

City of Killeen
Regular City Council Meeting
Killeen City Hall
May 14, 2013
5:00 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 City Manager Glenn Morrison, City Attorney Kathryn Davis, City Secretary Paula Miller, and Sergeant-at-Arms David Cole

Mayor Corbin gave the invocation, and Councilmember Blackstone led everyone in the pledge of allegiance.

Approval of Agenda

Mayor Pro-Tem Lower moved to approve the agenda as written, seconded by Councilmember Clark. The motion was unanimously approved.

Consent Agenda

CA-1 Consider minutes of Regular City Council Meeting of April 23, 2013.

CA-2 Consider a memorandum/resolution [13-044R] approving equipment leases through the state cooperative, Texas Association of School Boards Buyboard for the Golf Course.

It is recommended to acquire this equipment through two leases: one for forty-six months at a total cost of \$109,831.00; the second for sixty months at a total cost of \$72,009.00 with a \$1.00 buy-out at the end of the lease.

CA-3 Consider a memorandum/resolution [13-045R] authorizing Change Order No. 9 to the Downtown Streetscaping and Andy K. Wells Trail Extension Project with The Fain Group, Inc.

This change order provides for the cost of reconstructing the north curb and gutter and driveway approaches along Avenue G.

CA-4 Consider a memorandum/resolution [13-046R] authorizing Change Order No. 10 to the Downtown Streetscaping and Andy K. Wells Trail Extension Project with The Fain Group, Inc.

This change order is to cover the increased cost of replacing asphalt with concrete at intersections at 4th Street, Gray Street, 8th Street, Avenue C, and Avenue D.

CA-5 Consider a memorandum/resolution [13-047R] authorizing the award of a

construction contract (Bid 13-18) for the 2012 Sidewalk Improvements FM 3470 Project (Part I) to Cody Stanley Construction, LLC.

The City has identified an area along Stan Schlueter Loop where children cannot safely walk to school. This project will add a sidewalk along FM 3470. The cost of the project is \$145,258.75, to be paid from the Child Safety Escrow Fund.

CA-6 Consider a memorandum/resolution [13-048R] authorizing the award of a professional services agreement with HDR Engineering to design the Lift Station No. 23 expansion project.

The 2012 Water and Wastewater Master Plan included expansion of Lift Station #23 from .65 mgd to 2.5 mgd in order to handle the growth on the north side of Reeces Creek and west of Bunny Trail. Following negotiation for a professional services agreement, staff recommends HDR Engineering to design the expansion.

CA-7 Consider a memorandum/resolution [13-049R] for bid recommendation – Bid No. 13-23 Lift Station No. 1 Diversion Structure and Gravity Main.

Bids for this project were opened on April 17, and staff recommends awarding the bid to the low bidder, McLean Construction.

CA-8 Consider a memorandum/resolution [13-050R] approving TCEQ Air Monitoring Site Agreement Amendment at Skylark Field.

In May 2008, the Council approved a five-year agreement with TCEQ for an 800-square foot area at Skylark Field for an EPA mandated air monitoring unit. Staff recommends approval of this agreement for a five-year term from May 27, 2013, to May 27, 2018.

CA-9 Consider a memorandum/resolution [13-051R] awarding Bid No. 13-24 for Killeen Fire Department Uniforms.

Staff recommends awarding this bid for uniforms to Miller Uniform & Emblems for a one-year period with an additional two one-year terms at the option of the City.

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

Public Hearings / Ordinances

PH-1 **HOLD** a public hearing and consider a request for an ordinance by Min Tae and Un Yong Kim (Case #Z13-09) to rezone a portion of Lot 1, Block 8, Roberts Addition Section 3, from B-5 (Business District) to B-5 (Business District) with a CUP (Conditional Use Permit) for a communication tower. The property is locally known as 2901 W. Elms Road, Killeen, Texas (requires $\frac{3}{4}$ majority vote for approval).

