

**MINUTES OF THE  
REGULAR CITY COUNCIL MEETING  
MONDAY, AUGUST 15, 2005 — 6:00 P.M.  
CITY HALL, 209 S. WASHINGTON, KAUFMAN, TEXAS**

**CITY COUNCILMEMBERS**

<b>MAYOR</b>	<b>PAULA BACON</b>
<b>MAYOR PRO-TEM</b>	<b>PAULA HAGLER WAMPLER</b>
<b>COUNCILMEMBER</b>	<b>GIL ALTOM JR.</b>
<b>COUNCILMEMBER</b>	<b>LONNIE BOUNDS</b>
<b>COUNCILMEMBER</b>	<b>FLOYD CHOYCE</b>
<b>COUNCILMEMBER</b>	<b>STANLEY HOLMES</b>
<b>COUNCILMEMBER</b>	<b>JANICE MURRELL</b>

**INVOCATION: Chief of Police James M. Smith**

**PLEDGE OF ALLEGIANCE**

**CALL MEETING TO ORDER:** Mayor Bacon called the Meeting to order at 6:02 p.m. Councilmembers present were Mayor Bacon, Mayor Pro-Tem Wampler, Councilmember Altom, Councilmember Bounds, Councilmember Holmes and Councilmember Murrell. Councilmember Choyce was absent. Councilmember Holmes left the meeting at 6:44 p.m. and Mayor Pro-Tem Wampler left the meeting at 8:15 p.m. The Mayor declared a quorum present. Also present were Interim City Manager Curtis Snow, ACM/City Secretary Jo Ann Talbot, Director of Finance Cathy Cummins, Director of Development of Services Terry Capehart, Police Chief James M. Smith and Director of Public Works Richard Underwood.

Mayor Bacon reported that Councilmember Holmes requested Item #17 be discussed first on the agenda because he had to leave the meeting for a family reason. The Council moved to Item #17 on the agenda.

**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 Bacon read and presented a Proclamation to Melanie Pate Bowers and Matthew Pate for volunteering to organize a 5K Race and Fund Run for the Fall Caboodle Fest. She also recognized the many other volunteers working together to promote our community, history, and the fall festival to be held October 29<sup>th</sup> and 30<sup>th</sup>.

**CONSENT AGENDA ITEM #1 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.”**

1. Consider the approval of the Minutes of the July 5, 2005 City Council Work Session.
2. Consider the approval of the Minutes of the July 18, 2005 Regular City Council Meeting.
3. Consider second reading and adoption of Ordinance O-12-05 of the City of Kaufman, Texas, amending the Comprehensive Zoning Ordinance, O-14-99, dated March 22, 1999; by amending Section 27 – Central Business District, by adding Architectural Design Criteria for new structures and the renovation of existing structures for the preservation of the character and long term economic vitality of the CBD; providing a severability clause; providing for a penalty; and providing for an effective date.
4. Consider second reading and adoption of Ordinance O-13-05 of the City of Kaufman, Texas, amending the Comprehensive Zoning Ordinance, O-14-99, dated March 22, 1999 by amending Section 10.4.A to change the notification requirements involving zoning/rezoning requests for real property or for changes in zoning district boundaries or for amendments to the Thoroughfare Plan to increase the distance required to notify all property owners from 200 feet to 300 feet per the May 7, 2005 Special Election to amend the City Home Rule Charter.
5. Consider second reading and adoption of Ordinance O-14-05 of the City of Kaufman, Texas, amending the Comprehensive Zoning Ordinance O-14-99, dated March 22, 1999, and the Official Zoning Map; changing the zoning on a tract of land from Single Family (SF-8) to Light Industrial (LI) Zoning Classification, for property generally located in the 1500 block of E. Mulberry, described as Tract 1 being a 0.940 acre parcel, Tract 2 being a 0.765 acre parcel and Tract 3 being a 10.59 acre parcel, and being part of a called 40.8 acre tract of land described in a deed recorded in Volume 376, Page 338 of the Deed Records of Kaufman County, and being situated in the Levi York Survey Abstract 608, City of Kaufman, Kaufman County, Texas and providing for a penalty clause, providing a severability clause, a savings clause and an effective date.

