

**MINUTES OF THE
REGULAR CITY COUNCIL MEETING
TUESDAY, FEBRUARY 21, 2006 — 6:00 P.M.
CITY HALL, 209 S. WASHINGTON, KAUFMAN, TEXAS**

CITY COUNCILMEMBERS

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

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, Mayor Pro-Tem Wampler, Councilmember Altom, Councilmember Bounds, Councilmember Choyce, Councilmember Holmes and Councilmember Murrell. The Mayor declared a quorum present. Also present were City Attorney David Dodd, City Manager Curtis Snow, City Secretary Jo Ann Talbot, Captain Randy Roach, Director of Development of Services Terry Capehart and Director of Finance Cathy Cummins.

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.

Citizens made no comments.

CONSENT AGENDA ITEM #1 THROUGH #2

“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 January 17, 2006 Regular City Council Meeting.
2. Consider approval of Resolution R-01-06 of the City Council of the City of Kaufman, Texas authorizing the City Manager to execute an Agreement with Humane Society of Cedar Creek Lake, Inc. for Public Animal Shelter Services.

Councilmember Murrell moved and seconded by Councilmember Choyce to approve the Consent Agenda. Mayor Bacon called for a vote with all voting AYE, the motion carries.

END OF CONSENT AGENDA

PLANNING AND ZONING ITEMS

3. Consider a request from KASE Ventures, L.P., regarding a Final Plat for a new apartment complex, being a replat of 8.217 acres of land known as Lot 1, Block A of the Vista at Five Points Addition (to be vacated by this plat) and also being all of a certain 2.783 acre tract of land, to be known as Lot 1A (5.9593 acres) and Lot 2A (5.0407 acres), Block A, Five Points Addition for a total of 11.00 acres of land, as recorded in Volume 2734, Page 344 of the Deed Records of Kaufman County, Texas, generally located at the northwest corner of State Highway 34 and Five Points Drive, and being situated in the D. Falcon Survey, Abstract No. 151, City of Kaufman, Kaufman County, Texas. Case No. P-01-06. (P & Z Approval 4-0)

Director of Development of Services Terry Capehart informed the Council that the Final Plat under consideration is a replat of the existing 8.787 acre Vista at Five Points Addition in which an additional 2.213 acres will be added for a total of 11.0 acres to be subdivided into two lots of roughly equal size. The Preliminary Plat was approved by the City Council on January 17, 2006 along with the Site Plan. The proposed plat will vacate the previous Vista at Five Points Addition plat in its entirety in order to restructure all of the easements and divide the tract into two separate lots. Each lot will be developed as a separate phase and cross access easements have been provided from lot to lot into order to facilitate development in two phases.

The proposed development is for an apartment complex in which Lot 1A (5.9593 acres) will consist of 104 residential units in six separate buildings with approximately 86,320 square feet, a club house/office with 1,880 square feet and a maintenance building with 1,083 square feet. Phase 2 (Lot 2A, 5.0407 acres) would consist of 132 residential units in six buildings, however, the exact unit mix will be determined by market

conditions when Phase 2 is initiated but the unit count will not be exceeded as approved on the Site Plan.

The proposed final plat has one minor revision from the preliminary plat in that the boundary line separating the two lots was originally jogged back and forth several times to match the configuration of the parking located along this line and the final plat simply cleans up this layout to form straight lines. The result of the revision is that Lot 1A is now 5.9593 acres as compared to 5.80 originally and Lot 2A is now 5.0407 acres in size as compared to the original 5.20 acres. The revision does not affect circulation, building placement or size and therefore substantially conforms to the approved preliminary plat and site plan.

Section 212.005 of the Texas Local Government Code states that the municipal authority responsible for approving plats must approve a plat or replat that is required to be prepared under this subchapter and that satisfies all applicable regulations. Section 212.009(a) states that the municipal authority responsible for approving plats shall act upon a plat within 30 days after the date the plat is filed. A plat is considered approved by the municipal authority unless it is disapproved within that time period.

