



## City of Killeen

# City Council Workshop Agenda

Thursday, July 5, 2012

Killeen City Hall  
101 North College  
5:00 P.M.

### Items for Discussion at Workshop

- DS-1 Discuss City Council Agenda Items and Land Use Cases
- DS-2 Discuss the Bid Process for the Employee Insurance and the Employee Benefit Trust
- DS-3 Discuss Code Enforcement Operations and Priorities
- DS-4 Discuss and Consider an Amendment to the Subdivisions and Other Developments Ordinance, Chapter 26 City Code, to Incorporate an Infrastructure Design and Development Standards Manual
- DS-5 Discuss and Consider an Amendment to the Municipal Drainage Utility System Ordinance, Chapter 32 City Code, Adopting Post Construction Storm Water Control Ordinance

### Items for Regular City Council Meeting of July 10, 2012

#### Consent Agenda –

- CA-1 Consider minutes of Regular City Council Meeting of June 26, 2012.
- CA-2 Consider a memorandum/resolution authorizing a contract for the annual maintenance of Sungard Public Sector software.
- CA-3 Consider a plat submitted by Killeen Thundercreek, Ltd. (Case #12-018FS: Thunder Creek Estates, Phase Two) being part of the Thomas Robinett Survey, Abstract No. 686. The property is located on the west right-of-way of Cody Poe Road approximately 1,200 feet south of Watercrest Road, Killeen, Texas.
- CA-4 Consider a petition submitted by WBW Land Investments, L.P., requesting the extension of the corporate city limits of the City of Killeen, by annexing 55 acres located east of S. Clear Creek Road (S.H. 201), approximately 7,000 feet south of W. Stan Schlueter Loop (FM 3470).
- CA-5 Consider a memorandum/resolution ratifying various contracts and expenditures entered into and incurred to repair fire damages to the city's Transfer Station.

**Public Hearings / Ordinances –**

- PH-1 **HOLD** a public hearing and consider an ordinance as requested by Joker’s Icehouse, (Case #Z12-10) to rezone approximately .818 acre, being part of the J. E. Maddera Survey, Abstract No. 600, from B-5 (Business District) with Specific Use Permit (SUP) to B-C-1 (General Business & Alcohol Sales District) for the on-premises sale and consumption of alcohol. The property is located at 3404 W. Stan Schlueter Loop, Killeen, Texas.
- PH-2 **HOLD** a public hearing and consider an ordinance as requested by J. McLean and Sons, Ltd. (Case #Z12-11) to rezone Lots 2 and 3, Block 1, Jamesway Addition, Phase Six, from B-5 (Business District) to R-2 (Two-family Residential District). The property is located at 1103 and 1105 Conner Court, Killeen, Texas.

**Ordinances / Resolutions -**

- OR-1 Consider an ordinance amending Chapter 31, Article IV, Division 21, District “UOD” University Overlay District.
- OR-2 Consider an ordinance amending Chapter 31, Article IV, Division 22, District “COD” Cemetery Overlay District.
- OR-3 Consider a memorandum/resolution to appoint two council members to the Downtown Partnership Committee.
- OR-4 Consider an ordinance authorizing the issuance and sale of City of Killeen, Texas, Combination Tax and Revenue Certificates of Obligation.
- OR-5 A. **RECEIVE** Fiscal Year 2012-13 Proposed Annual Budget and Plan of Municipal Services.
- B. Presentation/Briefing- City Manager’s Proposed Annual Budget and Plan of Municipal Services for FY 2012-13.
- C. **SET** the date of August 14, 2012 to hold a public hearing on fiscal year 2012-13 Annual Budget and Plan of Municipal Services and set preliminary tax rate.

**Adjournment**

**CLOSED MEETINGS**

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**AMERICANS WITH DISABILITIES ACT**

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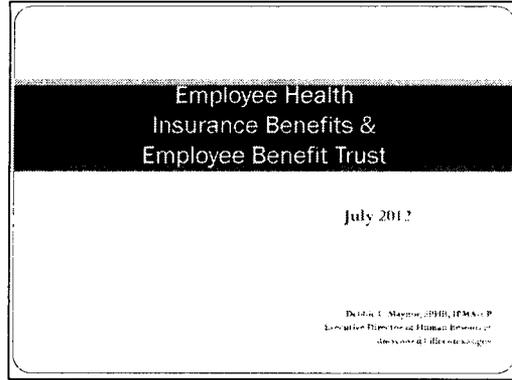
## Future Workshop Items

The following items have been scheduled for workshop discussion on the dates shown. The final scheduling of these items is dependent upon the presenters/interested parties being available on the dates projected.

### July 17, 2012 (Workshop)

- ◆ Discuss City Council Agenda Items and Land Use Cases
- ◆ Presentation-Quarterly Economic Development Report (3<sup>rd</sup> Quarter FY 2011-12)

Slide 1



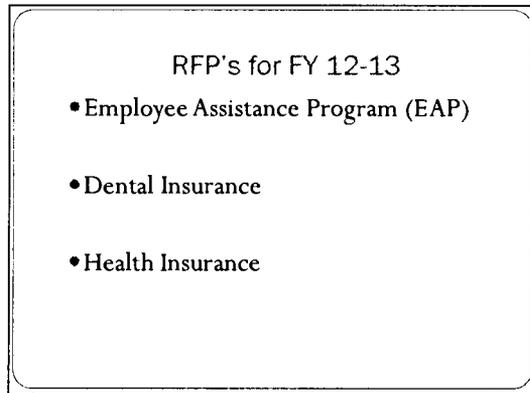
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Slide 2



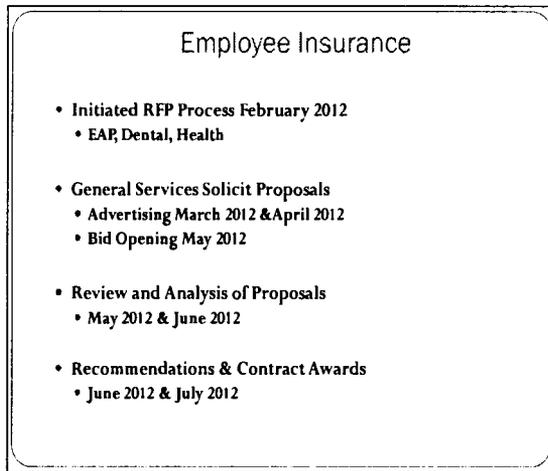
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Slide 3



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Slide 4

Employee Health Insurance Committee

Role and Responsibility

- Laura Duskie, Police Sgt.
- Kimberly Gray, Library Clerk
- Michael Wilson, Operations Manager
- John Woljevach, II, Fire & Rescue Officer
- Debbie Maynor, Executive Director of Human Resources
- Glenn Morrison, Interim City Manager

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Slide 5

What is Employee Benefit Trust?

- Texas Insurance Code Premium Tax Exemption
- Single Non-profit Trusts
  - Established for sole purpose of paying group insurance premiums for employees/retirees of qualifying governmental entity (municipalities)
  - Exempt from premium tax-1.75% on gross insurance premium

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Slide 6

City of Killeen Employee Benefit Trust

- Established July 27, 2010.
- Sole purpose –paying premiums for employee group insurance
  - Establish "single non-profit trust"
  - Pay premiums through the trust
- Qualifies for exclusion from state tax on premiums
  - Texas Insurance Code Chapter 222 Section 222.002(c)(5)
- The Trustees are the members of City Council.
- City Council makes a recommendation to the trust
- Trust makes the decision /awards insurance bids – life, dental, health

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## *Interoffice Memorandum*

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TO: Mayor and City Council

Via: Glenn Morrison, City Manager

FROM: Debbie L. Maynor, Executive Director of Human Resources

DATE: June 21, 2012

**SUBJECT: Employee Insurance and the Employee Benefit Trust (7/5/2012)**

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Requests for proposals for employee insurance (Health, Dental, Employee Assistance Program) were released earlier this year and the responses have been received. Recommendations for the award of the bids is forthcoming. Prior to reviewing the recommendations, a review of the process will provide council with information to assist in reviewing the recommendations.

The members of the City Council also serve as trustees for the Employee Benefit Trust. A review of those duties and responsibilities prior to the first meeting of the Employee Benefit Trust provides for the appropriate operation of the trust in awarding bids for employee insurance.

This memorandum is to place a discussion item on the agenda to allow for a discussion of the process for the employee insurance and the operations of the employee benefit trust.

Attachment: Declaration of Trust

**DECLARATION OF TRUST**  
*Amended August 24, 2010*

**I.**

The **City of Killeen**<sup>1</sup> ("City"), as settlor, designates the members of the **City of Killeen City Council**<sup>2</sup> to be Trustees and declares that the City holds in trust the funds described in Schedule A attached hereto and incorporated herein by reference, which is the property of the City, and all substitutions and additions to such funds, for the purpose of providing life, disability, sick, accident, and other health benefits to the City's officers, employees, and qualified retirees and their dependents.

**II.**  
**PURPOSE**

This is a nonprofit trust created for the purpose of providing City officers, employees, and qualified retirees and their dependents with life, disability, sickness, accident, and other health benefits either directly or through the purchase of insurance and to perform operations in furtherance thereof.

**III.**  
**DURATION**

The Trust shall continue until terminated by operation of law or by majority vote of the Trustees.

**IV.**  
**TRUSTEES: COMPOSITION, OFFICERS, COMPENSATION, AND MEETINGS**

COMPOSITION. The Trustees are the members of the **City of Killeen City Council**, and the term of each Trustee is cotemporaneous with his or her term of office as a Member of the City Council. Whenever a Trustee ceases to be a member of the **City of Killeen City Council**, the person succeeding him or her in office will serve as a successor Trustee of the Trust.

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<sup>1</sup> The settlor is the entity establishing the trust and may also be a Chapter 172 Pool, a county, a hospital district, or a county or municipal hospital.

<sup>2</sup> The trustees will govern the operations of the trust and may also be the Trustees of a Chapter 172 Pool, members of a County Commissioners Court, or members of the Board of Directors of a hospital district or of a municipal or county hospital.

OFFICERS. The Mayor shall serve as Chairman and shall preside at meetings of the Trustees and shall have all such other powers as are conferred herein or by majority vote of the Trustees. The Mayor Pro Tem shall serve as Vice Chairman and shall preside at meetings of the Trustees whenever the Chairman is absent. The Secretary shall rotate, coinciding with the **City of Killeen's** Fiscal Year, between the Council members, skipping the Mayor Pro Tem, beginning with District 1. The Secretary will oversee the preparation of meeting agendas, giving notice of meetings to the Trustees, and the minutes of the meetings of the Trustees.

COMPENSATION. The Trustees shall be reimbursed for all reasonable and necessary expenses incurred by them in the performance of their duties and will otherwise receive no compensation for their service as Trustees. Any approved reimbursement(s) will be made by and from the City of Killeen.

MEETINGS. A meeting of the Trustees may be called by the Chairman or on written request to the Chairman by two or more Trustees. Trustees shall have at least three days written notice of any meeting. For purposes of this section, electronic mail notice is written notice.

## **V.**

### **RIGHTS, POWERS, AND DUTIES OF TRUSTEES; QUORUM AND VOTING**

RIGHTS, POWERS, AND DUTIES. In addition to all other powers and duties conferred on them by this Trust document and imposed or authorized by law, the Trustees shall have the following powers and duties:

1. The Trustees shall carry out all of the duties necessary for the proper operation and administration of the Trust on behalf of the covered persons and shall have all the powers necessary and desirable for the effective administration of the affairs of the Trust.
2. The Trustees have the general power to make and enter into all contracts, and agreements necessary or convenient to carry out any of the powers granted by this Trust document or by law or to effectuate the purpose of the Trust. All such contracts, and agreements or

any other legal documents herein authorized shall be approved by the Trustees and signed by the Chairman on behalf of the Trust. The Trustees may also designate another Trustee to sign such documents.

3. The Trustees shall use the Trust's funds to accomplish the purpose of the Trust, as described in Paragraph II herein, and to operate and administer the Trust solely in the interest of the covered City officers, employees, and qualified retirees and dependents thereof and for the exclusive purpose of providing benefits to such persons and defraying the reasonable expenses of administration of the Trust. To this end, the Trustees may purchase life, disability, or accident and health insurance to provide coverage for participating City officers, employees, and qualified retirees and their dependents. The Trustees may also adopt a health benefits plan that covers eligible City officers, employees, and qualified retirees, and their dependents.
4. The Trustees may accept contributions to the Trust funds from any source including contributions from covered persons receiving benefits from the Trust.
5. The Trustees shall be authorized to contract with any qualified organization to perform any of the functions necessary for providing life, disability, sick, accident, and other health benefits, including but not limited to excess loss insurance, stop loss insurance, claims administration, and administrative services. When required by law or desired by the Trustees, the Trustees may seek sealed competitive bids or sealed competitive proposals with respect to contracts required to carry out the operations of the Trust and to effect the purpose of the Trust.
6. The Trustees shall arrange for the investing of the funds of the Trust so as to keep the same invested according to law and at the best interest rates obtainable for the benefit of

the covered persons. The Trustees may hire money managers and shall adopt an investment policy for its own use and that of its agents in making investments. The Trustees shall select a depository for the Trust's funds and provide for the proper security of any and all investments. The Trustees shall designate signatories for the Trust's depository accounts.

7. The City of Killeen may purchase insurance for the Trustees and any other fiduciaries appointed by the Trustees and for the City of Killeen to cover liability or losses occurring by reason of the act or omission of any one or more of the Trustees or any other fiduciary appointed by them. Any insurance purchased by the City of Killeen must give the insurer recourse against the Trustees or other fiduciaries concerned for breach of any fiduciary obligation or fiduciary duty owed to the Trust.
8. The Trustees shall arrange for proper accounting and reporting procedures for the Trust's funds and shall also provide for an annual audit of the Trust's financial affairs by a certified public accountant.
9. The Trustees may retain legal counsel to represent the Trust and the Trustees in all legal proceedings as well as to advise the Trust and the Trustees on all matters pertaining to the operation and administration of the Trust.
10. The Trustees have the authority to terminate the Trust at any time.
11. Upon termination of the Trust, the Trustees shall provide for the payment of Trust obligations, debts, losses, and other liabilities and shall provide for the disposition of the remaining Trust funds in accordance with Paragraph IX herein.

QUORUM AND VOTING. A majority of the Trustees shall constitute a quorum for the transaction of business at any meeting of the Trustees and the vote of a majority of the Trustees present shall be required for approval of any action at such meeting. The vote of such majority of the Trustees at such meeting shall constitute action of the Trustees as a group.

## **VI. BENEFICIARIES**

The beneficiaries of the Trust are the City officers, employees, and qualified retirees and their dependents who are covered by a life, disability, sick, accident, or other health benefits plan purchased or adopted by the Trust (also called "covered persons" herein). Beneficiaries may make contributions to the Trust for use by the Trustees in fulfilling the purposes of the Trust. No beneficiary shall have any claim against the funds or any other property of the Trust. The rights and interests of the beneficiaries are limited to the insurance or health benefits specified in any policy purchased or plan adopted by the Trustees.

## **VII. TRUST FUNDS**

The Trust funds consist of the funds described in Schedule A hereto as provided by the Settlor to institute this Trust, future contributions by the Settlor, beneficiary contributions, investment income, and any other money or property which shall come into the hands of the Trustees in connection with the administration of the Trust. The Trustees may use the Trust's funds as follows:

1. to pay all expenses which the Trustees consider necessary in establishing the Trust and in administering the Trust and all reasonable expenses incurred by the Trustees in the performance of their duties as defined to be those allowed under Section 222.002(c)(5)(A) [Texas Insurance Code] and or permitted by the State Comptroller of the State of Texas in its role as the administrator of this legislation;
2. to pay premiums on any insurance policies allowed under Section 222.002 (c) (5)(A)[Texas Insurance Code] purchased by the Trust;
3. to make authorized investments;
4. to pay claims under any health benefits plan adopted by the Trustees.

## **VIII. LIABILITY OF TRUSTEES AND OFFICERS**

The Trustees shall use ordinary care and reasonable diligence in the exercise of their powers and the performance of their duties hereunder; and they shall not be liable for any mistake of judgment or other action made, taken or omitted by them in good faith, nor for any action taken or omitted by any agent, employee or independent contractor selected with reasonable care; nor for loss incurred through investment of the Trust funds or failure to invest. No Trustee shall be liable for any action taken or omitted by any other Trustee. No Trustee shall be required to give a bond or other security to guarantee the faithful performance of his or her duties hereunder. To the fullest extent permitted by law: (a) the City of

Killeen shall indemnify each Trustee who was, is, or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding ("*Proceeding*"), any appeal therein, or any inquiry or investigation preliminary thereto, by reason of the fact that the Trustee is or was a Trustee; (b) the City of Killeen shall pay or reimburse a Trustee for expenses incurred (i) in advance of the final disposition of a Proceeding to which such Trustee was, is or is threatened to be made a party, and (ii) in connection with such Trustee's appearance as a witness or other participation in any Proceeding.

**IX.**  
**AMENDMENT, REVOCATION AND TERMINATION**

This Declaration of Trust and the Trust created herein shall terminate when and if required by operation of law. The Trustees shall have the power to amend, modify, terminate or revoke, in whole or in part, this Declaration of Trust and the Trust created herein by majority vote at a duly called meeting at which a quorum is present. Notwithstanding the foregoing, the Trustees shall have no power to amend Paragraph II of this Declaration of Trust. Beneficiaries of the Trust shall have no right to amend this Declaration of Trust, and their approval shall not be a condition or requirement for an authorized amendment by the Trustees.

Upon termination of the Trust, the Trustees shall pay all obligations, debts, losses, and other liabilities of the Trust. Thereafter, the Trustees shall first use the remaining trust funds to pay covered claims of persons covered under the City's health benefits plan that may be in effect at the time of termination of the Trust and, then, either apply any remaining balance of the funds for the benefit of those covered persons in such manner as the Trustees determine shall best carry out to purposes of this Trust or pay such balance over to such covered persons on a per capita basis. Notwithstanding the foregoing, the Trustees, upon termination of the Trust and payment of all Trust obligations may, by vote of a majority of the Trustees, transfer the remaining funds or any portion thereof to the trustees of any

trust or trusts established for a substantially similar purpose to be applied for uses substantially similar to those set forth in Paragraph II herein.

**X.  
GOVERNING LAW**

This Declaration of Trust and the Trust created herein shall be construed and governed by the laws of the State of Texas in force from time to time.

**XI.  
MISCELLANEOUS**

Whenever the context so admits and such treatment is necessary to interpret this Declaration of Trust in accordance with its apparent intent, the use herein of the singular shall include the plural, and vice versa, and the use of the feminine, masculine, or neuter gender shall be deemed to include the other genders.

The captions or headings above the various Paragraphs of this Declaration of Trust have been included only to facilitate the location of the subjects covered by each Paragraph but shall not be used in construing this Declaration of Trust.

If any clause or provision of this Declaration of Trust proves to be or is adjudged invalid or void for any reason, such invalid or void clause, provision, or portion shall not affect the whole, but the balance of the provisions hereof shall remain operative and shall be carried into effect insofar as is legally possible.

IN WITNESS WHEREOF, the undersigned parties have executed this Amended Declaration of Trust, consisting of twelve (12) pages and Schedule A attached hereto, on the dates of their respective acknowledgments below. By joining in the execution of this Amended Declaration of Trust, the Trustees acknowledge signify acceptance of the Amendment created hereunder and covenant that the Amended Trust will be executed with all due fidelity. This Trust is effective as of August 24, 2010.

\_\_\_\_\_  
Timothy L. Hancock, Trustee

\_\_\_\_\_  
Scott Coper, Trustee

\_\_\_\_\_  
Larry Cole, Trustee

\_\_\_\_\_  
Billy C. Workman, Trustee

\_\_\_\_\_  
Kenny Wells, Trustee

\_\_\_\_\_  
Juan Rivera, Trustee

\_\_\_\_\_  
JoAnn Purser, Trustee

\_\_\_\_\_  
Ernest Wilkerson, Trustee

THE STATE OF TEXAS   §  
                                  §  
COUNTY OF BELL       §

This instrument was acknowledged before me on, August 24, 2010, by Timothy L. Hancock, Trustee.

\_\_\_\_\_  
Notary Public, State of Texas  
Print Name: Paula Miller  
My Commission Expires: \_\_\_\_\_

THE STATE OF TEXAS   §  
                                  §  
COUNTY OF BELL       §

This instrument was acknowledged before me on, August 24, 2010, by Scott Cosper, Trustee.

\_\_\_\_\_  
Notary Public, State of Texas  
Print Name: Paula Miller  
My Commission Expires: \_\_\_\_\_

THE STATE OF TEXAS   §  
                                  §  
COUNTY OF BELL       §

This instrument was acknowledged before me on August 24, 2010, by Larry Cole, Trustee.

\_\_\_\_\_  
Notary Public, State of Texas  
Print Name: Paula Miller  
My Commission Expires: \_\_\_\_\_

THE STATE OF TEXAS   §  
                                  §  
COUNTY OF BELL       §

This instrument was acknowledged before me on August 24, 2010, by Billy C. Workman, Trustee.

\_\_\_\_\_  
Notary Public, State of Texas  
Print Name: Paula Miller

My Commission Expires: \_\_\_\_\_

THE STATE OF TEXAS   §  
                                  §  
COUNTY OF BELL       §

This instrument was acknowledged before me on August 24, 2010, Kenny Wells, Trustee.

\_\_\_\_\_  
Notary Public, State of Texas  
Print Name: Paula Miller  
My Commission Expires: \_\_\_\_\_

THE STATE OF TEXAS   §  
                                  §  
COUNTY OF BELL       §

This instrument was acknowledged before me on August 24, 2010, by Juan Rivera, Trustee.

\_\_\_\_\_  
Notary Public, State of Texas  
Print Name: Paula Miller  
My Commission Expires: \_\_\_\_\_

THE STATE OF TEXAS   §  
                                  §  
COUNTY OF BELL       §

This instrument was acknowledged before me on August 24, 2010, by JoAnn Purser, Trustee.

\_\_\_\_\_  
Notary Public, State of Texas  
Print Name: Paula Miller

My Commission Expires: \_\_\_\_\_

THE STATE OF TEXAS    §  
                                  §  
COUNTY OF BELL       §

This instrument was acknowledged before me on August 24, 2010, by Ernest Wilkerson, Trustee.

\_\_\_\_\_  
Notary Public, State of Texas  
Print Name: Paula Miller  
My Commission Expires: \_\_\_\_\_

## **SCHEDULE A**

The following is a list of the assets initially transferred by the **City of Killeen**, Settlor, to the Trust:

**City of Killeen's** first month (October 2010) contributions for Employee, Dependent, and Retiree Medical/Pharmacy Benefits, and Dental Benefits.

**City of Killeen** Employee, Dependents, and Retirees first month (October 2010) of Plan Year's payroll deductions or contributions for Medical/Pharmacy Benefits, and Dental Benefits..

# INTEROFFICE MEMORANDUM

Workshop: 7-5-12  
Item#: DS-2C

To: City Council

Via: Glenn Morrison, Interim City Manager

From: Debbie L. Maynor, Executive Director of Human Resources

Date: June 27, 2012

Subject: Briefing on the Employee Benefit Trust-7/5/2012

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## **Background**

Chapter 222.002 of the Texas Insurance Code creates an annual tax that is imposed on insurers for gross premiums received from their policy holders. Gross premiums paid by some entities, which includes municipalities, can be exempt from the taxes being collected by the insurer. This exemption from taxes can be claimed if the municipality establishes something called a 'single entity benefits trust'. This 'single entity benefits trust' was established for insurance premiums paid for City of Killeen employee benefits; it is called the City of Killeen Employee Benefits Trust (EBT). Creating the EBT saves the city from paying the taxes on the premiums currently paid for employee insurance benefits.

In July 2010, the City Council adopted the Declaration of Trust. This document created the City of Killeen Employee Benefits Trust and established that the City Council Members would serve as Trustees of the City of Killeen Employee Benefit Trust. The Mayor serves as Chairperson, the Mayor Pro-Tem as Vice Chairperson and a rotation of the other Trustees serve as Secretary.

The Trustees receive recommendations from the City Council for action on items related to employee benefits. Processing payments for the EBT is handled by the Human Resources Department and the Finance Department. Handling funds through the EBT account allows the City to take advantage of the exemption from paying the state taxes on the premiums paid by the City.

This summary of an Employee Benefits Trust is just an overview of the functions and processes. The creation and establishment of a trust is significantly more complex than is outlined in this memorandum. The services of a consultant were required to provide the necessary documents and guidance to develop and establish the trust to meet the criteria established in Chapter 222 of the Texas Insurance Code. The Human Resources Director, Finance Director and the City Attorney have ensured the management and operation of the EBT continues to be in compliance with Texas Insurance Code.

The creation of the EBT eliminated the obligation to pay the premium tax that was being charged by insurers for health benefits and provided a significant ongoing savings in insurance premiums paid by the City of Killeen. The savings from removing the requirement to pay the insurance premium tax of 1.75% on the annual premium results in lower premiums proposed in the RFP process. Establishing the EBT and the resulting exemption from the premium tax provides the City with savings of approximately \$80,000 per year.



