

MINUTES OF REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF LUFKIN, TEXAS, HELD ON THE 5TH DAY OF AUGUST, 1980, AT 7:30 P.M.

On the 5th day of August, 1980, 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 Garrison	Mayor
Percy A. Simond, Jr.	Commissioner, Ward No. 1(new plan)
Don E. Boyd	Commissioner, Ward No. 2(new plan)
Pat Foley	Commissioner, Ward No. 4(new plan)
E. C. Wareing	Commissioner, Ward No. 4(old plan)
Richard Thompson	Commissioner at Large, Place B(old plan)
Harvey Westerholm	City Manager
Roger G. Johnson	Assistant City Manager
Robert L. Flournoy	City Attorney
Ann Griffin	Assistant City Secretary

being present, and

Bob McCurry	Commissioner, Ward No. 3(new plan)
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being absent when the following business was transacted.

1. Meeting opened with prayer by Rev. Rex Carleton, Minister of Music, First United Methodist Church of Lufkin, Texas.
2. Mayor Garrison welcomed visitors present.
3. Minutes of regular meeting of July 15, 1980, were approved on motion by Commissioner Richard Thompson with second by Commissioner Pat Foley, and a unanimous affirmative vote was recorded.
4. OPEN HEARING - Annexation & Permanent Zoning to RL - R.H. Duncan Approved

Mayor Garrison stated that request for Annexation and Permanent Zoning by R. H. Duncan to Residential Large District covering property located south of Little Hollow Drive between Little Hollow Plaza and Live Oak Lane in Brookhollow Addition No. 9-A had been recommended to City Commission for approval. There was no opposition present. Mayor Garrison closed hearing.

Motion was made by Commissioner Pat Foley and seconded by Commissioner E. C. Wareing that first reading of ordinances be set for August 19, 1980. A unanimous affirmative vote was recorded.

5. OPEN HEARING - Annexation & Permanent Zoning to RL - Residents of Joe C. Lane - Tabled for Further Consideration

Mayor Garrison stated that request for Annexation and Permanent Zoning by residents of Joe C. Lane to Residential Large District covering property located on Joe C. Lane as it extends north of U.S. Hwy. 69 South had been recommended to City Commission for approval. There was no opposition present. Mayor Garrison closed hearing.

Commissioner E. C. Wareing stated that the estimated cost of annexation was \$36,000 and at the present time the City has no estimate of the tax income from the sixteen houses located in the area.

Commissioner Richard Thompson asked if it were possible to build a cul-de-sac with the fifty foot right-of-way at the end of Joe C. Lane and it was stated that there would not be sufficient area available. Commissioner Thompson stated that it was his opinion that the City should also obtain right-of-way for the cul-de-sac when the fifty foot right-of-way was received from property owners.

Commissioner Pat Foley asked if the City was providing a statement of the City's Annexation Policy to persons making requests for annexation, and it was stated that each petitioner receives a copy of the policy.

Motion was made by Commissioner E. C. Wareing that first reading of ordinances for Annexation and Permanent Zoning be postponed until an understanding could be reached on the right-of-way, cul-de-sac, and tax income could be estimated. Commissioner Wareing made motion that this item be placed on next agenda for consideration. Motion was seconded by Commissioner Percy Simond. A unanimous affirmative vote was recorded.

6. Zone Change Application - Approved - Second Reading - Pineywood Printing and Pineywood Mobile Homes

Mayor Garrison stated that zone change application by Pineywood Printing and Pineywood Mobile Homes, (Tract 1) from Residential Large, Special Use to Local Business and Commercial, Special Use (erection of on-premise sign in excess of 72 sq. ft.) and (Tract 2) from Residential Large to Commercial on property located north and south of FM 325 between Shady Pine and Loop 287 had been approved on first reading at last regular meeting of City Commission. There was no opposition present.

Motion was made by Commissioner Don Boyd and seconded by Commissioner E. C. Wareing that zone change application be approved on second and final reading. A unanimous affirmative vote was recorded.

7. Amendment - Approved - First Reading - Junk Car Ordinance

Mayor Garrison stated that an amendment to the junk car ordinance had been discussed at last regular meeting of City Commission and City Attorney Flournoy had discovered that the only provision necessary for addition to the present ordinance was provision for filing of a complaint as required by the state law if the City is to operate under its own junk car ordinance. Commissioner Pat Foley stated that he had not been in favor of eliminataing notice to property owners, but had been made aware of the problems caused by junk cars in Lufkin, and of the large number of repeat offences. Commissioner Foley further stated that he would like to see notice time shortened on second offense. City Attorney Flournoy stated that the new state law would not allow any notice less than ten days and the present ordinance only gave the City authority to move the junk cars. City Attorney Flournoy further stated that with the addition of the penalty clause the City could now require the owner to move the junk cars.

