

**MINUTES OF THE
REGULAR CITY COUNCIL MEETING
MONDAY, FEBRUARY 23, 2009 — 6:00 P.M.
KAUFMAN CITY HALL
209 S. WASHINGTON
KAUFMAN, TEXAS 75142**

CITY COUNCILMEMBERS

MAYOR	WILLIAM FORTNER
MAYOR PRO-TEM	GIL ALTOM JR.
COUNCILMEMBER	KENNY CAMPBELL
COUNCILMEMBER	STEVE COOPER
COUNCILMEMBER	JEFF COUNCIL
COUNCILMEMBER	CHARLES GILLENWATER
COUNCILMEMBER	BARRY RATCLIFFE

INVOCATION: Councilmember Steve Cooper

PLEDGE OF ALLEGIANCE

CALL MEETING TO ORDER: Mayor Fortner called the Meeting to order at 6:08 p.m. All Councilmembers were present. Mayor Fortner declared a quorum present. Also present were City Attorney David Dodd, ACM/City Secretary Jo Ann Talbot, Director of Public Works Richard Underwood, Chief of Police Michael Holder, Director of Development of Services Marcy Ratcliff and Director of Finance Cathy Cummins.

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 citizen's comments were made.

CONSENT AGENDA ITEMS #1 THROUGH #3

“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 January 26, 2009 Regular City Council Meeting.

2. Consider second reading and adoption of Ordinance O-02-09 of the City of Kaufman, Texas hereby amending the Code of Ordinances by amending Chapter 80; Roadway Facilities Impact Fees; providing for a repealer clause; providing a severability clause; providing for a penalty clause; and providing an effective date.
3. Consider second reading and adoption of Ordinance O-23-08 an Ordinance of the City of Kaufman, Texas, amending Ordinance O-07-03 "Park Usage Fees"; as amended by Ordinance O-23-08 reducing tournament fees, adding pavilion usage fees and increasing light usage fees; providing for a penalty, a repealer, savings clause and an effective date.

Councilmember Gillenwater moved and seconded by Councilmember Cooper to approve the Consent Agenda Items #1 through #3. Mayor Fortner called for a vote with all voting AYE, the motion carried.

END OF CONSENT AGENDA

PUBLIC HEARING

4. Conduct a Public Hearing to Discuss Amendments to the Kaufman Code of Ordinances, Chapter 50, Health and Sanitation, Article 11, Food Service Establishments for a Proposed Health and Sanitation Report Regulations on local eating establishments to establish a letter grade scoring system used to report to the public on how well the eating establishment rates on preventing food borne illnesses to the public.

Director of Development of Services Marcy Ratcliff informed the Council that City Council, at the November 4, 2008 Workshop, discussed the possibility of adopting language requiring health and sanitation reports for eating establishments in the City of Kaufman. The health and sanitation report is a grading system that scores each establishment's efforts at preventing food borne illnesses to the public. The scoring system is based on 15 extreme critical risk factor violations that are deemed significant in preventing food borne illnesses to the public. These same critical risk factors are also part of a normal health inspection, which is performed twice a year. City Council discussed the purpose of the report, how it would be implemented, and some of the issues and concerns brought to the attention of various council members.

City Council, after discussion, directed Staff to write a letter to all the affected businesses notifying them of the public hearing and to include copies of the proposed language for their review. The public hearing was initially scheduled for January 26, 2009, but due to unforeseen circumstances, the public hearing was rescheduled to February 23, 2009.

Staff re-notified 41 eating establishments on January 13, 2009 of the rescheduled meeting and placed public hearing notices in the Kaufman Herald on February 12, and February 19.

The health and sanitation report requirements would apply only to eating establishments such as restaurants, bakeries, meat markets, and delicatessens. No institutional uses, such as schools, hospitals, or nursing homes, will be required to have a health and sanitation report. The proposed health and sanitation report only rates the extreme critical risk factors that are deemed significant in preventing food borne illnesses to the public. The report does not grade the quality of the food or service.

Routine health inspections will continue to be twice a year and each eating establishment will still be inspected on the same 27 item checklist from the Texas Food Establishment Rules. The food inspection results will still be available online at the City's website. During the routine health inspection, the City Sanitarian, at eating establishments only (restaurants, bakery, meat markets and delicatessens), would determine a grade based on the 15 criteria listed above. These 15 criteria items are part of the checklist from the Texas Food Establishment Rules. No new criteria are being proposed. When the grade is determined, a sign would be posted indicating the letter grade at the front entrance, informing the public of the risk of contracting a food borne illness at the eating establishment. The grades are determined based on the number of risk factor violations incurred (see below). Also, each grade card would be a different color.

