

**MINUTES OF THE  
REGULAR CITY COUNCIL MEETING  
MONDAY, JULY 27, 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>BARRY RATCLIFFE</b>
<b>COUNCILMEMBER</b>	<b>GIL ALTOM JR.</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>KENNETH MUNDEN</b>

**INVOCATION:** Clayton McCord, Chaplin, Visiting Nursing Association

**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, Barry Ratcliffe, Gil Altom Jr., Jeff Council, Charles Gillenwater, and Kenneth Munden. Mayor Fortner declared a quorum present. Councilmember Cooper was absent. Also present were City Attorney David Dodd, City Manager Curtis Snow, ACM/City Secretary Jo Ann Talbot, Chief of Police Michael Holder, and Director of Development of Services Marcy Ratcliff.

**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 comments were made by citizens.

**CONSENT AGENDA ITEMS #1 THROUGH #9**

**“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 June 12, 2009, and June 13, 2009, Strategic Planning Session.
2. Consider approval of the Minutes of the June 22, 2009, Regular Council Meeting.
3. Consider approval of the Minutes of the July 13, 2009 Work Session.
4. Consider approval of Resolution R-15-09 authorizing continued participation with the Atmos Cities Steering Committee; and authorizing the payment of 2 cents per capita to Atmos Cities Steering Committee to fund regulatory and activities related to Atmos Energy Corporation.
5. Consider approval of Resolution R-16-09 Annual Review of the City of Kaufman Investment Policy as amended for a further One (1) Year pursuant to the Public Funds Investment Act.
6. Consider approval of Resolution R-17-09 of the City Council of the City of Kaufman, Texas approving and adopting the Revised By-Laws of the Kaufman Economic Development Corporation by designating the Executive Director as the Public Information Officer.
7. Consider Authorizing the City Manager to execute an Agreement with Humane Society of Cedar Creek Lake, Inc. for Public Animal Shelter Services for a one year period.
8. Consider approval of the Kaufman Economic Development Corporation Fiscal Year Budget 2009-2010.
9. Consider approval of the Kaufman Chamber of Commerce Tourism Quarterly Report through June 30, 2009.

Councilmember Altom moved and seconded by Councilmember Council to approve the Consent Agenda Items #1 through #9. Mayor Fortner called for a vote with all voting AYE, the Consent Agenda was approved. Councilmember Cooper was absent.

### **END OF CONSENT AGENDA**

### **PRESENTATIONS**

10. Presentation - Michael Boren, U.S. Census Bureau (2010)

Mr. Michael Boren with the U.S. Census Bureau gave the City Council an overview of the upcoming 2010 census in our community. He reported that this will be the shortest questionnaire in Census history. There are only 10 questions and will only take about 10 minutes for citizens to complete. The questionnaires will be mailed out in March 2010.

Mayor Fortner thanked Mr. Boren for his presentation.

## **PLANNING AND ZONING ITEMS**

11. Conduct a Public Hearing and Consider First Reading of Ordinance O-08-09 for two (2) specific use permits located at 501 S. Washington Street, Kaufman, requested by Jamie Reynoldo Rivera.
  - a. Conduct Public Hearing for two (2) Specific Use Permits, one for minor auto repair and secondly a single bay hand car wash at 501 S. Washington Street.

Councilmember Council informed the City Council that he had a conflict of interest on this agenda item. He filled out a conflict of interest form and excused himself from the room.

Mayor Fortner declared the Public Hearing open at 6:26 p.m. Director of Development of Services Marcy Ratcliff informed the City Council that Mr. Rivera is requesting Specific Use Permits for minor auto repair and a single bay hand car wash on 0.27 acres of land at 501 S. Washington Street. Mr. Rivera currently has a contract to purchase the property, contingent on approval of the proposed Specific Use Permits. Mr. Rivera wants to use the existing site and make phased improvements to the buildings, the parking lot, add feature landscaping along Temple Street, and provide screening to the residents to the east.

