

**MINUTES  
REGULAR CITY COUNCIL MEETING  
MONDAY, JUNE 19, 2006 — 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>LONNIE BOUNDS</b>
<b>COUNCILMEMBER</b>	<b>GIL ALTOM JR.</b>
<b>COUNCILMEMBER</b>	<b>FLOYD CHOYCE</b>
<b>COUNCILMEMBER</b>	<b>JEFF COUNCIL</b>
<b>COUNCILMEMBER</b>	<b>WILLIAM FORTNER</b>
<b>COUNCILMEMBER</b>	<b>BARRY RATCLIFFE</b>

**INVOCATION: Councilmember Bounds**

**PLEDGE OF ALLEGIANCE**

**CALL MEETING TO ORDER:** Mayor Bacon called the Meeting to order at 6:02 p.m. Councilmembers present were Mayor Bacon, Councilmember Bounds, Councilmember Altom, Councilmember Choyce, Councilmember Council, Councilmember Fortner and Councilmember Ratcliffe. The Mayor declared a quorum present. Also present were City Attorney David Dodd, City Manager Curtis Snow, City Secretary Jo Ann Talbot, Director of Development of Services Terry Capehart, Director of Public Works Richard Underwood, Director of Finance Cathy Cummins, and Captain Roach.

**SPECIAL RECOGNITION OF SERVICE FOR COUNCILMEMBERS:** Mayor Bacon presented a plaque of appreciation to Stanley Holmes for his service as Councilmember. Janice Murrell and Paula Hagler Wampler were not present.

**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.

There were no citizens' comments.

**CONSENT AGENDA ITEM #1 THROUGH #3**

**“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 May 2, 2006 Work Session and Special City Council Meeting.
2. Consider approval of the Minutes of the May 15, 2006 Regular City Council Meeting.
3. Consider approval of the Minutes of the May 16, 2006 Special City Council Meeting.

Councilmember Bounds moved and seconded by Councilmember Council to approve the Consent Agenda Items 1 through 3. Mayor Bacon called for a vote with all voting AYE, the motion carried.

### **END OF CONSENT AGENDA**

### **PRESENTATIONS**

4. Consider a request from the Friends of the Kaufman County Historical Commission for \$1,908.00 from the Tourism Fund (Hotel/Motel Tax) for promotional advertising costs to attract visitors to the 2006 Archeology Fair being held on September 30<sup>th</sup>.

Ms. Janet Honeycutt, 9040 C.R. 304, Terrell and Ms. Jean Ann Ables-Flatt, 209 Brokenhollow Drive, Terrell informed the Council that the Kaufman County Historical Commission was holding the 2006 Archeology Fair on September 30, 2006 at the Kaufman County Poor Farm, located off Highway 34 South and F.M. 1388. Ms. Honeycutt explained that last year the Kaufman's Tourism Fund contributed \$500.00 to promote the event. Ms. Honeycutt was requesting \$1,908.00 for this year. The funds would cover the cost to rent a billboard and the materials in Seagoville for the advertisement of the Archeology Fair. Ms. Honeycutt gave a brief overview of events for the Fair. She reported that she knew of 31 people who had made reservations to stay in Kaufman for the event.

City Manager Curtis Snow reported that the City collects approximately \$36,000.00 in Hotel/Motel Tax each year. The City supports non-profit activity that will draw visitors to the community. In the past, the City has used funds to sponsor trophies for a large statewide basketball tournament held over the Christmas holidays. The City is looking to use funds to support a spring or summer car show that will bring car enthusiasts to the community. Approximately \$15,500.00 of the Hotel/Motel funds has been budgeted to organize and promote the Caboodle Festival this fall. Mr. Snow commented that this particular request is somewhat high and considerably higher than what was requested last year. Staff recommends funding the event at the same

level as last year and offer a challenge grant to match dollar for dollar any funds donated for this effort, up to \$1,300.00.

Councilmember Council moved and seconded by Councilmember Choyce to approve a request from the Friends of the Kaufman County Historical Commission for \$500.00 and challenge them to match dollar for dollar up to a total from the City of \$1,300.00 to be paid from the Tourism Fund (Hotel/Motel Tax) for promotional advertising costs to attract visitors to the 2006 Archeology Fair being held on September 30<sup>th</sup>. Mayor Bacon called for a vote with all voting AYE, the motion carried.

## **PLANNING AND ZONING**

5. Consider a request from Harbinder Singh Mahli, regarding a zoning change on a single tract of land totaling 12,354 square feet (0.2836 acre) from existing Single-Family-6 Residential District to Retail (R) District; generally located on the northeast corner of West Grove Street and Clay Street at 401 W. Grove Street, being described as part of Block 27 of the Original Town of Kaufman Addition described in a deed recorded in Volume 1277, Page 236 of the Deed Records of Kaufman County, City of Kaufman, Kaufman County, Texas. Case No. Z-01-06

- a. Conduct Public Hearing

Mayor Bacon declared the Public Hearing open a 6:12 p.m.

