

**MINUTES OF THE
REGULAR CITY COUNCIL MEETING
MONDAY, APRIL 26, 2010 — 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

PLEDGE OF ALLEGIANCE

CALL MEETING TO ORDER: Mayor Fortner called the Meeting to order at 6:08 p.m. Councilmember's present were Mayor Fortner, Mayor Pro-Tem Ratcliffe, Councilmember Council, Councilmember Altom and Councilmember Tijerina. Councilmember Gillenwater and Councilmember Munden were absent. 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 Public Works Richard Underwood, Director of Finance Cathy Cummins and Director of Development 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.

PRESENTATIONS

Mayor Fortner signed an Application to the Texas Department of Agriculture to promote the City of Kaufman becoming a Certified Retirement Community. Kaufman Chamber Director Ann Glasscock informed the Council and citizens that the application was an 18 month project and was proud that the application is official. The application will be mailed to the Texas Department of Agriculture this week.

Katie Phillips, Kaufman County Extension Office – Family and Consumer Science Agent gave a report on the Food Handler Training Program.

CONSENT AGENDA ITEMS #1 THROUGH #7

“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 MARCH 23, 2010, REGULAR CITY COUNCIL MEETING.
2. CONSIDER SECOND READING AND ADOPTION OF ORDINANCE O-02-10 ON ZONE CHANGE Z-02-10 REQUESTED BY NATIONAL SIGNS, LTD., FOR A SPECIFIC USE PERMIT TO ALLOW A MONUMENT SIGN TO EXCEED 100 SQUARE FEET AT TEXAS HEALTH RESOURCES PRESBYTERIAN HOSPITAL, LOCATED AT 850 ED HALL DRIVE, A TRACT OF LAND CONTAINING 11.62 ACRES, OUT OF THE C.A. LOVEJOY SURVEY, ABSTRACT 303, CITY OF KAUFMAN, TEXAS COUNTY, TEXAS, ON PROPERTY ZONED RETAIL “R”. CASE NO. Z-02-10
3. CONSIDER SECOND READING AND ADOPTION OF ORDINANCE O-03-10 OF THE CITY OF KAUFMAN, TEXAS, AMENDING THE CODE OF ORDINANCES, AS HERETOFORE AMENDED BY AMENDING CHAPTER 70; BY ADDING ARTICLE IV SECTION 70.100 “TREE PRESERVATION” TO ESTABLISH A TREE CARE PROGRAM FOR PUBLIC PROPERTY, STREETS AND RIGHT-OF-WAYS; WITH MEMBERS OF THE PARKS AND RECREATION BOARD TO SERVE AS THE TREE PRESERVATION BOARD; DESIGNATING THE CITY DIRECTOR OF PUBLIC WORKS WITH ADMINISTRATIVE RESPONSIBILITY FOR THE MAINTENANCE AND REMOVAL OF TREES ON CITY PROPERTY; AND PROVIDING FOR THE REMOVAL OF DISEASED OR HAZARDOUS TREES ON PRIVATE PROPERTY UNDER CERTAIN CONDITIONS; PROVIDING A SERVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR CIVIL PENALTIES; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.
4. CONSIDER SECOND READING AND ADOPTION OF ORDINANCE O-04-10 OF THE CITY OF KAUFMAN, TEXAS ESTABLISHING THE EMERGENCY MEDICAL SERVICES “EMS” BOARD; AND PROVIDING FOR AN EFFECTIVE DATE.

5. CONSIDER SECOND READING AND ADOPTION OF ORDINANCE O-05-10 DECLARING UNOPPOSED CANDIDATES IN THE MAY 8TH, 2010 GENERAL CITY ELECTION, ELECTED TO OFFICE; CANCELING THE ELECTION; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.
6. CONSIDER APPROVAL OF THE KAUFMAN ECONOMIC DEVELOPMENT CORPORATION MID-YEAR FISCAL YEAR 2010 REPORT.
7. CONSIDER APPROVAL OF RESOLUTION R-09-10 ACKNOWLEDGING THE SUBMISSION OF NAMES FOR POLICE RESERVE APPLICANTS WHO HAVE RECEIVED CERTIFICATION FROM THE TEXAS COMMISSION ON LAW ENFORCEMENT OFFICERS' STANDARDS AND EDUCATION BY THE POLICE CHIEF OF THE KAUFMAN POLICE DEPARTMENT AND APPROVAL OF SAME AS SUBMITTED.