The property is currently zoned Washington Street Corridor "WSC". The "WSC" district has a detailed use chart unlike the other zoning districts. All the uses listed were specifically chosen. If the use is not listed or is not similar enough in nature, then the use is not allowed. The definitions of auto repair, minor and major are included below.

"Auto Repair, Minor" is defined in the Zoning Ordinance as the minor repair or replacement of parts, tires, tubes and batteries; diagnostic services; minor maintenance services such as grease, oil, spark plug and filter changing; tune-ups; emergency road service; replacement of starters, alternators, hoses and brake parts; automobile washing and polishing; installation of minor automobile

accessories such as car alarm, radio and stereo equipment, window tinting, pin striping, cellular telephones and similar accessories; performing state inspections and making minor repairs necessary to pass said inspection; normal servicing of air-conditioning systems; and other similar minor services for motor vehicles except heavy load vehicles, but not including any operation named under "Auto Repair, Major" or any other similar use.

"Auto Repair, Major" is defined in the Zoning Ordinance as the general repair or reconditioning of engines, air-conditioning systems and transmissions for motor vehicles; wrecker service; collision repair services including body, frame or fender straightening or repair; customizing; painting; welding; vehicle steam cleaning; undercoating and rust proofing; those uses listed under "Auto Repair, Minor" or any other similar uses.

The subject property over the past twenty years has been a gas service station, major auto repair, lawn mower repair, car sales, and storage. The property is considered non-conforming, because the existing development does not meet the current development standards for masonry, landscaping, parking lot standards and screening. Every prospective user has had issues with redeveloping the subject property, because of the non-conforming status.

The existing small concrete block building with the awning, fronting South Washington Street, contains approximately 280 square feet and will be the office area for both uses. The existing metal building contains approximately 1,600 square feet. Approximately 450 square feet is used for storage. The remaining 1,150 square feet is the area proposed to be used for minor auto repair. The hand car wash bay will require one off street parking space and the area devoted to minor auto repair will require six off street parking spaces for a total of seven spaces. The site will be able to provide the required off street parking.

The applicant is proposing to install a 10' landscape buffer yard, only directly in front of the metal building facing Temple Street. This is the only area along all the street frontages that is available for landscaping.

The applicant is proposing to install a 6' wooden fence along the eastern border to screen the residential use from the commercial use. Section 38.3 Screening of Nonresidential, Multi-Family Residential and Manufactured Home Parks states that alternative

equivalent screening may be approved through the site plan approval process, Section 39. Typically, a 6' masonry wall is required.

The applicant is proposing to add paving improvements 6 to 9 months after the business is open. Section 35, Off-Street Parking and Loading Requirements does not list alternative paving phases. Since this is an existing non-conforming development, Staff sees providing a phased improvement schedule with the SUP as an opportunity to get the property more into conformance than it has ever been.

One letter of opposition has been received.

A similar specific use permit request Z-01-06 was made in the spring of 2006. Council Real Estate and Mr. Sean Sisson applied for a specific use permit for minor auto repair. Mr. Sisson was proposing to lease the property. The Planning and Zoning Commission recommended approval 4-1 with stipulations. City Council originally tabled action on the request on April 17, 2006. City Council, at the May 15, 2006 meeting, was informed that the property owner was reluctant to make improvements to the property and wished to withdraw the specific use permit request.

SURROUNDING ZONING AND EXISTING LAND USE:

	<b>Zoning</b>	<b>Existing Land Use</b>
<b>North:</b>	"WSC"	Sig Insurance Office & single family home
<b>South:</b>	"WSC"	Dr. Moore's Dentist Office & Legacy School
<b>East:</b>	"WSC"	Single family homes
<b>West:</b>	"WSC"	Kaufman County Children's Advocacy Center, Armstrong Realty & First Baptist Church

**Land Use Plan:**

The 1999 Future Land Use Plan designates the subject property as a Special Mixed Use District. The designation was created to allow Comprehensive Plan recommended that special nonresidential buffering and transition development standards should be developed to make sure that nonresidential and residential uses within the corridor are compatible with one another. The Washington Street Corridor Zoning District was created to address buffering and transition standards. See attachment 6.