There being no comments Mayor Bacon closed the Public Hearing at 6:13 p.m.

- b. Consider first reading and approval of Ordinance O-04-06 to rezone a single tract of land totaling 12,354 square feet as requested by Harbinder Singh Mahli.

Director of Development of Services Terry Capehart informed the Council that the applicant's original zoning change request was from Single-Family 6 Residential District (SF-6) to Commercial (C) District in order to accommodate a self service coin laundry utilizing the existing brick building located on the site. The Planning and Zoning Commission, at the April 3, 2006 Regular Meeting had made the recommendation to the City Council by a vote of 5-0 to approve the proposed zoning change request with the following stipulations:

1. A solid masonry screen wall 6 feet tall (measuring the height from the level of the adjacent residential lots) to be constructed

along the property line separating the proposed retail use from the residential properties.

2. Business hours are to be restricted from 6 a.m. to 10 p.m.
3. Security lighting is to be directed in such a way that the glare does not shine on adjacent residential properties.

The subject lot was originally zoned as General Business (GB) in 1980 and was subsequently rezoned to Single-Family 6 (SF-6) in 1999 when the current city-wide Zoning Ordinance was adopted even though the 1999 Comprehensive Plan indicated that the lot was to be developed for Retail Uses. It appears that the re-zoning to Single-Family 6 was done in error when the Zoning Map was drawn up by the consulting firm and is in fact in conflict with State Law, which states that Zoning Regulations must be adopted in accordance with the Comprehensive Plan (Texas Local Government Code Ch. 214).

The current Commercial (C) District zoning in the vicinity was also discovered to be in conflict with the Comprehensive Land Use Map. When this case was considered by the City Council on April 17, 2006, the decision was made to remand the case back to the Planning and Zoning Commission to consider making a correction to the Zoning Map to remove the conflicts. The adjacent areas were considered separately as a request by the City to make the map corrections and the applicant left this case as a stand-alone request.

The lot was originally developed for nonresidential uses and the existing buildings are commercial in nature. Since the building faces towards the Central Business District and State Highway 243, this lot would not lend itself very well to residential uses and indeed would not be safe for a family with younger children to occupy this location.

**Issues:**

1. The adjacent properties that surround the subject property are all single-family residential houses. However, the subject property is approximately four feet lower in elevation than the surrounding residential homes and is screened from the adjacent residential properties by a 3-4 feet tall concrete retaining wall which has almost a solid screen of vegetation just above the wall and a six feet tall stockade fence behind the vegetation for a partial screen of about ten feet.
2. The applicant is requesting that approval of the Concept Plan be considered an approved Site Plan.

3. Primary access to the subject property will be from Grove Street with secondary access along Clay Street.
4. Section 7.5.E states that a nonconforming building may be reoccupied by a conforming use even though the site does not meet area requirements or development standards. If the zoning change were approved, then this provision would apply since the proposed use would then be a conforming use. One of the lot dimensions (i.e. 90' vs. 100') does not meet the current minimum as well as provisions for landscaping both of which are exempted from the current regulations by State Law (Ch. 245 LGC).

Public Comment Forms were mailed to fifteen (15) property owners within 300 feet of this request. Two Comment Forms had been returned at the time of the original hearing in April with one in favor of the request and the other against the request. An additional eight (8) comment forms were returned when a second notice was sent out for the new hearing with six (6) in favor of the request and two (2) against the request for a total of seven (7) citizens in favor and three (3) against.

The Planning and Zoning Commission has made the recommendation to the City Council by a vote of 5-0 to approve the proposed zoning changes with the following stipulations:

1. A solid masonry screen wall 6 feet tall (measuring the height from the level of the adjacent residential lots) to be constructed along the property line separating the proposed retail use from the residential properties.
2. Business hours are to be restricted from 6 a.m. to 10 p.m.
3. Security lighting is to be directed in such a way that the glare does not shine on adjacent residential properties.

