

**MINUTES OF THE
REGULAR CITY COUNCIL MEETING
MONDAY, DECEMBER 21, 2009 — 6:00 P.M.
KAUFMAN CITY HALL
209 S. WASHINGTON
KAUFMAN, TEXAS 75142**

CITY COUNCILMEMBERS

MAYOR	WILLIAM FORTNER
MAYOR PRO-TEM	BARRY RATCLIFFE
COUNCILMEMBER	GIL ALTOM JR.
COUNCILMEMBER	JEFF COUNCIL
COUNCILMEMBER	CHARLES GILLENWATER
COUNCILMEMBER	KENNETH MUNDEN
COUNCILMEMBER	LOUIS TIJERINA

INVOCATION: Aaron Luiz, Youth Pastor First Baptist Church

PLEDGE OF ALLEGIANCE

CALL MEETING TO ORDER: Mayor Fortner called the meeting to order at 6:01 p.m. Councilmember's present were William Fortner, Gil Altom Jr., Jeff Council, and Louis Tijerina. Mayor Fortner declared a quorum present. Councilmember Gillenwater arrived at 6:11 p.m. Councilmember Munden and Mayor Pro-Tem Ratcliffe were absent. 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.

Arbella Eldridge, 109 Coleman Street, Kaufman complained about the street she lives on. She reported that the City promised her the street would be fixed with curbs, a drainage system. She reported that nothing has ever been fixed on Coleman Street. All the City does is patch the street. Mayor Fortner reported that Staff (City Manager) would follow up with her and the City Council.

Jason Crowsley, owner of Kickers Night Club, requested to be placed on the next Agenda for the City Council to consider revising the smoking ordinance to allow smoking in private clubs and to consider late hours permit to sale alcohol in private clubs.

Mayor Fortner reported to Mr. Crowsley there was no reason to debate the issues unless more than four (4) Councilmembers wished to see the requests on future agendas. The Mayor and City Manager are not in favor of these items to be considered on future agendas.

CONSENT AGENDA ITEMS #1 THROUGH #5

“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 November 23, 2009, Regular City Council Meeting.
2. Consider second reading and adoption of Ordinance O-22-09 of the City Council of the City of Kaufman, Texas, adopting and implementing a Clean Fleet Vehicle Policy associated with the North Central Texas Council of Governments and the Regional Transportation Council.
3. Consider approval of Resolution R-25-09 of the City Council of the City of Kaufman, Texas authorizing the City Manager to Execute an Agreement for Professional Services for Food Sanitation Inspections.
4. Consider approval designating the Kaufman Herald as the official newspaper for the City of Kaufman (2010).
5. Consider approval of the Kaufman Economic Development Corporation Year End Report (September 2009).

Councilmember Altom moved and seconded by Councilmember Gillenwater to approve the Consent Agenda Items #1 through #5. Mayor Fortner called for a vote with all voting AYE, the motion carried. Councilmember Munden and Mayor Pro-Tem Ratcliffe were absent.

END OF CONSENT AGENDA

DISCUSSION/ACTION ITEMS

6. Conduct a public hearing and consider first reading and approval of Ordinance O-23-09 of the City of Kaufman, Texas, amending Chapter 80, Roadway Facilities Impact Fee; providing for a repealer clause; providing for a severability clause, providing for a penalty clause; and providing an effective date.

- a. Conduct Public Hearing to adopt the Impact Fee Update for Roadway Facilities 2009-2019.

Mayor Fortner declared the Public Hearing open at 6:13 p.m.

Director of Development of Services Marcy Ratcliff informed the City Council that on October 26, 2009, the City Council approved Resolution R-20-09 adopting the Land Use Assumptions Report and the Capital Improvement Plan. Additionally, Council authorized a public hearing to be scheduled on December 21, 2009, to consider adopting an impact fee update for roadway facilities 2009-2019. Staff placed the required notice in the newspaper. The proposed roadway facilities maximum impact fee to be adopted on January 25, 2010 is \$561.

The City Council, at a Special City Council meeting on January 12, 2009, voted the future roadway facility impact fees would be scaled to 5% the first and second years, 10% the third year, 25% the fourth year, and 50% the fifth year. The City Manager, on January 26, 2009, presented Ordinance O-02-09 that reflected the reduced roadway facilities impact fees in accordance with the discussion on January 12, 2009. The roadway impact fees, from January 26, 2009 to October 12, 2009, were reduced to 5% of the maximum fee allowed. The attached Ordinance O-23-09, as drafted for your consideration, reflects the timing scale approved at the January 12, 2009 Special City Council Meeting.

