

**MINUTES OF THE
REGULAR CITY COUNCIL MEETING
TUESDAY, MARCH 24, 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: Pastor Robert Webb, Calvary Baptist Church

PLEDGE OF ALLEGIANCE

CALL MEETING TO ORDER: Mayor Fortner called the meeting to order at 6:06 p.m. Councilmember's present were William Fortner, Gil Altom Jr., Kenny Campbell, Steve Cooper, Jeff Council, Charles Gillenwater and Barry Ratcliffe. Mayor Fortner declared a quorum present. Also present were City Attorney David Dodd, City Manager Curtis Snow, ACM/City Secretary Jo Ann Talbot, Chief of Police Michael Holder, Director of Development of Services Marcy Ratcliff and Director of Public Works Richard Underwood.

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.

Mayor Fortner Proclaimed – YMCA Healthy Kids Day – April 4, 2009

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 February 23, 2009 Regular City Council Meeting.
2. Consider second reading and adoption 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.
3. Consider Approval of Resolution R-05-09 of the City of Kaufman, Texas, establishing an Identity Theft Program pursuant to the Federal Trade Commission's Red Flags Rule.

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

PLANNING AND ZONING

4. Conduct a Public Hearing and Consider Zone Change Z-01-09 Requested by the City of Kaufman for proposed amendments to Kaufman Zoning Ordinance, Specifically Sign Regulations, Section 44.12.C relative to Promotional Sign Regulations.
 - a. Conduct Public Hearing.

Mayor Fortner declared the Public Hearing open at 6:11 p.m.

Director of Development of Services Marcy Ratcliff informed the City Council that the Planning and Zoning Commission, on March 2, 2009, held a public hearing to consider amendments to *Section 44, Sign Regulations*, relative to promotional signs (banners, flags, pennants, balloons, etc.). The store manager for Bealls, Pam Eiland, on February 2, 2009, requested the Planning and Zoning Commission consider amending the promotional sign regulations, because the current requirements did not meet their needs for a banner sign, to be displayed only 3 times a month. The request was to have more creative and flexible timing schedules for promotional signs. Staff drafted language for the Planning and Zoning Commission to consider.

The chart below summaries the proposed amendments. The fees are the current adopted fees, no fee changes are proposed. The D30 permit is very similar to what we currently have in affect. The

difference between the current requirement and the proposed requirement is you are only allowed to request a D30 permit once a quarter, a maximum of 4 times a year. Currently, you can request a 30 day promotional sign permit, skip 30 days and request another, for a maximum of 4 times a year.

The Y104, Y100 and Y36 promotional sign permits are totally new. The Y104 permit was created to accommodate businesses like David's Supermarket, who only advertise specials on the weekends. The Y100 permit was created to accommodate businesses like tax accountants, who only wanted promotional signs during tax season. The Y36 permit was created to accommodate businesses like Beall's Department Store, who only want promotional signs 3 times a month.

PROPOSED PROMOTIONAL SIGNAGE ALTERNATIVES				
Name	Cycle	Days	Timing	Fee
D30	Quarterly	30	30 consecutive days per quarter and not within 30 days of each other	\$50
Y104	Yearly	104	Two days per weekend	\$50
Y100	Yearly	100	100 consecutive days allowed one per calendar year	\$50
Y36	Yearly	36	Any three days per month	\$50

After the Planning and Zoning Commission recommended approval, Staff reviewed the language for the draft ordinance again and found some conflicting language that was not brought to the Commission's attention. Additionally, there are other possible options that were not discussed at the Planning and Zoning Commission. Below is a list of items to contemplate for possible changes:

Conflicting Language:

1. Eliminate conflicting language in paragraph 44.C.12.1
 - a. Eliminate the number of display periods allowed, because it conflicts with the proposed display time periods defined for each of the four options.
 - b. Eliminate separate permit requirements for each display time period because it conflicts with the display time periods of the four options. For example we do not want to require a permit for each weekend on the Y104 option. The goal is one permit for the entire time period.

