

MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 3RD DAY OF AUGUST, 1976, AT 7:30 P. M.

On the 3rd day of August, 1976, 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
E. G. Pittman	Commissioner at Large, Place B
Harvey Westerholm	City Manager
Robert L. Flournoy	City Attorney
Denzel Percifull	Acting Secretary

being present, and

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

1. Meeting opened with prayer by Rev. Dee Black, Pastor of McKindree Baptist Church, Lufkin, Texas.
2. Mayor Pro Tem Wareing, in delayed appearance of 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. Pat Foley made motion that minutes of regular meeting of July 20, 1976, be approved. Motion was seconded by Comm. R. A. Brookshire and a unanimous affirmative vote was recorded. Comm. Pat Foley made motion that minutes of special workshop of July 27, 1976, be approved. Motion was seconded by Comm. Jack McMullen and a unanimous affirmative vote was recorded.

4. Open Hearing-Mossfield Road Area Annexation - Delayed

Due to delayed appearance of Mayor Garrison, Mayor Pro Tem Wareing stated that this item would be temporarily delayed until Mayor Garrison assumed his chair.

5. Briar Meadow Addition Annexed - Approved 2nd Reading

Mayor Pro Tem Wareing stated that annexation of Briar Meadow Addition had been approved on first reading of ordinance at last regular meeting, covering property located within Briar Meadow Addition and area West of Briar Meadow Addition between Loop 287 and Fuller Springs Drive to existing City Limit line on FM 58.

There were no persons present appearing in opposition to same. Comm. Jack McMullen made motion that ordinance be approved on second and final reading annexing Briar Meadow Addition. Motion was seconded by Comm. R. A. Brookshire and the following vote was recorded:

Voting Aye: Comms. R. A. Brookshire, Jack McMullen, E. C. Wareing and E. G. Pittman

Voting Nay: Comms. Pat Foley and W. O. Ricks, Jr.

Comms. Foley and Ricks stated their reasons for voting nay was due to the fact the residents in the Briar Meadow Addition were not participating in cost of installation of sanitary sewer service.

Mayor Pro Tem Wareing declared motion approved by majority vote of four to two.

6. Zone Change Approved 2nd Reading-Mrs. Mike (Judy) Selman from C to C District, Special Use, Item 6 (Day Nursery)

Mayor Pro Tem Wareing stated that zone change application by Mrs. Mike (Judy) Selman from C to C District, Special Use, Item 6 (Day Nursery), covering property located South of Loop 287, East of Highway 69 South across from Irvin Drive, had been approved on first reading of ordinance at last regular meeting.

There were no persons present appearing in opposition to same. Comm. Pat Foley made motion that zone change application by Mrs. Mike (Judy) Selman from C to C District, Special Use, Item 6 (Day Nursery), be approved on second and final reading. Motion was seconded by Comm. R. A. Brookshire and a unanimous affirmative vote was recorded.

7. Zone Change Approved 2nd Reading-First Methodist Church from RM to RM District, Special Use, Item 6 (Day Nursery)

Mayor Pro Tem Wareing stated that zone change application by First Methodist Church from RM to RM District, Special Use, Item 6 (Day Nursery), covering property located at the North-east intersection of Persimmon and North Raguet Streets, had been approved on first reading of ordinance at last regular meeting.

There were no persons present appearing in opposition to same. Comm. Pat Foley made motion that zone change application by First Methodist Church from RM to RM District, Special Use, Item 6 (Day Nursery), be approved on second and final reading or ordinance. Motion was seconded by Comm. R. A. Brookshire and a unanimous affirmative vote was recorded.

8. Sub-Division Ordinance #1170 Amended - Plat Advertisement

Mayor Pro Tem Wareing stated that ordinance had been approved on first reading at last regular meeting amending the Sub-Division Ordinance #1170 requiring plat advertisements be made prior to consideration of sub-division approval by the City Planning and Zoning Commission.

There were no persons present appearing in opposition to same. Comm. E. G. Pittman made motion that ordinance be approved on second and final reading amending the Sub-Division Ordinance #1170 requiring plat advertisements prior to consideration of approval of sub-divisions by City Planning and Zoning Commission. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

9. FM 325 ROW (Lufkin Avenue) Annexation-Approved 1st & Final Reading

Mayor Pro Tem Wareing stated that annexation of FM 325 ROW (Lufkin Avenue) was proposed for annexation and was up for first reading of ordinance at this meeting. Comm. E. G. Pittman asked if the annexation of this ROW would entail additional street maintenance for the City of Lufkin. City Manager Westerholm stated that it would not entail additional street maintenance for the City. City Manager Westerholm stated that it would, in fact, remain a Farm-to-Market Road and, therefore, still be under the maintenance jurisdiction of the State Department of Highways & Public Transportation.