**Thoroughfare Plan:**

The Thoroughfare Plan designates South Washington Street/State Highway 34 South as a “Type B”, Minor Arterial Thoroughfare, requiring a future right-of-way width of 100 feet. The existing right-of-way width is approximately 60 feet. Typically “Type B” minor arterials are a four lane divided thoroughfare with two 33-foot wide pavement sections (four 16.5 foot wide lanes) and a 14-foot painted median divider that can serve as a dual (flush) left turn lane. TxDOT controls the driveway access to all properties on SH 34. Mr. Rivera has spoken to TxDOT about closing the northern most driveway on South Washington Street with a pipe fence. TxDOT will be recommending approval of the driveway closure.

The Thoroughfare Plan designates Temple Street/FM 1836 as a “Type C” Major Collector Street, requiring a future right-of-way width of 80 feet. The existing right-of-way width is approximately 50 feet. Typically “Type C” major collector streets are a four lane undivided thoroughfare with 44-foot wide paving section (four 11-foot wide lanes). TxDOT controls the driveway access to all properties fronting FM 1836. Staff spoke with TxDOT about the open driveway issues on Temple Street. TxDOT’s preference is to allow one driveway entrance on Temple, however; since the layout of the existing development is proposed to remain the same, the local office is willing to recommend approval of the deviancy as long as the two driveways become designated driveways (i.e. not open like it is now, but somehow physically designated such as with a pipe fence or curb and gutter). Mr. Rivera is in the process of getting approval from TxDOT.

**DETERMINATIONS NECESSARY FOR CONSIDERING SUP’S**

**Sec 30.2.A**

In recommending that a Specific Use Permit for the premises under consideration be granted, the City shall determine that such uses are harmonious and adaptable to building structures and uses of abutting property and other property in the vicinity of the premises under consideration, and shall make recommendations as to requirements for the paving of streets, alleys and sidewalks, means of ingress and egress to public streets, provisions for drainage, adequate off-street parking, screening and open space, heights of structures, and compatibility of buildings. In approving a requested SUP, the Planning and Zoning Commission and City Council may consider any or all of the following:

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.
  - B. In granting a Specific Use Permit, the Planning and Zoning Commission and City Council may impose conditions which shall be complied with by the owner or grantee before a certificate of occupancy may be issued by the Building Official, or his designee, for use of the building on such property pursuant to such Specific Use Permit and such conditions precedent to the granting of the certificate of occupancy. Any special conditions shall be set forth in writing by the City Council prior to issuance of the Certificate of Occupancy, and shall be incorporated into the amending ordinance establishing the SUP.

The Planning and Zoning Commission, on July 13, 2009, recommended by a vote of 6-0, approval of Z-05-09 the requested Specific Use Permits for Minor Auto Repair and a Single Bay Hand Car Wash in the Washington Street Corridor at 501 South Washington, part of Block 26, French and Wilson Addition, containing 0.27 acres with the following stipulations:

Prior to Opening to the Public:

1. Close northern driveway on S. Washington Street by blocking with pipe fence.
2. Temporarily repair western driveway on Temple Street and parking area with gravel in front.
3. Repaint all buildings and awnings.
4. Make necessary repairs to car wash bay drain.
5. Make necessary improvements to car wash bay so no water will be pooling on the lot or in the right-of-way.
6. Repair existing bathrooms.
7. Install 10' landscape buffer along Temple Street with required feature landscaping.
8. Remove the portion of the awning skirt fronting along S. Washington Street.
9. The hours of operation are limited Monday –Sunday from 6:00 am to 9:00 pm.

10. The specific use permits for minor auto repair and a hand wash car bay are limited to five (5) years.
11. No vehicles are allowed to be parked on the property over 24 hours.
12. No outside storage is allowed.

Phase One – (6-9 months after opening):

1. Repair overlay on western driveway entrance on Temple Street and the parking area with asphalt or concrete.
2. Lay either asphalt or concrete on the existing gravel parking area in front the metal building facing Temple Street.
3. Install and maintain a 6' wooden screening fence along the eastern border.
4. Remove the existing unused light and sign pole along Washington Street.