Overlapping Permit Considerations:

2. No overlapping of display periods is allowed. You may want to consider allowing the Y104 option and Y36 option the ability to overlap with each other and with the D30 option, but not allow it to overlap with the Y100 option. This would give the business owner more flexibility with the promotional signage. (see table below)

3. No more than one active permit is allowed during a permitted period. For example, if Beall's has a Y36 yearly permit, they can not request an additional D30 permit for the Christmas season. (see chart below)

PROPOSED PROMOTIONAL SIGNAGE OVERLAPPING OPTIONS				
Name	Days	Timing	Proposed Overlapping	Optional Overlapping
D30	30	30 consecutive days per quarter and not within 30 days of each other	None	Yes
Y104	104	Two days per weekend	None	Yes
Y100	100	100 consecutive days allowed one per calendar year	None	None
Y36	36	Any three days per month	None	Yes

Option To Increase the Number of Days Allowed:

4. Consider the number of days allowed per month on the Y36 permit. The number of days proposed was based on Ms. Eiland's request for Beall's Department Store, which only needed 3 days per month. Staff is not opposed to increasing the number of days per month.

Option to Eliminate the Waiting Period between Permits:

5. Consider eliminating the 30 day time period between subsequent Y36 permits in paragraph 44.12.C.4.d.2. It was not Staff's intention to require the 30 day time period between the Y36 permits. Keeping the language as drafted, technically only allows an Y36 permit a time limit of eleven months.

The Planning and Zoning Commission recommended approval of the proposed language by a vote of 4-0, on March 2, 2009.

Staff recommends the City Council review the proposed language and considers additional changes as outlined and considers adoption of the ordinance. If the Council is uncomfortable with any of the proposed changes, the item can be tabled and sent back to the Planning and Zoning for further review.

Councilmember Council first suggested removing either the fifteen feet (15') setback or the forty feet (40") setback rule. After discussion of the Setback rules the Council decided to leave the language as written. After further discussion, Mayor Fortner declared the Public Hearing closed at 6:23 p.m.

- b. Consider First Reading and Approval of Ordinance O-04-09 of the City of Kaufman, Texas, amending the Comprehensive Zoning Ordinance, O-02-07, as amended; by rescinding the current Section 44.12.C – Promotional Sign Regulations; providing a severability clause; providing for penalty not to exceed two thousand dollars (\$2,000.00); providing a savings clause; and providing for an effective date.

Councilmember Gillenwater moved to approve the first reading of Ordinance O-04-09 of the City of Kaufman, Texas, amending the Comprehensive Zoning Ordinance, O-02-07, as amended; by rescinding the current Section 44.12.C – Promotional Sign Regulations; providing a severability clause; providing for penalty not to exceed two thousand dollars (\$2,000.00); providing a savings clause; and providing for an effective date including amending paragraph 5 "Setbacks to include a disclaimer due to existing lot widths and to incorporate and delete recommended minor changes." Councilmember Council made a second to the motion. Mayor Fortner called for a vote with all voting AYE, the motion carried.

DISCUSSION/ACTION ITEMS

5. Consider Approval and Authorize the City Manager to Utilize Capital Project Funds for the Installation of Electrical Capacitors at the Wastewater Treatment Plant.

City Manager Curtis Snow informed the Council that the Wastewater Treatment Plant has eleven (11) sizable motors for mixers and pumps that operate 24/7 per week. These motors are a primary source for the electrical usage at the plant. Staff has been asked to find alternative steps to electrical reduction at this facility. Gardner Electrical tested the facility and determined that the installation of correctly sized capacitors on each motor would make the motors electric usage more efficient and reduce the heat buildup in both motors and control panels.

The cost of the installation of eleven (11) capacitors will total \$10,656.50. The estimated energy cost reduction is expected to be over \$2,000 per

month based on \$0.13 per KWH. Therefore, the cost of the installation of the capacitors could pay for itself in as little as twelve (12) months.

Staff recommends that Council authorize the City Manager to utilize a total amount of \$10,656.50 of remaining Capital Project funds for the installation of eleven (11) capacitors at the WWT Plant.

After discussion and information from Brian Chambers with Gardner Electric, Mayor Pro-Tem Altom moved and seconded by Councilmember Ratcliffe to approve and authorize the City Manager to utilize Capital Project Funds for the installation of Electrical Capacitors at the Wastewater Treatment Plant in the sum of \$10,656.50. Mayor Fortner called for a vote with all voting AYE, the motion carried.

6. Consider Approval and Authorize the transfer of Water Impact Fees for the new Water Pump at the Underground Water Storage Facility.

City Manager Curtis Snow informed the City Council that in 2005, the City budgeted \$166,900 to design, purchase and install a new pump at the underground water storage facility. The actual cost of the project was \$167,420.40. The additional \$500 was funded from the Public Works operating budget.

