

**MINUTES OF THE
REGULAR CITY COUNCIL MEETING
MONDAY, APRIL 17, 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: Chief of Police James M. Smith

PLEDGE OF ALLEGIANCE

CALL MEETING TO ORDER: Mayor Bacon called the Meeting to order at 6:03 p.m. Councilmembers present were Mayor Bacon, Mayor Pro-Tem Wampler, Councilmember Altom, Councilmember Bounds and Councilmember Murrell. Mayor Bacon declared a quorum present. Councilmember Choyce arrived at 6:09 p.m. Councilmember Holmes was absent. Mayor Pro-Tem Wampler left the meeting at 7:51 p.m. Also present were City Attorney David Dodd, City Manager Curtis Snow, City Secretary Jo Ann Talbot, Director of Finance Cathy Cummins, Director of Development of Services Terry Capehart and Chief of Police James M. Smith.

CITIZENS COMMENTS (5 MINUTES) Citizens may address the City Council on any subject but must first complete a Request to Speak Form. Comments are limited to five (5) minutes, but no more than five (5) minutes per individual, and are not transferable. Citizen's comments not to exceed a total of 15 minutes.

Proclamation – Fair Housing Month – Mayor Bacon acknowledged the Proclamation “Fair Housing Month” for April 2006.

Mr. Tracy Hagler, 4475 F.M. 987, Kaufman, Texas invited the City Council and City Council Candidates to the 3rd Annual “City Council Forum” to be held Thursday, April 27, 2006 at 6:00 p.m. at the Kaufman Jr. High School.

Mr. Marshall Park, 1418 Chancellor, Kaufman, Texas registered a complaint in regards to Northland Cable Company for lack of customer service. He reported that he has never been satisfied with the service from Northland Cable for many years. Mr. Park reported that Northland Cable has a responsibility to service the customer as outlined in the Franchise Agreement. Citizens of Kaufman will continue to go else where for better cable service. He asked if he could receive

a customer connection list over the past years to show that their membership has dropped each year.

Mayor Bacon asked City Manager Curtis Snow to meet with Mr. Park regarding this issue.

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 the approval of the Minutes of the March 20, 2006 Regular City Council Meeting.
2. Consider second reading and adoption of Ordinance O-01-06 of the City of Kaufman, Texas abandoning and closing the remnant of the unimproved alley located between Ninth and Tenth Streets, adjoining the south side of lots 1-8 and the north side of lots 21-28, block 2 of the Hobby Highway Addition, City of Kaufman, Texas and directing the Mayor to convey such to the adjacent landowners.
3. Consider second reading and adoption of Ordinance O-02-06 of the City of Kaufman, Texas abandoning and closing a portion of West Central Street, between First and Second Streets and east of Wilson Street, lying adjacent and contiguous to the east side of lots 1-4, block 56 of the French and Wilson Addition (formerly known as the H.&T.C.R.R. Addition) and to the west side of block 17 of the French and Wilson Addition, City of Kaufman, Texas and directing the Mayor to convey such to the adjacent landowners.
4. Consider approval and authorize the City Manager to enter into an Interlocal Agreement with Kaufman County to install and operate wireless communications equipment on the water tower facility located at 3 Oak Creek Drive.

Councilmember Bounds moved and seconded by Councilmember Choyce to approve the Consent Agenda Items 1 through 4. The Mayor called for a vote with all voting AYE, the motion carried. Councilmember Holmes was absent.

END OF CONSENT AGENDA

PLANNING AND ZONING

5. Consider a request from Zita Herrera regarding a Site Plan for a new office/restaurant/retail complex, being a 24,150 square feet tract of land described as a part of Block 39, Original Town of Kaufman Addition, located at 300 E. Cherry Street, City of Kaufman, Kaufman County, Texas. Case No.S-01-06. (P&Z Approval 4-0)

Development of Services Director Terry Capehart informed the Council that the Site Plan under consideration is for an office/restaurant/retail center of approximately 6,545 square feet utilizing an existing brick building that formerly housed the Gardner Electrical Contractor's office located at 300 E. Cherry Street and adding six additional suites. The existing brick building was encroaching into the front and side yard setbacks by approximately two feet and the Zoning Board of Adjustment has granted a variance to allow the existing setback and will be remodeled to accommodate a restaurant. The new addition will consist of five small suites, three of which will be office uses and the remaining two will be retail spaces. A final suite will be utilized as warehouse space for the tenants of the other suites.