Councilmember Fortner moved and seconded by Councilmember Council to approve the first reading of Ordinance O-04-06 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 Classifications on a single tract of land totaling 12,354 square feet (00.2836 Acre) from existing Single-Family-6 Residential District to Retail (R) District; generally located on the northeast corner of West Grove Street and Clay Street at 401 W. Grove Street, being described as part of block 27 of the Original Town of Kaufman Addition described in a deed recorded in Volume 1277, Page 236 of the deed records of Kaufman County, City of Kaufman, Texas; and providing for a penalty clause, providing a severability clause, a savings clause, and an effective

date and to include the following stipulation: (1) A solid masonry screen wall 6 feet tall (measuring the height from the level of the adjacent residential lots) to be constructed along the property line separating the proposed retail use from the residential properties. (2) Business hours are to be restricted from 6 a.m. to 10 p.m. (3) Security lighting is to be directed in such a way that the glare does not shine on adjacent residential properties. Mayor Bacon called for a vote with all voting AYE, the motion carried.

6. Consider a request from T.G. Oak Bend Developers, L.P., regarding zoning changes on two (2) tracts of land totaling 4.519 acres from existing Retail (R) District on Tract 1, being a 0.662 acre parcel of land to Single-Family 6 (SF-6) District and from existing Light Industrial (LI) District on Tract 2, being a 3.857 acre parcel of land to Single-Family 6 (SF-6) District; generally located south of State Highway 175 and west of Fair Road, and being described as a part of that certain called 46.75 acres, Second tract of land conveyed to Bob H. Fickett and Walter W. Ditzler as recorded in Volume 442, Page 477 of the Deed Records of Kaufman County, and being situated in the D. Falcon Survey, Abstract No. 151, City of Kaufman, Kaufman County, Texas. Case No. Z-03-06

- a. Conduct Public Hearing

Mayor Bacon declared the Public Hearing open at 6:20 p.m.

Mr. Roy Gene Gardner, Developer, 1460 C.R. 280, Kaufman and Brian Chambers, Developer, 6652 F.M. 1388, Kaufman, informed the Council that they had met with larger developers and that the proposed rezoning of the land would make the area more visible and attractive. It would add an additional 18 residential lots and an additional point of access into the subdivision.

Mayor Bacon declared the Public Hearing closed at 6:22 p.m.

- b. Consider first reading and approval of Ordinance O-06-06 to rezone two (2) tracts of land as requested by T. G. Oak Bend Developers, L.P.

Director of Development of Services Terry Capehart informed the Council that the applicant is requesting a change in zoning on two (2) tracts of land totaling 4.519 acres from existing Retail (R) District on Tract 1, being a 0.662 acre parcel of land to Single-Family 6 (SF-6) District and from existing Light Industrial (LI) District on Tract 2, being a 3.857 acre parcel of land to Single-Family 6 (SF-6) District in order to develop part of a master planned community called Fair Oaks. The site is generally located south of State Highway 175 and west of Fair Road and the two subject

tracts were part of a larger 53.133 acre parcel of land that was rezoned from Highway Commercial (HC) into 27.545 acres of Single-Family 6 (SF-6), 7.753 acres of Retail (R), 10.0 acres of Multi-Family 2 (MF-2), and 7.835 acres of Light Industrial (LI) zoning in October, 2005. The current proposal is to reduce the 7.835 acre Light Industrial tract by 3.857 acres and reduce the Retail tract by 0.662 acre and rezone these two parcels totaling 4.519 acres to Single-Family 6 in order to accommodate an additional point of access into the subdivision. The additional Single-Family 6 zoning will bring the lot count from the current 122 lots to a new total of 140 lots or 18 additional lots.

**Issues:**

1. The applicant is proposing to construct a masonry screening wall between the residential properties along the portion that abuts the proposed Retail lot and Light Industrial lot as well as the rear of the adjacent trucking company which abuts about 3 or 4 lots and the remaining residential properties will have a 6 feet tall privacy fence with a living screen of landscaping to provide additional buffering.
2. The new divided access drive will split the Retail (R) tract located at the intersection of SH 175 and Fair Road and will provide better access to the convenience store and several pad sites for restaurants or other small retail shops as well as provide a more formal entry feature for the residential development.
3. The concept plan illustrates the lot and street layout long with contours showing drainage patterns and the applicant is requesting that approval of the concept plan be considered as the approved preliminary plat. Final plats with final engineering will subsequently be submitted for the single-family residential tract and final plats and site plans will be submitted for all multi-family and nonresidential lots for review and approval.

Public Comment Forms were mailed to twenty-seven (27) property owners within 300 feet of this request. One verbal response had been received at the time of posting of the Agenda stating they had no objection to the request and one written comment form was returned objecting to the request.

The Planning and Zoning Commission has made the recommendation to the City Council by a vote of 4-0 to approve the proposed zoning change request.

Councilmember Fortner opposed a subdivision development without a park plan. City Manager Curtis Snow reported that the subdivision regulations did not require for parks or green space in a subdivision. Mr. Snow commented that the City Council could discuss this subject at the Council retreat. Mayor Bacon also mentioned that a Neighborhood Association could be formed to develop green space. Mr. Roy Gene Gardner reported that they had more land to develop in the area and did not oppose to green space and would come with future development.

