

**City of Killeen**  
Regular City Council Meeting  
Killeen City Hall  
June 12, 2012  
6:00 p.m.

Presiding: Mayor Daniel A. Corbin

Attending: Mayor Pro-Tem Michael Lower, Councilmembers Elizabeth Blackstone, Terry Clark, Jared Foster, Wayne Gilmore, Jonathan Okray, and Jose Segarra

Also attending were Interim City Manager Glenn Morrison, City Attorney Kathryn Davis, City Secretary Paula Miller, and Sergeant-at-Arms Charles Dinwiddie

Rev. William Campbell gave the invocation, and Councilmember Segarra led everyone in the pledge of allegiance.

**Approval of Agenda**

Mayor Pro-Tem Lower moved to approve the agenda as written with moving CA-5B to be considered separately, seconded by Councilmember Blackstone. The motion was unanimously approved.

**Consent Agenda**

- CA-1 Consider minutes of Special City Council Meeting of May 29, 2012.
- CA-2 Consider a memorandum/resolution [12-020R] authorizing the city manager to enter into an advance funding agreement with the Texas Department of Transportation for U.S. 190 Expansion.
- CA-3 Consider a memorandum/resolution [12-021R] expressing official intent to reimburse for certain US 190 Expansion Costs.
- CA-4 Consider a memorandum/resolution [12-022R] authorizing application for 2012 Bulletproof Vest Partnership Program through the Bureau of Justice Assistance.
- CA-5 A. Consider a request by W & B Development (Case #12-013FS: The Landing at Clear Creek Phase II) for a plat of approximately 27.87 acres, being part of the J. E. Maddera Survey, Abstract No. 600. The property is located on the east right-of-way of Clear Creek Road (S.H. 201), south of the Landing at Clear Creek, Phase I, Killeen, Texas.
- CA-6 Consider a request by Alvin and Susie Ware (Case #12-015FS: Ware Addition) for a plat of approximately 5 acres, being part of the Thomas Robinett Survey, Abstract No. 686. The property is located on the east right-of-way of Clear Creek Road (S.H. 201), approximately 528 feet south of Bell Tower Road, Killeen, Texas.

Mayor Pro-Tem Lower moved to approve the above items on the Consent Agenda, seconded by Councilmember Clark. The motion was approved unanimously.

- CA-5 B. Consider a city/owner agreement in principal [12-023R] to construct Mohawk Drive as a minor arterial street through the landing at Clear Creek Phase II subdivision, and to construct Mustang Creek Road as a collector street within the

landing at Clear Creek Phases I and II subdivision.

Councilmember Okray questioned whether City funds were being expended wisely. City Planner Tony McIlwain advised this City/owner agreement was to oversize a street that was on the thoroughfare plan from the thirty-six feet required by development regulations to a sixty-six foot width. It is normally more economical to make a street on the thoroughfare plan the required width at time of development, rather than having to acquire right-of-way and tear out part of the street at a future date in addition to any future increase in costs for construction material.

Councilmember Segarra moved to approve the resolution [12-023R], seconded by Councilmember Gilmore. The motion was approved 6-1 (Councilmember Okray in opposition).

### **Public Hearings / Ordinances**

PH-1 **HOLD** a public hearing and consider an ordinance amending the 2010-14 Consolidated Strategic Plan and adopting the Annual Action Plan (2012-2013) for the Community Development Block Grant Program and the Home Investment Partnerships (HOME) Program (1<sup>st</sup> of 2 public hearings).

CDBG Director Leslie Hinkle advised this item was to amend the five-year consolidated strategic plan and adopt the 2012-2013 annual action plan for funding for the next program year.