This project would increase the number of pumps at the head of the water system from three to four. The purpose of the additional pump was to bring the City back into compliance on TCEQ regulations to meet water pumping capacities during peak daily usages. TCEQ requires that water supplies meet their daily maximum pumping capacity with the largest pump out of service. The addition of 1-1250 gallons per minute (gpm) pump allowed the City to meet this requirement. The City fell out of compliance in previous years due to annexations and growth in the City's water customer base.

The budgeted funds were drawn from the Utility Fund. Today, the Utility Fund is drawing close to the minimum working capital defined in the City's Financial Policy. Because this is an eligible, defined project in the Water Impact Fee Capital Plan, the funds should have originally been drawn from the Water Impact Fee Fund. Therefore, staff is requesting funds from the Water Impact Fee Fund be transferred to the Utility Fund to improve the working capital position.

Today, there is only \$144,588.52 in the Water Impact Fee Fund. The proposed transfer of these funds to the Utility Fund would zero out the account and would be \$22,831.88 short of covering all the costs of the pump.

There was a \$60,000 project budgeted out of the Water Impact Fee Fund that has not been implemented yet. The project is the purchase of the new flow meter at the underground for NTMWD. The new meter was part of the terms in transferring ownership of the underground water storage facility to the City. This project can be taken up in a future budget.

This is a transfer of funds from the Water Impact Fee Fund to the Utility Fund. There are no new expenditures associated with this transaction.

Staff recommends transferring \$144,588.52 from the Water Impact Fee Fund to the Utility Fund for the purpose of charging the cost of a new pump at the underground to the appropriate Impact Fee Fund.

After discussion, Councilmember Cooper moved and seconded by Councilmember Campbell to approve and authorize the transfer of Water Impact Fees (\$144,588.52) for the new Water Pump at the Underground Water Storage Facility. Mayor Fortner called for a vote with all voting AYE, the motion carried.

7. Consider Approval And Authorize the City Manager to Execute A Final Change Order No. 4 For The Kaufman CWSRF Phase II Sanitary Sewer Project (CWSRF #71419) For Pipelines, Contingent Upon TWDB Approval.

City Manager Curtis Snow informed the City Council that this project included completion of pipelines on US Hwy 175 both north and south, completion of Rand Road sewer lines, upgrade of the Alton and Shannon Street lift stations, sewer replacement on Lewis Drive and Clay. This change order includes a quantity change for asphalt to complete street patching.

Change Order No. 4 in the amount of \$1,575 will increase the overall contract for Triad Affiliates, Inc. to \$649,488. Adequate CWSRF funds are available to complete this change order.

Staff recommends that Council approve and authorize the City Manager to execute the Final Change Order No. 4 in the amount of \$1,575 increasing the total contract amount for Triad Affiliates, Inc. to \$649,488, contingent upon TWDB final approval.

Councilmember Council moved and seconded by Mayor Pro-Tem Altom to approve and authorize the City Manager to execute a Final Change Order No. 4 for the Kaufman CWSRF Phase II Sanitary Sewer Project (CWSRF #71419) for Pipelines, contingent upon Texas Water Development Board approval. Mayor Fortner called for a vote with all voting AYE, the motion carried.

8. Consider Approval Of Resolution R-06-09 Of The City Council Of The City Of Kaufman, Texas Accepting The Construction Of The Sanitary Sewer Pipelines for the Kaufman CWSRF II TWDB Project ID 71415 And Authorizing Final Payment To Triad Affiliates, Inc. Contingent Upon TWDB Approval.

City Manager Curtis Snow informed the City Council that the construction of this project is now complete and has passed the final inspection by City Staff, Jacobs Engineering, and the TWDB inspector.

This project includes the installation of pipelines on US Highway 175 both north and south, Rand Road sewer lines and sewer replacement on Lewis Drive and Clay Street.

The total final cost of construction of this project is \$649,488, which includes all change orders and quantity changes. The final payment including retainage will be \$32,141.90. Adequate funds are available through the CWSRF funding to finalize this project contingent upon TWDB approval.

Staff recommends that Council accept Resolution R-06-09 and authorize final payment in the amount of \$32,141.90 to Triad Affiliates, Inc contingent upon Texas Water Development Board approval.

Councilmember Cooper moved and seconded by Councilmember Ratcliffe to approve Resolution R-06-09 and authorize final payment in the amount of \$32,141.90 to Triad Affiliates, Inc contingent upon Texas Water Development Board approval. Mayor Fortner called for a vote with all voting AYE, the motion carried.