# City of Killeen Draft/Example City of Killeen Employee Benefits Trust

Killeen City Hall, 101 North College  
Council Chambers  
Tuesday, July 24, 2012  
Immediately following City Council Meeting

**1. CALL TO ORDER**

**2. ROLL CALL**

<u>Trustees</u>		<u>City Staff</u>	
Daniel A.	Corbin _____	Glenn Morrison	City Manager _____
Elizabeth	Blackstone _____	Kathy Davis	City Attorney _____
Terry	Clark _____	Debbie Maynor	Exec. Dir of Human Resources _____
Jared	Foster _____		
Wayne	Gilmore _____		
Michael R.	Lower _____		
Jonathan	Okray _____		
Jose	Segarra _____		

**3. APPROVAL OF AGENDA**

**4. CONSIDER MINUTES OF MEETING OF JULY 26, 2011.**

**5. CONSIDER ACTION TO DESIGNATE THE OFFICERS OF THE TRUST FOR 2012 TO INCLUDE THE DESIGNATION OF A CHAIRPERSON, VICE CHAIR AND SECRETARY**

**6. CONSIDER ACTION TO AWARD EMPLOYEE DENTAL INSURANCE FOR FY 2012-2013 PLAN YEAR**

**7. CONSIDER ACTION TO AWARD EMPLOYEE HEALTH INSURANCE FOR FY 2012-2013 PLAN YEAR**

**8. ADJOURNMENT**

**CLOSED MEETINGS**

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**AMERICAN DISABILITIES ACT**

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I certify that the above notice of meeting was posted on the Internet and on the bulletin boards at Killeen City Hall and at the Killeen Police Department on or before 5:00 p.m., July 17, 2012.

Windy Holverson, Administrative Assistant

**AGENDA ITEM**

**DISCUSS AND CONSIDER  
AMENDMENT TO THE  
SUBDIVISIONS AND OTHER  
DEVELOPMENTS ORDINANCE,  
CHAPTER 26 CITY CODE, TO  
INCORPORATE AN  
INFRASTRUCTURE DESIGN AND  
DEVELOPMENT STANDARDS  
MANUAL**

**ORIGINATION DEPARTMENT**

**PUBLIC WORKS**



**BACKGROUND INFORMATION**

In November 2011, the City Council adopted the current Drainage Design Manual (DDM). As part of that adoption process, a need for the city to provide standard details and specifications that supported the new requirements in the DDM was identified.

As required by the TCEQ and in conjunction with the requirements of the MS4 Permit, the City is required to implement its Phase II program over the course of five years from the issuance date. As part of this implementation, the City has adopted an Erosion and Sediment Control Ordinance, and must adopt a Post Construction Ordinance and post construction best management practices (BMP). The proposed Infrastructure Design and Development Standards Manual includes details and specifications that support the above listed ordinances and BMPs.

In addition, in order to reduce failures and costs to the City in rehabilitation and repair of new infrastructure the Public Works Department initiated an update process of the current construction detail sheets to make development standards consistent with current City CIP standards and practices followed by surrounding communities.

The intent of the proposed Infrastructure Design and Development Standards Manual is two-fold. Primarily the intent is to protect the health, safety and welfare of the citizens of Killeen by standardizing infrastructure construction practices. Secondly, the intent of the ordinance is to comply with the City's TCEQ issued MS4 permit by providing standard construction details that support the proposed Post Construction Storm Water Control Ordinance, proposed Post Construction Best Management Practices, adopted Erosion and Sediment Control Ordinance, and the adopted Drainage Design Manual (DDM).

## **DISCUSSION/CONCLUSION**

This Infrastructure Design and Development Standards Manual was discussed and considered most recently at the June 27, 2012 community stakeholders' group formed for the purpose of implementing various ordinances required under the City's Phase II permit program. The stakeholder group previously met on two separate occasions to discuss various types of standard transportation and drainage specifications and construction details.

In sum, the attached proposed amendment addresses the need to standardize details and specifications within the City, supports requirements of the State's mandate, EPA'S mandate, and addresses input provided by Staff, and the Stakeholder's committee.

## **FISCAL IMPACT**

There is no additional fiscal year 2011-2012 impact for to the City associated with this ordinance.

## **RECOMMENDATION**

Recommend that the City Council adopt the Infrastructure Design and Development Standards Manual.

Attachment: 1) Proposed Standard Manual.

**AN ORDINANCE AMENDING CHAPTER 26 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; AMENDING CHAPTER 26 TO INCORPORATE AN INFRASTRUCTURE DESIGN AND DEVELOPMENT STANDARDS MANUAL; AMENDING VARIOUS SECTIONS OF CHAPTER 26 AS A HOUSEKEEPING MATTER TO ENSURE CONSISTENCY WITH NEW PROVISIONS; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Killeen, Texas is a home-rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and,

**WHEREAS**, the City of Killeen has declared the application and enforcement of the City's subdivision regulations to be necessary for the promotion of the orderly development of the city, public safety, health, convenience, comfort, prosperity and general welfare of the City; and,

**WHEREAS**, the City Council finds that revisions to the City's subdivision and development regulations are necessary to adopt standard infrastructure specifications and construction details to ensure the construction of quality public infrastructure; and,

**WHEREAS**, the City Council finds that establishing infrastructure specifications and construction details is in the best interest of the City and its current and future Citizens and is further permitted in accordance with the Texas Local Government Code, Chapter 212 et seq.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS:**

**SECTION I.** That the City of Killeen hereby adopts the City of Killeen's Infrastructure Design and Development Standards Manual, which is attached hereto and incorporated herein and into the City of Killeen's Code of Ordinances for all intents and purposes with the full effect of law.

**SECTION II.** That Chapter 26, Articles I, II, III and IV, Sections 26-2, 26-41, 26-51, 26-81, 26-85, 26-103, 26-104 and 26-105 of the City of Killeen Code of Ordinances are hereby amended to read as follows:

**Sec. 26-2. Definitions.**

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Infrastructure Design and Development Standards Manual shall mean the City of Killeen's adopted infrastructure design and development standards manual, as amended, providing definitions, formulae, criteria, specifications, details, procedures, data, parameters and methodology governing the planning, design, construction, and maintenance of water, sewer, drainage, street and associated infrastructure and, further detailing pollution control measures within the City's jurisdiction.

\*\*\*\*\*

**Sec. 26-41. Form, contents and required documentation.**

\*\*\*\*\*

(e) The engineering plans shall be in compliance with the city's currently adopted construction standards of the city, infrastructure design and development standards manual and the drainage design manual and shall consist of the following:

\*\*\*\*\*

**Sec. 26-51. Form, contents and required documentation.**

\*\*\*\*\*

(e) The engineering plans shall be in compliance with the city's currently adopted construction standards of the city, infrastructure design and development standards manual and the drainage design manual and shall consist of the following:

\*\*\*\*\*

**Sec. 26-81. Construction of infrastructure.**

(a) Following approval of the final plat, the plat applicant shall submit full construction plans for all proposed infrastructure to be constructed for the platted property. Construction plans submitted shall be in conformance with the approved plat. The public works department shall review the submitted plans for compliance with the infrastructure design and development standards manual, the drainage design manual, and other applicable construction standards adopted by the city.

\*\*\*\*\*

**Sec. 26-85. Agreements with the city.**

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*(d) Roads and drainage:*

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- (6) The developer may submit a request for a city/owner agreement for city participation in a regional detention facility. The regional detention facility must be identified in the city's adopted current drainage master plan, provide benefit to more than two (2) subdivisions, and meet the requirements of the current drainage design manual and infrastructure design and development standards manual.

\*\*\*\*\*

**Sec. 26-103. Drainage in special flood hazard areas.**

- (a) Drainage improvements in areas of special flood hazard in the city shall comply with the provisions of chapter 12 of the city code of ordinances, ~~and the current drainage design manual~~ and the infrastructure design and development standards manual approved by the city council.

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**Sec. 26-104. Drainage not in special flood hazard areas.**

- (a) Design of all drainage improvements shall be by a registered professional engineer in accordance with the current drainage design manual and the infrastructure design and development standards manual approved by the city council.

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**Sec. 26-105. Sidewalks.**

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- (e) All sidewalk and ramp construction shall conform to all applicable Texas Accessibility Standards and Americans with Disabilities Act design requirements, ~~and chapter 25 of the city of Killeen code of ordinances~~ and the infrastructure design and development standards manual.

\*\*\*\*\*

**SECTION III.** That all ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**SECTION IV.** That should any section or part of any section, paragraph or clause of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

**SECTION V.** That the Code of Ordinances of the City of Killeen, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

**SECTION VI.** That this ordinance shall be effective after its passage and publication according to law.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this \_\_\_\_\_ day of \_\_\_\_\_, 2012, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

**APPROVED**

\_\_\_\_\_  
Daniel A. Corbin, MAYOR

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Paula A. Miller, CITY SECRETARY

\_\_\_\_\_  
Kathryn H. Davis, CITY ATTORNEY

# Standard Details Draft

**AGENDA ITEM**

**DISCUSS AND CONSIDER  
AMENDMENT TO THE MUNICIPAL  
DRAINAGE UTILITY SYSTEM  
ORDINANCE, CHAPTER 32 CITY  
CODE, ADOPTING POST  
CONSTRUCTION STORM WATER  
CONTROL ORDINANCE**

**ORIGINATION DEPARTMENT**

**PUBLIC WORKS**

**BACKGROUND INFORMATION**

The municipal separate storm sewer system (MS4) is the system of conveyances (i.e.: sidewalks, roads with drainage systems, municipal streets, curbs, gutters, ditches, man-made channels and storm drains) owned and operated by the City, which is designed or used for collecting or conveying storm water. An illicit discharge is any discharge into the MS4 which is not composed entirely of storm water (excluding discharges allowed under a NPDES or TPDES permit).

The primary harm associated with illicit discharges is that they cause serious water quality problems. One court has noted that "storm water runoff is one of the most significant sources of water pollution in the nation, at times comparable to, if not greater than contamination from industrial and sewage sources."<sup>1</sup>

The intent of the proposed ordinance is two-fold. Primarily the intent is to protect the health, safety and welfare of the citizens of Killeen by preserving and improving water quality. Secondly, the intent of the ordinance is to comply with the City's TCEQ issued MS4 permit.

**DISCUSSION/CONCLUSION**

In 1977, Congress amended the Federal Water Pollution Control Act of 1972. As amended, this act became known as the Clean Water Act (CWA). The CWA established the basic structure for regulating the discharges of pollutants into waters of the United States. Section 402 of the CWA created the National Discharge Pollutant Elimination System (NPDES). This system requires that all dischargers procure a permit from the Environmental Protection Agency (EPA) or from an authorized state. In 1998, the State of Texas was authorized by the EPA to administer and enforce the NPDES program to regulate discharges of pollutants into the waters in the state. Texas implemented this authority under various statutes and, specifically, the Texas Water Code (TWC) § 26.121

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<sup>1</sup> *Phase II Compliance & Illicit Discharge Ordinances*, Corson-Knowles, Benjamin, University of Georgia (2005) quoting *Environmental Def. Ctr., Inc. v. E.P.A.*, 344 F.3d 832, 840 (9<sup>th</sup> Cir.2003).

mandates that no person shall discharge waste into or adjacent to any water in the state which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any of the water in the state. The TWC directs the TCEQ to enforce the provisions of the TWC and, as directed, the TCEQ operates the Texas Discharge Pollutant Elimination System (TPDES) under the regulations found in 30 Texas Administrative Code § 205. The City of Killeen is currently operating under TPDES General Permit No. TXR040000 (MS4 Permit), issued by TCEQ pursuant to TWC § 26.040, which allows the City to discharge storm water into the waters in the State provided that the discharges comply with the terms of the permit.

As required by the TCEQ and in conjunction with the requirements of the MS4 Permit, the City is required to implement its Phase II program over the course of five years from the issuance date. As part of this implementation, the City must adopt a post construction ordinance to mitigate surface runoff volumes and the introduction of potential pollutants into the MS4.

The management of storm water runoff from sites after the construction phase is vital to controlling the impacts of development on urban water quality. The increase in impervious surfaces such as rooftops, roads, parking lots, and sidewalks due to land development can have a detrimental effect on aquatic systems. Runoff from impervious areas can also contain a variety of pollutants that are detrimental to water quality, including sediment, nutrients, pathogenic bacteria, and petroleum hydrocarbons.

As a result, the purpose of the Post Construction Storm Water Control Ordinance is to safeguard persons, protect property, prevent damage to the environment, and to facilitate the City's compliance with State and Federal water quality regulations. This ordinance seeks to meet this objective and achieve the stated purpose through the realization of the following general benchmarks:

- (a) Mitigate increases in storm water runoff from land disturbing activities to reduce flooding, siltation, and stream bank erosion, and maintain the integrity and functionality of watercourses;
- (b) Minimize increases in nonpoint source pollution caused by storm water runoff from land disturbing activities that would otherwise degrade local water quality;
- (c) Manage surface water runoff from land disturbing activities to limit increases in flow and preserve pre-land disturbance hydrologic conditions to the maximum extent practicable; and
- (d) Reduce storm water runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through storm water management controls and monitoring to verify that these management controls are properly maintained and continue to minimize threats to public safety and welfare.

The ordinance provides a variety of mechanisms to ensure enforcement of the provisions including the ability to issue a variety of notices and orders, abate nuisances and to assess civil and/or criminal penalties to dischargers that do not comply.

This ordinance was discussed and considered most recently at the June 27, 2012 community stakeholders' group formed for the purpose of implementing various ordinances required under the City's Phase II permit program. The stakeholder group previously met on seven separate occasions to discuss various types of implementation measures and the general purpose of a post construction storm water control ordinance.

In sum, the attached proposed ordinance addresses the requirements of the State's mandate, EPA'S mandate, and addresses input provided by Staff, and the Stakeholder's committee.

### **FISCAL IMPACT**

There is no additional fiscal year 2011-2012 impact for to the City associated with this ordinance.

### **RECOMMENDATION**

Recommend that the City Council adopt the amendments to Chapter 32 Municipal Drainage Utility System ordinance and the Drainage Design Manual.

Attachment:      1) Proposed Ordinance.  
                         2) Proposed Amendments to the DDM.

**AN ORDINANCE AMENDING CHAPTER 32 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN, TEXAS, MUNICIPAL DRAINAGE UTILITY SYSTEM, BY ADOPTING AN ARTICLE ENTITLED POST CONSTRUCTION STORM WATER CONTROL ORDINANCE; AMENDING CHAPTER 2, ARTICLE IV, SECTION 2-150 "FEES" TO RECOVER ADDITIONAL ADMINISTRATIVE COSTS; AMENDING CHAPTERS 26 AND 32 OF THE CODE OF ORDINANCES FOR CONSISTENCY AND AS A HOUSEKEEPING MEASURE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Killeen, Texas is a home-rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and,

**WHEREAS**, the City of Killeen has declared the application and enforcement of municipal drainage utility system regulations to be necessary for the preservation and improvement of water quality and the promotion of the public health, safety and general welfare of the community; and

**WHEREAS**, amendments to the municipal drainage utility system regulations are periodically needed to ensure the City of Killeen Code of Ordinances remains consistent with applicable State and Federal laws; and,

**WHEREAS**, the Texas Local Government Code, chapter 551 authorizes the City of Killeen to regulate, protect and control the pollution of streams, drains and watersheds under the City's jurisdiction and the Texas Water Code authorizes the City to establish a water pollution control and abatement program; and,

**WHEREAS**, in 1977 the United States Congress amended the Federal Water Pollution Control Act of 1972, commonly known as the Clean Water Act (CWA), and Section 402 of the CWA established the National Pollutant Discharge Elimination System (NPDES). The purpose behind the NPDES program being to protect and preserve the water resources in the United States by regulating discharges into the same; and,

**WHEREAS**, in 1998 the State of Texas was authorized by the United States Environmental Protection Agency to administer and enforce the NPDES program to

regulate the discharge of pollutants into the waters in the State. The State legislature, through chapter 26 of the Texas Water Code directed the Texas Commission on Environmental Quality (TCEQ) to develop and enforce the Texas Pollutant Discharge Elimination System (TPDES) in accordance with the Texas Water Code and the CWA; and,

**WHEREAS**, the TCEQ has established regulations under 30 Texas Administrative Code § 205 requiring the City of Killeen to operate the City's municipal separate storm sewer system (MS4) in accordance with TPDES General Permit No. TXR040000 (MS4 Permit); and,

**WHEREAS**, the City's applicable MS4 permit requires the City of Killeen to adopt and enforce an post construction storm water control ordinance that will mitigate erosion and the introduction of potential pollutants into the MS4;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS:**

**SECTION I.** That Chapter 32, Article IV, of the City of Killeen Code of Ordinances is hereby adopted to read as follows:

**ARTICLE IV. POST-CONSTRUCTION STORM WATER CONTROL ORDINANCE**

**Sec. 32-43. Purpose and policy.**

The objective and purpose of this article is to establish minimum storm water management requirements and controls to protect and safeguard the general health, safety, and welfare of the public. This article seeks to meet this objective and achieve the stated purpose through the realization of the following general benchmarks:

- (a) Mitigate increases in storm water runoff from land disturbing activities to reduce flooding, siltation, and stream bank erosion, and maintain the integrity and functionality of watercourses;
- (b) Minimize increases in nonpoint source pollution caused by storm water runoff from land disturbing activities that would otherwise degrade local water quality;
- (c) Manage surface water runoff from land disturbing activities to limit increases in flow and preserve pre-land disturbance hydrologic conditions to the maximum extent practicable; and

- (d) Reduce storm water runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through storm water management controls and monitoring to verify that these management controls are properly maintained and continue to minimize threats to public safety and welfare.

#### **Sec. 32-44. Applicability.**

This article shall be applicable to all landowners, applicants, and/or agents of the same conducting land disturbing activity disturbing one (1) acre or more of land, land disturbing activities disturbing areas that are smaller than one (1) acre if the land is part of a larger common plan of development, and any land disturbing activities conducted within or adjacent to a Creek Buffer Zone (CBZ) as defined herein and the city's adopted Drainage Design Manual (DDM), which is incorporated into this article for all intents and purposes.

#### **Sec. 32-45. Performance Standards. Exemptions.**

To minimize the adverse impacts from storm water runoff and to realize the objectives of this article, the city has developed this article and the applicable sections of the DDM to provide a set of minimum performance standards that shall be met for all land disturbing activity to which this article applies. The following activities may be exempt from these storm water performance standards:

1. Additions or modifications to existing single family structures;
2. Repairs to any storm water treatment measure deemed necessary by the director or other regulatory entity; and
3. Activities exempted from the land disturbance permit process under section 26-80(b) of this code.

#### **Sec. 32-46. Compatibility with other law.**

This article is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of federal, state or local law. The requirements of this article should be considered minimum requirements, and where any provision of this article imposes restrictions incompatible with those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall take precedence.

#### **Sec. 32-47. Definitions.**

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this article, shall have the meanings hereinafter designated. Additionally, all references to any Federal or State regulation or act shall refer to the current regulation or act and any amendments thereto after the effective date of this ordinance. Terms not defined in the

article shall be as defined in article II and article III of this chapter, unless the context clearly indicates otherwise.

*Applicant* shall mean a property owner or agent of a property owner who has filed a storm water management site plan.

*Creek Buffer Zone (CBZ)* shall mean a setback established for all property located on or adjacent to a natural, vegetated, earthen or grass lined watercourse in which land disturbance may be restricted due to a stream bank erosion hazard. Any land disturbing activity in a CBZ shall comply with the Drainage Design Manual (DDM), Chapter 10 "Post-Construction Storm Water Best Management Practices." Delineation methods for CBZs are defined in the city's DDM.

*Detention* shall mean the temporary storage of storm runoff in a storm water management facility with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

*Impervious cover* shall mean those surfaces that do not allow the effective infiltration of rainfall or storm water runoff into the ground (e.g. building rooftops, pavement, sidewalks, driveways, etc.).

*Land disturbing activity* shall mean any activity including, without limitation, the clearing, grading, filling, grubbing, scraping, dredging, mining, paving, excavating, drilling or movement of land, or the construction of any building or structure, the stockpiling of soil or materials, the baring of soil or rock, the diversion or piping of any natural or man-made watercourse, or any other activity that will or may result in soil erosion from water or wind, the movement of solid materials into waters or onto adjacent lands, or that changes the volume or peak flow discharge rate of storm water runoff from the land surface.

*Landowner* shall mean the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

*Maintenance easement, covenant and agreement* shall mean a legally-binding and recorded document that acts as a real property easement, covenant and restriction providing for the perpetual existence and maintenance of storm water management facilities and practices.

*Off-site facility* shall mean a storm water management facility located outside the subject property boundary depicted in the applicable SWSMP.

*On-site facility* shall mean a storm water management facility located within the subject property boundary depicted in the applicable SWSMP.

*Potential storm water pollutants* shall mean storm water pollutants that may be introduced to the city's MS4 and/or waters of the State or U.S. as a result of land disturbing activity and shall include, without limitation, total suspended solids, total dissolved solids, increased temperature, fats, oils and grease, floatables (e.g. trash, rubbish, etc.), nutrients (e.g. nitrogen; phosphorus; etc.), bacteria (e.g. fecal coliform; e. coli), metals, pesticides and herbicides, and sediment (due to soil erosion).

*Redevelopment* shall mean any construction, alteration or improvement of a site that changes the "footprint" of a site or building to an extent that triggers this article's applicability.

*Site disturbance permit* shall mean a permit issued by the city to regulate land disturbing activities to meet the objectives of articles III and IV of this chapter. A site disturbance permit shall be deemed to be the same as a land disturbance permit issued under section 26-80 of this code, provided that the requirements of these various articles are met.

*Storm water management* shall mean the use of structural or non-structural practices and BMPs that are designed to reduce storm water runoff pollutant loads, discharge volumes, peak flow discharge rates, and detrimental changes in stream temperature that affect water quality and habitat.

*Storm water management facility* shall mean any facility that is built to control storm water runoff in order to comply with the BMPs and requirements established herein.

*Storm water management site plan (SWMSP)* shall mean a plan that shall be included as part of the Storm Water Pollution Prevention Plan (SWPPP) for a site that describes all structural and nonstructural post-construction BMPs to be utilized to comply with this article. The SWMSP shall be submitted with the site disturbance permit in instances where a SWPPP is not required under this code.

*Structural control (or practice)* shall mean a pollution prevention practice that requires the construction of a device, or the use of a device, to capture or prevent pollution in storm water runoff.

#### **Sec. 32-48. Storm water management site plan.**

- (a) A storm water management site plan (SWMSP) is required for all land disturbing activities to which this article applies.
- (b) No application for a site disturbance permit shall be approved unless a SWMSP is submitted therewith detailing how runoff and associated water quality impacts resulting from the land disturbing activity will be controlled or managed in compliance with the requirements of this article. If a storm water pollution prevention plan (SWPPP) or erosion and sediment control plan is required for the site, the SWMSP shall be included as a component of the

SWPPP.

- (c) For land disturbing activities located within a CBZ that disturb less than one (1) acre of land, where a SWPPP is not required, the SWMSP shall be submitted as a separate document to the director for review and approval prior to the commencement of any land disturbing activity.
- (d) The SWMSP shall meet the submittal requirements outlined in the submittal checklist found in section 32-49 (b) of this article, be prepared by a certified professional and shall indicate whether storm water will be managed on-site or off-site. The plan shall include the specific location and type of practices in order to receive consideration for BMP credit provided in this article.
- (e) The SWMSP shall be developed and coordinated with the drainage construction design and may be shown on the same plan sheet, if applicable. It shall also be coordinated with the landscaping construction design to prevent conflicts and assure compatible land use, if landscaping is a selected and approved BMP.
- (f) A site disturbance permit shall not be issued until a SWMSP has been reviewed and released by the director after determining that the plan is consistent with the requirements of this article.

**Sec. 32-49. Storm water management site plan requirements.**

- (a) A SWMSP shall be required with site disturbance permit applications and shall include sufficient information to evaluate the environmental characteristics of the site, the potential impacts of all proposed land disturbing activity of the site on the affected water resources, both present and future, and the effectiveness and acceptability of the measures proposed for managing storm water generated at the site. This information is required to enable the director to determine the type of storm water management measures necessary for the proposed project, and to ensure adequate planning for management of storm water runoff from future land disturbing activities.
- (b) The following information, in addition to the information required by Chapter 10, "Post-Construction Storm Water Best Management Practices," and other applicable sections of the DDM shall be included in the SWMSP:
  - (1) Plan. A map (or maps) depicting the site layout plan that indicates:
    - (A) The location of proposed structural and non-structural storm water management facilities;
    - (B) The drainage patterns and drainage areas that drain to each storm water management facility or BMP;

- (C) The limits of land disturbing activities and any natural areas that are proposed to be preserved;
  - (D) The percentage of the total disturbed area that drains to one or more storm water BMPs and the limits of CBZs, if applicable; and
  - (E) For BMP credits related to site design BMPs, the map(s) shall show special flood hazard areas, natural features, sensitive areas or erodible soils, as applicable, to demonstrate compliance with the DDM.
- (2) Engineer Analysis. An engineering analysis is required to show that the proposed storm water management measures are capable of controlling runoff from the site in compliance with this article, the specifications included within the DDM, and other applicable provisions of this chapter.
- (3) Inventory. A written or graphic inventory, as described in the DDM, of the natural resources existing at the site and surrounding area (a minimum of 500 feet from the property line) prior to the proposed or actual commencement of land disturbing activities and a description of the applicable watershed and its relation to the site. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas in applicable areas.
- (4) Maintenance and Repair Plan. The design and planning of all storm water management facilities shall include detailed maintenance and repair procedures to ensure their continued functionality. This plan shall identify the parts or components of a storm water management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures, which meet all specifications found in the DDM shall also be included in this plan.
- (5) Maintenance easement, covenant and agreement ("agreement"). Except for CBZs, the applicant shall ensure that all proposed BMPs are perpetually maintained. As such, the applicant shall reserve or secure perpetual access and maintenance easements to all storm water BMPs at the site for the purpose of inspection, repair and perpetual maintenance. The landowner may assign the respective maintenance and repair obligations to a Home Owners Association, upon formal written consent of the same, or retain the same. The agreements shall be presented to the City in draft form as a part of the SWMSP. Following completion and release of all initially required actions contemplated by the SWMSP, the applicable agreements shall be recorded with the SWMSP in the real property records of Bell County at the applicant's expense. The agreement shall also conform to the following:

- (A) The agreement shall contain affirmative language, in the nature of a covenant running with the land, obligating the landowner, his successors, heirs and assigns, to perpetually preserve, protect and maintain the storm water BMPs and otherwise comply with this article;
  - (B) The agreement shall identify the city as co-grantee for access and inspection purposes and as a beneficiary to said agreement's obligations;
  - (C) The agreement shall include any and all maintenance easements required to access and inspect the storm water management facilities, and to perform routine maintenance as necessary to ensure the perpetual functionality of the storm water management facility in accordance with this article and the applicable SWMSP;
  - (D) The agreement shall provide for access to the facility for periodic inspection by the city for regular or special assessments of the property to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this article;
  - (E) The agreement shall provide a schedule describing necessary maintenance activities and providing a periodic schedule for the same to ensure continued functionality of the storm water management facility. The agreement shall also include a schedule for interim periodic inspections to ensure proper performance of the facility between scheduled maintenance. Maintenance and inspection schedules shall conform to the BDM and section 32-59 of this article; and
  - (F) The agreement shall provide a provision authorizing the city, upon written notification thereof, to increase the inspection and maintenance requirements as deemed reasonably necessary to ensure proper functioning of the storm water management facility.
- (6) Maintenance by city. In its sole discretion, upon written request of the applicant accompanying the SWMSP, the director may agree in writing, under terms the director may deem necessary and beneficial, to accept and maintain easements containing a site's storm water management facility as a publicly-dedicated improvement following completion of BMP construction and stabilization, if a public benefit to said acceptance is proposed by the applicant and validated by the director. This agreement may be tentatively reached as a substitute for the maintenance easement, covenant and

agreement required above. However, this provision shall not be construed as a guarantee of the city's final acceptance of any BMP as a public improvement that does not comply with the terms of any such agreement or this article.