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 (BUSINESS DISTRICT) WITH A CONDITIONAL USE PERMIT (CUP); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

This rezoning request is submitted on a fifty-foot by fifty-foot portion of 2901 W. Elms Road for a one-hundred-foot monopole tower to be located 205 feet east of the west property line and 165 feet north of the south property line. The Planning and Zoning Commission recommended approval of the request with four conditions: (1) the monopole will be constructed as a stealth tower; (2) any construction within the area zoned for the tower shall be located outside any fire lanes to protect public safety access; (3) any additional construction on the property, located in or outside of this area, that alters the drainage pattern or calculations will require the site to come into compliance with drainage standards; and (4) prior to permitting, applicant must provide a dimensioned/scaled as-built survey including the requested zoning area, existing and proposed structures, fences, infrastructure, public easements, and fire lanes.

Mayor Corbin opened the public hearing. Andy Campin appeared in support of the request. The antennas will be flush-mounted. With no one else appearing, the public hearing was closed.

Councilmember Segarra moved to approve the ordinance [13-034], seconded by Councilmember Blackstone. The motion was approved unanimously.

PH-2 **HOLD** a public hearing and consider a request for an ordinance by Cha Park and Son Park (Case #Z13-10) to rezone part of Lot 1, Block 1, Cha Addition, from B-5 (Business District) to RC-1 (General Business and Alcohol Sales District) for on premises sale and consumption of alcohol. The property is locally known as 4524 South W. S. Young Drive, 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 a restaurant to be located on the site, and the request is for the footprint of the building. The applicant understands that if he does not secure a tenant and there is no restaurant, the zoning will be downgraded to B-4. The Planning and Zoning Commission recommended approval of the request, limited to the footprint of the building.

Mayor Corbin opened the public hearing. Son Park appeared in support of his request. With no one else appearing, the public hearing was closed.

Councilmember Okray moved to approve the ordinance [13-035], seconded by Mayor Pro-Tem Lower. The motion was approved unanimously.

PH-3 **HOLD** a public hearing and consider a request for an ordinance by Stephen Hahn (Case #Z13-12) to rezone a portion of Lot 3, Block 1, La Mer Addition, Phase Two, from B-5 (Business District) to B-C-1 (General Business and Alcohol Sales District) to allow for use as a wine bar. The property is locally known as 403 E. Stan Schlueter Loop (FM 3470), Suite #306, 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 for Suite 306 for a wine bar. The area is shown as general commercial on the Comprehensive Plan. The Planning and Zoning Commission recommended approval of the request, limiting it to Suite 306 and the back patio area.

Mayor Corbin opened the public hearing. Kevin Stewart, 2013 Sandy Point, Harker Heights, appeared in support of the request. He emphasized there is no exterior access to the patio area. With no one else appearing, the public hearing was closed.

Councilmember Gilmore moved to approve the ordinance [13-036], seconded by Mayor Pro-Tem Lower. The motion was approved 6-1 (Councilmember Okray in opposition).

PH-4 **HOLD** a public hearing and consider the creation of a new zoning district “NBD” *Neighborhood Business District* for Killeen Code of Ordinances, Chapter 31.

The caption of the ordinance was read as follows:

AN ORDINANCE AMENDING CHAPTER 31 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; CREATING ARTICLE IV, DIVISION 12B, DISTRICT “NBD” NEIGHBORHOOD DISTRICT, BY CREATING THE DISTRICT NAME, ZONING REGULATIONS AND REQUIREMENTS THEREIN; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

This proposed zoning classification resulted from a joint meeting between the City Council and the Planning and Zoning Commission. The Commission held several workshops and held public hearings regarding the proposed NBD Neighborhood Business District. The purpose is to provide limited commercial uses to serve the needs of residents in the immediate area of the business. Section 31-316.2 lists businesses that are excluded, rather than those that are allowed. There are screening and buffer requirements between the NBD area and residential areas, and it provides architectural regulations.

