

**MINUTES OF THE
CITY OF KAUFMAN
SPECIAL CITY COUNCIL MEETING
AND
CITY COUNCIL WORK SESSION
MONDAY, JUNE 14, 2010 — 6:00 P.M.
KAUFMAN CITY HALL
209 S. Washington Street
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

SPECIAL CITY COUNCIL MEETING

CALL MEETING TO ORDER: Mayor Fortner declared the meeting open at 6:06 p.m. Councilmember's present were Mayor Fortner, Councilmember Altom, Councilmember Gillenwater, Councilmember Munden, Councilmember Tijerina and Councilmember Council. Mayor Pro-Tem Ratcliffe was absent. Mayor Fortner declared a quorum present. Also present were City Attorney David Dodd, City Manager Curtis Snow, ACM/City Secretary Jo Ann Talbot, Chief of Police Michael Holder, Director of Public Works Richard Underwood and Director of Development Services Marcy Ratcliff.

The City Council convened into Executive Session at 6:07 p.m. to consult with the City Attorney under Section 551.071 of the Open Meetings Law.

The City Council came out of Executive Session at 6:21 p.m.

Mayor Fortner asked if Tommy Jack Knowles wanted to go into Executive Session to discuss personnel matters. Attorney Jo Ann Combs informed the City Council that the hearing would be in Open Session.

Mayor Fortner advised that if any person wanted to speak that a blue card had to be completed and turned into the City Secretary. The persons had three (3) minutes to speak.

Mayor Fortner reported that City Manager Curtis Snow would speak first to the hearing of an appeal of termination of the Water/Wastewater Superintendent.

City Manager Curtis Snow presented the City Council, City Attorney, City Secretary, and Attorney Jo Ann Combs with a Memorandum outlining Tommy Jack Knowles appeal. Attachments "A" through "G".

City Manager Curtis Snow reported that on May 20, 2010, Tommy Jack Knowles was terminated for negligence and Tommy Jack Knowles appealed that decision on May 26th to his Director. On June 3, an appeal hearing was held. On June 7, the termination was upheld and Tommy Jack Knowles was notified of the opportunity to appeal to the City Council.

On May 3, 2010, around 4:30 p.m. an employee complained to Director of Public Works Richard Underwood that a former employee was getting free water and it wasn't right.

On the following day the Director of Public Works discovered that the former employee did not have an open account with the City at his address outside the City. The Director then approached the meter reader and asked if he was aware of anything at the former employee's address. The meter reader confirmed that he was aware that the former employee was taking water and that he was told multiple times by his supervisor (Tommy Jack Knowles) not to take a reading and he would take care of it.

Tommy Jack Knowles was suspended with pay pending a full investigation on May 10, 2010.

The Police Department was sent to the address and confronted the former employee about the water. The Officer was advised by the former employee to talk to Tommy Jack Knowles. The meter was pulled.

The conclusion of the investigation was that Tommy Jack Knowles employees pulled a straight pipe (jumper) out of this former employee's meter box and installed a meter with no record of doing so. It was found that four different employees were told not to read this meter. The meter reader says he was told this multiple times.

Tommy Jack Knowles may very well have the intent to get the former employee in to open an account and forgotten. With his recurring illnesses, he may have forgotten multiple times. There is no reason to not read the meter. That is a

means to settle up when the account is opened. And there is no reason to cover over a reading that was taken.

Tommy Jack Knowles was asked at his hearing what he would do if it was found that someone opened their meter without an account on Jefferson or Houston Street. He reported "I would turn it off and lock the meter. Pull it if I thought I needed to". Then he was asked when would you pull the meter? He said "That day."

This former employee received water for over eight months.

Tommy Jack Knowles doesn't dispute:

1. He knew the water was taken
2. It was his responsibility to stop it
3. He did it.

Tommy Jack Knowles disputes the punishment because:

1. He has been seriously ill and distracted from his duties.
2. He has given nearly 24 years of good service.

City Manager reported that Tommy Jack Knowles is a good man, a well respected person in the community. However, there was negligence of his job duties with the City of Kaufman.

There were questions from the City Council and answers by the City Manager.

Attorney Jo Ann Combs addressed the City Council on Tommy Jack Knowles behalf. She referred to a statement that was made that there had been a jumper placed in the meter box and that Tommy Jack knew about it. He claims that he knew nothing about the jumper until the hearing with the City Manager on June 3, 2010.

