

**MINUTES OF THE
REGULAR CITY COUNCIL MEETING
MONDAY, MAY 23, 2011 — 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: Pastor Joe Priest, Landmark Church of Christ

PLEDGE OF ALLEGIANCE

CALL MEETING TO ORDER: Mayor Fortner called the meeting to order at 6:11 p.m. Councilmember's present were William Fortner, Barry Ratcliffe, Gil Altom, Jr., Louis Tijerina, Charles Gillenwater, Jeff Council and Kenneth Munden. 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.

SWEARING IN ELECTED OFFICIALS

1. STATEMENT OF ELECTED OFFICE AND ADMINISTER OATH OF OFFICE FOR ELECTED OFFICIALS.

Municipal Judge Jon Burt administered the Oath of Office for the newly elected Officials as follows: Mayor Fortner, Councilmember Kenneth Munden, Councilmember Charles Gillenwater and Councilmember Tony Rader for a two year term.

PRESENTATIONS

2. Recognition of Appreciation to Gil Altom Jr. for his service as Councilmember.

Mayor Fortner thanked Gil Altom Jr. for his service of six years on the City Council and presented him with a plaque of appreciation.

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.

Proclamation Motorcycle Safety & Awareness

Mayor Fortner read a Proclamation for Motorcycle Safety and Awareness month for May 2011.

CONSENT AGENDA ITEM #3 THROUGH #8

“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.”

3. Consider approval of the Minutes of the April 25, 2011, Regular City Council Meeting.
4. Consider approval of the Minutes of the May 9, 2011, Work Session Meeting.
5. Consider second reading of Ordinance O-05-11 on proposed amendments to Section 44, Sign Regulations of Comprehensive Zoning Ordinance O-02-07, relative to multiple lot pole/pylon signage and any other definitions.
6. Consider approval of Resolution R-10-11 Authorizing The City Manager To Enter Into An Agreement With The Texas Department Of Transportation To Temporarily Close SH 34 And FM 1388 For The Purpose Of The Annual 4th Of July Parade.
7. Consider approval for the City Manager to Execute a Lease Agreement between Country Bible Church and the City of Kaufman for a one (1) year term.
8. Consider approval of the Kaufman Economic Development Corporation Mid-Year Fiscal Year 2011 report.

Mayor Pro-Tem Ratcliffe moved and seconded by Councilmember Tijerina to approve the Consent Agenda Items 3 through 8. Mayor Fortner called for a vote with all voting AYE, the motion carried.

END OF CONSENT AGENDA

PLANNING & ZONING

9. Conduct a public hearing and consider Ordinance O-02-11, for a proposed street name change of Fair Street to Treemont Drive or any other name deemed appropriate. The street name change as petitioned by the City of Kaufman would start from 2000 W. Fair Street (Dallas Crown Property) and extend to 925 E. Fair Street (Stanley Chevrolet). All address numbers will remain the same.

A. Conduct a Public Hearing.

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

Director of Development Services Marcy Ratcliff informed the City Council that this item was originally before the Planning and Zoning Commission on March 5, 2011, to consider renaming Fair Street to U.S. Highway 175. The Commission recommended 3-1 to rename the northern frontage road to Treemont Drive. The recommendation was given to City Council on March 28, 2011. City Council wanted to consider the recommendation, but the public hearing notice to the newspaper and to the affected property owners listed the street name change only to U.S. Highway 175. Council directed Staff to set another public hearing to consider Treemont Drive. All public hearing notices were resent listing the name change to Treemont Drive or any other street name deemed appropriate.

City Council, at a workshop, originally directed Staff to initiate a petition to rename Fair Street to U.S. Highway 175, because there are two streets named Fair in Kaufman. The first, Fair Street, is a portion of the northern frontage road of U.S. Highway 175. The second is Fair Road, also known as County Road 153, at the eastern most city limit line. The right-of-way of Fair Road is not located in the city limits; therefore it is not within the City of Kaufman's jurisdiction to rename. However, there are several houses, in the city limits of Kaufman that have addresses on Fair Road.

The northern frontage road of U.S. Highway 175 has two designated names: Fair Street and U.S. Highway 175. Currently, the properties east of Stanley Chevrolet, have an address of U.S. Highway 175. The street name change, as petitioned, would start from 2000 W. Fair

Street (Dallas Crown property) and extend to 925 E. Fair Street (Stanley Chevrolet). The address numbers would not change.