Discussion was held regarding the entrance and exit off Washington Street, the color of the business and underground gas tanks, hours of operation and noise facts.

Mayor Fortner declared the Public Hearing closed at 6:34 p.m.

- b. Consider First Reading of Ordinance of O-08-09 of the City of Kaufman, Texas, amending the Comprehensive Zoning Ordinance O-02-07 and establishing Specific Use Permit Number Fifteen (SUP-15) for Auto Laundry and Specific Use Permit Sixteen (SUP-16) for Minor Auto Repair; providing certain conditions; amending the Official Zoning Map; and providing for a penalty, severability, savings, and an effective date.

Councilmember Altom moved and seconded by Councilmember Munden to approve the first reading of Ordinance O-08-09 of the City of Kaufman, Texas amending the Comprehensive Zoning Ordinance O-02-07 and establishing Specific Use Permit Number Fifteen (SUP -15) for Auto Laundry (a Single Bay Hand Car Wash) and Specific Use Permit Sixteen (SUP-16) for Minor Auto Repair in the Washington Street Corridor at 501 South Washington, part of Block 26, French and Wilson Addition, containing 0.27 acres with the following stipulations:

Prior to Opening to the Public:

1. Close northern driveway on S. Washington Street by blocking with pipe fence.
2. Temporarily repair western driveway on Temple Street and parking area with gravel in front.
3. Repaint all buildings and awnings.
4. Make necessary repairs to car wash bay drain.
5. Make necessary improvements to car wash bay so no water will be pooling on the lot or in the right-of-way.
6. Repair existing bathrooms.

7. Install 10' landscape buffer along Temple Street with required feature landscaping.
8. Remove the portion of the awning skirt fronting along S. Washington Street.
9. The hours of operation are limited Monday –Sunday from 6:00 am to 9:00 pm.
10. The specific use permits for minor auto repair and a hand wash car bay are limited to five (5) years.
11. No vehicles are allowed to be parked on the property over 24 hours.
12. No outside storage is allowed.

Phase One – (6-9 months after opening):

1. Repair overlay on western driveway entrance on Temple Street and the parking area with asphalt or concrete.
2. Lay either asphalt or concrete on the existing gravel parking area in front the metal building facing Temple Street.
3. Install and maintain a 6' wooden screening fence along the eastern border.
4. Remove the existing unused light and sign pole along Washington Street.

Mayor Fortner called for a vote with all voting AYE, the motion carried. The vote was 5-0. Councilmember Cooper was absent.

Councilmember Council returned to the meeting room.

12. Conduct a Public Hearing and Consider First Reading of Ordinance O-09-09 on the Proposed City of Kaufman Comprehensive Plan, the Future Land Use Map and Thoroughfare 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.
  - a. Conduct the Public Hearing on the Proposed City of Kaufman Future Land Use Map (FLUM) and Thoroughfare Plan of the Comprehensive Plan.

Mayor Fortner declared the Public Hearing open at 6:36 p.m. Director of Development Services Marcy Ratcliff informed the City Council that the Planning and Zoning Commission held public hearings on the proposed Comprehensive Plan specifically discussing the future land use plan map (FLUP) and the future thoroughfare plan on March 2, 2009, May 4, 2009, June 1, 2009, and July 13, 2009, and had a joint workshop with City Council on April 6, 2009, to review, discuss and receive feedback on the draft of the proposed future land use plan (FLUP). The Commission determined at the May 4, 2009, meeting to schedule another mobile

workshop on June 1, 2009, to review the future land use issues of the properties listed below and any other properties deemed necessary.

City Council held a public hearing on May 18, 2009, to receive feedback on the draft of the proposed FLUP. City Council did not suggest any changes to the proposed FLUP.

Listed below is a summary of the changes the Commission addressed at the June 1, 2009, public hearing.