Ms. Combs stated that she would be short tonight and make the following arguments for Tommy Jack Knowles. Tommy Jack has an exemplary employment record for 27 years. He does not have any derogatory documents in his file, all of his performance scores reflect that he is doing a really good job. "Mr. Knowles has been sick, we all know that." She reported that she believed him that he didn't know about the strait line "jumper".

Ms. Combs stated that there were so many actors involved in this incident and they didn't take care of the meter and now Tommy Jack is being fired. In addition, two employees are gone now, and I understand that one more is leaving. What is that saying?

Ms. Combs then presented the City Council with copies of medical records, performance records and other records from Tommy Jack's personnel file. She

did request them back due to not making a copy of the documents. None of the records had been redacted.

Ms. Combs said "Tommy Jack has not lied; he admitted what he has done. It says he was terminated for cause. But, he should not be terminated. He messed up. He should not be thrown in the toilet. People here appreciate him. He does not have double standards. You just need to punish him, put him on probation, but don't fire him. Give him another chance; he has 24 years of good service."

The Council recessed for a 10 minute break at 6:59 p.m. The Council reconvened at 7:10 p.m.

Justin Knowles, son of Tommy Jack Knowles, 1599 Anthony Street, Kaufman, Texas commented that his father was a straight and honest man. Never had been reprimanded in the 24 years of service with the City. He is 57 years old out of work. Who will fill his spot?

The Council went back in to Executive Session at 7:13 p.m. to consult with the City Attorney under Section 551.071 of the Open Meetings Law.

The City Council came out of Executive Session at 7:48 p.m.

Councilmember Gillenwater moved and seconded by Councilmember Altom to uphold the termination ruling as determined by the City Manager. Mayor Fortner called for a vote. Councilmember Altom, Councilmember Gillenwater and Mayor Fortner voted AYE. Councilmember Munden, Councilmember Council and Councilmember Tijerina voted NAY. The motion was tied 3-3. Mayor Pro-Tem Ratcliffe was absent.

City Attorney David Dodd reported there is no ruling with a tie vote.

Mayor Fortner then made a motion to uphold the termination ruling as determined by the City Manager. Councilmember Altom seconded the motion. Mayor Fortner said that Council should support the decision made by the Administrative Staff and not to undermine their supervision. Mayor Fortner called for a vote. Councilmember Altom, Councilmember Gillenwater and Mayor Fortner voted AYE. Councilmember Munden, Councilmember Council and Councilmember Tijerina voted NAY. The motion was tied 3-3. Mayor Pro-Tem Ratcliffe was absent.

Councilmember Altom moved and seconded by Councilmember Gillenwater to go back into Executive Session at 7:52 p.m. to consult with the City Attorney under Section 551.071 of the Open Meetings Law.

City Council came out of Executive at 8:17 p.m.

Attorney Jo Ann Combs addressed the Council of the legality of the Executive Session in question to uphold the termination with the not affirmative vote. Its non publication is not legal to go back into Executive Session.

Ms. Combs went on to say she wished a decision would be made tonight, that Mr. Knowles be put on leave or suspension but don't terminate him. Punish other employees that had a hand this incident.

City Attorney David Dodd commented that the City Council has a right to consult the attorney. A 3 to 3 vote is no action.

City Manager Curtis Snow commented that this is a difficult decision. He reported that he has been a City Manager for 30 years and not one time has he had to put this decision like this before a City Council in a public place. He apologized for having to put this decision on the City Council's plate.

Councilmember Gillenwater moved and seconded by Councilmember Altom to uphold the termination ruling as determined by the City Manager. Mayor Fortner called for a vote. Councilmember Altom, Councilmember Gillenwater, Councilmember Tijerina and Mayor Fortner voted AYE. Councilmember Munden, Councilmember Council and voted NAY. The motion passed 4-2. Mayor Pro-Tem Ratcliffe was absent.

EXECUTIVE SESSION

THE CITY COUNCIL WILL HOLD A CLOSED EXECUTIVE SESSION PURSUANT TO CHAPTER 551, GOVERNMENT CODE V.T.C.A. (OPEN MEETINGS LAW), IN ACCORDANCE WITH THE AUTHORITY CONTAINED IN SECTION 551.074 PERSONNEL.

1. Personnel - Under TEX. GOV'T. CODE Sec. 551.074
 - a. Hear an Appeal on the Termination of the Water/Wastewater Superintendent.