Most people when referring to Fair do not state whether they are referring to the street or road. The purpose of the petition is to resolve the issue of two streets with similar names, in the city limits of Kaufman, clarification for 911 emergency calls, and to provide businesses and homes with an easily recognizable address.

The petition requires a public hearing and recommendation from the Planning and Zoning Commission before City Council conducts a public hearing. Staff is also required to contact various agencies to verify if such a change would be detrimental or beneficial to public safety.

The Police and Fire Department have reviewed the revised petition for the street name change. The Police and Fire Department's are neutral to the street name change. The Post Office has reviewed and approved the petition for the street name change. Staff did contact Oncor (electrical service) regarding the requested street name change. Oncor requested to be notified only after a street name change is approved.

Initially, Staff received one letter from Lennilu Adams supporting the street name change to U.S. Highway 175. One property owner, the Radeke's, at the 1st public hearing, opposed the street name change and suggested Treemont Drive. Since the second notification for the street name change, from Fair Street to Treemont Drive, Staff has received 5 letters in opposition to the street name change, which were included in the Council package.

The majorities of the affected lots are developed with commercial uses and zoned Commercial (from Stanley Chevrolet to Taylor Insurance). The remaining five developed residential lots to the west are zoned Single Family 6 and Single Family 10. The Dallas Crown property is zoned "HC" Highway Commercial.

The fiscal impact will be to the property owners, tenants, and businesses who have to change their mailing address on letterhead, return address stamps or stickers, checks, leases, and business accounts. Additionally, home owners or residential tenants will have to update their driver's license. The Street Department has estimated the cost for replacing nine street signs will be approximately \$400.

The Planning and Zoning Commission on May 3, 2011, recommended by a vote of 5-0 to not rename Fair Street.

Jerry Putty with Stanley Chevrolet, Joe Priest, Pastor, Jo Ann Radeke, Larry Taylor, Connie Sadler with Kaufman Credit Union, and Don Wilson all opposed a street name change.

Mayor Fortner closed the Public Hearing at 6:29 p.m.

- B. Consider first reading of Ordinance O-02-11 for a proposed street name change of Fair Street to Treemont Drive.

Councilmember Council moved and seconded by Councilmember Munden to leave the street name unchanged as Fair Street. Mayor Fortner called for a vote with all voting AYE, the motion carried.

- 10. Conduct a public hearing and consider Ordinance O-06-11, for proposed amendments to Section 38, Fencing, Wall and Screening Requirements of the Comprehensive Zoning Ordinance O-02-07, relative to alternative screening requirements and other necessary changes. Case #Z-08-10

- A. Conduct a Public Hearing.

Mayor Fortner declared the Public Hearing open at 6:32 p.m.

Director of Development Services Marcy Ratcliff informed the Council that the Planning and Zoning Commission, at the April 5, 2011, reviewed the recommendation of the Fence Subcommittee relative to amendments to Section 38, Fencing, Walls and Screening Requirements and directed Staff to set a public hearing to consider the proposed language. The Fence Subcommittee met on the following dates to discuss possible amendments: January 4th, February 17th and March 29th, 2011.

The proposed amendments to Section 38, Fencing, Walls and Screening Requirements, specifically defines what alternative equivalent screening is allowed in the place of a solid 6 foot masonry screening wall. No language is proposed to be deleted. All new language is underlined and bolded for the proposed changes in the Zoning Ordinance on pages 169, 170, 171 and 173. A copy has been provided to the City Council.

The alternatives do not include a chain link fence. The allowed alternatives include:

1. A minimum 6 foot cedar shadow box fence with galvanized metal support posts and an irrigated 5' landscape buffer requiring 1 large tree every 40 linear feet.
2. A minimum 3 foot high, irrigated earthen berm with 1 large tree every 40 linear feet with large evergreen shrubs planted strategically for optimal landscaped screening and maintained in a healthy living condition.
3. A minimum 6 foot wrought iron fence with large evergreen shrubs planted adjacent to the fence, so at the time of maturity, will form a solid landscaped screen bordering the fence.

Other changes include requiring only masonry screening walls to be designed by a structural engineer/architect. All masonry screening walls for dumpsters in new developments are to match the main structure.

The Planning and Zoning Commission, on May 3, 2011, recommended approval by a vote of 5-0.

Councilmember Tijerina commented that he opposes masonry fencing.

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

- B. Consider first reading of Ordinance O-06-11 for proposed amendments to Section 38, Fencing, Wall and Screening Requirements of the Comprehensive Zoning Ordinance O-02-07, relative to alternative screening requirements and other necessary changes.

