

**MINUTES OF THE  
REGULAR CITY COUNCIL MEETING  
MONDAY, NOVEMBER 22, 2010 — 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>JEFF COUNCIL</b>
<b>COUNCILMEMBER</b>	<b>CHARLES GILLENWATER</b>
<b>COUNCILMEMBER</b>	<b>KENNETH MUNDEN</b>
<b>COUNCILMEMBER</b>	<b>LOUIS TIJERINA</b>

**PLEDGE OF ALLEGIANCE**

**CALL MEETING TO ORDER:** Mayor Fortner called the Meeting to order at 6:07 p.m. Councilmember's present were William Fortner, Jeff Council, Kenneth Munden and Louis Tijerina. Councilmember Gillenwater arrived at 6:10 p.m. Mayor Pro-Tem Ratcliffe and Councilmember Altom were absent. Mayor Fortner declared a quorum present. Also present were City Attorney David Dodd, ACM/City Secretary Jo Ann Talbot, Chief of Police Michael Holder and Director of Finance Cathy Cummins. City Manager Curtis Snow attended a Regional Transportation meeting for Kaufman County with North Texas Central Council of Governments at the Kaufman County Annex Building.

**CITIZENS COMMENTS (5 MINUTES)** Citizens may address the City Council on any subject but must first complete a Request to Speak Form. Comments are limited to five (5) minutes, but no more than five (5) minutes per individual, and are not transferable. Citizen's comments not to exceed a total of 15 minutes.

Mayor Fortner congratulated and presented Director of Finance Cathy Cummins with a Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association for Fiscal Year Ending September 2009.

## **CONSENT AGENDA ITEM #1**

**“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 October 25, 2010, Regular City Council Meeting.

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

## **END OF CONSENT AGENDA**

### **BID AWARD**

2. Consider the Acceptance to Purchase One (1) 2011 Ford Crown Victoria for the Kaufman Police Department.

Chief of Police Michael Holder informed the Council that The City of Kaufman and the Kaufman Police Department have a scheduled vehicle replacement program that allows us the ability to purchase a new vehicle each fiscal year. This program is needed to keep our fleet free of high mileage vehicles that are expensive to maintain. This vehicle will be assigned to the Criminal Investigations Division and will replace a vehicle with well over 120,000 miles.

Two (2) bids were received for the 2011 Ford Crown Victoria; one from the Texas State DIR Contract (Sam Pack's Five Star Ford) and one from Paul Murrey Ford. The bid from the state contract is \$20,986.35. Paul Murrey Ford submitted a bid of \$21,972.23.

Municipalities with populations of less than 250,000 have the option of awarding contracts (that must otherwise go to the lowest bidders) to local bidders under the following limited situations:

- The local bidder is within 5% of the lowest price received by the municipality from a bidder who does not reside in the municipality; and
- The city council determines in writing that the local bidder offers the best combination of contract price and additional economic

development opportunities for the municipality by the contract award, including employment of residents of the municipality and increased tax revenues to the municipality.

The remainder of the emergency equipment will be purchased separately and will not exceed the budgeted amount.

Staff recommends that Council approve the purchase of this vehicle for \$21,972.23 from Paul Murrey Ford. This vehicle will be an "unmarked vehicle".

Councilmember Tijerina asked if the City ever thought about leasing vehicles. Chief Holder responded yes, and that it was probably not the direction the City needs to take at this time.

Councilmember Council moved and seconded by Councilmember Gillenwater to approve the Purchase One (1) 2011 Ford Crown Victoria for the Kaufman Police Department in the amount of \$21,972.23 from the local vendor (Paul Murrey Ford) that is within 5% of the lowest price received by the city from the bidder who does not reside in the city. Mayor Fortner called for a vote with all voting AYE, the motion carried. Mayor Pro-Tem Ratcliffe and Councilmember Altom were absent.

3. Consider Approval to Accept a Proposal to Purchase a Telephone System for the City of Kaufman.

Assistant City Manager Jo Ann Talbot informed the Council that the existing phone system is at the point of collapse. In 2009 the City budgeted \$25,000 to replace the system. That money was transferred to the capital fund to be strictly used on the phone system.

The phone system was never purchased because administration has been reluctant to use money from the capital fund in case there was a need for the funds in other areas during this recession. Now that the recession has bottomed out and recovery has begun, the money is available for its original purpose.

Currently there are three phones down. Replacement phones can be bought for a costly price. Features on the existing switch have failed and there is no replacement for the existing switch. It is not manufactured any longer. It is time to replace the system.