ANY FINAL ACTION, DECISION, OR VOTE ON A MATTER DELIBERATED IN EXECUTIVE SESSION MEETING OR ON INFORMATION RECEIVED IN A CONFERENCE WITH EMPLOYEES WILL ONLY BE TAKEN IN AN OPEN MEETING THAT IS HELD IN COMPLIANCE WITH TEX. GOV'T CODE CH. 551. THE CITY COUNCIL RESERVES THE RIGHT TO ADJOURN INTO EXECUTIVE SESSION AS AUTHORIZED BY TEX. GOV'T CODE SEC. 551.001, ET SEQ. (TEXAS OPEN MEETINGS ACT) ON ANY ITEM ON ITS OPEN MEETING AGENDA OR TO RECONVENE IN A CONTINUATION OF EXECUTIVE SESSION ON THE EXECUTIVE SESSION MEETING ITEMS

NOTED ABOVE, IN ACCORDANCE WITH THE TEXAS OPEN MEETINGS ACT, INCLUDING, WITHOUT LIMITATION, SECTIONS 551.071-551.086 OF THE OPEN MEETINGS ACT.

END OF EXECUTIVE SESSION

1. CONSIDER ANY OFFICIAL ACTION ON THE EXECUTIVE SESSION CLOSED MEETING ITEMS:

Personnel - Under TEX. GOV'T. CODE Sec. 551.074

- a. Consider any official action regarding the Appeal of the Termination on the Water/Wastewater Superintendent.

CONSENT AGENDA ITEMS #2 THROUGH #4

“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.”

2. CONSIDER SECOND READING AND ADOPTION OF ORDINANCE O-08-10 AN ORDINANCE OF THE CITY OF KAUFMAN, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE O-02-07 FOR SPECIFIC USE PERMIT NUMBER TWENTY (SUP-20) TO ALLOW A 440 FOOT COMMERCIAL ANTENNA SUPPORT STRUCTURE AT KAUFMAN COUNTY LAW ENFORCEMENT CENTER; GENERALLY LOCATED AT 1900 EAST U.S. HIGHWAY 175 , AND PLATTED LOT 1, KAUFMAN COUNTY LAW ENFORCEMENT CENTER ADDITION, CONTAINING 45 ACRES, PROVIDING CERTAIN CONDITIONS; AMENDING THE OFFICIAL ZONING MAP; AND PROVIDING FOR A PENALTY CLAUSE, A SEVERABILITY CLAUSE, A SAVINGS CLAUSE, AND AN EFFECTIVE DATE.
3. CONSIDER SECOND READING AND ADOPTION OF ORDINANCE O-09-10 OF THE CITY OF KAUFMAN, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE, O-02-07, AS AMENDED; BY GRANTING Z-01-10; RELATIVE TO SECTION 33 - USE REGULATIONS AND SECTION 35 - OFF STREET PARKING AND LOADING REQUIREMENTS; 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.
4. CONSIDER SECOND READING AND ADOPTION OF ORDINANCE O-10-10 AN ORDINANCE OF THE CITY OF KAUFMAN, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE O-02-07 FOR SPECIFIC USE PERMIT NUMBER TWENTY-ONE (SUP-21) TO ALLOW AN INDOOR AUTO PARTS AND ACCESSORY SALES AT 902 SOUTH WASHINGTON STREET, AND PLATTED AS LOT 1, BLOCK 1, O'REILLY 1 ADDITION, CONTAINING 0.758 ACRES, PROVIDING CERTAIN CONDITIONS; AMENDING THE OFFICIAL ZONING MAP; AND PROVIDING FOR A PENALTY CLAUSE, A SEVERABILITY CLAUSE, A SAVINGS CLAUSE, AND AN EFFECTIVE DATE.

Councilmember Gillenwater moved and seconded by Councilmember Tijerina to approve the Consent Agenda Items #2 through #4. Mayor Fortner called for a vote with all voting AYE, the motion carried. Mayor Pro-Tem Ratcliffe was absent.

END OF CONSENT AGENDA

ADJOURNMENT.

There being no further business the Special City Council meeting was adjourned at 8:27 p.m.

**CITY COUNCIL WORK SESSION
MONDAY, JUNE 14, 2010
KAUFMAN CITY HALL
209 S. Washington Street
Kaufman, Texas 75142**

CALL MEETING TO ORDER: Mayor calls the Meeting to order, state the date and time. State Councilmember's present and declare a quorum present.