- (7) A concept plan is required to evaluate the maximum development potential of a site and adjacent properties under current common ownership and its affect on the objectives of this article under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential.
- (c) For land disturbing activity proposed on a redevelopment site, an applicant shall be required to include within the SWMSP measures for controlling existing storm water runoff discharges from the site in accordance with the standards of this article, to the maximum extent practicable.

#### **Sec. 32-50. Required permanent BMPs.**

To preserve the existing natural resources in the city and to promote sustainable development, demonstration of compliance with the following permanent BMPs, where applicable, are required in the SWMSP of all land disturbing activities.

(a) **Site Layout Compliance.** As indicated above, each SWMSP shall depict the site layout as well as the placement of the selected BMPs. Compliance with a proposed site layout and SWMSP is a condition precedent to the issuance of a written acceptance of infrastructure, certificate of occupancy, and/or building permit, as may be applicable.

(b) **Creek Buffer Zone (CBZ).** All sites located on or adjacent to a natural, vegetated, earthen or grass lined watercourse are hereby deemed to be wholly or partially within a CBZ. When a site is located within or is directly connected to a CBZ, the developer, builder or landowner, as applicable, shall comply with the techniques found in the DDM, Chapter 10, "Post-Construction Storm Water Best Management Practices," while disturbing a CBZ site.

(c) **Water Quality Standards.** Each SWMSP is required to address compliance with the minimum water quality standards as defined in Chapter 32, Article II of this code.

#### **Sec. 32-51. Additional BMP Credit Point Requirements.**

In addition to the required BMPs, listed in Section 32-50 above, the following number of BMP credit points are required based on the size of the project and development type:

Table 1: Additional BMP Credit Point Requirements.

<b>Non-Residential</b>	
	<i>Number of additional BMP Credits required</i>
1 acre ≤ Disturbed Area < 5 acres	1
5 acres ≤ Disturbed Area < 10 acres	2
10 acres ≤ Disturbed Area < 20 acres	3
≥ 20 acres	4

<b>Residential</b>	
	<i>Number of additional BMP Credits required</i>
1 acre ≤ Disturbed Area < 5 acres	1
5 acres ≤ Disturbed Area < 20 acres	2
≥ 20 acres	3

The number of credits attributed to individual BMPs are specified in Chapter 10, "Post-Construction Storm Water Best Management Practices" and Appendix C of the DDM.

**Sec. 32-52. Factors to be considered**

The following are examples of factors that should be considered when evaluating and selecting BMPs:

- (a) Effect of the land disturbing activity on runoff volumes and rates;
- (b) Release of potential pollutants from the land disturbing activity;
- (c) Percent of site treated by each BMP;
- (d) Effectiveness of the BMP on minimizing the release of potential pollutants from the land disturbing activity;
- (e) Natural resources on the site; and
- (f) Configuration of site, including existing watercourses.

**Sec. 32-53. Additional BMPs:**

The following items are acceptable permanent post-construction storm water BMPs to be utilized when meeting the requirements of Table 1: additional BMP credit requirements in Section 32-51, if appropriate and based on the size of the land disturbing activity, and if implemented and/or constructed in compliance with the applicable designs provided in Chapter 10, "Post-Construction Storm Water Best Management Practices" of the DDM:

- (a) Preserve Special Flood Hazard Areas (Riparian Buffer);
- (b) Protection of Natural Features;
- (c) Dedication and acceptance of Linear Parks;

- (d) Reduce Limits of Clearing and Grading;
- (e) Open Space Design / Cluster Development;
- (f) Minimize Directly Connected Impervious Area;
- (g) Locate Development in Less Sensitive Areas;
- (h) Minimize Siting on Erodible Soils;
- (i) Dedication and Acceptance of Conservation Easements;
- (j) Urban Forestry;
- (k) Xeriscaping;
- (l) Parking Lot / Storm Water Islands;
- (m) Porous Concrete / Asphalt;
- (n) Modular Porous Pavement System;
- (o) Bioretention (Rain Garden);
- (p) Dry Extended Detention Basin;
- (q) Stream Restoration;
- (r) Storm Water Wetland;
- (s) Vegetated Swales;
- (t) Multi-Purpose Detention Areas;
- (u) Enhanced Swales;
- (v) Wet Pond; and
- (w) Other Proposed BMPs, which will be considered when submitted as part of a SWMSP, provided supporting calculations and references are provided.

**Sec. 32-54. Establishment and Delineation of Creek Buffer Zones.**

All property located on or adjacent to a natural, vegetated, earthen or grass lined watercourse is hereby deemed to be wholly or partially within a CBZ and shall be delineated and otherwise comply with the requirements and standards of the DDM, Chapter 10, "Post-Construction Storm Water Best Management Practices."

**Sec. 32-55. Designation Requirements.**

- (a) All plats, plans, permit applications and SWMSPs shall clearly show the limits of CBZs based on criteria in the DDM, Chapter 10, "Post-Construction Storm Water Best Management Practices."
- (b) The limits shall be indicated by dashed lines and labeled "Creek Buffer Zone."
- (c) CBZ designation may be combined with other lines in cases where CBZ lines coincide with regulatory floodplain limits or publicly dedicated easements, such as drainage easements, provided that dual labeling is utilized.
- (d) CBZ requirements shall not apply to watercourses that have been engineered to convey a one-percent (1%) chance storm (100-year frequency storm) and to withstand erosive forces and that have been adequately stabilized by man-made construction materials such as concrete rip-rap, gabions and concrete retaining

walls. Wood timbers ties shall not be used and will not be considered to stabilize watercourses due to their relatively short life span of service.

**Sec. 32-56. Review, issuance, and appeal.**

- (a) The director will review each application containing a SWMSP to determine its conformance with the provisions of this article, this chapter, and section 26-80 of this code. The review and permit issuance processes shall be as established in section 26-80(d) and (f) of this code and the appeal process of section 26-80(g) shall be available for the purpose indicated and according to the procedure identified therein. In accordance with those sections and to conform with this article, in the time period provided therein the director shall take one (1) of the following two (2) actions:
  - (1) Issue the permit application;
  - (2) Deny the permit application indicating the reason(s) for non-issuance and the procedure for submitting a revised application.
- (b) Failure of the director to act on an original or revised application within the applicable time period shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by a mutual agreement between the applicant and the director. However, no proposed dedication shall be deemed accepted until formally accepted by the City or as otherwise provided by applicable law. Pending preparation and approval of a revised plan, development activities may be allowed to proceed, at the director's discretion, in accordance with written conditions established by the City.

**Sec. 32-57. Construction Inspection.**

Storm water management facility inspections shall comply with all requirements found within DDM, Chapter 10, "Post-Construction Storm Water Best Management Practices" and the following:

The director reserves the right to make inspections of sites as hereinafter described and either shall approve that portion of the work completed or shall notify the landowner or agent wherein the work fails to comply with the SWMSP as approved. To obtain inspections, the landowner, applicant or developer shall notify the city at least two (2) working days before commencement or request of the following:

- (1) Start of construction;
- (2) Installation of post construction BMPs; and
- (3) Final acceptance of public infrastructure, or prior to issuance of certificate of occupancy dependent upon respective development stage.

**Sec. 32-58. Record drawings.**

All applicants are required to submit actual "Record Drawings" for any structural storm water BMP or storm water management facility after final construction is completed. The drawings shall show the final design specifications for all storm water management facilities and shall be certified by a licensed professional engineer. Installation records and record drawings shall be permanently retained and shall be subject to inspection and review by the director as provided in this article.

**Sec. 32-59. Minimum inspection requirements for all storm water management facilities.**

All storm water management facilities shall be inspected at least once annually, or at the recommended frequency specified in the DDM or any applicable SWMSP agreement recorded under section 32-49(b) above, whichever is more stringent. The inspection shall document maintenance and repair needs and ensure compliance with the requirements of this provision. Repair and maintenance needs may include but are not limited to: removal of silt, litter and other debris accumulated within BMPs; replacement of soil or biofiltration/filtration media; replacement or repair of damaged sections of porous pavement or asphalt; grass cutting and vegetation removal; and replacement of landscape vegetation. Any maintenance or repair needs identified through inspection or other means shall be performed in a timely manner not to exceed thirty (30) days' of discovery, or immediately upon notification by the director. Recommended inspection schedules are specified in the DDM Chapter 10, "Post-Construction Storm Water Best Management Practices."

**Sec. 32-60. Inspection programs for storm water management facilities.**

(a) The director may enter the property of the applicant as deemed necessary to make regular inspections to ensure the applicant's compliance with this article and the validity of the reports filed under section (b) below. The director reserves the right to make inspections of sites to determine if work and/or maintenance provided in the SWMSP is in conformance with the same. Inspection programs may be established on any reasonable basis including, without limitation, routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or potential pollutants or with discharges of a type that are more likely than the typical discharge to cause violations of state or federal water quality standards or TPDES storm water permits; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, without limitation, the following activities: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in storm water management facilities; and evaluating the condition of storm water management facilities and other storm water treatment practices.

(b) For all privately owned and maintained storm water management facilities, the landowner or agent shall make regular inspections of all BMPs in accordance with Section 32-49(b)(4) and (5). The purpose of such inspections will be to determine the overall effectiveness of the permanent BMPs and the need for additional control measures. All inspections shall be documented in written form and kept on file for a period of three (3) years. In addition, record drawings of the facilities' installation and construction shall be retained permanently. Maintenance and inspection reports and record drawings shall be provided to the director upon inspection and/or reasonable request.

### **Sec. 32-61. Nuisance.**

*Nuisances.* Any violation of this article including, without limitation, failing to comply with the provisions of an applicable SWMSD, or properly maintain storm water management facilities is a threat to public health, safety and welfare and is hereby deemed to be a nuisance. Nuisances may be summarily abated or restored at the violator's sole expense in accordance with this article, and/or a civil or criminal action may be pursued to abate, enjoin, otherwise compel the cessation of such nuisance, or to exercise other legal remedies.

### **Sec. 32-62. Enforcement.**

#### *(a) Administrative enforcement remedies.*

- (1) *Generally.* Nothing in this section shall limit the authority of the city to take any action, including emergency action or any other enforcement action, without first issuing any other type of notice or order provided under this section. Compliance with any notice or order issued hereunder in no way relieves the alleged violator of liability for any violations occurring before or after receipt of any notice or order.
- (2) *Warning notice.* When the city finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, the city may serve upon that person a written warning notice, specifying the particular violation believed to have occurred and requesting that the person immediately comply with this article or any order so issued.
- (3) *Notification of violation (NOV).* When the city finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, the city may serve upon that person a written NOV. Within ten (10) calendar days of the receipt of the NOV, the person shall submit an explanation of the violation and a plan for the satisfactory correction and prevention of reoccurrence thereof, to include specific required actions and time lines for completion, to the city. If the alleged violator denies that any violation occurred and/or contends that no corrective action is necessary, an explanation of the basis of any such denial or contention shall be submitted to

the city within the same time period. Receipt of the NOV is presumed to occur five (5) calendar days following the date the NOV is mailed.

(4) *Consent orders.* The city may enter into consent orders, assurances of voluntary compliance, or other similar agreements with any person responsible for the noncompliance with any provision in this article or any order issued hereunder. Such agreements may include specific action to be taken by the person to correct the noncompliance within a stated time period. Agreements entered into under this paragraph shall be judicially enforceable.

(5) *Compliance orders.* When the city finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, the city may issue an order to the person directing the person to come into compliance with this article within a specified time limit. Compliance orders may contain requirements to address the actual or threatened violation and/or a reoccurrence thereof. The compliance order may also contain requirements directing the person to remediate, abate and/or restore any environmental or other adverse effects associated with a particular violation, including, but not being limited to, monitoring, assessment, and evaluation of the adverse effects and determination of the appropriate remedial, abatement, and/or restoration action; confinement, removal, cleanup, treatment, and disposal of any discharged or released sediment or other materials; prevention, minimization, and/or mitigation of any damage to the public health, welfare, or the environment that may result from the violation; restoration or replacement of city property or natural resources damaged by the violation. A compliance order may not extend the deadline for any compliance established by state or federal requirements.

(6) *Stop work orders.* When the city finds that any owner or operator, or agent thereof, of a site under construction or disturbance has violated, continues to violate or threatens to violate any provision of this article, or any order issued hereunder, the city may issue a stop work order which shall be posted at the premises and distributed to all city departments and divisions whose decisions affect any continuing construction activity at the premises. Unless express written exception is made by the city, the stop work order shall prohibit any further construction activity at the premises and shall bar any further inspection or approval by the city associated with a building permit, grading permit, plat approval, site disturbance permit approval, or any other city approval necessary to commence or continue construction or to assume occupancy at the premises.

(7) *Revocation of construction registration.* When the city finds that any agent, contractor or subcontractor, that holds a construction registration issued under chapter 8, article III of this code of ordinances, under contract with the owner of real property is responsible for a violation of this article, the city may institute proceedings under chapter 8 for the suspension of the construction

registration. The grounds of such proceeding shall be a failure to comply with this article and all regulatory, procedural and appeal rights of sections 8-69 through 8-72 shall be deemed to apply to the action.

(b) *Nuisance abatement.* The city may, in conjunction with the administrative remedies provided in this section or as a separate action, abate a nuisance as follows:

(1) *Notice of violation: nuisance.*

(A) Any owner of any lot, parcel of land, or premises within the city limits having on it a nuisance described in this article shall be required to remove, abate, or cure such nuisance within seven (7) calendar days from the date of receipt of a NOV declaring the same from the director. Receipt is presumed to occur five (5) calendar days following the date the NOV is mailed.

(B) Any owner of any lot, parcel of land, or premises who receives the NOV described in this subsection (b) who cannot remove, abate or cure the nuisance due to weather conditions or who requires additional time to arrange a contractor to remove, abate or cure the nuisance may request and, at the director's discretion, may be granted an extension of time, not to exceed fourteen (14) calendar days.

(C) A NOV issued under this article shall be given to the owner as follows:

- (i) personally, in writing; or
- (ii) by letter (regular mail) addressed to the owner at the owner's address as recorded in the tax appraisal district records of the appraisal district in which the property is located; or
- (iii) if personal service cannot be obtained:
  - a. by publication at least once; or
  - b. by posting the notice on or near the front door of each building on the premises to which the violation relates; or
  - c. by posting the notice on a placard attached to a stake driven into the ground on the premises to which the violation relates, if the premises contains no buildings.

(D) A NOV issued under this subsection (b) may also be sent by letter (regular mail) to any operator, lessee, occupant or person in control of the property known to the director, as applicable.

(E) If the director mails a NOV to an owner in accordance with this subsection (b), and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.

(2) *City authorized to abate.* If the owner fails to comply with the NOV issued under this subsection (h), within the period prescribed, the city may enter the premises and remove, abate, or cure such nuisance.

(3) *Lien on property.* If the city abates a nuisance under this article, the owner of such premises shall be notified by regular mail of the expenses incurred therefrom and the administrative fee provided in paragraph (4) of this subsection (b). If such charges are not paid within thirty (30) calendar days of the date of such notice, the director shall cause to be filed with the county clerk documentation of such expenses sufficient to establish a lien against the premises on which the nuisance was abated.

(4) *Remedies, expenses, and citation.* Any owner who violates this article shall be subject to abatement restitution, penal fine(s) or both, or any other relief provided by law. A person who fails to abate such nuisance within the time provided shall be required to pay an administrative fee of one hundred dollars (\$100.00) in addition to the expenses incurred by the city to abate the nuisance.

(c) *Judicial enforcement remedies.*

(1) *Civil remedies.* Whenever it appears that a person has violated, or continues to violate, any provision of this article, the city may petition the Bell County district court for injunctive relief and/or civil penalties not to exceed \$5,000 per day. (State law reference: *Texas Local Government Code* §§ 54.012 and 54.017.)

(2) *Injunction.* Upon a showing of substantial danger of injury or an adverse health impact to any person or to the property of any person other than the owner or operator, the city may obtain a temporary or permanent injunction, as appropriate, against the owner or the operator of a premises that:

(A) prohibits specific conduct that violates this article; and

(B) requires specific conduct that is necessary for compliance with any provision of this article. (State law reference: *Texas Local Government Code* § 54.016.)

(3) *Criminal penalties.*

(A) *Penalty.* A person who violates, or causes or permits the violation of, any provision of this article, including knowingly making any false statement, representation, or certification in any application, record, report, plan, petition, appeal or other documentation filed, or required to be maintained, pursuant to this article, or any order issued hereunder commits a Class C

misdemeanor which shall be punishable under section 1-8 of this code. A fine not exceeding two thousand dollars (\$2,000.00) may be imposed for violation of the provisions of this article that govern fire safety or public health and sanitation. With respect to violations of this code that are continuous with respect to time, each day the violation continues is a separate offense. Proof of a culpable mental state, unless otherwise stated in this article or required by law, is not required for conviction of an offense under this article.

(B) *Considerations.* In determining the amount of any fine imposed hereunder, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the violation, corrective actions by the violator, the compliance history of the violator, the violator's knowledge, intent and/or negligence, and any other factor as justice requires.

(C) *Remedies nonexclusive.* The remedies provided for in this article are not exclusive of any other remedies that the city may have under state or federal law or other city code provisions, including other civil actions provided under the Texas Water code. The city may take any, all, or any combination of these actions against a violator. The city is empowered to take more than one enforcement action against any violator and these actions may be taken concurrently.

**SECTION II.** That Chapter 2, Article IV, Section 2-150 of the City of Killeen Code of Ordinances is hereby amended to read as follows:

**Sec. 2-150. Fees.**

\*\*\*\*\*

**(k) Planning**

\*\*\*\*\*

**(8) Land disturbance permit application**

- a. ~~one (1) to ten (10) acres - (sixty dollars) \$60.00~~ one hundred dollars) \$100.00
- b. ~~over ten (10) to fifty (50) acres - (eighty dollars) \$80.00~~ one hundred and twenty dollars) \$120.00
- c. ~~over fifty (50) acres and above - (one hundred dollars) \$100.00~~ one hundred and forty dollars) \$140.00

\*\*\*\*\*

**SECTION II.** That Chapter 26, Articles I and II, Sections 26-2 and 26-51, respectively, of the City of Killeen Code of Ordinances are hereby amended to read as follows:

**Sec. 26-2. Definitions.**

\*\*\*\*\*

~~Land disturbing activity shall mean any change in land made or caused by human activity that may result in soil erosion from water or wind, the movement of solid materials into waters or onto adjacent lands, or increased runoff of storm water including, but not limited to, grading, excavating, transporting, or filling of land. Land disturbing activity shall mean any activity including, without limitation, the clearing, grading, filling, grubbing, scraping, dredging, mining, paving, excavating, drilling or movement of land, or the construction of any building or structure, the stockpiling of soil or materials, the baring of soil or rock, the diversion or piping of any natural or man-made watercourse, or any other activity that will or may result in soil erosion from water or wind, the movement of solid materials into waters or onto adjacent lands, or that changes the volume or peak flow discharge rate of storm water runoff from the land surface.~~

\*\*\*\*\*

**Sec. 26-51. Form, contents, and required documentation.**

\*\*\*\*\*

(e) The engineering plans shall be in compliance with the current adopted construction standards of the city and the drainage design manual and shall consist of the following:

\*\*\*\*\*

(4) All drainage infrastructure designs, analysis of as-is and full development conditions, analysis of all storm water conveyance systems, FEMA floodplain and floodway boundaries (if applicable), Creek Buffer Zone(s) (CBZ) in accordance with section 32-55 of this code of ordinances, letter(s) of release from property owners affected by diversion of water (except for watercourse(s) designated on current city topography maps), drainage construction and maintenance agreements (if applicable); and

\*\*\*\*\*

**SECTION III.** That Chapter 32, Article II, Section 32-36 of the City of Killeen Code of Ordinances is hereby amended to read as follows:

**Sec. 32-36. Definitions.**

\*\*\*\*\*

*Disturb* (or any derivative of the word *disturb*) when relating to the alteration of improved or unimproved land shall mean any activity including, without limitation, the clearing, grading, filling, grubbing, scraping, dredging, mining, paving, excavating, drilling or movement of land, or the construction of any building or structure, the stockpiling of soil or materials, the baring of soil or rock, the diversion or piping of any natural or man-made watercourse, or any other activity that will or may result in soil erosion from water or wind, the movement of solid materials into waters or onto adjacent lands, or that changes the volume or peak flow discharge rate of storm water runoff from the land surface. ~~shall mean any activity including, without limitation, the clearing, grading, filling, grubbing, dredging, mining, paving, excavating or drilling of land, or the construction of any building or structure, the stockpiling of soil or materials, or any other activity that will or may cause the migration of sediment or other materials on or off site, contribute to or cause erosion of a site or adjacent land, or increase storm water runoff from a site.~~

\*\*\*\*\*

*Site disturbance permit* shall mean a permit issued by the city to regulate land disturbing activities to meet the objectives of articles II, III and IV of this chapter. ~~the construction, disturbance or alteration of land improvements and structures to facilitate the control of erosion.~~ A site disturbance permit shall be deemed to be the same as a land disturbance permit issued under section 26-80 of this code, provided that the requirements of this these various articles are met.

\*\*\*\*\*

**SECTION IV.** That all ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**SECTION V.** That should any section or part of any section, paragraph or clause of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

**SECTION VI.** That the Code of Ordinances of the City of Killeen, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

**SECTION VII.** That this ordinance shall be effective after its passage and publication according to law.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this \_\_\_\_\_ day of \_\_\_\_\_, 2012, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

**APPROVED**

\_\_\_\_\_  
Daniel A. Corbin, MAYOR

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Paula A. Miller, CITY SECRETARY

\_\_\_\_\_  
Kathryn H. Davis, CITY ATTORNEY

ORD \_\_\_\_\_

Date: \_\_\_\_\_

# Post Construction Draft

**City of Killeen**  
Regular City Council Meeting  
Killeen City Hall  
June 26, 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 Eric Bradley

Pastor Charles Godbold gave the invocation, and Councilmember Gilmore led everyone in the pledge of allegiance.

**Approval of Agenda**

Mayor Pro-Tem Lower moved to approve the agenda as written with the deletion of PH-4, seconded by Councilmember Clark. The motion was unanimously approved.

**Consent Agenda**

CA-1 Consider minutes of Regular City Council Meeting of June 12, 2012.

CA-2 Consider a memorandum/resolution [12-025R] approving the revisions to the Community Development Division Citizen Participation Plan as recommended (February 17, 2011) by the Community Development Advisory Committee.

CDAC proposed revisions to the Citizen Participation Plan.

CA-3 Consider a memorandum/resolution [12-026R] for procurement of ION Wave Technologies Inc. software through the Purchasing Solutions Alliance (PSA) Cooperative.

This software will improve the efficiency of the bidding process.

CA-4 Consider a memorandum/resolution [12-027R] authorizing the award of 2012 consolidated vehicles and light trucks through the TASB BuyBoard Cooperative.

This is the annual purchase of fleet units for 2011-12 and has been budgeted.

CA-5 Consider a memorandum/resolution [12-028R] authorizing the award of Manhole Rehabilitation Phase 2 Project through the State of Texas Buyboard.

This contract, in the amount of \$1,787,984.66 will complete the Manhole Rehabilitation Phase 2 project.

- CA-6 Consider a memorandum/resolution [12-029R] authorizing the City Manager to execute an Emergency Medical Task Force Memorandum of Understanding/Agreement for State Activation with Central Texas Regional Advisory Council to assist during emergencies.

