



City of Killeen

Regular City Council Meeting Agenda

May 14, 2013

Killeen City Hall

101 North College Street

City Council Chambers

5:00 P.M

Call to Order and Roll Call

___ Daniel A. Corbin, Mayor	___ Glenn Morrison
___ Elizabeth Blackstone	___ City Manager
___ Terry J. Clark	___ Kathryn H. Davis
___ Jared Foster	___ City Attorney
___ Wayne Gilmore	___ Paula Miller
___ Michael R. Lower	___ City Secretary
___ Jonathan Okray	___ Sergeant-At-Arms
___ Jose Segarra	

Invocation

Pledge of Allegiance

Approval of Agenda

Consent Agenda

- CA-1 Consider minutes of Regular City Council Meeting of April 23, 2013.
- CA-2 Consider a memorandum/resolution approving equipment leases through the state cooperative, Texas Association of School Boards Buyboard for the Golf Course.
- CA-3 Consider a memorandum/resolution authorizing Change Order No. 9 to the Downtown Streetscaping and Andy K. Wells Trail Extension Project with The Fain Group, Inc.
- CA-4 Consider a memorandum/resolution authorizing Change Order No. 10 to the Downtown Streetscaping and Andy K. Wells Trail Extension Project with The Fain Group, Inc.

- CA-5 Consider a memorandum/resolution authorizing the award of a construction contract (Bid 13-18) for the 2012 Sidewalk Improvements FM 3470 Project (Part I) to Cody Stanley Construction, LLC.
- CA-6 Consider a memorandum/resolution authorizing the award of a professional services agreement with HDR Engineering to design the Lift Station No. 23 expansion project.
- CA-7 Consider a memorandum/resolution for bid recommendation – Bid No. 13-23 Lift Station No. 1 Diversion Structure and Gravity Main.
- CA-8 Consider a memorandum/resolution approving TCEQ Air Monitoring Site Agreement Amendment at Skylark Field.
- CA-9 Consider a memorandum/resolution awarding Bid No. 13-24 for Killeen Fire Department Uniforms.

Public Hearings / Ordinances

- PH-1 **HOLD** a public hearing and consider a request for an ordinance by Min Tae and Un Yong Kim (Case #Z13-09) to rezone a portion of Lot 1, Block 8, Roberts Addition Section 3, from B-5 (Business District) to B-5 (Business District) with a CUP (Conditional Use Permit) for a communication tower. The property is locally known as 2901 W. Elms Road, Killeen, Texas. (Requires $\frac{3}{4}$ majority vote for approval)
- PH-2 **HOLD** a public hearing and consider a request for an ordinance by Cha Park and Son Park (Case #Z13-10) to rezone part of Lot 1, Block 1, Cha Addition, from B-5 (Business District) to RC-1 (Restaurant and Alcohol Sales District) for on premises sale and consumption of alcohol. The property is locally known as 4524 South W. S. Young Drive, Killeen, Texas.
- PH-3 **HOLD** a public hearing and consider a request for an ordinance by Stephen Hahn (Case #Z13-12) to rezone a portion of Lot 3, Block 1, La Mer Addition, Phase Two, from B-5 (Business District) to B-C-1 (General Business and Alcohol Sales District) to allow for use as a wine bar. The property is locally known as 403 E. Stan Schlueter Loop (FM 3470), Suite #306, Killeen, Texas.
- PH-4 **HOLD** a public hearing and consider the creation of a new zoning district “NBD” *Neighborhood Business District* for Killeen Code of Ordinances, Chapter 31.

Ordinances / Resolutions

- OR-1 Consider an ordinance amending Chapter 18, Nuisances, of the Killeen Code of Ordinances.
- OR-2 Consider an ordinance canvassing the returns and declaring results of May 11, 2013 General and Special Elections.

Special Recognitions

Oath of Office & Certificate of Election

Standards of Conduct

Call to Order and Roll Call

Ordinances / Resolutions

OR-1 Consider a memorandum/resolution designating a Mayor Pro-Tem.

Adjournment

CLOSED MEETINGS

The public is hereby informed that notices for City of Killeen meetings will no longer distinguish between matters to be discussed in open or closed session of a meeting. This practice is in accordance with rulings by the Texas Attorney General that, under the Texas Open Meetings Act, the City Council may convene a closed session to discuss any matter listed on the agenda, without prior or further notice, if the matter is one that the Open Meetings Act allows to be discussed in a closed session.

AMERICANS WITH DISABILITIES ACT

This meeting is being conducted in accordance with the Texas Open Meetings Law [V.T.C.A., Government Code, § 551.001 et seq.]. This meeting is being conducted in accordance with the Americans with Disabilities Act [42 USC 12101 (1991)]. The facility is wheelchair accessible and handicap parking is available. Requests for sign interpretive services are available upon requests received at least 48 hours prior to the meeting. To make arrangements for those services, please call 254-501-7700, City Manager's Office, or TDD 1-800-734-2989.

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.

May 21, 2013 (Workshop)

- Receive a Briefing from the Chamber of Commerce, Economic Development Corporation, Heart of Texas Defense Alliance, and Mounted Warfare Regional Museum
- Discuss and Evaluate the Performance of the Presiding Municipal Court Judge
- Briefing/Update – Public Safety

June 4, 2013 (Workshop)

- Quarterly Briefing/Update – Aviation
- Quarterly Briefing/Update – Public Works
- Quarterly Financial and Investment Report

Notice of Meetings

The Mayor and/or City Council have been invited to attend and/or participate in the following meetings/conferences/events. Although a quorum of the members of the City Council may or may not be available to attend this meeting, this notice is being posted to meet the requirements of the Texas Open Meetings Act and subsequent opinions of the Texas Attorney General's Office.

- President's Volunteer Service Awards, May 13, 2013, 6:00 p.m. – 8:00 p.m., Killeen Civic and Conference Center
- AUSA Corporate Membership Luncheon, May 16, 2013, 11:30 a.m. – 1:00 p.m. Central Texas College Anderson Student Center
- City of Killeen Employee Picnic, May 17, 2013, 6:00 p.m. – 8:00 p.m., Lions Club Park Family Aquatics Center
- Killeen PRCA Rodeo, May 23-25, 2013, 7:30 p.m., Killeen Rodeo Grounds
- Central Texas Memorial Day Ceremony, May 27, 2013, 10:00 a.m. – 12:00 p.m., Veteran's Cemetery
- Budget Town Hall Meeting, May 29, 2013, 6:00 p.m., Killeen City Council Chambers City Hall
- Music Night of Hope, May 31, 2013, 6:00 p.m., Killeen Arts & Activities Center

City of Killeen
Regular City Council Meeting
Killeen City Hall
April 23, 2013
5:00 p.m.

Presiding: Mayor Daniel A. Corbin

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

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

Mayor Pro-Tem Lower 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, seconded by Councilmember Clark. The motion was unanimously approved.

Consent Agenda

CA-1 Consider minutes of Regular City Council Meeting of April 9, 2013.

CA-2 Consider a memorandum/resolution [13-037R] authorizing the City Manager to execute an Interlocal Agreement with the City of Killeen and the Texas Department of Transportation for materials testing on the US 190/FM 2410/Rosewood Drive Project.

This contract with TxDOT provides for the testing of all construction materials used in the project at a cost of \$27,500.00.

CA-3 Consider a memorandum/resolution [13-038R] authorizing the award of RFQ 13-08 Street Condition Assessment contract to Transmap Corporation.

Staff reviewed the qualifications of three companies and recommends Transmap Corporation of Arlington, Ohio. The assessment will determine the overall condition of City streets and provide a five-year maintenance plan.

CA-4 Consider a memorandum/resolution [13-039R] approving the annual audit for the fiscal year ended September 30, 2012.

Weaver, LLP completed the audit of the City's various funds for the fiscal year ended September 30, 2012. The audit report is a clean report, and the fund balance is thirty-five percent, in excess of City policy requirements.

CA-5 Consider a memorandum/resolution [13-040R] recommending to the Employee

Benefit Trust the renewal of a contract for employee dental insurance benefits.

Staff recommends the City Council recommend to the Employee Benefit Trust renewal of the contract for employee dental insurance to Met Life.

CA-6 Consider a memorandum/resolution [13-041R] recommending to the Employee Benefit Trust the renewal of a contract for employee health insurance benefits.

Staff recommends the City Council recommend to the Employee Benefit Trust renewal of the contract for employee health insurance to Blue Cross Blue Shield.

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

Public Hearings / Ordinances

PH-1 **HOLD** a public hearing and consider a request for a street name change from Gaberial Court to Carlee Court for Lots 36-40, Block 1, Duran Addition.

March 27, 2008, the City Council changed the name of Carlee Court to Gaberial Court. At that time, the Council noted there was another street (Carly Drive) phonetically similar to Carlee Court. Following this action, the builder and the United States Postal Service were notified by letter of the change; however, the street sign was not changed until recently. The Court consists of five lots, and Mr. and Mrs. Traynham own three of the lots. Mr. and Mrs. Traynham have requested the name be changed back to the original Carlee Court. The street sign has the name “Gaberial Court” with “Carlee Court” to the side. Construction of Mr. Traynham’s house was not begun until 2010.

Mayor Corbin opened the public hearing.

Ken Traynham, 5501 Carlee Court, advised he was not aware the street name had been changed until the new street sign was installed, and he lost his homestead exemption as a result of the change. The problem results in deliveries being returned to sender as no address found.

Dustin Daniels, 5505 Carlee Court, also spoke in support of the request.

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

Councilmember Okray moved to approve the resolution [13-042R], seconded by Mayor Pro-Tem Lower. The motion was approved 5-2 (Councilmembers Clark and Segarra in opposition).

PH-2 A. **HOLD** a public hearing and consider an ordinance amending the FY 2012-13 Annual Budget and Plan of Municipal Services of the City of Killeen by increasing the general fund by \$390,000 in the police department motor vehicle expenditure account.

