

**MINUTES OF THE
REGULAR CITY COUNCIL MEETING
MONDAY, JULY 17, 2006 — 6:00 P.M.
CITY HALL, 209 S. WASHINGTON, KAUFMAN, TEXAS**

CITY COUNCILMEMBERS

| | |
|----------------------|------------------------|
| MAYOR | PAULA BACON |
| MAYOR PRO-TEM | LONNIE BOUNDS |
| COUNCILMEMBER | GIL ALTOM JR. |
| COUNCILMEMBER | FLOYD CHOYCE |
| COUNCILMEMBER | JEFF COUNCIL |
| COUNCILMEMBER | WILLIAM FORTNER |
| COUNCILMEMBER | BARRY RATCLIFFE |

INVOCATION: Chief of Police James M. Smith

PLEDGE OF ALLEGIANCE

CALL MEETING TO ORDER: Mayor Bacon called the Meeting to order at 6:06 p.m. Councilmembers present were Mayor Bacon, Mayor Pro-Tem Bounds, Councilmember Altom, Councilmember Choyce, Councilmember Council, Councilmember Fortner and Councilmember Ratcliffe. Mayor Bacon declared a quorum present. Also present were City Manager Curtis Snow, ACM/City Secretary Jo Ann Talbot, City Attorney David Dodd, Chief of Police James M. Smith, Director of Development of Services Terry Capehart and Director of Public Works Richard Underwood.

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.

Proclamations:

The Mayor presented the Keep Kaufman Beautiful Board a proclamation in recognition of the fourth year of organizing and conducting a successful 4th of July parade and in anticipation of special plans for next year's parade.

The Mayor presented Donald and Janis Lindsey an appreciation proclamation for their time and effort for the past year maintaining the attractive plantscapes around the Kaufman Square.

Mrs. Janis Lindsey, 1700 S. Washington, Kaufman informed the City Council that a hearing was set at the District Court in Kaufman at 9:00 a.m. July 18th

regarding the issuance of a liquor permit located at 1606 S. Washington Street. She invited the Council to attend the hearing to support the protest of the issuance of a liquor permit.

Mayor Bacon presented former Councilmember Janice Murrell with a plaque of appreciation for serving on the City Council from May 2004 through May 2006.

CONSENT AGENDA ITEM #1 THROUGH #4

“All matters listed under the Consent Agenda, are considered to be routine by the City Council and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately. For a citizen to request removal of an item, a speaker card must be filled out and submitted to the City Secretary.”

1. Consider approval of the Minutes of the June 19, 2006 Regular City Council Meeting.
2. Consider second reading and approval 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 classification 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 City of Kaufman, Kaufman County, Texas; and providing for a penalty clause, providing a severability clause, a savings clause and an effective date.
3. Consider second reading and adoption 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 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; and providing for a penalty clause, providing a severability clause, a savings clause and an effective date.

4. Consider approval of Resolution R-13-06 Regarding the Annual Review of the City of Kaufman Investment Policy as amending for a further One (1) Year pursuant to the Public Funds Investment Act.

Councilmember Council moved and seconded by Councilmember Altom to approve the Consent Agenda items 1 through 4. Mayor Bacon called for a vote with all voting AYE, the motion carried.

END OF CONSENT AGENDA

PRESENTATIONS

5. Presentation from Mr. Dick Demien, IESI, regarding an update on Solid Waste Services.

Mr. Dick Demien, Marketing Manager for IESI gave an update report to the Council informing them of their solid waste services and contact personnel.

6. Presentation from Mr. Jason Feller, Kaufman Economic Development Corporation Board member in regards to developing a task force to seek Kaufman as a potential Retirement Designation.

