

**MINUTES OF THE  
REGULAR CITY COUNCIL MEETING  
MONDAY, NOVEMBER 21, 2005 — 6:00 P.M.  
CITY HALL, 209 S. WASHINGTON, KAUFMAN, TEXAS**

**CITY COUNCILMEMBERS**

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

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

**PLEDGE OF ALLEGIANCE**

**CALL MEETING TO ORDER:** Mayor Bacon called the Meeting to order 6:04 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, and Director of Public Works Richard Underwood, Director of Development Services Terry Capehart, Chief of Police James M. Smith 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.

Recognition of Volunteers and City Staff for a successful Fall Festival.

Mayor Bacon recognized and presented certificates to Volunteers and City Staff for their hard work making the Fall Caboodle Fest a big success.

Mr. Brian Frosch, 400 West Mulberry Street, Kaufman, Texas complained of loud noise from the helicopter rides that were offered at the Fall Caboodle Festival and questioned the nuisance code regarding loud noise. He requested to be placed on the agenda for action at the next Council meeting regarding this issue. Mayor Bacon informed Mr. Frosch to contact the City Manager.

**CONSENT AGENDA ITEM #1 THROUGH #5**

**“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 October 17, 2005 Regular City Council Meeting.
2. Consider the approval of the Minutes of the November 8, 2005 Special City Council Meeting.
3. Consider second reading and adoption of Ordinance O-27-05 of the City of Kaufman, Texas approving a street name change for that portion of Fair Street located South of State Highway 175 between South Washington Street and South Houston Street, from the existing street name of Fair Street to the proposed street name of Oak Creek Drive.
4. Consider second reading and adoption of Ordinance O-28-05 of the City of Kaufman, Texas amending the Drought Contingency Plan for the City of Kaufman by adding and supplementing Section 3.6 Drought Contingency Plans for Wholesale Water Supplies.
5. Consider approval of Resolution R-26-05 of the City Council of the City of Kaufman, Texas authorizing the location of stop signs at the intersection of Canterbury Trail and Oxford Drive.

Councilmember Altom moved and seconded by Councilmember Holmes to approve the Consent Agenda Items 1 through 5. Mayor Bacon called for a vote with all voting AYE, the motion carried.

**END OF CONSENT AGENDA**

**PLANNING AND ZONING**

6. Consider a request from T.G. Oak Bend Developers, L.P. and conduct a public hearing, regarding an amendment to the Comprehensive Plan, Ordinance O-13-99 and Future Land Use Map to change the current land use designation on four (4) tracts of land from Business/Commercial/Highway Commercial uses to Retail uses on Tract 1, being a 7.753 acre parcel; to Light Industrial uses on Tract 2, being a 7.835 acre parcel; to Low Density Residential uses on Tract 3, being a 27.545 acre parcel; and to Multi-Family uses on Tract 4, being a 10.0 acre parcel; generally located at the southwest corner of State Highway 175

and Fair Road, being described as a 53.133 acre portion of a 147.0 acre tract of land as described in a deed recorded in Volume 2190, Page 649 of the Deed Records of Kaufman County, and being situated in the D. Falcon Survey, Abstract No. 151, City of Kaufman, Kaufman County, Texas. Zoning Case M-03-05. (P & Z approval 4-0)

a. Conduct Public Hearing

Mayor Bacon declared the Public Hearing open at 6:25 p.m.

Mr. Brian Chambers, 6652 F.M. 1388, Kaufman, representing T. G. Oak Bend Developers, informed the Council of the development that will be situated at the corner of Highway 175 East and Fair Road, at the edge of the city limits. He reported that Retail will be situated at the corner and other mixed uses of light industrial, residential and multi-family zoning are located behind other development on Highway 175. Fair Road will be a four-lane street going into the new development. The project is scheduled to start after the first of the year. The residential area is designed for 100 new homes and the frontage is designed for retail business.

Mr. Roy Gene Gardner, 1460 C. R. 280, Kaufman, Developer, informed the Council that he was very excited about the new development coming to our town and asked for the Council's support.