B. Consider a memorandum/resolution authorizing the procurement of twenty- five (25) police pursuit vehicles fully equipped with emergency equipment through the TASB Buyboard, a State Cooperative, voice radios through Daily-Wells Communications, Digital Video/MDT systems through the Houston Galveston Area Council (HGAC), and Graphix graphics kits through sole source procurement.

The caption of the ordinance was read as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS AMENDING THE FY 2012-2013 ANNUAL BUDGET AND PLAN OF MUNICIPAL SERVICES OF THE CITY OF KILLEEN BY INCREASING THE GENERAL FUND BUDGET BY \$390,000 IN THE POLICE DEPARTMENT MOTOR VEHICLE EXPENDITURE ACCOUNT; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.

The 2012-2013 budget authorized the purchase of twenty-five fully-equipped patrol units; however, because of price increases and overstatement of available funds, there is a shortfall of \$390,000. Twenty-five vehicles will be purchased through the TASB Buy Board at a cost of \$968,386, twenty-five M/A-COM EDACS radios from Daily-Wells Communications at a cost of \$116,859, and twenty-five COBAN digital video/MDT systems through HGAC Buy Board at a cost of \$210,875.

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

Councilmember Clark moved to approve the ordinance and resolution [13-031; 13-043R], seconded by Councilmember Gilmore. The motion was approved unanimously.

Ordinances / Resolutions

OR-1 Consider an ordinance to amend the classifications and numbers of authorized Police Department Civil Service positions.

The caption of the ordinance was read as follows:

AN ORDINANCE OF THE CITY COUNCIL OF KILLEEN, TEXAS, TO AUTHORIZE THE NUMBER OF POLICE DEPARTMENT CIVIL SERVICE EMPLOYEES TO COMPLY WITH THE PROVISIONS OF TEXAS LOCAL GOVERNMENT CODE §143.021(a); PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

Chapter 143 of the Local Government Code requires the City Council to set by ordinance the number of authorized employees. The 2012-2013 budget provided for an additional twelve police officers, effective June 1, 2013. The cost for these twelve officers for four months of salary and benefits is \$351,860.

Councilmember Clark moved to approve the ordinance [13-032], seconded by Councilmember Segarra. The motion was approved unanimously.

OR-2 Consider an ordinance amending Chapter 18 Article IV, Section 18-46 Notice, Remedies, and Penalties.

The caption of the ordinance was read as follows:

AN ORDINANCE AMENDING CHAPTER 18 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; AMENDING ARTICLE IV, SECTION 18-46, NOTICE, REMEDIES, AND PENALTIES, BY REVISING THE SCHEDULE AND AMOUNT OF PENAL FINES; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

This code amendment provides a tiered fine schedule for code enforcement violations. For single-family residential, it provides for \$100 for the first violation, \$250 for the second violation, and \$500 for the third violation, not to exceed \$2,000. For non-single-family residential properties, there is a fine of \$250 for first violation, \$500 for the second violation, and \$750 for the third violation, not to exceed \$2,000.

Councilmember Blackstone moved to approve the ordinance [13-033], seconded by Mayor Pro-Tem Lower. The motion was approved unanimously.

Adjournment

With no further business, upon motion being made by Mayor Pro-Tem Lower, seconded by Councilmember Gilmore, and unanimously approved, the meeting was adjourned at 5:53 p.m.

Daniel A. Corbin, Mayor

Paula Miller, City Secretary

Regular 5-14-13
Item CA-2
CCMR/

CITY COUNCIL MEMORANDUM FOR RESOLUTION

AGENDA ITEM

**AUTHORIZE EQUIPMENT LEASES FOR
THE GOLF COURSE THROUGH THE
TASB BUYBOARD STATE
COOPERATIVE**

ORIGINATING DEPARTMENT

COMMUNITY SERVICES

BACKGROUND INFORMATION

In 2010, the golf course leased 5 pieces of equipment (CCMR 10-033R) that included: (2) Jacobsen Greens King Mowers, (1) Fairway Mower, (1) Cushman Truckster and (1) Jacobsen Turfcut. This lease will expire June 30, 2013 necessitating the return of the equipment. In order to replace this aging equipment and to address current needs, City staff has sought and received a proposal for the replacement and new equipment.

DISCUSSION/CONCLUSION

The City of Killeen is currently a member of several state purchasing cooperatives. The Texas Local Government Code § 252.022 specifies that purchases made through a purchasing cooperative satisfy state and local legal bidding requirements.

As such, a proposal has been secured through a prospective vendor that is affiliated with the TASB Buy Board purchasing cooperative (#373-11), satisfying the bidding requirements. Golf Course Staff recommends that Austin Turf and Tractor is selected as the vendor to secure the necessary equipment under the TASB Buy Board. The replacement equipment is separated into two leases: one for a term of 46 months and the other for a term of 60 months, specifically as follows:

46 Month Lease:

Make/Model	Monthly Lease Price	Total Lease Price
John Deere 2500B Gas Greens Mower	\$521.80	\$29,141.00
John Deere 2500B Gas Greens Mower	\$521.80	\$29,141.00
John Deere 7700 Fairway Mower	\$736.43	\$42,188.00

John Deere Z930M Zero Turn Mower	\$190.50	\$9,361.00
TOTAL	\$2,140.51	\$109,831.00

60 Month Lease (with \$1.00 Buy-out at the end of the term):

Make/Model	Monthly Lease Price	Total Lease Price
John Deere 2020A ProGator Heavy Duty Vehicle	\$373.86	\$23,419.00
John Deere Heavy Duty 300-300gl Sprayer	\$258.20	\$16,102.00
John Deere TD-100 Top Dresser	\$110.26	\$6022.00
John Deere 4120 Compact Utility Tractor	\$484.59	\$26,466
TOTAL	\$1,333.91	\$72,009.00

FISCAL IMPACT

The fiscal impact for the 46 month lease is \$109,831.00 over a 3 year, 10 month period. The monthly lease payment is \$2,140.51 (\$1,970.52 monthly lease payment + \$169.99 monthly property tax). The funds are available in account # 010-3020-424-4410.

The fiscal impact for the 60 month lease is \$72,009.00 over a 5 year period, which includes a \$1.00 buy-out at the end of the lease. The monthly lease payment is \$1,333.91 (\$1,226.91 monthly lease payment + \$107.00 monthly property tax). The funds are available in account # 010-3020-424-4410.

RECOMMENDATION

Staff recommends that City Council approve the two leases to secure the equipment from Austin Turf and Tractor and that the City Manager be 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 staff 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 _____, 2013, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

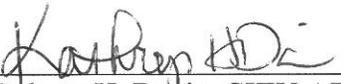
APPROVED

Daniel A. Corbin
MAYOR

ATTEST:

Paula A. Miller, CITY SECRETARY

APPROVED AS TO FORM:



Kathryn H. Davis, CITY ATTORNEY

Regular 5-14-13
Item # CA-3
CCM/R _____

CITY COUNCIL MEMORANDUM FOR RESOLUTION

AGENDA ITEM

**AUTHORIZE CHANGE ORDER NO. 9 TO
THE DOWNTOWN STREETSCAPING &
ANDY K. WELLS TRAIL EXTENSION
PROJECT WITH THE FAIN GROUP, INC.**

ORIGINATING DEPARTMENT

PUBLIC WORKS – TRANSPORTATION

BACKGROUND INFORMATION

On May 29, 2012, City Council awarded a construction contract to The Fain Group, Inc. (Bid 12-01) for the Downtown Streetscaping & Andy K. Wells Trail Extension Project in the amount of \$5,187,102.84 (CCM/R 12-015R attached). Major items of work include sidewalk construction, concrete trail and streetscaping features to include grading, pavement reconstruction, a pedestrian bridge, retaining walls, draining structures, traffic signal relocations, illumination, signing, pavement markings, and erosion control. Such improvements take place on parts of 4th Street, Gray Street, 8th Street, Avenue C and Avenue D. The pedestrian path and trail improvements will span from W.S. Young Drive west to 28th Street and then connect to the downtown along Avenue G.

DISCUSSION/CONCLUSION

The proposed Change Order No. 9 provides for the reconstruction of the north curb and gutter and driveway approaches along Avenue G. The curb line will be replaced in accordance with the City's curb and gutter standard to the existing line and grade, and the existing driveway approaches will be demolished.

FISCAL IMPACT

The proposed change order will increase the expenditures for the Downtown Streetscaping & Andy K. Wells Trail Extension project. Funding is available in the Highways & Streets Maintenance, Roadway Drainage Utility Fund account number 575-3445-434.42-90. The total cost of the changes is a net increase of \$152,707.04, for a total contract price of \$5,365,660.20 or a cumulative 3.44% increase to the contract.