6. Consider second reading and adoption of Ordinance O-15-05 adopting a Drought Contingency Plan for the City of Kaufman to promote responsible use of water and to provide for penalties and/or the disconnection of water service for noncompliance with the provisions of the Drought Contingency Plan.
7. Consider approval for Police Forfeiture Fund Budget for Fiscal Year 2005.
8. Consider first reading and approval of Ordinance O-17-05 of the City of Kaufman, Texas amending Ordinance O-02-00 Establishing a Municipal Court Technology Fund by extending the collection of the fee indefinitely; providing a severability; providing for publication and effective date.

Councilmember Bounds moved and seconded by Councilmember Holmes to approve the Consent Agenda Items 1 through 8. The Mayor called for a vote with all voting AYE, the motion carried. Councilmember Choyce was absent.

### **END OF CONSENT AGENDA**

The Mayor asked that the Council move to Item #10 to consider Planning and Zoning items sense some of the people present are from out of town.

### **PUBLIC HEARING**

9. Conduct a Public Hearing on the Proposed Fiscal Year 2005-2006 Annual Program of Services (Budget per Section 7.05, Home Rule Charter of the City of Kaufman, Texas.)

Interim City Manager Curtis Snow informed the Council and the citizens that there is no tax increase provided in this budget. Staff recommended adopting the effective tax rate of \$0.621613, the same as last year. The Council would not have to hold public hearings as was proposed for the meetings set for August 29 and September 12. Adopting the effective tax rate required no public hearings. The General Fund revenues were projected at \$3,168,873 and the expenditures were \$3,526,073. This was a projected deficit of revenue over expenditures of \$357,200, less amounts provided by other funds of \$175,600. Staff was proposing to use \$181,600 in fund balance. The Utility Fund revenues were projected at \$2,363,575 with \$2,679,555 expenses. This was a projected deficit of revenue over expenditure of \$315,980 less amount provided by other funds of \$267,565. Staff was proposing to use \$48,415 of fund balance. (The Budget Summary is hereby attached to the minutes.) A proposed 3% water increase was included in the budget and to continue the 3% increase over the next three (3) years. This would help the City to replenish the pump reserves funds. The total debt service for the new year is \$173,486.00. There was no increase in rates for the new bond

debt of \$1.3 million for sewer improvements in the budget. Staff was projecting new sales tax and projected growth would generate new revenue to help defray additional costs. Pay increases in the budget were 3% merit and 2-½% market adjustment. In the Utility Fund, Staff had budgeted \$205,000 for the replacement of water lines on Mulberry Street Project and \$63,565.00 for the 2005 TCDP matching Grant Funding.

Mayor Pro-Tem Wampler asked about a lap top computer for the Police Department. Interim City Manager Curtis Snow reported that the City Manager decides the priority of items requested by the departments and chooses which are the top priorities.

Councilmember Altom asked about the budgeted amount on Street Improvements. Interim City Manager Curtis Snow reported that this year's amount for street improvements of \$150,000 is being rolled over into the new year. The Street Improvement program will have \$300,000. Councilmember Altom asked how many streets will the \$300,000 cover. Staff will provide a list of streets on the street improvement program to the Council.

Councilmember Murrell inquired why the new police cars were not on the streets. Chief of Police Smith explained that one car was at a shop having the old equipment put on the car and it had been there for almost a month. Once the car is returned then the car will have to be striped.

Mayor Bacon opened the Public Hearing at 8:02 p.m. There being no one to speak on the budget, the Mayor declared the Public Hearing closed at 8:03 p.m.

## **PLANNING AND ZONING**

10. Consider a request by Armstrong Properties, Inc., representing the CVS/ Pharmacy Corporation, regarding a Final Plat for Lots 1 and 2, Block 1, Mulberry Street CVS Addition, being a replat of Lots 1-6, Block 16, Original Town of Kaufman Addition, generally located at the southeast corner of S. Washington Street (State Highway 34) and Mulberry Street (SH 243), and being situated in the J.B. Cole Survey, Abstract No. 84, City of Kaufman, Kaufman County, Texas. Case No. P-06-05. (P & Z approval 4-1)
  - a. Conduct Public Hearing

The Mayor commented that the Plat approval is automatic if not approved within thirty days.