**MAP DECISIONS MADE AT THE JUNE 1, 2009 MEETING:**

1. Mr. Roy Gardner's property at US Highway 175 and South Fair Road - The Commission instructed Staff to maintain a future commercial land use at a depth of approximately 300 feet along the south side of US Highway 175 from the County Law Enforcement Center to the limits of the ETJ line. The area behind the future commercial land use will be designated as future industrial land use from the County Law Enforcement Center to a future "Type B" thoroughfare further to the south extending east to the limits of the ETJ line. The Commission extended the same "Type B" thoroughfare noted above from the future Highway 34 Bypass along old railroad right-of-way southeast bordering the future industrial land use to the ETJ Line. Additionally, the Commission added a "Type C" thoroughfare separating the future commercial and future industrial land uses, extending from the County Law Enforcement Center to the ETJ line.
2. Mr. Wreno and Jimmy Wynne, of Star Brand Ranch (West US Highway 175) – The Commission instructed Staff to change the future high density multi-family land use designation back to future low density single family on the north and south side of US Highway 175, west of Kings Creek.
3. Ms. Laverne Griffen (southeast corner of Shannon and Hickory Street) – The Commission instructed Staff not to make any changes in this particular area, but to keep the future neighborhood services/office land use designation.
4. Mr. Robert Eldridge (north of the intersection of Booker and Carver Streets) – The Commission instructed Staff to designate the subject area as future high density residential.
5. Leon Cargil, representing House Nursery at 2691 US Highway 175 (northwest corner at County Road 166) - The Commission instructed Staff to maintain the front of the subject area as future

commercial land use and designate the rear area to future neighborhood services/office land use up to the city limit line. Additionally, in the same area north of the future commercial land use and on the east side of County Road 166 change the designation from future low density residential to future high density residential. The area east and north of the future high density residential land is designated from future low density residential to future medium density residential. The Commission also instructed Staff to include a thoroughfare, from Fair Road at the curve, heading west along property lines, to a future "Type B" thoroughfare, to just east of the Millennium Business Park

**Land Use Plan  
Thoroughfare Plan**

The next feature of the Comprehensive Master Plan to discuss is the proposed thoroughfares in conjunction with the proposed land uses. Thoroughfare types and right-of-way minimums are currently broken down in the 1999 Comprehensive Plan and the Kaufman Subdivision Ordinance as shown below. The Proposed Thoroughfare Plan Map shown on the FLUP map was generally based on the 1999 Thoroughfare Plan but has been updated to reflect regional plans and input from previous meetings.

Thoroughfares	Types	Min ROW	# of Lanes	Medians
Major Regional Arterial (TxDOT Highways)	"AA"	240'	4	Yes
Major Arterial	"A"	120'	6	Yes
Minor Arterial	"B"	100'	4	Yes
Major Collector	"C"	80'	4	No
Minor Collector	"D"	60'	2	No

The proposed thoroughfares shown on the FLUP are shown at the same standard as the existing 1999 Thoroughfare Plan. Thoroughfare standards do not typically change, because they are based on regional, state and federal standards.

The location of future thoroughfares shows the general area where such streets should exist. Right-of-way for a thoroughfare is obtained through the platting or donation process. In the platting process, the proposed development, topography, property access, and drainage issues are evaluated to determine the best alignment of the future street. Most of the major developments in Kaufman

have occurred on federal and state highways or farm to market roads. Typically, the required right-of-way already exists for these thoroughfares.

The Draft Thoroughfare Plan Section includes typical thoroughfare design standards, cross sections, design capacities, trip generation rates, and goals and objectives. The cross-sections of each thoroughfare type show the maximum right-of-way required, the number and width of lanes, whether they have a median and how large, and whether parallel parking is allowed per thoroughfare type.

The Planning and Zoning Commission, on July 13, 2009, recommended approval by a vote of 6-0 the Future Land Use Plan (FLUP) map and the future Thoroughfare Plan.

After discussion of several areas on the map, Mayor Fortner declared the Public Hearing closed.