Comm. W. O. Ricks, Jr., made motion that annexation ordinance of FM 325 ROW (Lufkin Avenue) be approved on an emergency basis because of the pending grant for the construction of the project. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

At this point, Mayor Garrison arrived and Mayor Pro Tem Wareing relinquished the meeting to Mayor Garrison. Mayor Garrison then returned meeting to Item #4 regarding annexation hearing.

10. Open Hearing - Mossfield Road Area Annexation

Mayor Garrison officially opened hearing for consideration of annexation of the triangular portion of land between Southridge Sub-Division and West Loop 287. Mayor Garrison asked if there were any persons present in favor of the annexation. There were none in attendance. Mayor Garrison asked whether there were any persons present in opposition to the annexation. There were none present in the audience that identified themselves as being in opposition to the annexation. Mayor Garrison then asked for comments from the Commissioners.

Comm. R. A. Brookshire asked whether Allendale Drive, which presently dead-ended in the property, would remain a dead-end street when the property was annexed or whether it would be extended into Southridge Sub-Division. City Manager Westerholm stated that the condition of the road would basically remain as it presently is upon recommendation by the City Planning and Zoning Commission, the Planning and Zoning Commission having stated that in future years where the need was identified, then planning could be done to determine the future possible extension of Allendale Drive.

Comm. Pat Foley asked why the properties owned by D. C. Massingill and J. F. Burris had not been included in the annexation request. Comm. R. A. Brookshire stated, in his opinion, the properties questioned should not be included because, in doing so, the City would be obligated to the extra cost of road maintenance of Gobbler Knob Road which was presently in an almost impassable condition. Comm. Foley then stated that, in his opinion, the property should be included in order that this area of land be squared up in a more orderly fashion.

Comm. E. C. Wareing stated that when he had originally recommended the annexation of this property, he was talking about only the properties owned by Jack Davis and John R. Pounds, but he felt that there was no point in annexing the remainder of the property presently under consideration due to the long-range expense of constructing roads in an area that present had no roads. Mayor Garrison then voiced agreement with the statement made by Comm. Wareing.

At this point, Mr. John Pounds asked to be recognized. Upon being recognized, Mr. Pounds stated that his reason for opposing the annexation of the property was due to the probability that, in the future, any street that might be constructed would become a major collector street rather than a quiet residential street. There were others in the audience that wished to make comments.

Mr. Don Garrett stated that he objected to the annexation on the same basis as Mr. Pounds, but stated that he did desire connection to the sanitary sewer service.

Mayor Garrison stated that it would be difficult to annex an area on the condition that no roads would be constructed and in effect, close off a specific area. Question was then asked as to whether Allendale Drive, when extended, would be a straight extension or constructed with an "S" curve going into the Southridge Sub-Division. Comm. R. A. Brookshire asked City Manager Westerholm whether a bridge would necessarily have to be constructed if Allendale Drive was extended into the Southridge Sub-Division. City Manager Westerholm stated that the construction of a bridge would not be necessary because any extension of Allendale Drive would first intersect a street in the Southridge Sub-Division before coming to the creek which would necessitate the construction of a bridge.

Mayor Garrison then stated that any consideration toward construction of a street in this area would be a matter of long-range planning and upon evidence of a need, such planning would be conducted by the City staff and Planning and Zoning Commission. Mr. John Pounds stated that when such planning were done, he would ask that consideration be given to the extension of a street to the North of his property. He felt that such a location would provide better intersecting capabilities with West Loop 287 and would provide more direct entrance into the sub-divisions to the West.

Comm. E. C. Wareing stated that such a street, in his opinion, would better serve the traveling public, if in fact it was constructed to the North of the Pounds property. Mayor Garrison then officially closed hearing.

Comm. E. C. Wareing made motion to set this ordinance for first reading at next regular meeting. Motion was seconded by Comm. W. O. Ricks, Jr., and a unanimous affirmative vote was recorded.

11. Cablecom Franchise Amended to Comply with FCC Regulations

Mayor Garrison asked City Attorney Flournoy to briefly summarize the proposed new ordinance for Cablecom General, Inc., which was amended to comply with FCC regulations, although not making any changes in the rate schedules of the ordinance in existence.

City Attorney Flournoy briefly summarized the proposed franchise agreement, and stated that it dealt with the type of service to be maintained by Cablecom, the resolving of complaints between customers and Cablecom, the quality of picture received by customers and other such items.