The roadway facilities maximum impact fee per service unit adopted on October 12, 2004, by Ordinance O-12-04 was \$954.54. The effective date of the roadway facilities impact fee was October 12, 2004. This ordinance did not include a timing scale for implementation of the impact fees. The maximum fees were implemented on the effective date. The roadway facilities impact fees expired on October 12, 2009.

The previously adopted maximum roadway facilities impact fee was \$954, and the proposed maximum roadway facilities impact fee is \$561, which is a 41.2% decrease. The decreased cost is because some of the capital improvement projects from the last capital improvements plan were not included in the new capital improvements plan. Also, the population projection in the next ten years shows a greater population increase (3,458 people vs. 2,690 people), which will distribute the cost among more people; therefore, lowering the cost per service unit.

Staff recommended City Council to consider approval of Ordinance O-23-09 for an Impact Fee Update for Roadway Facilities, 2009-2019.

With no further comments, Mayor Fortner declared the Public Hearing closed at 6:18 p.m.

- b. Consider first reading and approval of Ordinance O-23-09 of the City of Kaufman, Texas, amending Chapter 80, Roadway Facilities Impact Fee; providing for a repealer clause; providing for a severability clause, providing for a penalty clause; and providing an effective date.

Mayor Fortner moved and seconded by Councilmember Council to approve the first reading of Ordinance O-23-09 of the City of Kaufman, Texas, amending Chapter 80, Roadway Facilities Impact Fee; providing for a repealer clause; providing for a severability clause, providing for a penalty clause; and providing an effective date. Mayor Fortner called for a vote with all voting AYE, the motion carried. Mayor Pro-Tem Ratcliffe and Councilmember Munden were absent.

7. Conduct a public hearing and consider first reading and approval of Ordinance O-24-09 of the City of Kaufman, Texas, amending Chapter 106, Utilities, of the Code of Ordinances, adopting a Water Facilities Impact Fee; providing for a repealer clause; providing for a severability clause, providing for a penalty clause; and providing an effective date.
 - a. Conduct Public Hearing to adopt the Impact Fee Update for Water Facilities 2009-2019.

Mayor Fortner declared the Pubic Hearing open at 6:20 p.m.

Director of Development of Services Marcy Ratcliff informed the City Council that on October 26, 2009, the City Council approved Resolution R-20-09 adopting the Land Use Assumptions Report and the Capital Improvement Plan. Additionally, Council authorized a public hearing to be scheduled on December 21, 2009, to consider adopting an impact fee update for water facilities 2009-2019. Staff placed the required notice in the newspaper. The proposed water facilities maximum impact fee to be adopted on January 25, 2010 is \$714.

The City Council, at a Special City Council meeting on January 12, 2009, voted the future water facility impact fees would be scaled to 5% the first and second years, 10% the third year, 25% the fourth year, and 50% the fifth year. Ordinance O-24-09, as drafted for your consideration, reflects the timing scale approved at the January 12, 2009 Special City Council Meeting.

The adopted water facilities maximum impact fee, effective July 1, 2003, by Ordinance O-01-03, was \$917. City Council adopted the water facilities impact fees on February 10, 2003 and established the effective date as July 1, 2003. The ordinance included a timing scale for the implementation of the impact fees. The established fees were roughly 1/3

for the first year, 2/3 for the second year, and the full fee by the third year. The water facilities impact fees expired on July 1, 2008.

The previously adopted maximum water facility impact fee was \$917, and the proposed maximum water facility impact fee is \$714, which is a 22% decrease. The decrease is because some of the capital improvement projects were completed in the last five years. The proposed 2009-2019 capital improvements plan has fewer projects. Also, the population projection in the next ten years shows a greater population increase (3,458 people vs. 2,690 people), which will distribute the cost among more people; therefore, lowering the cost per service unit.

Staff recommends City Council consider Ordinance O-24-09 for an Impact Fee Update for Water Facilities, 2009-2019.

Mayor Fortner declared the Public Hearing closed at 6:23 p.m.

- b. Consider first reading and approval of Ordinance O-24-09 of the City of Kaufman, Texas, amending Chapter 106, Utilities, of the Code of Ordinances, adopting a Water Facilities Impact Fee; providing for a repealer clause; providing for a severability clause, providing for a penalty clause; and providing an effective date.