The proposed development originally consisted of two separate lots, which were replatted into a single lot of record by means of a minor plat. The single lot now totals 24,150 square feet (0.554 acre) and takes up the northern half of Block 39, Original Town of Kaufman Addition between Monroe Street and Dallas Street. The existing old frame house on the corner of Cherry Street and Dallas Street will be demolished to make way for the new development.

Primary access to the center is from Cherry Street with secondary points of access provided from both Monroe and Dallas Streets. Adjacent properties to the south and rear of the proposed development are zoned Residential Single-Family-6 and consist of several single-family dwellings as well as several multi-family units. The applicant will be required to screen these residential properties with a six feet tall masonry screen wall.

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

After discussion of the Site Plan, the Council requested that the Site Plan show which trees will be maintained on the property, determine the property lines, and add a dumpster location on the Site Plan near the restaurant. Councilmember Murrell also asked to make sure that the foundation does not exceed the property set back lines.

Councilmember Choyce moved and seconded by Mayor Pro-Tem Wampler to table this item until the next Work Session meeting set for May 1, 2006. Mayor Bacon called for a vote with all voting AYE, the motion carried. Councilmember Holmes was absent.

6. Consider a request from T.W. White regarding a Site Plan for a new office building, being a 15,725.16 square feet (0.361-acre) tract of land out of the D. Falcon Survey, Abstract No. 151, as described in a deed to T.W. White recorded in Volume 2634, Page 492 of the Deed Records of Kaufman County, and located at 5962 Fair Road, City of Kaufman, Kaufman County, Texas. Case No.S-02-06. (P&Z Approval 4-0)

Development of Services Director Terry Capehart informed the Council that the Site Plan under consideration is for an office facility of approximately 1,456 square feet located on a 15,725.16 square feet (0.361-acre) lot. The building will have a brick veneer exterior façade. The building will be used to office the owner's bail bond service. The proposed development is zoned Highway Commercial (HC) and general office uses are allowed in this district. The proposed project is surrounded by mostly undeveloped property and the area across Fair Road is outside of the corporate city limits of Kaufman and is in the ETJ. A new sanitary sewer main has been installed along the Fair Road frontage of the subject property and the building will connect to this system.

Primary access to the office is from Fair Road with a circle access drive to accommodate two-way traffic and emergency vehicles.

Adjacent properties to the proposed development are zoned Highway Commercial and consists of one single-family dwelling to the northeast and the remaining tracts are undeveloped. The applicant will not be required to screen the residential property as this property is also zoned Highway Commercial.

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

Mr. T. W. White, 1439 Summertime Lane, Dallas, Texas 75241, property owner, informed the Council that the business sign would be placed upon the building as shown on the Site Plan and that he may erect a small pole business sign in front of his business that would not exceed the sign limitation.

Mayor Bacon expressed her concern if this was the best use for the area. After discussion, Councilmember Choyce moved and seconded by Councilmember Bounds to approve the Site Plan for a new office building, being a 15,725.16 square feet (0.361-acre) tract of land out of the D.

Falcon Survey, Abstract No. 151, as described in a deed to T.W. White recorded in Volume 2634, Page 492 of the Deed Records of Kaufman County, and located at 5962 Fair Road, City of Kaufman, Kaufman County, Texas. Case No.S-02-06. Mayor Bacon called for a vote with all voting AYE, the motion carried. Councilmember Holmes was absent.

7. Consider a request from Council Real Estate and Sean Sisson regarding a Specific Use Permit (SUP) for Minor Auto Repair in the Washington Street Corridor Overlay District (WSC), located at 501 S. Washington Street and generally located on the southeast corner of South Washington Street and

Temple Street, and being described as part of Block 26 of the French and Wilson Addition, City of Kaufman, Kaufman County, Texas. Case No. Z-01-06. (P&Z Approval 4-0)

- a. Conduct Public Hearing

Mayor Bacon declared the Public Hearing open at 6:41 p.m.