Mayor Garrison then recognized Mr. Wayne Neal, local manager of Cablecom, and asked if he wished to speak to the City Commission. Mr. Neal stated that he wished to report progress on the installation of the emergency alert system and, at the request of Mayor Garrison, briefly explained the system to members of Commission and those persons in attendance in the meeting. Mr. Neal stated that the emergency alert system was a system that would be installed in the Police Department dispatching office and in the event of any type of an emergency, it would enable an individual, most probably City Manager Harvey Westerholm, to dial a number which would override all channels received by cable in Lufkin and then state the type and nature of emergency that was pending. Mr. Neal then explained that he had received approval from the Denver office for the installation of cable service to the nine areas that had been itemized at a previous City Commission meeting. Mr. Neal then asked if there was a possibility for the City Commissioners to consider an extension of the amended franchise with the present rates that are in effect. Mr. Neal asked for a 15-year extension. Mayor Garrison stated that although Mr. Neal was asking for a 15-year extension, the extension would, in fact, be one that could be terminated at five-year intervals, and was a five-year extension rather than a 15-year extension.

Comm. W. O. Ricks, Jr., voiced his agreement with the proposed extension of the amended franchise. Comm. R. A. Brookshire stated that the newly amended franchise, including the necessary FCC regulations, also gave the City more authority to cancel the franchise when the City could show just cause for doing so. Comm. Brookshire stated that this termination of franchise could be done at yearly intervals, if necessitated.

Comm. E. C. Wareing made motion to approve the newly amended franchise with no change in rates presently charged. Motion was seconded by Comm. Pat Foley.

Prior to vote on motion, Comm. R. A. Brookshire asked the possibility of getting the City Attorney, manager of Cablecom General and City Manager to discuss the possibility of addressing the franchise in a better fashion to the low-density areas that were stated in the franchise.

A unanimous affirmative vote was recorded to grant this franchise as amended and allow for the extension requested by Mr. Neal.

12. Civic Center Construction-Request to Release Retainage

Mayor Garrison recognized Mr. Jerry Hill, architect for Civic Center construction, who was present, and asked if he would explain the request to release retainage for the Civic Center construction.

Mr. Hill stated that his office had made an error in the calculation of the retainage due the contractor. Mr. Hill stated that the amount in the retainage was \$12,129.06 and not the \$11,676.26 figure that had been written in his letter to the City Manager. Mr. Hill then explained that he had personally looked into the question of the possibility of the carpet at the Civic Center having been improperly installed. Mr. Hill stated that upon personal investigation, he had found that, in fact, portions of the carpet were not installed properly and recommended that the retainage be withheld from the contractor until the contractor could make the necessary corrections to the carpeting.

Comm. W. O. Ricks, Jr., asked if Mr. Hill would personally observe the correction of the carpeting problem at the Civic Center. Mr. Hill stated that he most definitely would do so.

Comm. E. C. Wareing made motion to hold the retainage until the carpet was fixed by the contractor. Motion was seconded by Comm. E. G. Pittman and a unanimous affirmative vote was recorded.

13. Civic Center-Payment of Architects' Fee Considered

Mayor Garrison asked if Mr. Hill would be agreeable to the City paying only 50 percent of the architects' fee at this time.

Comm. E. C. Wareing made motion that the City of Lufkin pay only 50 percent of the architects' fee at this time. Motion was seconded by Comm. W. O. Ricks, Jr., and a unanimous affirmative vote was recorded.

14. Zone Change Approved 1st Reading-Wayne Allen from RL to LB Dist.

Mayor Garrison stated that the City Planning and Zoning Commission had recommended approval of zone change application by Wayne Allen from RL to LB District covering property located North of Loop Lane and South of North Raguet Street at intersection.

There were no persons present appearing in opposition to same. Comm. Jack McMullen made motion that zone change application by Wayne Allen from RL to LB District be approved on first reading of ordinance. Motion was seconded by Comm. E. G. Pittman and a unanimous affirmative vote was recorded.

15. Request for Closing of Alleys Withdrawn-Lake & Spence Streets, Lots 1 & 2, Townsend Addition

Mayor Garrison stated that law firm Zeleskey, Cornelius, Rogers, Berry & Hallmark had requested that Items 14 and 15 of this agenda be withdrawn from consideration at this Commission meeting.