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

Councilmember Altom moved and seconded by Councilmember Bounds to approve a request from KASE Ventures, L.P., regarding a Final Plat for a new apartment complex, being a replat of 8.217 acres of land known as Lot 1, Block A of the Vista at Five Points Addition (to be vacated by this plat) and also being all of a certain 2.783 acre tract of land, to be known as Lot 1A (5.9593 acres) and Lot 2A (5.0407 acres), Block A, Five Points Addition for a total of 11.00 acres of land, as recorded in Volume 2734, Page 344 of the Deed Records of Kaufman County, Texas, generally located at the northwest corner of State Highway 34 and Five Points Drive, and being situated in the D. Falcon Survey, Abstract No. 151, City of Kaufman, Kaufman County, Texas. Case No. P-01-06. Mayor Bacon called for a vote with all voting AYE, the motion carried.

DISCUSSION/ACTION ITEMS

4. Consider an increase to customer rate to reflect the adjusted Consumer Price Index (CPI) as provided in the IESI Solid Waste Disposal Service Contract effective February 2006.

City Manager Curtis Snow informed the Council that the City approved a Solid Waste Disposal contract with IESI effective January 10, 2003. The initial term is three (3) years through January 31, 2006; and shall be

automatically renewed for one additional five (5) year term unless either party gives written notice of election not to renew the contract to the other party, not less than 120 days prior to the expiration of the original contract term.

The current contract residential rate is \$8.17 per month excluding the city's administration charge. The contract called for no increased fees for a two-year period. Thereafter, beginning on February 1, 2005 the rates were subject to adjustment to any increases or decreases in the Consumer Price Index (CPI) issued by the U.S. Department of Labor, Bureau of Labor Statistics for the Dallas/Fort Worth area. The most recent data from the Bureau of Labor and Statistics reflects an increase in the CPI of 4.40%.

The city's current total residential rate is \$10.48 including the city's administration fee and sales tax.

The new residential rate effective the February 2006 billing will be \$10.87 including the city's administration fee and sales tax. IESI's new rate (CIP increase of 4.40%) is \$8.53 plus \$1.51 city administrative fee (\$10.04) plus sales tax of \$.83 yields a monthly rate of \$10.87.

Mr. Dick Demien, Marketing Director with IESI, has approached the City to request a fuel adjustment surcharge due to the increase of fuel prices over the past few years. The surcharge would be started at a beginning price per gallon and compared periodically to a published national index that tracks diesel prices. The surcharge could be raised or lowered in accordance with changes in the index. Staff is still analyzing this proposal. The surcharge agreement may come forward to Council at our next regularly scheduled meeting.

Councilmember Bounds asked why does the City add administration charges to the solid waste collection. City Manager Curtis Snow reported that the administration charge has always been included to cover the city's expense for billing and collections on the residential customer accounts. In addition, the city pays IESI for solid waste service even if the City is unable to collect from the customers.

The Council also discussed with IESI the use of tandem trucks on the city's streets.

Councilmember Altom moved and seconded by Councilmember Choyce to approve the increase to customer rate to reflect the adjusted Consumer Price Index (CPI) as provided in the IESI Solid Waste Disposal Service Contract effective February 2006. Mayor Bacon called for a vote with Councilmember Bounds, Councilmember Murrell, Councilmember Altom,

Mayor Bacon, Councilmember Choyce and Councilmember Holmes voting AYE. Mayor Pro-Tem Wampler voted NAY. The motion carried with a vote of 6-1.

5. Consider authorizing the City Manager to sign a letter for the Steering Committee of Cities Served by TXU Electric Delivery to negotiate and execute a settlement agreement with TXU Electric Delivery Company.

City Manager Curtis Snow informed the Council that in February, 2005, the participating cities signed a Settle Agreement that resolved a "show cause" action on a rate increase proposed in 2004. Though the cities settled, they did so with the understanding that there were still some outstanding issues. This action concludes the outstanding issues.

Some of the more significant issues are:

1. TXU agrees to support a system-wide rate without a demand ratchet, lowering future increases.
2. TXU will pay the cities \$8 million each year for the next four years for ceasing the show cause action.
3. Cities can request under-grounding that would be recovered in a surcharge.
4. TXU will pay cities another \$18 million for "beneficial public use."