This will authorize the City to deploy equipment and personnel during emergency situations and to be reimbursed for costs.

- CA-7 Consider a memorandum/resolution [12-030R] authorizing the City Manager to execute a memorandum of understanding for the reimbursement of turn lanes at the entrances of the Texas A&M University Central Texas.

This Memorandum of Understanding with Texas A&M University-Central Texas for reimbursement of costs for the construction of turn lanes and traffic signals at the campus entrances.

- CA-8 Consider a plat submitted by The Immanuel Lutheran Church of Killeen, Texas, (Case #12-017FS: Immanuel Lutheran Church Addition) being 4.661 acres out of the W H Cole Survey, Abstract No. 201. The property is located on the west right-of-way of Cunningham Road north of E. Elms Road, and is locally known as 3501 Cunningham Road, Killeen, Texas.

This is a one lot plat planned for development for a church.

- CA-9 Consider a plat submitted by RSBP Developers, Inc (Case #12-009FS: Trimmier Estates, Phase Four) being approximately 36.839 acres, out of the Azra Webb Survey, Abstract No. 857 and the G. W. Farris Survey, Abstract No. 306. The property is located west of Trimmier Estates Phase Two, Killeen, Texas.

This plat contains 120 lots and meets all development regulations.

- CA-10 Consider a memorandum/resolution [12-031R] approving the abandonment of a 15 foot utility easement along the front of Lots 2-5, Block 1, Young's Prairie, Phase Two (a vacated plat).

This utility easement is requested on property intended for construction of an apartment complex. The easement is not required.

- CA-11 Consider a memorandum/resolution [12-032R] requesting consent to assignment of lease from Knife River to APAC-Texas, Inc.

Knife River has asked to assign its interest in the lease of property located at the old transfer station to APAC-Texas, Inc. Staff recommends the request be approved.

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

**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 (2<sup>nd</sup> of 2 public hearings).

The caption of the ordinance was read as follows:

AN ORDINANCE AUTHORIZING AMENDMENT OF THE 2010-2014 CONSOLIDATED STRATEGIC PLAN SUBMISSION AND THE 2012-2013 ANNUAL ACTION PLAN DESCRIBING THE USE OF FUNDS AND AUTHORIZING THE APPLICATION FOR AND ALLOCATION OF \$927,172.00 IN FY 2012-13 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS AND THE USE OF PRIOR YEAR PROGRAM INCOME AND PRIOR YEAR REPROGRAMMABLE FUNDS FOR A TOTAL EXPENDITURE OF \$986,393.62 OF CDBG FUNDS; AND THE APPLICATION OF \$316,286.00 IN HOME INVESTMENT PARTNERSHIP (HOME) PROGRAM FUNDS AND THE USE OF PRIOR YEAR PROGRAM INCOME AND PRIOR YEAR REPROGRAMMABLE FUNDS FOR A TOTAL EXPENDITURE OF \$510,372.25 OF HOME FUNDS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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.

Herbert Moffett, CDBG Vice 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. With no one appearing, the public hearing was closed.

Councilmember Gilmore moved to approve the ordinance [12-023], seconded by Councilmember Blackstone. The motion was approved unanimously.

PH-2 **HOLD** a public hearing and consider an ordinance amending the FY 2011-12 Annual Budget and Plan of Municipal Services of the City of Killeen by increasing revenue and various expenditure line items in the General Fund to authorize the purchase of a thermoplastic applicator.

The caption of the ordinance was read as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS AMENDING THE FY 2011-2012 ANNUAL BUDGET AND PLAN OF MUNICIPAL SERVICES OF THE CITY OF KILLEEN BY INCREASING THE GENERAL FUND REVENUE BY \$80,000 AND GENERAL FUND NON-DEPARTMENTAL EXPENDITURE ACCOUNTS BY \$80,000 IN ORDER TO AUTHORIZE THE PURCHASE OF A THERMOPLASTIC APPLICATOR FOR PAVEMENT MARKINGS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.

This budget amendment is to transfer funds from the Child Safety Program account to the General Fund account to allow for future purchase of a thermoplastic applicator to mark school zones.

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

Mayor Pro-Tem Lower moved to approve the ordinance [12-024], seconded by Councilmember Segarra. The motion was approved unanimously.

PH-3 **HOLD** a public hearing and consider an ordinance amending the FY 2011-12 Annual Budget and Plan of Municipal Services of the City of Killeen to authorize the acceptance of and expenditures relating to the Disaster Assistance Grant award.

The caption of the ordinance was read as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS AMENDING THE FY 2011-2012 ANNUAL BUDGET AND PLAN OF MUNICIPAL SERVICES OF THE CITY OF KILLEEN BY INCREASING GENERAL FUND ACCOUNT 010-0000-382.45-00 FIRE DEPARTMENT GRANT IN THE AMOUNT OF \$25,455.50 AND GENERAL FUND ACCOUNT 010-7070-442.40-15 OVERTIME IN THE AMOUNT OF \$25,455.50; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.

This will amend the budget for the remaining fifty percent of reimbursement funds due to the City for personnel and equipment costs incurred in responding to emergency fire fighting.

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

Councilmember Clark moved to approve the ordinance [12-025], seconded by Councilmember Blackstone. The motion was approved unanimously.

PH-4 **HOLD** a public hearing and consider an ordinance as requested by Melenia Fresch (Case #Z12-06) to rezone Lot 1 Block 1, Fresch Addition from B-5 (Business District) to RC-1 (Restaurant and Alcohol Sales District) for on-premises sale and consumption of alcohol. The property is known as *Inato Turo Turo and Asian Grocery* at 5103 S. Fort Hood Street, Killeen, Texas.

This item was deleted from the agenda.

PH-5 **HOLD** a public hearing and consider an ordinance as requested by the 440 Group, Ltd., (Case #Z12-07) to rezone 1008 S. Fort Hood Street from RC-1 (Restaurant and Alcohol Sales District) to B-C-1 (General Business and Alcohol Sales District) for on-premises sale and consumption of alcohol. The property is known as *G & B Pool Hall* located within the 440 Plaza Shopping Center.

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 RC-1 (RESTAURANT AND ALCOHOL SALES 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 to allow the sale and consumption of alcohol in connection with the business without having to meet the food/alcohol sales requirement of the RC-1. There were two letters of protest returned in response to the 130 letters of notification. The Planning and Zoning Commission recommended approval of the request.

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

Mayor Pro-Tem Lower moved to approve the ordinance [12-026], seconded by Councilmember Foster. The motion was approved unanimously.

PH-6 A. **HOLD** a public hearing and consider an ordinance as requested by Rose Solis to revise the Comprehensive Plan's future land use map (FLUM) to change a 1.68 acre area currently designated as 'Suburban Residential' to 'General Commercial'. The property is locally known as 4501 Onion Road, Killeen, Texas.

The caption of the ordinance was read as follows:

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN'S FUTURE LAND USE MAP FROM 'SUBURBAN RESIDENTIAL' TO 'SUBURBAN COMMERCIAL' FOR THE WESTERN 1.68 ACRES OF LOT 13, LLEWELYN ESTATES NO. 3 (AN UNRECORDED SUBDIVISION), BEING LOCALLY KNOWN AS 4501 ONION ROAD, KILLEEN, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

This amendment to the Comprehensive Plan will make the area consistent with surrounding areas, and the Planning and Zoning Commission recommended approval of the request.

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

Councilmember Clark moved to approve the ordinance [12-027], seconded by Councilmember Segarra. The motion was approved unanimously.

B. **HOLD** a public hearing and consider an ordinance as requested by Rose Solis, (Case #Z12-08) to rezone 1.68 acres being the western portion of Lot 13, Llewelyn Est #3 from R-1 (Single-Family Residential District) to B-5 (Business District). The property is locally known as 4501 Onion Road, 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 R-1 (SINGLE FAMILY RESIDENTIAL DISTRICT) TO B-1 (PROFESSIONAL BUSINESS DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

The original rezoning request was for B-5; however, during the discussion at the Planning and Zoning Commission meeting, the applicant indicated willingness to accept B-1 zoning for development of professional offices. There was no response to the six letters of notification, and the Commission voted 3-2 to recommend approval for B-1.

*windy -  
Please replace  
those two  
pages!*

Mayor Corbin opened the

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

Mayor Pro-Tem Lower moved to approve the ordinance [12-028], seconded by Councilmember Clark. The motion was approved unanimously.

Councilmember Clark

PH-7 **HOLD** a public hearing and consider an ordinance as requested by Yi Jong Suk, (Case #Z12-09) to rezone approximately .298 acre part of the J R Smith Survey, Abstract No 797, from B-5 (Business District) to RC-1 (Restaurant and Alcohol Sales District) for on-premises sale and consumption of alcohol. The property is known as *Kim Chi Hana Restaurant* located at 713 W. Rancier, 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 on-premise sale and consumption of alcohol in connection with a restaurant. There was one letter in opposition returned in response to the five letters of notification. The Planning and Zoning Commission recommended approval of the request limited to 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 [12-029] for the footprint of the building, seconded by Councilmember Blackstone. The motion was approved unanimously.

**Ordinances / Resolutions**

OR-1 Consider an ordinance amending Chapter 28 to modify the maximum speed limits of school zones.

The caption of the ordinance was read as follows:

AN ORDINANCE AMENDING CHAPTER 28, TRAFFIC, ARTICLE IX, MISCELLANEOUS RULES OF THE CITY OF KILLEEN'S CODE OF ORDINANCES BY ADDING MAXIMUM SPEED LIMITS FOR SCHOOL ZONES, PENALTY, AND NO CULPABLE MENTAL STATE; PROVIDING A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

This code amendment changes school zone speed limits on roads leading to Shoemaker High School, Pathways Academic Campus, and Patterson Middle School.

Councilmember Gilmore moved to approve the ordinance [12-030], seconded by Councilmember Clark. The motion was approved unanimously.

OR-2 Consider a memorandum/resolution [12-033R] appointing Councilmembers to various boards and commissions.

Mayor Corbin announced the following appointments were agreed upon during the workshop:

*Animal Advisory Committee:* Jonathan Okray and Wayne Gilmore.

*Central Texas Council of Governments:* Daniel A. Corbin, primary, and Michael Lower, alternate.

*Hill County Transit District:* Terry Clark.

*Killeen Economic Development Corporation:* Elizabeth Blackstone (term expires September 2014), Daniel A. Corbin (term expires September 2013), Terry Clark (term expires September 2012).

*TIRZ Number Two Board:* Wayne Gilmore (term expires September 2012), Jose Segarra (term expires September 2013), Jared Foster (term expires September 2013).

Mayor Pro-Tem Lower moved to approve the resolution [12-033R], seconded by Councilmember Okray. The motion was approved unanimously.

OR-3 Consider a memorandum/resolution approving an employment contract with Glenn Morrison.

A committee composed of Councilmembers Blackstone, Clark, and Foster, Human Resources Director Debbie Maynor, and City Attorney Davis had completed negotiations with Glenn Morrison for a one-year contract for City Manager. Director Maynor reported the draft contract had also been reviewed by outside counsel.

City Attorney Davis said the one-year term was dated as of May 29, the date the Council authorized Mr. Morrison's appointment subject to the negotiation of a contract. It provides an annual salary of \$165,000, \$12,000 annually into a deferred compensation account, and \$6,000 annual automobile allowance for travel in Bell County. In addition, he will have the same benefits as other regular City employees. There are five ways the contract can be terminated: (1) mutual agreement; (2) retirement, resignation, or death; (3) termination for good cause as defined in the contract; (4) unilateral severance; or (5) Council decision not to extend the term of the contract. The contract will be automatically renewed unless the Council notifies the City Manager at least four months in advance not to renew.

Mayor Pro-Tem Lower moved to approve the resolution [12-034R], seconded by Councilmember Clark. The motion was approved unanimously.

Mayor Corbin announced that there would not be a quorum for the workshop on July 3 so it was being scheduled for July 5.

**Adjournment**

With no further business, upon motion being made by Mayor Pro-Tem Lower, seconded by Councilmember Segarra, and unanimously approved, the meeting was adjourned at 6:50 p.m.

---

Daniel A. Corbin, Mayor

---

Paula Miller, City Secretary

Regular	<u>7-10-12</u>
Item #	<u>CA-2</u>
CCM/R	<u>                    </u>

**CITY COUNCIL MEMORANDUM**

**AGENDA ITEM**

**Annual Maintenance**

**ORIGINATING DEPARTMENT**

**Procurement  
Information Technology** 

**BACKGROUND INFORMATION**

SunGard Public Sector (formally SunGard HTE) was purchased in 1998 for \$1.2 million dollars and over the past ten years we have added additional modules at \$330,000 bring our total enterprise software investment to \$1.53 million dollars. SunGard Public Sector provides the City an integrated suite of software products including Financials, Human Resources, Courts, Building Permits, Utility Billing, and Code Enforcement. The maintenance covers technical support calls, ongoing education, improvements to infrastructure, and product enhancements.

**DISCUSSION/CONCLUSION**

On an annual basis, the Information Technology Department renews the software maintenance for our enterprise software, SunGard Public Sector (formally SunGard HTE). SunGard Public Sector is the sole source to acquire this annual maintenance. This amount usually increases annually at the rate of approximately 4% per year. Due to economic conditions this year no increase was issued. The rate charged is the same rate as the past two years.

**FISCAL IMPACT**

SunGard Public Sector Items were budgeted for in the 11-12 year budget.		
550-9508-492-4243	\$47,495.46	Water & Sewer
540-9508-439-4243	\$ 4,298.94	Solid Waste
525-9508-521-4243	\$ 1,249.57	Aviation
010-9508-491-4243	\$76,672.35	General Fund
<b>Total SunGard Public Sector</b>	<b>\$129,716.32</b>	

**RECOMMENDATION**

The staff recommends that the City Manager be authorized to execute the renewal of annual maintenance from SunGard Public Sector in the amount of \$129,716.32 and that the City Manager is expressly authorized to execute any and all change orders within the amounts set by state and local law.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:**

That the above-stated recommendation is hereby approved and authorized.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas this \_\_\_\_\_ day of \_\_\_\_\_, 2012, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, 551.001 *et seq.*

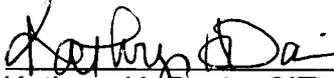
APPROVED

\_\_\_\_\_  
Daniel A. Corbin, MAYOR

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Paula A. Miller, CITY SECRETARY

  
\_\_\_\_\_  
Kathryn H. Davis, CITY ATTORNEY

**Regular: 7-10-12**

**Item # CA-3**

**CITY COUNCIL MEMORANDUM FOR RESOLUTION**

**AGENDA ITEM**

**PLAT CASE #12-0158FS  
THUNDER CREEK ESTATES PHASE TWO**

**ORIGINATING DEPARTMENT**

TM

**PLANNING & DEVELOPMENT SERVICES**

**BACKGROUND INFORMATION**

Killeen Engineering & Surveying, LTD. submits this request on behalf of Killeen Thundercreek Ltd., for a plat of approximately 23.198 acres, being out of the Thomas Robinette Survey, Abstract No. 686, Killeen, Texas. The property is located along the west right-of-way of Cody Poe Road, approximately 1,200 feet south of Watercrest Road. The property is zoned R-2 (Two Family Residential District) and the applicant is platting the property into fifteen lots (15) and one large tract.

The Staff Review Committee met in a correction validation meeting on Monday, June 18, 2012, and concurred that the plat meets the requirements of the City's subdivision regulations.

**DISCUSSION/CONCLUSION**

Staff advised the Planning and Zoning Commission that the plat complied with the City of Killeen development regulations and recommended approval.

**FISCAL IMPACT**

No fiscal impact.

**RECOMMENDATIONS**

The Planning and Zoning Commission voted 6 to 0 to recommend approval of plat case #12-018FS.

**MINUTES  
PLANNING AND ZONING COMMISSION MEETING  
JUNE 25, 2012**

**CASE #12-018FS  
THUNDER CREEK ESTATES PHASE TWO**

**Consider a request by Killeen Thundercreek, Ltd for a plat being part of the Thomas Robinett Survey, Abstract No. 686. The property is located on the west right-of-way of Cody Poe Road approximately 1,200 feet south of Watercrest Road, Killeen, Texas.**

Commissioner Diaz motioned to approve the consent agenda, Commissioner Kim seconded the motion. The motion passed unanimously.

Vice Chair Langford stated that the consent agenda is approved and plat case # 12-018FS: Thunder Creek Estates, Phase Two will be heard by City Council on July 10, 2012.



CASE #:

12-018ES

**CITY OF KILLEEN  
PLAT APPLICATION**

Thunder Creek Estates, Phase Two

Type: Preliminary ( ) Final (  ) Replat ( ) Minor ( ) Amended ( )

Name(s) of Property Owner (s): Killeen Thundercreek, Ltd.

Address: 2901 East Stan Schlueter Loop

City: KILLEEN State: TX Zip: 76542 -

Home Phone: ( ) Business Phone: ( 254 ) 634-5567 Cell Phone: \_\_\_\_\_

Type of Ownership: \_\_\_\_\_ Sole Ownership \_\_\_\_\_ Partnership \_\_\_\_\_ Corporation  Other

Recorded Copy of Warranty Deed: Is a copy of the appropriate deed(s) attached?  YES  NO

Name of Developer: SAME

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ -

Name of Engineer/Surveyor: KILLEEN ENGINEERING & SURVEYING, LTD.

Address: 2901 E. STAN SCHLUETER LOOP

City: KILLEEN State: TX Zip: 76542 -

Home Phone: ( ) Business Phone: ( 254 ) 526-3981 Cell Phone: \_\_\_\_\_

Is the Property: (  ) Within City Limits ( ) Within ETJ (5.0 miles)

Proposed Land Use: Residential

Total Acreage: 23.198 Number of Lots: 15 Current Zoning: R-1/R-2 Proposed Zoning R-1/R-2

Is there a simultaneous rezoning of any part of this property? NO

Address/ Location of Property to be Platted: 2503 / 2601 Cody Poe Road

Legal Description: 23.198 acres of the Thomas Robinett Survey, Abstract 686

**Replats and Amendments:** During the preceding five (5) years, was the platted property limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot? Yes/No During the preceding five (5) years, was any lot in the preceding plat limited by deed restrictions to residential use for not more than two residential units per lot? Yes/No Attach a copy of applicable deed restrictions or a (notarized) letter from the applicant stating that no deed restrictions apply.

What is the reason for the replat / amendment? \_\_\_\_\_

Owner(s) must initial:

- I hereby certify that all fees/charges owed the City concerning any prior plats and/or subdivisions have been paid in full as of the date of this application.
- I understand that attendance at the Development Review Committee meeting is mandatory. My failure to attend or my agent's failure to attend will result in rescheduling the meeting of the Development Review Committee and delay processing of the application.
- I understand that I must obtain approval from both Planning and Zoning Commission and City Council (except in the case of minor plats) prior to the plat being recorded with the Clerk of Bell County.





**PLANNING AND  
DEVELOPMENT SERVICES**

**CASE #:**  
12-018FS

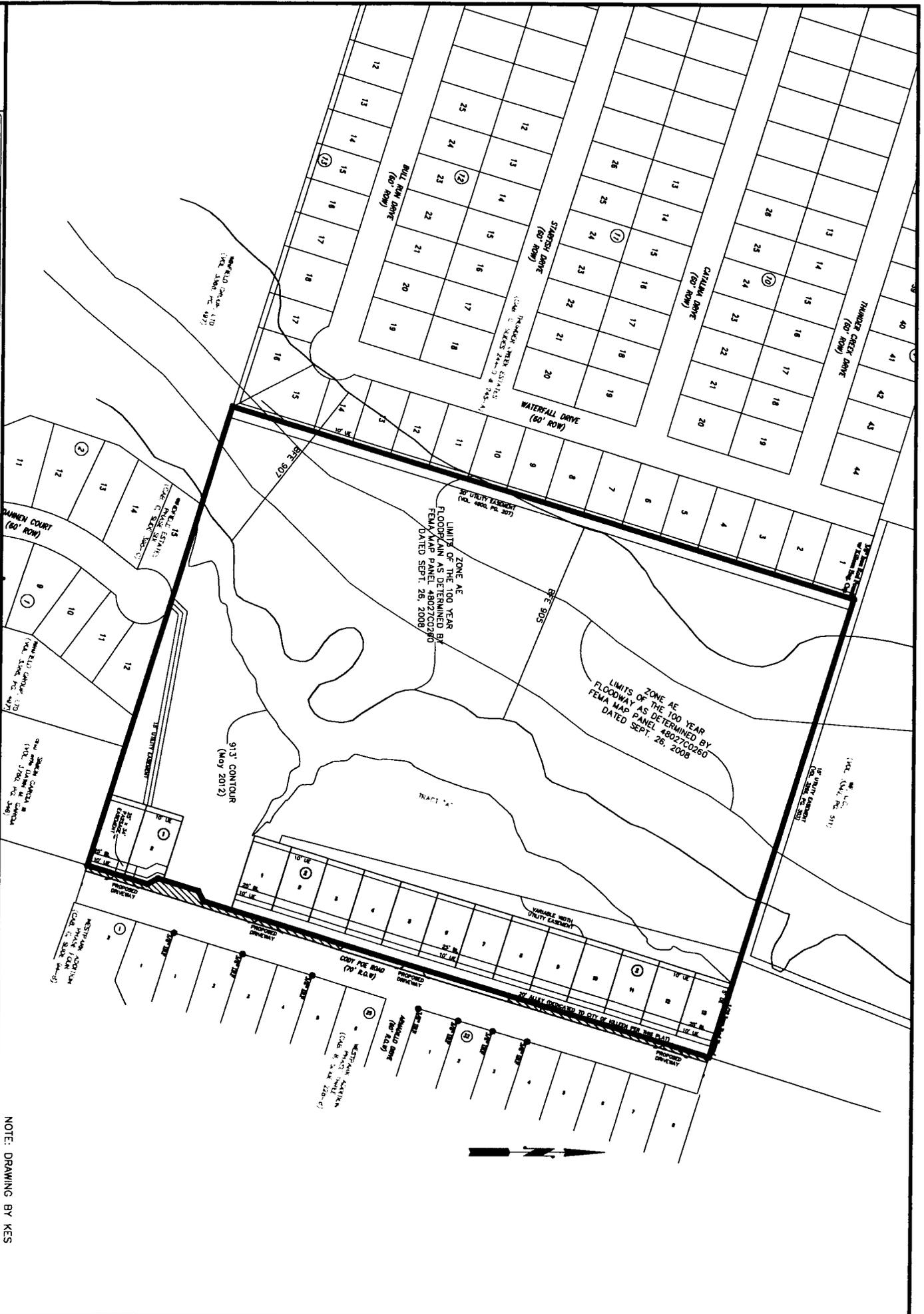
**SUBDIVISION NAME:**  
THUNDER CREEK ESTATES  
PHASE TWO

**NUMBER OF LOTS:**  
15 LOTS / 23.198 ACRES

- Legend**
- Plat Cases 2012
  - City Limits
  - Parcels

**DATE:**  
06/20/2012





ZONE AE  
LIMITS OF THE 100 YEAR  
FLOODPLAIN AS DETERMINED BY  
FEMA MAP PANEL 48027C0260  
DATED SEPT. 26, 2008

ZONE AE  
LIMITS OF THE 100 YEAR  
FLOODWAY AS DETERMINED BY  
FEMA MAP PANEL 48027C0260  
DATED SEPT. 26, 2008

THUNDER CREEK DRIVE (60' ROW)

WATERFALL DRIVE (60' ROW)

913' CONTOUR (MAY 2012)

DATE: 06/20/12  
LOTS: 15  
APPROX: 23,198

**THUNDER CREEK ESTATES PHASE TWO**  
**PLAT CASE #12-018FS**



**CITY OF KILLEEN**  
PLANNING/MAPPING  
P.O. BOX 1329  
KILLEEN, TEXAS 76540-1329

NOTE: DRAWING BY KES

**CITY COUNCIL MEMORANDUM**

**AGENDA ITEM**

**CONSIDER A PETITION TO EXTEND THE CORPORATE CITY LIMITS OF THE CITY OF KILLEEN BY ANNEXING APPROXIMATELY 55 ACRES LOCATED 7,000 FEET SOUTH OF W. STAN SCHLUETER LOOP, EAST OF CLEAR CREEK ROAD (S.H. 201)**

**ORIGINATING DEPARTMENT**    *TM*    **PLANNING & DEVELOPMENT SERVICES**

**BACKGROUND INFORMATION**

The City of Killeen is permitted by the Local Government Code §43.028 to accept and act on petitions for voluntary annexation. WBW Land Investment, L.P., the petitioner, submitted a complete petition to the planning staff on June 19, 2012, requesting that the City of Killeen annex approximately 55 acres being out of the J.E. Maddera Survey, Abstract No. 600, the Thomas Arnold Survey, Abstract No. 55 and the J.W. Morton Survey, Abstract No. 587, Bell County, Texas. The property is located on the east right-of-way of S. Clear Creek Road (S.H. 201), approximately 7,000 feet south of W. Stan Schlueter Loop (FM 3470). The owner would like to develop the property as a residential subdivision.

**DISCUSSION/CONCLUSION**

The Local Government Code requires that the governing body hear the petition and hear arguments for and against, and grant or refuse the petition after the 5<sup>th</sup> day but before the 30<sup>th</sup> day after the petition is filed. If the petition is granted, the City will prepare an ordinance to effect the annexation. The 55 acres, when annexed, will initially be zoned "A" (Agricultural District) as per Section 31-124 of the Killeen Code of Ordinances. It is anticipated the owner will submit a request for an amendment to the Future Land Use Map (FLUM) of the Comprehensive Plan and a zoning request for R-1 (Single Family Residential) zoning.