Mayor Bacon opened the Public Hearing at 6:34 p.m.

Development of Services Director Terry Capehart informed the Council that the subject 0.891-acre tract was originally platted as Lots 1-6, Block 16 of the Original Town of Kaufman Addition and is being replatted into two lots of record as Lot 1 and 2, Block 1, Mulberry Street CVS Addition. Lot 1 is a 0.864 acre (37,630 sq.ft.) tract which will accommodate the CVS Pharmacy retail store. Lot 2 is a 0.027 acre (1,170 sq.ft.) tract which will be dedicated to the City in order to relocate Brin Garden.

A public hearing is being conducted on this plat as required by State Law because the property is being replatted without vacating the previous plat.

The site plan for the CVS/pharmacy retail store is also on the current agenda for consideration.

The property fronts four streets, two of which are local city streets (Cherry Street and Madison Street) and two are State controlled thoroughfares (Washington Street - SH 34 and Mulberry Street - SH 243). Three existing buildings and several remnants of foundations are located on the property, which will be demolished to make way for the new development.

Issues:

1. Primary access will be from State Highway 34 (S. Washington Street) with secondary access from Madison Street. The drive-through lanes will exit upon Madison Street with the required escape lane exiting upon Cherry Street. TxDOT has stipulated that only one access point will be allowed onto State right-of-way; i.e., either one driveway on Washington Street or Mulberry Street but not both.
2. The proposed plat meets all of the technical requirements of the Subdivision Ordinance.

The Planning and Zoning Commission has made recommendation to the City Council by a vote of 4-1 to approve the proposed plat with the stipulation that Lot 2 (Brin Garden) be increased in size to equal or exceed the size of the original garden.

The Mayor declared the Public Hearing closed at 6:37 p.m.

- b. Consider approval of a Final Plat, for Lots 1 and 2, Block 1, Mulberry Street CVS Addition, being a replat of Lots 1-6, Block 16, Original Town of Kaufman Addition.

Councilmember Murrell moved and seconded by Councilmember Holmes to approve a Final Plat, for Lots 1 and 2, Block 1, Mulberry Street CVS Addition, being a replat of Lots 1-6, Block 16, Original Town of Kaufman Addition. The Mayor called for a vote with all voting AYE, the motion carried.

11. Consider a request from Armstrong Properties, Inc., representing the CVS/Pharmacy, regarding approval of a Site Plan for a new retail pharmacy store, being all of a certain 0.8907 acre tract of land, generally located at the southeast corner of S. Washington Street and Mulberry Street, and being described as Lots 1 and 2, Block 1 of the Mulberry Street CVS Addition, City of Kaufman, Kaufman County, Texas. Case No. S-09-05. (P & Z approval 4-1)

Mr. Michael Clark, with Winkelmann Associates Consulting Engineers representing Armstrong Developers and CVS Pharmacy informed the Council that a new site plan is being presented tonight instead of the one that was in the agenda packet. He reported that he had met with the Mayor and Director of Development of Services this past Friday and made some changes to the site plan. He explained the changes to the Council.

Ms. Janis Lindsey, 1700 S. Washington, Kaufman expressed her concern of the entrance on South Washington Street because of safety issues. She also stated that the building be built with brick and not haddock blocks.

Ms. Christi Lambeth, 704 Adams Lane, Kaufman, a resident and traffic engineer, suggested two egress lanes on South Washington Street and suggested to eliminate the escape lane on Madison Street and have an entrance on Cherry Street, then the drive-thru lanes can be straighter to exit on to Madison Street.