Mr. Sean Sisson, 2002 Elizabeth Street, Kaufman informed the Council that he wanted to use the front building for an office for his plumbing business. The large metal building would be used for automotive detailing, oil changes and for minor automotive repairs. Mr. Sisson reported that the owner of the property was not able to attend the meeting and still had issues regarding the paving of the driveway and he was not certain if the property owner wanted to bring it up to code.

Mayor Bacon closed the Public Hearing at 6:44 p.m.

Mayor Bacon reopens the Public Hearing at 6:55 p.m.

Mayor Pro-Tem Wampler moved and seconded by Councilmember Murrell to further continue the Public Hearing at the next regular City Council meeting set for May 15, 2006. Mayor Bacon called for a vote with all voting AYE, the motion carried. Councilmember Holmes was absent.

- b. Consider first reading and approval of Ordinance O-03-06 of the City of Kaufman, Texas, amending the Comprehensive Zoning Ordinance O-14-99 and establishing Specific Use Permit Number 13 amending the Official Zoning Map; and providing for a penalty, severability, savings, and an effective date.

Development of Services Director Terry Capehart informed the Council that the Specific Use Permit under consideration is to allow

Minor Auto Repair. The property was originally developed as an automobile service station that has been abandoned for a period exceeding six months and the existing structures are nonconforming. The existing structures consist of the main service station building which has a brick exterior with a large metal canopy and concrete bases that presumably held the fuel pumps, a large garage with corrugated metal siding and a wooden lean-to that appears to have been used as a carport. The driveway leading up to the garage off of Temple Street is gravel and therefore substandard. The primary use proposed in the main building will be a contractor's business office, which is an allowed use.

Minor Auto Repairs are allowed in the Washington Street Corridor only with a Specific Use Permit (SUP). Minor Automobile Repair is defined as: minor repair or replacement of parts, tires, tubes and batteries; diagnostic services; minor maintenance services such as grease, oil, spark plug and filter changing; tune-ups; emergency road service; replacement of starters, alternators, hoses and brake parts; automobile washing and polishing; performing state inspections and making minor repairs necessary to pass said inspection; normal servicing of air-conditioning systems; and other similar minor services for motor vehicles except heavy load vehicles, but not including any operation named under "Automobile Repair, Major" or any other similar use.

The City of Kaufman Zoning Ordinance requires that a Specific Use Permit (SUP) receive City Council approval using the following criteria:

1. The use is harmonious and compatible with surrounding existing uses or proposed uses;
2. The activities requested by the applicant are normally associated with the permitted uses in the base district;
3. The nature of the use is reasonable;
4. Any negative impact on the surrounding area has been mitigated; and/or
5. That any additional conditions specified ensure that the intent of the district purposes is being upheld.
6. Hours of operation 7:00 a.m. to 7:00 p.m.

The existing buildings are nonconforming and since they have been abandoned for more than six months as such cannot be reoccupied by a nonconforming use. However, according to Section 7.5.F a conforming use may reoccupy a nonconforming building even though it does not meet the current area regulations or development standards.

The overall condition of several of the buildings is substandard and some demolition and/or repairs would need to be done prior to occupation and certain items such as the driveway need to be upgraded to meet code.

The above approval criteria allow for improvements to be required to mitigate negative impacts as well as meeting the intent of the Washington Street Corridor.

The Planning and Zoning Commission has made the recommendation to the City Council by a vote of 4-1 to approve the proposed Specific Use Permit (SUP) with the following stipulations:

1. No outside storage of any automobiles, parts or materials will be allowed.
2. All gravel driveways or parking areas would need to be paved with concrete or asphalt paving to City standards.
3. The large steel canopy and concrete bollards in the front of the building facing Washington Street is to be removed to improve the appearance and improve vehicle circulation and safety.
4. The wooden lean-to structure is to be demolished.
5. Bollards or other traffic controls are to be used to prevent vehicles from backing onto Temple Street.

Director of Development of Services Terry Capehart also informed the Council that he was working with TxDot to move a pole from the corner of Temple and Washington.

Mayor Bacon questioned if SUP's could be granted in all locations of the Washington Street Corridor. Mr. Capehart reported that issuing this SUP would set precedence. The SUP is not for the business in front of the property. It is for the rear of the property. City Manager Curtis Snow reported that once a SUP is approved it stays with the property.