**FISCAL IMPACT**

There is no fiscal impact associated with this action.

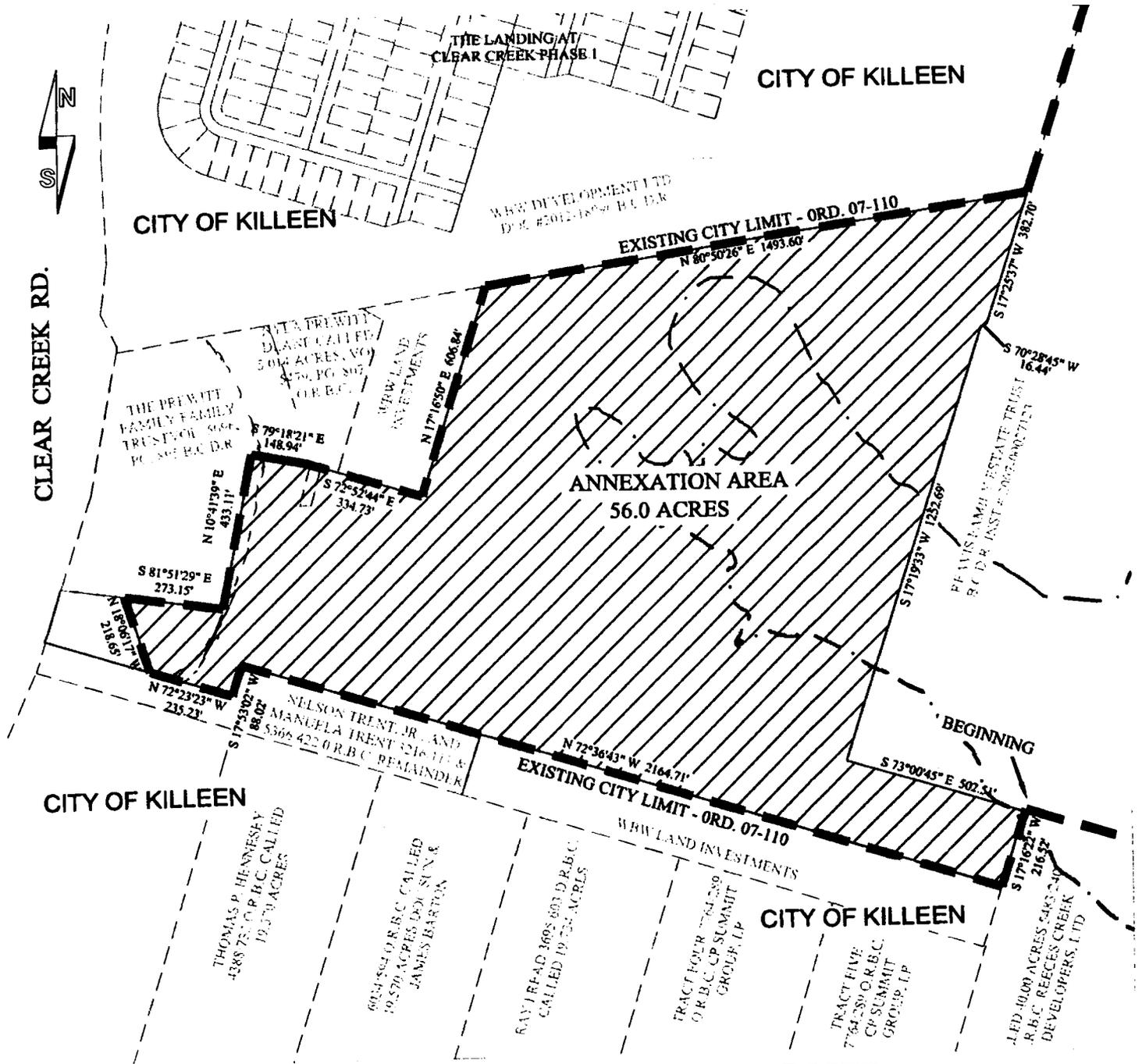
**RECOMMENDATIONS**

Staff recommends the City Council accept the applicant's petition for the voluntary annexation of the 55 acres into the corporate limits of the City of Killeen, and direct the City Manager to have an annexation ordinance prepared. If approved, the City Council will take action on an ordinance extending the corporate limits at the regular meeting of August 14, 2012. Staff has prepared the annexation ordinance for the subject tract.

# Exhibit "A"

## LEGEND

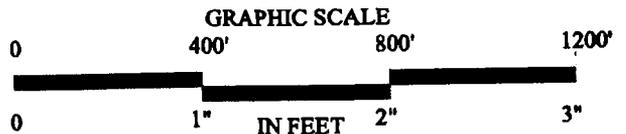
////// AREA TO BE ANNEXED



## EXHIBIT OF 56.0 ACRES FOR PROPOSED ANNEXATION TO THE CITY OF KILLEEN, TEXAS.

NOTE: THIS DRAWING WAS PREPARED UNDER 22 TAC 663.21, DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY, AND IS NOT TO BE USED TO CONVEY OR ESTABLISH INTERESTS IN REAL PROPERTY EXCEPT THOSE RIGHTS AND INTERESTS IMPLIED OR ESTABLISHED BY THE CREATION OR RECONFIGURATION OF THE BOUNDARY OF THE POLITICAL SUBDIVISION FOR WHICH IT WAS PREPARED;

FIELD NOTES ATTACHED HERETO ARE MADE A PART THEREOF.

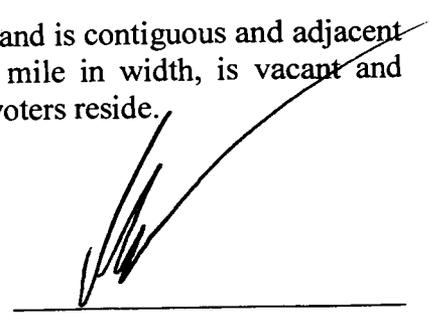


TO THE MAYOR AND GOVERNING BODY OF THE CITY OF KILLEEN, TEXAS,  
A HOME RULE MUNICIPALITY:

The undersigned owner of the hereinafter described tract of land, which is vacant and without residents, hereby petitions your Honorable Body to extend the present city limits so as to include as part of the **City of Killeen**, Texas (Local Government Code §43.028) the following described territory, to wit:

See attached Exhibits A and B *e*

The undersigned certifies that the above described land is contiguous and adjacent to the **City of Killeen**, is not more than one-half (1/2) mile in width, is vacant and without residents and on which fewer than three qualified voters reside.

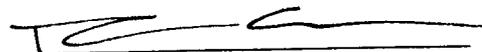


Property Owner

THE STATE OF TEXAS    §  
                                  §  
COUNTY OF BELL       §

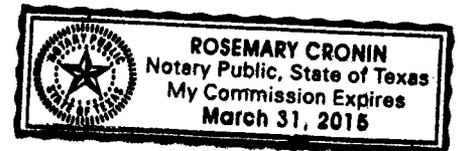
Before me, the undersigned authority, on this day personally appeared Bruce Whitis, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 31 day of MAY 2012.



Notary Public in and for the  
State of Texas

Printed Name: Rosemary Cronin  
Commission Expires: \_\_\_\_\_



# Exhibit "A"

## FIELD NOTES BELL COUNTY, TEXAS

Field notes for a 56.0 acre tract or parcel of land situated in and being out of the J. E. Maddera Survey, A-600, Thomas Arnold Survey, A-55, and the J. W. Morton Survey, A-587, Bell County, Texas, and part of Tract One (1) and Tract Two (2) described in deed to The Prewitt Family Trust in Volume 5096, Page 895, Official Public Records, Bell County, also being part of the called 56.915 acre tract of land described in deed to the WBW Land Investments, LP, in Volume 8090, Page 828, Official Public Records, Bell County, Texas, said 56.0 acre tract being more particularly described by metes and bounds as follows:

**BEGINNING AT** an iron rod at a fence corner in the existing City Limits described in City of Killeen Ordinance No. 07-110 and recorded in Document No. 2008-00002615, Official Public Records, Bell County, same being in the south line of a tract described in deed to the Reavis Family Estate Trust in Document No. 2007-00027123, Official Public Records, Bell County, Texas, also being the northwest corner of the tract described in deed to Reces Creek Developers, Ltd. in Volume 5483, Page 240, Official Records, Bell County, Texas;

**THENCE** S 17°16'22"W, 216.52 feet along the east line of said 56.915 acre tract, west line of said Reces Creek Developers, Ltd. Tract, and existing City Limits to and iron rod for the northeast corner of the tract described in deed to Nelson Trent, Jr., and Manuela E. Trent, in Volume 5366, Page 422, Official Public Records, Bell County, and being the southeast corner of the herein described tract;

**THENCE** along the common line of said 56.915 acre tract, said Trent tract, and existing City Limits with the following courses:

1. N 72°36'43"W, 2164.71 feet, to an iron rod at a fence corner post;
2. S 17°53'02"W, 88.02 feet, to a point for corner;
3. N 72°23'23"W, 235.23 feet, to a point for the southwest corner of the herein described tract;

**THENCE** N 18°06'17"W, 218.65 feet across and upon said 56.915 acre tract and along the existing City Limits to a point in the west line of said called 56.915 acre tract for corner of the herein described tract;

**THENCE** along existing City Limits and the west and north line of said 56.915 acre tract with the following courses:

1. S 81°51'29"E, 272.92 feet, to an iron rod,
2. N10°41'39"E, 433.11 feet, to an iron rod set,
3. S 79°18'21"E, 148.94 feet, to a fence post for corner of the called 5.014 acre Nyle Prewitt Deane tract described in Volume 5479, Page 807, Official records, Bell County, Texas;
4. S 72°52'44"E, 334.73 feet, to a fence corner post for the southeast corner of said 5.014 acre tract and an ell corner of said 56.915 acre tract;
5. N 17°16'50"E, 606.84 feet, to an iron rod in the north line of said 56.915 acre tract and south line of the called 85.23 acre tract of land described in deed to the WBW Land Investments, LP of record in Doc# 00020490, Official Records, Bell County, Texas Official Public Records, Bell County, Texas;
6. N 80°50'26"E, 1493.60 feet, to a fence corner post in the west line of said Reavis Family Estate Trust tract, and being called the northeast corner of the herein described tract;

THENCE departing the existing City Limits and along the west and south line of said Reavis Family Estate Trust tract and east line of said 56.915 acre tract with the following courses:

1. S 17°25'37"W, 382.70 feet, to a pipe fence corner post at a fence angle corner;
2. S 70°28'45"W, 16.44 feet, to a pipe fence corner post at a fence angle corner;
3. S 17°19'33"W, 1252.69 feet, to an iron rod at a pipe fence post for on ell corner;

THENCE S 73°00'45"E, 502.51 feet along the common line between the said Reavis Family Estate Trust tract and said 56.915 acre tract the **PLACE OF BEGINNING** an containing 56.0 acres of land, more or less.

**SURVEYORS' NOTES:**

This document was prepared under 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary or the Political Subdivision for which it was prepared.

 6-13-12  
A. W. Kessler, R.P.L.S. 1852



Regular 7-10-12  
Item # CA=5  
CCM/R \_\_\_\_\_

## CITY COUNCIL MEMORANDUM FOR RESOLUTION

### AGENDA ITEM

**RATIFY VARIOUS CONTRACTS AND EXPENDITURES ENTERED INTO AND INCURRED TO REPAIR FIRE DAMAGES TO THE CITY'S TRANSFER STATION**

### ORIGINATING DEPARTMENT

**PUBLIC WORKS** 

### BACKGROUND INFORMATION

On Monday, June 27, 2011, the City of Killeen Transfer Station suffered damage resulting from a fire that ignited within the structure. On July 5, 2011, a detailed damage report was provided to the then Mayor and City Council and was discussed at the regularly scheduled workshop. On September 13, 2011, an ordinance (Ordinance 11-078) was approved authorizing a budget amendment to cover the projected expenditures anticipated at that time. On October 25, 2011, a resolution (CCM/R 11-176R, attached) was presented to City Council requesting ratification of several contracts and expenditures entered into as a direct result of the emergency. That resolution identified that approximately \$1,007,284.00 in repairs had been completed or were in progress. That resolution also noted that several repairs still needed to be completed, including repairs to the transfer station facility's precast panels and panel connections, and the subsequent repainting of the facility. Collectively, the remaining repairs were estimated to be approximately \$165,000.00 and it was further noted that following the completion of the repairs, City staff would bring the contracts back to City Council for ratification.

### DISCUSSION/CONCLUSION

At this time, all repairs to the transfer station have been completed. A brief summary of work previously completed is provided on the attached CCM/R 11-176R. Following approval of that CCM/R, the following work was completed:

- Repairs to the facility's precast panels and panel connections were completed by ARK Contracting Services for \$82,383.11 and \$37,570.50, respectively; and
- The interior walls, structure and underside of ceiling panels/roof assembly were repainted by James Weber Painting at a cost of \$57,294.31.

In addition to these expenditures, other discreet and relatively insubstantial costs were incurred including work completed by the Clint Hallmark Company consisting of: 1) Repairs to the Control Room: replacing all windows and frames, removing and replacing all sheetrock, ceiling tiles, and insulation, and texturing and painting (Total cost of \$10,800.00); 2) Repairs to the Bathroom: removing and replacing all damaged wall tile, ceiling tiles, and sheetrock (Total cost

of \$12,900.00); and 3) Repairs to the Exterior of the Control Room: removing and replacing all exterior siding and roof (Total cost of \$8,200.00).

As itemized on the attached spreadsheet, total expenses incurred as a result of the fire, excluding the amount associated with the ADT fire protection equipment and services, are approximately \$1,207,326.60. As final settlement for this insurance claim, the Texas Municipal League Intergovernmental Risk Pool (the City's insurance provider) has reimbursed the City in the amount of \$1,124,327.92. The difference between the loss and the insurance recovery is associated with \$67,906.45 in non-recoverable depreciation, a \$10,000.00 deductible and presumably \$5,092.23 in disallowed costs.

**FISCAL IMPACT**

The fiscal impact associated with this resolution is \$177,247.92 and was drawn from the Building Improvements account (540-3475-439.60-07).

**RECOMMENDATION**

Recommend City Council ratify the expenditure of the funds and the contracts associated therewith as indicated above and, further, authorize the City Manager to approve any and all change orders in the amount provided by state and local law.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:**

That the above-stated recommendation is hereby approved and authorized.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas this 10th day of July, 2012, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, § 551.001 *et seq.*

**APPROVED**

\_\_\_\_\_  
Daniel A. Corbin  
MAYOR

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Paula A. Miller  
CITY SECRETARY

*Kathryn H. Davis*  
\_\_\_\_\_  
for Kathryn H. Davis  
CITY ATTORNEY

Attachments:  
CCM/R 11-176R  
Spreadsheet: Transfer Station Fire Damage Repair Totals

## CITY COUNCIL MEMORANDUM FOR RESOLUTION

### AGENDA ITEM

**RATIFY VARIOUS CONTRACTS AND EXPENDITURES ENTERED INTO AND INCURRED TO REPAIR FIRE DAMAGES TO THE CITY'S TRANSFER STATION.**

### ORIGINATING DEPARTMENT

**PUBLIC WORKS**

### BACKGROUND INFORMATION

On Monday, June 27, 2011, the City of Killeen Transfer Station suffered damage resulting from a fire that ignited within the structure. On July 5, 2011, a detailed damage report was provided to the Mayor and City Council and discussed at Council's regularly scheduled workshop. Since that report, City staff has been working with Texas Municipal League (TML) insurance adjusters to quantify the damage sustained and gather proposals from contractors to repair the facility to its previous condition. On September 13, 2011, Ordinance 11-078 was presented and adopted by City Council to amend the FY 2011 annual budget and plan to establish a fund to pay for the necessary repairs.

### DISCUSSION/CONCLUSION

In an effort to quickly and seamlessly restore the City's Transfer Station to its pre-fire condition to ensure the continued provision of this health, safety and welfare service to the Citizens of Killeen, City staff has worked tirelessly with TML and area contractors. As a direct result of the fire, staff has engaged the services of numerous professionals and contractors to first get the Transfer Station back online and marginally functional and, second, to proceed with the repair of the facility. To date the following substantial activities have occurred:

- To initially clean interior surfaces and structure to enable an assessment of the extent of the fire damage, City staff gathered and evaluated proposals with area fire restoration contractors and selected Specialty Restorations of Texas to complete the work for \$96,484.00. This work has been completed;
- Based on an Engineer's Site Damage Survey completed by Freese and Nichols (FNI) City staff gathered and evaluated proposals to repair and replace electrical systems (wiring, conduit, exhaust fan motors, lighting, etc.) and selected Fisher Electric to complete the work for \$139,626.36. At this time, the electrical repairs are essentially complete;
- As the overhead doors to the facility suffered substantial damage, repair of the doors and their associated components was not an option. An emergency replacement was

evaluated and Killeen Overhead Doors was selected to complete the work for \$102,593.00. This work has been completed;

- Also based on the FNI damage survey, staff gathered and evaluated proposals to replace the facility's roof that was substantially damaged by the fire. Staff selected Harrison Roofing to complete the repairs for \$271,540.00. At this time, the roof replacement is in progress and is anticipated to be completed by the end of September;
- Based on the FNI survey and an assessment completed by SCS Engineers, approximately 6,000 square feet of the tipping floor was damaged in the fire and needed to be replaced. After evaluating proposals, City staff selected Hidalgo Industrial Services to complete the repairs at a cost of \$173,996.00. In addition to this contract, another contract was entered into to replace approximately 2,000 additional square feet of the tipping floor that, while not directly damaged by the fire, was worn to the point that repair was necessary. In order to capitalize on the economy of scale, City staff determined that this rehabilitation should be completed at the same time as the fire damage repair at a cost of \$49,400.00. Both of these projects are scheduled to be completed by the end of October, 2011; and
- Following completion of the floor repair, repairs to the Transfer Station's push wall need to be completed as reflected in the FNI survey. City staff has selected ARC contractors to complete these repairs for a proposed cost of \$115,076.00;

In addition to the contracts and repairs identified above, various other relatively insubstantial costs were incurred including costs associated with the FNI fire damage assessment, SCS Engineering assessment (floor repair), equipment purchase and rentals, contaminated water removal, plumbing repairs, control room repairs and HVAC repairs. The cost of these services ranged from \$106.00 to \$12,500 and were approved administratively. Finally, in an attempt to prevent the recurrence of fire damage in the future, City staff received and evaluated proposals for fire monitoring equipment, services and onsite visual monitoring devices and has selected ADT to provide these services and equipment. Collectively, these services are under \$50,000.00 and include monitoring and maintenance services for the next three years.

Therefore, to date, total expenses and contracts, excluding ADT's services, incurred and entered into to complete the activities above are approximately \$1,007,284.00.

Moving forward, the following repairs still need to be completed:

- Following completion of the floor repair, repairs to the facility's precast panels and panel connections will need to be completed, also as reflected in the FNI survey. The estimated cost of these repairs is approximately \$120,000.00; and
- Following all structural repairs, the interior walls, structure and underside of ceiling panels/roof assembly will need to be re-painted at a cost of approximately \$45,000.00.

Following completion of these necessary repairs, the total estimated combined cost of repairing the Transfer Station will be approximately \$1,172,284.00.

As of this date, the City has received approximately \$551,847.00 from the TML to complete these repairs and additional claims are currently being processed by TML.

**FISCAL IMPACT**

The current fiscal impact associated with this resolution is \$1,007,284.00 and is available in account #540-9595-439.60-07. A subsequent fiscal impact will be incurred estimated at approximately \$165,000.00 and will be brought forward for ratification at a future date.

**RECOMMENDATION**

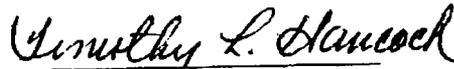
Recommend City Council ratifies the expenditure of the funds and the contracts associated therewith as indicated herein and, further, authorize the City Manager to approve any and all change orders in the amount provided by state and local law.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:**

That the above-stated recommendation is hereby approved and authorized.

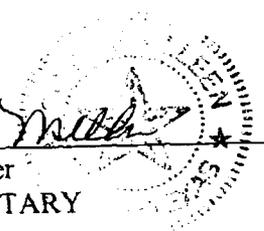
**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas this 25th day of October, 2011, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, § 551.001 *et seq.*

**APPROVED**

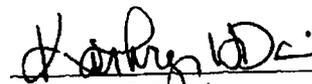
  
\_\_\_\_\_  
Timothy L. Hancock  
MAYOR

**ATTEST:**

  
\_\_\_\_\_  
Paula A. Miller  
CITY SECRETARY



**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Kathryn H. Davis  
CITY ATTORNEY

## 2011 Transfer Station Fire Damage Repair Totals

<u>CONTRACTOR</u>	<u>AMOUNT</u>	<u>DATES</u>	<u>DESCRIPTION OF REPAIRS</u>
Specialty Restoration of Texas	\$96,484.00	Jun 30 - Jul 7 '11	Clean interior surfaces
Fisher Electric	\$155,092.25	Jun28 -	Electrical Repairs
Killeen Overhead Doors	\$102,593.00	Jun 28 - Sep '11	Replacement of 8 Bay Doors & Accessories
Harrison Roofing	\$271,540.00	Aug 30 - Sep '11	Roof Replacement
Hildalgo	\$173,996.00	Sep-11	Floor Repairs
ARK Contracting Services	\$115,075.52	Nov-11	Pushwall Repairs
ARK Contracting Services	\$37,570.50	Dec - Jan '12	Panel to Panel Joint Sealant
ARK Contracting Services	\$82,383.13	Dec-11	Panel to Panel Connectors
Clint Hallmark	\$31,900.00	On Going	Control Room, Bathroom, & Exterior Siding
Connell Plumbing	\$12,790.00	Sep-11	Plumbing Repairs
James Weber Painting	\$57,294.31	Jan. '12	Interior Painting Ceiling & Walls
RSC Rentals	\$58,607.89	Jun '11 - Apr '12	Lift Rentals
Professional Services	\$12,000.00	Jun '11 - Mar '12	Engineer Fees; Freese & Nichols, Inc./SCS Engineering
ADT	\$41,234.00	Jan - Mar '12	Heat Detection & Monitoring Systems
<b>TOTAL:</b>	<b>\$1,248,560.60</b>		

**CITY COUNCIL MEMORANDUM FOR ORDINANCE**

**AGENDA ITEM**

**ZONING CASE #Z12-10  
B-5 (BUSINESS DISTRICT) WITH  
SPECIFIC USE PERMIT (SUP) TO B-C-1  
(GENERAL BUSINESS AND ALCOHOL  
SALES DISTRICT)**

**ORIGINATING DEPARTMENT** TM **PLANNING & DEVELOPMENT SERVICES**

**Nature of the Request**

This request is submitted by the Joker's Icehouse to rezone approximately .818 acre from B-5 (Business District) with SUP (Specific Use Permit) to B-C-1 (General Business and Alcohol Sales District). The applicant is rezoning the property to continue the current use of the establishment.

**District Descriptions:**

A building or premises in the "B-C-1" general business and alcohol sales district shall be used only for the following purposes:

- Business establishments dispensing alcoholic beverages under the Texas Alcoholic Beverage Code, in accordance with permits issued, and the rules and regulations promulgated by the Texas Alcoholic Beverage Commission, all of which are adopted hereby and made a part hereof for all purposes.
- Any uses permitted in a "B-5" district, excluding the sale of beer, wine and/or any other alcoholic beverages for off-premises consumption.
- Business establishments dispensing alcoholic beverages may not be within three hundred (300) feet of a church, public or private school or public or private hospital. The measurement of the distance between the place of business where alcoholic beverages are sold and the church, public or private school or public or private hospital shall be as prescribed by the Texas Alcoholic Beverage Code §109.33, as amended. New applications for a B-C-1 general business and alcohol sales district zoning shall require the notification of all property owners within one thousand (1,000) feet in all directions of the area for which the B-C-1 zoning is requested, so long as those properties are within the corporate limits of the city of Killeen.

**Property Specifics**

**Applicant/Property Owner:** Gary Grant

**Property Location:** The property is located west of the intersection of W. Stan Schlueter Loop (FM 3470) and Bunny Trail, and is locally known as 3404 W. Stan Schlueter Loop.