After a great deal of discussion regarding egress and ingress of the site plan, the building facade, the architectural design, buffers, parking and landscaping, Councilmember Altom moved and seconded by Councilmember Bounds to approve the new revised site plan and to include in the site plan 1) two egress entrances from South Washington, 2) close the escape lane on Madison, add an entrance on Cherry Street, and make the drive-thru lanes straight to exit off Madison Street, for a new retail pharmacy store, being all of a certain 0.8907 acre tract of land, generally located at the southeast corner of S. Washington Street and Mulberry Street, and being described as Lots 1 and 2, Block 1 of the

Mulberry Street CVS Addition, City of Kaufman, Kaufman County, Texas. Case No. S-09-05. The Mayor called for a vote. Councilmember Murrell, Councilmember Bounds, Councilmember Altom, and Mayor Bacon voted AYE. Mayor Pro-Tem Wampler voted NAY. The motion passed 4-1. Councilmember Holmes and Councilmember Choyce were absent.

12. Consider a request from E.F. Products, Inc. regarding approval of a Site Plan for an expansion of their manufacturing plant and for future phases of expansion, being located at 550 W.W.T. Plant Road, and being situated in the D. Falcon Survey, Abstract No. 151, City of Kaufman, Kaufman County, Texas. Case No. S-10-05 (P & Z approval 5-0)

Director of Development of Services Terry Capehart informed the Council that Section 40.3 provides that when an existing approved site plan is amended in such a way as to materially change traffic circulation or existing buildings are enlarged then the site plan must be reconsidered by the Planning and Zoning Commission and City Council for approval.

The amended site plan under consideration is for an expansion of the E F Products manufacturing facility. The first phase will consist of a warehouse storage building of approximately 17,402 square feet to be attached to the existing 78,525 square feet building complex with a new concrete parking lot to accommodate the additional required parking. Phase two will add an additional 16,000 square feet warehouse and a new office of approximately 2,400 square feet.

Section 41.10.B.3.d states: d. Additions:

- (1) The exterior building façade of all new additions to existing structures in the Commercial and Industrial Districts shall comply with the Building Façade Standards requirement herein, or
- (2) The City Council may approve an alternate or other form of architectural design to the additions of structures that existed as of the adoption date of this ordinance, January 12, 2004.

The applicant is requesting that the exterior material to be used for the new warehouse additions be allowed to match the existing extruded metal paneling that is on the existing manufacturing plant, however, the new office addition to be built in Phase 2 will have 100% brick or masonry exterior.

Issues:

2. The new warehouse additions will have fire suppression sprinkler systems installed to meet the Fire Code.

3. Since the Phase 1 addition will not exceed 30% of the original floor space landscaping will not be required, however, Phase 2 will bring the total expansion to 42% therefore, landscaping will be required in Phase 2.

The Planning and Zoning Commission has made the recommendation to the City Council by a vote of 5-0 to approve the proposed site plan.

Mayor Bacon confirmed that the reason we are not taking this item to the Board of Adjustment for a variance for masonry requirements is because the Council can approve an alternative or other form of architectural design to the additions of structures that existed as of the adoption date of a zoning ordinance dated January 12, 2004. under Section 41.10 B. 3.d.

Mayor Bacon asked if the building was close to the Highway 34 realignment. Director of Development of Services Terry Capehart reported that the building would be approximately 1,000 feet from the realignment.

Councilmember Altom moved and seconded by Councilmember Bounds to approve a Site Plan for an expansion of their manufacturing plant and for future phases of expansion, being located at 550 W.W.T. Plant Road, and being situated in the D. Falcon Survey, Abstract No. 151, City of Kaufman, Kaufman County, Texas. Case No. S-10-05. The Mayor called for a vote with all voting AYE, the motion carried. Councilmember Holmes and Councilmember Choyce were absent.

The Council took a break at 7:30 p.m.  
The Council reconvened at 7:44 p.m.

### **BID AWARD**

13. Bid Award – Kaufman Annex Sewer-Phase I, Trunk Sewer and Force Main Improvements (Contract 3).

Director of Public Works Richard Underwood informed the Council the bid documents were prepared and submitted by PBS&J Engineering. A total of 10 bids were received, opened and read aloud Tuesday, August 2, 2005 at 10:00 a.m. PBS&J Engineering reviewed all bids received and have determined that Gin-Spen, Inc. in Kennedale, Texas submitted the most responsible bid for this final phase of the project. PBS&J Engineering recommends awarding this final portion of the project to Gin-Spen, Inc. subject to receiving contingent award authorization by the Texas Water Development Board. The project consists of sewer lines from the Kaufman County Jail under Highway 175 to F.M. 1836 back to the North side of Highway 175 to Fair Road, including four properties on Fair Road. This will eliminate the lift station on Elizabeth Street and