Proposed Health and Sanitation Letter Grade Scoring Report

Letter Grade	# of Risk Factor Violations Found
"A"	0-1 violation
"B"	2-3 violations
"C"	4-5 violations
"F"	6 or more violations

Shelley Allen, owner of The Servant's Bookstore and Coffee Bar, submitted a letter outlining the issues and concerns expressed by a group of Kaufman restaurant managers/owners regarding the proposed Health and Sanitation Report regulations.

The health and sanitation report determination is made during the time the eating establishment has its' routine health inspections and does not cost extra. If the eating establishment receives a score of "B" or less, a re-inspection request may be made within 15 days of the initial inspection, and will require a re-inspection fee of \$100. If the re-inspection results in a different score, that letter grade must be posted until the next routine health inspection, whether it is higher or lower.

Mayor Fortner informed the public that there would be a grace period of six months for the businesses before the initial grading would be implemented.

Councilmember Cooper confirmed that the regular routine inspections would not change, just an added grading system on the business.

City Health Inspector Tony Hiller explained the Grading System to the Council. Mr. Hiller reported the proposed ordinance grading system was based on the CDC food-borne illness risk factors that are responsible for most food-related illnesses; food from unsafe sources, inadequate cooking, improper holding temperatures, contaminated equipment and poor personal hygiene. He said that his inspections only provide a "snapshot" of that restaurant's operation that particular day of inspection. At times, those grades can give a false sense of security because even a restaurant that was graded an "A" can be susceptible to food-borne illnesses. He believes to educate first and regulate second.

In addition, Alex McLennon with the State Health Department also spoke to the City Council regarding the Grading System.

Mayor Fortner declared the Public Hearing open at 6:26 p.m.

Moe Alavizadea representing Denny's Restaurant opposed the new letter grade scoring system. Mr. Alavizadea asked the Council to consider more training and less regulations.

Sam Lalumia, 905 E. Mulberry, Kaufman opposed the new letter grade scoring system. Mr. Lalumia, owner of Wings Over Kaufman, expressed concerns about the possibility of arbitrary grading. He commented that he trusted the current inspector, but if someone else took over, who's to say they wouldn't grade us differently if they did not like us.

Shelly Allen, 1301 S. Washington, The Servants Book Store and Coffee Bar owner, opposed the new letter grade system due to that it only applies to restaurants and not other food service facilities, such as rest homes, schools, day care centers, etc.

Janice Murrell, 106 Allen Street, also expressed her opinion for the same reasons of Shelly Allen.

After hearing from citizens Mayor Fortner asked the Council for discussion of the letter grade scoring system.

Councilmember Gillenwater commented that the letter grade system doesn't address food safety concerns. It is just a public airing of dirty laundry. He thinks what we do now is adequate.

Mayor Fortner commented that the proposed ordinance would have all eating establishments inspected and graded uniformly. The grade of each restaurant would have been determined by city sanitarian Tony Hiller using the scoring method provided on the current inspection form. The grade of each food establishment would be posted as either an A, B, C or F on a grade card near the entrance to the store. Mayor Fortner reported that a recent report estimated that nearly 87 million Americans get food poisoning each year. Of that number, 371,000 are hospitalized and approximately 5,700 deaths are attributed to food-borne illnesses. He said this is not trying to make anyone's life more difficult, it is all about quality of life. Restaurant inspections and food safety are quality of life issues.

After discussion with the Council, the Council's opinion was to implement a training certification program for food handlers.

DISCUSSION/ACTION ITEMS

5. Consider approval of the Kaufman Chamber of Commerce Budget Request for 2009 Tourism (Scarecrow Festival including advertising for a Christmas event).

Judith Mayes, Kaufman Chamber of Commerce representative, presented a fiscal year 2009 Tourism Budget. She first reported that the budget had been revised and the corrected budget should reflect a total amount of \$34,500.00, which \$22,000.00 is for the fall festival, \$500.00 for advertising for a Christmas event and \$12,000.00 for personnel and other related costs. The Chamber will keep the proceeds from the Festival but they will use the new money for tourism related programs.