City Manager Curtis Snow commented that, if the property owner is not in an agreement with the stipulations regarding paving of the driveway and parking areas, the approval of the SUP is a non-issue. The Planning and Zoning Commission has issued stipulations for the property.

After further discussion, Councilmember Murrell moved and seconded by Mayor Pro-Tem Wampler to table Ordinance O-03-06 of the City of Kaufman, Texas, amending the Comprehensive Zoning Ordinance O-14-99 and establishing Specific Use Permit Number 13 amending the Official Zoning Map; and providing for a penalty, severability, savings,

and an effective date. Mayor Bacon called for a vote with all voting AYE, the motion carried. Councilmember Holmes was absent.

8. Consider a request from Harbinger S. Mahli regarding a Zoning Change on a single tract of land totaling 12,354 square feet (0.2836 acre) from Single-Family 6 District to Commercial (C) District, located at 401 W. Grove Street, and being described as part of Block 27 of the Original Town of Kaufman Addition, as 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-02-06. (P&Z Approval 4-0)

- a. Conduct Public Hearing

Mayor Bacon declared the Public Hearing open at 6:58 p.m.

Mr. Paul Malhi, 301 N. Jefferson, Kaufman, Texas, property owner, informed the Council that the building had been vacant for some time and he has been paying property taxes on the property. He wanted to open up a laundry mat in the building.

Mayor Bacon declared the Public Hearing closed at 6:59 p.m.

- b. Consider first 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 Classifications on a single tract of land totaling 12,354 square feet (0.2836 acre) from existing Single-Family-6 Residential District to Commercial (C) 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; and providing for a penalty clause, providing a severability clause, a savings clause, and an effective date.

The applicant is requesting a change in zoning 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. Approximately one-third of the existing building will be demolished to make room for additional parking and the remaining 3,000 +/- square feet will be used for the laundry and a storage area for the business.

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 proposed rezoning is therefore in compliance with the recommendations of the Comprehensive Plan.

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.

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 somewhat 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 along some portions of the wall behind the vegetation for partial screening of about ten feet tall.

The applicant is requesting that approval of the attached Concept Plan be considered an approved Site Plan.

Primary access to the subject property will be from Grove Street with secondary access along Clay Street.

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') 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).

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.

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 posting of the Agenda one in favor of the request and the other against the request.

Mayor Bacon commented that the Planning and Zoning Commission stipulations were not included in the Ordinance and they needed to be added. She expressed her concern over the Commercial zoning and that the uses that are allowed in the Commercial zoning are not the best use for the area. She wanted to do the right thing for the surrounding residential property owners and not to allow heavy uses. A resident would rather have a Retail Use at their back door, than a Commercial use that allows unattended storage units, auto body shops and other types of heavy business. The Mayor expressed that with the Central Business District in close proximity to the location a Retail zoning would be a much better zoned use. The Future Land Use Plan also recommends for the area to be a Retail zone. Mr. Capehart commented that the surrounding area already has commercial uses.

After further discussion, Councilmember Murrell moved and seconded by Councilmember Choyce to send this zoning request back to the Planning and Zoning Commission for consideration of a Retail Zoning District. The Mayor called for a vote with all voting AYE, the motion carried.

9. Discuss proposed final revisions to Sections 1-11 of the Zoning Ordinance O-14-99 as recommended by the Zoning Ordinance/Comprehensive Plan Steering Committee and the Planning and Zoning Commission.

Councilmember Altom moved and seconded by Councilmember Murrell to set up a Work Session for May 1, 2006 to discuss the revisions to the Zoning Ordinance. The Mayor called for a vote with all voting AYE, the motion carried. Councilmember Holmes was absent.

10. Conduct a Public Hearing regarding the proposed final revisions to Sections 1-11 Administrative Requirements of the Zoning Ordinance O-14-99.

Councilmember Murrell moved and seconded by Mayor Pro-Tem Wampler to postpone the Public Hearing for the revisions to the Zoning Ordinance until the next regular City Council meeting to be held in May. The Mayor called for a vote with all voting AYE, the motion carried. Councilmember Holmes was absent.

DISCUSSION/ACTION ITEMS

11. Consider approval of expenditures from the Hotel/Motel Tax Revenue Funds for a digital film titled "Walking Tour of Kaufman" a project with the Chamber of Commerce and Kaufman Economic Development Corporation to promote Kaufman.