The city asked for proposals from two businesses that offer office phone systems. The systems that are being proposed are "Voice Over Internet Protocol" (VOIP). These systems are current generation phone systems that integrate our computer network into the phone system. This

relationship opens the phone and computer systems to a number of alternative technology concepts. The current and most obvious use is the quality of sound and speed in call routing. We would be going from analog to digital.

Future potentials are use of video and routing video. Also, this system will ultimately increase capacity and/or reduce costs by eliminating the need for phone lines.

The City has received two proposals. One proposal is a Shoretel system from East Texas ACS. The cost is \$17,309. This proposal did not include connectivity to the Fire Department. They submitted an additional proposal for \$2,762.16. Combined the two proposals were \$20,071.16. Shoretel is a highly rated phone system by a third party independent rating agency. Staff is not familiar with the system and does not know any organization that has used one.

The second proposal was a Cisco system from Texas Telcom. The cost of this system was \$23,825 with connectivity to the Fire Department included. After some discussion of alternatives and negotiations, the total cost of the system is \$24,965. The biggest difference between the original proposal and the negotiated proposal is the inclusion for new routers that provide power over ethernet (POE). This is an important addition for future use of our internet system and reduces some costs to the new phone system. Right now we have at least three routers in our computer closet. One has totally failed and another has a number of failed ports. The existing routers do not have POE.

Staff is recommending the Cisco system. The primary reason is because the long term known quality of Cisco systems. They are a known manufacturer and designer of switches and routers. The second reason is that the \$24,965 package offers the POE feature which brings the system to state of the art and prepares us for future evolution of telecommunications.

Mayor Fortner asked if there would be a telephone attendant or voice attendant. Assistant City Manager Jo Ann Talbot reported that there would be no changes in the answering of the phones and a personal attendant would answer the phone system.

After answering questions regarding the telephone system, Councilmember Gillenwater moved and seconded by Councilmember Tijerina to approve the purchase of a Telephone System from Texas Telcom in the sum of \$24,965.00. Mayor Fortner called for a vote with all voting AYE, the motion carried. Mayor Pro-Tem Ratcliffe and Councilmember Altom were absent.

**DISCUSSION/ACTION ITEMS**

4. Consider approval of Resolution R-19-10 of the City of Kaufman, Texas, authorizing the Cities Aggregation Power Project, Inc. (CAPP) to negotiate an extension to the current electric supply and necessary related services agreement with Next Era for a fixed price per kwh that is lower than contract rates for 2011-2013, said extension to continue until December 31, 2018; authorizing CAPP to act as an agent on behalf of the City to enter into a Contract for Electricity; authorizing the Chairman of CAPP to execute an Extension to the current Electric Supply Agreement for deliveries of electricity effective January 1, 2011 or as soon after finalization of a contract as possible; committing to budget for energy purchases and to honor the City's commitments to purchase power through CAPP for its electrical needs through December 31, 2018.

Assistant City Manager Jo Ann Talbot informed the Council that things are on track for the merger of CAPP and STAP, effective January 1, 2011, and for the assumption of the new identity, Texas Coalition for Affordable Power ("TCAP"). The merger will have no impact on existing contractual relationships with Next Era and Direct Energy.

As all of you are aware, the current energy supply agreement expires December 31, 2013. Energy prices for each year of the current five-year contract were locked on at the time the contract was signed in the fall of 2008. Prices vary by ERCOT zone and for 2011, the energy prices are scheduled to be only slightly higher than 2010 prices. The contractually scheduled prices for 2011 are:

North Zone	7.895¢ per kWh
South Zone	8.044¢ per kWh
West Zone	5.914¢ per kWh
Houston Zone	8.447¢ per kWh

The purpose of this Resolution is to inform you that you have a rare opportunity to reduce next year's prices and achieve significant savings over the next three years by amending and extending the existing supply agreement.

Your supplier, Next Era, has offered to liquidate the natural gas futures contracts it secured in 2008 to give CAPP and STAP fixed electric rates for five years. Next Era would then purchase new gas futures contracts to secure fixed pricing for an eight-year period at rates less than rates that must be paid next year under the existing terms and conditions of the contract with Next Era. For most CAPP and STAP members, Next Era's offer to "blend and extend" would reduce 2011 prices by approximately 1¢ per kWh. For the small users who consume less than 1 million kWh annually, that reduction should result in savings of between \$2,500 and \$30,000 over the remainder of the current five-year agreement. For the largest user, the savings should approximate \$5 million.