Commissioner Richard Thompson asked for clarification of why complaint has to be filed. City Attorney Flournoy stated that in order to prosecute, a complaint must be filed.

Commissioner Pat Foley asked the length of time required from notification to removal. It was stated that ten days was required for notice on junk cars which could be removed after this period. City Attorney Flournoy stated that if these junk cars were moved by owner, there was no fine.

Commissioner Percy Simond asked for clarification of the term "removed." It was stated that the junk car must be taken from premises or completely enclosed from view. Motion was made by Commissioner E. C. Wareing and seconded by Commissioner Percy Simond that amendment be approved on first reading of ordinance. A unanimous affirmative vote was recorded.

8. Amendment to Pool Hall Ordinance - Tabled - Wilson McVicker - Walter Albro

Mayor Garrison stated that a formal proposal had been received from Wilson McVicker on behalf of Walter Albro for amendment to pool hall ordinance. Wilson McVicker, local attorney, stated that he felt the present ordinance was in conflict with the state law and same was not constitutional to prohibit or regulate a business because it "might" become a nuisance. Mr. McVicker further stated that in his opinion, there was little need for regulation of the game of pool because pool facilities could be closed if problems developed.

Mayor Garrison suggested that Mr. McVicker submit a brief to City Attorney Flournoy and the City Attorney would make recommendation to City Commission. It was unanimously decided that the amendment to pool hall ordinance would be tabled until City Attorney Flournoy could review Mr. McVicker's brief and bring recommendation to City Commission.

9. Zone Change Application - Tabled - First Reading - Southwood Development Project - RL to A

Mayor Garrison stated that zone change application by Southwood Development Project from Residential Large District to Apartment District on property located between Bynum and Schuller and between Camp and Pershing Avenue had been heard by Planning and Zoning Commission and recommended to City Commission after second presentation. Mayor Garrison recognized Mr. Herman Bate, local attorney, appearing in representation of zone change application. Mr. Bate stated that the property was owned by a partnership and originally a development of 60 apartment units had been proposed. Mr. Bate further stated that after discussion with a lender it was felt that the number of units should be reduced to 40 or 45 units in order to create an open atmosphere and acceptable financing. Mr. Bate distributed photographs of Curtis Carswell apartments on Pershing Street indicating that this was the type of apartment units being considered. It was stated that the apartments hoped to attract retired couples, single adults and mature widows and stable tenants to avoid problems presented when there is a wide variety of age groups in apartment units. It was further stated that the apartments presented easy access to O.K. Food Store, Gaslight Square, washing facilities, beauty shop, doctors and hospitals. Mr. Bate stated that there would be no access to Schuller or Camp Street from the apartment complex and all traffic would flow into Pershing. Mr. Bate further stated that the apartments would not be an invasion of the neighborhood because apartment districts surround the area, and the apartments would act as a buffer to commercial and local business zones.

Commissioner Pat Foley asked Mr. Bate if he had met with property owners to see if a compromise could be reached. Mr. Bate stated that he had not because basically the people were against apartments.

Commissioner E. C. Wareing stated that on the proposed layout of the apartments presented to City Commission there were two areas where "house" is indicated on the layout. Mr. Bate stated that these two houses would not be moved.

Commissioner Percy Simond asked Mr. Bate how he could control the type of people renting the apartments. Mr. Bate stated that there would not be any discrimination and with a proper job of management and guidelines being established there could be screening of clients.

Mayor Garrison stated that he understood from Mr. Bate's presentation that the partnership would manage and own the apartments, but most apartments are usually sold after the eighth year. Mr. Bate stated that the national average is seven years and then apartments are sold, converted to a corporation or set up as a trust for children. Mayor Garrison then opened the floor for comments from the many property owners present in opposition to the zone change. The following spoke in opposition: Mr. Vernon Berry, Dr. Nash Hogue, Mrs. Judson Coward, Mr. Billy Griggs, Mr. John Pate, Mr. Elmer Brumble, Mr. Kevin Wagner, Mrs. R. K. Arnett, & Mrs. Wydette Barrett.

The following list of opposition was presented:

- a. Would destroy peaceful neighborhood.
- b. Traffic congestion.
- c. Would overload facilities available to neighborhood.
- d. Trout school already in crowded condition, and could not handle additional children in new apartments.
- e. Fast rate of degeneration to buildings in apartment complexes.
- f. Apartments already in area cause problems with private property.
- g. No control over tenants.
- h. Problem in area with drainage.
- i. Low water pressure in area.
- j. Area too small to accomodate 90 to 100 more people.
- k. Opposed to Southwood Street becoming apartment area.