Mr. Jason Feller was not present. Mr. Lee Ayres, Director of the Kaufman Economic Development Corporation, reported that the Chamber of Commerce and the Kaufman Economic Development Corporation Board held a Joint Workshop regarding the impact and development of Kaufman as a potential Retirement Designation. They suggested appointing a task force to research the subject. Mr. Ayres informed the Council that retirees have positive economic impact of 300 to 370 factory workers. Retirees do not tend to burden your school system with added students; retirees bring health care insurance and don't burden health care facilities; retirees don't create a lot of crime and businesses in the community benefit from retirees. Mr. Ayres asked the Council if they wanted to pursue the project and if so to consider appointing a person to join the task force for the project. City Manager Curtis Snow volunteered to join the task force for the project. Mayor Bacon asked for the school district to be included in the task force.

7. Consider approval of a request from the Kaufman County Tax Assessor to discontinue the early property tax payment discounts.

Mr. Dick Murphy, Kaufman County Tax Assessor, informed the Council that the City of Kaufman was the only city in the County still offering a tax payment discount. The City of Forney opted out this year. Mr. Murphy reported that the County recently obtained new software and it would

require additional programming for the discounts. The citizens get confused and pay the wrong amount of taxes and the county staff sometime makes errors of applying the tax collections. In addition, the City benefits approximately \$17,000.00 a year by discontinuing the early property tax payments.

City Manager Curtis Snow informed the Council that the County Tax Assessor has the authority to cease the discount.

Mayor Bacon commented that she would put it on the Tax Assessor to discontinue the discount and would not be in support of discontinuing the discount.

Councilmember Altom moved and seconded by Councilmember Fortner to approve the discontinuance of the early property tax payment discounts. Mayor Bacon called for a vote with Mayor Pro-Tem Bounds, Councilmember Altom, Councilmember Fortner, Councilmember Choyce and Councilmember Ratcliffe voting AYE. Councilmember Council and Mayor Bacon voted NAY. The motion carried 5 to 2 to discontinue the early property tax payment discounts.

PLANNING AND ZONING

8. Consider a request from Keith Dillion, agent for Rodney Adams, regarding a zoning change from Single-Family 6 (SF-6) to Planned Development for single-family residential uses; generally located south of Becky Lane and between the east and west sections of Phillips Circle, being described as a 3.052 acre tract of land being all of Phase 5 of the Valley Park Addition, as recorded in a deed to Rodney Ray Adams in Volume 587, Page 608 of the Deed Records of Kaufman County, and being part of the A.L. Carter Survey, Abstract No. 98 City of Kaufman, Kaufman County, Texas. (Case No. Z-05-06).

- a. Conduct Public Hearing.

Mayor Bacon declared the public hearing open at 6:35 p.m.

There being no one to speak the Mayor declared the public hearing closed at 6:36 p.m.

- b. Consider first reading of Ordinance O-07-06 rezoning 3.052 acre tract of land being all of Phase 5 of the Valley Park Addition.

Director of Development of Services Terry Capehart informed the Council that the applicant is requesting a change in zoning from Single-Family 6 (SF-6) to Planned Development (PD) for Single-

Family Residential on a 3.052 acre tract of land in order to develop Phase 5 of a master planned community called Valley Park. The first three phases of the Valley Park Addition which surround Phase 5 were all platted prior to the current zoning ordinance and thus were under the 1980 zoning ordinance which called for a minimum 900 square feet house size with a single car garage. A total of sixty-six (66) homes were built in the first three phases of the Valley Park Addition of which 63 have single car garages and average about 1,000 sq. ft. in size. The current code requires a minimum of 1,200 square feet with a two-car garage. Phase 4 was built to the current codes and as a result the affordability of the homes became an issue as evidenced by a large number of Phase 4 owner/occupant buyers who have experienced foreclosure. The 3.052 acre tract of land consists of twelve (12) lots originally platted in August 2003 with lots ranging in size from 6,641 square feet to 12,991 square feet. Since Phase 5 is entirely surrounded with housing built under the previous code the applicant is proposing to provide affordable, high quality, single-family residences with a minimum of 1,000 square feet with two parking spaces, one of which must be enclosed, in order to be consistent with the previous development. Phase 5 will be the final phase of the Valley Park Addition.

