

**MINUTES OF THE
REGULAR CITY COUNCIL MEETING
MONDAY, NOVEMBER 19, 2007 — 6:00 P.M.
KAUFMAN CITY HALL
209 S. WASHINGTON
KAUFMAN, TEXAS 75142**

CITY COUNCILMEMBERS

| | |
|----------------------|----------------------------|
| MAYOR | WILLIAM FORTNER |
| COUNCILMEMBER | GIL ALTOM JR. |
| COUNCILMEMBER | KENNY CAMPBELL |
| COUNCILMEMBER | JEFF COUNCIL |
| COUNCILMEMBER | CHARLES GILLENWATER |
| COUNCILMEMBER | BARRY RATCLIFFE |
| COUNCILMEMBER | VON CARL THOMAS |

INVOCATION: Keith Fortner

PLEDGE OF ALLEGIANCE

CALL MEETING TO ORDER: Mayor Fortner called the Meeting to order at 6:03 p.m. Councilmembers present were William Fortner, Kenny Campbell, Gil Altom Jr., Barry Ratcliffe, Charles Gillenwater, Von Carl Thomas and Jeff Council. Mayor Fortner declared a quorum present. Also present were City Attorney David Dodd, City Manager Curtis Snow, ACM/City Secretary Jo Ann Talbot, Director of Development of Services Terry Capehart, Fire Chief Eddie Brown and Chief of Police James M. Smith.

SPECIAL RECOGNITION OF SERVICE FOR COUNCILMEMBER – LONNIE BOUNDS: Mayor Fortner presented Lonnie Bounds with a plaque for serving on the Kaufman City Council from May 2005 through October 2007.

CITIZENS COMMENTS (5 MINUTES) Citizens may address the City Council on any subject but must first complete a Request to Speak Form. Comments are limited to five (5) minutes, but no more than five (5) minutes per individual, and are not transferable. Citizen's comments not to exceed a total of 15 minutes.

No citizens' comments were made.

CONSENT AGENDA ITEMS #1 THROUGH #8

“All matters listed under the Consent Agenda, are considered to be routine by the City Council and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will

be removed from the consent agenda and will be considered separately. For a citizen to request removal of an item, a speaker card must be filled out and submitted to the City Secretary.”

1. Consider approval of the Minutes of the October 15, 2007 Regular City Council Meeting.
2. Consider approval of the Minutes of the October 23, 2007 Joint Meeting with Kaufman City Council and Kaufman Independent School District.
3. Consider approval of the Minutes of the November 6, 2007 Special City Council Meeting.
4. Consider approval and authorize the Mayor to execute an Agreement with Carter & Burgess, Inc. for Engineering Services for the 2007 Texas Community Development Block Grant Program, Sewer System Improvements #727320.
5. Consider second reading and adoption of Ordinance O-21-07 AMENDING THE COMPREHENSIVE ZONING ORDINANCE O-02-07, DATED MARCH 19, 2007, BY AMENDING SECTION 44.7A – GENERAL SIGN REGULATIONS, BY REVISING THE HEIGHT AND SIZE RESTRICTIONS FOR FLAGS, ADOPTING A SIZE TO HEIGHT PROPORTIONALITY AND ADDING MAINTENANCE REQUIREMENTS FOR FLAGS; CITY OF KAUFMAN, KAUFMAN COUNTY, TEXAS; AND PROVIDING FOR A PENALTY CLAUSE, PROVIDING A SEVERABILITY CLAUSE, A SAVINGS CLAUSE, AND AN EFFECTIVE DATE.
6. Consider second reading and adoption of Ordinance O-22-07 AN ORDINANCE DESIGNATING A CERTAIN AREA AS A COMMERCIAL/INDUSTRIAL TAX ABATEMENT ZONE IN THE CITY OF KAUFMAN, TEXAS, TO BE KNOWN AS REINVESTMENT ZONE NO. 3, ESTABLISHING THE BOUNDARIES THEREOF, PROVIDING FOR AN EFFECTIVE DATE AND CONTAINING A SEVERABILITY CLAUSE.
7. Consider second reading and adoption of Ordinance O-23-07 AN ORDINANCE DESIGNATING A CERTAIN AREA AS A COMMERCIAL/INDUSTRIAL TAX ABATEMENT ZONE IN THE CITY OF KAUFMAN, TEXAS, TO BE KNOWN AS REINVESTMENT ZONE NO. 4, ESTABLISHING THE BOUNDARIES THEREOF, PROVIDING FOR AN EFFECTIVE DATE AND CONTAINING A SEVERABILITY CLAUSE.
8. Consider second reading and adoption of Ordinance O-24-07 AN ORDINANCE OF THE CITY OF KAUFMAN, TEXAS TO TAX TANGIBLE PERSONAL PROPERTY IN TRANSIT WHICH WOULD OTHERWISE BE EXEMPT PURSUANT TO TEXAS TAX CODE, SECTION 11.253; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER

CLAUSE; AND PROVIDING FOR SAID ORDINANCE TO TAKE IMMEDIATE EFFECT.