In response to question by Commissioner Pat Foley, Mr. Vernon Berry stated that ten apartments were not as offensive as 45 because of the number of people, but the property owners wanted the property to remain residential. Mr. Berry further stated that there was no other established neighborhood in Lufkin with an apartment project of this size.

In response to question by opposition, Mr. Bate stated that the rental on the units would be \$300 to \$325. Mr. Bate further stated that there were several areas in the City where apartments and residences have co-existed very favorably; i.e. Englewood, Crown Colony.

Commissioner E. C. Wareing asked Mr. Bate how traffic would be prevented from exiting on Schuller. Mr. Bate stated that there would be no access to this street. Commissioner E. C. Wareing then asked if the two houses were to remain why were they included in the apartment zone change. Mr. Bate stated that the lots behind houses would be used for access to apartment complex.

Commissioner Don Boyd stated that he felt the type of people in apartments could be controled by amount of rent charged, and with the City growing and shortage of houses the City Commission has to decide what is best for all concerned.

Commissioner Pat Foley stated that all apartments in the city are full and while City Commission tries to accomodate both sides they have to take wants and needs of residents into consideration.

Commissioner E. C. Wareing stated that two-thirds of the people in the area did not sign petition and on basis of signatures, he felt it was a deadlocked issue. Commissioner Percy Simond stated that he attempted to become familiar with the area, but failed and because of his unfamiliarity he would abstain from vote on the first reading of ordinance for zone change.

Mayor Garrison stated that three persons within 200 feet of the subject property did not sign petition against zone change. Mayor Garrison further stated that it was difficult to determine what would serve the most number of people. Mayor Garrison also stated that he believed in rule by law, not by people, but the philosophy of zoning is to protect people who live on residential property and when large numbers of people feel adversely affected by zone changes they are entitled to first preference. It was stated that the apartments in the neighborhood have already caused problems and that sites are available that would not adversely affect homes already in the area.

Commissioner E. C. Wareing asked Mr. Bate if the sale of individual lots from the property had been considered. Mr. Bate stated that this had not been considered. Commissioner E. C. Wareing and Commissioner Pat Foley stated that if any accomodation could be made between Southwood Development Corp. and the property owners, it should be pursued.

Commissioner Percy Simond stated that City Attorney Flournoy had advised him that by abstaining from vote on this first reading, he would be voting in the affirmative, and he desired to table zone change until he could become familiar with area where property is located.

Commissioner E. C. Wareing made motion that the zone change application be deferred indefinitely without prejudice and within some reasonable time between now and end of the year without payment of fee, Southwood Development Project could reconsider application. Motion was seconded by Commissioner Percy Simond. A unanimous affirmative vote was recorded.

10. Permit Approved for Lufkin Sideliners Club - Fireworks Display

Mayor Garrison stated that this was the annual request from the Lufkin Sideliners Club to obtain permission to discharge firework cannon after each touchdown by the home team at Lufkin Football games. There was no opposition present. Motion that permit be approved was made by Commissioner E. C. Wareing and seconded by Commissioner Don Boyd. A unanimous affirmative vote was recorded.

11. Awarding of Bids - Fencing - Angelina Street Extension

Mayor Garrison stated that bids had been let for furnishing chain link fence along Angelina Street behind Lufkin Junior High West and City Manager Westerholm was recommending only that portion of chain link fence immediately behind the school property be installed in order to keep down cost. Low bidder on fencing was Lone Star Fence Company.

Commissioner E. C. Wareing stated that once installed, the fence becomes the property of the school system and they are responsible for maintenance of same. Motion was made by Commissioner Pat Foley and seconded by Commissioner E. C. Wareing that City Manager Westerholm be authorized to proceed with awarding of bid to Lone Star Fence Company as the low bidder.

12. Change of Planning & Zoning Commission Meeting Days - Approved

Mayor Garrison stated that the City Code allows the City Planning and Zoning Commission to designate the time and place for holding their regular meetings, subject to approval of the City Commission and City Planning and Zoning Commission has requested that City Commission approve change of meeting days from second and fourth Thursday at 5:00 p.m. to second and fourth Monday at 5:00 p.m. Motion was made by Commissioner Pat Foley and seconded by Commissioner Don Boyd that change of meeting day be approved. A unanimous affirmative vote was recorded.