RECOMMENDATION

The staff recommends that the City Council authorize the Change Order No. 9 to The Fain Group, Inc. in the amount of \$152,707.04 for the Downtown Streetscaping & Andy K. Wells

Trail Extension Project and request that the City Manager be 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 _____, 2013, 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

APPROVED AS TO FORM:

ATTEST:

Kathryn H. Davis
CITY ATTORNEY

Paula A. Miller
CITY SECRETARY

cc: City Attorney
Director of Finance
Executive Director of Public Works

Attachments: Change Order Form (CoK)
Change Order No. 9 (2)
CCM/R 12-015R
Engineer's Details & Calculations
Pedestrian Path Plans (C2.203-207)
Account Balance Inquiry (AS400)

CHANGE ORDER(S) FOR

Department/Division:	Public Works/Transportation	
Vendor Name:	The Fain Group, Inc.	
Original Contract Amount:	\$5,187,102.84	
Date CCM/R Approved:	05/29/12	
Bid No.:	12-01	
CCMR No.:	12-01SR	

NOTE

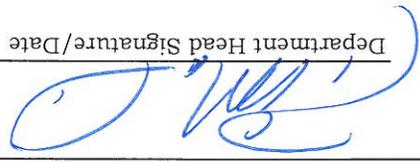
1. If individual Change Order request is ≥ \$50,000, please attach CCMR in front of Change Order request for Council approval

2. If, cumulatively, Change Orders are ≥ 25% of awarded contract amount please attach CCMR in front of Change Order request for Council approval

PO#: 139036 **HISTORY OF CHANGE ORDERS** Cannot exceed 25% of project amount: **\$1,296,775.71**

CO#	Proposed or Approved	Date CCMR Approved	CCMR#	Account Number (xxx-xxxx-xxx-xx-xx)	BRIEF Reason for Change Order Request (must fit in allotted space)	Updated Contract Amount	% Change in Contract
1	<input checked="" type="checkbox"/> Proposed	10/16/12	CM Memo	342-3490-800.58-15	Detection of bid items related to removal of existing signals and to place light poles and signage for a 4-way stop.	\$5,164,894.88	-0.43%
2	<input checked="" type="checkbox"/> Proposed	02/06/13	CM Memo	\$48,705.00	Increase of excavation and embankment due to new construction on portion of Andy K. Wells Trail.	\$5,213,599.88	0.51%
3	<input checked="" type="checkbox"/> Proposed	02/17/13	CM Memo	\$29,442.80	System upgrade to two-wire controller, allowing expansion of irrigation system; additional conduit (sleeves).	\$5,243,042.68	1.08%
4	<input checked="" type="checkbox"/> Proposed	03/05/13	CM Memo	\$22,036.02	Relocation of electrical service from overhead to underground; installation of all underground conduit and connections.	\$5,265,078.70	1.50%
5	<input checked="" type="checkbox"/> Proposed	03/13/13	CM Memo	-\$17,719.83	Retaining wall veneer change from split face CMU to stone veneer; removal of many short retaining walls.	\$5,247,358.87	1.16%
6	<input checked="" type="checkbox"/> Proposed	04/09/13	13-033R	-\$267,133.89	Reduction of quantities for pavement milling and asphalt overlay items along Avenue G portion; New curb and gutter proposal.	\$4,980,224.98	-3.99%
7	<input checked="" type="checkbox"/> Proposed	04/09/13	13-034R	\$192,244.50	Handrail and protective rails for accessibility requirements for the sidewalk in accordance w/contract specification section 02832.	\$5,172,469.48	-0.28%
8	<input checked="" type="checkbox"/> Proposed		CM Memo	\$40,483.68	Add electrical conduit for fiber optic communications and future security cameras; 14 pole bases w/installation, fittings, and labor.	\$5,212,953.16	0.50%
9	<input checked="" type="checkbox"/> Proposed			575-3445-434.42-90	Reconstruction of the north curb and gutter and driveway approaches along Avenue G (post driveway demolition).	\$5,365,660.20	3.44%
10	<input type="checkbox"/> Proposed					\$5,365,660.20	3.44%

Vendor Signature/Date _____


 Department Head Signature/Date 4-16-13

Approved/Disapproved: Flourence Rowella 4/22/13
Purchasing Manager/Date

Approved/Disapproved: _____
Director of Finance/Date 4/24/13

Approved/Disapproved: _____
City Attorney/Date

Approved/Disapproved: _____
City Manager/Date 4-24-13

CONSTRUCTION CONTRACT CHANGE ORDER NUMBER: 9

1. CONTRACTOR: The Fain Group Inc

2. Change Order Work Limits: Sta. ~7+40 to Sta. ~33+00

3. Type of Change (on federal-aid non-exempt projects): NA (Major/Minor)

4. Describe the change and the reason for the change order. When necessary, include exceptions to this agreement.

The City of Killeen, decided to reconstruct the North curb line and drive approaches along Avenue G from ~sta 7+40 LT to ~sta 33+00 LT. The existing curb and gutter is old and in poor condition, as are the drive approaches. The curb will be replaced with COK standard curb and gutter to existing line and grade. The drive approaches will be demolished and reconstructed.

CCSJ:	<u>0909-36-134</u>
Project:	<u>Downtown Killeen</u>
Highway:	<u>Local</u>
County:	<u>Bell</u>
District:	<u>Waco</u>
Contract Number:	<u>12-01</u>

5. New or revised plan sheet(s) are attached and numbered: C2.203, C2.204, C2.205, C2.206, C2.207

Each signatory hereby warrants that each has the authority to execute this Change Order.

<p>By signing this change order, the contractor agrees to waive any and all claims for additional compensation due to any and all other expenses; additional changes for time, overhead and profit; or loss of compensation as a result of this change. Further, the contractor agrees that this agreement is made in accordance with Item 4 and the Contract. Exceptions should be noted in the response for #5 above.</p>	<p>The following information must be provided</p> <p>Time Ext. #: <u>9</u> Days added on this C.O.: <u>20</u></p> <p>Amt. added by this change order: <u>\$152,707.04</u></p>
	<p>For TxDOT use only:</p> <p>Days participating: _____</p> <p>Amount participating: _____</p> <p>Signature _____ Date _____</p> <p>Name/Title _____</p>
<p>THE CONTRACTOR</p> <p>By <u>[Signature]</u> Date <u>4-3-13</u></p> <p>Typed/Printed Name <u>JAY BARNARD</u></p> <p>Typed/Printed Title <u>PROJECT MANAGER</u></p>	

RECOMMENDED FOR EXECUTION:

Nicholas L. Kohel, PE 04/01/13
Name/Title _____ Date _____

Name/Title _____ Date _____
 APPROVED REQUEST APPROVAL

Name/Title _____ Date _____

Name/Title _____ Date _____
 APPROVED REQUEST APPROVAL

Name/Title _____ Date _____

Name/Title _____ Date _____
 APPROVED REQUEST APPROVAL

Name/Title _____ Date _____

Name/Title _____ Date _____
 APPROVED

Engineer's Seal:



Nicholas L. Kohel, P.E.

CONSTRUCTION CONTRACT CHANGE ORDER NUMBER: 9 _____

Estimated Cost: \$152,707.04

CCSJ: 0909-36-134

Paid by Invoice? (Yes No)

TABLE A: Force Account Work and Materials Placed into Stock

LABOR	HOURLY RATE	EQUIPMENT	HOURLY RATE
See Attached Invoice -			

TABLE B: Contract Items

ITEM	DESCRIPTION	UNIT	UNIT PRICE	ORIGINAL + PREVIOUSLY REVISED		NEW		OVERRUN/ UNDERRUN
				QUANTITY	ITEM COST	QUANTITY	ITEM COST	
100 2002	Prep Right-of-Way	STA	1,782.32	93.00	165,755.76	106.00	188,925.92	23,170.16
162 2002	Block Sodding	SY	2.73	1,260.00	3,439.80	2,281.00	6,227.13	2,787.33
529 3000	COK Standard Curb & Gutter (reinf)	LF	17.94	7,888.00	141,510.72	9,726.00	174,484.44	32,973.72
529 3001	COK Laydown Curb & Gutter (reinf)	LF	16.53	933.00	15,422.49	1,654.00	27,340.62	11,918.13
530 2010	Driveways (Conc)	SY	64.62	1,528.00	98,739.36	2,652.00	171,372.24	72,632.88
531 2024	Conc Sidewalk (5")	SY	38.49	11,536.00	444,020.64	11,564.00	445,098.36	1,077.72
TOTALS						868,888.77	1,013,448.71	144,559.94

Regular 5-14-13
Item # CA-4
CCM/R _____

CITY COUNCIL MEMORANDUM FOR RESOLUTION

AGENDA ITEM

**AUTHORIZE CHANGE ORDER NO. 10
TO THE DOWNTOWN STREETSCAPING
& ANDY K. WELLS TRAIL EXTENSION
PROJECT WITH THE FAIN GROUP, INC.**

ORIGINATING DEPARTMENT

PUBLIC WORKS – TRANSPORTATION

BACKGROUND INFORMATION

On May 29, 2012, City Council awarded a construction contract to The Fain Group, Inc. (Bid 12-01) for the Downtown Streetscaping & Andy K. Wells Trail Extension Project in the amount of \$5,187,102.84 (CCM/R 12-015R attached). Major items of work include sidewalk construction, concrete trail and streetscaping features to include grading, pavement reconstruction, a pedestrian bridge, retaining walls, draining structures, traffic signal relocations, illumination, signing, pavement markings, and erosion control. Such improvements take place on parts of 4th Street, Gray Street, 8th Street, Avenue C and Avenue D. The pedestrian path and trail improvements will span from W.S. Young Drive west to 28th Street and then connect to the downtown along Avenue G.

DISCUSSION/CONCLUSION

The proposed Change Order No. 10 provides for an intersection interior pavement material change and reconstruction to Avenue C and Gray Street; Avenue C and 8th Street; Avenue D and Gray Street; and Avenue D and 8th Street. Despite efforts to process the existing foundation below the asphalt, the materials were found not suitable for placing asphalt without further undercutting and replacing of the base. In lieu of undercutting the existing base and adding new base, the engineer is recommending that these intersections be concrete paved. As shown on the attached overall grading key plan, a portion of the construction project included the four referenced intersections designed with the curb and gutter forming bulb-outs to aid in handicap accessibility. In addition to the bulb-outs, decorative sidewalks with paver inlays were included in the intersection reconstruction along with repaving that would result in an interior “island” of Hot Mix Asphalt (HMA) pavement. However, to simplify the City’s future maintenance of the construction and to avoid additional expenses, the HMA pavement is proposed to be upgraded to Portland Cement Concrete (PCC).

FISCAL IMPACT

The proposed change order will increase the expenditures for the Downtown Streetscaping & Andy K. Wells Trail Extension project, 2011 General Obligation Bond, Downtown Street

Reconstruction account number 343-3490-800.58-43. The total cost of the changes is a net increase of \$56,311.78, for a total contract price of \$5,421,971.98, or a cumulative 4.53% increase to the contract.

