

MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 20TH DAY OF FEBRUARY, 1979, AT 5:00 P.M.

On the 20th day of February, 1979, 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:

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
Roger G. Johnson	Assistant City Manager
Gayle Dickey	Assistant City Secretary

being present, and

Pitser H. Garrison	Mayor
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being absent, constituting a quorum, when the following business was transacted:

1. Meeting opened with prayer by Dr. Morris House, Pastor of First United Methodist Church, Lufkin, Texas.
2. Mayor Pro Tem E. C. Wareing welcomed visitors present.
3. Approval of Minutes

Comm. Jack McMullen made motion that minutes of regular meeting of February 6, 1979, be approved. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

4. Townhouse Regulation Amendment Approved 1st Reading

Mayor Pro Tem Wareing stated that members of Commission had discussed possible amendment to the Townhouse Regulation at last regular meeting and same had been deferred for consideration at this meeting due to additional materials which had been added by the City staff. Mayor Pro Tem Wareing stated that he had reviewed these materials and was of the opinion that proposed ordinance as presented at last regular meeting would provide innovative townhouse design structures and he personally would be in support of same.

Comm. Pat Foley inquired of Mr. Ray Faircloth of Sabine Investment Company who was present as to whether or not he was in support of this particular amendment. Mr. Faircloth stated that he had worked with the City Planning & Zoning Commission regarding these recommended amendments and expressed his support of same.

There was no opposition present to proposed amendment and no further discussion developed by members of Commission. Motion was made by Comm. W. O. Ricks that proposed amendment to townhouse regulation be approved on first reading of ordinance as recommended by the City Planning & Zoning Commission. Motion was seconded by Comm. Richard Thompson and a unanimous affirmative vote was recorded.

5. Driveway Regulation - Authorization of City Manager to Recommend Alternatives

Mayor Pro Tem Wareing stated that members of Commission had reviewed a letter from Mrs. Ezelle Johnson, 1112 Pershing Avenue, and her request to construct a driveway which was contrary to existing City regulations.

Mayor Pro Tem Wareing then reviewed the existing requirements for driveway entrances by the subdivision regulation and a proposed plan which involved the use of asphalt material. Mayor Pro Tem Wareing stated that he personally preferred an asphalt type surface inasmuch as same did not show oil stains or crack as was the case with concrete materials. Mayor Pro Tem Wareing stated that in his opinion the Engineering Department could design specifications for construction of this driveway surface that would allow the use of asphalt type materials, inasmuch as compared drawings which had been proposed for consideration at this meeting reflected basically the same cost.

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Comm. Jack McMullen stated, in his opinion, the asphalt type driveway should be allowed inasmuch as many of these type driveway surfaces existed within the city limits and same appeared to provide adequate driving surfaces.

Comm. R. A. Brookshire stated that in accordance with letter furnished from Mrs. Johnson, it appeared the cost of the driveway which she proposed to construct by City standards would be \$300.00 more than what it would be if she could construct this same surface using asphalt material.

Comm. W. O. Ricks inquired as to whether or not Mrs. Johnson could be granted an exception by the Commission. City Attorney Flournoy stated that no exception could be granted by the Commission unless the ordinance was changed to provide for this type activity. City Attorney Flournoy recommended that the only other alternative available would be to consider request before the Zoning Board of Adjustment & Appeals.

Mayor Pro Tem Wareing expressed his opinion that the Zoning Board of Adjustment & Appeals would possibly acknowledge the problem which Mrs. Johnson had encountered involving her driveway construction.

Comm. R. A. Brookshire expressed his opinion that members of the Commission should amend the ordinance to provide for this type construction. Comm. Pat Foley expressed his desire to consider further engineering plans which would provide an alternate type driving surface with the use of asphalt materials without discontinuing the present driveway requirements.

Comm. Pat Foley then made motion that City Manager Westerholm be authorized to review with the City Engineering Department further alternatives for driveway construction for reconsideration by this Commission at a later date. Motion was seconded by Comm. R. A. Brookshire and a unanimous affirmative vote was recorded.

Mayor Pro Tem Wareing requested that Mrs. Ezelle Johnson, who was present, consider further information from the City Attorney regarding appeal to the Zoning Board of Adjustment & Appeals.

6. Tennis Court Construction - Authorization to Apply for Texas Parks & Wildlife Grant

Mayor Pro Tem Wareing stated that members of Commission had reviewed tennis court construction project at last regular meeting and City Manager Westerholm had been asked to report regarding possible grant at this meeting.