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

Mayor Pro-Tem Lower moved to approve the ordinance [13-037], seconded by Councilmember Blackstone. Councilmember Blackstone moved to amend the motion to exclude bowling alleys, seconded by Councilmember Okray. A vote was taken on the amendment, and it was unanimously approved. A vote was then taken on the motion as amended, and it was approved unanimously.

Ordinances / Resolutions

OR-1 Consider an ordinance amending Chapter 18, Nuisances, of the Killeen Code of Ordinances.

The caption of the ordinance was read as follows:

AN ORDINANCE AMENDING CHAPTER 18 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; ARTICLE I, SECTION 18-1, DEFINITIONS, ARTICLE III, SECTIONS 18-21, HIGH WEEDS, GRASS, OR BRUSH; SECTION 18-22, DANGEROUS WEEDS OVER 48 INCHES HIGH; SECTION 18-28, FILL DIRT; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

This code amendment continues the City's efforts to improve Killeen. Section 18-1 addresses open storage. Section 18-21 addresses high weeds and grass. Property under two acres must not have grass or weeds that exceed twelve inches. With property over two acres, grass and weeds shall not exceed twelve inches within fifty feet along any street or right-of-way or adjacent to a lot occupied by a residence or business. There is an exception for property for which a current agricultural exemption is filed with Bell County. If property adjoins public rights-of-way, weeds or grass shall not exceed twelve inches; however, the requirement does not apply to a right-of-way behind any private property that has a real property line adjacent to a street classified as an arterial or collector.

The ordinance provides an exception for those areas that have slopes greater than a three-foot rise per one-foot run unless it would create a fire or health hazard, and it does not apply to portions of property designated as wetlands as defined and regulated in Chapter 32.

Section 18-28 requires fill dirt to be leveled at least once every thirty days, rather than the previous six months. It does not apply to top soil and gravel piled, stored for sale, or lawfully permitted for development or state-permitted material storage properties. Requirements in Chapters 12, 26, and 32 must be met before the placement of fill dirt materials.

James Ralston, 408 Yates Road, expressed his concern that the City was adding more enforcement requirements without enforcing those already in effect.

Mayor Pro-Tem Lower expressed his concern that mowing large acreages could be a hardship and wanted the ordinance to apply to those properties zoned agricultural.

Mayor Pro-Tem Lower moved to approve the ordinance [13-038] with the addition to 18-21(b)(2) of an exception for property zoned agriculture, seconded by Councilmember Segarra. The motion was approved unanimously.

OR-2 Consider an ordinance canvassing the returns and declaring results of May 11, 2013 General and Special Elections.

The caption of the ordinance was read as follows:

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS, CANVASSING RETURNS AND DECLARING THE RESULTS OF A GENERAL ELECTION FOR THE ELECTION OF FOUR DISTRICT COUNCILMEMBERS AND OF A SPECIAL ELECTION TO CONSIDER AMENDMENTS TO THE HOME RULE CHARTER.

Mayor Corbin appointed Councilmember Blackstone as chair and Councilmembers Okray and Foster to canvass election results with City Secretary Miller, and then called a recess.

Following the recess, Councilmember Blackstone as chair of the canvass committee reported 1,320 people voted at the City's May 11 General and Special elections and reported the following results:

Councilmember, District 1	
Wayne Gilmore	210 Total Received
Councilmember, District 2	
Jose Segarra	200 Total Received
Councilmember, District 3	
Terry J. Clark	316 Total Received
Mike Lower	256 Total Received
Councilmember, District 4	
Steve Harris	101 Total Received
Proposition 1	
For	961 Total Received
Against	290 Total Received
Proposition 2	
For	972 Total Received