RECOMMENDATION

The staff recommends that the City Council authorize the Change Order No. 10 in the amount of \$56,311.78 for the Downtown Streetscaping & Andy K. Wells Trail Extension Project and request that the City Manager be 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 _____, 2013, 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

APPROVED AS TO FORM:



Kathryn H. Davis
CITY ATTORNEY

ATTEST:

Paula A. Miller
CITY SECRETARY

cc: City Attorney
Director of Finance
Executive Director of Public Works

- Attachments: Change Order Form (CoK)
Change Order No. 10 (2)
CCM/R 12-015R
Engineer’s Details & Calculations
Overall Grading Key Plan (C1.400)
Concrete Street Notes (ST-1A, ST-3, 5-7)
Portland Cement Concrete (PCC) Details

CHANGE ORDER(S) FOR

Department/Division: Public Works/Transportation	Bid No.: 12-01	NOTE 1. If individual Change Order request is ≥ \$50,000, please attach CCMR in front of Change Order request for Council approval 2. If, cumulatively, Change Orders are ≥ 25% of awarded contract amount please attach CCMR in front of Change Order request for Council approval
Vendor Name: The Fain Group, Inc.	CCMR No.: 12-015R	
Original Contract Amount: \$5,187,102.84		
Date CCM/R Approved: 05/29/12		

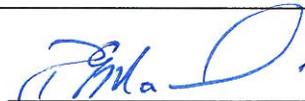
PO#: 139036

HISTORY OF CHANGE ORDERS

Cannot exceed 25% of project amount: \$1,296,775.71

CO#	Proposed or Approved	Date CCMR Approved	CCMR#	Amount	Account Number (xxx-xxxx-xxx-xx.xx)	BRIEF Reason for Change Order Request (must fit in allotted space)	Updated Contract Amount	% Change in Contract
1	<input type="checkbox"/> Proposed <input checked="" type="checkbox"/> Approved	10/16/12	CM Memo	-\$22,207.96	342-3490-800.58-15	Deletion of bid items related to removal of existing signals and to place light poles and signage for a 4-way stop.	\$5,164,894.88	-0.43%
2	<input type="checkbox"/> Proposed <input checked="" type="checkbox"/> Approved	02/06/13	CM Memo	\$48,705.00	343-3490-800.58-43	Increase of excavation and embankment due to new construction on portion of Andy K. Wells Trail.	\$5,213,599.88	0.51%
3	<input type="checkbox"/> Proposed <input checked="" type="checkbox"/> Approved	02/17/13	CM Memo	\$29,442.80	343-3490-800.58-43	System upgrade to two-wire controller, allowing expansion of irrigation system; additional conduit (sleeves).	\$5,243,042.68	1.08%
4	<input type="checkbox"/> Proposed <input checked="" type="checkbox"/> Approved	03/05/13	CM Memo	\$22,036.02	343-3490-800.58-43	Relocation of electrical service from overhead to underground; installation of all underground conduit and connections.	\$5,265,078.70	1.50%
5	<input type="checkbox"/> Proposed <input checked="" type="checkbox"/> Approved	03/13/13	CM Memo	-\$17,719.83	343-3490-800.58-43	Retaining wall veneer change from split face CMU to stone veneer; removal of many short retaining walls.	\$5,247,358.87	1.16%
6	<input type="checkbox"/> Proposed <input checked="" type="checkbox"/> Approved	04/09/13	13-033R	-\$267,133.89	343-3490-800.58-43	Reduction of quantities for pavement milling and asphalt overlay items along Avenue G portion; New curb and gutter proposal.	\$4,980,224.98	-3.99%
7	<input type="checkbox"/> Proposed <input checked="" type="checkbox"/> Approved	04/09/13	13-034R	\$192,244.50	343-3490-800.58-43	Handrail and protective rails for accessibility requirements for the sidewalk in accordance w/contract specification section 02832.	\$5,172,469.48	-0.28%
8	<input checked="" type="checkbox"/> Proposed <input type="checkbox"/> Approved		CM Memo	\$40,483.68	343-3490-800.58-43	Add electrical conduit for fiber optic communications and future security cameras; 14 pole bases w/installation, fittings, and labor.	\$5,212,953.16	0.50%
9	<input checked="" type="checkbox"/> Proposed <input type="checkbox"/> Approved			\$152,707.04	575-3445-434.42-90	Reconstruction of the north curb and gutter and driveway approaches along Avenue G (post driveway demolition).	\$5,365,660.20	3.44%
10	<input checked="" type="checkbox"/> Proposed <input type="checkbox"/> Approved			\$56,311.78	343-3490-800.58-43	Intersection interior pavement material change; decorative crosswalks; HCC pavement to Portland Cement Concrete (PCC).	\$5,421,971.98	4.53%
11	<input checked="" type="checkbox"/> Proposed <input type="checkbox"/> Approved							

Vendor Signature/Date


Department Head Signature/Date

4-23-13

Approved/Disapproved:

Approved/Disapproved:

 4-23-13
Purchasing Manager/Date

 4/24/13
Director of Finance/Date

Approved/Disapproved:

Approved/Disapproved:

 4-24-13
City Attorney/Date


City Manager/Date

CONSTRUCTION CONTRACT CHANGE ORDER NUMBER: 10

1. CONTRACTOR: The Fain Group Inc
 2. Change Order Work Limits: Sta. N/A to Sta. N/A
 3. Type of Change (on federal-aid non-exempt projects): NA (Major/Minor)
 4. Describe the change and the reason for the change order. When necessary, include exceptions to this agreement.

See Attached Narrative

CCSJ: 0909-36-134
 Project: Downtown Killeen
 Highway: Local
 County: Bell
 District: Waco
 Contract Number: 12-01

5. New or revised plan sheet(s) are attached and numbered: C1.400

Each signatory hereby warrants that each has the authority to execute this Change Order.

By signing this change order, the contractor agrees to waive any and all claims for additional compensation due to any and all other expenses; additional changes for time, overhead and profit; or loss of compensation as a result of this change. Further, the contractor agrees that this agreement is made in accordance with Item 4 and the Contract. Exceptions should be noted in the response for #5 above.	The following information must be provided Time Ext. #: <u>10</u> Days added on this C.O.: <u>15</u> Amt. added by this change order: <u>\$56,311.78</u>
	For TxDOT use only: Days participating: _____ Amount participating: _____ Signature _____ Date _____ Name/Title _____
THE CONTRACTOR Date <u>4-20-13</u> By <u>[Signature]</u> Typed/Printed Name <u>JAY BARNARD</u> Typed/Printed Title <u>PROJECT MANAGER</u>	

RECOMMENDED FOR EXECUTION:

Nicholas L. Kohel, PE 03/29/13
 Name/Title _____ Date _____

Name/Title _____ Date _____
 APPROVED REQUEST APPROVAL [Signature]

Name/Title _____ Date _____

Name/Title _____ Date _____
 APPROVED REQUEST APPROVAL

Name/Title _____ Date _____

Name/Title _____ Date _____
 APPROVED REQUEST APPROVAL

Name/Title _____ Date _____

Name/Title _____ Date _____
 APPROVED

Engineer's Seal:



Nicholas L. Kohel, P.E.

CONSTRUCTION CONTRACT CHANGE ORDER NUMBER: 10

Estimated Cost: \$56,311.78

CCSJ: 0909-36-134

Paid by Invoice? (Yes No)

TABLE A: Force Account Work and Materials Placed into Stock

LABOR	HOURLY RATE	EQUIPMENT	HOURLY RATE

TABLE B: Contract Items

ITEM	DESCRIPTION	UNIT	UNIT PRICE	ORIGINAL + PREVIOUSLY REVISED		NEW		OVERRUN/ UNDERRUN
				QUANTITY	ITEM COST	QUANTITY	ITEM COST	
247 2054	FL BS(CMP IN PLC)(TY D GR 2)(FINA	CY	56.07	2,449.00	137,315.43	2,356.00	132,100.92	- 5,214.51
310 2005	PRIME COAT (MC-30 OR AE-P)	GAL	4.51	1,317.00	5,939.67	982.00	4,428.82	- 1,510.85
340 2011	D-GR HMA(METH)TY-B SAC-B PG64	TON	80.78	1,234.00	99,682.52	866.00	69,955.48	- 29,727.04
340 2120	D-GR HMA(METH)TY-D SAC-B PG70	TON	89.48	2,032.00	181,823.36	1,848.00	165,359.04	- 16,464.32
3600 2000	8 IN THK CONCRETE PAVMENT see attached details	SY	65.25	0.00	0.00	1,674.00	109,228.50	109,228.50
TOTALS					424,760.98		481,072.76	56,311.78

Regular 5-14-13
 Item # CA-5
 CCM/R _____

CITY COUNCIL MEMORANDUM FOR RESOLUTION

AGENDA ITEM

AUTHORIZE THE AWARD OF A CONSTRUCTION CONTRACT (BID 13-18) FOR THE 2012 SIDEWALK IMPROVEMENTS FM 3470 PROJECT (PART I) TO CODY STANLEY CONSTRUCTION, LLC

ORIGINATING DEPARTMENT

PUBLIC WORKS – TRANSPORTATION

BACKGROUND INFORMATION

On Monday, April 15, 2013 at 3:15 p.m., bids were opened and read aloud for the construction of the proposed 2012 Sidewalk Improvements FM 3470 Project (Part I). Major items of work include installation of approximately 2,219 square yards of reinforced concrete sidewalk, removal and replacement of 5 driveways, 3 curb ramps, 132 linear feet of pedestrian handrail, reinforced concrete retaining wall, minor utility adjustments, 2,750 square yards of furnishing and placing topsoil and block sodding.