Issues:

1. The current development pattern surrounding Phase 5 consists of smaller houses with single car garages, which have provided an affordable, high quality starter home to families who might otherwise have to reside in an apartment.
2. The old abandoned Pacific Southern railroad right-of-way abuts an earlier phase of Valley Park, which prohibits further development to the east thus limiting access only through the much older neighborhoods to the west along Wilson Street. Multi-family (MF-1), Single-family Attached (SFA) and Mobile Home Park zoning abut the Valley Park single-family addition on the remaining sides.
3. The Zoning Ordinance specifies that the minimum area to be considered for a Planned Development Overlay is three (3) acres and the subject property meets this requirement.

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.

Public Comment Forms were mailed to fifty-eight (58) property owners within 300 feet of this request. Eight (8) Comment Forms had been returned at the time of posting of the Agenda with three (3) favoring the request, two (2) objecting only to apartments which is not part of the proposal and three (3) objecting to the proposal.

A great deal of discussion was held on this project in regards to one way access in the subdivision, a park area, two enclosed garage verses one enclosed garage with a parking pad, the size of the homes and street widths. Mr. Keith Dillion, Kaufman, agent for Rodney Adams, discussed these issues with the City Council.

After discussion, Mayor Pro-Tem Bounds moved and seconded by Councilmember Council to approve Ordinance O-07-06 amending the Comprehensive Zoning Ordinance O-14-99, dated March 22, 1999, and the Official Zoning Map; changing the zoning classification on a single tract of land from existing Single-Family-6 (SF-6) Residential District to Planned Development (PD) District for single-family residential uses; generally located south of Becky Lane and between the East and West sections of Phillips Circle, being described as a 3.052 acre tract of land being all of Phase 5 of the Valley Park Addition, as recorded in a deed to Rodney Ray Adams in Volume 587, Page 608 of the deed records of Kaufman County, and being part of the A.L. Carter Survey, Abstract No. 98, City of Kaufman, Kaufman County, Texas; and providing for a penalty clause, providing a severability clause, a savings clause, and an effective date and adding to Exhibit "B" of Ordinance O-07-06 that states "a minimum of two off street parking spaces one shall be enclosed. The driveway shall be sufficient width to accommodate two vehicles." Mayor Bacon called for a vote with Mayor Pro-Tem Bounds, Councilmember Council, Councilmember Altom, Councilmember Ratcliffe and Councilmember Choyce voting AYE. Mayor Bacon and Councilmember Fortner voting NAY. The motion carried with a 5-2 vote.

9. Consider a discussion of proposed revisions to Section 22 through Section 32 (Non-Residential District requirements and Overlay 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 22-32 were subsequently discussed at a Work Session and a Public Hearing conducted at the July 10, 2006 regular Planning and Zoning Commission meeting and by a vote of 3-1 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 22 – OFFICE (O) DISTRICT – Clarified purpose statement and height and residential adjacency issues (22.1). Increased height allowed to four stories if not adjacent to residential property (22.3). Standardized front yard dimension to 25 feet (22.4.A.1). Changed setback on residential adjacency to a 3:1 slope i.e. 3 feet of setback for each foot of height. (22.4.A.4). Minimum lot dimensions changed to match minimum lot size (22.4.B.2&3). Updated Special Requirements (22.5) to include restrictions on loading areas, non-office uses, screen walls and uses incompatible with adjacent residential properties.

SECTION 23 – LOCAL RETAIL (LR) – Minimum lot area changed to match minimum lot dimensions (23.4.A.1). Standardized front yard dimension to 25 feet (23.4.B.1). Updated Special Requirements to include restrictions on screen walls and incompatible uses. (23.5)

SECTION 24 – RETAIL (R) DISTRICT – Minimum lot depth changed to 100 feet to be consistent with minimum lot area (24.4.A.3). Rear yard setback changed to 20 feet to be consistent with other similar districts (O, LR, C, & LI) (24.4.B.4). Updated Special Requirements – same as previous districts. (24.5)

SECTION 25 – Central Business District (CBD) – No changes since revisions were adopted by Ordinance O-12-05.