After discussion, Councilmember Choyce moved and seconded by Councilmember Council to approve the first reading of Ordinance O-06-06 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 Classifications on two (2) tracts of land totaling 4.519 acres from Retail ® District to Single-Family 6 (SF-6) District on Tract 1, being a 0.622 acre parcel of land; and from Light Industrial (LI) District to Single-Family 6 (SF-6) District on Tract 2, being a 3.857 acre parcel of land; generally located South of State Highway 175 and West of Fair Road, and being described as a part of that certain called 46.75 acre, second Tract of land conveyed to Bob H. Fickett and Walter W. Ditzler as recorded in Volume 442, Page 477 of the deed records of Kaufman County, and being situated in the D. Falcon Survey, Abstract No. 151, City of Kaufman, Kaufman County, Texas; and providing for a penalty Clause, Providing a Severability Clause, a Savings Clause, and an Effective Date. Mayor Bacon called for a vote with all voting AYE, the motion carried.

7. Discuss revisions to Sections 12-21 (Residential Districts) of the Zoning Ordinance O-14-99 as recommended by the Planning and Zoning Commission.

Director of Development of Services Terry Capehart informed the Council that the draft text revisions to the Zoning Ordinance were recommended to the Planning and Zoning Commission by the ZO/CP Steering Committee on February 16, 2006 and Sections 12-21 were subsequently discussed at a Work Session and a Public Hearing conducted at the April 3, 2006 regular Planning and Zoning Commission meeting and by a vote of 5-0 at the June 12, 2006 Special Planning and Zoning Meeting has made the recommendation to approve the text amendments. The following are highlights of the proposed revisions as recommended by the Planning and Zoning Commission:



SECTION 12 – ZONING DISTRICTS ESTABLISHED – Combination of the Patio Homes (SF PH), Duplex (2F) and Single-family Attached (SFA) into a single Townhouse (TH) district. Eliminated Manufactured (Mobile) Home Overlay District. Added Washington Street Corridor to list of districts. Relocated tables and drawings from the Appendix and placed them in the appropriate Sections where referenced.

SECTION 13 – AGRICULTURE/OPEN (AO) – Added setback requirement for barns used to house large animals (13.2.A.5.b). Added 13.4.B.4 accessory building criteria. Increased minimum house size from 800 sq. ft. to 2,000 sq. ft. (13.4.E). Removed reference to carport because parking requirement calls for 2 enclosed spaces. (13.5.D)

Changed fence height for swimming pools to agree with International Building Codes – taller fences obscure vision so responsible persons cannot see if anyone is in the pool. (this change was applied to all residential districts)

SECTION 14 – SINGLE-FAMILY ESTATE RESIDENTIAL-20 (SF-20) – Added home occupations to permitted uses (14.2.6). Changed minimum lot width to 100 ft from 110 ft. (14.4.A.2). Other changes (i.e. swimming pools, accessory buildings and carports) are the same in each residential district as appropriate.

SECTION 15 – SINGLE-FAMILY RESIDENTIAL 10 (SF-10) – Changed minimum lot depth to 125 ft from 110 ft. (15.4.A.3) Added setback for “key” lots (15.4.B.2)

SECTION 16 – SINGLE-FAMILY RESIDENTIAL 8 (SF-8) – Same changes as in previous sections.

SECTION 17 – SINGLE-FAMILY RESIDENTIAL 6 (SF-6) – Combined SF-6 and SF-6A into a single district by combining parking requirements to allow for one car garages and carports on infill lots platted prior to May 13, 2002 per Ordinances O-04-01 and O-15-02 (17.4.D)

SECTION 18 – TOWNHOUSE RESIDENTIAL (TH) – PATIO HOMES, SINGLE-FAMILY ATTACHED, TWO-FAMILY DUPLEX OR GARDEN HOMES – Combined three districts into a single district for

consistency and flexibility for medium density single-family developments.

SECTION 19 – MULTI-FAMILY RESIDENTIAL 1 (MF-1) TRIPLEX - QUADRIPLEX - Changed minimum sq ft per dwelling unit from 3,600 sq ft to 3,000 sq ft and minimum lot size from 7,200 sq ft to 9,000 sq ft. (3 x 3,000 for triplex) (19.4.A.1) and changed minimum lot width to 90 ft to reflect above changes. Maximum number of units should have read: “No more than four (4) units per structure.” (19.4.A.4) Included safety issue of lockouts on trash compactors if applicable. (19.5.B)