Mayor Bacon declared the Public Hearing closed at 6:29 p.m.

b. Consider first reading and approval of Ordinance O-29-05 an Ordinance amending the Comprehensive Plan, Ordinance O-13-99, of the City of Kaufman, Texas, and the Official Future Land Use Map to change the current land use designation on four (4) tracts of land from Business/Commercial/Highway Commercial uses to Retail uses on Tract 1, being a 7.753 acre parcel; to Light Industrial uses on Tract 2, being a 7.835 acre parcel; to Low Density Residential uses on Tract 3, being a 27.545 acre parcel; and to Multi-Family uses on Tract 4, being a 10.0 acre parcel; generally located at the southwest corner of State Highway 175 and Fair Road, being described as a 53.133 acre portion of a 147.0 acre tract of land as described in a deed recorded in Volume 2190, Page 649 of the Deed Records of Kaufman County, and being situated in the D. Falcon Survey, Abstract No. 151, City of Kaufman, Kaufman County, Texas.

Director of Development Services Terry Capehart informed the Council that the applicant is requesting a change in zoning from

Highway Commercial District (HC) to Retail (R), Light Industrial (LI), Multi-Family (MF) and Single-Family 6 (SF-6) zoning on a 53.133 acre tract of land in order to develop part of a master planned community called Fair Oaks. The current proposal called Fair Oaks Centre will be the first phase of the larger development. The Comprehensive Plan/Future Land Use Map calls for Business, Commercial, or Highway Commercial uses, the current zoning is Highway Commercial (HC) District and, in order to rezone the property, the Future Land Use Map must first be amended to allow for the proposed uses. The re-zoning request is also on the current agenda for the Council's consideration. Although a Planned Development (PD) overlay was an option, which could possibly be used to achieve their goals without amending the Map, it is the intention of the applicant to fully develop Fair Oaks utilizing straight zoning rather than using a Planned Development overlay. Straight zoning by its very nature of being in compliance with the Zoning Ordinance supports the spirit and intent of the Comprehensive Plan to which policies it is designed to carry out. The property consists of four parcels, Tract one (approx. 7.75 acres) is being proposed for retail uses; Tract two (approx. 7.83 acres) is being proposed for light industrial uses; Tract three (approx. 27.55 acres) is being proposed for single-family uses and Tract four (approx. 10.00 acres) is being proposed for multi-family uses.

A portion of the property fronts both State Highway 175 and Fair Road at the intersection of these thoroughfares but the majority of the property is behind the commercial development along the SH 175 frontage and currently is in agricultural use. The Kaufman city limits borders the western property line of the subject property. Fair Road is also the boundary of the city limits on the south side of the subject tract. The adjacent property to the west along Fair Road just out of the city limits in the extra-territorial jurisdiction (ETJ) is occupied by long narrow ranchettes with rural housing structures and is not likely to be redeveloped in the foreseeable future. The larger Fair Oaks development runs north from Fair Road to the new County jail and from SH 175 west to the old railroad right-of-way and encompasses approximately 105 acres.

The Thoroughfare Plan calls for County Road 166 to be upgraded to a Class C Collector that will eventually form a connector between SH 243 to the east and SH 34 to the west. The applicant, as part of their overall master plan for Fair Oaks, is aligning their primary entryway off of SH 175 with CR 166 and coordinating the crossover with TxDOT who has given their tentative approval of the alignment. Secondary access to the subject property will be from Fair Road.

The Planning and Zoning Commission made a recommendation to the City Council by a vote of 4-0 to approve the proposed Comprehensive Plan Future Land Use Map revision. Public Comment Forms were mailed to twenty-seven (27) property owners within 300 feet of this request. One Comment Form had been returned at the time of posting of the Agenda favoring the request.

Director of Development Services Terry Capehart answered Councilmember Altom's question that sexual oriented businesses would be prohibited in the light industrial zoning because residential zoning is located within 1,000 feet of the light industrial zoning.

