

**MINUTES OF THE  
REGULAR CITY COUNCIL MEETING  
MONDAY, MAY 18, 2009 — 6:00 P.M.  
KAUFMAN CITY HALL  
209 S. WASHINGTON  
KAUFMAN, TEXAS 75142**

**CITY COUNCILMEMBERS**

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

**INVOCATION: Southside Baptist Church Pastor Harry Smith**

**PLEDGE OF ALLEGIANCE**

**CALL MEETING TO ORDER:** Mayor Fortner called the Meeting to order at 6:05 p.m. Councilmember's present were William Fortner, Gil Altom Jr., Steve Cooper, Jeff Council, Charles Gillenwater and Barry Ratcliffe. Councilmember Campbell was absent. 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 Marcy Ratcliff, Chief of Police Michael Holder, Captain Randy Roach, Director of Public Works Richard Underwood and Administrative Assistant Leslie Malone.

**CANVASS GENERAL ELECTION RETURNS**

1. Consider Adoption of Resolution R-09-09 an order canvassing returns and declaring results of a General City Officers' Election that was held in the City of Kaufman, Texas on the 9<sup>th</sup> day of May, 2009, for the election of one (1) Mayor and three (3) Councilmembers.

City Secretary Jo Ann Talbot read the results of the General City Officers' Election that was held on May 9, 2009, for the election of one (1) Mayor and three (3) Councilmember's. The canvassing returns were as follows:

**MAYOR**

<b>WILLIAM FORTNER</b>	<b>200</b>
<b>JEFF COUNCIL</b>	<b>155</b>

**FOR THREE COUNCILMEMBERS**

<b>KENNETH MUNDEN</b>	<b>160</b>
<b>CHARLES GILLENWATER</b>	<b>144</b>
<b>KENNY CAMPBELL</b>	<b>134</b>
<b>BRYAN NALLS</b>	<b>128</b>
<b>TINA SANDERS</b>	<b>94</b>
<b>GIL ALTOM JR.</b>	<b>206</b>

Councilmember Council moved and seconded by Councilmember Ratcliffe to approve Resolution R-09-09 an order canvassing returns and declaring results of a General City Officers' Election that was held in the City of Kaufman, Texas on the 9<sup>th</sup> day of May, 2009, for the election of one (1) Mayor (William Fortner) and three (3) Councilmember's (Gil Altom Jr., Kenneth Munden, and Charles Gillenwater). Mayor Fortner called for a vote with all voting AYE, the motion carried.

2. Statement of Elected Office and Administer Oath of Office for Newly Elected Officials.

Judge Jon Burt administered the Oath of Office for Newly Elected Officials being Mayor Fortner, Councilmember Gil Altom Jr., Kenneth Munden and Charles Gillenwater.

**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.

**SPECIAL RECOGNITION – COUNCILMEMBER KENNY CAMPBELL**

Mayor Fortner announced that Mr. Campbell was not present to receive Special Recognition due to a conflicting meeting and that he would be present next month.

**PROCLAMATION – SUPPORTING CLICK IT OR TICKET ENFORCEMENT MOBILIZATION MAY 18<sup>th</sup> THROUGH MAY 31, 2009.**

Councilmember Gillenwater moved and seconded by Councilmember Cooper to endorse the Proclamation supporting Click It or Ticket Enforcement Mobilization – May 18<sup>th</sup> through May 31, 2009. Mayor called for a vote with all voting AYE, the motion carried.

**CONSENT AGENDA ITEMS #3 THROUGH #6**

**“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.”**

3. Consider approval of the Minutes of the April 27, 2009, Regular Council Meeting.
4. Consider second reading and adoption of Ordinance O-05-09 amending the Comprehensive Zoning Ordinance O-02-07, as amended; by specifically amending Section 40.8A – Supplemental Regulations, Temporary Use and Section 33.4 Chart 3, Accessory and Incidental Uses; 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.
5. Consider second reading and adoption of Ordinance O-06-09 of the City Council of the City of Kaufman, Texas amending Chapter 90 Streets, Sidewalks and Other Public Places, Section 90-64, Owner or Occupant to Number Buildings and Section 90-66, Specifications for Numbers by deleting these sections in their entirety and supplementing with a new Section 90-64 Owner or Occupant to Number buildings and Section 90-66 Specifications for Numbers; containing a severability clause; penalty clause; and providing for an effective date.
6. Consider approval for the City Manager to execute a Lease Agreement between Country Bible Church and the City of Kaufman for a one (1) year term.