SECTION 20 – MULTI-FAMILY RESIDENTIAL 2 (MF-2) – Reduced maximum density from 30 units to 24 units per acre. (20.1) Changed definition of MF-2 to any building with more than 4 dwelling units. (20.2.A.2) Changed area per dwelling unit to 1,800 sq ft per dwelling unit (24 units per acre) and minimum lot area to 1 acre (20.4.A.1)

SECTION 21 – MANUFACTURED (MOBILE) HOME DISTRICT – Included setbacks for garages and carports (21.2.A.8.c) Changed minimum side yard from 5 feet to 10 feet. (21.3.B.2) Changed minimum lot area from 3,000 sq ft to 4,500 sq ft and minimum lot width from 30 ft to 45 feet (i.e. minimum unit width 25 ft plus 2-10 ft sideyards = 45 ft) (21.3.C.1&2) Increased minimum floor area from 800 sq ft (single-wide) to 1,000 sq ft (double-wide) (21.3.D) Included Development Standards (21.3.E) Added parking specifications (21.3.G) Eliminated single lot subdivision which would be considered spot zoning. (21.3.H)

Mayor Bacon commented that in Section 14 Single-Family Estate Residential –20 Staff added home occupations to be permitted uses. Mayor Bacon suggested to remove this statement in all areas of the residential section and recommended that it be included in the use tables.

Councilmember Choyce left the meeting at 7:00 p.m.

Mr. Capehart informed the Council that Staff would seek approval on Sections 12-21 Residential Districts at the July meeting.

8. Conduct a Public Hearing and take citizens comments on proposed revisions to Sections 12-21 of the Zoning Ordinance O-14-99.

Mayor Bacon declared the Public Hearing open at 7:16 p.m.

There being no comments, Mayor Bacon declared the Public Hearing closed at 7:16 p.m.

9. Consider approval of final revisions to Sections 1-11 of the Zoning Ordinance O-14-99.

Director of Development of Services Terry Capehart informed the Council that the final draft text revisions to the Zoning Ordinance were recommended to the Planning and Zoning Commission by the ZO/CP Steering Committee on February 16, 2006 and Sections 1-11 were subsequently discussed at a Work Session and a Public Hearing conducted at the March 6, 2006 regular Planning and Zoning Commission meeting. The City Council conducted a Work Session and Public Hearing on May 15, 2006. The following are highlights of the proposed revisions updated from the previous meetings:

SECTION 1 – ENACTING PROVISIONS - Inclusion of the Building and Standards Commission in the Enacting Clause – highlighted areas where dates and ordinance numbers will need to be updated upon final adoption of the new ordinance.

SECTION 2 – PURPOSE - No changes.

SECTION 3 – ZONING DISTRICT MAP - Change “City Planner” to read “Director of Development Services” here and throughout ordinance.

SECTION 4 – ZONING DISTRICT BOUNDARIES - Updates of dates and ordinance number changes only.

SECTION 5 – COMPLIANCE REQUIRED - Parks and Recreation projects may be required to adhere to the park design standards contained in the “Time-Saver Standards for Landscape Architects” in lieu of specific Development Standards where appropriate to ensure the highest level of quality and safety.

SECTION 6 – ZONING UPON ANNEXATION - Same as Section 3.

SECTION 7 – PENALTIES AND NONCONFORMITIES - Originally Chapter VI Sections 46 – 49 (combined into one section and moved to Chapter I with the other enacting clauses)

SECTION 8 – PLANNING AND ZONING COMMISSION - Changed vote to approve any motion by P&Z from simple majority to a quorum vote also require conflicts of interests to be recorded in the minutes.

SECTION 9 – ZONING BOARD OF ADJUSTMENTS – Changed number of alternates from “shall” be up to 4 to “may” be up to 4. Added

restrictions to Board's authority to modify PD's in addition to SUP's. Added Buildings and Standards subsections per Ordinance O-05-05.

SECTION 10 – ZONING CHANGES – Subsection 10.3 – added paragraphs B and C to include reference to Comprehensive Plan and presubmittal meetings with staff prior to submitting application. Clarified language of noticing requirements for public hearings. Subsection 10.8 – included reference to Charter requirements for 2 readings.

SECTION 11 – CERTIFICATES OF OCCUPANCY – revised text to accurately reflect the language of the Life Safety Ordinances and International Building Codes as adopted.

The Planning and Zoning Commission has made a recommendation to approve the proposed revisions by a vote of 4-0.

After discussion, Councilmember Altom moved and seconded to approve the final revisions to Sections 1-11 of the Zoning Ordinance O-14-99. Mayor Bacon called for a vote with all voting AYE, the motion carried. Councilmember Choyce was absent.

### **DISCUSSION/ACTION ITEMS**

10. Consider Approval and Authorize The City Manager To Enter Into An Agreement With Carter & Burgess Engineering For Engineering Services For The CWSRF Kaufman Annex Sewer Phase II Project.