Councilmember Council moved and seconded by Councilmember Tijerina to approve the Consent Agenda Items # 1 through 7. Mayor Fortner called for a vote with all voting AYE, the motion carried. Councilmember Gillenwater and Councilmember Munden were absent.

END OF CONSENT AGENDA

BID AWARD

8. CONSIDER REJECTION OF ALL BIDS FOR CONTRACT NUMBER R729330 UNDER THE TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM BETWEEN THE CITY OF KAUFMAN AND THE TEXAS DEPARTMENT OF RURAL AFFAIRS.

City Manager Curtis Snow informed the Council that this project includes the sewer main, manhole, and service line replacement on Houston Street from West 2nd to Seago, Jackson Street from 2nd to Ann Street and East 1st North Street from Washington to Wilson.

The City opened bids on April 15, 2010, with four (4) bids received. However, after further review, City Staff realized that they failed to advertise two consecutive weeks as required by the local government code. The City will have to reject all bids received and re-bid the project.

After discussion, Mayor Pro-Tem Ratcliffe moved and seconded by Councilmember Altom to reject all bids received and re-bid the project. Mayor Fortner called for a vote with all voting AYE, the motion carried. Councilmember Gillenwater and Councilmember Munden were absent.

PLANNING AND ZONING

9. CONDUCT A PUBLIC HEARING AND CONSIDER FIRST READING OF ORDINANCE O-07-10 AMENDING THE COMPREHENSIVE ZONING ORDINANCE, O-02-07, AS AMENDED; BY GRANTING Z-04-10; RELATIVE TO SECTION 10.4.B PUBLIC HEARING AND NOTICE, ESTABLISHING NOTIFICATION PROCEDURES FOR AMENDMENTS OR PROPOSED CHANGES TO THE THOROUGHFARE PLAN; 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.
 - a. Conduct Public Hearing.

Mayor Fortner declared the Public Hearing open at 6:19 p.m.

Director of Development of Services Marcy Ratcliff informed the Council that Staff discovered an omission in the public hearing notification requirements from the current 2007 Zoning Ordinance O-02-07, when processing the First Baptist Church's request to amend the Thoroughfare Plan. The section requiring written public hearing notices be mailed to all property owners within 300 feet of any proposed amendment to the Thoroughfare Plan was not included in the newly adopted 2007 Zoning Ordinance. As a result, written public notices were not initially mailed out on the last requested amendment to the thoroughfare plan. Therefore the public hearing meeting had to be rescheduled in order to meet the written notification requirements.

Originally, the City Charter was amended by Ordinance O-09-05 in June of 2005, requiring written notification to property owners within 300' of any Thoroughfare Plan amendment. Later, in August of 2005, the 1999 Zoning Ordinance (O-14-99) was amended by Ordinance O-13-05, to include the same language. Prior to the amendments in 2005, no written notification to property owners was required for Thoroughfare Plan amendments, only a notice in the newspaper was required. When the 2007 Zoning Ordinance was adopted, the notification language for thoroughfare amendments was not included. Staff and the general public refer to the 2007 Zoning Ordinance on a regular basis. The City Charter is rarely used in reference to zoning amendments or Thoroughfare Plan amendments.

The Planning and Zoning Commission, at the February 2, 2010, workshop meeting authorized to set a public hearing date on April 6, 2010, to consider amending the 2007 Zoning Ordinance (O-02-07) to insert the necessary public hearing notification language in Section 10.4 Public Hearing and Notice to alleviate the omission and to ensure all public notices in the future are in compliance.

On April 6, 2010, the Planning and Zoning Commission recommended approval of the proposed language to amend Zoning Ordinance O-02-07, Section 10.4, Public Hearing and Notice, relative to written public hearing notification requirements for Thoroughfare Plan amendments, by a vote of 5-0.

No other comments were made from citizens.

Mayor Fortner closed the Public Hearing at 6:21 p.m.

- b. Consider first reading of Ordinance O-07-10 amending the Comprehensive Zoning Ordinance, O-02-07, as amended; by Granting Z-04-10; Relative to Section 10.4.b Public Hearing and Notice, Establishing Notification Procedures for Amendments or Proposed Changes to the Thoroughfare Plan.