Business Park. The new sewer lines will be installed on Priscilla Lane and C.R. 166. Gin-Spen, Inc. submitted a total bid of \$1,874,720.30 to complete this final phase of the project. PBS&J Engineering originally estimated a total of \$1,975,000 for the final portion of the project. This project is supported by the \$2.455 million C.O. issued in 2002. PBS&J Engineering and City Staff recommend that Council award the bid for the Kaufman Annex Sewer – Phase 1, Contract 3 to Gin-Spen, Inc. in Kennedale, Texas subject to receiving contingent award authorization by the Texas Water Development Board.

Mayor Pro-Tem Wampler moved and seconded by Councilmember Altom to approve awarding the bid for the Kaufman Annex Sewer – Phase 1, Contract 3 to Gin-Spen, Inc. in Kennedale, Texas subject to receiving contingent award authorization by the Texas Water Development Board in the amount of \$1,874,720.30. The Mayor called for a vote with all voting AYE, the motion carried. Councilmember Holmes and Councilmember Choyce were absent.

#### **DISCUSSION/ACTION ITEMS**

14. Consider a request from the Kaufman County Tax Assessor-Collector for the resale of property located off of South Wilson Street described as Part of Block 67, Snow#2, Kaufman County Trustee Property, approximately 3,500 square feet zoned Single Family Attached.

Mayor Bacon reported that Kaufman County Tax Assessor-Collector is asking for the Council to consider approving the resale of property located off of South Wilson Street. The subject property has already been through the Public Auction and did not sale. An individual has provided a bid along with an appraisal value. The property is land locked and the County would like to see the property put back on the Tax Roll. The current amount due to the entities for taxes is \$3,179.00. The bid offer is for \$1,200.00 from Margaret Dillion.

After discussion Councilmember Altom moved and seconded by Councilmember Murrell to approve a request from the Kaufman County Tax Assessor-Collector for the resale of property located off of South Wilson Street described as Part of Block 67, Snow#2, Kaufman County Trustee Property, approximately 3,500 square feet zoned Single Family Attached in the amount of \$1,200.00. The Mayor called for a vote with all voting AYE, the motion carried. Councilmember Holmes and Councilmember Choyce were absent.

15. Consider first reading and approval of Ordinance O-18-05 of the City of Kaufman, Texas amending the Code of Ordinances Chapter 10, Article II, Section 10-35, Alcoholic Beverages – Sales and Purchases – Prohibiting

the Sale of Alcoholic Beverages in Residential Areas; providing a repealer clause; providing for a penalty; providing a severability clause; and providing an effective date.

Interim City Manager Curtis Snow informed the Council that after speaking to our legal counsel, he recommended this ordinance be tabled for further investigation.

Councilmember Bounds moved and seconded by Councilmember Altom to table Ordinance O-18-05. The Mayor called for a vote with all voting AYE, the motion carried. Councilmember Holmes and Councilmember Choyce were absent.

Mayor Pro-Tem Wampler left the meeting at 8:15 p.m.

16. Consider first reading and approval of Ordinance O-19-05 of the City Council of the City of Kaufman, Texas amending the Code of Ordinances Chapter 102 Traffic and Vehicles; Division 2. Parking-Control Zone by amending Section 102-271 Definitions; adding Section 102-280 Authority to immobilize vehicles; redemption fees; Section 102-281 immobilization/impoundment hearing; providing for a penalty clause; providing for a severability clause; repealing all conflicting ordinances; and providing an effective date.

Interim City Manager Curtis Snow informed the Council that at the last regular City Council meeting, Council discussed enforcement of parking in the downtown area. Council wanted Staff to investigate three programs: 1) using a “boot” for vehicles that are not paying their parking tickets, 2) using the collection agency for collecting delinquent parking tickets, and 3) putting the names of people with outstanding parking tickets in the newspaper. Staff did investigate the use of the collection agency for unpaid parking tickets and found there is no problem. The City is submitting all the outstanding tickets to the collection agency. Putting a list of names in the newspaper can be done if the Council so chooses but it may not return the benefit we are expecting. The embarrassment of having your name in the paper for not paying your parking ticket may not hold the significance that not paying your property taxes may have. Also, with the public being aware of the collection agency and the “boot” policy should have the impact of clearing the majority of our outstanding parking tickets.