Councilmember Gillenwater moved and seconded by Councilmember Rader to approve the first reading of Ordinance O-06-11 for proposed amendments to Section 38, Fencing, Wall and Screening Requirements of the Comprehensive Zoning Ordinance O-02-07, relative to alternative screening requirements and other necessary changes. Mayor Fortner called for a vote with all voting AYE, the motion carried.

11. Conduct a public hearing and consider Ordinance O-07-11, for proposed amendments to Section 8.3..A.1, Parliamentary Procedure; Quorum, Voting Requirements of the Comprehensive Zoning Ordinance O-02-07, relative to the voting requirements of a motion. Case # Z-02-11

- A. Conduct a Public Hearing.

Mayor Fortner declared the Public Hearing open at 6:36 p.m.

Director of Development Services Marcy Ratcliff informed the Council that Section 8.3 defines a quorum, and the specific voting rules for motions to be approved by the Planning and Zoning Commission. Additionally, it includes what steps a Commissioner should take, if a conflict of interest arises on any item on an agenda.

Section 8.3.A.1 states a quorum of the seven member Commission is four members and any motion to be voted upon shall be resolved by an affirmative regarding the interpretation of how many affirmative votes is required in order for an agenda item to be approved or recommended by the Commission. According to the City Attorney, the statement means for any motion to pass it requires a minimum of four affirmative votes, not a simple majority of those members present. Such language could create hardships on applicants to receive a minimum of four votes in order to be approved.

The 1999 City of Kaufman Comprehensive Zoning Ordinance, O-14-99, allowed a simple majority vote to rule, except in cases where a $\frac{3}{4}$ vote of the Commission is required by the Texas Local Government Code. Since the current Comprehensive Zoning Ordinance, O-02-07 was adopted; it has been assumed and interpreted the same way the 1999 Zoning Ordinance was written. The Commission briefly discussed a vote that occurred at the March 1, 2011 meeting, which was affected by the interpretation. The Commission, at the April 5, 2011 meeting, when discussing the March 1, 2011 minutes, requested staff to bring proposed amendments to the language that would again allow a simple majority vote to rule in most cases.

The language proposed to be deleted has strikeouts and the new language is underlined and bold. The new language is very similar to the 1999 language.

The Planning and Zoning Commission, on May 3, 2011, recommended approval by a vote of 5-0.

City Attorney David Dodd reported that issues which require a super majority vote, three-fourths ($\frac{3}{4}$) majority vote in order to recommend approval to the City Council will still be required.

Mayor Fortner declared the Public Hearing closed at 6:39 p.m.

- B. Consider first reading of Ordinance O-07-11, for proposed amendments to Section 8.3.A.1, Parliamentary Procedure; Quorum, Voting Requirements of the Comprehensive Zoning Ordinance O-02-07, relative to the voting requirements of a motion.

Councilmember Tijerina moved and seconded by Councilmember Rader to approve first reading of Ordinance O-07-11, for proposed amendments to Section 8.3..A.1, Parliamentary Procedure; Quorum, Voting Requirements of the Comprehensive Zoning Ordinance O-02-07, relative to the voting requirements of a motion. Mayor Fortner called for a vote with all Councilmembers voting AYE, the motion carried.

12. Consider the site plan by William Voorhies for Jose Colunga at 1619 East Mulberry Street. The property is platted as Lot 1A, Block 28 or Cottage Heights Addition, in the City of Kaufman, Kaufman County Texas. The property is zoned commercial. A second addition is proposed to the existing store. Case # SP-01-11

Director of Development Services Marcy Ratcliff informed the Council that Mr. Jose Colunga is proposing to expand his existing 1,200 square foot building, Colunga's Meat Market, at 1619 East Mulberry, by 1,050 square feet. The 100% stucco addition will be a two story structure along the west side of the existing building. The first floor of the addition, containing 525 square feet, will be used as a storage area only. The second floor, containing 525 square feet, will be used as additional dining area. The proposed addition will take the place of the existing storage and dumpster areas.

Mr. Colunga owns a portion of Block 27, Cottage Heights Addition, across 3rd Street, where he is proposing to develop 6 off-site parking spaces. The parking lot will also provide an area for 2 screened dumpsters. Off-site parking is allowed in a Commercial District when the lot or tract is located within 150 feet. The portion of Block 27, Cottage Heights Addition is located 120 feet away from Lot 1A. Off-site parking is allowed provided the property owner provides a permanent easement of those parking facilities or a long term remote parking lease agreement is provided at the time of the building permit review.