SECTION 26 – COMMERCIAL (C) DISTRICT – Increased minimum lot size from 6,000 sq. ft. to 10,000 sq.ft. and minimum lot width to 100 feet (26.4.A.1&2). Increased front yard setback to 25 feet and added residential adjacency restrictions (26.4.B.1&2). Updated Special Requirements – same as previous districts. (26.5)

SECTION 27 – LIGHT INDUSTRIAL (LI) DISTRICT – Moved residential adjacency requirements from 27.3.A.2 to 27.4.B.2. Updated Special Requirements – same as previous districts. (27.5)

SECTION 28 – HIGHWAY COMMERCIAL (HC) DISTRICT – Defined maximum height for 8 story building and referenced increased setback restrictions (28.3.A.1). Increased minimum lot depth to 200 feet to be consistent with minimum lot size. (28.4.A.3). Added setback restrictions for residential adjacency (28.4.B.2)

SECTION 29 – PLANNED DEVELOPMENT (PD) DISTRICT – Added Special Requirements 29.9 and Table 29.1.

SECTION 30 – SPECIFIC USE PERMITS (SUP) – Changed requirement for building permit from one year to six months to be consistent with other permit expiration time limits. (30.2.D). Added Special Requirements (30.5) and Table 30-1.

SECTION 31 – WASHINGTON STREET CORRIDOR – Added limitation on existing nonconforming uses. (31.2.B.2). Added minimum lot depth of 100 feet (31.2.B.3). Removed reference to a specific brand name (31.2.C.b). Removed uses from Table 31.1 designated as not allowed “No” to condense size of table. Added Washington Street Corridor Map.

SECTION 32 – RESERVED – no changes

SECTION 33 – MHO MANUFACTURED (MOBILE) HOME OVERLAY DISTRICT – removed in its entirety (incorporated into the (MH) Manufactured Home Zoning District)

Notification of the public hearing was given in the Kaufman Herald during the week of June 19, 2006 as required by State Law.

Discussion was held on Section 22.5 E and the Mayor suggested to change the wording in the first sentence where it states “residential lot” to “residential use or district” in order to better identify use and zoning district.

Councilmember Altom asked if the Planning and Zoning Commission have input from developers and public input in regards to the changes being made to the Zoning Ordinance. Mr. Capehart reported that most of the changes that are being recommended are clarifications and to make it easier to be understood and help to protect the neighborhoods. Councilmember Altom commented that he did not want the changes to be a disincentive to growth and we need to consider those issues, problems and concerns.

Mayor Bacon commented these changes are a good balance for development.

10. Conduct a Public Hearing and take citizens comments on proposed revisions to Section 22 through Section 32 (Non-Residential District requirements and Overlay Districts) of the Zoning Ordinance O-14-99 as recommended by the Planning and Zoning Commission.

- a. Open Public Hearing.

Mayor Bacon declared the public hearing open at 8:06 p.m. on the proposed revisions to Section 22 through Section 32 (non-Residential District requirements and Overlay Districts) of the Zoning Ordinance O-14-99.

- b. Close Public Hearing.

There being no comments the public hearing closed at 8:06 p.m.

11. Consider approval of final revisions to Sections 12 through Section 21 of the Zoning Ordinance O-14-99. (Council reviewed revisions June 19th.)

Mayor Pro-Tem Bounds moved and seconded by Mayor Bacon to table item 11 until the City Council receives the revisions to Sections 12 through Section 21 of the Zoning Ordinance O-14-99. (Council reviewed revisions June 19th.) Mayor Bacon called for a vote with all voting AYE, the motion carried.

BID AWARDS

12. Consider approval of Resolution R-15-06 regarding the Bid Award for Construction on the 2005 TCDP Water Grant Project Contingent Upon Contractor Approval By the Office of Rural Community Affairs and authorize the use of water/wastewater reserves to account for the shortfall.