DISCUSSION/CONCLUSION

Five bidders submitted bids on the project. They were Patin Construction, LLC of Taylor, Texas; JHL Construction, LP of Gatesville, Texas; HCS, Inc. of Waco, Texas; Westar Construction, Inc. of Pflugerville, Texas; and Cody Stanley Construction, LLC of Killeen, Texas.

Bidder:	Patin Construction, LLC	JHL Construction, LP	HCS, Inc.	Westar Construction, Inc.	Cody Stanley Construction, LLC
Acknowledged					
• Addendum No. 1	✓	✓	✓	✓	✓
• Bid Bond	✓	✓	✓	✓	✓
Total Bid	\$243,935.00	\$221,386.12	\$355,469.00	\$179,427.24	\$145,258.75

The engineering consultant, Mitchell & Associates, Inc., has estimated a probable project cost from \$170,000.00 to \$190,000.00.

FISCAL IMPACT

Funds for this project are available in the General Fund-Child Safety Escrow Fund, account number: 010-0000-202.16-00 in the amount of \$145,258.75.

RECOMMENDATION

The staff recommends the City Council award a construction contract to the lowest responsible bidder meeting specifications, Cody Stanley Construction, LLC of Killeen, Texas for \$145,258.75 and request that the City Manager be 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:

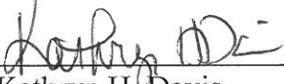
That the above-stated recommendation is hereby approved and authorized.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas this ___ day of _____, 2013, 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

APPROVED AS TO FORM:



Kathryn H. Davis
CITY ATTORNEY

ATTEST:

Paula A. Miller
CITY SECRETARY

cc: City Attorney
Director of Finance
Executive Director of Public Works

Attachments: Engineer's Bid Recommendation Letter
Bid Tabulation
Account Balance Inquiry (AS400)

Mitchell & Associates, Inc.
ENGINEERING & SURVEYING

April 17, 2013

City of Killeen
George Lueck, PE
Director of Transportation
P.O. Box 1329
Killeen, Texas 76540

Reference: Bid No. 13-18, 2012 Sidewalk Improvements FM 3470
Bid Recommendation

Dear George:

Per the bid opening for the above project on April 15, 2013, the apparent low bidder was Cody Stanley Construction, LLC of Killeen, Texas, in the amount of \$142,913.00. However, several errors were found in the unit amount calculations resulting in a true low bid of \$145,258.75 based on the unit prices provided. The unit prices were used as according to the "General Terms and Conditions – City of Killeen", Section 2(b), "Unit prices shall be shown and where there is an error in extension of the price, the unit price shall govern".

We requested and received a listing of projects and references. We made several contacts and received favorable responses related to work product, reliability, and services with public projects.

I therefore recommend that the City of Killeen award the 2012 Sidewalk Improvements FM 3470, Bid No. 13-18, to Cody Stanley Construction, LLC in the amount of \$145,258.75. If you have any questions or comments regarding this recommendation, please contact me.

Sincerely,



David Neumann, P.E.
Project Manager

E-mailed

Bid Tabulation
For
2012 FM 3470 SIDEWALK IMPROVEMENTS
Project No.: 13-18
CITY OF KILLEN, BELL COUNTY, TEXAS

Prepared By: Mitchell & Associates, Inc., 102 N College Street, Killen, Texas 76541

No.	Description	Quantity	Unit	PATIN CONSTRUCTION			JHL CONSTRUCTION			HCS Inc.			WESTAR CONSTRUCTION			CODY STANLEY CONSTRUCTION, LLC		
				Unit Cost	Unit Amount	Note	Unit Cost	Unit Amount	Note	Unit Cost	Unit Amount	Note	Unit Cost	Unit Amount	Note	Unit Cost	Unit Amount	Note
1.00	GENERAL ITEMS																	
1.01	Mobilization (5% of Max Bid)	1	LS	\$12,000.00	\$12,000.00		\$11,000.00	\$11,000.00			\$16,500.00	3A	\$8,218.04	\$8,218.04		\$6,891.00	\$6,891.00	
1.02	Traffic Control Plan and Implementation	1	LS	\$2,500.00	\$2,500.00		\$8,700.00	\$8,700.00			\$11,040.00	3A	\$6,500.00	\$6,500.00		\$7,500.00	\$7,500.00	5A
1.03	SWPPP Plan Development and Implementation	1	LS	\$2,500.00	\$2,500.00		\$3,900.00	\$3,900.00			\$1,610.00	3A	\$1,500.00	\$1,500.00		\$1,800.00	\$1,800.00	
	GENERAL ITEMS			Subtotal	\$17,000.00		Subtotal	\$23,600.00		Subtotal		3B	Subtotal	\$16,218.04		Subtotal	\$16,191.00	5B
2.00	ROADWAY ITEMS																	
2.01	Preparing ROW	31	STA	\$1,570.00	\$48,670.00		\$850.00	\$26,350.00			\$49,410.00	3A	\$100.00	\$3,100.00		\$500.00	\$15,500.00	
2.02	Remove Existing Sidewalk (4ft Wide)	35	LF	\$20.00	\$700.00		\$10.00	\$350.00			\$1,172.00	3A	\$8.00	\$280.00		\$7.00	\$245.00	
2.03	Remove and Replace Concrete Driveway	89	SY	\$85.00	\$7,565.00		\$91.35	\$8,130.15			\$6,942.00	3A	\$72.00	\$6,408.00		\$63.00	\$5,607.00	
2.04	Remove and Replace Concrete Fillet	2	EA	\$3,000.00	\$6,000.00		\$1,000.00	\$2,000.00			\$1,104.00	3A	\$1,000.00	\$2,000.00		\$500.00	\$1,000.00	
2.05	Remove and Replace Driveway (Concrete Curb & Gutter, Valley Gutter, Fillet & Flexbase)	1	EA	\$5,000.00	\$5,000.00		\$4,400.00	\$4,400.00			\$12,070.00	3A	\$5,500.00	\$5,500.00		\$2,600.00	\$2,600.00	
2.06	Remove and Replace Concrete Curb & Gutter	21	LF	\$65.00	\$1,365.00		\$30.00	\$630.00			\$2,121.00	3A	\$45.00	\$945.00		\$35.00	\$735.00	5C
2.07	Reinforced Concrete Sidewalk (4")	2219	SY	\$50.00	\$110,950.00		\$41.63	\$92,376.97			\$164,206.00	3A	\$42.30	\$93,863.70		\$29.25	\$64,905.75	5D
2.08	Curb Ramp (Type 1)	1	EA	\$800.00	\$800.00		\$1,400.00	\$1,400.00			\$1,725.00	3A	\$1,100.00	\$1,100.00		\$600.00	\$600.00	
2.09	Curb Ramp (Type 7)	2	EA	\$850.00	\$1,700.00		\$1,100.00	\$2,200.00			\$2,530.00	3A	\$1,400.00	\$2,800.00		\$600.00	\$1,200.00	
2.10	Concrete Sidewalk Flume	16	SY	\$150.00	\$2,400.00		\$227.00	\$3,632.00			\$3,232.00	3A	\$250.00	\$4,000.00		\$27.00	\$432.00	
2.11	Handrail (Waco District)(Ty D)	52	LF	\$75.00	\$3,900.00		\$175.00	\$9,100.00		\$220.00	\$11,440.00		\$180.00	\$9,360.00		\$61.00	\$3,172.00	
2.12	Handrail (Ty E)	80	LF	\$85.00	\$6,800.00		\$192.00	\$15,360.00		\$239.00	\$19,120.00		\$140.00	\$11,200.00		\$63.00	\$5,040.00	
2.13	Reinforced Concrete Retaining Wall (1ft-3ft Height)	38	LF	\$250.00	\$9,500.00		\$122.00	\$4,636.00			\$2,774.00	3A	\$80.00	\$3,040.00		\$32.00	\$1,216.00	
2.14	Adjust Manhole Ring & Cover to Match Finished Grade	2	EA	\$500.00	\$1,000.00		\$700.00	\$1,400.00			\$804.00	3A	\$800.00	\$1,600.00		\$1,000.00	\$2,000.00	
2.15	Furnishing and Placing Topsoil (4")	2750	SY	\$1.80	\$4,950.00		\$3.30	\$9,075.00			\$16,500.00	3A	\$4.00	\$11,000.00		\$3.32	\$9,130.00	
2.16	Block Sodding	2750	SY	\$4.50	\$12,375.00		\$4.00	\$11,000.00			\$18,287.00	3A	\$0.25	\$687.50		\$4.30	\$11,825.00	
2.17	Vegetative Watering	93	MG	\$20.00	\$1,860.00		\$47.00	\$4,371.00			\$6,882.00	3A	\$25.00	\$2,325.00		\$20.00	\$1,860.00	5E
2.18	Water Valves to be Adjusted	1	EA	\$400.00	\$400.00		\$125.00	\$125.00			\$480.00	3A	\$1,500.00	\$1,500.00		\$1,000.00	\$1,000.00	
2.19	Remove/ Adjust Irrigation Lines	1	LS	\$1,000.00	\$1,000.00		\$1,250.00	\$1,250.00			\$5,520.00	3A	\$2,500.00	\$2,500.00		\$1,000.00	\$1,000.00	
	ROADWAY ITEMS			Subtotal	\$226,935.00		Subtotal	\$197,786.12		Subtotal		3B	Subtotal	\$163,209.20		Subtotal	\$129,067.75	5F
	Total Estimated Project Cost				\$243,935.00			\$221,386.12			\$355,469.00			\$179,427.24			\$145,258.75	5G

	NOTES	NOTES	NOTES	NOTES	NOTES
Mobilization Check:	\$12,196.75 OK	\$11,069.31 OK	\$17,773.45 OK	\$8,971.36	\$7,262.94 OK

3A: NO UNIT PRICE GIVEN
3B: NO SUBTOTAL MADE

5A: UNIT AMOUNT GIVEN AS \$7000
5B: SUBTOTAL MISCALCULATED AS \$13,891.00
5C: UNIT AMOUNT GIVEN AS \$630.00
5D: UNIT AMOUNT GIVEN AS \$64,905.00
5E: UNIT AMOUNT GIVEN AS \$1,920.00
5F: SUBTOTAL GIVEN AS \$129,022.00
5G: TOTAL BASE BID GIVEN AS \$142,913.00

Regular 5-14-13
Item # CA-6
CCM/R _____

CITY COUNCIL MEMORANDUM FOR RESOLUTION

AGENDA ITEM

AUTHORIZE THE AWARD OF A PROFESSIONAL SERVICES AGREEMENT WITH HDR ENGINEERING TO DESIGN THE LIFT STATION NO. 23 EXPANSION PROJECT

ORIGINATING DEPARTMENT

PUBLIC WORKS

BACKGROUND INFORMATION

The 2012 Water and Wastewater Master Plan includes the expansion of Lift Station No. 23 from the present firm capacity of .65 mgd to a firm capacity of 2.5 mgd (Project 1S). This expansion is necessary to support growth in the southwestern part of the City. This area is presently experiencing strong growth through the Goodnight Ranch and the Landing at Clear Creek developments. Lift Station No. 23's wet well, pumps, and force main are undersized and unable to handle the projected development in this portion of the South Nolan Creek Basin.