Councilmember Tijerina moved and seconded by Councilmember Altom to approve the first reading of Ordinance O-07-10 amending the Comprehensive Zoning Ordinance, O-02-07, as amended; by Granting Z-04-10; Relative to Section 10.4.b Public Hearing and Notice, Establishing Notification Procedures for Amendments or Proposed Changes to the Thoroughfare Plan. Mayor Fortner called for a vote with all voting AYE, the motion carried. Councilmember Gillenwater and Councilmember Munden were absent.

DISCUSSION/ACTION ITEMS

10. DISCUSS ADOPTION OF MINIMUM HOUSING STANDARDS, REQUIREMENT OF A MULTIFAMILY LICENSE AND SINGLE PERMIT FOR ALL RENTAL UNITS AND INSPECTION REQUIREMENTS.

Director of Development Services Marcy Ratcliff stated that the City Council has requested Staff to draft an ordinance that requires inspections of multifamily and single family rental units. Staff has reviewed several ordinances of cities within the metroplex. Staff spoke with representatives from the City of Garland about the pros and cons of their ordinance. The City of Garland is very satisfied with their ordinance. They have worked very hard to educate owners and managers of rental units about the required license, permit and inspections.

The housing standard that is significantly different from what is currently required, is the requirement for air conditioning. Currently the property maintenance code only requires heating of dwelling units to 68 degrees.

Currently, when a rental unit is inspected and it is safe to occupy, the utilities are released for occupancy. Noncritical violations are not inspected during a fire/safety inspection. Noncritical violations represent defects, damage or deterioration in or on a structure or they create a decrease in general sanitation or hygiene. Examples could include sagging roof, dirty flooring or carpet, structure needs painting either on the inside or outside. If during a fire/safety inspection it is determined there are numerous property maintenance issues, then a property maintenance inspection is performed. The property maintenance inspection looks for outstanding violations mostly on the outside of the structure or in the yard area.

The proposed ordinance will require every rental property owner/manager to register their property every year for a minimum fee. Multifamily licenses are \$12 per dwelling unit, with a minimum of \$75 annual license fee. The annual fee shall be prorated for the number of months remaining in the calendar year. The fee for issuance of a replacement license due to loss or damage is \$10. Additionally, any multifamily property whose inspections scores during the calendar year rank in the highest 5 percentile (arithmetic average) shall be exempt from a license free for the next annual license.

A single family annual permit fee is \$75. An inspection is required after each change of tenancy. Certified rental properties can be issued for a period of 3 years and the dwelling shall not be subject to re-inspection or recertification even in the event of a change in tenancy during that 3 year term if the owner/property manager completes a certification training provided by the director and the permit for the dwelling has not been suspended or revoked during the 3 year term of the extended permit.

The proposed ordinance/program would affect the Development Services and Fire Department. The proposed rental property inspector would also take over residential fire/safety inspections from the Fire Department. The Fire Department would then concentrate on commercial fire/safety inspections.

The rental inspector is estimated to make up to 6 rental inspections a day and 4 change of occupancy per day. This would total 1,405 annual rental inspections and 925 annual change of occupancy inspections.

An estimated annual rental inspector salary plus expenses is \$50,000. A rental inspector is not a building inspector, he is trained as a state certified code officer and typically holds a license as a real estate inspector. Estimated start up costs (vehicle, desk, phone, and computer) is \$19,400.

The rental inspection program would cost property owners about \$75 per year for registration. This should cover the costs of an annual exterior inspection, up to 2 re-inspections after repairs, and on an average, an interior inspection of one third of the rental inventory each year. This fee is higher than larger cities because of the economy of scale.

Staff recommends City Council review the draft Housing Standards language, consider the impact to property owners, the budget, and the City's goal to improve the housing stock. Rental property owners have not seen or reviewed this language to date. If the program is acceptable to City Council, then Staff can schedule a public hearing to receive input from the property owners who would be affected, if the program were adopted.

A great amount of discussion was held whether to conduct exterior inspections or to continue with the fire safety code inspections.

The City Council directed Staff to meet with property owners that owned rental properties and get their opinions and report back to City Council. In addition, the Council may continue this discussion at a Work Session.

11. DISCUSS AND CONSIDER APPLYING FOR A PASS THROUGH FINANCING PROJECT FOR REALIGNMENT OF HIGHWAY 34 WITH TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT).

City Manager Curtis Snow reported to the Council that City Council has set one of its highest priorities the goal of realigning S. H. 34 off of Washington and Mulberry Streets to a safer four lane that skirts the developed City. This realignment has been requested of TxDOT by the City and County as early as the 1950's.