**Legal Description:** The .818 acre is part of the J. E. Maddera Survey, Abstract No. 600, Killeen, Texas.

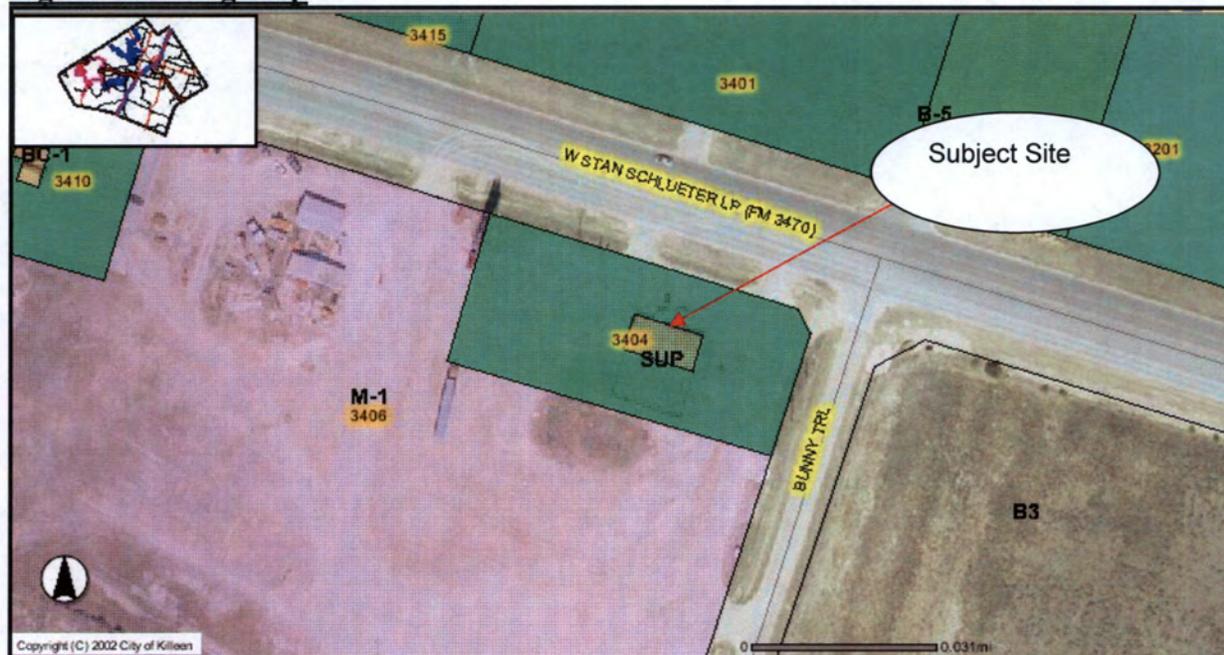
**Zoning/ Plat Case History:**

- The subject property was rezoned on August 10, 2010, per ordinance no. 10-40. The SUP was approved for a period of 3 years and was limited to the footprint of the existing structure. The current SUP will expire on August 10, 2013.
- The property has not been platted.

**Character of the Area:**

**Existing Land Use(s) on the Property:** Currently doing business as Joker’s Icehouse.

**Figure 1. Zoning Map**



**Figure 2. Aerial Map**



**Historic Properties:** None

### **Infrastructure and Community Facilities**

**Emergency Response:**

Fire Protection District: Fire District 7 (Future Fire District 9).

Fire Response Zone: 7-6

Miles from Fire Station: Approximately 2.35 miles from Fire Station no. 7, located at 3701 Watercrest Drive, Killeen, Texas. It is approximately 380' north of future Fire Station no. 9 which will be located along the east right-of-way of Bunny Trail.

**Water, Sewer and Drainage Services:**

Provider: City of Killeen

Within Service Area: Yes

Feasibility Study or Service Commitment: Water infrastructure is available with adequate size and pressure. Sewer infrastructure is not immediately accessible to the subject property. The current on-site septic facility use would be permitted to continue under the current use. However, increased wastewater loading may not be feasible and would require extension of public sanitary sewer mains to the property.

**Transportation:**

Existing conditions: W. Stan Schlueter Loop Young Drive is classified as a 110' principal arterial on the City's Thoroughfare Plan at this location. Bunny Trail is classified as a 90' minor arterial on the City's Thoroughfare Plan.

Proposed Improvements: No improvements are planned as part of this request.

Projected Traffic Generation: No new impact.

### **Environmental Assessment**

**Topography:** Property is relatively flat.

**Regulated Floodplain/Floodway/Creek:** The proposed development is not within any FEMA special flood hazard area (SFHA).

### **Land Use Analysis**

**Land Use Plan:** The property is designated as 'General Commercial' on the future land use map (FLUM) of the Comprehensive Plan.

**Plan Recommendation:** The Comprehensive Plan calls for a wide range of commercial retail and service uses, at varying scales and intensities depending on the site.

**Consistency:** The request is consistent with the Comprehensive Plan.

### **Public Notification**

The staff notified one hundred and seven (107) surrounding property owners regarding this request. Staff has received opposition from: Michelle and Matthew Murphy, owners of 4509 Blueduck Drive; Kathleen Sanchez, the owner of 4510 Alleeta Drive; and First Baptist Killeen, on behalf of the Baptist General Convention.

### **Recommendation**

The Planning and Zoning Commission recommended approval of the B-C-1 request limited to the footprint of the existing structure and the current fenced area by a vote of 5 to 1, with Commissioner Hoover in opposition. The applicant has met the applicable 300' distance requirements from churches, schools and hospitals.

**MINUTES  
PLANNING AND ZONING COMMISSION MEETING  
JUNE 25, 2012**

**CASE #Z12-10  
B-5 W/SUP TO B-C-1**

**HOLD a public hearing and consider a request submitted by Gary Grant to rezone approximately .818 acre, being part of the J. E. Maddera Survey, Abstract No. 600, from B-5 (Business District) with SUP (Specific Use Permit) to B-C-1 (General Business & Alcohol Sales District) for the on-premises sale and consumption of alcohol. The property is locally known as *Jokers Ice House* at 3404 W. Stan Schlueter Loop, Killeen, Texas.**

Vice Chair Langford requested staff comments.

City Planner McIlwain stated that this is a request by Gary Grant to rezone approximately .818 acre from B-5 (Business District) with SUP (Specific Use Permit) to B-C-1 (General Business and Alcohol Sales District). The applicant is rezoning the property to continue the use as the Jokers Icehouse establishment. The property is located west of the intersection of W. Stan Schlueter Loop (FM 3470) and Bunny Trail, and is locally known as 3404 W. Stan Schlueter Loop.

The subject property was last rezoned on August 10, 2010, per ordinance no. 10-40. The SUP was approved for a period of 3 years and was limited to the footprint of the existing structure.

The property is designated as 'General Commercial' on the future land use map (FLUM) of the Comprehensive Plan. The Comprehensive Plan calls for a wide range of commercial retail and service uses, at varying scales and intensities depending on the site. The request is consistent with the Comprehensive Plan.

The staff notified one hundred and seven (107) surrounding property owners regarding this request. Staff has received opposition from: Michelle and Matthew Murphy, owners of 4509 Blueduck Drive; Kathleen Sanchez, the owner of 4510 Alleeta Drive; and Dr. Randy Wallace, on behalf of the land owner of the Baptist General Convention of Texas, and the local congregation of the Journey Church, 3310 S. WS Young Drive.

Staff recommended approval of the B-C-1 request limited to the footprint of the existing structure and the existing patio area. The applicant has met the applicable distance requirements from churches, schools and hospitals.

Ms. Andrea Thompson, 3404 W. Stan Schlueter Loop, Killeen, Texas, 76549, was present to represent the request. Ms. Thompson indicated that this type of business has been at this location for over 20 years and currently she is remodeling the interior and exterior of the building and also adding landscaping.

Vice Chair Langford opened the public hearing. Mr. Randy Wallace, 460 Briarcroft Lane, Killeen, Texas, 76542, spoke in opposition to the request. With no one else requesting to speak, the public hearing was closed.

Commissioner Diaz motioned to recommend approval of zoning case #Z12-10 limited to the footprint of the existing structure and fenced in area. Commissioner Traina seconded the motion. The motion passed 5 to 1, with Commissioner Hoover in opposition.

Vice Chair Langford stated that this request will be forwarded to city council on July 10, 2012 with a recommendation to approve.



Date Paid:	_____
Amount Paid:	_____
Cash/MO #/Check #:	_____
Receipt #:	_____

CASE #: 712-10

## City of Killeen Zoning Change Application

General Zoning Change [ ] Conditional Use Permit

Name(s) of Property Owner: Grady Grant

Current Address: 3404 W. Stan Schluter Loop

City: Killeen State: TX Zip: 76549

Home Phone: 254 291-3685 Business Phone: 254 554-9051 Email: jokers@hot.rr.com

Name of Applicant: Tres Jokers LLC, Andrea Thompson  
(If different than Property Owner)

Address: 3404 W. Stan Schluter Loop

City: Killeen State: TX Zip: 76549

Home Phone: ( ) \_\_\_\_\_ Business Phone: 254 554-9051 Email: jokers@hot.rr.com

Address/Location of property to be rezoned: 3404 W. Stan Schluter Loop

Legal Description: A0600BC JE Madera, 4-3, Acres .818  
Metes & Bounds or Lot(s) Block Subdivision

Has the property been platted? YES NO

Type of Ownership: \_\_\_\_\_ Sole Ownership \_\_\_\_\_ Partnership \_\_\_\_\_ Corporation \_\_\_\_\_ Other

Present Zoning: SUP Present Use: club

Proposed Zoning: BC1 Proposed Use: club

Conditional Use Permit for: Beer & Liquor Sales, on premise

This property was conveyed to owner by deed dated 7/28/2008 and recorded in Volume \_\_\_\_\_, Page \_\_\_\_\_, Instrument Number \_\_\_\_\_ of the Bell County Deed Records. (Attached)

Is this the first rezoning application on a unilaterally annexed tract?  
Yes \_\_\_\_\_ (Fee not required) No \_\_\_\_\_ (Submit required fee)

## APPOINTMENT OF AGENT

As owner of the subject property, I hereby appoint the person designated below to act for me, as my agent in this request.

Name of Agent: Andrea Thompson  
 Mailing Address: 3404 W. Stan Schlueter Loop  
 City: Killeen State: TX Zip: 76549  
 Home Phone: 254 291-3685 Business Phone: 254 534-9051 Email: jokers@hd.ri.com

I acknowledge and affirm that I will be legally bound by the words and acts of my agent, and by my signature below, I fully authorize my agent to:

**be the point of contact between myself and the City: make legally binding representations of fact and commitments of every kind on my behalf; grant legally binding waivers of rights and releases of liabilities of every kind on my behalf; to consent to legally binding modifications, conditions, and exceptions on my behalf; and, to execute documents on my behalf which are legally binding on me.**

**I understand that the City will deal only with a fully authorized agent.** At any time it should appear that my agent has less than full authority to ace, then the application may be suspended and I will have to personally participate in the disposition of the application. I understand that all communications related to this application are part of an official proceeding of City government and, that the City will rely upon statements made by may agent. Therefore, I agree to hold harmless and indemnify the City of Killeen, its officers, agents, employees, and third parties who act in reliance upon my agent's words and actions from all damages, attorney fees, interest and costs arising from this matter. If my property is owned by a corporation, partnership, venture, or other legal entity, then I certify that I have legal authority to make this binding appointment on behalf of the entity, and every reference herein to 'I', 'my', or 'me' is a reference to the entity.

Signature of Agent <u>[Signature]</u>	Title _____
Printed/Typed Name of Agent <u>Andrea Thompson</u>	Date <u>5/14/12</u>
Signature of Applicant <u>[Signature]</u>	Title _____
Printed/Typed Name of Applicant <u>Andrea Thompson</u>	Date <u>5/14/12</u>
Signature of Property Owner <u>Gary E Grant</u>	Title _____
Printed/Typed Name of Property Owner <u>Gary E Grant</u>	Date _____
Signature of Property Owner _____	Title _____
Printed/Typed Name of Property Owner _____	Date _____
Signature of Property Owner _____	Title _____
Printed/Typed Name of Property Owner _____	Date _____

\*Application must be signed by the individual applicant, by each partner of a partnership, or by an officer of a corporation or association.

# CONSIDERATIONS

Texas Supreme Court in Pharr v. Tippitt, 616 S. W 2<sup>nd</sup> 173 (Tex 1981) established general guidelines which the Zoning Commission and City Council should take into consideration when making their respective recommendation and decision.

## A. General Factors to Consider:

Is the request in accordance with the comprehensive plan?

Is the request designed to lessen congestion in the streets; secure safety from fire, panic or other dangers; promote health and the general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; or facilitate the adequate provision of transportation, water, sewers, schools, parks and other public requirements?

What if any, is the nature and degree of an adverse impact upon neighboring lands?

The suitability or unsuitability of the tract for use as presently zoned.

Whether the amendment bears a substantial relationship to the public health, safety, morals or general welfare or protects and preserves historical and cultural places and areas.

Whether there is a substantial public need or purpose for the new zoning.

Whether there have been substantially changed conditions in the neighborhood.

Is the new zoning substantially inconsistent with the zoning of neighboring lands? (Whether the new zoning is more or less restrictive.)

The size of the tract in relation to the affected neighboring lands – is the tract a small tract or isolated tract asking for preferential treatment that differs from that accorded similar surrounding land without first proving changes in conditions?

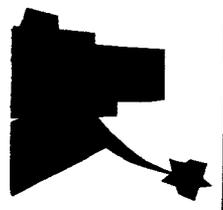
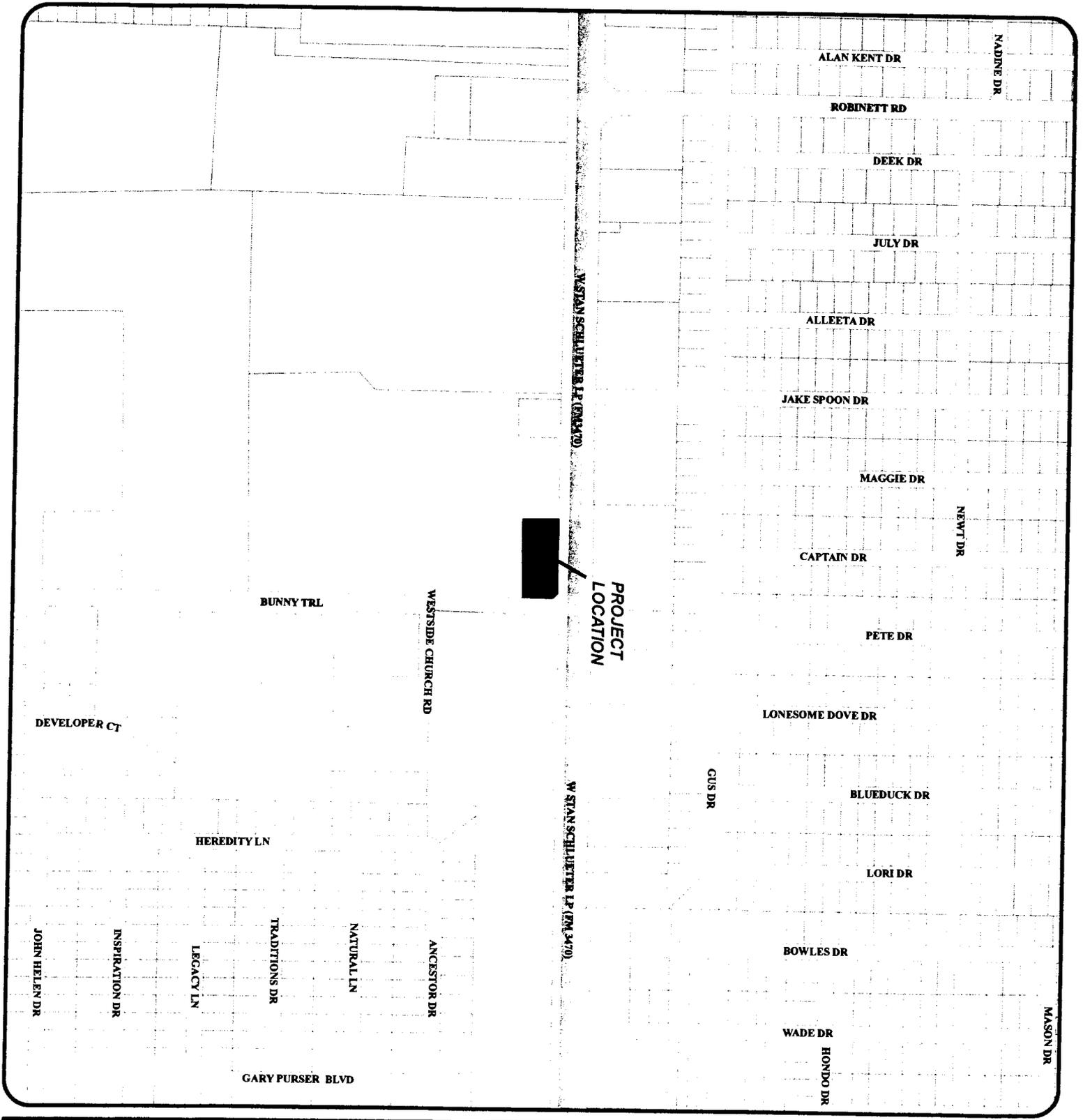
Any other factors which will substantially affect the health, safety, morals or general welfare.

## B. Conditional Use Permit

Whether the use is harmonious with and adaptable to buildings, structures and use of abutting property and other property in the vicinity of the premises under construction.

## C. Conditions to Consider

1. Occupation shall be conducted only by members of family living in home.
2. No outside storage or display
3. Cannot change the outside appearance of the dwelling so that it is altered from its residential character.
4. Cannot allow the performance of the business activity to be visible from the street.
5. Cannot use any window display to advertise or call attention to the business.
6. Cannot have any signs
7. No off-street parking or on-street parking of more than two (2) vehicles at any one time for business related customer parking.
8. No retail sales.
9. Length of Permit.



**PLANNING AND  
DEVELOPMENT SERVICES**

**ZONING CASE:  
#Z12-10**

**ZONING FROM:**

**SUP TO BC-1**

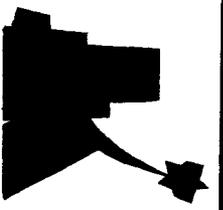
**PROPERTY OWNER:**

**GARY GRANT**

**Legend**  
12-10  
City Limits  
Production GISADMIN Parcel

**DATE: 06/11/2012**





**PLANNING AND  
DEVELOPMENT SERVICES**

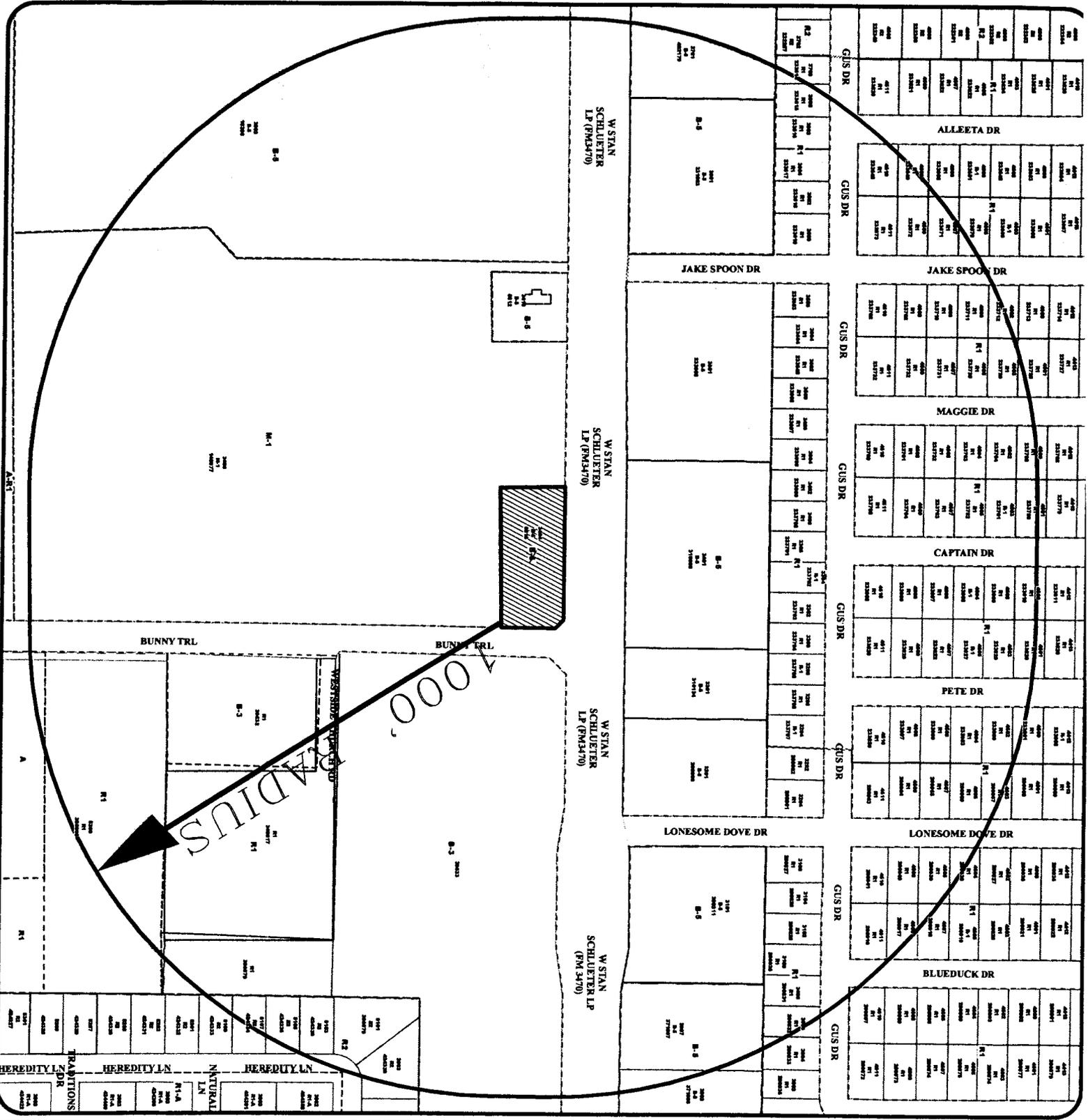
**ZONING CASE:**  
#212-10

**ZONING FROM:**  
SUP TO BC-1

**PROPERTY OWNER:**  
CARY GRANT

- Legend**
- 12-10
  - Buffer\_of\_12-10\_1000FT
  - City Limits
  - CURRENT ZONING
  - Production GISADMINI Parcel
  - Subdivision

DATE: 06/11/12



-----CUT HERE-----

<b>YOUR NAME:</b> Michelle and Matthew Murphy
<b>CURRENT ADDRESS:</b> 1329 Cnty Rd. 3340 Kemper, TX. 76539
<b>ADDRESS OF PROPERTY OWNED:</b> 4509 Blueduck Dr Killeen, TX 76549
<b>COMMENTS:</b> WE oppose the REZONING. WE disagree RC-1 to B-C-1
<b>SIGNATURE:</b> Michelle D. Murphy SPO #Z12-10/ 56

PO BOX 1329 KILLEEN, TEXAS 76540-1329 254.501.7630 254.501.7628 FAX  
WWW.CIKILLEEN.TX.US

**RECEIVED**

JUN 18 2012

**PLANNING**

-----CUT HERE-----

<b>YOUR NAME:</b> Kathleen Sanchez
<b>CURRENT ADDRESS:</b> 4510 Alleta Drive
<b>ADDRESS OF PROPERTY OWNED:</b> Killeen, TX 76549.
<b>COMMENTS:</b> NO Change RC-1 to B-C-1
<b>SIGNATURE:</b> Kathleen Sanchez SPO #Z12-10/ 115

PO BOX 1329 KILLEEN, TEXAS 76540-1329 254.501.7630 254.501.7628 FAX  
WWW.CIKILLEEN.TX.US

**RECEIVED**

JUN 18 2012

**PLANNING**



FIRST  
BAPTIST  
KILLEEN  
*Connect. Grow. Serve. Go.*

3310 S. WS Young Dr.  
Killeen, TX 76542  
254.634.6262  
Fax 254.634.8811

June 25, 2012

To: City of Killeen, Planning and Zoning Development

Re: Z 12-10

To Whom it May Concern,

On behalf of the land owner, The Baptist General Convention of Texas, and the local congregation of The Journey Church, (an intention church start sponsored by First Baptist Church of Killeen), we respectfully oppose the zoning change due to incompatible land use as it is our intention for this land to support The Journey church and daycare.

Engineering documents have already been submitted to city of Killeen for Phase I of this church, and are currently awaiting building permits. We request your consideration in this matter and look forward to sharing with you this evening at the Rezoning meeting.

Respectfully,

Dr. Randall Wallace

RECEIVED  
JUN 25 2012  
PLANNING

F B C K I L L E E N . C O M

**CITY COUNCIL MEMORANDUM FOR ORDINANCE**

**AGENDA ITEM**

**ZONING CASE #Z12-11  
B-5 (BUSINESS DISTRICT) TO R-2 (TWO  
FAMILY RESIDENTIAL DISTRICT)**

**ORIGINATING DEPARTMENT *TM* PLANNING & DEVELOPMENT SERVICES**

**Nature of the Request**

This request is to rezone part of Lots 2 and 3, Block 1, Jamesway Addition Phase Six from B-5 (Business District) to R-2 (Two Family Residential District). The applicant is rezoning the property to construct duplexes. Currently these two lots have split zoning with B-5 in the rear portions of the property.

**District Descriptions:**

A building or premises in a district "R-2" two-family residential district shall be used only for the following purposes:

- (1) Any use permitted in district "R-1."
- (2) Two-family dwellings.

**Property Specifics**

**Applicant/Property Owner:** J. McLean and Sons, Ltd.

**Property Location:** The property is located at the intersection of Connor Court and Trimmier Road, and is locally known as 1103 and 1105 Connor Court, Killeen, Texas.