City Manager Westerholm stated that a report had been supplied members of Commission from Don Hannabas, Recreation & Parks Director, regarding the proposed application to Texas Parks & Wildlife Department for tennis court construction with the available \$47,000 in Revenue Sharing Funds which was appropriated for this construction. City Manager Westerholm stated that in the event members of Commission desired, this application could be completed and submitted to the Texas Parks & Wildlife Department prior to the June deadline. City Manager Westerholm reviewed the details of proposal which would involve construction of four new tennis courts and adjoining parking lot at Kiwanis City Park, renovation of the two east courts at Chambers Park, two courts at Winston Park, and two courts and removal of basketball goals at Jones Park. City Manager Westerholm stated that the total cost of this project was \$99,286.40 which was a 50-50 match grant and with the available \$47,000 in Revenue Sharing money, an amount of \$2,643.20 would be necessary for labor and equipment in cost difference to the City to submit application.

Comm. Pat Foley made motion that City Manager Westerholm be authorized to proceed with grant to Texas Parks & Wildlife in accordance with information furnished members of Commission in amounts as stated. Motion was seconded by Comm. W. O. Ricks and a unanimous affirmative vote was recorded.

7. Zone Change Application Approved 1st Reading-GSV Properties from HM & C District to HM District, Special Use (Shopping Center)

Mayor Pro Tem Wareing stated that zone change application by GSV Properties from HM & C District to HM District, Special Use (Shopping Center), covering property fronting on East side of North Timberland Drive between Lufkin and Paul Avenues had been recommended for approval by the City Planning & Zoning Commission.

There were no persons present appearing in opposition to zone change application. Comm. W. O. Ricks made motion that zone change application by GSV Properties from HM & C District to HM District, Special Use (Shopping Center)

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be approved on first reading of ordinance as recommended by City Planning & Zoning Commission. Motion was seconded by Comm. R. A. Brookshire.

Prior to vote on motion, Mr. John Fleming, Attorney appearing in representation of application, informed members of Commission that only one change had been made in plot plan of application which involved an increase in the square footage size of the proposed cinemas for complex enlarging same from 8,360 square feet to 12,350 square feet to provide for four cinemas instead of the initially planned two. Mayor Pro Tem Wareing inquired as to whether or not any boundary changes were involved in the zone change application which would affect modifications. Mr. Fleming stated that this change would not involve physical boundary changes and zone would be adequate as proposed. There were no further questions by members of Commission and a unanimous affirmative vote was recorded to previous motion and second to approve application as submitted.

8. Zone Change Application Approved 1st Reading - R. L. McDonald from RL District to D District

Mayor Pro Tem Wareing stated that zone change application by R. L. McDonald from RL District to D District covering property located West of and fronting on Feagin Drive, between White Oak Drive and Morrow Avenue, had been recommended for approval by the City Planning & Zoning Commission.

There were no persons present appearing in opposition to zone change application. Comm. Jack McMullen made motion that zone change application by R. L. McDonald from RL District to D District be approved on first reading of ordinance as recommended by the City Planning & Zoning Commission. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

9. Lufkin Independent School District - Approval of Request to Extend Lease Agreement - Civic Center Annex

City Manager Westerholm stated that he had received a letter from Allan G. Cannon, Superintendent of Lufkin Independent School District, requesting extension of the L.I.S.D. lease agreement for the rear portion of property at the Civic Center Annex. City Manager Westerholm stated that he had checked with the Lufkin Visitor & Convention Bureau who indicated that this would not present a problem inasmuch as the school had promised to make the building available on occasions when same was needed. City Manager Westerholm stated it was essential that the City Commission authorize this request for one-year extension. City Manager Westerholm also reported that the school district paid all utility bills for the use of the facility.

Motion was made by Comm. W. O. Ricks that extension of this lease agreement for a one-year period be approved as requested. Motion was seconded by Comm. Richard Thompson and a unanimous affirmative vote was recorded.

10. Texas Department of Highways & Public Transportation - Approval of Resolution Minute Order - Highway 94 Improvements

City Manager Westerholm stated that the Department of Highways & Public Transportation had requested a minute order resolution be approved by the City Commission which had been furnished for their review. City Manager Westerholm stated that proposed improvement to State Highway 94 obligated the City to \$25,000 in curb and gutter costs and some possible right-of-way. City Manager Westerholm stated that these curb and gutter costs could be assessed to the fronting property owners who would benefit from the project. Members of Commission were in unanimous agreement that the City should recover curb and gutter costs on this project. Comm. W. O. Ricks made motion that minute order resolution as presented by the Department of Highways & Public Transportation for improvements to State Highway 94 be approved with the condition that the City recover costs for curb and gutter by assessing fronting property owners as explained by City Manager Westerholm. Motion was seconded by Comm. Richard Thompson and a unanimous affirmative vote was recorded.