City Manager Curtis Snow informed the Council that the request for a digital film to promote Kaufman is from the Kaufman Chamber of Commerce. It is an economic development tool that the Chamber, Kaufman Economic Development Corporation and the City can use on the Internet or through direct mailing to promote Kaufman to prospects or as a tourist destination. The "Walking Tour" is a digital film for promoting Kaufman. It is going to be produced by professional film makers and it should reflect all the positive aspects of Kaufman that would support new economic development growth.

The cost of the project is not to exceed \$12,000. The Kaufman Chamber is asking the City and the Kaufman Economic Development Corporation to support 1/3 of the cost each. When the project is completed, we can all place the film on our respective web sites and place the film on discs for our own purposes.

This project would use up to \$4,000.00 of Hotel/Motel tax funds. It is an eligible expenditure. The City collects \$36,000.00 in Hotel/Motel tax funds each year. The only scheduled expenditures from this fund are \$15,500.00 for the fall festival.

Ms. Michelle Sjerven, 5197 Old Rail Trail, Kaufman, Chairperson for the Kaufman Chamber of Commerce, reported that the film would be approximately 7 minutes and produced from a Company named Video-7 Production located in Mabank, Texas.

Mayor Bacon commented that the Kaufman Independent School District has done a similar project for the school system. Mayor Bacon recommended that Request for Proposal from companies from the Dallas

area also be considered. Mayor Bacon and Ms. Sjerven will go forward with the project and look at other companies for the video. Councilmember Choyce and Mayor Bacon volunteered to help with the project.

Councilmember Murrell moved and seconded by Mayor Pro-Tem Wampler to approve the \$4,000.00 expenditure from the Hotel/Motel Tax Revenue Funds for a digital film titled "Walking Tour of Kaufman" a joint project with the Chamber of Commerce and Kaufman Economic Development Corporation to promote Kaufman. The Mayor called for a vote with all voting AYE, the motion carried. Councilmember Holmes was absent.

12. Consider approval of amending the contract with IESI to allow the use of a fuel surcharge to recover the costs of excessive fuel prices.

City Manager Curtis Snow informed the Council that this issue has been discussed at previous meetings. The City of Kaufman went into an agreement with IESI for refuse collection services in 2002 and fuel prices have climbed from \$1.12 to \$2.51. The contract provided for a two year freeze on rates and a Consumer Price Index increase each year thereafter. At the end of the two year freeze, fuel prices had already climbed to \$1.52.

Council members expressed their openness to considering a fuel surcharge to allow IESI to recover some of these unanticipated fuel cost increases. Staff provided an analysis that allowed for the CPI increases in fuel costs for the first four years. Allowing for these "natural" increases, the analysis set the base rate (the bench mark price to apply a surcharge) at \$1.60.

Research into what other cities offered IESI in fuel surcharges, two of the three cities staff researched set the base at \$2.00. IESI has accepted these surcharge rates and found it useful to help them offset their costs. Therefore \$2.00 should be an acceptable base rate for Kaufman.

IESI argues that the other cities that set their base at \$2.00 had base hauling rates that were negotiated well after Kaufman and IESI went into their agreement in 2002. Therefore the base should be set lower so the surcharges can be larger.

With the base set at \$2.00, the surcharge would start at \$.24 per customer per month and \$.03 per yard per pull for our commercial customers. Roll offs would be charged an additional \$4.87 per pull. Future increases would be evaluated on 26 week averages every six months. Any \$.10

increase in the average fuel price would be another \$.04 to our residential customers and \$.01/yard to our residential customers.

There would be no new revenues to the City.

Staff now recommends a \$2.00 base and an adjustment every six months based on the previous 26 week average weekly fuel prices for the Gulf Coast area. The initial surcharge recommended is \$.24 to our residential and commercial customers using less than a two yard container, a \$.03 surcharge on each yard for each pick up on our commercial customers, and a \$4.87 surcharge on roll off containers.

Staff recommends approval of the amendment to the contract, allowing for a fuel surcharge and amending customer rates to pay for the surcharge.