Director of Public Works Richard Underwood informed the Council that bids were received, opened and read aloud Friday, July 7, 2006 for the 2005 Water Grant project, which includes the water line replacement on South Jefferson Street from Seago to Fourth, East Grove Street from the Old Railroad to SH 34 and SH 34 from Grove to the Sports Complex. A total of six (6) bids were received. After careful review by Freese & Nichols Engineering it has been determined that Doughtie Construction submitted the most responsible bid.

Doughtie Construction submitted a base bid of \$128,225.60, an Alternate A bid of \$39,419.70, an Alternate B bid of \$26,887.50 and an Alternate C bid of \$39,011.10 for a total project bid of \$233,543.90. The total amount of grant funds available for the construction of this project \$230,000.

Staff recommends that Council award the base bid along with alternate A, B, & C to Doughtie Construction contingent upon contractor approval by the Office Of Rural Community Affairs. Staff also recommends that Council authorize the use of \$10,000 from the water/sewer reserves to account for the \$3,543.90 grant shortfall along with other field quantity changes that may occur. This will allow the entire project to be constructed at this time.

Councilmember Choyce moved and seconded by Councilmember Council to approve Resolution R-15-06 regarding the Bid Award for Construction from Doughtie Construction, Inc. in the sum of \$233,543.90 on the 2005 TCDP Water Grant Project contingent upon Contractor approval by the Office of Rural Community Affairs and authorize the use of \$10,000.00 water/wastewater reserves to account for the shortfall. Mayor Bacon called for a vote with all voting AYE, the motion carried.

DISCUSSION/ACTION ITEMS

13. Consider approval of Resolution R-14-06 of the City Council of the City of Kaufman, Texas declaring that the City is qualified to offer a Tax Abatement Program in accordance with the Property Redevelopment and Tax Abatement Act and renewing incentives for Economic Development.

Councilmember Altom moved and seconded by Councilmember Ratcliffe to approve Resolution R-14-06 of the City Council of the City of Kaufman, Texas declaring that the City is qualified to offer a Tax Abatement Program in accordance with the Property Redevelopment and Tax Abatement Act and renewing incentives for Economic Development. Mayor Bacon called for a vote with all voting AYE, the motion carried.

APPOINTMENTS

14. Consider the appointment of Three (3) Members to serve on the Kaufman Economic Development Corporation. One (1) for an unexpired term and Two (2) for a three year term.

Councilmember Council moved and seconded by Councilmember Choyce to appoint Councilmember Ratcliffe and Councilmember Fortner to serve a three (3) year term on the Economic Development Corporation. Mayor Bacon called for a vote with all voting AYE, the motion carried.

Councilmember Fortner moved and seconded by Mayor Pro-Tem Bounds to appoint Roy Ferrell for an unexpired term until August 2007 to serve on the Economic Development Corporation. Mayor Bacon called for a vote with all voting AYE, the motion carried.

No Executive Session was held.

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.

END OF EXECUTIVE SESSION

15. 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 reminded the City Council of the Budget Work Session to be held Monday, July 31, 2006.

City Manager Curtis Snow reminded the Council of the Open Meetings Law certification that can be taken on the internet or Staff can provide other training accommodations.

City Manager Curtis Snow reminded the Council that several appointments were needed for the Planning and Zoning Commission and the Park and Recreation Board.

REQUEST/COMMENTS FROM MEMBERS OF CITY COUNCIL.

Councilmember Altom asked if Proclamations could be included in the agenda packages.

Councilmember Altom inquired about how much longer the dumpster would be on the square. There is rotten materials in the dumpster and it smells. City Manager Curtis Snow reported that the windows in the store had been vandalized last week. We are not sure when it is scheduled to be removed. Staff will follow up on this matter.

Councilmember Fortner asked Staff to inquire about Senior Citizens obtaining help if needed during this hot weather period.

ADJOURNMENT.

Councilmember Council moved and seconded by Councilmember Ratcliffe to adjourn the meeting at 8:25 p.m. Mayor Bacon called for a vote with all voting AYE, the meeting adjourned.

PAULA BACON, MAYOR

ATTEST:

JO ANN TALBOT, CITY SECRETARY