11. Texas Department of Human Resources - Approval of Agreement to Utilize Old City Hall Building

City Manager Westerholm stated that the R.S.V.P. Program had vacated the Old City Hall Building in 1977 and the Texas Department of Human Resources had requested permission to absorb two rooms in their operation at the Old City Hall Building and had submitted a proposed agreement which was in conformity with the previous agreement with the R.S.V.P. Program which provided they

pay utilities, maintenance, and repair costs of the Old City Hall Building in conjunction with the Angelina & Neches River Authority with a 60-day notice to vacate if the Commission should desire to use the building. Members of the Commission also reviewed the attached plans indicating area to be considered for use by the Texas Department of Human Resources.

Following review of proposal, motion was made by Comm. Jack McMullen that the Texas Department of Human Resources be granted the use of these two rooms in accordance with previous agreement granted the R.S.V.P. Program in 1977 in conjunction with the ANRA and 60-day notice to vacate clause. Motion was seconded by Comm. Richard Thompson and a unanimous affirmative vote was recorded.

12. Angelina County Ministerial Alliance - Social Action Committee - Rejection of Ordinance Requesting Prohibition and Possession of Alcoholic Beverages in Civic Center - Report on Results of Petitions - Addendum to Minutes

Mayor Pro Tem Wareing recognized Rev. Bob Lewis, First Assembly of God Church, representing Social Action Committee of the Ministerial Alliance of Angelina County. Rev. Lewis stated that he was present in behalf of the Social Action Committee and in representation of individuals from the City of Lufkin who had signed petitions in support of an ordinance that would prohibit the use of alcoholic beverages at the Civic Center. Rev. Lewis thanked members of Commission for the opportunity to appear at this meeting. Rev. Lewis then reviewed circumstances of request for initiative petition which had been circulated throughout the City and the following results were reported as received by Assistant City Manager this date:

Total No. of Signatures on Petitions Verified.....	1,354
Total No. of Unverified Signatures.....	432
Total No. of Signatures Required.....	1,787
Less Total No. of Verified Signatures Obtained.....	-1,354
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Equals No. of Signatures Required	<u>433</u>

Rev. Lewis stated that the petition had failed to receive the required number of signatures but, in his opinion, 1,354 citizens of Lufkin were in support of an ordinance which would prohibit the use of alcoholic beverages at the Civic Center. Rev. Lewis stated that he was not representing the Lufkin Ministerial Alliance but only as a member of the Social Action Committee. Rev. Lewis requested that members of Commission consider the force of these individuals who had signed the petition by again considering an ordinance which would prohibit the use of alcoholic beverages at the Lufkin Civic Center.

Comm. Jack McMullen expressed his personal opinion that 87% of the City's population appeared not to be in favor of a petition of this type which would discontinue the use of alcoholic beverages at the Lufkin Civic Center. Rev. Lewis stated that he had purposely conducted a low-key campaign for support of this type petition in an effort to keep this type activity from being labeled a "hate campaign".

Comm. R. A. Brookshire inquired of City Attorney Flournoy as to whether or not members of the Chamber of Commerce and Tourist & Convention Bureau had been consulted regarding the law involved in the use of alcoholic beverages at the Civic Center. City Attorney Flournoy stated that this particular discussion had been held with the Chamber and Convention Bureau personnel who were aware of the law regarding same. City Manager Westerholm also explained that in the most recent past he had personally met with the Chamber of Commerce personnel and discussed the law regarding same.

Mayor Pro Tem Wareing stated that regardless of what the City Commission determined concerning the use of alcoholic beverages at the Civic Center, individuals who leased the use of the facility were the responsible party; and in accordance with information furnished representatives who were present at the last discussion on this matter, each use would depend on the circumstances of the event.

Mayor Pro Tem Wareing informed Rev. Lewis that regardless of the outcome of the petition which was recently circulated, he was of the opinion that considerable gain had been made by the community in the registration of voters.

Rev. Lewis commented that in his opinion the required number of signatures for initiative petition would eventually be obtained but he preferred that members of Commission consider an ordinance prohibiting the use of alcoholic beverages

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without having to consider a special election which would involve additional cost to the City.

Comm. R. A. Brookshire expressed his agreement with Comm. Jack McMullen that 87% of the population appeared not to be in favor of supporting a petition of this type which would prohibit the use of alcoholic beverages at the Lufkin Civic Center and, in his opinion, the present policy involving state control of the use of the facility on alcoholic beverages should be maintained. Comm. R. A. Brookshire then made motion that the present policy for use of alcoholic beverages at the Lufkin Civic Center be continued. Motion was seconded by Comm. W. O. Ricks, and the following vote was recorded: Voting Aye: E. C. Wareing, R. A. Brookshire, W. O. Ricks, Jr., Jack McMullen - Voting Nay: Richard Thompson. Mayor Pro Tem Wareing declared motion approved by majority vote of 5 - 1.

Rev. Lewis inquired as to whether or not he could continue with his present petition toward the required number of signatures. City Attorney Flournoy stated that it would be a matter of whether or not the petition presented by Rev. Lewis had been officially received by the City. City Attorney Flournoy stated that he would inform Rev. Lewis at a later date regarding whether or not the present petition could be used.