Councilmember Cooper moved and seconded by Mayor Pro-Tem Altom to approve the Consent Agenda Items 3 through 6. Mayor Fortner called for a vote with all voting AYE, the motion carried.

**END OF CONSENT AGENDA**

## PRESENTATIONS

7. Kaufman County Library Report from October 2008, to April 2009, presented by Librarian Yasma Holland.

Librarian Yasma Holland presented the Council with a Library Report from October 2008, to April 2009, in regards to statistics, children's programs, computer classes, senior outreach, friends of the library, donations and purchases, summer reading program for 2009, and what's new at the library.

Mayor Fortner thanked Ms. Holland for her work at the library.

## PUBLIC HEARING

8. Conduct a Public Hearing to review and receive public input on the proposed **City of Kaufman Comprehensive Plan**. The proposed plan will help guide decisions regarding the future improvements of the Water System, Sewer System, Streets, Drainage, Housing, Land Use and other City Services. This review includes future modification and/or expansion of the water system, sewer system, road repairs and resurfacing, drainage improvements to prevent flooding, new housing developments and/or reconstruction of substandard housing, future land use and zoning issues.

Director of Development of Services Marcy Ratcliff reported that this Public Hearing was to get additional input from the Citizens on the proposed City of Kaufman Comprehensive Plan.

Laverne Griffen, 250 North Shannon Street, Kaufman, informed the Council that she came to City Hall to obtain a building permit for her property to add a small room to her home and to put back a second electric meter. Her house has been a single family residence and a two-family residence in the past couple of years.

Ms. Griffen reported that her home was the only one in the neighborhood that was zoned commercial. All the others were zoned residential. She said it was zoned commercial without her knowing it. She found out when she went to get a permit to work on the home.

Ms. Griffen opposed the Comprehensive Plan. She wants her residence to be rezoned for residential use. She also feels that her fees need to be waived if she has to request for a rezoning of her property.

Wanda Gambles, 222 Shannon Street, Kaufman, reported the same thing happened to her and she also wanted the zoning of her home changed back to residential. She said she lived on a fixed income and don't have doesn't have anyone to help.

Mayor Fortner informed Ms. Gambles that she could live in the house with the commercial zoning, she just couldn't make any changes to it without permission.

Ms. Gambles asked if the Council would appreciate these restrictions on their property.

Leon Cargil, 2691 Highway 175 East, Kaufman, reported he owned and operated a recently opened nursery, and that half his property along Highway 175 was zoned commercial, while the back half was zoned single family. Mr. Cargil asked the Council to change the zoning to completely commercial.

Robert Eldridge, 107 Booker Street, Kaufman, reported he was representing the nonprofit Kaufman Neighborhood Development Organization. He said the organization was looking to do senior housing and wanted a change from single family to multifamily located at Booker Street.

Roy Gene Gardner, 1416 C.R. 280, Post Oak Bend, Kaufman, reported he was concerned that the Comprehensive Plan would change the concept plan he had filed on property along Highway 175. He wanted to develop single family housing on the back side of the property and was afraid the changes would not allow him to do so.

The Mayor Fortner declared the Public Hearing closed at 6:49 p.m.

## **DISCUSSION/ACTION ITEMS**

9. Consider Approval and Authorize the Chief of Police to Execute a Tobacco Compliance Grant Application.

Chief of Police Michael Holder informed the Council that the Comptroller will make block grants to counties and municipalities to be used by local law enforcement agencies to enforce Subchapters H, K and N, Chapter 161, Texas Health and Safety Code in a manner that can reasonably be expected to reduce the extent to which cigarettes and tobacco products are illegally sold or distributed to persons who are younger than 18 years of age. The Comptroller shall rely, to the fullest extent possible on sheriffs, constables, or chiefs of police or their employees to enforce this subchapter.

The grant award is for fiscal year 2010 (September 1, 2009 through August 31, 2010). Available grants range from \$1,000 to \$150,000, depending on the number of tobacco retailers within your jurisdiction, and must be used for compliance-related activities such as "sting" operations;

random, unannounced inspections; retailer and judicial education; and compliance reporting requirements. The City has applied for a \$3,000.00 for compliance inspections.

Councilmember Council moved and seconded by Councilmember Gillenwater to Approval and Authorize the Chief of Police to Execute a Tobacco Compliance Grant Application. Mayor Fortner called for a vote with all voting AYE, the motion carried.

10. Consider Approval of the Local Agreement between the Kaufman Police Department and the Kaufman County District Attorney's Office.