- b. Consider First Reading of Ordinance O-09-09 of the City of Kaufman amending O-13-99, repealing the existing Planning Elements: Future Land Use Plan Map and Thoroughfare Plan of the Comprehensive Plan and adopting the new planning elements: Future Land Use Plan Map and Thoroughfare Plan of the Comprehensive Plan for the City of Kaufman, Texas; providing for long-range guidance related to future land uses and future thoroughfares.

After discussion, Councilmember Altom moved and seconded by Councilmember Gillenwater to approve the first reading of Ordinance O-09-09 of the City of Kaufman amending O-13-99, repealing the existing Planning Elements: Future Land Use Plan Map and Thoroughfare Plan of the Comprehensive Plan and adopting the new planning elements: Future Land Use Plan Map and Thoroughfare Plan of the Comprehensive Plan for the City of Kaufman, Texas; providing for long-range guidance related to future land uses and future thoroughfares. Mayor Fortner called for a vote with all voting AYE, the motion carried. Councilmember Cooper was absent.

### **DISCUSSION/ACTION ITEMS**

13. Consider approval to make application to the Texas Department of Agriculture for the promotion of City of Kaufman to be a Certified Retirement Community and fund one half of the cost of \$5,000.00. Kaufman Chamber will fund one half of the cost.

Judy Mays, Crandall, representing the Kaufman Chamber of Commerce asked the Council's support for the application to promote the City to become a Certified Retirement Community.

City Manager Curtis Snow informed the City Council that the Kaufman Chamber of Commerce has a goal to make Kaufman a retirement destination. In that effort, they would like Kaufman to become a State certified retirement community. Once a community becomes State certified, the State of Texas will include that community in a nationwide promotional program targeted toward seniors.

The ultimate result will be seniors, looking for a place to retire will come visit Kaufman, research its amenities and make a decision to relocate to Kaufman. There is significant economic benefit to having seniors with their retirement incomes move into your community.

The cost of becoming certified is \$5,000 every five years. In return the City will reap the benefit of being included in a large promotional program implemented by the State.

The Chamber has raised half of the funds necessary for certification. They are asking the City to participate at a level of \$2,500. Those funds are available in the Hotel/Motel Tax Fund.

To make application for Retirement Community Certification, the applicant has to be a municipality. The Chamber is also asking the City to make application.

After hearing a presentation at the joint meeting of the Chamber Board and City Hotel/Motel Tax Fund. This would be an eligible expenditure because it is considered promotional expenses for Kaufman.

Councilmember Council moved and seconded by Mayor Pro-Tem Ratcliffe to approve for the Kaufman Chamber of Commerce to make application to the Texas Department of Agriculture for the promotion of City of Kaufman to be a Certified Retirement Community and fund one half of the cost of \$5,000.00. Kaufman Chamber will fund one half of the cost. Mayor Fortner called for a vote with all voting AYE, the motion carried. Councilmember Cooper was absent.

14. Consider First Reading and Approval of Ordinance O-10-09 of the City Council of the City of Kaufman, Texas, ("City") approving a negotiated Resolution between the Atmos Cities Steering Committee ("ACSC" or "Steering Committee") and Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or "Company") regarding the company's rate review mechanism

filing in all cities exercising original jurisdiction; declaring existing rates to be unreasonable; requiring the company to reimburse cities' reasonable ratemaking expenses; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement and finding the rates to be set by the attached tariffs to be just and reasonable; approving Atmos' proof of revenues; adopting a savings clause; determining that this Ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; declaring an effective date; and requiring delivery of the Ordinance to the Company and the Steering Committee's Legal Counsel.

City Manager Curtis Snow informed the Council that on March 6, 2009 Atmos Mid-Tex filed with the City an application to increase natural gas rates pursuant to the Rate Review Mechanism ("RRM") tariff approved by the City as part of the settlement of the Atmos Mid-Tex Statement of Intent to increase rates.

Atmos Mid-Tex March RRM filing sought a \$20.2 million rate increase. The City worked with ACSC to analyze the schedules and evidence offered by Atmos Mid-Tex to support its request to increase rates. The Ordinance and RRM tariff are the result of negotiation between ACSC and the Company to resolve issues raised by ACSC during the review and evaluation of ACSC's RRM filing. The Ordinance and RRM tariffs approve rates that will increase the Company's revenues by \$2.6 million effective for bills rendered on or after August 1, 2009. The monthly bill impact for the average residential customer will be a \$0.15 increase (about a 0.22% increase in the total bill).