Interim City Manager Curtis Snow reported to implement the “boot” policy, the Council will have to adopt an ordinance. The ordinance specifies that the Judge issue an Order for a vehicle to be booted. The Police Department has to show the judge that there are more than four parking tickets outstanding for the same vehicle. Once the Order is issued, the

vehicle will be “booted” the next time the vehicle is discovered on public parking. If the owner feels the “boot” is unjustified, the ordinance provides for a hearing officer (the city manager or designee) to determine if all the proper procedures are complied with.

After discussion, Councilmember Altom moved and seconded by Councilmember Bounds to approve first reading of Ordinance O-19-05 of the City Council of the City of Kaufman, Texas amending the Code of Ordinances Chapter 102 Traffic and Vehicles; Division 2. Parking-Control Zone by amending Section 102-271 Definitions; adding Section 102-280 Authority to immobilize vehicles; redemption fees; Section 102-281 immobilization/impoundment hearing; providing for a penalty clause; providing for a severability clause; repealing all conflicting ordinances; and providing an effective date. Mayor Bacon called for a vote. Councilmember Murrell, Councilmember Bounds, Councilmember Altom and Mayor Bacon voted AYE. The motion carried. Councilmember Holmes, Councilmember Choyce and Mayor Pro-Tem Wampler were absent.

17. Consider and give direction to the Zoning Board of Adjustment to institute proceedings to discontinue a non-conforming use located at 2000 West Fair Street (Dallas Crown Packing Company) in the City of Kaufman.

Interim City Manager Curtis Snow reported the residential neighbors surrounding 2000 West Fair, the location of the slaughter plant, recently submitted to the City Council a petition to stop the slaughter operation. Their petition stated that the killing operation was a detriment to the quality of their lives and that they wanted the City to use its authority to give them relief.

The City Council held a work session on the subject of this petition. Staff made a presentation on what authority the City did and did not have. The petition asked the City to take action under Section 18.33 of the City Code. This section provides that when a petition of the majority of the residents within 500 feet of a property declare it a nuisance, the City **must** make the nuisance cease. City Attorney David Dodd advised the Council that this provision of the Code did not allow sufficient “due process” for the City to take such an action.

Staff advised that though the Council should not act upon the above referenced section, there is a provision in the zoning ordinance for a similar cease and desist action that does allow due process. Section 9.9 of the Zoning Ordinance provides that if a non-conforming use is considered a nuisance, the City Council can direct the Zoning Board of Adjustments to consider ceasing the non-conforming use. 2000 West Fair is a non-conforming use.

At the Council work session, Interim City Manager Curtis Snow reported Councilmember Altom expressed some concern over taking any action to stop the slaughter operation without more specific information about to what extent Dallas Crown was having a negative impact to the neighborhood and the community. Since that work session, Staff has been collecting information so the Council can more prudently make a decision. We have visited the area nearly daily to determine if any of the claims of the petitioners have some validity.

Staff has found that except for about a week after the work session, there have been regular nuisance odors in the residential neighborhood. Dallas Crown stores animals regularly on the premises but few of the odors are attributable to the animal pens. Dallas Crown slaughters the animals inside its facility.

TCEQ went into the facility to inspect the premises because of a complaint from neighbors about nuisance odors.

The facts of the matter are that even though Dallas Crown does everything it can to protect the food processing for human consumption, the company is less diligent about ancillary processes for the by-products. What the neighbors are complaining about is Dallas Crown's handling of those parts of the animals that are not for consumption.

Upon slaughter, the by-product parts are conveyed outside the building into uncovered containers with no refrigeration. They are left in these containers until such time as the containers are filled. Then they are removed and another one is put in its place. Some times the containers are filled and removed the same day. Other times these containers can sit for multiple days. Everyday, there is a container sitting outside the Dallas Crown building uncovered, in the sun, with decaying meat lying in the bottom. This decaying meat provides a foul odor and is an attraction for vermin and carrion.