Councilmember Altom moved and seconded by Councilmember Council to approve the Consent Agenda Items 1 through 8. Mayor Fortner called for a vote with all voting AYE, the motion carried.

END OF CONSENT AGENDA

PLANNING AND ZONING ITEMS

9. Consider a request from Bryan Tebo, representing ETMC ambulance services, regarding a Specific Use Permit to allow ambulance services, located at 306 W. Mulberry Street, and being all of Lot 6R, Block 13 of the ETMC Addition, City of Kaufman, Kaufman County, Texas. (Case No. Z-05-07) (P & Z approval 5-0)

- A. Conduct Public Hearing

Mayor Fortner declared the public hearing open at 6:06 p.m.

Director of Development of Services Terry Capehart informed the Council that the Specific Use Permit under consideration is to allow ambulance services. The property is located on the northeast corner of W. Mulberry Street and Clay Street and is currently vacant. The adjacent property to the east is occupied by the Kaufman County Juvenile Probation offices. The adjacent property to the north and behind the proposed ambulance service is a take out barbeque restaurant. The property across Clay Street to the west is a single-family residence. The property across Mulberry Street to the south is occupied by business and professional offices.

Ambulance Services are allowed in the Commercial District with a Specific Use Permit (SUP). Ambulance Service is defined as: Provision of private (not operated by the City of Kaufman) emergency transportation which may include medical care, and which may include storage and maintenance of vehicles and boarding rooms for ambulance drivers.

The City of Kaufman Zoning Ordinance adopted on March 19, 2007 (Ordinance No. 0-02-07) requires that a Specific

Use Permit (SUP) be approved by the City Council. To consider a Specific Use Permit the following criteria is used:

1. The use is harmonious and compatible with surrounding existing uses or proposed uses;
2. The activities requested by the applicant are normally associated with the permitted uses in the base district;
3. The nature of the use is reasonable;
4. Any negative impact on the surrounding area has been mitigated; and/or
5. That any additional conditions specified ensure that the intent of the district purposes are being upheld.

The Planning and Zoning Commission has made the recommendation to the City Council by a vote of 5-0 to approve the proposed Specific Use Permit (SUP-13) with the following stipulations:

1. That all ambulances are to exit the property onto W. Mulberry Street heading east and are not to use Clay Street to access State Hwy 243 in order to lessen the impact on the adjacent residential neighborhood to the west.
2. That the ambulance drivers are not to use sirens until they have reached a major arterial.

Public Comment Forms were mailed to twenty-four (24) property owners within 300 feet of this request as required by law. Only one neighbor gave their comments to the Planning and Zoning Commission, which resulted in the two stipulations.

Mayor Fortner declared the Public Hearing closed at 6:08 p.m.

- B. Consider first reading of Ordinance O-27-07 establishing Specific Use Permit Number thirteen (SUP-13) for ambulance services; providing certain conditions; amending the official zoning map; providing for a penalty; severability; savings and effective date.

Councilmember Council moved and seconded by Councilmember Gillenwater to approve the first reading of Ordinance O-27-07 establishing Specific Use Permit Number thirteen (SUP-13) for ambulance services; providing certain conditions; amending the official zoning map; providing for a

penalty; severability; savings and effective date. Mayor Fortner called for a vote with all voting AYE, the motion carried.

10. Consider a request from Bryan Tebo, representing ETMC ambulance services, and act upon a recommendation to the City Council regarding a Site Plan for a new ambulance service facility, being a 10,000 square feet tract of land located at 306 W. Mulberry Street, described as Lot 6R, Block 13 of the ETMC Addition, City of Kaufman, Kaufman County, Texas. (Case No.S-05-07) (P & Z approval 5-0)

Director of Development of Services Terry Capehart informed the Council that the site plan under consideration is for the development of approximately 10,000 square feet (0.23 acres) for a new Ambulance Service facility located on the northeast corner of the intersection of Mulberry and Clay streets. The building will be approximately 1,168 square feet in size which will house two ambulances and have employee quarters for two drivers.

Ambulance services are allowed in the Commercial District with a Specific Use Permit (SUP) which is also on the current agenda.

Ambulance Service is defined as: Provision of private (not operated by the City of Kaufman) emergency transportation which may include medical care, and which may include storage and maintenance of vehicles and boarding rooms for ambulance drivers.

The proposed site plan meets all of the technical requirements of the Zoning Ordinance and other applicable requirements.

Due to the proximity of several residential structures to the proposed ambulance service it is recommended that the operating procedures of the ambulances include a provision that the sirens not be used until the ambulance is on a major arterial such as State Highway 243 or Washington Street if at all possible.

