain kitchen and storage for commodities was stated as being \$10,845.00. To date, the Angelina-Nacogdoches Counties Nutrition Program had had commitments of \$2,500 from Angelina County, and several other requests to neighboring cities and counties were pending.

Comm. W. O. Ricks, Jr., made motion that \$2,500 be appropriated from the City's General Fund contingency to assist in the purchase of the kitchen and storage facilities. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

24. Water Availability for City of Lufkin Discussed

Mayor Garrison recognized Comm. R. A. Brookshire who suggested that the City look into the possibility of recycling its present water from the sewer treatment plant. Comm. Pat Foley suggested that the City explore the possibility of a regional water supply system if the City does have to go to Lake Rayburn for surface water. Comm. E. C. Wareing suggested that the City Manager check with the Chamber of Commerce to see if any firms contemplating moving to our area might need a source of raw water supply. In the event this situation did exist it might be possible to share in the cost of constructing production facilities to carry raw water at least from the lake intake site to the plant location which might conceivably be located between Lake Rayburn and the City of Lufkin.

25. Adjournment

There being no further business for consideration, meeting adjourned at 9:45 p.m.



Robert L. Garrison
MAYOR - City of Lufkin, Texas

ATTEST:

Royce Dunbar
Assistant City Manager