Rev. Lewis also inquired as to whether or not members of Commission had been concerned with the report submitted by the Chamber of Commerce that \$1,500,000 in revenue had been received as a result of the Civic Center.

Mayor Pro Tem Wareing informed Rev. Lewis that the City Commission had not asked for this particular report from the Chamber of Commerce and various questions that Rev. Lewis had regarding same should be directed to the Chamber to determine specifically what details were involved. Rev. Lewis stated that he had checked with the Chamber regarding details of previous report submitted and he was informed that he could write his own news release.

Motion was made by Comm. E. C. Wareing that an addendum be added to minutes of this meeting on this particular topic regarding the decision of the City Attorney on above question asked by Rev. Bob Lewis, and that opinion from City Attorney be attached to minutes for permanent record. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

13. Environmental Protection Agency - Authorization Approved to Submit a Step 1 Grant Application for Sewer Interceptor Main

City Manager Westerholm stated that a letter had been received from the Environmental Protection Agency which had determined that the City of Lufkin had been selected and required to develop a pre-treatment program for industrial waste. It was further explained that the EPA would be authorized to fund up to 75% of these costs and the initial step to be considered by the Commission would be to apply for an amendment to the EPA Step 1, 2, or 3 construction grant. City Manager Westerholm stated that in accordance with the letter from EPA it was imperative that the City Commission apply for a grant amendment as soon as possible prior to April 15, 1979.

City Manager Westerholm also stated that it would be necessary to determine what engineering company would be involved in the project for processing application. City Manager Westerholm reminded members of Commission that Griffith Engineers was familiar with this program and had completed a study report on a new interceptor main.

Comm. W. O. Ricks made motion that City Manager Westerholm be authorized to submit a Step 1 Grant Application for sewer interceptor main and amend application to EPA prior to April 15, 1979, and accepting Griffith Engineers as representatives of the City of Lufkin regarding this project. Motion was seconded by Comm. R. A. Brookshire.

Comm. Pat Foley inquired as to what Step 1 involved. Mayor Pro Tem Wareing recognized Mr. Chuck Thomas who explained the provisions of Step 1 and the costs of same which would involve approximately \$110,000 for completion. Mr. Thomas estimated that Step 2 would cost approximately \$60,000.

It was determined that the City had no particular choice in the specific requirements of the program inasmuch as same was being reimbursed in the amount of 75%. A unanimous affirmative vote was recorded to previous motion and second to submit amendment under the Step 1 Grant Application to EPA.

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14. City Election Order Approved - April 7, 1979 Election Date Established - Mayor - Commissioner Ward No. 2 & Commissioner Ward 4

Mayor Pro Tem Wareing stated that City Attorney Flournoy had prepared an ordinance providing for the regular city election to be held April 7, 1979, at six voting places. City Attorney Flournoy then read caption of proposed ordinance and explained new provisions of the single-member district plan to be implemented April 7, 1979. City Attorney Flournoy stated that the election to be held on April 7, 1979, was for the purpose of electing a Mayor, Commissioner Ward No. 2, and Commissioner Ward No. 4 under the new single-member district plan. City Attorney Flournoy stated that in order to clarify the particular requirements of the new single-member district plan that individuals living in the various wards must vote at the corresponding polling places and in Ward No. 2 individuals could only vote for the Mayor and the Commissioner for Ward No. 2, and in Ward No. 4 individuals could vote only for the Mayor and the Commissioner for Ward No. 4, and all other individuals residing in Wards 1, 3, 5, and 6 would only vote for the Mayor.

City Attorney Flournoy read additional information from election order appointing various election judges, their alternates, and specific polling places involved throughout the City. Motion was made by Commissioner Richard Thompson that ordinance providing election order and establishing election day as Saturday, April 7, 1979, be approved on first and final reading. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

15. Texas Power & Light Company - Authorization of City Manager to Pursue All-Weather Protection Power Service to Water Production Plant & Water Wells

Comm. W. O. Ricks stated that due to recent problems in loss of power at the Water Production Plant for the City, it was necessary that the City Manager consider an all-weather protection service to provide continuous flow of water throughout the City during periods of inclement weather. Members of Commission were in unanimous agreement and motion was made by Comm. W. O. Ricks that City Manager Westerholm be authorized to pursue this possibility with Texas Power & Light Company to obtain permanent service to the City water wells and Water Production Plant. Motion was seconded by Comm. Pat Foley and a unanimous affirmative vote was recorded.

16. Adjournment

There being no further business for consideration, meeting adjourned at 6:25 p.m.

*E. C. Wareing*  
MAYOR PRO TEM E. C. Wareing  
City of Lufkin, Texas



*Joel G. Johnson*  
Assistant City Manager