Councilmember Council moved and seconded by Councilmember Gillenwater to approve first reading of Ordinance O-24-09 of the City of Kaufman, Texas, amending Chapter 106, Utilities, of the Code of Ordinances, adopting a Water Facilities Impact Fee; providing for a repealer clause; providing for a severability clause, providing for a penalty clause; and providing an effective date. Mayor Fortner called for a vote with all voting AYE, the motion carried. Mayor Pro-Tem Ratcliffe and Councilmember Munden were absent.

8. Consider Approval of Resolution R-26-09 for the Kaufman County Appraisal District to purchase land, the construction of improvements, and the conveyance of real property.

City Manager Curtis Snow informed the Council that the Kaufman County Appraisal District wants to purchase land to construct a new facility in the Kaufman Millennium Business Park. They have outgrown their current location. The building belongs to the Kaufman County Appraisal District and the land belongs to Kaufman County. The Resolution is seeking financial approval from our entity, for the balance of the cost after applying the proceeds from the sale of the building and funds in the building fund.

After discussion, Councilmember Council moved and seconded by Councilmember Tijerina to approve Resolution R-26-09 for the Kaufman County Appraisal District to purchase land, the construction of improvements, and the

conveyance of real property. Mayor Fortner called for a vote with all voting AYE, the motion carried. Mayor Pro-Tem Ratcliffe and Councilmember Munden were absent.

9. Consider Approval and Authorize the City Manager to Execute a Fiscal Year 2010 Grant Application for Violence Against Women Act (VAWA) Recovery Act for One (1) Victim Coordinator Investigator.

City Manager Curtis Snow informed the Council that this project will allow the Kaufman Police Department to employ a fulltime Civilian Victim Coordinator/Investigator. This is a new non-sworn position and will be assigned to the Criminal Investigations Division. The Victim Coordinator/Investigator will respond to the scene of violent felony offenses involving adult female victims or will personally contact victims on more minor offenses on the next working day and will serve as an advocate for adult female victims of violence, sexual offenses, and/or stalking by assisting the assigned detective with interviews, case related paperwork, liaison with the District Attorney's Office, and coordinate with the local social service agencies to provide a support network. The position will investigate and prepare all paperwork for cases that are to be referred to the City Court. The Victim Coordinator/Investigator will also provide training and education to the public by conducting presentations for the local civic organizations, churches and schools as well as in-service training for law enforcement.

If the grant is approved, the VAWA Program will cover all salary, benefits, overtime, training, and equipment for one (1) year. The grant's total financial contribution to the City of Kaufman is approximately \$40,092.

Councilmember Altom moved and seconded by Councilmember Gillenwater to approve and authorize the City Manager to Execute a Fiscal Year 2010 Grant Application for Violence Against Women Act (VAWA) Recovery Act for One (1) Victim Coordinator Investigator. Mayor Fortner called for a vote with all voting AYE, the motion carried. Mayor Pro-Tem Ratcliffe and Councilmember Munden were absent.

10. Consider Approval and Authorize the City Manager to Execute an Amendment to the Original Agreement with Jacobs Engineering for Engineering Services for the Kaufman Connector Street located between South Washington Street and Old Kemp Highway (Highway 34 and County Road 151).

City Manager Curtis Snow informed the Council that the Council previously approved an agreement with Jacobs Engineering to design the Kaufman Connector Street to be located between CR 151 and South Washington Street directly south of Guaranty Bank. During the design process existing drainage issues caused the rerouting of the proposed drainage system for the connector street. Therefore, the rerouting of the drainage has increased the surveying and

design for this project. The rerouting of the drainage will be directed towards the Shuler property. The original Jacobs Engineering contract was approved for the total amount of \$48,250. This amendment will increase the original contract amount by \$7,500 making the total contract amount \$ 55,750.

After discussion, Councilmember Gillenwater moved and seconded by Councilmember Altom to approve and authorize the City Manager to execute an Amendment to the Original Agreement with Jacobs Engineering for Engineering Services for the Kaufman Connector Street located between South Washington Street and Old Kemp Highway (Highway 34 and County Road 151). Mayor Fortner called for a vote with all voting AYE, the motion carried. Mayor Pro-Tem Ratcliffe and Councilmember Munden were absent.