Councilmember Council moved and seconded by Councilmember Ratcliffe to approve the Kaufman Chamber of Commerce Budget Request for 2009 Tourism to coordinate the fall festival. Mayor Fortner called for a vote with all voting AYE, the motion carried.

Chief of Police Michael Holder congratulated Officer Randy Hardee for the promotion of a Sergeant's position and presenting him with a Sergeant's Badge.

6. Consider approval of the Kaufman Police Department 2008 Racial Profiling Report.

Chief of Police Michael Holder presented the Kaufman Police Department 2008 Racial Profiling Report. He reported that the State of Texas requires that law enforcement agencies make an annual racial profiling report to its governing body. The document attached provides specific indicators in relationship to the traffic stops made on individuals within the City of Kaufman. These indicators include the total number of traffic stops made during 2008, the racial composition of the individuals who were stopped, the total number of citations issued, the total number of vehicle searches conducted and the total number of arrest made.

The number of traffic stops made in 2008 was 3,686. When compared with the traffic stops made in 2007 of 3,734, there was a 1.3% decrease. 756 traffic citations were issued. 483 of those citations were issued to white traffic violators. 72 citations were issued to blacks, 194 were issued to Hispanics and 4 to Asian traffic violators. In 2008, there were a total of 747 searches conducted during traffic stops. 446 of these searches were conducted on whites, 133 on blacks, and 166 on Hispanics. In 230 of these searches, illegal contraband was found with 350 arrests were made. 231 white offenders were arrested, 44 black offenders, 74 Hispanics.

When comparing these totals with the previous year, we find an increase in the total number of searches conducted in 2008 of 747 from the 596 of 2007.

In conclusion, the report indicates that again, more whites are being stopped for violations than blacks. The report also indicates that more Hispanics are being stopped than blacks in the City of Kaufman. The large number of arrests made during these traffic stops is a result of multiple passengers in the vehicles who are either connected to the contraband or found to have outstanding warrants when identified by officers.

After discussion, Councilmember Campbell moved and seconded by Mayor Pro-Tem Altom to approve and accept the Kaufman Police Department 2008 Racial Profiling Report. Mayor Fortner called for a vote with all voting AYE, the motion carried.

7. Consider first reading and approval of Ordinance O-03-09 of the City of Kaufman, Texas, repealing Ordinance O-28-05 "Drought Contingency Plan" in its entirety; adopting Ordinance O-03-09 "Water Conservation and Drought Contingency and Water Emergency Response Plan" for the City of Kaufman; providing for a penalty, a repealer, savings clause and effective date.

Director of Public Works Richard Underwood informed the Council that the Texas Commission on Environmental Quality (TCEQ) requires that all

water conservation plans be updates prior to May 1, 2009. Then, the plans are required to be updated every five (5) years thereafter. Along with this, the City's water contract with the North Texas Municipal Water District (NTMWD) requires the City to Adopt the NTMWD plan.

The Water Conservation and Drought Contingency and Emergency Response Plan will assist the City and the NTMWD to ensure adequate future water supplies are available for its customers. The Plan will also assist the City during emergency situations to limit delays in water service.

Staff recommends that Council repeal 0-28-05 "Drought Contingency Plan" in its entirety and approves Ordinance O-03-09 "Water Conservation and Drought Contingency and Water Emergency Response Plan" For the City of Kaufman.

After discussion, Councilmember Cooper moved and seconded by Councilmember Gillenwater to approve the first reading of Ordinance O-03-09 of the City of Kaufman, Texas, repealing Ordinance O-28-05 "Drought Contingency Plan" in its entirety; adopting Ordinance O-03-09 "Water Conservation and Drought Contingency and Water Emergency Response Plan" for the City of Kaufman; providing for a penalty, a repealer, savings clause and effective date. Mayor Fortner called for a vote with all voting AYE, the motion carried.

8. Consider approval of Resolution R-03-09 of the City of Kaufman, Texas, endorsing certain legislative changes to enhance the competitive Electric Market supported by Cities Aggregation Power Project, Inc.

Assistant City Manager/City Secretary Jo Ann Talbot informed the Council that Resolution R-03-09 is asking CAPP member cities to endorse CAPPS legislative changes to enhance the competitive Electric Market supported by Cities Aggregation Power Project, Inc. Since 1999, the deregulation of electricity, Texas pays more than the national average for electricity. Most of the proposed changes are to reduce the cost of electricity.