Kim Bar, CDBG Chair, reported CDAC's recommendations for funding as follows:

#### **CDBG Program:**

##### **Public Services:**

- Bell County Human Services - \$5,000.00
- Communities in Schools - \$21,000.00
- Families in Crisis - \$5,000.00
- Greater Killeen Free Clinic - \$25,000.00
- Hill Country Community Action Association - \$12,000.00
- Killeen Housing Authority - \$1,075.80
- City of Killeen Transportation Program - \$70,000.00

##### **Housing:**

- Housing Renewal Program - \$143,849.09

##### **Acquisitions, Public Facilities and Improvements:**

- Central Texas 4C - \$40,000.00
- City of Killeen Planning & Development - \$21,841.00
- City of Killeen Street Department - \$279,303.33
- City of Killeen Transportation Department - \$176,890.00

##### **Administration/Planning:**

- Administration and planning of CDBG program - \$185,434.40

HOME Program

Administration - \$31,628.60  
CHDO set aside - \$47,442.90  
Families in Crisis - \$172,771.63  
City of Killeen Community Development (elderly TBRA program) - \$98,529.12  
City of Killeen Community Development (2012 HAP assistance) - \$160,000.00

Mayor Corbin opened the public hearing. Janelle Frazier, 504 N. 5<sup>th</sup> Street, Temple, appeared on behalf of the Head Start program and thanked the Council for their support. With no one else appearing, the public hearing was closed.

Councilmember Clark moved to approve the proposed action plan, seconded by Mayor Pro-Tem Lower. The motion was approved unanimously.

PH-2 **HOLD** a public hearing to provide citizens the opportunity to comment, and City Council to discuss and take action on the Interlocal Agreement and application of the Edward Byrne Memorial Justice Grant (JAG) for FY 2012-13.

Chief of Police Dennis Baldwin reported this grant is in the total amount of \$83,017, and the interlocal agreement provides for distribution of the funding as follows: Killeen \$41,923, Temple \$18,679 and Bell County \$22,415. The City of Killeen will administer the grant, and no matching funds are required.

Mayor Corbin opened the public hearing. With no one appearing, the public hearing was closed.

Councilmember Blackstone moved to approve the resolution [12-024R], seconded by Councilmember Segarra. The motion was approved unanimously.

PH-3 A. **HOLD** a public hearing and consider a request by Ultimate Return, Ltd, to revise the Comprehensive Plan's future land use map (FLUM) to change a 'Rural' designated area to a 'General Commercial' designated area. The property is locally known as 13178 S.H. 195, Killeen, Texas.

B. **HOLD** a public hearing and consider an ordinance as requested by Ultimate Return, Ltd (Case #Z11-57) to rezone approximately 1.436 acres, part of the R.A. McGee Survey, Abstract No. 561, from B-3 (Local Business District) to RC-1 (Restaurant and Alcohol Sales District). The property is located at the northeast intersection of S. H. 195 and FM 2484 and is locally known as 13178 S.H. 195, Killeen, Texas.

The captions of the ordinances were read as follows:

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN'S FUTURE LAND USE MAP FROM 'RURAL' TO 'GENERAL COMMERCIAL' FOR 1.436 ACRES OF LAND LOCATED ALONG THE EAST RIGHT-OF-WAY OF S.H. 195, NORTH OF THE INTERSECTION OF S.H. 195 AND FM 2484; PROVIDING A SEVERABILITY CLAUSE;

PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM B-3 (LOCAL BUSINESS DISTRICT) TO RC-1 (RESTAURANT AND ALCOHOL SALES DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Clark asked to consider each item separately.

The amendment of the land use map is to make the map consistent with its use as a barbecue restaurant.

Mayor Corbin opened the public hearing. Collette Marshall, PO Box 148, appeared in support of the request. With no one else appearing, the public hearing was closed.

Councilmember Clark moved to approve the ordinance [12-013], seconded by Councilmember Okray. The motion was approved unanimously.

With regard to PH-3B, this rezoning request is to allow for the sale of alcoholic beverages in conjunction with the restaurant. The Planning and Zoning Commission recommended approval of the request for the footprint of the existing building and for the future expansion to include the patio. The applicant, however, intends to add to the outdoor area and does not want to limit the request to the existing building and patio.

Mayor Corbin opened the public hearing.

James Anderson, 3954 Chaparral Road, appeared in support of his request. He will construct a dance area below the current patio and wants that area included in the zoning request. He will fence off that area from the parking lot, and signs will be posted that open containers are not allowed in that area. Councilmembers were concerned that the rezoning request covered the entire area, including the parking lot, and wanted the RC-1 to cover only that portion where alcohol would be sold and consumed.