### **Background**

The current contract is referred to as a four-party agreement. It contractually commits CAPP and STAP to Next Era (aka, Florida Power & Light) as supplier and Direct Energy Business Services ("DEBS") as retail electric provider responsible for customer accounts and billing. Each CAPP and STAP member was required to pass a resolution agreeing to be bound by the four-party agreement and pledging to sign an individual customer energy supply agreement with DEBS. The current contract became effective on January 1, 2009 and will expire December 31, 2013. Under ordinary circumstances, bids for power to meet member needs in 2014 and beyond would not have commenced until sometime in 2012.

In June, CAPP and STAP received an unsolicited offer for a block of base load energy to be available in 2014 from distressed generation assets to be purchased by some West Texas investors and backed by J.P. Morgan. The indicative pricing looked favorable for a five-to-twelve-year commitment.

Both Boards were interested in the proposal. The CAPP Board directed R.J. Covington Consulting to perform a due diligence evaluation of the proposed pricing. Consultants were able to obtain several comparable offers, including an offer from Next Era. However, Next Era indicated that while they were willing to discuss the block power commitment, better pricing could be offered in a blend and extend arrangement. Indeed, their blend and extend proposal contained more favorable pricing with less risk than any other offer. Next Era proposed to liquidate the gas futures contracts obtained in 2008 to serve CAPP and STAP load through 2013 and to purchase new gas futures contracts at lower prices to serve CAPP's and STAP's full requirements through 2018. The energy price offered to members would be fixed for eight years subject to the same adjustment provisions (for ancillary services, nodal market prices and changes to total member load) in the current contract. Generally speaking, members in the North, South, and Houston ERCOT Zones would see a reduction in next year's price of about 1¢ per kWh.

Multiplying each member's annual consumption by 1¢ yields a savings estimate for next year.

In 2008, the excess supply in West Texas permitted CAPP members in the West Zone of ERCOT to realize about a 2¢ reduction off of North Zone prices during the five-year contract. Over the last year, pricing differentials between zones have narrowed significantly. Under the blend and extend arrangement, West Zone members, including Wichita Falls, Abilene, San Angelo, and Odessa and others should see some reduction in contract prices currently set for 2011-2013, but not nearly as great as the 1¢ per kWh price reduction that should be available in the other three zones.

### **Do Near-Term Savings Justify a Five Year Extension?**

Two factors largely determine electric prices in the Texas deregulated market: natural gas futures prices and heat rates which are in turn influenced by market perceptions of available generation capacity. At this point in time, natural gas prices are low and stable and there is excess capacity. Whether natural gas prices will remain low and stable through 2013 depends a great deal upon the future of shale gas extraction. If environmental factors such as potential groundwater contamination limit the production of shale gas or if the economy recovers and industrial and electric company demand for gas increases, natural gas prices will rise. Most analysts of population growth predict significant expansion of the population of Texas. How soon such growth will cause demand for electricity to grow faster than supply is unknown, but some forecasts suggest that the reserve margins for generation of electricity may dip below a reasonable level by as early as 2013. If that happens, electric prices will rise above current levels.

An optimistic forecast would indicate that natural gas prices will remain around current levels for the next three or four years. To pass on an offer to reduce current contract rates and achieve a fixed price guarantee for eight years, one has to count on gas prices continuing to decline and for electric generation supply to remain comfortably greater than peak demand at least through the end of 2013. Even if gas prices decline so as to justify a lower rate in 2013 for the 2014-2016 period, it is unlikely that the rate would be sufficiently lower to justify foregoing the potential near-term savings afforded by a blend and extend arrangement.

### **The City's Options**

The City is under contract through 2013. You may reject the blend and extend opportunity and remain under the current terms and conditions. If you desire to take advantage of a blend and extend offer that produces both immediate savings and price stability for the next eight years, the City Council will need to authorize someone to sign an amended agreement

with Next Era, if and when the CAPP and STAP Boards approve and recommend an amendment.

### **Explanation of the Contracting Process**

The contracting process for the blend and extend agreement is exactly like the process used in the last several contracting periods. The City Council will need to approve the attached resolution. The resolution (Model Resolution A) authorizes CAPP to act as an agent to negotiate and execute a contract for the member's electricity needs.

The resolution streamlines contracting procedures. The resolution empowers the Chairman of CAPP to sign a blend and extend agreement with the current power provider on behalf of all CAPP members for 2011-2018 energy needs. A majority of CAPP members previously authorized the CAPP Chairman to execute the 2007 and the 2008 energy contracts on their behalf. Model Resolution A accomplishes that objective for 2011-2018. Model Resolution B is to be adopted by those cities whose charters prevent the cities from delegating contracting power to anyone but the mayor or other designated city representative. For those cities, the resolution directs the city to contract with CAPP for the city's 2011-2018 electricity needs. In addition, both resolutions reiterate that each member is obligated only for its proportionate share of the contracted load. Every CAPP member should expeditiously adopt one of the two resolutions and provide a copy of the resolution to my office.