Mayor Pro-Tem Altom moved and seconded by Councilmember Council to approve Resolution R-03-09 of the City of Kaufman, Texas, endorsing certain legislative changes to enhance the competitive Electric Market supported by Cities Aggregation Power Project, Inc. Mayor Fortner called for a vote with all voting AYE, the motion carried.

APPOINTMENTS

9. Consider Appointment of Three (3) Members to the Keep Kaufman Beautiful Board for a two-year term through March 2011.

Mayor Pro-Tem Altom moved and seconded by Councilmember Ratcliffe to appoint Teresa Gregg, Janis Lindsey and Chase Snuffer for a two year term through March 2011. Mayor Fortner called for a vote with all voting AYE, the motion carried.

10. Consider the Appointment of Four (4) Park and Recreation Board members for a two year term through March 2011.

After discussion of appointments, Councilmember Council moved and seconded by Councilmember Gillenwater to table this agenda item. Mayor Fortner called for a vote with all voting AYE, the motion carried.

11. Consider the Appointment of One (1) Planning and Zoning Commissioner for an unexpired term through November 2010.

Councilmember Cooper made a motion seconded by Councilmember Ratcliffe to appoint Billy England as a Planning and Zoning Commissioner for an unexpired term through November 2010. Mayor Fortner called for a vote with all voting AYE, the motion carried.

12. Consider the Appointment of One (1) Board of Adjustment Member for an unexpired term through September 2010.

After discussion, Mayor Pro-Tem Altom moved and seconded by Councilmember Cooper to table this agenda item. Mayor Fortner called for a vote with all voting AYE, the motion carried.

AGENDA ADDENDUM

13. Consider Approval of Resolution R-04-09 of the City of Kaufman of the City Council for the submission of a grant application for the Computer Automated System and Mobile Data Terminals to the Office of the Governor, Criminal Justice Division, State of Texas.

Chief of Police Holder informed the Council that in an effort to upgrade the ability of the Kaufman Police Department to efficiently dispatch and monitor Police and Fire, EMS, and Kaufman ISD field units the department is seeking an equipment only grant through the NCTCOG. The current technology of the police department does not allow us to efficiently dispatch, monitor, and analyze our officers or their activity. The grant, if approved, would provide all of the funding needed to purchase the

hardware required to implement Computer Aided Dispatch, Records Management System, Crime Analysis, Property/Evidence Management and Mobile Data Terminals.

If the grant is approved, the Kaufman Police Department will be able to fulfill the requirements of the grant with no fiscal impact to the City by using existing software.

At a later date, Chief Holder may ask the City Council to approve the installation of the CRIMES software package from Sam Houston State University. The CRIMES software package is free as it is funded by federal and state agencies. If Council approves the installation of the CRIMES software package it would have a fiscal impact to the City of \$15,000 in annual maintenance fees. The grant for the hardware and the CRIMES software package are two separate issues. The CRIMES software package will supplement the grant if approved at a later date.

After discussion, Councilmember Ratcliffe moved and seconded Councilmember Council to approve Resolution R-04-09 of the City of Kaufman of the City Council for the submission of a grant application for the Computer Automated System and Mobile Data Terminals to the Office of the Governor, Criminal Justice Division, State of Texas. Mayor Fortner called for a vote with all voting AYE, the motion carried.

ANNOUNCEMENTS FROM CITY MANAGER.

1. Updates on burned houses (Chestnut)
2. City Council Workshop Meeting March 9, 2009
3. Reminder City Council Meeting scheduled for Tuesday, March 24th
4. Kaufman County Day in Austin – March 22nd, 23rd, & 24th

REQUEST/COMMENTS FROM MEMBERS OF CITY COUNCIL.

Councilmember Council reported a water leak on North Jackson Street. Stop lights on Highway 34 and Highway 175 will be installed when school is out for summer.

Relocate water line on East Mulberry Street and drainage ditch beside Paul Murrey Ford House.

Parking patrol on the square has not been done everyday due to personnel being out because of surgery.

New Code Enforcement Officer started this week.

ADJOURNMENT.

Councilmember Campbell moved and seconded by Councilmember Ratcliffe to adjourn the meeting at 8:15 p.m.

**WILLAM FORTNER
MAYOR**

ATTEST:

**JO ANN TALBOT
CITY SECRETARY**