City Attorney Davis advised the Council could estimate the size of the square footage and limit the zoning to that portion of the property where alcohol would be sold. Mayor Pro-Tem Lower suggested this matter could be postponed to June 26 to allow the applicant to bring back a more definite description. Mr. Anderson said he preferred that the rezoning be granted for the footprint of the existing building and the current patio.

With no one else appearing, the public hearing was closed.

Councilmember Segarra moved to approve the ordinance [12-014], seconded by Councilmember Gilmore. The motion was approved 6-1 (Councilmember Okray in opposition).

PH-4 A. **HOLD** a public hearing and consider a request by Zachary Albertini to revise the Comprehensive Plan's future land use map (FLUM) to change a 'General Residential' designated area to a 'General Commercial' designated area. The property is locally known as 1101 N. WS Young Drive, Killeen, Texas.

B. **HOLD** a public hearing and consider an ordinance as requested by Zachary Albertini (Case #Z11-58) to rezone Lot 13, Block 7, Hanson Heights Addition, from R-1 (Single Family Residential District) to B-5 (Business District). The property is located on the west right-of-way of N. W.S. Young Drive, approximately 327 feet north of the intersection E. Rancier Avenue (FM 439) and is locally known as 1101 N. W.S. Young Drive, Killeen, Texas.

The captions of the ordinances were read as follows:

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN'S FUTURE LAND USE MAP FROM 'GENERAL RESIDENTIAL' TO 'GENERAL COMMERCIAL' FOR LOT 13, BLOCK 7, HANSON HEIGHTS ADDITION, BEING LOCALLY KNOWN AS 1101 N. W.S. YOUNG DRIVE, KILLEEN; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM R-1 (SINGLE FAMILY RESIDENTIAL DISTRICT) TO B-2 (LOCAL RETAIL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

During the Planning and Zoning Commission meeting, the Commission determined that the applicant's intent could be accomplished with rezoning to a B-2, rather than B-5, and accordingly, an amendment of the land use map was not necessary. Staff recommended disapproval of PH-4A and approval of PH-4B with B-2 zoning.

Mayor Corbin opened the public hearing. With no one appearing, the public hearing was closed.

Councilmember Clark moved to disapprove the ordinance, seconded by Mayor Pro-Tem Lower. The motion was approved unanimously.

Mayor Corbin opened the public hearing. With no one appearing, the public hearing was closed.

Councilmember Clark moved to approve the ordinance [12-015] with B-2 zoning, seconded by Mayor Pro-Tem Lower. The motion was approved unanimously.

PH-5 **HOLD** a public hearing and consider an ordinance as requested by Edgar Garcia (Case #Z11-59) to rezone approximately 0.530 acre part of the A. Thompson Survey, Abstract No. 813, from B-5 (Business District) with Special Use Permit

(SUP) to B-5 (Business District) with Conditional Use Permit (CUP) for a vehicle impound yard. The property is locally known as 203 S. Second Street, Killeen, Texas.

The caption of the ordinance was read as follows:

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM B-5 (BUSINESS DISTRICT) TO B-5 WITH CUP (CONDITIONAL USE PERMIT) FOR AN IMPOUND YARD; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

This rezoning request is for property upon which a Special Use Permit had been granted for five years for use as an impound yard. The permit expired November 26, 2011, and the applicant was unable to apply for a Conditional Use Permit since the City Council was without a quorum. There were two letters of opposition received after the request was presented to the Planning and Zoning Commission. The Commission recommended approval of the request for five years with no additional conditions.

Mayor Corbin opened the public hearing. Harold Butchart appeared in opposition to the request. He owns four houses near this property, and he complained of excessive noise and safety issues at the business. With no one else appearing, the public hearing was closed.

Planner McIlwain advised he had checked with the Police Department and was advised there were no problems concerning use of the property as an impound yard.

Councilmember Gilmore moved to approve the ordinance [12-016], seconded by Councilmember Okray. The motion was approved unanimously.

PH-6 **HOLD** a public hearing and consider an ordinance as requested by Vernon R. Mathes (Case #Z11-60) to rezone Lot 2, Block 1, Cindy Subdivision, from B-5 (Business District) w/SUP to B-5 (Business District) with CUP (Conditional Use Permit) for an Impound Yard. The property is locally known as 220 W. Veteran's Memorial Blvd, Killeen, Texas.