A great deal of discussion was held with the developers regarding the size of homes that are proposed to be built in the new development and what the market is for larger home sites to be built in Kaufman.

After discussion, Mayor Pro-Tem Wampler moved and seconded by Councilmember Bounds to approve the first reading of Ordinance O-29-05 an Ordinance amending the Comprehensive Plan, Ordinance O-13-99, of the City of Kaufman, Texas, and the Official Future Land Use Map to change the current land use designation on four (4) tracts of land from Business/Commercial/Highway Commercial uses to Retail uses on Tract 1, being a 7.753 acre parcel; to Light Industrial uses on Tract 2, being a 7.835 acre parcel; to Low Density Residential uses on Tract 3, being a 27.545 acre parcel; and to Multi-Family uses on Tract 4, being a 10.0 acre parcel; generally located at the southwest corner of State Highway 175 and Fair Road, being described as a 53.133 acre portion of a 147.0 acre tract of land as described in a deed recorded in Volume 2190, Page 649 of the Deed Records of Kaufman County, and being situated in the D. Falcon Survey, Abstract No. 151, City of Kaufman, Kaufman County, Texas. Mayor Bacon called for a vote with all voting AYE, the motion carried.

7. Consider a request from T.G. Oak Bend Developers, L.P. and conduct a public hearing, regarding zoning changes on four (4) tracts of land totaling 53.133 acres from existing Highway Commercial (HC) District to Retail (R) District on Tract 1, being a 7.753 acre parcel of land; to Light Industrial (LI) District on Tract 2, being a 7.835 acre parcel of land; to Single-Family 6 (SF-6) District on Tract 3, being a 27.545 acre parcel of land; and to Multi-Family-2 (MF-2) District on Tract 4, being a 10.00 acre parcel of land; generally located south of State Highway 175 and west of Fair Road, being described as a 53.133 acre portion of a 147.0 acre tract of land

described in a deed recorded in Volume 2190, Page 649 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-04-05

- a. Conduct a Public Hearing.

Mayor Bacon declared the Public Hearing open at 7:08 p.m.

Mayor Bacon declared the Pubic Hearing closed at 7:08 p.m.

- b. Consider first reading and approval of O-30-05 an Ordinance amending the Comprehensive Plan, Ordinance O-13-99, of the City of Kaufman, Texas, and the Official Zoning Map changing four (4) tracts of land totaling 53.133 acres from existing Highway Commercial (HC) District to Retail (R) District on Tract 1, being a 7.753 acre parcel of land; to Light Industrial (LI) District on Tract 2, being a 7.835 acre parcel of land; to Single-Family 6 (SF-6) District on Tract 3, being a 27.545 acre parcel of land; and to Multi-Family–2 (MF-2) District on Tract 4, being a 10.00 acre parcel of land; generally located south of State Highway 175 and west of Fair Road, being described as a 53.133 acre portion of a 147.0 acre tract of land described in a deed recorded in Volume 2190, Page 649 of the Deed Records of Kaufman County, and being situated in the D. Falcon Survey, Abstract No. 151, City of Kaufman, Kaufman County, Texas.

Mayor Pro-Tem Wampler moved and seconded by Councilmember Bounds to approve the first reading of Ordinance O-30-05 amending the Comprehensive Plan, Ordinance O-13-99, of the City of Kaufman, Texas, and the Official Zoning Map changing four (4) tracts of land totaling 53.133 acres from existing Highway Commercial (HC) District to Retail (R) District on Tract 1, being a 7.753 acre parcel of land; to Light Industrial (LI) District on Tract 2, being a 7.835 acre parcel of land; to Single-Family 6 (SF-6) District on Tract 3, being a 27.545 acre parcel of land; and to Multi-Family–2 (MF-2) District on Tract 4, being a 10.00 acre parcel of land; generally located south of State Highway 175 and west of Fair Road, being described as a 53.133 acre portion of a 147.0 acre tract of land described in a deed recorded in Volume 2190, Page 649 of the Deed Records of Kaufman County, and being situated in the D. Falcon Survey, Abstract No. 151, City of Kaufman, Kaufman County, Texas. Mayor Bacon called for a vote with all voting AYE, the motion carried.