Regular City Council Meeting
May 14, 2013 – Page 7

Against	291 Total Received
Proposition 3	
For	960 Total Received
Against	286 Total Received
Proposition 4	
For	870 Total Received
Against	353 Total Received
Proposition 5	
For	1,030 Total Received
Against	217 Total Received
Proposition 6	
For	1,027 Total Received
Against	232 Total Received
Proposition 7	
For	1,028 Total Received
Against	223 Total Received
Proposition 8	
For	669 Total Received
Against	577 Total Received
Proposition 9	
For	875 Total Received
Against	366 Total Received
Proposition 10	
For	795 Total Received
Against	449 Total Received
Proposition 11	
For	916 Total Received
Against	330 Total Received
Proposition 12	
For	1,045 Total Received
Against	204 Total Received
Proposition 13	
For	1,056 Total Received
Against	180 Total Received
Proposition 14	
For	919 Total Received
Against	326 Total Received
Proposition 15	
For	791 Total Received
Against	421 Total Received
Proposition 16	
For	743 Total Received
Against	462 Total Received
Proposition 17	
For	774 Total Received
Against	407 Total Received

Regular City Council Meeting
May 14, 2013 – Page 8

Proposition 18	
For	951 Total Received
Against	245 Total Received
Proposition 19	
For	890 Total Received
Against	304 Total Received
Proposition 20	
For	633 Total Received
Against	526 Total Received
Proposition 21	
For	897 Total Received
Against	287 Total Received
Proposition 22	
For	742 Total Received
Against	443 Total Received
Proposition 23	
For	892 Total Received
Against	302 Total Received
Proposition 24	
For	726 Total Received
Against	460 Total Received
Proposition 25	
For	885 Total Received
Against	289 Total Received
Proposition 26	
For	845 Total Received
Against	343 Total Received
Proposition 27	
For	754 Total Received
Against	430 Total Received
Proposition 28	
For	638 Total Received
Against	545 Total Received
Proposition 29	
For	900 Total Received
Against	272 Total Received
Proposition 30	
For	901 Total Received
Against	271 Total Received
Proposition 31	
For	986 Total Received
Against	206 Total Received
Proposition 32	
For	930 Total Received
Against	249 Total Received
Proposition 33	

For	941 Total Received
Against	233 Total Received

Mayor Corbin reported Wayne Gilmore was elected District 1 Councilmember, Jose Segarra was elected District 2 Councilmember, Terry J. Clark was elected District 3 Councilmember, and Steve Harris was elected District 4 Councilmember, and that all Propositions were duly approved.

Mayor Pro-Tem Lower moved to approve the ordinance [13-039], seconded by Councilmember Gilmore. The motion was approved unanimously.

Special Recognitions

Mayor Corbin presented a plaque to Mayor Pro-Tem Lower, and Mayor Pro-Tem Lower expressed appreciation to the citizens of Killeen for allowing him to serve.

Oath of Office & Certificate of Election

City Secretary Miller administered the oath of office to newly-elected Councilmembers Wayne Gilmore, Jose Segarra, Terry J. Clark, and Steve Harris, and then presented Certificates of Election to each of the newly-elected Councilmembers.

Standards of Conduct

The Mayor and Councilmembers signed the Standards of Conduct while City Manager Morrison read the Standards.

Call to Order and Roll Call

Presiding: Mayor Daniel A. Corbin

Attending: Councilmembers Elizabeth Blackstone, Terry Clark, Jared Foster, Wayne Gilmore, Steve Harris, Jonathan Okray, and Jose Segarra

Also attending were City Manager Glenn Morrison, City Attorney Kathryn Davis, City Secretary Paula Miller, and Sergeant-at-Arms David Cole

Ordinances / Resolutions

OR-1 Consider a memorandum/resolution [13-052R] designating a Mayor Pro-Tem.

Councilmember Okray moved to nominate Elizabeth Blackstone to serve as Mayor Pro-Tem. There were no other nominations. The Council voted on the nomination, and it was approved unanimously.

Adjournment

With no further business, upon motion being made by Councilmember Okray, seconded by Mayor Pro-Tem Blackstone, and unanimously approved, the meeting was adjourned at 7:15 p.m.

Daniel A. Corbin, Mayor

Paula Miller, City Secretary