Councilmember Bounds moved and seconded by Councilmember Altom to approve amending the contract with IESI to allow the use of a fuel surcharge to recover the costs of excessive fuel prices. Mayor Bacon called for a vote with all voting AYE, the motion carried. Councilmember Holmes was absent.

13. Consider approval of Resolution R-07-06 of support of the City Council of the City of Kaufman, Texas, authorizing submission of an application to the Texas Department of Housing and Community Affairs for Home Investment Partnerships Program Funds; and authorizing the Mayor to act as the City's Chief Executive Officer and authorized representative in all matters pertaining to the City's participation in the program.

Mayor Pro-Tem Wampler moved and seconded by Councilmember Altom to approve Resolution R-07-06 in support of the City Council of the City of Kaufman, Texas, authorizing submission of an application to the Texas Department of Housing and Community Affairs for Home Investment Partnerships Program Funds; and authorizing the Mayor to act as the City's Chief Executive Officer and authorized representative in all matters pertaining to the City's participation in the program. Mayor Bacon called for a vote with all voting AYE, the motion carried. Councilmember Holmes was absent.

14. Consider approval of Resolution R-08-06 by the City of Kaufman, Texas suspending the May 30, 2006, effective date of the proposal by Atmos Energy Corp., Mid-Tex Division to implement interim GRIP Rate adjustments for Gas Utility Investment in 2005; authorizing participation with the Gas Standing Steering Committee in a review and inquiry into the sufficiency of the filing and the basis and reasonableness of the proposed rate adjustments; authorizing intervention in administrative and court

proceedings involving the proposed GRIP rate adjustments; requiring reimbursement of reasonable legal and consultant expenses; and requiring delivery of this Resolution to the company and legal counsel.

Councilmember Murrell moved and seconded by Councilmember Altom to approve Resolution R-08-06 by the City of Kaufman, Texas suspending the May 30, 2006, effective date of the proposal by Atmos Energy Corp., Mid-Tex Division to implement interim GRIP Rate adjustments for Gas Utility Investment in 2005; authorizing participation with the Gas Standing Steering Committee in a review and inquiry into the sufficiency of the filing and the basis and reasonableness of the proposed rate adjustments; authorizing intervention in administrative and court proceedings involving the proposed GRIP rate adjustments; requiring reimbursement of reasonable legal and consultant expenses; and requiring delivery of this Resolution to the company and legal counsel. Mayor Bacon called for a vote with all voting AYE, the motion carried. Councilmember Holmes was absent.

15. Atmos Mid-Tex Rate Hearing and Ordinance

- a. Conduct a Public Hearing regarding Atmos Mid-Tex new Natural Gas Distribution Rates.

Mayor Bacon declared the Public Hearing open at 7:41 p.m.

Mr. Larry Farthing, 10288 Dennehy Drive, Forney, Texas 75126, representing Atmos Energy Corporation asked the City Council to table the Ordinance O-05-06. He presented the Council information of justification for Atmos Energy Corporation of reasons why the City should not consider Ordinance O-05-06.

Mayor Bacon declared the Public Hearing closed at 7:52 p.m.

- b. Consider adoption of Ordinance O-05-06 finding that the existing Natural Gas Distribution Rates of Atmos Mid-Tex should be reduced; ordering Atmos Energy Corp., Mid-Tex Division, to reduce its existing rates within the City; adopting specific new rates R, T & C and ordering all rates, service charges and tariff language not inconsistent with attachment 1 to remain operative except that all GRIP surcharges shall immediately cease; ordering Atmos Mid-Tex to reimburse the City for its reasonable costs incurred in this Show Cause and any related 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 ordaining other provisions related to the subject matter hereof.

After discussion, Councilmember Murrell moved and seconded by Councilmember Altom to adopt Ordinance O-05-06 finding that the existing Natural Gas Distribution Rates of Atmos Mid-Tex should be reduced; ordering Atmos Energy Corp., Mid-Tex Division, to reduce its existing rates within the City; adopting specific new rates R, T & C and ordering all rates, service charges and tariff language not inconsistent with attachment 1 to remain operative except that all GRIP surcharges shall immediately cease; ordering Atmos Mid-Tex to reimburse the City for its reasonable costs incurred in this Show Cause and any related 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 ordaining other provisions related to the subject matter hereof. Mayor Bacon called for a vote with all voting AYE, the motion carried. Councilmember Holmes and Mayor Pro-Tem Wampler were absent.