## **DISCUSSION/ACTION ITEMS**

8. Consider approval and authorize the City Manager to execute a Letter of Understanding regarding a request by Arlton White, owner of Prairie Creek Estates, to establish an escrow fund in lieu of construction for a temporary secondary point of entry for the Prairie Creek Phase I Addition in order to continue construction of new homes in the development.

Director of Development Services Terry Capehart informed the Council that the Prairie Creek Phase I final plat received approval from the City Council on September 9, 2002 and among other requirements had the following stipulations:

### Temporary Secondary Access:

- a. Block A, Lot 18 will be reserved for a temporary second access.
- b. No building permit will be issued for Block A, Lot 18, for the construction of a residential house until the permanent secondary access on Rand Road is completed.
- c. The temporary secondary access will be required before the twenty-sixth building permit is issued.
- d. It is the developer's responsibility to construct the temporary secondary access on Rand Road to the City of Kaufman's development standards.

Director of Development Services Terry Capehart informed the Council that currently, the twenty-fifth building permit for Phase I has been issued and eight sets of plans have been submitted for building permits which are currently on hold. The Prairie Creek Phase II final plat was approved by the City Council on March 21, 2005 and the developer is currently awaiting construction of the sewer line extension to begin construction of Phase II. Contract 3 of the sewer line extension was just recently approved by the City Council and construction has already begun to bring sewer service to the Prairie Creek addition and beyond.

It is anticipated that once the portion of the sewer line that will service Prairie Creek has been installed establishing the flow line elevation then Prairie Creek Phase II construction will proceed establishing the permanent secondary point of access for the entire subdivision approximately 90 days after construction begins.

The part of Rand Road that fronts Prairie Creek Phase I is screened from the subdivision by a decorative masonry screen wall and a portion of this wall would have to be demolished in order to construct the temporary secondary point of access and then be rebuilt after the need for the access is satisfied. Thus, the developer has requested that since the construction of the permanent second point of access will begin in the

near future that the City accept escrow funds for the temporary access as a guarantee that the access will be provided rather than incur the expense of providing a temporary access that will only be used for a short period of time. This is in order to continue to construct houses in Phase I in anticipation that the permanent access will be available in the near future and will not impede the safe and efficient flow of traffic and access by emergency vehicles.

After discussion, Councilmember Murrell moved and seconded by Mayor Pro-Tem Wampler to approve and authorize the City Manager to execute a Letter of Understanding regarding a request by Arlton White, owner of Prairie Creek Estates, to establish an escrow fund in lieu of construction for a temporary secondary point of entry for the Prairie Creek Phase I Addition in order to continue construction of new homes in the development in the amount of \$10,075.00. The Mayor called for a vote with all voting AYE, the motion carried.

9. Consider the first reading and approval of Ordinance O-31-05 an Ordinance 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 Pro-Tem Wampler moved and seconded by Councilmember Altom to approve the first reading of Ordinance O-31-05 an Ordinance 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.

10. Consider approval of Resolution R-27-05 by the City of Kaufman, Texas ordering Atmos Energy, Mid-Tex Division to Show Cause regarding the reasonableness of its existing natural gas distribution rates within the City; requiring Atmos Energy, Mid-Tex Division to submit a rate package based on a rate year ending June 30, 2005; directing that such filing shall be made by December 31, 2005; requiring reimbursement of reasonable legal and consultant expenses; and requiring delivery of this Resolution to the company and legal counsel.

Mayor Pro-Tem Wampler moved and seconded by Councilmember Choyce to approve Resolution R-27-05 by the City of Kaufman, Texas ordering Atmos Energy, Mid-Tex Division to Show Cause regarding the reasonableness of its existing natural gas distribution rates within the City; requiring Atmos Energy, Mid-Tex Division to submit a rate package based on a rate year ending June 30, 2005; directing that such filing shall be made by December 31, 2005; 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.