**Legal Description:** Lots 2 and 3, Block 1, Jamesway Addition Phase Six

**Annexation/ Zoning/ Plat Case History:**

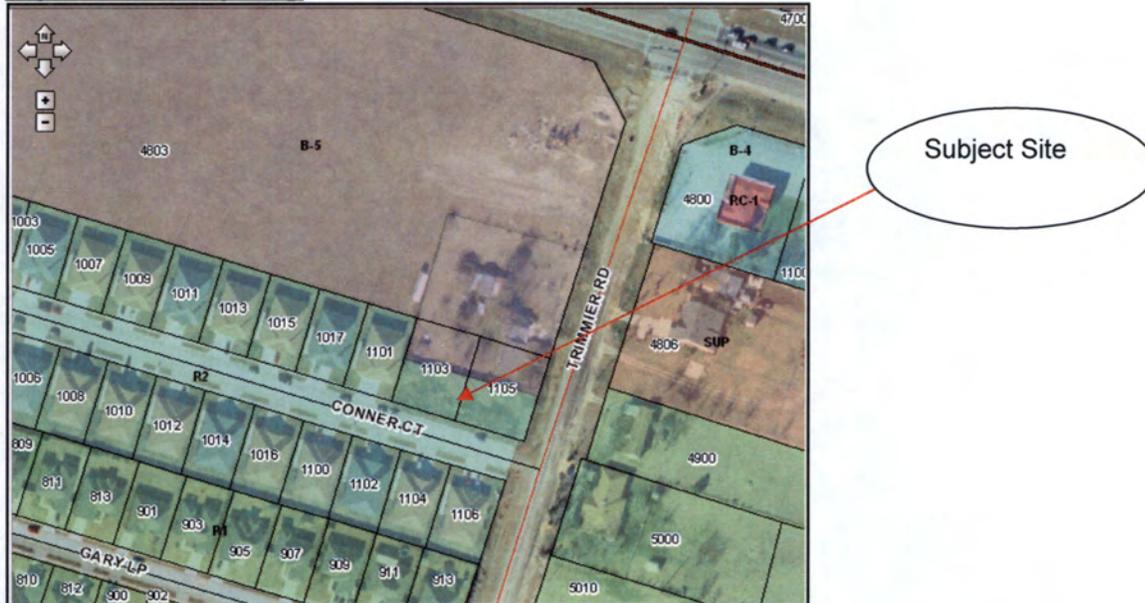
- This property was annexed into the City on December 23, 1986, per ordinance # 86-87.
- The subject property was rezoned from TR-1 (Temporary R-1) to B-5 (Business District) on April 28, 1987, per ordinance no. 87-23. The front portion of the property was subsequently rezoned from B-5 to R-2 on May 24, 2005, per ordinance no. 05-39.

- The property has been platted as Jamesway Addition Phase Six was recorded on March 28, 2012, as instrument no. 2012-00011641, Bell County, Texas.

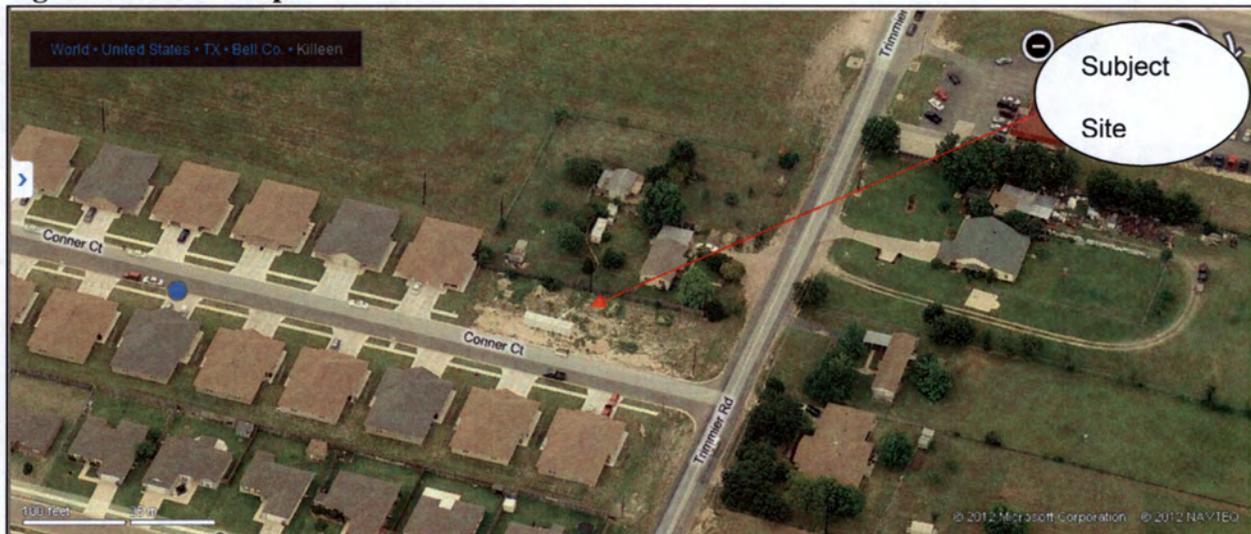
**Character of the Area:**

**Existing Land Use(s) on the Property:** Undeveloped

**Figure 1. Zoning Map**



**Figure 2. Aerial Map**



**Historic Properties:** None

**Infrastructure and Community Facilities**

**Emergency Response:**

Fire Protection District: Fire District 6.

Fire Response Zone: 6-4

Miles from Fire Station: Approximately 1.3 miles from Fire Station no. 6, which is located at 2001 E. Elms Road, Killeen, Texas.

**Water, Sewer and Drainage Services:**

Provider: City of Killeen

Within Service Area: Yes

Feasibility Study or Service Commitment: Water and public sanitary sewer infrastructure is available with adequate size and pressure.

**Transportation:**

Existing conditions: Trimmier Road is classified as a 90' minor arterial on the City's Thoroughfare Plan. Connor Court is a local street within a 60' right-of-way.

Proposed Improvements: None as part of this rezoning

Projected Traffic Generation: Minimal impact.

**Environmental Assessment**

**Topography:** Property is relatively flat.

**Regulated Floodplain/Floodway/Creek:** The proposed development is not within any FEMA special flood hazard area (SFHA).

**Land Use Analysis**

**Land Use Plan:** The property is designated as 'General Residential' on the future land use map (FLUM) of the Comprehensive Plan.

**Plan Recommendation:** The Comprehensive Plan considers 'General Residential' to be of a medium intensity category/character that encompasses detached residential dwelling units, attached housing types, planned developments, as well as parks and public/ institutional places.

**Consistency:** The request is consistent with the Comprehensive Plan.

**Public Notification**

The staff notified nine (9) surrounding property owners regarding this request. Staff has received no responses.

**Recommendation**

The Planning and Zoning Commission recommended approval of the R-2 zoning request by a vote of 6 to 0. The request is consistent with the Comprehensive Plan as well as the existing adjacent residential subdivision.

**MINUTES  
PLANNING AND ZONING COMMISSION MEETING  
JUNE 25, 2012**

**CASE #Z12-11  
B-5 TO R-2**

**HOLD a public hearing and consider a request by J. McLean and Sons, Ltd., to rezone part of Lots 2 and 3, Block 1, Jamesway Addition, Phase Six, from B-5 (Business District) to R-2 (Two-family Residential District). The property is located at intersection of Conner Court and Trimmier Road, and is locally known as 1103 and 1105 Conner Court, Killeen, Texas.**

Vice Chair Langford requested staff comments.

City Planner McIlwain stated that this is a request to rezone part of Lots 2 and 3, Block 1, Jamesway Addition Phase Six from B-5 (Business District) to R-2 (Two Family Residential District). The applicant is rezoning the property to construct duplexes. Currently these two lots have split zoning with B-5 in the rear portion of the property. The property is located at the intersection of Conner Court and Trimmier Road, and is locally known as 1103 and 1105 Conner Court, Killeen, Texas.

The subject property was rezoned from TR-1 (Temporary R-1) to B-5 (Business District) on April 28, 1987, per ordinance no. 87-23. The front portion of the property was subsequently rezoned from B-5 to R-2 on May 24, 2005, per ordinance no. 05-39. Two lots were left with split zoning.

The property is designated as 'General Commercial' on the future land use map (FLUM) of the Comprehensive Plan. The Comprehensive Plan calls for a wide range of commercial retail and service uses, at varying scales and intensities depending on the site. The request is consistent with the Comprehensive Plan.

The staff notified nine (9) surrounding property owners regarding this request. Staff has received no responses.

Staff recommends approval of the R-2 zoning request. It is consistent with the Comprehensive Plan as well as the existing adjacent residential subdivision.

Mr. Steve Shepherd, 2210 Orchard Hill Lane, Belton, Texas, was present to represent this request.

Chairman Frederick opened the public hearing. With no one requesting to speak, the public hearing was closed.

Commissioner Steine motioned to recommend approval of zoning case #Z12-11. Commissioner Hicks seconded the motion. The motion passed unanimously.

Vice Chair Langford stated that this request will be forwarded to city council on July 10, 2012 with a recommendation to approve.



Date Paid:	<u>5-29-12</u>
Amount Paid:	<u>200.00</u>
Cash/MO #/Check #:	<u>4538</u>
Receipt #:	<u>685508</u>

CASE #: Z12-11

## City of Killeen Zoning Change Application

**General Zoning Change** [ ] **Conditional Use Permit**

Name(s) of Property Owner: J. McLean and Sons, Ltd.

Current Address: 4101 Trimmier

City: Killeen State: TX Zip: 76543

Home Phone: ( ) \_\_\_\_\_ Business Phone: (254) 699-5907 Email: \_\_\_\_\_

Name of Applicant: \_\_\_\_\_  
(If different than Property Owner)

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Home Phone: ( ) \_\_\_\_\_ Business Phone: ( ) \_\_\_\_\_ Email: \_\_\_\_\_

Address/Location of property to be rezoned: Conner Court & Trimmier

Legal Description: \_\_\_\_\_  
Lots 2 & 3 Block 1, Jamesway Phase Six  
Metes & Bounds    or    Lot(s)    Block    Subdivision

Has the property been platted?  YES  NO

Type of Ownership: \_\_\_\_\_ Sole Ownership  Partnership \_\_\_\_\_ Corporation \_\_\_\_\_ Other \_\_\_\_\_  
Ltd.

Present Zoning: B-5 Present Use: n/a

Proposed Zoning: R-2 Proposed Use: Duplex

Conditional Use Permit for: \_\_\_\_\_

This property was conveyed to owner by deed dated \_\_\_\_\_ and recorded in Volume \_\_\_\_\_, Page \_\_\_\_\_, Instrument Number \_\_\_\_\_ of the Bell County Deed Records. (Attached)

Is this the first rezoning application on a unilaterally annexed tract?  
 Yes \_\_\_\_\_ (Fee not required)    No \_\_\_\_\_ (Submit required fee)

## APPOINTMENT OF AGENT

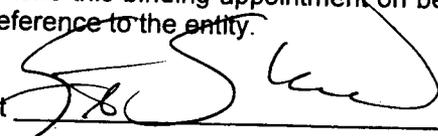
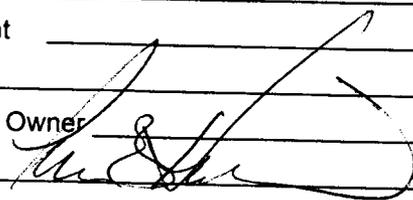
As owner of the subject property, I hereby appoint the person designated below to act for me, as my agent in this request.

Name of Agent: Steve Shepherd  
Mailing Address: P.O. Box 10759  
City: Killeen State: TX Zip: 76547  
Home Phone: ( ) \_\_\_\_\_ Business Phone: ( 254 ) 247-1848 Email: \_\_\_\_\_

I acknowledge and affirm that I will be legally bound by the words and acts of my agent, and by my signature below, I fully authorize my agent to:

**be the point of contact between myself and the City; make legally binding representations of fact and commitments of every kind on my behalf; grant legally binding waivers of rights and releases of liabilities of every kind on my behalf; to consent to legally binding modifications, conditions, and exceptions on my behalf; and, to execute documents on my behalf which are legally binding on me.**

**I understand that the City will deal only with a fully authorized agent.** At any time it should appear that my agent has less than full authority to act, then the application may be suspended and I will have to personally participate in the disposition of the application. I understand that all communications related to this application are part of an official proceeding of City government and, that the City will rely upon statements made by my agent. Therefore, **I agree to hold harmless and indemnify the City of Killeen, its officers, agents, employees, and third parties who act in reliance upon my agent's words and actions from all damages, attorney fees, interest and costs arising from this matter.** If my property is owned by a corporation, partnership, venture, or other legal entity, then I certify that I have legal authority to make this binding appointment on behalf of the entity, and every reference herein to 'I', 'my', or 'me' is a reference to the entity.

Signature of Agent  Title \_\_\_\_\_  
Printed/Typed Name of Agent Steve Shepherd Date 5-30-12  
Signature of Applicant \_\_\_\_\_ Title \_\_\_\_\_  
Printed/Typed Name of Applicant \_\_\_\_\_ Date \_\_\_\_\_  
Signature of Property Owner  Title \_\_\_\_\_  
Printed/Typed Name of Property Owner \_\_\_\_\_ Date \_\_\_\_\_  
Signature of Property Owner  Title \_\_\_\_\_  
Printed/Typed Name of Property Owner J. McLean & Sons, Ltd. Date 5-29-2012  
Signature of Property Owner \_\_\_\_\_ Title \_\_\_\_\_  
Printed/Typed Name of Property Owner \_\_\_\_\_ Date \_\_\_\_\_

\*Application must be signed by the individual applicant, by each partner of a partnership, or by an officer of a corporation or association.

# CONSIDERATIONS

Texas Supreme Court in Pharr v. Tippitt, 616 S. W 2<sup>nd</sup> 173 (Tex 1981) established general guidelines which the Zoning Commission and City Council should take into consideration when making their respective recommendation and decision.

## A. General Factors to Consider:

Is the request in accordance with the comprehensive plan?

Is the request designed to lessen congestion in the streets; secure safety from fire, panic or other dangers; promote health and the general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; or facilitate the adequate provision of transportation, water, sewers, schools, parks and other public requirements?

What if any, is the nature and degree of an adverse impact upon neighboring lands?

The suitability or unsuitability of the tract for use as presently zoned.

Whether the amendment bears a substantial relationship to the public health, safety, morals or general welfare or protects and preserves historical and cultural places and areas.

Whether there is a substantial public need or purpose for the new zoning.

Whether there have been substantially changed conditions in the neighborhood.

Is the new zoning substantially inconsistent with the zoning of neighboring lands? (Whether the new zoning is more or less restrictive.)

The size of the tract in relation to the affected neighboring lands – is the tract a small tract or isolated tract asking for preferential treatment that differs from that accorded similar surrounding land without first proving changes in conditions?

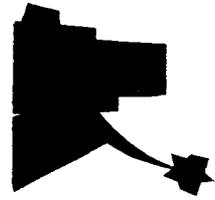
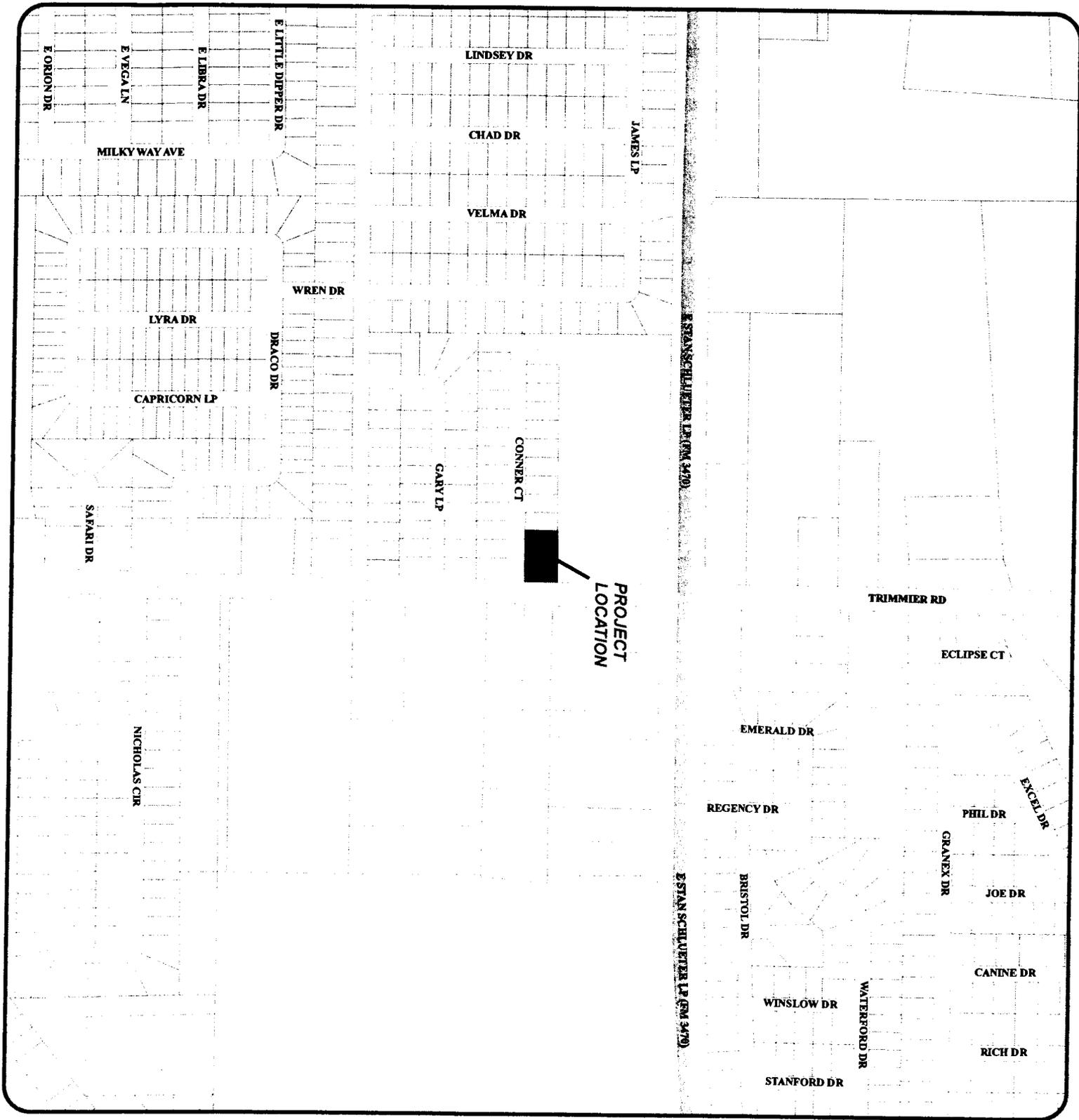
Any other factors which will substantially affect the health, safety, morals or general welfare.

## B. Conditional Use Permit

Whether the use is harmonious with and adaptable to buildings, structures and use of abutting property and other property in the vicinity of the premises under construction.

## C. Conditions to Consider

1. Occupation shall be conducted only by members of family living in home.
2. No outside storage or display
3. Cannot change the outside appearance of the dwelling so that it is altered from its residential character.
4. Cannot allow the performance of the business activity to be visible from the street.
5. Cannot use any window display to advertise or call attention to the business.
6. Cannot have any signs
7. No off-street parking or on-street parking of more than two (2) vehicles at any one time for business related customer parking.
8. No retail sales.
9. Length of Permit.



**PLANNING AND  
DEVELOPMENT SERVICES**

**ZONING CASE:**

#Z12-11

**ZONING FROM:**

BS TO R2

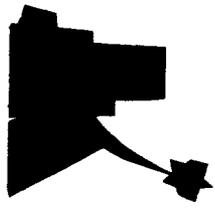
**PROPERTY OWNER:**

J MCLEAN AND SONS LTD

**Legend**  
 12-10  
 Production GISADMIN\_ZoningCase2012  
 City Limits  
 Production GISADMIN\_Parcels

**DATE:** 06/11/2012





**PLANNING AND DEVELOPMENT SERVICES**

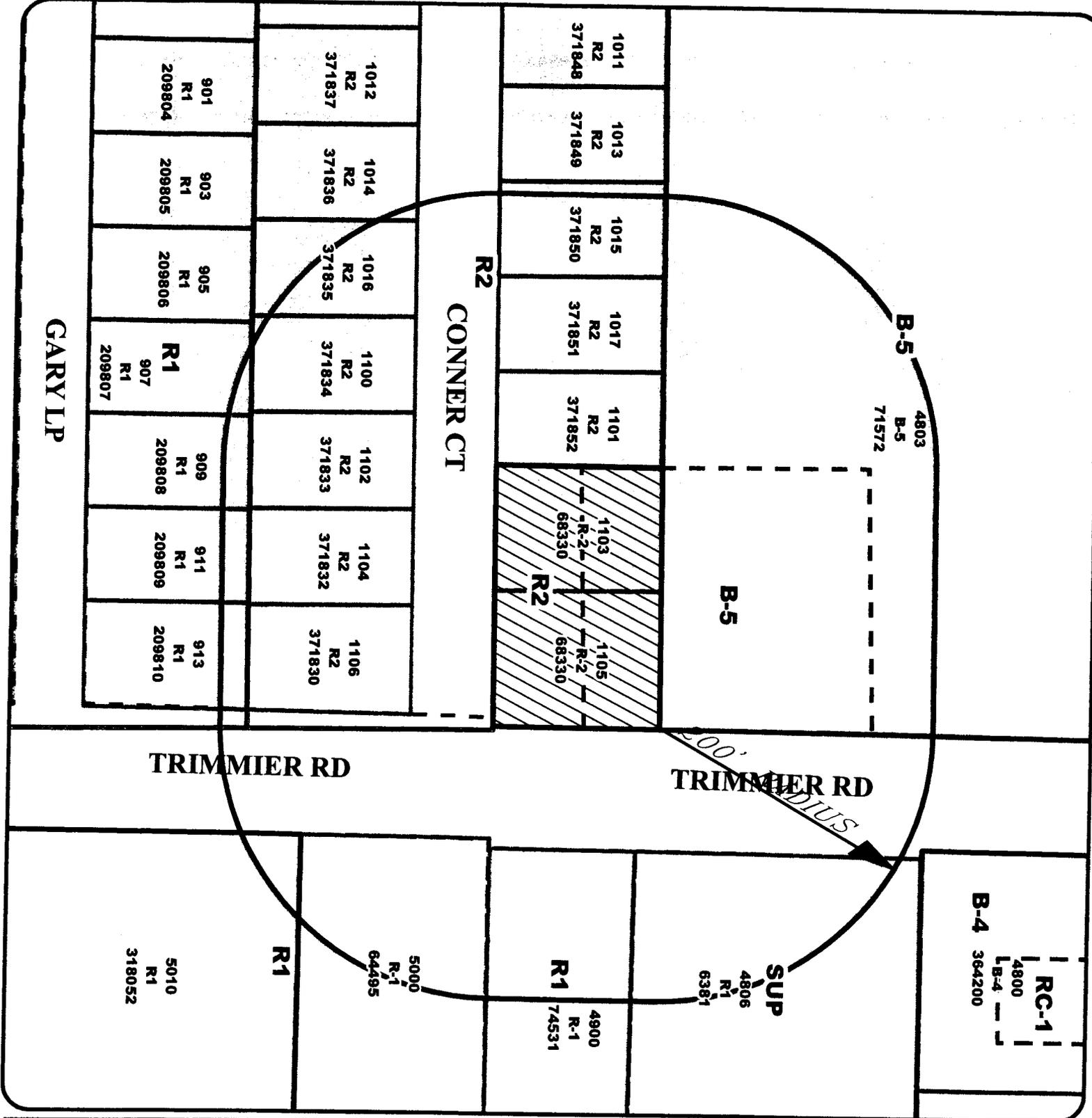
**ZONING CASE:**  
#Z12-11

**ZONING FROM:**  
B5 TO R2

**PROPERTY OWNER:**  
J MCLEAN AND SONS LTD

- Legend**
- Buffer of 12-11
  - Production, GISADMIN, ZoningCases2012
  - City Limits
  - CURRENT ZONING
  - Production, GISADMIN, Parcel
  - Subdivision

**DATE:** 06/11/12



**CITY COUNCIL MEMORANDUM FOR ORDINANCE**

**AGENDA ITEM**

**CONSIDER AN ORDINANCE  
AMENDING CHAPTER 31, ARTICLE IV,  
DIVISION 21, DISTRICT "UOD"  
UNIVERSITY OVERLAY DISTRICT**

**ORIGINATING DEPARTMENT**

**PLANNING AND DEVELOPMENT  
SERVICES**

**BACKGROUND INFORMATION**

The Planning and Zoning Commission and city staff conducted several workshops and public hearings regarding proposed changes to the University Overlay District (UOD). During these meetings, the Planning and Zoning Commission received input from many property owners within this district, to include representatives of Texas A & M University-Central Texas. The results of those meetings is a proposed ordinance that includes additional land uses and improved standards that are meant to encourage economic investment and community development within this important area of the city.

**CONCLUSION/DISCUSSION**

Dr. Shanaa briefed the Council on the proposed changes to the UOD at the City Council workshop held on June 19, 2012. Staff will be prepared to discuss the proposed amendments at the City Council workshop to be held on July 5, 2012. Staff has notified all property owners (within the UOD) of the upcoming City Council workshop and City Council regular meeting, and has encouraged their attendance.

**FISCAL IMPACT**

None.

**RECOMMENDATION**

The Planning and Zoning Commission has recommended that the City Council adopt the attached ordinance, amending Chapter 31, Article IV, Division 21, District "UOD" University Overlay District.

**AN ORDINANCE AMENDING CHAPTER 31 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; AMENDING ARTICLE IV, DIVISION 21, DISTRICT “UOD” UNIVERSITY OVERLAY DISTRICT, BY REVISING 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.**

**WHEREAS**, the City of Killeen, Texas is a home-rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and,

**WHEREAS**, the City of Killeen has declared the application and enforcement of the City’s zoning regulations to be necessary for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare of the City; and,

**WHEREAS**, the City Council desires to create land use regulations that will help ensure that future development is mutually compatible with surrounding areas and the community as a whole; and

**WHEREAS**, the City Council desires to amend district regulations to preserve and enhance surrounding property values, prevent the overcrowding of land and undue concentration of population, to prevent undue overloading of municipal infrastructure, and to promote land use consistent with neighboring properties; and,

**WHEREAS**, the City Council finds that such amendments are necessary and will provide consistent and even application of zoning regulations to all applicants.