The Planning and Zoning Commission has made the recommendation to the City Council by a vote of 5-0 to approve the proposed Site Plan.

Councilmember Altom moved and seconded by Councilmember Ratcliffe to approve a Site Plan for a new ambulance service facility, being a 10,000 square feet tract of land located at 306 W. Mulberry Street, described as Lot 6R, Block 13 of the ETMC Addition, City of Kaufman, Kaufman County, Texas. (Case No.S-05-07) Mayor Fortner called for a vote with all voting AYE, the motion carried.

DISCUSSION/ACTION ITEMS

11. Consider approval of the Purchase of One (1) 2008 Ford Expedition XLS from the Houston Galveston Area Council (HGAC) on the State Contract through vendor Philpott Motors.

City Manager Curtis Snow informed the Council that Fire Chief Brown had sought pricing for a 2008 Ford Expedition XLS, Tahoe, and Suburban. The prices through Houston Galveston Area Council (HGAC) were more cost effective. The Ford Expedition has more cargo space than the other two vehicles. After discussion Councilmember Gillenwater moved and seconded by Councilmember Thomas to approve the purchase of One (1) 2008 Ford Expedition XLS from the Houston Galveston Area Council (HGAC) on the State Contract through vendor Philpott Motors in the amount of \$34,987.00. Mayor Fortner called for a vote with all voting AYE, the motion carried.

12. Consider approval and authorize the City Manager to execute a Tax Abatement Agreement between the City of Kaufman and Abox Company, Inc.

City Manager Curtis Snow informed the Council that Abox has requested the economic development incentive for a four year tax abatement on personal property they are purchasing. The personal property is over \$4 million in equipment necessary to expand their business.

The terms of the abatement agreement are:

- ☞ Abox agrees to buy equipment valued at \$4 million to be located at either 704 Rand Road or 2400 County Road 151.
- ☞ Abox agrees to employ an additional 12 full time employees for the life of this contract.
- ☞ The City agrees to abate 100% of the taxes on the increased value of its personal property on the tax roles for four years.

This request is consistent with the City's policy on tax abatements offered for economic development incentives.

The Kaufman Economic Development Corporation recommends approving this agreement.

This agreement will have no adverse impact on the City's finances. It will postpone taxes for four years on new personal property on the tax roles.

After discussion Councilmember Ratcliffe moved, seconded by Councilmember Council to approve and authorize the City Manager to execute a Tax Abatement Agreement between the City of Kaufman and

- Abox Company, Inc. Mayor Fortner called for a vote with all voting AYE, the motion carried.
13. Consider an increase to customer rate to reflect the adjusted Consumer Price Index (CPI) as provided in the IESI Solid Waste Disposal Service Contract effective November 2007.

City Manager Curtis Snow informed the Council that the City just received notice that IESI had imposed their annual Consumer Price Index (CPI) rate increase of 2.92%, which is built in their contract. The City failed to receive notice in February 2007. However, the CPI increase will be effective November 2007 including the semi-annual increase for the adjusted fuel surcharge for solid waste services. The new residential monthly trash fee will be \$11.56. The current rate is \$11.13. After discussion Councilmember Gillenwater moved and seconded by Councilmember Altom to approve the increase to customer rate to reflect the adjusted Consumer Price Index (CPI) as provided in the IESI Solid Waste Disposal Service Contract effective November 2007. Mayor Fortner called for a vote with all voting AYE, the motion carried.

APPOINTMENTS

14. Consider the appointment of One (1) Planning and Zoning Commission member for a three year term through November 2010.

Councilmember Council move and seconded by Councilmember Altom to appoint Steve Cooper to the Planning and Zoning Commission for a three year term through November 2010. Mayor Fortner called for a vote with all voting AYE, the motion carried.

15. Consider the appointment of One (1) Keep Kaufman Beautiful Board member for an unexpired term through March 2008.

Councilmember Altom moved and seconded by Councilmember Ratcliffe to appoint Lydia Gardner to the Keep Kaufman Beautiful Board for an unexpired term through March 2008. Mayor Fortner called for a vote with all voting AYE, the motion carried.

16. Consider the appointment of a Mayor Pro-Tem.

Councilmember Gillenwater nominated Councilmember Ratcliffe for Mayor Pro-Tem.

Councilmember Ratcliffe nominated Councilmember Altom for Mayor Pro-Tem.

Councilmember Ratcliffe declined to serve as Mayor Pro-Tem.

Councilmember Council moved and seconded by Councilmember Thomas to appoint Councilmember Altom as Mayor Pro-Tem. Mayor Fortner called for a vote with all voting AYE, the motion carried.

17. Consider submitting names for consideration to the Kaufman County Appraisal District Board to serve on the Appraisal Review Board.