NOTE: A Work Session is used to explore matters of interest to one or more City Council Members or the City Manager for the purpose of giving staff direction into whether or not such matters should be placed on a future regular or special meeting of the Council for citizens input, City Council deliberation and formal City action. At a work session, the City Council generally receives informal and preliminary reports and information from City staff, officials, members of City committees, and the individual or organization proposing council action, if invited by City Council or City Manager to participate in the session. Participation by

individuals and members of organizations invited to speak ceases when the Mayor announces the session is being closed to public input. Although Work Sessions are public meetings, and citizens have a legal right to attend, they are not public hearings, so citizens are not allowed to participate in the session unless invited to do so by the Mayor. Any citizen may supply to the City Council, prior to the beginning of the session, a written report regarding the citizen's opinion on the matter being explored. Should the Council direct the matter be placed on a regular meeting agenda, the staff will generally prepare a final report defining the proposed action, which will be made available to all citizens prior to the regular meeting at which citizen input is sought. The purpose of this procedure is to allow citizens attending the regular meeting the opportunity to hear the views of their fellow citizens without having to attend two meetings.

1. Receive a report, hold a discussion, and give Staff direction regarding Rental Inspections Program.

City Manager Curtis Snow informed the Council that the Mayor has suggested that now may not be the time to push forward on the Rental Inspection Program. We were scheduled to have a meeting with landlords later this month to discuss the merits of the program. That meeting has been postponed. City Manager Curtis Snow reported that Fire Inspections would still continue.

The Council needs to generally discuss whether or not they are committed to the concept and whether we should continue to move forward with the program. If not, staff can put its time and effort into other endeavors.

There is no staff recommendation. This is another opportunity for the Council to decide if rental inspection is where we want to go at this time.

Councilmember Altom and Councilmember Council agreed that it should be postponed at this time. Councilmember Munden said rental inspections should be done. Councilmember Tijerina said we should ease into the inspection program.

City Manager Curtis Snow reported that the City would revisit this program next year.

2. Receive a report, hold a discussion, and give Staff direction regarding the selection methods of providing Inspection Services.

City Manager Curtis Snow informed the Council that an in house building inspector would cost at least \$50,000.00 a year. There are not enough inspections to cover the cost of hiring an inspector. He reported that he had spoke to City of Seagoville about using there inspector part time for

small regular everyday inspections. The City would still need to hire out inspectors to conduct plan reviews and large projects.

City Manger Curtis Snow reported that Staff has contacted another full service building inspections company called Building Code Consulting Services. This company can provide various levels of service to fit Kaufman's needs. He gave several options the way the Company will conduct inspections as follows:

Option 1 is a full service building inspection service, which includes residential and commercial plan review and inspections, similar to what we currently have in place. The fees include a base fee plus an amount per square footage.

Option 2 charges for each service individually. All inspections or re-inspections are \$65 each. Another option is for each one full day of inspections, the charge is \$650 or for each one-half day of inspections the charge \$350. The charge for residential plan review is 0.09% of the construction value based on the latest building valuation sheet published by the International Code Council. The charge for new commercial plan review is \$200 plus \$0.08 cents a square foot.

Option 3 is a fixed monthly rate one inspector to be provided for 4 hours per day. The rate charged for 5 days a week for \$7,000 per month (\$350 a day). The rate charged for 2 days a week is \$2,800 (\$350 a day). The times can be adjusted either up or down at \$87 per hour. This inspector can do plan reviews on single family residential permits and very limited commercial permits. Separate plan reviews would be necessary for large projects.

After discussion, the City Council suggested that the City change out inspection professional services and try other options to conduct inspections. City Manager commented that he would hire a part time inspector and look for a Company that will conduct larger projects and plan reviews.

City Manager reported that there is a 90 day termination written notice for the current inspection services.

ANNOUNCEMENTS FROM CITY MANAGER

City Manager Curtis Snow made the following announcements:

TxDot Notice of Public Hearing, Tuesday, July 13th, for the proposed improvements to SH 34, Kaufman High School Cafetorium. Open House at 6:00 p.m. Public Hearing starts at 7:00 p.m.

Sales Tax down 5%

He was leaving on vacation June 22 and would not be at the June 28th City Council meeting.

Councilmember Tijerina informed the Council of the project study regarding the Senior Living project off Highway 243 is coming back alive.

City Manager informed the Council of a Developers Agreement on property off of Highway 175 to build a public street. Now the Developers want to build a building and there is not adequate water pressure and flows to serve the building.

ADJOURNMENT.

There being no further business the meeting was adjourned at 9:05 p.m.

**WILLIAM FORTNER
MAYOR**

ATTEST:

**JO ANN TALBOT
CITY SECRETARY**