As a result of the negotiations, ACSC was able to reduce the Company's requested 20.2 million RRM increase by more than 70%. Approval of the Ordinance will result in rates that will increase Atmos' revenues by \$2.6 million dollars effective August 1, 2009.

Councilmember Altom moved and seconded by Councilmember Gillenwater to approve the first reading of Ordinance O-10-09 of the City Council of the City of Kaufman, Texas, ("City") approving a negotiated Resolution between the Atmos Cities Steering Committee ("ACSC" or "Steering Committee") and Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or "Company") regarding the company's rate review mechanism filing in all cities exercising original jurisdiction; declaring existing rates to be unreasonable; requiring the company to reimburse cities' reasonable ratemaking expenses; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement and finding the rates to be set by the attached tariffs to be just and reasonable; approving Atmos' proof of revenues; adopting a savings clause; determining that this Ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; declaring an effective date; and requiring delivery of the Ordinance to

the Company and the Steering Committee's Legal Counsel. Mayor Fortner called for a vote with all voting AYE, the motion carried. Councilmember Cooper was absent.

15. Consider Resolution R-18-09 accepting and approving the donation of 19.524 acres of Real Property located at 1506 Ridgebriar Drive in the Prairie Creek Estates Subdivision for public use and a \$7,500 cash donation from Prairie Creek Estates, LTD. to help develop and maintain the property and providing for an effective date.

City Manager Curtis Snow informed the City Council that the developers for Prairie Creek Estates went to the Park Board in November of 2008 to ask the Park Board to recommend to the Council that the City accept the 18 acres of green space in Prairie Creek Estates. Due to a miscommunication by staff, it was thought this recommendation would be brought forward when the last phase of Prairie Creek Estates is platted. Apparently, they would like the City to accept the property today. Mayor Fortner became aware of this action and asked that the Park Board's recommendation be placed on the agenda.

When the developers submitted their property for a zoning change in June 2002, the concept of a green space was included. The detail of green space came up because the developers were asking for a Planned Development (PD) zone. In such requests all the planned uses on the property are identified.

When the preliminary plat was submitted for approval on September 9, 2002 it was understood that the green space would be considered during the final phase of the development. That phase has not been brought forward for final plat as of this date.

The developers then went to the Park Board on October 20, 2005 and asked for their input on what the green space should look like. At that meeting the developers discussed their willingness to construct concrete trails, a bridge over the creek, planting trees and grass, and supplying park benches. At that meeting the developers said they planned to clear a thirty foot strip behind the lots that would allow the City to get larger equipment into the area. Staff wanted gates on the back of the properties so property owners would maintain thirty feet behind their lots. The Park Board asked them to return with a concept plan.

On August 18, 2005, the developers returned with the concept plan. The developers presented a plan that had concrete trails in it, new trees and other plantings and now a provision for a "future" bridge. The developer said they would be putting a culvert where the trail crosses the creek.

They said the details would be provided in a developer's agreement. The board approved a motion to recommend the plan to the City Council.

The developer returned to the City Council on May 15, 2006 to ask for money in escrow for sidewalks along Rand Road adjacent to Prairie Creek. The developer wanted to use the funds for sidewalks, picnic tables, etc. in the planned green space. This request failed the Council vote by a three for and three against vote.

On April 16, 2007, the developer made the same request again of the Council. The developer asked that these funds be spent on improvements in the open space that will be dedicated in Phase 3 of the development. The Council passed a motion that would allow the escrow funds to be used for improvements to the green space.

The developer then went back to the Park Board on November 20, 2008 to ask the Board to recommend to the Council that the City accept the 18 acres for use as described in the concept plan. At this time, the developer said he would donate \$7,500 to the development of the plan. The Park Board recommended acceptance.

As mentioned above, this last recommendation was going to be brought forward to the Council when they consider approval of the final plat for Phase three.