Councilmember Gillenwater moved and seconded by Councilmember Council to approve the names that were submitted by the Kaufman County Appraisal District Board to serve on the Appraisal Review Board. Mayor Fortner called for a vote with all voting AYE, the motion carried.

18. Consider the re-appointment of Ray Raymond to serve as a member of the Kaufman County Appraisal District Board of Directors a shared representative with Kaufman Independent School District.

Mayor Pro-Tem Altom moved and seconded by Councilmember Ratcliffe to appoint Ray Raymond to serve as a member of the Kaufman County Appraisal District Board of Directors a shared representative with Kaufman Independent School District. Mayor Fortner called for a vote with all voting AYE, the motion carried.

EXECUTIVE SESSION

The Council went into Executive Session at 6:44 p.m.

THE CITY COUNCIL WILL HOLD A CLOSED EXECUTIVE SESSION PURSUANT TO CHAPTER 551, GOVERNMENT CODE V.T.C.A. (OPEN MEETINGS LAW), IN ACCORDANCE WITH THE AUTHORITY CONTAINED IN SECTION 551.071 LEGAL

1. Legal – Under TEX. GOV'T. CODE Sec. 551.071
 - b. Update on pending litigation – Dallas Crown Packing Company

ANY FINAL ACTION, DECISION, OR VOTE ON A MATTER DELIBERATED IN EXECUTIVE SESSION MEETING OR ON INFORMATION RECEIVED IN A CONFERENCE WITH EMPLOYEES WILL ONLY BE TAKEN IN AN OPEN MEETING THAT IS HELD IN COMPLIANCE WITH TEX. GOV'T CODE CH. 551. THE CITY COUNCIL RESERVES THE RIGHT TO ADJOURN INTO EXECUTIVE SESSION AS AUTHORIZED BY TEX. GOV'T CODE SEC. 551.001, ET SEQ. (TEXAS OPEN MEETINGS ACT) ON ANY ITEM ON ITS OPEN MEETING AGENDA OR TO RECONVENE IN A CONTINUATION OF EXECUTIVE SESSION ON THE EXECUTIVE SESSION MEETING ITEMS NOTED ABOVE, IN ACCORDANCE WITH THE TEXAS OPEN MEETINGS ACT, INCLUDING, WITHOUT LIMITATION, SECTIONS 551.071-551.086 OF

THE OPEN MEETINGS ACT.

The Council adjourned out of Executive Session at 6:55 p.m.

END OF EXECUTIVE SESSION

19. CONSIDER ANY OFFICIAL ACTION ON THE EXECUTIVE SESSION
CLOSED MEETING ITEMS:

1. Legal – Under TEX. GOV'T. CODE Sec. 551.071
 - b. Update on pending litigation – Dallas Crown.

No action taken.

ANNOUNCEMENTS FROM CITY MANAGER.

City Manager Curtis Snow invited the Council to the employee Thanksgiving Dinner on Wednesday, November 21, 2007 at the Fire Station.

Informed the Council that Terry Capehart, Director of Development of Services is leaving to go to work at the City of Terrell.

Informed the Council that Chief of Police James M. Smith is retiring at the end of January.

The next City Council meeting is December 10, 2007.

REQUEST/COMMENTS FROM MEMBERS OF CITY COUNCIL.

Councilmember Thomas commented that he hoped that the Council would support the next Chief of Police whenever certain citizens in town pressured them over an incident that could not be controlled by the Chief of Police.

Councilmember Gillenwater thanked Chief Smith for his 12 years of service with the City of Kaufman as well as Councilmember Ratcliffe thanked him for his service.

Mayor Pro-Tem Altom also thanked Chief Smith for his service. He also inquired about the crosswalk to the Courthouse and the Feed Store Restaurant that had burned.

The Council was informed that the Animal Control Officer that was injured by a vehicle was doing better and would have surgery in January.

Chief Smith informed the Council that parking enforcement was not being

conducted as timely with the absence of the officer.

Councilmember Council thanked Chief Smith for his service and for a job well done.

Councilmember Campbell reported as a new Councilmember he hated to see Chief Smith go because he was looking forward working with him.

Mayor Fortner asked Staff to move forward with the renaming of Highway 243 West to " Dr. Hall Drive". He also inquired about a status report on the building on the square that had no roof.

Councilmember Council inquired about the location of the new Servants Book Store Sign. Councilmember Campbell reported that the property owner was to cut the large tree down and that would help on the visibility. Mr. Capehart reported to Staff that the sign was installed to code.

ADJOURNMENT.

There being no further business Mayor Pro-Tem Altom moved and seconded by Councilmember Ratcliffe to adjourn the meeting at 7:05 p.m. Mayor Fortner called for a vote with all voting AYE, the motion carried.

**WILLIAM FORTNER
MAYOR**

ATTEST:

**JO ANN TALBOT
CITY SECRETARY**