DISCUSSION/CONCLUSION

HDR Engineering, an Austin based firm who is on the City's prequalified list for engineering services, has extensive experience with the design of wastewater lift stations. Their proposal includes: an alternative analysis to evaluate options for increasing Lift Station No. 23's firm capacity to 2.5 mgd, a related follow-on final design, bidding documents, and construction administration services necessary for the construction of this expansion. After negotiating a fair and reasonable price for HDR's engineering service, staff recommends approval of their proposal to design the Lift Station No. 23 Expansion Project for a total amount of \$166,876.

FISCAL IMPACT

Funding for this project is available in the amount of \$166,876 through Account Number 384-3495-800.54-75 of the 2007 Water & Sewer Bond.

RECOMMENDATION

Recommend that the City Council authorize the City Manager to enter into an agreement with HDR Engineering for a professional services agreement for the design and contract administration of the Lift Station No. 23 Expansion Project in the amount of \$166,876, 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:

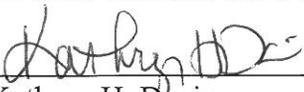
That the above-stated recommendation is hereby approved and authorized.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas this ___ day of _____, 2013, 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

APPROVED AS TO FORM:



Kathryn H. Davis
CITY ATTORNEY

ATTEST:

Paula A. Miller
CITY SECRETARY

Attachment (s): Proposed contracts (3)

Regular 5-14-13
Item # CA-7
CCM/R

CITY COUNCIL MEMORANDUM FOR RESOLUTION

AGENDA ITEM

**BID RECOMMENDATION – BID NO. 13-23
LIFT STATION NO. 1 DIVERSION
STRUCTURE AND GRAVITY MAIN**

ORIGINATING DEPARTMENT

PUBLIC WORKS

BACKGROUND INFORMATION

On Thursday May 17, 2012, the City executed an agreement for professional engineering and surveying services with The Wallace Group, Inc., for the Lift Station #1 Diversion Structure and Gravity Main Project. On Wednesday April 17, 2013, bids were opened and read aloud for the construction portion of the Lift Station #1 Diversion Structure and Gravity Main Project. The project will include approximately: 2,169 feet of 27-inch PVC SDR-26 gravity sewer transmission main, 180 feet of 36-inch bore and steel casing, 9 manholes, a 6-foot by 8-foot precast concrete diversion structure, and other related connections and appurtenances. The Lift Station #1 Diversion Structure and Gravity Main is project 2S in the 2012 Water and Wastewater Master Plan.

DISCUSSION/CONCLUSION

Two contractors submitted bids on this project. The bids are as follows:

BIDDERS	BASE BID
McLean Construction, Inc.	\$587,587.00
Shelton & Shelton Plumbing, LP	\$636,434.69

The Wallace Group, Inc., and city staff have reviewed each bid for conformance with the contract documents and for bid balance. Based upon this evaluation, staff recommends the award of contract to McLean Construction, Inc., in the amount of \$587,587.00. Final completion of all work shall be achieved within 210 consecutive calendar days from the contract notice to proceed.

McLean Construction's bid is \$92,047.00 or 18.6% over the construction estimate for this project. This increase in cost is primarily due to unforeseen construction work zone constraints and increasing material costs.

FISCAL IMPACT

Project funding in the amount of \$587,587.00 is available in Account Number 384-3495-800.54-79 of the 2007 Water & Sewer Bond.

RECOMMENDATION

Recommend that the City Council authorize the City Manager to enter into a contract with McLean Construction Inc., in the amount of \$587,587.00 to construct the Lift Station #1 Diversion Structure and Gravity Main Project. Staff also recommends that the City Manager be 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:

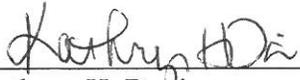
That the above-stated recommendation is hereby approved and authorized.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas this ___ day of _____, 2013, 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

APPROVED AS TO FORM:



Kathryn H. Davis
CITY ATTORNEY

ATTEST:

Paula A. Miller
CITY SECRETARY



ENGINEERS
ARCHITECTS
SURVEYORS

WACO
KILLEEN
DALLAS
ROUND ROCK

April 17, 2013

City of Killeen
P.O. Box 1329
Killeen, Texas 76540-1329

Attn: Sean Ray, EIT

Re: Lift Station #1 Diversion Structure & Gravity Main
Bid Number 13-23

Dear Mr. Ray:

Bids for construction of the above referenced project were opened on April 17, 2013. A total of two bids were received and are as follows:

McLean Construction, Inc.	\$587,587.00
Shelton & Shelton Plumbing, LP.....	\$636,434.69

The apparent low bidder is McLean Construction, Inc., of Killeen, Texas, in the amount of \$587,587.00. We are confident they will provide quality work for this project and therefore recommend that the contract for construction of the Lift Station #1 Diversion Structure and Gravity Main be awarded to McLean Construction, Inc., in the total amount of \$587,587.00.

If you have questions or comments, please contact me.

Sincerely,

Paul M. Boyer, P.E., CFM
Project Manager
The Wallace Group, Inc.

PMB:lld

Enclosures

Hand Delivered

cc: File - Project # 22659

3010 Illinois Avenue
Suite 100
Killeen, Texas 76543

(254) 554-5959
Fax (254) 554-5979
www.wallace-group.com
TBPE F-54

Regular 5-14-13
Item # CA-8
CCM/R _____

CITY COUNCIL MEMORANDUM FOR RESOLUTION

AGENDA ITEM

**TEXAS COMMISSION ON ENVIRONMENTAL
QUALITY (TCEQ) AIR MONITORING SITE
AGREEMENT AMENDMENT**

ORIGINATING DEPARTMENT

AVIATION *JLM*

BACKGROUND INFORMATION

On May 13, 2008, Council approved a five year agreement with the Texas Commission on Environmental Quality (TCEQ) for an 800 square foot area on Skylark Field for the placement of an Environmental Protection Agency (EPA) mandated air monitoring unit to serve the Killeen-Temple MSA.

DISCUSSION/CONCLUSION

The Texas Commission on Environmental Quality (TCEQ) has requested to exercise its option for a renewal of the air monitoring agreement. Staff has negotiated an amendment to the existing agreement to extend it under the original terms for a five year period beginning May 27, 2013 and ending May 26, 2018.

FISCAL IMPACT

There are no fees, charges, or revenues associated with this agreement.

RECOMMENDATION

City Council approve the attached amendment to the Air Monitoring agreement with the Texas Commission on Environmental Quality extending its term by five years, and authorize the City Manager to execute same.

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

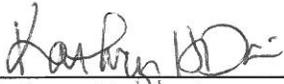
That the above stated staff recommendation is hereby approved and authorized.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas this ____ day of _____, 2013, 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

APPROVED AS TO FORM:



Kathryn H. Davis
CITY ATTORNEY

ATTEST:

Paula A. Miller,
CITY SECRETARY

Attachment:
Amendment to Air Monitoring Site Agreement

AMENDMENT TO AIR MONITORING SITE AGREEMENT

This Amendment is entered into effective as of the ____ day of _____, 2013 by and between The City of Killeen (“Licensor”) and the Texas Commission on Environmental Quality (“TCEQ”).

WHEREAS, TCEQ and Licensor executed an Air Monitoring Site Agreement (the “Agreement”) dated May 27, 2008 which is attached to this Amendment, labeled “Exhibit A”;

AND, WHEREAS, the parties desire to extend the term of the Agreement, as further detailed below.

NOW, THEREFORE, the parties state and agree as follows:

1. The original term of the Agreement ended on May 26, 2013. The parties hereby extend the term of the Agreement to May 26, 2018, subject to earlier possible termination as detailed in the Agreement.
2. All other terms and provisions of the Agreement remain in force.

SO AGREED:

City of Killeen

Texas Commission on Environmental Quality

By: _____ 

By: _____

Glenn Morrison

Printed Name: _____

City Manager

Title: _____

Date: _____

Date: _____

AIR MONITORING SITE AGREEMENT

The City of Killeen (hereafter the "Licensor") hereby agrees to permit the Texas Commission on Environmental Quality (hereafter the "Licensee" or the "TCEQ") to locate and operate a continuous air monitoring station on land owned by the Licensor at Skylark Field (the "Property"). In consideration for such permission, the TCEQ shall provide the Licensor full access, via the TCEQ web page, to the monitoring information gathered by TCEQ from the air monitoring station situated at the Property. The term of this Agreement is five years from the date this Agreement is executed, and is renewable for a five-year term thereafter, upon agreement by the TCEQ and the Licensor.

1. Equipment Site Location at the Property (the "Site")

The site is located on the Skylark Field at 31° 05' 16.86" North, -97° 40' 47.091" West as shown in Exhibit One.