City Manager Curtis Snow informed the Council that the City requested RFP's for Engineering Services for the Kaufman Annex Sewer Phase II project. This project includes new gravity sewer mains on Hwy 175 East and FM 1836, replacement of the Alton Street Lift Station, replacement of gravity sewer main on Lewis Drive and Clay Street, and if funds allow, the replacement of the Shannon Street Sewer Lift Station.

A total of six (6) firms submitted proposals. City Staff carefully reviewed all proposals submitted and determined that Carter & Burgess Engineering submitted the most responsible proposal.

Carter & Burgess Engineering submitted a proposal in a lump sum amount of \$140,300. The original engineering estimate for this project was \$219,280. A total of \$71,375.50 was expended for this project prior to disannexation. Therefore, a total of \$147,904.50 remains to complete the engineering for this project.

Councilmember Bounds moved and seconded by Councilmember Fortner to authorize the City Manager to enter into an agreement for services with

Carter & Burgess Engineering to provide engineering services for the Kaufman Annex Sewer Phase II CWSRF project for the lump sum amount of \$140,300. Mayor Bacon called for a vote with all voting AYE, the motion carried. Councilmember Choyce was absent.

11. Consider adoption of Ordinance O-07-06 amending the Drought Contingency Plan for the City of Kaufman, Texas by adding a Water Rate Structure during Drought Conditions; and amending the Code of Ordinances of the City of Kaufman, Texas Chapter 106 Utilities; Section 106.7 by adding paragraph (1) Water Rate Structure During Drought Conditions; providing a Severability Clause; providing a Repealing Clause; providing for a penalty not to exceed Two Thousand Dollars (\$2,000) for each offense; and providing for an effective date.

City Manager Curtis Snow informed the Council that North Texas Municipal Water District (NTMWD) had initiated Stage 3 of the NTMWD Water Conservation and Drought Contingency Plan effective June 1, 2006. Stage 3 is considered SEVERE. NTMWD feels it is necessary to initiate Stage 3 because of the extreme drought conditions in the service area and water sheds of the supply reservoirs. Even though NTMWD has implemented increased water conservation measures in the first quarter of 2006 by going to Stage 2, water consumption has continued to rise and drought conditions continue.

The City of Kaufman is a customer of NTMWD and is required to enforce the conservation measures called for in the Water District's Plan and the City's Water Conservation and Drought Contingency Plan. Therefore, the City of Kaufman is imposing Stage 3, which includes water use restrictions as of June 1, 2006.

NTMWD and the City of Kaufman are attempting to reduce water consumption by 5%. All residents and businesses are being asked to comply with these new regulations and seek other ways to reduce consumption. Citizen cooperation will avert NTMWD's need to initiate Stage 4 requirements.

The NTMWD conservation plan requires customers to implement a water surcharge. The current City of Kaufman Drought Contingency plan requires a 10% surcharge on all customers using more than 4,000 gallons per month (normal residential usage). At this time, the NTMWD is strongly recommending a 25% to 50% rate increase for usages above 10,000 gallons. Outlined below is proposed in Ordinance O-07-06 that implements a water rate structure for Stage 3 and Stage 4 during the drought period.

**Number of Gallons**

**Residential for Stage 3**

First 1,000 minimum	\$7.78
1,001 - 4,000	\$2.63 per 1,000 gallons
4,001 - 10,000	\$2.89 per 1,000 gallons <b>(10%)</b>
10,001- 20,000	\$3.29 per 1,000 gallons <b>(25%)</b>
over 20,000	\$3.95 per 1,000 gallons <b>(50%)</b>

**Number of Gallons**

**Residential for Stage 4**

First 1,000 minimum	\$7.78
1,001 - 4,000	\$2.63 per 1,000 gallons
4,001 - 10,000	\$3.29 per 1,000 gallons <b>(25%)</b>
10,001 -20,000	\$3.95 per 1,000 gallons <b>(50%)</b>
over 20,000	\$4.60 per 1,000 gallons <b>(75%)</b>

The rate schedule applies to residential use only to be effective July 2006.

Ms. Karen Park, 1418 Chancellor, Kaufman reported that the City of Crandall's average residential user is approximately 9,000 gallons. She reported that if the City increased water rates for residents that use over 4,000 gallons it would be hurting the lower income citizens. NTMWD recommends a water rate increase for residents that use over 10,000 gallons.

Ms. Deborah Oliver, 1206 Austin Drive, Kaufman reported that by reducing outside watering that it should reduce the water consumption by 5% and the City should not impose a water rate increase.

Councilmember Bounds commented that the City should better educate the citizens to conserve water usage.