These containers are conveyed off of the property when they become full and go through a portion of the City uncovered and sometimes leaking liquids. This too can be considered a nuisance. Neighbors have also complained that trucks are parking in the neighborhood waiting their turn to off load animals for slaughter.

The Public Works Director prepared a report on how often Dallas Crown violates the pollutant limits of the City's wastewater discharge ordinance. After numerous enforcement processes, whether it being negotiation on discharge limits or court to seek correction, Dallas Crown continually

neglects to perform within the standards required of them and are a nuisance.

The City Council must decide whether the complaints of the neighbors around 2000 West Fair is valid and substantive to warrant any action. The Council should not act using Section 18.33 of the code for eliminating nuisances. The Council does have available Section 9.9 of the Zoning Ordinance to direct the Zoning Board of Adjustment to investigate ceasing a non-conforming use.

If Council finds:

- that the neighbors of 2000 West Fair are suffering a loss in the quality of life that other residents do not suffer;
- that Dallas Crown is letting decaying meat sit outside in the sun without a cover on a regular basis;
- that Dallas Crown causes trucks to come into a residential neighborhood to park while waiting to offload livestock;
- that Dallas Crown is hauling meat by-products through a portion of the City uncovered and at times dripping liquids;
- that Dallas Crown is storing livestock on the premises regularly without the sufficient space required by ordinance; and/or,
- that Dallas Crown regularly violates the City's wastewater discharge limits without remorse;

Then it is Staff's recommendation that the Council direct the Zoning Board of Adjustment hear the case and consider rescinding the non-conforming use at 2000 West Fair.

Ms. Janis Lindsey, 1700 S. Washington, Kaufman spoke in support of closing Dallas Crown Packing. She reported that she could even smell the odor from Washington Street.

Mr. Robert Eldridge, 107 Carver Street, Kaufman, read a statement to the Council as follows: "He reported that he had made a mistake the other evening when he met with the City Council on August 9, 2005, and needed to correct himself. He is not an angry man. He knows this Council is listening to the cries of his neighborhood and most of you are trying to come to terms with your role as Councilmembers. Most of you, like me, want the best for our town. That was wrong. It was wrong because for all these years no one has offered any relief to me or my community for the stress that this Council has placed on us. We have begged, we have complained, and the stench of death continues under our noses and in the sight of our children. As I felt your pain during the meeting, I now ask that you feel ours. Tonight you can do something about it. Tonight you can let the world know, in front of these cameras and reporters, that you care about the citizens of this town more than you

care about the few dollars that you receive from Dallas Crown. I take back that statement and I give you this – do what is right. Close the place down, make them move far away, away from this community, from this town and, as far as we're concerned, away from this country. We won't be quiet until it happens. We will continue to bring this forth – to the TV's, to the activists, to the reporters – we will continue to fight. I am not an angry man, but we refuse to live with the stench of death in our lungs. I care about our community. I ask that you care also.”

Mayor Pro-Tem Wampler reported that on Thursday, August 4<sup>th</sup>, a trailer was on the roadway by Dallas Crown Packing uncovered and the smell was horrendous.

Councilmember Altom commented that it is clear that Dallas Crown is a non-conforming use and we are asking the Board of Adjustment to determine if a nuisance exists. The Council needs to have a fair understanding that we are legally doing the right thing. Councilmember Altom stated there has to be other nonconforming uses in town and that we are using this ordinance provision equally. City Attorney David Dodd reported that the City Council is approving to direct the Zoning Board of Adjustment to institute proceedings regarding the discontinuance or termination of a nonconforming use because of a nuisance to the public due to or created by a condition or use existing on the property. Section 9.9 of the Zoning Ordinance outlines the responsibilities of the Zoning Board of Adjustment to consider specific factors for a nonconforming use. A Public Hearing will be held by the Zoning Board of Adjustment and they will have to hear specific evidence. The decision of the Zoning Board of Adjustment are final, however, any person aggrieved by a decision of the Zoning Board of Adjustment may seek judicial review (District Court). Councilmember Altom expressed his concerns about protecting the citizens by not getting into litigation and he is counting on Staff and Counsel that this has been thought through.