2. Air Monitoring Equipment

The proposed method of monitoring is with a continuous air monitoring system housed in an aluminum sheet trailer with metal roof plus auxiliary equipment outside the trailer, including a 10 meter weather tower. The station will require a ground space approximately 1600 square feet, enclosed by wire mesh fencing. The trailer will be environmentally controlled and will contain instrumentation, as deemed appropriate by the TCEQ as well as peripherals required for the proper operation of the instruments.

3. Provision for Utilities

The TCEQ will arrange and pay for fencing, telephone and electrical installation and service.

4. Occupation of the Station

The station will normally be unmanned, except for routine maintenance visits by TCEQ staff, agents or contractors (per Section 5, infra) occurring approximately twice a week.

5. Right of Access

The TCEQ, its employees, agents, and equipment service contractors will have the right of ingress and egress to the property, during regular working hours, at the direction of the Licensor's staff maintaining or in possession of the property, subject to the Licensor's property management policies and practices, and not inconsistent with the Licensor's primary use of the Property and other operations incident thereto.

6. Liability and Indemnity

The TCEQ acknowledges that it is not an agent, servant, or employee of the Licensor, and that it is responsible, to the extent provided by law, for its own acts and deeds and for those of its agents, servants or employees during the term of this Agreement. In accordance with the Texas Tort Claims Act, Civ. Rem & Prac. Code § 101 (Vernon's 2000), the TCEQ will indemnify the Licensor for tort claims arising from the negligent maintenance or operation of the equipment, provided the legislature appropriates funds to satisfy such claims. However, as restricted by the Texas Constitution, any provision in this Agreement creating a debt against the State is void ab initio. Further, in no way does the foregoing declarations waive the State's sovereign immunity.

7. Restoration of Property

The TCEQ shall make reasonable repairs and/or replace any property of the Licensor damaged by the TCEQ's operations conducted at the Site, to the extent funds are made available by the Texas Legislature for such purpose. Upon removal, and at the request of the Licensor, the TCEQ shall restore the Site to the condition it was in prior to the installation of the monitoring equipment, to the extent funds are made available by the Texas Legislature for such purpose.

8. Equipment to Remain the Property of the TCEQ

All equipment installed at the Site to support TCEQ's air monitoring operations (whether or not said equipment constitutes a fixture under Texas Property Code) shall remain the property of the TCEQ.

9. Notice of Termination

If the Licensor wishes to terminate this Agreement and reclaim possession and use of the Site, the Licensor shall give the TCEQ forty-five (45) days written notice of Termination. Under such circumstances, Licensor shall make a reasonable effort to assist TCEQ in locating an alternative Site in the general vicinity. The TCEQ may also terminate this Agreement upon thirty (30) days written notice to the Licensor.

10. Removal of Equipment

Within forty-five (45) days of receiving Notice of Termination of this Agreement, the TCEQ shall remove any equipment placed at the Site pursuant to this Agreement.

11. Sovereign Immunity

The Licensor agrees that by entering this Agreement, TCEQ does not wave the State's sovereign immunity relating to suit, liability, and the payment of damages. The parties agree that all claims, suits, or obligations arising under or related to this Agreement are subject and limited to the availability of funds appropriated by the Texas legislature for that respective claim, suit, or obligation.

12. Severability

The fact that a particular provision is held under any applicable law to be void or unenforceable in no way affects the validity of other provisions and the Agreement will continue to be binding on both parties. Any provision that is held to be void or unenforceable will be replaced with language that is as close as possible to the intent of the original provision.

13. Entire Agreement

This Agreement constitutes the entire agreement of the parties as to the subject matter contained herein and may not be changed, modified, discharged, or extended except by written instrument duly executed on behalf of the parties.

IN WITNESS WHEREOF, TCEQ and Licensor have signed this Agreement.

Texas Commission on Environmental Quality

By:

(Signature)

Steve Spaw

Monitoring Operations Division Director

(Title)

5-27-08

(Date Signed)

Licensor

By:

(Signature)

(Printed Name)

(Title)

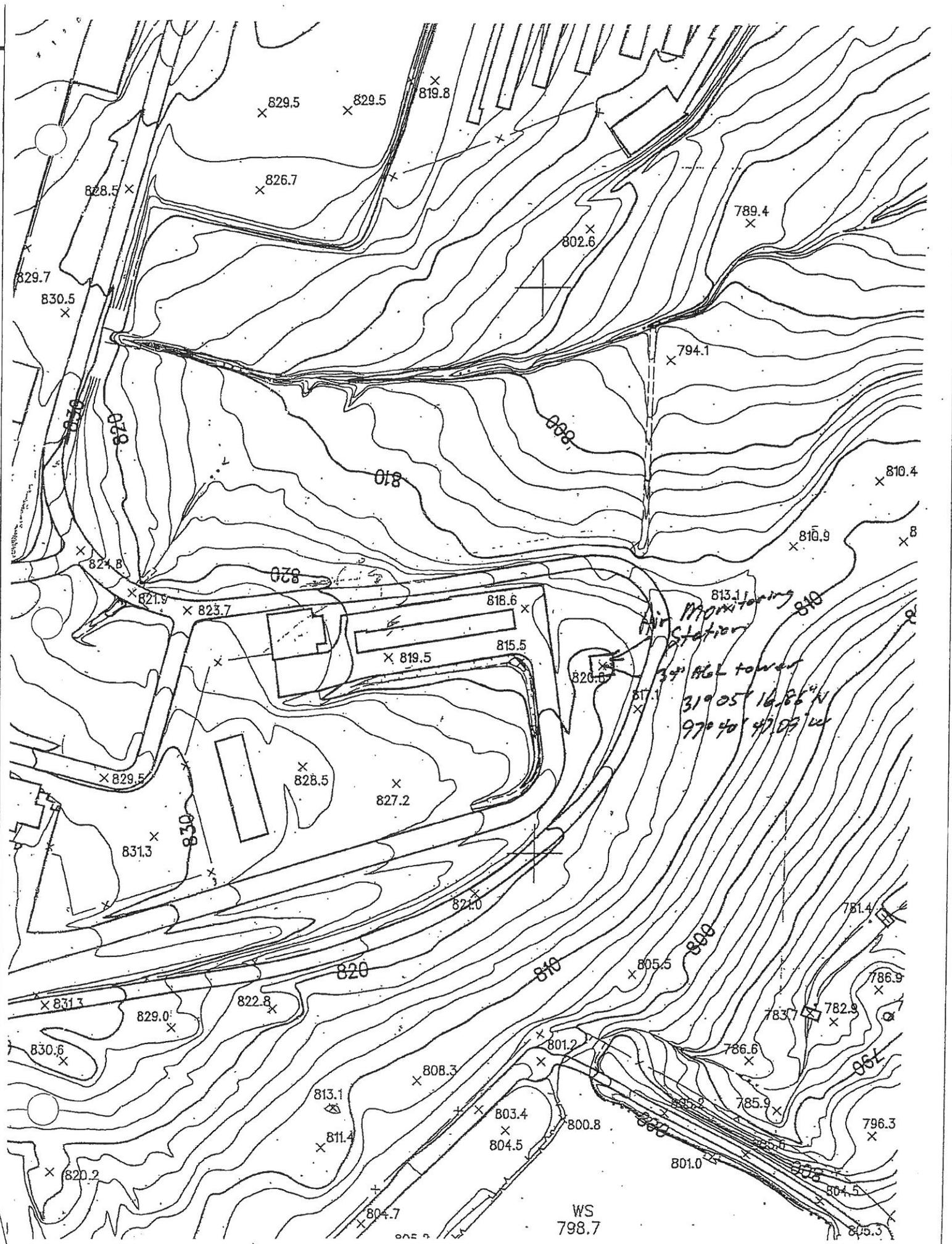
(Date Signed)

Connie J. Green

Connie J. Green

City Manager

5-15-2008



829.5 x 829.5 x 819.8

826.7 x

828.5 x

802.6 x

789.4 x

829.7

830.5 x

794.1 x

818

810.4 x

810.9 x

8

824.8 x

821.9 x

823.7 x

818.6 x

815.5 x

819.5 x

Air Monitoring Station

*39' AGL tower
31° 05' 16.86" N
97° 40' 47.05" W*

829.5 x

828.5 x

827.2 x

831.3 x

821.0 x

781.4 x

831.3 x

829.0 x

822.8 x

786.9 x

830.6 x

783.7 x

782.9 x

813.1 x

808.3 x

803.4 x

804.5 x

800.8 x

786.6 x

785.9 x

796.3 x

820.2 x

804.7 x

WS
798.7

801.0 x

804.5 x

805.3 x

CITY COUNCIL MEMORANDUM

AGENDA ITEM

UNIFORM PURCHASE PROGRAM

ORIGINATING DEPARTMENT

FIRE DEPARTMENT

BACKGROUND INFORMATION

The previous contract for the Killeen Fire Department (KFD) uniforms has expired and a new contract is desired to supply the KFD with uniforms. These uniform purchases are necessary to sustain the professional appearance of KFD paid fire personnel. The annual purchases for uniforms will exceed \$50,000 and to satisfy the Texas Local Government Code Section 252.021 an invitation to bid was advertised.

DISCUSSION/CONCLUSION

12 known vendors were electronically sent an invitation to bid. They were; American Aviation International Marketing LLC of Elliott City, MD, Chief Corporation of Charlotte NC, Elbeco Incorporated of Reading, PA, Global Service and Trade, Fredricksburg, VA, GST Public Safety Supply LLC of Grand Prairie, TX, Miller Uniforms & Emblems, Inc. of Austin, TX, Mission Linen and Uniform of Waco, TX, The Aby Manufacturing Group of Los Angeles, CA, Tyler Uniform of Tyler, TX, Uniforms Inc. of Dallas, TX, United Uniform Co. Inc of Buffalo NY, Working Person's Store of Lakeville IN. The bids were due on April 11, 2013 at 2:00pm. We received three bids that were in compliance with the general bid specifications, from Miller Uniforms & Emblems, Inc. of Austin, TX, GST Public Safety Supply, LLC of Grand Prairie, TX and Veteran Surplus of Killeen, TX. Veteran did not meet bid specs as described.