13. Executive Session - Right-of-way Acquisition - Appealed Lawsuit of TP&L Rate Case - Oil Leases on Park Property

Mayor Garrison adjourned regular open meeting of City Commission at 10:10 p.m. to Executive Session for discussion of right-of-way acquisition, appealed lawsuit of TP&L rate case and Oil Leases on Park Property.

Meeting was reconvened by Mayor Garrison at 10:45 p.m.

Mayor Garrison announced that members of City Commission had discussed right-of-way acquisition for Angelina Street and City Manager Westerholm had been authorized to continue negotiations with Southern Pacific Railroad in this regard.

Mayor Garrison announced that members of City Commission had discussed an appeal of the TP&L lawsuit rate case and whether or not certain affiliates should be considered in the district court case pending in Austin, Texas. Commissioner E. C. Wareing made motion that the City of Lufkin be authorized to join with the City of Waco in appeal of this lawsuit as recommended by City Attorney Flournoy. Motion was seconded by Commissioner Percy Simond. A unanimous affirmative vote was recorded.

Mayor Garrison further reported that members of City Commission had indicated the possibility of submitting to public bid oil leases on City Park property. Mayor Garrison stated that there would be a provision for no drilling on twelve park tracts with various provisions requiring amount to be bid per acre, amount of delay rental, and to leave open amount of royalty the drilling company would relinquish to City. Commissioner Pat Foley made motion that City Attorney Flournoy be authorized to complete the necessary bid specifications for allowance of oil and gas leases on public park property as indicated at this meeting within the guidelines authorized by the Texas Parks and Wildlife Department. Motion was seconded by Commissioner Percy Simond. A unanimous affirmative vote was recorded.

14. Angelina Street - Discussion of Intersection at Pershing in Chambers Park Area

Commissioner Richard Thompson inquired as to whether or not a four-way stop was being considered at the intersection of Pershing and Angelina in the Chambers Park area. City Manager Westerholm reported that a stop sign had been presently erected on Angelina Street and additional consideration would be made in the future if a traffic history, which was being accumulated, revealed the necessity for a four-way stop.

15. Community Development Block Grant - Discussion of Status

Commissioner Don Boyd inquired of City Manager Westerholm as to the status of the City's Community Development Block Grant Application. City Manager Westerholm reported that further information would be received from HUD on or about August 7 or 8th to release funds and begin actual construction in certain areas.

16. City Planner - Discussion of Employment

Commissioner Percy Simond inquired of City Manager Westerholm as to the status of City Planner. City Manager Westerholm reported that the new City Planner was presently involved in moving to Lufkin and would begin work for the City on August 18, 1980.

17. Water Production Department - Resolution of Commendation Approved - Discussion of Proposed City Budget for 1980-81

Commissioner E. C. Wareing stated that members of the City Commission had recently received a letter from the Texas Department of Health approving the City's water supply. Commissioner E. C. Wareing stated that the City's water supply was under very good leadership, Superintendent Floyd Long, and Mr. Long should be commended for a job well done.

Commissioner E. C. Wareing then made motion that the City Water Production Department be commended for their outstanding services each year in the treatment of Lufkin's water supply. Motion was seconded by Don Boyd. A unanimous affirmative vote was recorded.

Commissioner E. C. Wareing also asked members of the City Commission to consider a possible 100% tax value in the proposed City Budget with the provision that taxes be reduced to one-half of this amount inasmuch as this was a requirement that the new County Tax Appraisal District would require in 1981. Commissioner E. C. Wareing stated that this did not involve any change in present City taxes and would assist the City in conversion to County Tax Appraisal provisions. Mayor Garrison also encouraged consideration of this 100% evaluation inasmuch as other agencies were also considering same.

18. Fire Department Commended - Budget Workshop Date Established

Mayor Garrison stated that employees of Lufkin Fire Department should be commended for a job well done involving the painting of various fire hydrants within the corporate limits in the past year. Members of City Commission were in agreement that the neatly painted fire hydrants were an asset to the community.

Members of City Commission discussed a possible date for a City Budget Workshop Session. Mayor Garrison also asked members of City Commission to inquire at City staff level regarding specific questions they may have about the new City Budget which has been distributed for their review. Mayor Garrison stated that he could not be present at the next meeting. City Manager Westerholm stated that a notice must be published in accordance with City Charter and budget be adopted by second meeting in September.

It was unanimously agreed that a budget workshop be set for next regular meeting in addition to regular scheduled items.

19. There being no further business for consideration, meeting adjourned at 11:05 p.m.



Edgar C. Harcine

Mayor Pro Tem, City of Lufkin, Texas

Ann Duffin

Assistant City Secretary