The existing development requires 6 off-street parking spaces. The expansion will require 3 additional parking spaces for a total of 9 spaces. One parking space will be added directly in front of the expansion, so the total number of off-street parking spaces provided, on Lot 1A, will be 7 spaces.

The site plan on sheet 2 of 2 also shows Phase II for possible development for the remainder of the lot. The future development will be able to provide the required landscaping and off-street parking in addition to the parking provided for Colunga's Meat Market. Development of Phase II will require the site plan to come back for the Planning and Zoning Commission and City Council for approval.

Currently, the existing establishment has a very small seating area for dining patrons and has an exterior storage building where the proposed addition will be located. The property has received numerous variances to Zoning Ordinance O-02-07, in order to develop on an unusually small shaped lot.

The Board of Zoning Adjustment, on March 21, 2001, granted a 20 foot variance to allow a zero rear yard setback (Case V-03-01). The Board of Zoning Adjustment, on July 20, 2004, granted a parking variance from 9 to 8 spaces and a variance to the lot depth from 100 feet to 83 feet based on the site plan at that time (V-04-04). The applicant, Mr. Norman Crossno, also requested a variance to the side yard setback, but was denied.

Construction of Colunga's Meat Market began at the end of 2005 and was completed in 2006. Mr. Colunga, on July, 22, 2008, received a 25 foot side yard setback variance along 3rd Street, to allow the construction of the existing enclosed storage area (Case V-04-08).

When the right of way for East Mulberry (S.H. 243) was expanded in 1978, numerous lots in the Cottage Heights Addition were reduced in area and depth. Block 28 was the most severely affected.

One of the goals of the Comprehensive Plan is to encourage and positively influence the development of existing vacant properties. The development of Colunga's Meat Market was accomplished through variances approved by the Board of Zoning Adjustment and approval of the previous site plan. The expansion of Mr. Colunga's business will provide more retail and food service along East Mulberry, which will increase the traffic counts and will help encourage more development in the area.

The Planning and Zoning Commission, on May 3, 2011, recommended approval by a vote of 5-0.

After discussion, Councilmember Council moved and seconded by Mayor Pro-Tem Ratcliffe to approve the site plan by William Voorhies for Jose Colunga at 1619 East Mulberry Street. The property is platted as Lot 1A, Block 28 of Cottage Heights Addition, in the City of Kaufman, Kaufman County Texas. The property is zoned commercial. A second addition is proposed to the existing store. Case # SP-01-11. Mayor Fortner called for a vote with all voting AYE, the motion carried.

DISCUSSION/ACTION ITEMS

13. Consider approval of Resolution R-11-11 that the City of Kaufman, Texas supports the City of Terrell in its efforts to secure a Watershed Protection and Flood Prevention Grant to rehabilitate FRS No. 87A, Cedar Creek Watershed.

Director of Public Works Steve Rogers with the City of Terrell informed the Council that the City of Terrell is requesting Federal assistance through the Natural Resource Conservation Service (NRCS), and part of the grant procedure is that they must gain support from the original nine (9) Supporting Local Organizations from when the dam was originally constructed in 1955. This support would be accomplished through the Resolution. The dam was inspected last fall and found to be in need of repair. The safety issue is the main concern, but there are other benefits of the repair, such as a possible added raw water supply to one or some of the neighboring water suppliers. This repair would ensure the safety of the neighboring public along the Muddy Cedar and Kings Creek waterways as well.

The City of Kaufman Resolution means we are aware and agree that the City of Terrell needs to rehabilitate the dam at the New Terrell City Lake, also know as Floodwater Retarding Structure 87A Cedar Creek Watershed. No other support is being requested.

After discussion, Mayor Pro-Tem Ratcliffe moved and seconded by Councilmember Council to approve Resolution R-11-11 that the City of Kaufman, Texas supports the City of Terrell in its efforts to secure a Watershed Protection and Flood Prevention Grant to rehabilitate FRS No. 87A, Cedar Creek Watershed. Mayor Fortner called for a vote with all voting AYE, the motion carried.

14. Consider approval of Resolution R-12-11 that the City of Kaufman, Texas Supports the relocation of State Highway 34 and supports the re-designation of existing State Highway 34 from State Highway 243, 1.375 miles South West of Farm Market 1388.