Regarding the agreement to resolve outstanding franchise issues, TXU agrees to:

1. Increase the franchise fee factor (the State substitute for cities franchise fees) by 2% Jan 1 and 1% on Jan 1, 2007, 2008, and 2009.

Exactly how much of these new revenues come to the City of Kaufman is not clear at this point. The increases in the franchise fee factor will result in a \$12,000 increase each year after the final increase is imposed.

The larger portions of money are going to be distributed based on street lighting bills and population. Last year it meant \$14,093 from the first \$8 million. If this distribution method holds, the City of Kaufman will receive another \$56,372 over four years. The method of distributing the two \$8 million payments for public benefit is yet to be determined.

After discussion, Councilmember Bounds moved and seconded by Councilmember Choyce to authorize the City Manager to sign a letter for the Steering Committee of Cities Served by TXU Electric Delivery to negotiate and execute a settlement agreement with TXU Electric Delivery Company. Mayor Bacon called for a vote with all voting AYE, the motion carried.

6. Consider approval of Resolution R-02-06 of the City Council of the City of Kaufman, Texas authorizing the City Manager to execute a Joint Election Contract for Election Services with Kaufman County Elections Department.

Mayor Pro-Tem Wampler moved and seconded by Councilmember Altom to approve Resolution R-02-06 of the City Council of the City of Kaufman, Texas authorizing the City Manager to execute a Joint Election Contract for Election Services with Kaufman County Elections Department. Mayor Bacon called for a vote with all voting AYE, the motion carried.

7. Consider approval of Resolution R-03-06 of the City Council of the City of Kaufman, Texas calling the annual City Election set for May 13, 2006.

Councilmember Murrell moved and seconded by Councilmember Choyce to approve Resolution R-03-06 of the City Council of the City of Kaufman, Texas calling the annual City Election set for May 13, 2006. Mayor Bacon called for a vote with all voting AYE, the motion carried.

8. Consider approval of Resolution R-04-06 of the City Council of the City of Kaufman, Texas pursuant to the provisions of Section 61.012 of the Texas Election Code requiring the use of accessible voting systems in all polling places used by the City for its elections.

Councilmember Murrell moved and seconded by Councilmember Choyce to approve Resolution R-04-06 of the City Council of the City of Kaufman, Texas pursuant to the provisions of Section 61.012 of the Texas Election Code requiring the use of accessible voting systems in all polling places used by the City for its elections. Mayor Bacon called for a vote with all voting AYE, the motion carried.

9. Consider approval of the Notice of Election to be issued by the Mayor, in accordance with the Texas Election Code, Section 3.004 and calling for a Municipal General Election to be held on Saturday, May 13, 2006 for the purpose of electing Three (3) Councilmembers.

Councilmember Murrell moved and seconded by Mayor Pro-Tem Wampler to approve the Notice of Election to be issued by the Mayor, in accordance with the Texas Election Code, Section 3.004 and calling for a Municipal General Election to be held on Saturday, May 13, 2006 for the purpose of electing Three (3) Councilmembers. Mayor Bacon called for a vote with all voting AYE, the motion carried.

10. Consider approval of an Annual Report on Racial Profiling data for the year of 2005 presented by the Chief of Police.

Captain Roach informed the Council that the State of Texas requires that law enforcement agencies make an annual racial profiling report to its governing body. The document provides specific indicators in relationship to the traffic stops made on individuals within the City of Kaufman. These indicators include the total number of traffic stops made during 2005, the racial composition of the individuals who were stopped, the total number of citations issued, the total number of vehicle searches conducted and the total number of arrests made.