Mayor Bacon commented that all citizens should participate in a water rate increase if they use over 4,000 gallons.

Director of Finance Cathy Cummins reported that Staff calculated the residential customers actual water usage from last year and 50% of the residents use 7,000 gallons per month.

City Manager Curtis Snow reported that the City has sent flyers to all the residents on the new watering restrictions, posted the information on the Web Site and to the local newspaper informing the citizens.

Councilmember Altom moved to adopt an Ordinance with a residential water rate increase of 25% over 10,000 gallons. After discussion,

Councilmember Altom withdrew his motion to table this item until next month.

Councilmember Fortner moved to adopt an Ordinance with a residential water rate increase of 25% over 10,000 gallons. The motion died due to lack of a second. After further deliberation, Mayor Bacon called upon the Council to vote on Ordinance O-07-06 as written. Councilmember Bounds, Councilmember Altom, and Councilmember Ratcliffe voting NAY. Councilmember Council, Councilmember Fortner and Mayor Bacon voting AYE. Councilmember Choyce was absent. The motion failed due to a tie vote.

12. Consider a request from Terrell Chamber of Commerce to make a contribution to the Kaufman County Veteran's Memorial from the Tourism Fund (Hotel/Motel Tax).

City Manager Curtis Snow informed the Council that the Veteran's Memorial project began over two years ago. They borrowed approximately \$25,000 to complete the project. Funds were raised through donations that covered all costs but \$8,000.00. The Veterans group involved are asking local institutions to help them make up the short fall. American National Bank and the Chamber of Commerce have already agreed to contribute funds. They are now asking the City for a \$2,000 contribution from the Tourism Fund. It is believed that the Memorial has already demonstrated its impact on attracting people to our community.

The Tourism Fund has a balance of approximately \$47,640.00. Approximately \$16,000 is obligated for the Fall Kaboodle Festival and \$4,000.00 for a digital film being made for Kaufman. This leaves a balance of \$27,640.00.

After discussion, Councilmember Bounds moved and seconded by Councilmember Ratcliffe to approve the \$2,000.00 contribution to the Kaufman County Veteran's Memorial from the Tourism Fund. Mayor Bacon called for a vote with all voting AYE, the motion carried. Councilmember Choyce was absent.

13. Consider approval of Resolution R-11-06 of the City of Kaufman, Texas denying Atmos Energy Corp., Mid-Tex Division's statement of intent to increase the Gas Utility Rates in this municipality; supporting the reduction of existing natural gas distribution rates currently charged by Atmos Mid-Tex within the City; ordering Atmos Mid-Tex to reimburse the city for its reasonable costs incurred in ratemaking proceedings or appeals of said proceedings; authorizing the Atmos Cities Steering Committee to act on behalf of city and intervene in any proceedings before administrative or judicial bodies; requiring delivery of this resolution to the company and

legal counsel; and finding that the meeting at which this resolution is adopted is open to the public as required by law.

City Manager Curtis Snow gave the Council an update on Atmos Energy Corp., Mid-Texas gas rate increase. After the update, Councilmember Council moved and seconded by Councilmember Altom to approve Resolution R-11-06 of the City of Kaufman, Texas denying Atmos Energy Corp., Mid-Tex Division's statement of intent to increase the Gas Utility Rates in this municipality; supporting the reduction of existing natural gas distribution rates currently charged by Atmos Mid-Tex within the City; ordering Atmos Mid-Tex to reimburse the city for its reasonable costs incurred in ratemaking proceedings or appeals of said proceedings; authorizing the Atmos Cities Steering Committee to act on behalf of city and intervene in any proceedings before administrative or judicial bodies; requiring delivery of this resolution to the company and legal counsel; and finding that the meeting at which this resolution is adopted is open to the public as required by law. Mayor Bacon called for a vote with all voting AYE, the motion carried. Councilmember Choyce was absent.

14. Consider adoption of Ordinance O-08-06 of the City of Kaufman, Texas, denying the request of Atmos Energy Corp., Mid-Tex Division, for an annual gas reliability infrastructure program (GRIP) rate increase in this municipality, as a part of the company's statewide gas utility distribution system; approving cooperation with other cities within the Atmos Energy Corp., Mid-Tex Division distribution system as part of the Atmos Cities Steering Committee (ACSC); authorizing ACSC to hire legal and consulting services and to negotiate with the company and direct any necessary litigation; authorizing intervention as part of ACSC in any appeal of the City's Action to the Railroad Commission; providing a requirement for a prompt reimbursement of costs incurred by the city; finding that the meeting at which this ordinance is passed is open to the public as required by law; and providing for notice of this ordinance to Atmos Energy Corp., Mid-Tex Division.