To date, there have been no concrete improvements made, no picnic benches, no planting of trees and grass. There are no apparent improvements. There has been some clearing.

The Open Space Plan in Prairie Creek Estates was presented to the City as a turn key concept with the City's participation to be determined. Now that everyone's expectations have been raised to endorse this concept, the City is being asked to accept raw land with no improvements.

The economy has changed substantially from the hope and optimistic future in 2005 to the recession and housing bust the nation is currently experiencing. From the developer's perspective, now is a time to cut back on expenses and minimize development costs. What seemed like a viable project in 2002 may not be viable today.

Depending on the terms of accepting this land, there will be some impact on the Public Works maintenance budget. There will be an impact on the City's capital plan.

The residents of Prairie Creek Estates will benefit from the maintained open space. The developer will benefit with a new asset to promote their

development. The Community will eventually benefit with a planned linear park and increased property taxes from new development.

The Park Board has recommended accepting the 18 acres.

The cost of maintaining the 18 acres will be \$14,000.00. The estimated costs of the improvements for the Open Space are unknown at this time.

On April 11, 2009, the Council directed the City Manager to negotiate a developer's agreement on terms for accepting the project and return it to the Council for consideration in 30 days. The terms to be identified in the agreement are all costs of improvements, cost of maintenance, what if any funds will be offered by the developer and what the ultimate cost to the City will be.

Since that time the City has worked out Resolution R-18-09 accepting and approving the donation of 19.524 acres of Real Property located at 1506 Ridgebriar Drive in the Prairie Creek Estates Subdivision for public use and a \$7,500 cash donation from Prairie Creek Estates, LTD. to help develop and maintain the property.

After discussion of the property, Mayor Fortner moved and seconded by Councilmember Ratcliffe to approve Resolution R-18-09 accepting and approving the donation of 19.524 acres of Real Property located at 1506 Ridgebriar Drive in the Prairie Creek Estates Subdivision for public use and a \$7,500 cash donation from Prairie Creek Estates, LTD. to help develop and maintain the property. Mayor Fortner called for a vote with all voting AYE, the motion carried. Councilmember Cooper was absent.

## **APPOINTMENTS**

16. Consider the appointment of two (2) Kaufman Economic Development Board members for a three year term through August 2012.

Councilmember Council moved and seconded by Councilmember Altom to appoint Barry Ratcliffe and Charles Gillenwater to the Kaufman Economic Development Board members for a three year term through August 2012. Mayor Fortner called for a vote with all voting AYE, the motion carried. Councilmember Cooper was absent.

17. Calling for Nominations to serve on the Texas Municipal League Intergovernmental Employee Benefits Pool Board of Trustees Region 13.

Mayor Fortner moved and seconded by Councilmember Council to nominate City Manager Curtis Snow to serve on the Texas Municipal League Intergovernmental Employee Benefits Pool Board of Trustees

Region 13. Mayor Fortner called for a vote with all voting AYE, the motion carried. Councilmember Cooper was absent.

**ANNOUNCEMENTS FROM CITY MANAGER.**

City Manager Curtis Snow informed the Council that the new Stop Lights on Washington Street and Highway 175 (Flashing starts August 3, 2009), Service Roads One Way from Washington Street to Houston Street.

City Manager Curtis Snow informed the Council that the tax rate would increase to the effective tax rate, which will bring in the same funds from last years tax rate.

Mayor Fortner inquired when the street repair will be complete at Washington Street and Third Street.

Councilmember Council reported a fire hydrant leak at East Grove behind the old Sack A Burger.

Councilmember Council reported of sinking streets at 114 Circle Drive, Royal and 11<sup>th</sup> Street and 514 Main Street.

Councilmember Council reported a large brush pile located at the Catholic Church on North Washington Street and Allen Street.

**ADJOURNMENT.**

There being no further business the meeting was adjourned at 7:37 p.m.

---

**WILLIAM FORTNER  
MAYOR**

**ATTEST:**

---

**JO ANN TALBOT  
CITY SECRETARY**