The number of traffic stops made in 2005 was 2,674. When compared with the traffic stops made in 2004 of 2,149, there was a 20% increase. There were a total of 1,366 traffic citations issued. Out of the 1,366 total traffic citations, 809 citations were issued to white traffic violators; 120 citations were issued to black traffic violators; 429 citations were issued to Hispanic traffic violators; and 4 citations were issued to Asian traffic violators. In 2005, there were a total of 683 searches conducted during traffic stops. Out of the 683 total searches, 401 searches were conducted on whites; 93 searches were conducted on blacks; and 189 searches were conducted on Hispanics. In 165 of these searches, illegal contraband was found leading to 411 arrests being made. Out of the 411 arrests, 214 white offenders were arrested; 83 black offenders were arrested; and 113 Hispanic offenders were arrested.

When comparing these totals with the previous year, there is an increase in the total number of searches conducted in 2005 of 683 from the 321 in 2004.

In conclusion, the report indicates that again, more whites are being stopped for violations than blacks and Hispanics. The report also indicates that more Hispanics are being stopped than blacks in the City of Kaufman. The large number of arrests made during these traffic stops is a result of multiple passengers in the vehicles who are either connected to the contraband or found to have outstanding warrants when identified by officers.

Captain Roach pointed out that the most important thing in the report is the disparity index, which relates each group's proportion of total traffic stops to its proportion of the population. A value of one (1) on the index indicates that a group's proportion of traffic stops equals its population proportion: it is neither "under-represented" nor "over-represented" in traffic stops. Values above (1) one indicate over-representation, and those below 1 indicate under-representation. For example, the 1,782 whites that were stopped accounted for 67 percent of all traffic stops in 2005. According to the 2000 Census, whites comprise 68 percent of the population in the City of Kaufman. The value for whites on the disparity index is, (.67/. 68 or .98). Whites were stopped, in other words, at just

slightly below the rate we would expect based on their fraction of the population.

Councilmember Bounds moved and seconded by Councilmember Holmes to approve the Annual Report on Racial Profiling data for the year of 2005 presented by Captain Randy Roach of the Police Department. Mayor Bacon called for a vote with all voting AYE, the motion carried.

APPOINTMENTS

11. Consider the appointment of four (4) Members to the Keep Kaufman Beautiful Board for a two (2) year term.

Councilmember Murrell moved and seconded by Councilmember Bounds to appoint Carolyn Long, Lisa Parker, Elaine Marusak and Karla Chandler to the Keep Kaufman Beautiful Board for a two (2) year term. Mayor Bacon called for a vote with all voting AYE, the motion carried.

12. Consider the appointment of three (3) Members to the Park and Recreation Board for a two (2) year term.

Councilmember Murrell moved and seconded by Councilmember Choyce to appoint Barry Ratcliffe, Joyce Jackson, and Bryan Nalls Jr. to the Parks and Recreation Board for a two (2) year term. Mayor Bacon called for a vote with all voting AYE, the motion carried.

EXECUTIVE SESSION

Councilmember Murrell moved and seconded by Councilmember Holmes to go into Executive Session at 6:40 p.m. Mayor Bacon called for a vote with all voting AYE, the motion carried.

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 Council came out of Executive at 7:36 p.m.

END OF EXECUTIVE SESSION

13. 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.

City Manager Curtis Snow reported that the Kaufman Chamber of Commerce has allocated \$35,000.00 for the City to participate in a TX Dot landscape grant project located at Highway 175 and State Highway 34 Underpass.

The Trophy Club is having a Special Election to consider use of a portion of Economic Development Sales Tax for street maintenance.

REQUEST/COMMENTS FROM MEMBERS OF CITY COUNCIL.

Mayor Pro-Tem Wampler announced that she would be running for the May 13, 2006 City Council election.

Councilmember Murrell reported that trash was falling out of trash trucks due to dumpsters being over flowing with trash. The locations that were mentioned were: the 500 block of South Washington, 1107 E. Mulberry and across the street from the Vet Center on Highway 243. Also North Kaufman has a lot of trash in their neighborhood. Discussion was held to use County inmates to pick up trash.

ADJOURNMENT.

There being no further business, Mayor Pro-Tem Wampler moved and seconded by Councilmember Murrell to adjourn the meeting at 7:46 p.m. Mayor Bacon called for a vote with all voting AYE, the motion carried.

PAULA BACON, MAYOR

ATTEST:

JO ANN TALBOT, CITY SECRETARY