Councilmember Council moved and seconded by Councilmember Bounds to adopt Ordinance O-08-06 of the City of Kaufman, Texas, denying the request of Atmos Energy Corp., Mid-Tex Division, for an annual gas reliability infrastructure program (GRIP) rate increase in this municipality, as a part of the company's statewide gas utility distribution system; approving cooperation with other cities within the Atmos Energy Corp., Mid-Tex Division distribution system as part of the Atmos Cities Steering Committee (ACSC); authorizing ACSC to hire legal and consulting services and to negotiate with the company and direct any necessary litigation; authorizing intervention as part of ACSC in any appeal of the City's Action to the Railroad Commission; providing a requirement for a prompt reimbursement of costs incurred by the city; finding that the meeting at which this ordinance is passed is open to the public as required by law; and providing for notice of this ordinance to Atmos Energy Corp.,



Mid-Tex Division. Mayor Bacon called for a vote with all voting AYE, the motion carried. Councilmember Choyce was absent.

15. Consider approval of Resolution R-12-06 of the City of Kaufman, Texas, authorizing the Cities Aggregation Power Project, Inc. to negotiate an Electric Supply Agreement for deliveries of electricity effective January 1, 2007; 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 Electric Supply Agreement for deliveries of electricity effective January 1, 2007; and committing to budget for energy purchases in 2007 and 2008 and to honor the City of Kaufman's commitments to purchase power for its electrical needs in 2007 and 2008 through CAPP.

Councilmember Altom moved and seconded by Councilmember Council to adopt Resolution R-12-06 of the City of Kaufman, Texas, authorizing the Cities Aggregation Power Project, Inc. to negotiate an Electric Supply Agreement for deliveries of electricity effective January 1, 2007; 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 Electric Supply Agreement for deliveries of electricity effective January 1, 2007; and committing to budget for energy purchases in 2007 and 2008 and to honor the City of Kaufman's commitments to purchase power for its electrical needs in 2007 and 2008 through CAPP. Mayor Bacon called for a vote with all voting AYE, the motion carried. Councilmember Choyce was absent.

## **APPOINTMENTS**

16. Consider the appointment of Mayor Pro-Tem for the Kaufman City Council.

Councilmember Altom nominated Councilmember Bounds to be appointed Mayor Pro-Tem for the Kaufman City Council. There being no other nominations Councilmember Bounds was appointed Mayor Pro-Tem by acclamation. Councilmember Choyce was absent.

17. Consider the appointment of three (3) members to the Park and Recreation Board for an unexpired term.

Councilmember Council moved and seconded by Councilmember Ratcliffe to appoint Scott Andrews and De Lois Stalusky to serve on the Park and Recreation Board for an unexpired term through March 2007. The Mayor called for a vote with all voting AYE, the motion carried. Councilmember Choyce was absent.

The City Council recessed the meeting at 8:39 p.m.

The City Council reconvened the meeting at 8:43 p.m.

The City Council went into Executive Session at 8:43 p.m.

**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 551.071 LEGAL.

1. LEGAL - Under TEX. GOV'T. CODE Sec. 551.071
  - a. Consult with City Attorney regarding an update on pending litigation.

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 went out of Executive Session at 8:56 p.m.

**END OF EXECUTIVE SESSION**

18. CONSIDER ANY OFFICIAL ACTION ON THE EXECUTIVE SESSION CLOSED MEETING ITEMS:
  1. LEGAL – Under TEX. GOV'T CODE Sec. 551-071.  
  
Legal – pending litigation  
  
No action taken.

**ANNOUNCEMENTS FROM CITY MANAGER.**

1. City Council Retreat - City Manager Curtis Snow reminded the Council of the Retreat scheduled for Friday, July 7, 2006 and Saturday July 8, 2006.

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

Mayor Pro-Tem Bounds reported that brush needed to be picked up on Jackson Street.

Mayor Pro-Tem Bounds inquired about Food Inspections regarding several restaurant scores and the meaning of the scores. City Manager Curtis Snow reported that he would get an explanation on the scores.

Councilmember Fortner informed the Council that he has performed the City's pre-employment physicals and workers' compensation injuries for a long time and would still like to continue if at all possible. Staff will verify that no conflicts of interest exist.

Councilmember Fortner commented he would like to see a Farmers Market in town. City Manager Curtis Snow reported that the Council could talk about this subject at the Retreat.

**ADJOURNMENT.**

There being no further business, Councilmember Council moved and seconded by Councilmember Ratcliffe to adjourn the meeting at 9:05 p.m. The Mayor called for a vote with all voting AYE, the motion carried.

**PAULA BACON, MAYOR**

**ATTEST:**

**JO ANN TALBOT, CITY SECRETARY**