9. Consider Approval Of Resolution R-07-09 Of The City Council Of The City Of Kaufman, Texas Entering Into A Master Interlocal/Cooperative Purchasing Agreement With Dallas County For Use Of Dallas County Contracts.

City Manager Curtis Snow informed the City Council that this agreement allows the City of Kaufman to utilize various goods and services that have gone through the competitive bid process by Dallas County, such as asphalt overlay, crack sealing, chip sealing. etc. Staff contacted other cities in addition to Kaufman County and received only good responses with the program.

Entering into this interlocal agreement will allow the City to benefit from the large quantity bids that Dallas County acquired such as asphalt overlay, crack sealing, chip sealing. etc.

After discussion, Councilmember Council moved and seconded by Councilmember Campbell to approve Resolution R-07-09 of the City Council of The City of Kaufman, Texas entering into a Master Interlocal/Cooperative Purchasing Agreement with Dallas County for use of Dallas County Contracts. Mayor Fortner called for a vote with all voting AYE, the motion carried.

APPOINTMENTS

10. Consider the Appointment of Four (4) Park and Recreation Board members for a two year term through March 2011. (Tabled 2-23-09)

Councilmember Council mentioned that Lisa Miles does not live in the City of Kaufman. Staff was unaware that Lisa Miles lives outside the City of Kaufman.

Director of Public Works Richard Underwood informed the Council that Delois Stolusky declined serving another term due to she was helping her son with his new business. Grant Miller serving on the Board has been super busy with his many activities and Staff has been unable to contact Scott Andrews.

An application was submitted to the City Council from J. Parker, 905 Crestview, to serve on the Park and Recreation Board. After discussion, Councilmember Council moved and seconded by Mayor Fortner to approve the appointment of J. Parker for the Parks and Recreation Board for a two (2) year term. Mayor Fortner called for a vote with all voting AYE, the motion carried.

11. Consider the Appointment of One (1) Board of Adjustment Member for an unexpired term through September 2010. (Tabled 2-23-09)

Councilmember Cooper moved and seconded by Councilmember Gillenwater to approve Margarita Garcia to serve on the Board of Adjustment Board provided that she become a registered voter. Mayor Fortner called for a vote with all voting AYE, the motion carried.

The City Council took a break at 6:59 p.m.

The City Council reconvened at 7:09 p.m. and went into Executive Session at 7:09 p.m.

EXECUTIVE SESSION

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
 - a. Consult with City Attorney regarding an update on pending litigation Dallas Crown Packing.
 - b. Consult with City Attorney regarding Code Enforcement.

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.

END OF EXECUTIVE SESSION

The City Council adjourned the Executive Session at 7:53 p.m.

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

LEGAL – Under TEX. GOV'T CODE Sec. 551-071.

- a. Legal – pending litigation – Dallas Crown.

Councilmember Council moved and seconded by Mayor Pro-Tem Altom to authorize the City Attorney David Dodd to make an offer to settle the Dallas Crown Packing lawsuit as discussed in the Executive Session. Mayor Fortner called for a vote with all voting AYE, the motion carried.

- b. Legal – Code Enforcement

No action taken on Code Enforcement.

ANNOUNCEMENTS FROM CITY MANAGER.

1. Reminder Joint City Council and Planning and Zoning Meeting, Monday, April 6, 2009, to review Master Plan, Population and Future Land Use Plan.
2. Texas Health Presbyterian Hospital Kaufman, 30th Year Anniversary and 5K Run on March 28, 2009.
3. Kaufman Chamber Golf Tournament, April 20, 2009.
4. Reviewed an email from Edward Brandt – owner of DaVita new business in town commending City Staff and the Inspections Department for being professional, kind and courteous to them while building their building.

REQUEST/COMMENTS FROM MEMBERS OF CITY COUNCIL.

Mayor Fortner mentioned to hold a future Work Session to discuss the green space in the Prairie Creek Branch Subdivisions.

Councilmember Gillenwater mentioned the City Council had a good day at Austin during the Kaufman County Day, meeting with Texas Department of Transportation in regards to the Highway 34 realignment. He also thanked the new Chief of Police Michael Holder for his presence and for him participating in the Kaufman Leadership Class.

ADJOURNMENT.

There being no further business the meeting was adjourned at 8:07 p.m.

**WILLIAM FORTNER
MAYOR**

ATTEST:

**JO ANN TALBOT
CITY SECRETARY**