11. Consider Approval and Authorize The City Manager To Execute An Agreement With Jacobs Engineering For Engineering Services For The Emergency Replacement Of The Sanitary Sewer Line Between Rand Road and Anthony Street.

City Manager Curtis Snow informed the City Council that Staff has had numerous sewer stoppages between Rand Road and Anthony Street in the past few months. Currently, the line is partially cleared and has approximately 3 locations with holes in the line, collapsed and washed out areas. Jacobs Engineering reviewed the area and determined that this project should be completed as soon as possible. Due to the length and area of this line, Staff is unable to complete this task and the project will have to be bid.

The Jacobs Engineering contract totals \$16,200. Staff will request a budget amendment in January to cover the engineering services along with the construction cost of the total project which is estimated at this time to be around \$93,000.

Staff recommends that Council authorize the City Manager to execute a contract with Jacobs Engineering for engineering services to design the sewer line replacement between Rand Road and Anthony Street.

After discussion, Councilmember Council moved and seconded by Councilmember Tijerina to approve and authorize the City Manager to execute an Agreement with Jacobs Engineering for Engineering Services for the Emergency Replacement of the Sanitary Sewer Line between Rand Road and Anthony Street. Mayor Fortner called for a vote with all voting AYE, the motion carried. Mayor Pro-Tem Ratcliffe and Councilmember Munden were absent.

12. Discuss hiring a full time Building Inspector.

City Manager Curtis Snow reported that the City Council has been concerned about the customer service offered by Bureau Veritas when it comes to building

inspection services. After a series of complaints in which project managers have complained about the way inspection services were delivered at their projects sites during the course of construction, the Council members asked staff to consider several options. One 1) option would to go out for bid for new inspection services; and two 2) analyzing the option of hiring a full time inspector in-house.

Mr. Snow reported that the City issued 285 permits for Fiscal Year 2008-2009. Of those permits, we have recorded only three complaints. This obviously is a lower percentage of complaints. In the last two years, there were two dialysis centers built, two chain restaurants, and a major school renovation. All of these were very complicated projects in their own way. Yet no complaints were brought to the attention of the City Manager's Office.

Where the City has received numerous complaints, there seems to be two things in common: owner involvement and are community members. Normally, in any construction project there are four key players. There is the owner, the designer, the general contractor and the tradesmen. Inspection services are all focused on the product produced by the tradesmen. Sometimes there is a design flaw and the Inspector involves the general contractor and maybe the designer (though most of that is cleared up and the plan review stage. The Inspector has the goal of ensuring that the building is built according to code to protect the public and to protect the owner by ensuring quality in the construction of his investment.

Where the complaints generally come from is when the owner performs one or more of the other roles. When the owner becomes the designer, the general contractor or the tradesman, complaints will surely evolve, because code violations generally fall back to the owner and not the designer, general contractor or tradesman. Corrections of violations mean additional costs.

Most Inspectors do not seem to be sensitive to this dynamic. They generally inspect work, compare it to the code and then issue a violation (costing money to correct.) In the recent past, because we have had a number of projects involving this latter scenario of the owner doing his or her own work, the planning director and the city manager have been inserting themselves to seek compromises that will minimize cost. Though this effort is well intentioned, it is not resolving the real issues. In fact, the city generally does not leave the owner feeling good, we end up with a product not completely within code, and Veritas is questioning what we are achieving. A case in point is the resulting "Yellow Rose" restaurant. We have a restaurant in a century old house that was not designed to be a restaurant.

The first alternative is that we change inspection services in the hopes that we will find an inspection services company that is more "customer friendly." Unfortunately this is not likely to happen. The main reason is there is some confusion as to who the customer is. The customer is not the designer, general

contractor or tradesman. It could be argued that the customer is not even the owner. The customer is the public. We have a duty to ensure that our public walks into safe buildings to do their business. Our secondary customer is the owner. We want to ensure that he gets the building he contracted to have built. So any inspector will still deliver his services with the attitude that tradesmen or general contractors are going to shave costs to the gray area of a code violation.

The second alternative is to hire an in-house inspector where the City can have more hands on control of the methods used to deliver inspection services. With an in-house inspector, the Inspector would have more accountability to management and the public in the way he or her interacts with project owners.

The third alternative, not yet discussed is having Veritas change out inspectors again. They have already changed out inspectors once for us after the initial Maples Hall project and the second construction project at the Crossings. Once again, these were two projects where the owners involved themselves in the construction role and ran afoul of the inspector. But it would seem likely that Veritas would be willing to change Inspectors again to appease the City and keep the contract.