Mayor Bacon commented that we are all treated the same and that we all follow the rules and, if we don't, we don't get away with it indefinitely. She made notice of new testing that had been done from Dallas Crown Packing. We do not have any PH testing information. A company named Certes started the testing (which is not an approved lab by the City) and Dallas Crown Packing is out of compliance the first 3 days. After that it seems pretty good, except this was an uncertified testing. Dallas Crown Packing employees did the testing and they were not handled by the correct chain of custody. Mayor Pro-Tem Wampler commented that we have tried to get Dallas Crown Packing in compliance for years. Councilmember Altom commented that he was not concerned about Dallas Crown, that he was concerned about the City. He is worried about the City. The Mayor referred to the recent testing when the City was

allowed back on the premises to do the testing. The report reflects when they were out of compliance.

Mayor Pro-Tem Wampler moved and seconded by Councilmember Holmes to give direction to the Zoning Board of Adjustment to institute proceedings to discontinue a non-conforming use located at 2000 West Fair Street (Dallas Crown Packing Company) in the City of Kaufman. The Mayor called for a vote with all voting AYE, the motion carried. Councilmember Choyce was absent.

### **APPOINTMENTS**

18. Consider the appointment of Two (2) Members to serve on the Kaufman Zoning Board of Adjustments for a Two (2) Year Term.

Councilmember Altom moved and seconded by Councilmember Murrell to appoint Diane Chiles and Jimmy Reed to serve on the Kaufman Zoning Board of Adjustments for a Two (2) Year Term. The Mayor called for a vote with all voting AYE, the motion carried. Councilmember Choyce, Councilmember Holmes and Mayor Pro-Tem Wampler were absent.

19. Consider the appointment of One (1) Member to serve on the Keep Kaufman Beautiful Board for an unexpired term until March 2007.

Councilmember Bounds moved and seconded by Councilmember Murrell to appoint Janis Lindsey to serve on the Keep Kaufman Beautiful Board for an unexpired term until March 2007. The Mayor called for a vote with all voting AYE, the motion carried. Councilmember Choyce, Councilmember Holmes and Mayor Pro-Tem Wampler were absent.

### **EXECUTIVE SESSION**

Councilmember Murrell moved and seconded by Councilmember Altom to go into Executive Session at 8:32 p.m. The Mayor called for a vote with all voting AYE, the motion carried. Councilmember Choyce, Councilmember Holmes and Mayor Pro-Tem Wampler were absent.

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 551.071 AND SECTION 551.074 PERSONNEL.

1. LEGAL – Under TEX. GOV'T. CODE Sec. 551.071.
  - a. To Consult with City Attorney for issues regarding non-conforming uses.

2. PERSONNEL - Under TEX. GOV'T. CODE Sec. 551.074

- a. Discuss City Manager's position.

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**

The City Council reconvened back into open session at 8:43 p.m.

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

1. LEGAL – Under TEX. GOV'T. CODE Sec. 551.071.  
a. Consider any official action regarding non-conforming uses.

This item was not discussed.

2. PERSONNEL – Under TEX. GOV'T CODE Sec. 551-074.  
a. Consider any official action regarding the City Manager's position.

No action was taken.

**ANNOUNCEMENTS FROM CITY MANAGER.**

No announcements were made by the City Manager.

**REQUEST/COMMENTS FROM MEMBERS OF CITY COUNCIL.**

Councilmember Murrell asked for the monthly reports from the Departments. ACM/City Secretary Jo Ann Talbot informed Council that they had not been



prepared due to an employee's illness.

**ADJOURNMENT.**

Councilmember Bounds moved and seconded by Councilmember Murrell to adjourn the meeting at 8:44 p.m. The Mayor called for a vote with all voting AYE, the motion carried. Councilmember Choyce, Councilmember Holmes and Mayor Pro-Tem Wampler were absent.

**PAULA BACON, MAYOR**

**ATTEST:**

**JO ANN TALBOT, CITY SECRETARY**