Chief of Police Michael Holder informed the Council that this agreement is entered into pursuant to Article 59.06 of the Texas Code of Criminal Procedure by and between the Criminal District Attorney of Kaufman County, Texas and the Kaufman Police Department. The purpose of this agreement is to provide for the disposition, and/or the division of the proceeds of such disposition, of property seized as contraband and subsequently forfeited to the State of Texas.

Councilmember Ratcliffe moved and seconded by Councilmember Cooper to approve of the Local Agreement between the Kaufman Police Department and the Kaufman County District Attorney's Office. Mayor Fortner called for a vote with all voting AYE, the motion carried.

11. Consider Approval of the Kaufman Police Department Five (5) Year Strategic Plan.

Chief of Police Michael Holder presented the Council with a Kaufman Police Department Five (5) Year Strategic Plan. He gave an overview of the Plan.

Councilmember Cooper moved and seconded by Councilmember Ratcliffe to accept the document as an on going working document. Mayor Fortner called for a vote with all voting AYE, the motion carried.

12. Consider First Reading and Approval of Ordinance O-07-09 of the City Council of the City of Kaufman, Texas amending Chapter 58 Law Enforcement, Section 58.32 Created; Composition and Section 58.34 Rank Generally; by deleting these Sections in their entirety and supplementing with a new Section 58.32 Created; Composition and Section 58.34 Rank Generally; Containing a Severability Clause; and Providing for an Effective Date.

Chief of Police Michael Holder informed the Council that as the Police Department's 5 Year Strategic Plan was compiled it was determined that the current Code of Ordinances, Chapter 58 Law Enforcement Section,

contained language that was restrictive to the future growth of the Department. The language as currently written addresses a specific and limiting rank structure and limits the overall makeup of the Police Department.

The recommended revisions include language that will allow for the future growth and/or changes in command structure and the overall makeup of the department. The recommended language will alleviate the need to continue to revise the ordinances each time the makeup of the Department changes or reorganization is necessary.

The recommended revisions continue to recognize the council's authority to provide for the members of the department.

After a brief discussion, Mayor Pro-Tem Altom moved and seconded by Councilmember Gillenwater to approve first reading of Ordinance O-07-09 of the City Council of the City of Kaufman, Texas amending Chapter 58 Law Enforcement, Section 58.32 Created; Composition and Section 58.34 Rank Generally; by deleting these Sections in their entirety and supplementing with a new Section 58.32 Created; Composition and Section 58.34 Rank Generally; Containing a Severability Clause; and Providing for an Effective Date. Mayor Fortner called for a vote with all voting AYE, the motion carried.

13. Consider Approval of the Emergency Expenditure for the Collapsed Sewer Main on East 1<sup>st</sup> North Street from Jefferson Street to Monroe Street.

City Manager Curtis Snow informed the Council that a report was presented to the Council of a log on what staff has done since we first found a sewer stoppage on East 1<sup>st</sup> North. It appears a four block length of very old clay tile pipes that have a severe crack running down each side of the pipe and along the roof of the pipe. The pipe is actually concave and there are multiple collapses. Having found the pipe and determined its condition, there is really no choice but to replace it.

The Engineer's estimate for repairing the pipe and the contractor's bid were given to Council. The bid was only offered to the onsite contractor because he quickly responded to our emergency need and he already had the necessary equipment on site. His bid was within \$3,000 of the Engineer's estimate. If the gap were much larger we would have stopped everything and looked for multiple bidders.

The cost of this project before all is completed will be approximately \$85,000. The cost of this contract is \$79,702.00. No funds are budgeted for this project. To fund the cost, staff recommends canceling installation of the fine screen project at the sewer plant and the purchase of the utility

truck. These are both much needed projects that we can look at again next year.

City Manager recommends approval of the contract with Larrette construction for \$79,702.00 and the transfer of \$15,000.00 from the Water Division (money for utility truck) to the Sewer Administration account and to utilize \$65,000 from Wastewater Treatment Plant budget for the fine bar screen to cover emergency repair of sewer collapse.

After discussion, Councilmember Council moved and seconded by Councilmember Gillenwater to approve the Emergency Expenditure for the Collapsed Sewer Main on East 1<sup>st</sup> North Street from Jefferson Street to Monroe Street the contract with Larrette construction for \$79,702.00 and the transfer of \$15,000.00 from the Water Division (money for utility truck) to the Sewer Administration account and to utilize \$65,000 from Wastewater Treatment Plant budget of the fine bar screen to cover emergency repair of sewer collapse. Mayor Fortner called for a vote with all voting AYE, the motion carried.

14. Consider Approval of Change Order No. 1 From Precision Management & Construction, Inc. For Additional Work Performed On The Kaufman Texas Community Development Block Grant Contract No. 727320.