Passage of Resolution R-19-10 does not guarantee that the Next Era contract will be extended. That will only happen if both Boards conclude that significant near-term savings and fixed prices will result. Passage of a resolution just ensures your political subdivision the right to participate in the blend and extend agreement, if it is finalized, approved, and recommended by the CAPP and STAP Boards.

After discussion, Councilmember Council moved and seconded by Councilmember Gillenwater to approve Resolution R-19-10 of the City of Kaufman, Texas, authorizing the Cities Aggregation Power Project, Inc. (CAPP) to negotiate an extension to the current electric supply and necessary related services agreement with Next Era for a fixed price per kwh that is lower than contract rates for 2011-2013, said extension to continue until December 31, 2018; authorizing CAPP to act as an agent on behalf of the City to enter into a Contract for Electricity; authorizing the Chairman of CAPP to execute an Extension to the current Electric Supply Agreement for deliveries of electricity effective January 1, 2011 or as soon after finalization of a contract as possible; committing to budget for energy purchases and to honor the City's commitments to purchase power through CAPP for its electrical needs through December 31, 2018. Mayor

Fortner called for a vote with all voting AYE, the motion carried. Mayor Pro-Tem Ratcliffe and Councilmember Altom were absent.

5. Discussion on Renaming Fair Street Service Road.

Mayor Fortner informed the Council that some citizens would like the Council to consider changing the name of Fair Street. The reason for this request is because the name is virtually the same as Fair Road and it is the same as a small segment of Fair Street that runs in front of Subway and along side the Exxon Station. The three named streets offer confusion and in an emergency may be life threatening.

Fair Street is the U. S. 175 north side frontage road that runs from the east, just past Millennium Business Park to Grove Street.

Mayor Fortner reported that City Manager Curtis Snow reported that it is actually unusual for a frontage road to have any name at all and suggested the Service Road be named U.S. Highway 175.

To confuse matters even more, part of the southern frontage road does not have a name and from South Washington Street out to Star Brand it is called Oak Creek.

The Council discussed naming the street Roy Chappell, but there is already a street name Chapel Creek. After discussing this item thoroughly, the consensus of the Council was to ask Staff to go forward with the process of renaming Fair Street to U.S. Highway 175.

## **APPOINTMENTS**

6. Consider appointment by Resolution R-20-10, Kaufman County Appraisal District Board Member a shared appointment with Kaufman Independent School District through December 31, 2012.

Assistant City Manager Jo Ann Talbot reported that KISD nominated John Zaby to be the shared representative. John Zaby serves on the KISD Board. Mr. Chris Peace with the Kaufman County Appraisal District reported that there was no conflict of Mr. Zaby serving on the two Boards.

After discussion, Councilmember Council moved and seconded by Councilmember Tijerina to approved Resolution R-20-10 to appoint John Zaby to the Kaufman County Appraisal District Board Member a shared appointment with Kaufman Independent School District through December 31, 2012. Mayor Fortner called for a vote with all voting AYE, the motion carried. Mayor Pro-Tem Ratcliffe and Councilmember Altom were absent.

**ANNOUNCEMENTS FROM CITY MANAGER.**

Assistant City Manager Jo Ann Talbot made the following announcements:

1. Thanksgiving Holidays, Thursday, November 25 and Friday, November 26, 2010.
2. Christmas Tree Lighting, Thursday, December 2<sup>nd</sup> at 6:00 p.m. at the Kaufman Courtyard, next to City Hall.
3. Downtown Event, It's a Wonderful Life, Saturday, December 4<sup>th</sup>, Noon.
4. City Council Meeting, Monday, December 13<sup>th</sup>.
5. Main Street Representative Presentation, December 13<sup>th</sup>.

Councilmember Council invited the City Council to the Annual Fire Department Christmas Dinner on Tuesday, December 14, 2010 at 7:00 p.m. at the Fire Department.

Councilmember Munden asked what is the Main Street Program. Mayor Fortner informed the Council that a Main Street Coordinator recommends to the businesses downtown how to design their building. The Main Street Program is an application process through the State and the City commits to pay a person an annual salary for a three year period and a place for an office. KEDC has committed some funds for this program.

Mayor Fortner asked the Council to keep a list of complaints they receive and bring them to the Council meetings to tell the Council about them to see if the Council is getting repetitive complaints.

**ADJOURNMENT.**

There being no further business the meeting was adjourned at 6:50 p.m.

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**WILLIAM FORTNER  
MAYOR**

**ATTEST:**

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**JO ANN TALBOT  
CITY SECRETARY**