16. Senior Citizens' Council-Request for Matching Funds-Governor's Committee on Aging

Mayor Garrison recognized Jerry Jordan of Angelina College and asked that he explain the Senior Citizens' Council request for matching funds for Governor's Committee on Aging Grant Project. Mr. Jordan thanked Commissioners for allowing him to appear before them. Mr. Jordan then introduced Mrs. Weeks and Mr. James who are members of the Senior Citizens' Council. Mr. Jordan briefly explained the program to the Commissioners and stated that it would provide one nutritional meal per day to the elderly, the elderly being defined as 60 years of age or older. Mr. Jordan stated that the grant was a 90 percent/10 percent cash match grant, and that the Senior Citizens' Council and Angelina College were requesting a resolution whereby the City Commission agreed to either contribute or underwrite the amount of \$2,500 in order that the total grant be approved. Mr. Jordan stated that the entities involved were Angelina County, City of Lufkin, Nacogdoches County, City of Nacogdoches and the City of Diboll. After discussion as to the positive aspects of this program, Comm. R. A. Brookshire made motion to agree to pledge this \$2,500 figure toward the program. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded.

17. City Manager's Report-Administration Improvement of Municipal Court

Mayor Garrison asked City Manager Westerholm to report on his recommendation for improving administration of Municipal Court. City Manager Westerholm briefly stated that the case load in Municipal Court had approximately quadrupled since 1966 and, although there had been a great increase in the case load, same was being handled by the same number of personnel in Municipal Court. City Manager Westerholm stated that it was his recommendation that the City retain the services of a local attorney, Mr. David Porter, at the fee of \$650 per month, that Mr. Porter be retained on a half-day basis, five days per week for the next two months beginning immediately.

After discussion as to the positive merits of such action, Comm. W. O. Ricks, Jr., made motion to approve the City Manager's recommendation. Motion was seconded by Comm. E. G. Pittman and a unanimous affirmative vote was recorded.

Mayor Garrison requested that the Commissioners receive a weekly progress report on the activities of Municipal Court.

18. Annexation Petitions-Consideration of Establishing Policy Deferred

Motion was made, seconded and unanimously voted in the affirmative that this item be deferred until next regular meeting for discussion at that time.

19. Non-Conforming Areas Disc.-Suggestion to be Presented

Comm. E. C. Wareing stated that he had received the list prepared by City Manager Westerholm of the areas in the City Limits that had been non-conforming areas and were no longer in use. Comm. Wareing asked how the City could identify such areas, those areas that had previously been non-conforming, but had subsequently ceased being used for their respective purposes. Comm. Wareing asked that the City Manager and City staff prepare a suggestion for identifying such non-conforming areas and present the suggestion at next regular meeting.

20. TMRS Resolution Approved-Federal Intervention Opposed

Comm. Pat Foley asked about the letter that had been included from the Texas Municipal Retirement System, and stated that he definitely opposed further Federal intervention into public employees retirement system. Comm. Foley stated that he would definitely support the attached TMRS resolution and made motion to that effect. Motion was seconded by Comm. E. C. Wareing and a unanimous affirmative vote was recorded to support the enclosed TMRS resolution.

21. Tennis Court Construction

Comm. Pat Foley asked about the status of tennis court construction in Kiwanis-City Park. City Manager Westerholm stated that it was lacking the finishing top coat and fencing around the court and construction would be complete.

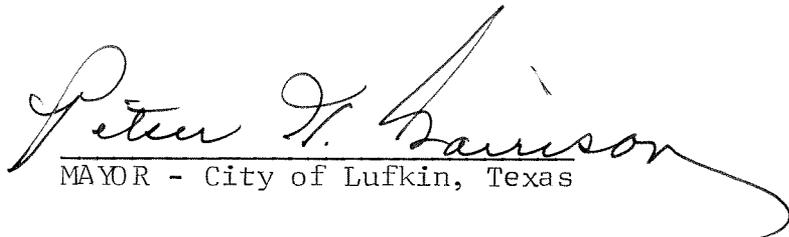
22. Future Water Shortage Disc.

Comm. Pat Foley then stated that he had read an article quoting House Speaker Bill Clayton in which Speaker Clayton had stated that in the not too distant future, the State of Texas would be suffering a water shortage. With this point in mind, Comm. Foley asked about the City's capabilities for water production and delivery of same. City Manager Westerholm stated that for present consumption purposes, the system presently in existence was sufficient, and stated that there was a need to improve the delivery system which could be satisfied by the installation of a storage tank located in the Northwest part of the City near Loop 287. City Manager Westerholm stated that he was in the process of contacting property owners in this area and would report to the City Commission when he had reached a point that would necessitate his

doing so. Comm. Foley asked that the City Manager check into the article by Speaker Clayton and see whether, in fact, his statements were based on a specific water study for the State of Texas. Comm. E. C. Wareing then asked that City Manager get copies of the City of Lufkin's water production/water delivery study to the newer members on the Commission who might not presently have such studies.

23. Adjournment

There being no further business for consideration, meeting adjourned at 9:13 p.m.


MAYOR - City of Lufkin, Texas

ATTEST:


Denzel Percifull, Acting Secretary