16. Consider approval of Resolution R-09-06 of the City of Kaufman, Texas acknowledging the submission of a name for a police reserve applicant who has received certification from the Texas Commission on Law Enforcement Officers' Standards and Education by the Police Chief of the Kaufman Police Department and approval of same as submitted.

Councilmember Murrell asked how many Police Reserves does the City have and what were their names. Chief of Police James M. Smith reported the City had two Police Reserves and they are required to work 17 hours a month. Their names are Kenneth Mitchell and Bob Wisniewski.

Councilmember Murrell moved and seconded by Councilmember Bounds to approve Resolution R-09-06 of the City of Kaufman, Texas acknowledging the submission of a name for a police reserve applicant "Shaun Baker" who has received certification from the Texas Commission on Law Enforcement Officers' Standards and Education by the Police Chief of the Kaufman Police Department and approval of same as submitted. Mayor Bacon called for a vote with all voting AYE, the motion carried. Councilmember Holmes and Mayor Pro-Tem Wampler were absent.

17. Report on winter averaging on sewer rate as it relates to high water consumption during the winter drought period. (Tabled 3-20-06)

City Manager Curtis Snow informed the Council that the Community has experienced a drought over the past year. One of our citizens has raised the question: if a customer has to water his or her lawn during the

“averaging” months (January, February and March) to save their lawn, should the City penalize them by increasing their winter average on their sewer bill?

If the Council chooses to freeze last year’s winter average rates for one year, there would be no lost revenues. The loss of potential increased revenues has not been determined at this point.

The staff has no recommendation on whether the City should freeze the winter averaging rate for one year or not. What staff recommends is that if it is confirmed that there is a potential increase in sewer revenues directly related to the drought and if the Council chooses not to collect these revenues, that staff be allowed to develop a short term policy that will have no negative affect on existing revenues.

March’s data suggests that the drought has had no discernible impact on wastewater charges.

18. Consider setting a date, time, and place to canvass the Election Returns (Tuesday, May 16th through Wednesday, May 24th).

The Council set Tuesday, May 16, 2006 at 6:00 p.m. to canvass the Election Returns.

19. Consider approval of the Kaufman Fall Caboodle Fest 2006 Budget from the Hotel/Motel Tax Revenue Fund. (Tabled 3-20-06)

Mayor Bacon commented that there had been discussion to purchase a large tent for the Fall Caboodle Fest and that item had not been budgeted. The budget could be amended if the Committee decides to purchase the tent. Also, if the Festival were for one day, then it would reduce the cost of the budget.

Councilmember Bounds moved and seconded by Councilmember Altom to approve the Kaufman Fall Caboodle Fest 2006 Budget from the Hotel/Motel Tax Revenue Fund. Mayor Bacon called for a vote with all voting AYE, the motion carried. Councilmember Holmes and Mayor Pro-Tem Wampler were absent.

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

20. 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 Executive Session was held. No action.

ANNOUNCEMENTS FROM CITY MANAGER.

1. Update - 2020 Visioning Executive Committee

City Manager Curtis Snow reminded the Council of the May 11th Community Meeting regarding the 2020 Visioning. The meeting will be held at the Kaufman High School Cafetorium at 7:00 p.m. The Council will discuss the meeting at the Work Session to be held May 1st.

REQUEST/COMMENTS FROM MEMBERS OF CITY COUNCIL.

Councilmember Murrell asked if the Code Enforcement Officer's position had been filled. City Manager Curtis Snow reported that he had been hired and would be going to class to get his certification in May. Councilmember Bounds

reported that he had road with the Code Enforcement Officer one day and that he was very impressed.

Councilmember Altom confirmed that the Code Enforcement Officer would be proactive and not just work with call in complaints.

Councilmember Murrell commented that Northland Cable Company's property needed mowing.

ADJOURNMENT.

Councilmember Murrell moved and seconded by Councilmember Bounds to adjourn the meeting at 8:17 p.m. Mayor Bacon called for a vote with all voting AYE, the motion carried. Councilmember Holmes and Mayor Pro-Tem Wampler were absent.

PAULA BACON, MAYOR

ATTEST:

JO ANN TALBOT, CITY SECRETARY