**NOW, THEREFORE BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS:**

**SECTION I.** That Chapter 31, Article IV, Division 20 is hereby amended to read as follows:

## DIVISION 20. DISTRICT "UOD" UNIVERSITY OVERLAY DISTRICT

### Sec. 31-439 Overlay University dDistrict boundary.

The University overlay Ddistrict regulations apply to all property located in the current or future corporate city limits for a depth of fifteen hundred (1,500) feet at the following locations: north of the State Highway 201 right-of-way for a distance of approximately sixty-six hundred (6,600) feet west of the intersection of State Highway 201 and State Highway 195; west and east of the State Highway 195 right-of-way for a distance of approximately fifteen hundred (1,500) feet north of the intersection of State Highway 195 and State Highway 201; and, east of the State Highway 195 right-of-way for a distance of approximately seventy-six hundred (7,600) feet south of the intersection of State Highway 195 and State Highway 201, the first nine hundred and fifty (950') feet of depth within this segment of the district, as measured from State Highway 195, shall be designated for commercial use. The remaining five hundred and fifty (550') feet of depth of this segment shall be designated for mixed-use development, or residential use via a conditional use permit.

### Sec. 31-440. Use regulations.

A building or premises in the University District shall only be used for uses permitted in the "B-2" district, subject to the provisions of this division, and for the following purposes:

(a) Building on premises in "UOD" district shall be used only for the following purposes:

(1) Offices of practitioners of the recognized professions, as herein defined:

a. Professional building. Any structure used solely for the housing of professional offices of recognized professions.

b. Professions, recognized. Members of a recognized profession include those persons and customary staff normally considered as professional, and shall be deemed to include doctors, dentists, lawyers, architects, certified public accountants, registered engineers and related professions.

(2) Uses customarily incidental to the primary use, as hereinafter provided, subject to the special conditions contained in section 31-276(3).

a. Physical therapy clinic.

b. Chemical or X-ray laboratory.

e. Dispensing optician.

d. Dispensing apothecary.

e. Dental laboratory.

(3) Buildings may be used for one or more of the uses prescribed in section (2) only under the following conditions:

a. The total area of a professional building devoted to any single incidental use shall not exceed fifteen (15) percent of the gross floor area of the building.

- ~~b. The total area of a professional building devoted to incidental uses in the aggregate shall not exceed twenty-five (25) percent of the gross floor area of the building.~~
- ~~e. Public access to such incidental uses shall be from the interior of the building.~~
- ~~d. No parking space shall occupy any part of the required front yard, except as provided in section 31-287 (a)(1)b.~~
- ~~e. Sign standards for this district shall apply to both primary and incidental uses.~~
- ~~f. No building in this district shall be constructed or altered to produce a storefront, show, window or display window, and there shall be no merchandise visible from the exterior of the building.~~
- ~~g. No outside storage shall be permitted in this district.~~
- ~~(4) Office, general business.~~
- ~~(5) An on-premises residential use or living quarters may be included in one structure in a commercial land use district when the main use of the structure is commercial, provided both uses are in compliance with appropriate building codes and the proprietor or an employee of the commercial activity is a resident in the living quarters.~~
- ~~(6) Business day care.~~
- ~~(7) Bakery shop (retail sales only).~~
- ~~(8) Barbershop, beauty shop to include permanent cosmetics (licensed per Texas Health and Safety Code, chapter 146 amended).~~
- ~~(9) Construction field office and yard: on the job site; for duration of construction only.~~
- ~~(10) Cleaning or laundry (pick-up station only).~~
- ~~(11) Drugstore or pharmacy.~~
- ~~(12) Florist (retail) retail sales of flowers and small plants. No flower or plant raising or outside display or storage.~~
- ~~(13) Restaurant, coffee shop, or café (no dine-in/dine thru service).~~
- ~~(14) Bank, savings and loan or other financial institution.~~
- ~~(15) All structures within this district shall be constructed with 80% stone, brick or stucco veneer having a limestone front facade. No metal siding shall be visible from curbs.~~
- ~~(16) No off-premises signs shall be permitted in this district. On-premises signs are restricted to one sign per lot. The permitted sign shall be set back 10 feet from the property line, shall not exceed 10 feet in height and the face shall not exceed 100 square feet and the sign shall be constructed of limestone masonry material to match the building facade.~~

- (1) Bank, savings and loan or other financial institution.
- (2) Hospital, home or center for the acute or chronic ill, or assisted living facility.
- (3) Household appliance sales and repair service.
- (4) Retail bakery or confectionery: engaged in preparation, baking, cooking, selling and delivery of products.

- (5) Boat and accessory sales, no outside storage.
- (6) Bowling alleys.
- (7) Cleaning or laundry (self-service).
- (8) Cleaning or laundry, (pick-up station).
- (9) Florist, garden shop, greenhouse or nursery office (retail): no growing of plants, shrubs or trees out-of-doors on premises; no outside display or storage unless behind the required front yard or the actual setback of the principal building, whichever is greater.
- (10) General food products, retail sales, such as supermarkets, butcher shops, dairy stores, seafood sales or health food sales.
- (11) Cafeteria or catering service.
- (12) Office, general business.
- (13) Restaurant or café (with drive-thru or dine in service).
- (14) Tennis, swim club, health club or gym.
- (15) Small animal clinic or pet grooming shop.
- (16) Hotel or motel.
- (17) Job printing.
- (18) Gasoline service station, auto laundry, car wash, or oil/lube service station.
- (19) Retail sales of new auto parts: no outside storage.
- (20) A customarily incidental use: sale of beer and/or wine for off-premises consumption only shall be considered a customarily incidental use in this district.
- (21) Theaters of general release.
- (22) A restaurant permitted to offer alcoholic beverages for sale operating under the rules and regulations promulgated by the Texas Alcoholic Beverage Commission, as amended, and in accordance with Chapter 31, Division 16, Restaurant and Alcohol Sales District, as amended.
- (23) Package stores operating under the rules and regulations promulgated by the Texas Alcoholic Beverage Commission, as amended, and in accordance with Chapter 31, Division 12A, District B-3A, Local Business and Alcohol Sales District, as amended.
- (24) Mixed-use development being located nine hundred and fifty (950) feet to fifteen hundred (1,500) east of the east right-of-way of State Highway 195, and for a distance of approximately seventy-six hundred (7,600) feet south of the intersection of State Highway 195 and State Highway 201, for the commercial and residential use of a building, set of buildings, or neighborhood, where the first floor is designed, constructed and used for commercial use only while allowing access to residential uses.
- (25) Art gallery, book store or library.
- (26) Any conflict between this district and the districts incorporated herein, or the regulations provided by the other districts, shall be resolved so that the most stringent provision shall control.

.....

**Sec. 31-442. Height, and area and facade regulations.**

(a) No building or structure in University District "UOD" university overlay district shall exceed four stories or thirty five (35) forty five (45) feet in height. The height of any building or structure in this district that exceeds thirty five (35) feet shall provide an

additional one (1) foot to every applicable setback distance for each one (1) foot of additional building or structure height over thirty five (35) feet.

(b)(a) Size of yards. The size of yards in the University dDistrict "UØD" university overlay district shall be as follows:

(1) Front yard. There shall be a front yard having a minimum depth of thirty (30) feet. No parking, storage or similar use shall be allowed in required front yards in district "UØD," except that automobile parking will be permitted in such yards in accordance with off-street parking requirements.

(2) Side yard. A side yard of not less than fifteen (15) feet in width shall be provided on the side of a lot adjoining a side street. A side yard of not less than ten (10) feet in width shall be provided on the side of a lot adjoining any "R" zoned residential district. Otherwise, no side yard is required. No parking, storage, or similar use shall be allowed in any required side yard or in any required side street yard adjoining any "R" zoned residential district, except automobile parking in accordance with offstreet parking requirements.

(2)(3) Rear yard. There shall be a rear yard having a minimum depth of ten (10) feet. No parking, storage or similar use shall be allowed in required rear yards in district "UD".

(b) Size of lot. There are no limitations to the size of lots in the district "UØD" professional business district.

(c) Façade requirements. All structures within this district shall be constructed with a limestone front façade (required for the first floor only), and eighty percent (80%) stone or brick veneer, stucco, or tempered glass, exclusive of windows and doors, for the remaining exterior walls.

(Ord. No. 06-48, § II, 5-9-06)

### **Sec. 31-443. Parking, screening device, signs, and screening device lighting requirements.**

(a) Off-street parking and loading spaces shall be provided in the University dDistrict "UØD" university overlay district in accordance with the requirements for specific uses set forth in article V, division 3 of this chapter.

(b) The screening device requirements in the University dDistrict "UØD" university overlay district shall be the same as required in the "B-1" district except that screening shall be required before the use of any commercial structure when such property abuts a residential zoned property or property used solely for residential purposes.

(c) No off-premises signs shall be permitted in this district. On-premises signs are restricted to one (1) sign per lot, except that premises which have more than three hundred (300) feet of combined frontage along a public way or street, other than an alley, may have not more than one (1) additional sign for each additional three hundred (300) feet of frontage or fraction thereof. The permitted sign shall be set back ten (10) feet from the property line, shall not exceed ten (10) feet in height, the face shall not exceed 100 square feet and the sign shall be constructed of limestone masonry material to match the building facade.

(d) Any person wishing to install or use exterior lighting for non-residential, mixed-use, and multi-family structures shall first request a site plan review and obtain approval for such lighting by the Building Official. The site plan shall fully comply with the general regulations of this section and shall specify the location, height and type of all exterior lighting.

(1) The height of exterior lighting, except streetlights in public rights-of-way, shall not exceed twenty (20) feet.

(2) Light trespass, defined as unwanted light shining on adjacent property or public rights-of-way, has a negative impact on the enjoyment and value of the affected adjacent property, and declared to be unlawful. All exterior lighting in the University District shall be shielded or oriented in a manner that ensures that all illumination is contained on the source property. All exterior lighting shall be directed away from adjoining streets and residential properties in such a manner that the light emission shall not cause light trespass observable from adjoining streets and other properties.

(3) Exterior lighting situated in such a manner as to be mistaken for traffic signals or presenting any hazard to safe driving is prohibited.

(4) Up-lighting is prohibited, except:

(A) Up-lighting, defined as the practice of installing, maintaining or operating exterior lighting in such a way that the lighting fixtures direct the illumination upward, may be installed adjacent to flagpoles to illuminate a flag if the lighting is installed and directed in such a manner that the illumination is targeted directly at the flag and does not otherwise cause a light trespass or a driving hazard.

(B) Up-lighting of sculptures, structures and landscape features for ornamental purposes that enhance the character of the area is permitted provided that the lighting does not create light trespass or a hazard to safe driving.

(5) Canopy lighting shall be fully shielded or recessed so that the lenses of the lights are, at a minimum, flush with the bottom surface of the canopy.

(6) This section shall not apply to the following types of lighting if the use thereof is approved in writing by the Building Official:

(A) Unshielded lighting may be used if it can be shown that the luminary will not cause a light trespass or a driving hazard.

(B) Lighting for special activities where the lighting need is temporary rather than lighting utilized continuously.

**SECTION II:** That should any action or part of this ordinance be declared unconstitutional or invalid for any reason, it shall not invalidate or impair the validity, force, or effect of any other section or parts of this ordinance.

**SECTION III:** That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**SECTION IV:** That the Code of Ordinances of the City of Killeen, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

**SECTION V:** That this ordinance shall be effective after its passage and publication according to law.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this \_\_\_\_\_ day of \_\_\_\_\_, 2012, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

**APPROVED:**

\_\_\_\_\_  
**Daniel A. Corbin,**  
**MAYOR**

**ATTEST**

\_\_\_\_\_  
**Paula A. Miller**  
**CITY SECRETARY**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**Kathryn H. Davis**  
**CITY ATTORNEY**

**CITY COUNCIL MEMORANDUM FOR ORDINANCE**

**AGENDA ITEM**

**CONSIDER AN ORDINANCE  
AMENDING CHAPTER 31, ARTICLE IV,  
DIVISION 22, DISTRICT "COD"  
CEMETERY OVERLAY DISTRICT**

**ORIGINATING DEPARTMENT**

**PLANNING AND DEVELOPMENT  
SERVICES**

**BACKGROUND INFORMATION**

The Planning and Zoning Commission and city staff conducted several workshops and public hearings regarding proposed changes to the Cemetery Overlay District (COD). During these meetings, the Planning and Zoning Commission received input from many property owners within this district. The result of those meetings is a proposed ordinance that includes additional land uses and improved standards that are meant to encourage economic investment and community development within this important area of the city.

**CONCLUSION/DISCUSSION**

Dr. Shanaa briefed the Council on the proposed changes to the COD at the City Council workshop held on June 19, 2012, and staff will be prepared to discuss the proposed amendments at the City Council workshop to be held on July 5, 2012. Staff has notified all property owners within the COD of the upcoming City Council workshop and City Council regular meeting, and has encouraged their attendance.

**FISCAL IMPACT**

None.

**RECOMMENDATION**

The Planning and Zoning Commission has recommended that the City Council adopt the attached ordinance, amending Chapter 31, Article IV, Division 22, District "COD" Cemetery Overlay District.

**AN ORDINANCE AMENDING CHAPTER 31 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; AMENDING ARTICLE IV, DIVISION 22, DISTRICT "COD" CEMETERY OVERLAY DISTRICT, BY REVISING 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.**

**WHEREAS**, the City of Killeen, Texas is a home-rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and,

**WHEREAS**, the City of Killeen has declared the application and enforcement of the City's zoning regulations to be necessary for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare of the city; and,

**WHEREAS**, the City Council desires to create land use regulations that will help ensure that future development is mutually compatible with surrounding areas and the community as a whole; and,

**WHEREAS**, the City Council desires to amend district regulations to preserve and enhance surrounding properties, prevent the overcrowding of land and undue concentration of population, to prevent undue overloading of municipal infrastructure, and to promote land use consistent with neighboring properties; and,

**WHEREAS**, the City Council finds that such amendments are necessary and will provide consistent and even application of zoning regulations to all applicants.

**NOW, THEREFORE BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS:**

**SECTION I.** That Chapter 31, Article IV, Division 22 is hereby amended to read as follows:

DIVISION 22. DISTRICT "CØD" CEMETERY OVERLAY DISTRICT

**Sec. 31-448. ~~Overlay Cemetery d~~District boundary.**

The cemetery overlay district regulations apply to all property located in the current or future corporate city limits for a depth of fifteen hundred (1,500) feet at the following locations: east of the State Highway 195 right-of-way for a distance of approximately forty-nine hundred (4,900) feet north of the intersection of State Highway 195 and Chaparral Road; and, east of the State Highway 195 right-of-way for a distance of approximately fifteen hundred (1,500) feet south of the intersection of State Highway 195 and Chaparral Road. The first one hundred and fifty (950') feet of depth within the district, as measured from State Highway 195 shall be designated for commercial use. The remaining five hundred and fifty (550') feet of depth of this segment shall be designated for mixed-use development, or residential use via a conditional use permit.

(Ord. No. 06-48, § III, 5-9-06)

**Sec. 31-449. Use regulations.**

(a) Building on premises in "CØD" district shall be used only for the following purposes:

(1) Offices of practitioners of the recognized professions, as herein defined:

a. Professional building. Any structure used solely for the housing of professional offices of recognized professions.

b. Professions, recognized. Members of a recognized profession include those persons and customary staff normally considered as professional, and shall be deemed to include doctors, dentists, lawyers, architects, certified public accountants, registered engineers and related professions.

(2) Uses customarily incidental to the primary use, as hereinafter provided, subject to the special conditions contained in section 31-276(3).

a. Physical therapy clinic.

b. Chemical or X-ray laboratory.

c. Dispensing optician.

d. Dispensing apothecary.

e. Dental laboratory.

(3) Buildings may be used for one or more of the uses prescribed in section (2) only under the following conditions:

a. The total area of a professional building devoted to any single incidental use shall not exceed fifteen (15) percent of the gross floor area of the building.

b. The total area of a professional building devoted to incidental uses in the aggregate shall not exceed twenty five (25) percent of the gross floor area of the building.

ae. Public access to such incidental uses shall be from the interior of the building.

bd. No parking space shall occupy any part of the required front yard, except as provided in section 31-287 (a)(1)b.

ce. Sign standards for this district shall apply to both primary and incidental uses.

df. No building in this district shall be constructed or altered to produce a storefront, show, window or display window, and there shall be no merchandise visible from the exterior of the building.

eg. No outside storage shall be permitted in this district.

(4) Office, general business.

(5) An on-premises residential use or living quarters may be included in one structure in a commercial land use district when the main use of the structure is commercial, provided both uses are in compliance with appropriate building codes and the proprietor or an employee of the commercial activity is a resident in the living quarters.

(6) Business day care.

(7) Bakery shop (retail sales only).

(8) Barbershop, beauty shop to include permanent cosmetics (licensed per Texas Health and Safety Code, chapter 146 amended).

(9) Construction field office and yard: on the job site; for duration of construction only.

(10) Mortuary or funeral chapel.

(11) Drugstore or pharmacy.

(12) Florist (retail) retail sales of flowers and small plants. No flowers or plant raising or outside display or storage.

(13) Cafeteria or catering service.

(14) Restaurant or café (dine in service).

(15) Tennis, swim club, health club or gym.

(16) Hotel or motel.

(17) Art galley, bookstore or library.

(18) Mixed-use development, being located nine hundred and fifty (950) feet to fifteen hundred (1,500) east of the east right-of-way of State Highway 195, for the commercial and residential use of a building, set of buildings, or neighborhood where the first floor is designed, constructed and used for commercial use only, while allowing access to residential uses.

(19) Any conflict between the district and the districts incorporated herein, or the regulations provided by the other districts, shall be resolved so that the most stringent provision shall control.

~~((14) No on-premises signs shall be permitted in this district. On-premises signs are restricted to one sign per lot. The permitted sign shall be set back 10 feet from the property line, shall not exceed 10 feet in height and the face shall not exceed 100 square feet and the sign shall be constructed of limestone masonry material to match the building facade.~~

~~(Ord. No. 06-48, § III, 5-9-06)~~

### **Sec. 31-450. Conditional use permit.**

The city council by an affirmative majority vote may by ordinance grant a conditional use permit as provided in section 31-456 of this chapter for any residential or business land use for a specific parcel in the overlay district and may impose appropriate conditions and safeguards to assure that these land uses are compatible with and appropriate for locations adjacent to the Veterans Cemetery. Conditional use permits granted shall be considered permanent provided the property owner remains in continuous compliance with any conditions or safeguards imposed.

(Ord. No. 06-48, § III, 5-9-06; Ord. No. 10-058, § III, 9-28-10)

**Sec. 31-451. Height and area regulations.**

(a) No building or structure in district "COD" cemetery overlay district shall exceed ~~thirty~~ thirty five

(345) feet in height. The height of any building or structure in this district that exceeds thirty five (35) feet shall provide an additional one (1) foot to every applicable setback distance for each one (1) feet of additional building or structure height over thirty five (35) feet.

(ba) *Size of yards.* The size of yards in the district "COD" cemetery overlay district shall be as follows:

(1) *Front yard.* There shall be a front yard having a minimum depth of thirty (30) feet. No parking, storage or similar use shall be allowed in required front yards in district "COD," except that automobile parking will be permitted in such yards in accordance with off-street parking requirements.

(2) *Side yard.* A side yard of not less than fifteen (15) feet in width shall be provided on the side of a lot adjoining a side street. A side yard of not less than ten (10) feet in width shall be provided on the side of a lot adjoining any "R" zoned residential district. Otherwise, no side yard is required. No parking, storage, or similar use shall be allowed in any required side yard or in any required side street yard adjoining any "R" zoned residential district, except automobile parking in accordance with offstreet parking requirements.

(3) *Rear yard.* There shall be a rear yard having a minimum depth of ten (10) feet. No parking, storage or similar use shall be allowed in required rear yards in district "CD".

(eb) *Size of lot.* There are no limitations to the size of lot in the district "COD" professional business district.

(c) *Facade requirements.* All structures within this district shall be constructed with a limestone front facade (required for the first floor only), and eighty percent (80%) stone or brick veneer, stucco, or tempered glass, exclusive of windows and doors, for the remaining exterior walls.

(Ord. No. 06-48 § III 5-9-06)

**Sec. 31-452. Parking, and screening device, signs, and exterior lighting requirements.**

(a) Off-street parking and loading spaces shall be provided in the district "COD" cemetery overlay district in accordance with the requirements for specific uses set forth in article V, division 3 of this chapter.

(b) The screening device requirements in the district "COD" cemetery overlay district shall be the same as required in the "B-1" district, except that screening shall be required before the use of any commercial structure when such property abuts a residential zoned property or property used solely for residential purposes.

(c) No off-premises or EVMS signs shall be permitted in this district. On-premises signs are restricted to one (1) sign per lot, except that premises which have more than three hundred (300) feet of combined frontage along a public way or street, other than an alley, may have not more than one (1) additional sign for each additional three hundred (300) feet of frontage or fraction thereof. The permitted sign shall be set back ten (10) feet from the property line, shall not exceed ten (10) feet in height, the face shall not exceed 100 square feet and the sign shall be constructed of limestone masonry material to match the building facade.

(d) Any person wishing to install or use exterior lighting for non-residential, mixed- use, and multi-family structures shall first request a site plan review and obtain approval for such lighting by the Building Official. The site plan shall fully comply with the general regulations of this section and shall specify the location, height and type of all exterior lighting.

(1) The height of exterior lighting, except streetlights in public rights-of-way, shall not exceed twenty (20) feet.

(2) Light trespass, defined as unwanted light shining on adjacent property or public rights-of-way, has a negative impact on the enjoyment and value of the affected adjacent property, and declared to be unlawful. All exterior lighting in the Cemetery District shall be shielded or oriented in a manner that ensures that all illumination is contained on the source property. All exterior lighting shall be directed away from adjoining streets and residential properties in such a manner that the light emission shall not cause light trespass observable from adjoining streets and other properties.

(3) Exterior lighting situated in such a manner as to be mistaken for traffic signals or presenting any hazard to safe driving is prohibited.

(4) Up-lighting is prohibited, except:

(A) Up-lighting, defined as the practice of installing, maintaining or operating exterior lighting in such a way that the lighting fixtures direct the illumination upward, may be installed adjacent to flagpoles to illuminate a flag if the lighting is installed and directed in such a manner that the illumination is targeted directly at the flag and does not otherwise cause a light trespass or a driving hazard.

(B) Up-lighting of sculptures, structures and landscape features for ornamental purposes that enhance the character of the area is permitted provided that the lighting does not cause light trespass or a hazard to safe driving.

(5) Canopy lighting shall be fully shielded or recessed so that the lenses of the lights are, at a minimum, flush with the bottom surface of the canopy.

(6) This section shall not apply to the following types of lighting if the use thereof is approved in writing by the Building Official:

(A) Unshielded lighting may be used if it can be shown that the luminary will not cause a light trespass or a driving hazard.

(B) Lighting for special activities where the lighting need is temporary rather than lighting utilized continuously.

**SECTION II:** That should any action or part of this ordinance be declared unconstitutional or invalid for any reason, it shall not invalidate or impair the validity, force, or effect of any other section or parts of this ordinance.

**SECTION III:** That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**SECTION IV:** That the Code of Ordinances of the City of Killeen, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

**SECTION V:** That this ordinance shall be effective after its passage and publication according to law.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this \_\_\_\_\_ day of \_\_\_\_\_, 2012, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

**APPROVED:**

\_\_\_\_\_  
**Daniel A Corbin,**  
**MAYOR**

**ATTEST:**

\_\_\_\_\_  
**Paula A. Miller**  
**CITY SECRETARY**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**Kathryn H. Davis**  
**CITY ATTORNEY**

**CITY COUNCIL MEMORANDUM**

**AGENDA ITEM**

**RESOLUTION APPOINTING MEMBERS  
TO THE DOWNTOWN PARTNERSHIP  
COMMITTEE**

**ORIGINATING  
DEPARTMENT**

**PLANNING AND DEVELOPMENT  
SERVICES**

**Background**

The Downtown Partnership Committee currently has two vacancies that were held by former Mayor Timothy Hancock and former Councilmember Larry Cole. The Downtown Action Agenda recommends that the Downtown Partnership Committee consist of the Mayor, Councilmembers and other interested entities in the downtown area. There are a total of two Councilmember positions designated for the committee.

**Discussion/Conclusion**

Councilmember Terry Clark currently holds one of the Councilmember positions, and he was appointed by City Council on June 14, 2011 (11-083R).

**Recommendation**

Staff recommends that the City Council appoint Mayor Daniel Corbin and Councilmember \_\_\_\_\_  
\_\_\_\_\_ to serve on the Downtown Partnership Committee.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:**

That the above-stated recommendation is hereby approved and authorized.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas this \_\_\_\_ day of \_\_\_\_\_, 2012, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, § 551.001 *et seq.*

**APPROVED**

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Daniel A. Corbin  
MAYOR

**APPROVED AS TO FORM:**

**ATTEST:**

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Kathryn H. Davis  
CITY ATTORNEY

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Paula A. Miller  
CITY SECRETARY



## Interoffice Memorandum

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City Manager's Office • 254.501.7700 • Fax 254.501-7639 • gmorrison@killeentexas.gov

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**To: Mayor and Councilmembers**

**From: Glenn Morrison, City Manager**

**Date: June 29, 2012**

**Subject: OR-4 Certificate of Obligation**

At time of distribution city staff was working on the City Council memorandum for this agenda item. We will present the supporting document to you on Monday, July 2, 2012.