## **APPOINTMENTS**

11. Consider the appointment of Three (3) Members to serve on the Comprehensive Plan and Zoning Ordinance Steering Committee.

Mayor Bacon suggested three names for appointments to the Comprehensive Plan and Zoning Ordinance Steering Committee. They were: Lisa Miles, Tommy Booker and Jualan Eldridge.

Councilmember Choyce nominated Dustin Samples.

Mayor Pro-Tem Wampler nominated Linda Jennings.

Mayor Pro-Tem Wampler moved and seconded by Councilmember Bounds to nominate and approve Jualan Eldridge, Dustin Samples and Linda Jennings to serve on the Comprehensive Plan and Zoning Ordinance Steering Committee. Mayor Bacon called for a vote with all voting AYE, the motion carried.

12. Consider the appointment of One (1) Member to serve on the Kaufman Economic Development Corporation.

Councilmember Holmes moved and seconded by Councilmember Murrell to re-appoint Tommy Borders to serve on the Kaufman Economic Development Corporation. Mayor Bacon called for a vote with all voting AYE, the motion carried.

13. Consider the appointment of Two (2) Members to serve on the Planning and Zoning Commission.

Mayor Bacon nominated Christy Lambeth and Penny Kaufmann.  
Mayor Pro-Tem Wampler nominated Louis Tijerina.

Mayor Bacon moved and seconded by Councilmember Murrell to appoint Penny Kaufmann. The Mayor called for a vote. Councilmember Murrell, Councilmember Holmes and Mayor Bacon voted AYE. Councilmember Altom, Councilmember Bounds, Mayor Pro-Tem Wampler and Councilmember Choyce voted NAY. The motion failed.

Mayor Bacon moved and seconded by Councilmember Murrell to appoint Christy Lambeth. The Mayor called for a vote with all voting AYE. The motion carried.

Mayor Pro-Tem Wampler moved and seconded by Councilmember Bounds to appoint Louis Tijerina. The Mayor called for a vote. Councilmember Bounds, Councilmember Altom, Councilmember Holmes, Councilmember Choyce and Mayor Pro-Tem Wampler voted AYE. Councilmember Murrell and Mayor Bacon voted NAY. The motion carried.

14. Alternate member(s) to serve on the Citizens Police Review Committee.

Mayor Pro-Tem Wampler resigned her position on the Citizens Police Review Board. There being no nominations to the Citizens Police Review Committee, Councilmember Bounds moved and seconded by Councilmember Holmes to table this item. The Mayor called for a vote with all voting AYE, the motion carried.

15. Consider nominations for the Kaufman County Appraisal Review Board.

No nominations were made for the Kaufman County Appraisal Review Board.

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 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**

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

1. LEGAL – Under TEX. GOV'T CODE Sec. 551-071.  
a. Legal – pending litigation

No Executive Session was held.

**ANNOUNCEMENTS FROM CITY MANAGER.**

City Manager Curtis Snow made no announcements.

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

Councilmember Murrell reported of complaints of loud music coming from vehicles and from homes in town. Several areas of the complaints are on Houston Street, Phillips Circle and North Jackson Street. Reports from the citizens are that the Police Department cannot do anything about the noise. The City has an ordinance regarding loud noise.

Councilmember Murrell complained of dogs running at large all over the city. There are 6 dogs in North Kaufman running at large.

Councilmember Murrell inquired about an animal stored in the Animal Control Truck overnight.

Mayor Bacon asked Staff to investigate an animal shelter that would be closer to the City.

Councilmember Altom asked Staff to investigate the possibility of installing small bumps across the square for crosswalks.

**ADJOURNMENT.**

Mayor Pro-Tem Wampler moved and seconded by Councilmember Holmes to adjourn the meeting at 7:35 p.m. The Mayor called for a vote with all voting AYE, the motion carried.

**PAULA BACON, MAYOR**

**ATTEST:**

**JO ANN TALBOT, CITY SECRETARY**