Director of Public Works Richard Underwood informed the Council that Precision Management & Construction, Inc. was awarded the bid for this project in May 2008. The project is now complete and all corrections have been made from the final punch list. Change Order No. 1 includes additional items needed to complete the construction of the project such as 1 additional manhole and additional service lines.

The original contract for Precision Management & Construction, Inc. totaled \$335,041.50. Change Order No. 1 increases the project total amount by \$4,240. The new total contract amount including Change Order No. 1 will be \$339,281.50. Adequate funds are available to complete this project.

Staff recommends that Council approve Change Order No. 1 from Precision Management & Construction, Inc. increasing the total project cost to \$339,281.50 contingent upon ORCA approval.

After discussion, Councilmember Gillenwater moved and seconded by Councilmember Cooper to Approve of Change Order No. 1 From Precision Management & Construction, Inc. For Additional Work Performed On The Kaufman Texas Community Development Block Grant Contract No. 727320 increasing the total project cost to \$339,281.50

contingent upon ORCA approval. Mayor Fortner called for a vote with all voting AYE, the motion carried.

15. Consider Approval of Professional Services Agreement and Technical Services with Jacobs Engineering Group, Inc. for preparation of construction plans and specifications for the design of a street extending from State Highway 34 to County Road 151 (Old Kemp Highway).

City Manager Curtis Snow informed the Council that since the days when Shuler and Meara presented the possibility of a Wal-Mart at Highway 175 and Highway 34, there has also been the plan to reroute the "Old Kemp Highway" (C. R. 151) to allow more traffic stacking at the intersection of Highway 34 and Highway 175. Since the prospects of Wal-Mart have lain fallow, this project has laid fallow. But the cost of the project continues to grow.

The realignment would benefit more than the traffic patterns and access to the Wal-Mart project. It would open up new attractive commercial property for development.

Therefore, it is proposed that we move forward with this project by starting the design of the new alignment. The cost of this design would come from street impact fees. Construction of this project would be a combination of street impact fees and Kaufman Economic Development Corporation (EDC) funds if approved by the EDC board and Council.

The cost of the Engineering contract with Jacobs is \$47,250.00. Funding will be provided by the Street Impact Fee Fund.

City Manager Curtis Snow commented there was no hurry on this project, it is just that the cost continues to increase. The street impact fees are required to use within a ten (10) year period or they will have to be refunded.

Councilmember Ratcliffe commented that TxDot has recommended this new street for them to utilize light signage at Highway 175 and Highway 34 and for future one-way frontage roads.

Mayor Pro-Tem Altom asked what if Wal-Mart wants a different site than what has been the proposed location. City Manager Curtis Snow reported that the street would still be utilized. He said there could be a better site for a Wal-Mart, but we would have to wait until that time comes.

After further discussion, Mayor Pro-Tem Altom moved and seconded by Councilmember Council to table this item at this time to further think about

the project. Mayor Fortner called for a vote with all voting AYE, the motion carried.

### **APPOINTMENTS**

16. Consider the appointment of Mayor Pro-Tem.

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

17. Consider the Appointment of Two (2) Park and Recreation Board members for a two year term through March 2011.

Mayor Pro-Tem Ratcliffe moved and seconded by Councilmember Gillenwater to table this item. Mayor Fortner called for a vote with all voting AYE, the motion carried.

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

Councilmember Altom moved and seconded by Councilmember Gillenwater to table this item. Mayor Fortner called for a vote with all voting AYE, the motion carried.

### **ANNOUNCEMENTS FROM CITY MANAGER.**

1. Prairie Creek Subdivision Green Space Park – Owner and Developers to survey land and deed to the City of Kaufman in the near future.
2. Water Loss Issues – to be discussed at the June 22<sup>nd</sup> meeting in a work session format.
3. Employee Awards Banquet – May 21, 2009 – Noon – TVEC
4. Discuss scheduling a date for a Strategic Planning Retreat scheduled for June 12<sup>th</sup> and June 13<sup>th</sup> at Cedar Creek Country Club.

### **REQUEST/COMMENTS FROM MEMBERS OF CITY COUNCIL.**

Councilmember Council commented that he would like to see other Department Heads put together a five (5) year plan. City Manager commented that perhaps by Budget process time that may be available.

**ADJOURNMENT.**

There being no further business, the meeting was adjourned at 8:06 p.m.

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**WILLIAM FORTNER  
MAYOR**

**ATTEST:**

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**JO ANN TALBOT  
CITY SECRETARY**