The first alternative of changing inspection service companies seems less likely. There just are not as many companies out there to choose from. Staff is ready to go out to bid and if the Council chooses this option, the bid results will be on the next agenda.

The second alternative is highly costly and carries considerable risk. The cost factor is obvious. The City currently pays Bureau Veritas \$26,414 a year on an average over the past three years for complete inspections services. Services include plan review, plumbing inspection, electrical inspection, and building inspection. The quality of their services range from simple home remodeling to the most sophisticated buildings like a dialysis center. For the City to get the same services in-house, costs will at least double. Aside from finding one person who has a combination inspectors certification, that includes knowledge of plan review, electrical code, plumbing code and building code, there may or may not be a need for clerical support, office space, a vehicle and equipment. What is now costing the City as little as \$28,239 last year could easily increase to over \$100,000 a year and an additional \$30,000 in start up costs.

If those costs are deemed acceptable, then there is the issue of "customer service." Will an in-house inspector be anymore customer oriented that the staff at Bureau Veritas. It is highly likely that a local project manager, who has little experience in a building project, and doesn't fully understand what he or she is getting into (CJ's and Yellow Rose) will be any less shocked when they find out that their undertaking is more complex than what they originally envisioned. The City's in-house inspector, no matter how respectfully, is not gong to easily

introduce the bad news that what they wanted to do can not be done within the costs they anticipated.

If those two hurdles can be overcome (costs and customer service) then the City will have the real world problem of delivering services everyday, all year long on a timely basis. Inspections have to occur when building occurs. They can not be postponed for sick days, vacation days or even holidays. They can't be delayed for equipment failure, family emergencies or any other reason. One inspector has to be available, Monday through Friday, every week. Even on some holidays. Putting all of the City's inspection services in "one basket" brings a lot of risk and presumably failure.

There is probably one way to bring inspection services in-house. Staff is considering bringing forward a rental inspection program. It would require all rental properties to get annual housing code inspections and issue certificates of occupancy every time they rent to a new tenant. This inspector would not have the credentials of a combination inspector but the City could require it in the hiring process.

If the Council approves a rental inspection program, the City could possibly hire two inspectors with combination inspector certification and have the two interchangeable in their responsibilities to cover for sick days, etc. This would meet the requirements of both functions.

The last alternative, having Veritas change inspectors out is the simplest, cheapest alternative. Veritas should willingly accommodate us and offer us a new inspector that will offer us the customer service values that we are seeking. There would be no additional cost to this alternative.

Staff recommends that Veritas be directed to change inspectors. Secondly, the staff recommends that we first start the rental inspection program, get it operating effectively for a year, then expand the staff to include two inspectors to handle both rental inspections and building inspections.

Staff does not recommend hiring an in-house inspector at this time. Staff will pursue bids if the Council so chooses, but anticipates minimal results.

The basis of these recommendations are cost savings, maintaining expertise and experience, and being able to continually deliver services effectively

The City Council discussed all the options. It was recommended by Councilmember Tijerina to hire or talk to the City of Terrell's inspector for the City of Kaufman.

They also talked about changing out inspectors with Veritas. The final discussion was that to talk to Veritas again about inspectors, hold a work session to discussion developing a rental inspection program.

Mayor Fortner commented that the inspectors should have good people skills and not be rude or discourteous to the customers of the city. Mayor Fortner said we could live with the inspector we have, just talk to him about being courteous to people.

Councilmember Altom commented that he was not in favor of a rental inspection program.

ANNOUNCEMENTS FROM CITY MANAGER.

City Manager Curtis Snow reminded the Council to select a person to serve on a building committee. It will be on the next regular City Council meeting.

Councilmember Munden is out due to heart surgery.

Mayor Pro-Tem Ratcliffe is out due to medical test.

Complaints were made regarding odors from Cross Roads Liquors. Director of Public Works Richard Underwood reported that two (2) vents had been installed for odors and one (1) more if forthcoming.

Work Session will be held January 11, 2009 regarding rental inspection program.

Regular City Council meeting is Monday, January 25th.

ADJOURNMENT.

There being no further business the meeting was adjourned at 7:13 p.m.

**WILLIAM FORTNER
MAYOR**

ATTEST:

**JO ANN TALBOT
CITY SECRETARY**