The City escalated their efforts to reach the realignment goal nearly two years ago when it entered into a contract with Jay Nelson and his firm. They were to pursue TxDOT for funds and scheduling construction.

With this effort and the coincidence of over \$21 million becoming available from the Regional Transportation Council (RTC), the City is closer to seeing more movement on this project than it has in the past thirty years.

As it stands right now, there is a high likelihood that the County is going to apply for a "Pass Through Toll" project from TxDOT. The request will be

for the construction of two projects. The first will be the overpass at U.S. 80 in Terrell and through the south part of that City. The second project will be for the overpass at S. H. 175 in Kaufman and through the north part of Kaufman to S. H. 243 (Mulberry Street.) Both of these projects will cost about \$46.6 million (including the design for all of the Kaufman realignment extending south to S. H. 34 by the County rodeo grounds.)

“Pass Through Toll” is a program where the local entity advances all of the capital and builds the project. The state reimburses the direct construction costs only over time (usually between 10 and 15 years.) That leaves the design, right-of-way and carrying costs on the debt as a responsibility of the applicant. In our case, that is \$4,778,000 in right-of-way and design and another \$4-5 million in interest costs.

Here is how it appears to be unfolding, based on a phone conversation with the RTC on Friday. The RTC will pick up all costs for the Kaufman portion with the exception of \$12 million dollars. The City will partner with the County to issue \$12 million (because the County is already going to issue \$10 million for the Terrell project) as part of a Pass Through Toll project. The State will reimburse the City \$1.46 million a year for 15 years for the construction costs. This will be more than enough to cover the principle costs on the debt and maybe of a portion of the interest payment.

At this point there are not definitive numbers for the Council's consideration. The actual agreement arrangement with the County has not been worked out. Everyone is waiting for the RTC's offer in writing to see the specifics.

The bottom line is: will the City be willing to assume the interest costs on \$12 million beginning in FY 2012? Our answer should be a willingness to add 5¢ to the tax rate for debt service. The balance of the funds needs to be found elsewhere.

The financial impact would increase the property tax rate approximately 5¢.

Staff recommends that Council authorize the City Manager to negotiate any necessary agreements between the County and the RTC to participate in a “Pass Through Toll” project for constructing S. H. 34.

To not participate means three important factors come back into play. First, the City will have to wait until SH34 becomes a priority for TxDOT, which it hasn't in the past fifty years; second, the City would again become responsible for 10% of right-of way costs that is estimated to be \$7 million in value today; and third, when and if TxDOT ever decides to build the City's project, costs may be considerably different. If the City wants this

project to be scheduled in the near term and wants to capitalize on the potential economic opportunity, this may be our one window to build the project.

New information on this project continues to develop and there will be future meetings with North Central Texas Council of Governments (NCTCOG), Texas Department of Transportation and Kaufman County. Mr. Snow reported that he would keep the Council posted on new development of the project.

APPOINTMENTS

12. CONSIDER THE APPOINTMENT OF THREE (3) MEMBERS TO THE EMERGENCY MEDICAL SERVICES "EMS" BOARD FOR A TWO (2) YEAR TERM.

Mayor Pro-Tem Ratcliffe moved and seconded by Councilmember Altom to appoint Jeff Council, Byron Gregg and Fire Chief Eddie Brown to the Emergency Medical Services "EMS" Board for a two (2) year term. Mayor Fortner called for a vote with all voting AYE, the motion carried. Councilmember Gillenwater and Councilmember Munden were absent.

ANNOUNCEMENTS FROM CITY MANAGER.

City Manager Curtis Snow reported that the NEAT Cleanup Program on Saturday, April 24th went very well and gave Director of Development Services a big thank you. The event was well organized, the neighborhood was well represented, over 100 volunteers attended, had two (2) – 20 yard dumpsters were filled, and tree limbs hauled off to the convenience station.

City Manager Curtis Snow reminded the City Council of the following events.

1. Council Retreat – May 7th and May 8th
2. Spring Clean Up – May 14th and May 15th
3. Employee Awards Banquet (Noon) at TVEC – May 20th

City Manager Curtis Snow reported that Alligator Warning/Caution signs had been posted at the City Lake Park.

ADJOURNMENT.

There being no further business, the meeting was adjourned at 7:39 p.m.

WILLIAM FORTNER
MAYOR

ATTEST:

JO ANN TALBOT
CITY SECRETARY