The caption of the ordinance was read as follows:

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM B-5 (BUSINESS DISTRICT) TO B-5 WITH CUP (CONDITIONAL USE PERMIT) FOR AN IMPOUND YARD; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

This is a renewal of a permit for an impound yard. The previous Special Use Permit was approved for five years on January 9, 2007, and the applicant was unable to apply for a renewal because the Council was without a quorum. The Planning and Zoning Commission recommended approval of the request for five years with the following conditions: no vehicles shall be parked within the limits of the FEMA special flood hazard area and the applicant shall add silt screening or other measures along the appropriate portions of the existing chain link fence to mitigate the possibilities of an illicit discharge into Nolan Creek. The applicant has done a good job containing runoff on the interior to prevent discharge into Nolan Creek.

Mayor Corbin opened the public hearing. Vernon Mathes, 3250 Lois Lane, Kempner, appeared in support of his request. With no one else appearing, the public hearing was closed.

Councilmember Clark moved to approve the ordinance [12-017] with the conditions imposed by the Planning and Zoning Commission, seconded by Councilmember Blackstone. The motion was approved unanimously.

PH-7 **HOLD** a public hearing and consider an ordinance as requested by RSBP Developers, Inc. (Case #Z12-01) to rezone 35.667 acres, out of the Arza Webb A-857 & the G. W. Farris A-306, from A (Agricultural district) to R-1 (Single-Family Residential District) and 6.039 acres from A (Agricultural District) to B-5 (Business District). The property is located west of Trimmier Estates Phase Two, approximately 425 feet east of S. Fort Hood Road, approximately 1400 feet south of W. Stan Schlueter Loop and north of Rahman Subdivision, Killeen, Texas.

The caption of the ordinance was read as follows:

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM A (AGRICULTURAL DISTRICT) TO R-1 (SINGLE FAMILY RESIDENTIAL DISTRICT) AND B-3 (LOCAL BUSINESS DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

This rezoning request is consistent with the land use map. There was one letter of opposition returned in response to the seventeen letters of notification, and the Planning and Zoning Commission recommended approval of the request from A to R-1 and B-3, rather than B-5. The plat for this tract of land was approved by the Commission on July 11 and will be presented to the Council on June 26.

Councilmember Clark was concerned about the amount of residential lots proposed, with the resulting ingress and egress of traffic onto SH 195 as safety issues. He said he would prefer to see a Planned Unit Development to vary the lot sizes and arrangement.

Mayor Corbin opened the public hearing. Michelle Lee, 2905 E. Stan Schlueter Loop, appeared in support of the request. The property is surrounded by B-5 to the west and B-4 to the north. The applicant would prefer B-4 zoning, rather than B-3 as recommended by P&Z. Property to

the east is platted for R-1 but undeveloped at this time. With no one else appearing, the public hearing was closed.

Councilmember Okray moved to disapprove the request, seconded by Councilmember Clark. Councilmember Okray cited concerns about increasing congestion in the area, and Councilmember Clark believed it would have a negative effect on neighboring lands and there was no substantial need for this zoning. A vote was taken on the motion, and it was disapproved 3-4 (Mayor Pro-Tem Lower and Councilmembers Foster, Gilmore, and Segarra in opposition).

Mayor Pro-Tem Lower moved to approve the ordinance [12-018] with R-1 and B-3 zoning, seconded by Councilmember Segarra. The motion was approved 4-3 (Councilmembers Blackstone, Clark, and Okray in opposition).

PH-8 **HOLD** a public hearing and consider an ordinance as requested by JM Mexican Restaurant, Inc. (Case #Z12-02) to rezone Lot 3, Block 1, EmmCom Addition from B-5 (Business District) to RC-1 (Restaurant and Alcohol Sales District). The property is located on the north right-of-way of W. Stan Schlueter Loop approximately 475 feet west of Bowles Drive and is locally known as 3007 W. Stan Schlueter Loop, Killeen, Texas.