City Manager Curtis Snow informed the Council that the Texas Department of Transportation (TxDOT) has asked the City of Kaufman to support the State Highway 34 relocation project. TxDOT is required to tender a Minute Order designating the relocation route and adding it to the state highway system. They need a Resolution from the City of Kaufman and from the effected local entities. Kaufman County has already passed a Resolution of support.

The Resolution supports the relocation of SH 34 and the re-designation of existing SH 34 from SH 243 to SH34, 1.375 miles S.W. of FM 1388.

Once the Resolution is approved by the City Council it will be forwarded to TxDOT.

After discussion, Councilmember Tijerina moved and seconded by Councilmember Gillenwater to approve Resolution R-12-11 that the City of Kaufman, Texas Supports the relocation of State Highway 34 and supports the re-designation of existing State Highway 34 from State Highway 243, 1.375 miles South West of Farm Market 1388. Mayor Fortner called for a vote with all voting AYE, the motion carried.

15. Consider a request from Tax Assessor-Collector Dick Murphy to resale property located at 107 Circle Drive, Kaufman, Texas, Legal Description Lot 8, Block 11, Kaufman East #4, vacant lot, in the amount of \$3,472.00 Gary D. Nobles, 1272 Water Oak Drive, Kaufman, Texas 75142.

City Manger Curtis Snow informed the Council that Tax Assessor-Collector Dick Murphy is requesting to resale property located at 107 Circle Drive, Kaufman, Texas, Legal Description Lot 8, Block 11, Kaufman East #4, vacant lot. The property has already gone to public auction did not sale. The County has an offer to sale the property for \$3,472.00. The property has been off the tax roll since August 2009.

If approved the property will be put back on the tax roll.

After a great amount of discussion, Mayor Pro-Tem Ratcliffe moved and seconded by Councilmember Gillenwater to approve a request from Tax Assessor-Collector Dick Murphy to resale property located at 107 Circle Drive, Kaufman, Texas, Legal Description Lot 8, Block 11, Kaufman East #4, vacant lot, in the amount of \$3,472.00 Gary D. Nobles, 1272 Water Oak Drive, Kaufman, Texas 75142. Mayor Fortner called for a vote with Councilmember Tijerina, Councilmember Gillenwater, Mayor Pro-Tem Ratcliffe, Mayor Fortner, Councilmember Council and Councilmember Munden voting AYE. Councilmember Rader voted NAY. Passed 6-1.

16. Consider approval for Kaufman Parks & Recreation Board to hold a Family Day at the City Lake Park and waive the fishing permit requirements during the event.

Director of Public Works Richard Underwood informed the Council that the Park and Recreation Board first held this event last year and had a minimum turnout. This year's event is to be promoted much better and will have a banner at the entrance for better notification. The Park Board wishes to hold this year's event again at the City Lake Park on SH 34

Saturday, June 18, 2011, from 9:00 a.m. to 12 noon. Board Members propose to provide a pancake breakfast free to the public and have events such as music, volleyball, horse shoes, fishing and a bounce house. Staff recommends that Council approve the Park Boards request to hold this event at the City Lake Park and to waive the City fishing permit requirements during this event.

Councilmember Council moved and seconded by Councilmember Munden to approve the request from Park and Recreation Board to hold a Family Day at the City Lake Park on Saturday, June 18, 2011, and waive the fishing permit requirements during the event. Mayor Fortner called for a vote with all voting AYE, the motion carried.

APPOINTMENTS

17. Consider the Appointment of Mayor Pro-Tem.

Councilmember Munden nominated Jeff Council for the appointment of Mayor Pro-Tem. There being no other nominations, by acclamation, Jeff Council was appointed Mayor Pro-Tem for one year.

EXECUTIVE SESSION

The City Council went into Executive Session at 7:04 p.m.

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. Discuss Personnel Matters in regards to the City Manager's Performance.

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.

The City Council adjourned out of Executive Session at 8:01 p.m.

END OF EXECUTIVE SESSION

18. 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 City Manager's Performance.

No action taken.

ANNOUNCEMENTS FROM CITY MANAGER.

City Manager Curtis Snow reminded the City Council of the Retreat scheduled for Friday, June 3rd and Saturday, June 4th and the 4th of July Parade and Picnic at Shannon Park.

Councilmember Council commented that he felt the ball fields were not in good shape. City Manager Curtis Snow gave a report regarding the Lions Club keeping the fields in good shape for the youth groups to play ball.

ADJOURNMENT.

There being no further business the meeting was adjourned at 8:04 p.m.

**WILLIAM FORTNER
MAYOR**

ATTEST:

**JO ANN TALBOT
CITY SECRETARY**