The caption of the ordinance was read as follows:

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM B-5 (BUSINESS DISTRICT) TO RC-1 (RESTAURANT AND ALCOHOL SALES DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

This rezoning request is submitted to allow for the serving of alcohol in connection with a restaurant. The request is consistent with the comprehensive plan, and there was no response to the six letters of notification. The Planning and Zoning Commission recommended approval of the request for the footprint of the building.

Mayor Corbin opened the public hearing. With no one appearing, the public hearing was closed.

Councilmember Okray moved to approve the ordinance [12-019], seconded by Mayor Pro-Tem Lower. The motion was approved unanimously.

PH-9 **HOLD** a public hearing and consider an ordinance as requested by RSBP Developers, Inc (Case #Z12-03) to rezone Lots 1-14, Block 1 and Lots 1-6, Block 2, Purser Crossing Phase Three from B-3 (Local Business District) to R-1 (Single Family Residential District). The property is located on the east right-of-way of Bunny Trail, south of W. Stan Schlueter Loop and all on Lineage Loop, Killeen, Texas.

The caption of the ordinance was read as follows:

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM B-3 (LOCAL BUSINESS DISTRICT) TO R-1 (SINGLE FAMILY RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

This is a twenty-lot subdivision that was shown on the comprehensive plan's land use map as suburban residential, and the request is submitted to make the use match the designation. There was no response to the six letters of notification, and the Planning and Zoning Commission recommended approval of the request.

Mayor Corbin opened the public hearing. Michelle Lee, 2905 E. Stan Schlueter Loop, appeared in support of the request. With no one else appearing, the public hearing was closed.

Councilmember Clark moved to approve the ordinance [12-020], seconded by Councilmember Okray. The motion was approved unanimously.

PH-10 **HOLD** a public hearing and consider an ordinance as requested by Tong Ho Choe (Case #Z12-04) to rezone 710 W. Rancier Avenue, Suite 180 from B-5 (Business District) to B-C-1 (General Business and Alcohol Sales District). The property is located at the southwest intersection of Henderson Street and W. Rancier Avenue, Killeen, Texas.

The caption of the ordinance was read as follows:

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM B-5 (BUSINESS DISTRICT) TO B-C-1 (GENERAL BUSINESS AND ALCOHOL SALES DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

This rezoning request is submitted on a vacant suite of the complex. There were four letters of opposition returned in response to the 207 letters of notification; however, only one of those letters was returned in the proper time. There was also one letter of support. The Planning and Zoning Commission recommended approval, limiting the rezoning to Suite 180 of the plaza.

Mayor Corbin opened the public hearing. Mary Wiley, 500 N. 10<sup>th</sup> Street, appeared in support of the request. With no one else appearing, the public hearing was closed.

Councilmember Okray moved to approve the ordinance [12-021], seconded by Councilmember Segarra. The motion was approved unanimously.

PH-11 **HOLD** a public hearing and consider an ordinance as requested by In Chu Roberts (Case #Z12-05) to rezone 810 N. W.S. Young Drive Suite 109 from B-5 (Business District) to B-3A (Local Business and Retail Alcohol Sales District). The property is located on the east right-of-way of N. W.S. Young Drive approximately 120 feet south of Rancier Avenue, Killeen, Texas.

The caption of the ordinance was read as follows:

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM B-5 (BUSINESS DISTRICT) TO B-3A (LOCAL BUSINESS AND RETAIL ALCOHOL SALES DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

This rezoning request is submitted on property currently being used as a drive-thru smoke shop to allow for use as a package store. There was no response to the five letters of notification. The Planning and Zoning Commission recommended approval of the request limiting the zoning to the existing suite currently operated as a smoke shop. All conditions of the ordinance regulating B-3A have been met.

Mayor Corbin opened the public hearing. Mitchell Mathias, 1302 E. Janis, appeared in support of the request. With no one else appearing, the public hearing was closed.

Councilmember Gilmore moved to approve the ordinance [12-022] for the footprint of the building, seconded by Councilmember Segarra. The motion was approved unanimously

### **Adjournment**

With no further business, upon motion being made by Mayor Pro-Tem Lower, seconded by Councilmember Clark, and unanimously approved, the meeting was adjourned at 7:50 p.m.

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Daniel A. Corbin, Mayor

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Paula Miller, City Secretary