Vendor >		Miller Uniforms		Veteran Surplus		GST Public Safety Supply, LLC	
Description	Est. Quantity	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price
8131-Short Sleeve Knit Shirt	>100	46.99	4699.00			82.15	8215.00
8421 Short Sleeve Shirt	>100	33.50	3350.00			58.95	5895.00
8431 Long Sleeve Shirt	>100	38.75	3875.00			64.95	6495.00
8121 Job Shirt w/KFD logo	>100	22.95	2295.00			48.65	4865.00
8810 Side Pocket Trouser	>100	65.80	6580.00	39.00	3900.00	68.95	6895.00
8821 Four Pocket Trouser	>100	61.00	6100.00	39.00	3900.00	60.95	6095.00
Ties	>100	5.95	595.00			8.95	895.00
Otto Ball Cap 13-536 w/ KFD logo	>100	11.95	1195.00			13.95	1395.00
Badge	>100	57.50	5750.00			64.00	6400.00
Collar	>100	5.70	570.00			9.60	960.00
Name Plate	>100	12.20	1220.00			11.50	1150.00
Winter / Rain Coat (Option 1)	>100	310.00	31000.00			350.95	35095.00
Winter/ Rain Coat (Option 2)	>100	340.00	34000.00			372.90	37290.00

FISCAL IMPACT

The fiscal impact for this uniform bid is from the KFD uniform account. There are 194 full time fire personnel. The adjusted budget amount for the uniforms in fiscal year 2012-2013 is \$233,358; in account number 10-7070-442.41-20. The funding is divided between uniforms and personal protective equipment (PPE) or what is known as bunker gear. Depending on the specific need for any given year, the individual total of allocated account purchases for uniforms or PPE will be in excess of \$100,000.

RECOMMENDATION

Our staff recommends that City Council approve the uniform bid submitted by Miller Uniform & Emblems on April 11, 2013. The City Manager or his designee is authorized to execute any and all change orders within the amounts set by state and local law.

Bid prices shall be valid from date of acceptance of offer for a one (1) year period and may be extended for an additional two (2) one (1) year period(s) at the City's option.

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

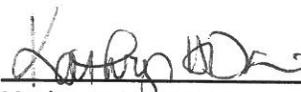
That the above stated recommendation is hereby approved and authorized

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas this _____ day of _____, 20__ at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A. Government Code, Section 551.001 et. seq.

APPROVED

Daniel A. Corbin
MAYOR

APPROVED AS TO FORM:



Kathryn H. Davis
CITY ATTORNEY

ATTEST:

Paula Miller
CITY SECRETARY

CITY COUNCIL MEMORANDUM FOR ORDINANCE

AGENDA ITEM

**ZONING Case #Z13-09
B-5 (Business District) to B-5 (Business
District) with a conditional use permit (CUP)**

ORIGINATING DEPARTMENT

PLANNING & DEVELOPMENT SERVICES

Nature of the Request

KGI Wireless on behalf of Min Tae and Un Young Kim is requesting to rezone a 50' by 50' portion of Lot 1, Block 8, Roberts Addition, Section 8, which is locally known as 2901 W. Elms Road, Killeen, Texas for a 100' tall monopole tower. The proposed location of the tower is 205' east of the west property line and 165' north of the south property line.

A conditional use permit is required for any tower that is constructed in a commercially zoned district. Conditional use permits must be approved by the majority of the planning and zoning commission and then by the city council with a three-fourths affirmative vote. The city council may impose reasonable conditions and safeguards deemed appropriate to that application in order to protect the health, safety, and welfare of the public and protect property and values.

Applicant/Property Owner: Min Tae and Un Young Kim

Property Location: The property is located along the south right-of-way of Elms Road and is locally known as 2901 W. Elms Road, Killeen, Texas.

Legal Description: Lot 1, Block 8, Roberts Addition, Section 8

Zoning/ Plat Case History:

The subject property was rezoned from R-1 (Single Family Residential District) to B-5 on March 5, 2002, per ordinance # 02-08.

The property is Lot 1, Block 8, Roberts Addition, Section 8, which was filed for record on February 19, 2003 in Cabinet C, Slide 324-A, Plat Records of Bell County, Texas.

Character of the Area:

Existing Land Use(s) on the Property: Hero Plaza which currently houses a Texaco gas station and convenience store.

Historic Properties: None

Infrastructure and Community Facilities

Water, Sewer and Drainage Services:

Provider: City of Killeen

Within Service Area: Yes

Feasibility Study or Service Commitment: No additional public water or sanitary sewer demands are anticipated for the proposed development.

Transportation:

Existing conditions: The school is located along the south right-of-way of Elms, which is classified as a 90' minor arterial on the city's thoroughfare plan.

Proposed Improvements: None

Projected Traffic Generation: None

Environmental Assessment

Topography: The site has elevations ranging from 956' to 976'. The tower is proposed to be located at an elevation of 970'.

Regulated Floodplain/Floodway/Creek: The subject property is not within any FEMA regulatory 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: Communication towers are ancillary uses, and the request is consistent with the Comprehensive Plan.

Staff notified nine (9) surrounding property owners within a 200' notification boundary. There were no protests.

Recommendation

The Planning and Zoning Commission recommended approval of the applicant's request for the monopole tower by a vote of 4 to 3 (with Commissioners Traina, Steine and Hoover in opposition) subject to the following conditions:

1. The proposed monopole will be constructed as a stealth tower.
2. Any construction within the area to be zoned for the tower shall be located outside of any fire lanes to protect public safety access.
3. Any additional construction on the property, located within or outside of the area to be zoned, that alters the drainage patterns or calculations will require the site to come into compliance with drainage standards in order to make the site suitable for development.
4. Prior to permitting, the applicant shall provide a dimensioned/scaled as-built survey to include the requested zoning area, existing and proposed structures, fences, private and public infrastructure, public easements, and fire lanes.



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

CASE #: 213-09

City of Killeen Zoning Change Application

[] General Zoning Change [X] Conditional Use Permit

Name(s) of Property Owner: Kim, Min Tae Etux Un Yong

Current Address: 4106 Lost Oak,

City: Killeen State: Tx Zip: 76542-4584

Home Phone: () _____ Business Phone: () _____ Cell Phone: () 254-833-0856

Email: _____

Name of Applicant: Andy Kampen
(If different than Property Owner)

Address: 805 Las Cimas Parkway, Suite 370

City: Austin State: TX Zip: 78746

Home Phone: () _____ Business Phone: () ⁵¹²345-995 Cell Phone: (469) 585-8180

Email: andy@kgiwireless.com

Address/Location of property to be rezoned: 2901 W. Elms Road, Killeen, Tx.

Legal Description: 50'x50' of the Roberts Addition Section 3 Amended Block ~~000~~
Metes & Bounds or Lot(s) Block Block 008, Lot 0001
Subdivision

Is the rezone request consistent with the Comprehensive Plan? YES NO

Type of Ownership: X Sole Ownership _____ Partnership _____ Corporation _____ Other _____

Present Zoning: B-5 Present Use: Commercial, Retail

Proposed Zoning: _____ Proposed Use: _____

Conditional Use Permit for: Communications Tower Site

This property was conveyed to owner by deed dated 11-21-2006 and recorded in Volume VL-6271
 Page 464, Instrument Number 2006-00055333 of the Bell County Deed Records.
 (Attached) BK-RP VL-6271 PG-464

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

APPOINTMENT OF AGENT

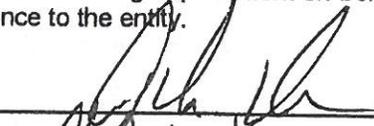
As owner of the subject property, I hereby appoint the person designated below to act for me, as my agent in this request.

Name of Agent: Andy Kampen
Mailing Address: 805 Las Cimas Parkway, Suite 370
City: Austin State: TX Zip: 78746
Home Phone: () _____ Business Phone: (212) 345-9595 Email: andy@legi.wireless.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. This authorization only applies to this specific zoning request.

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	<u>VP</u>
Printed/Typed Name of Agent	<u>Andy Kampen</u>	Date	_____
Signature of Applicant		Title	_____
Printed/Typed Name of Applicant	<u>Andy Kampen</u>	Date	_____
Signature of Property Owner		Title	_____
Printed/Typed Name of Property Owner	<u>M-m Tae Kwan</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.

**MINUTES
PLANNING AND ZONING COMMISSION MEETING
APRIL 22, 2013**

**CASE #Z13-09
B-5 TO B-5 W/CUP**

HOLD a public hearing and consider a request by Min Tae and Un Yong Kim to rezone a portion of Lot 1, Block 8, Roberts Addition Section 3, from B-5 (Business District) to B-5 (Business District) with a CUP (Conditional Use Permit) for a communication tower. The property is locally known as 2901 W. Elms Road, Killeen, Texas.

Chairman Frederick requested staff comments.

City Planner McIlwain stated that this request was submitted by KGI Wireless on behalf of Min Tae and Un Young Kim is requesting to rezone a 50' by 50' portion of Lot 1, Block 8, Roberts Addition, Section 8, which is locally known as 2901 W. Elms Road, Killeen, Texas for a 100' tall monopole tower. The proposed location of the tower is 205' east of the west property line and 165' north of the south property line.

A conditional use permit is required for any tower that is constructed in a commercially zoned district. Conditional use permits must be approved by the majority of the planning and zoning commission and then by the city council with a three-fourths affirmative vote. The city council may impose reasonable conditions and safeguards deemed appropriate to that application in order to protect the health, safety, and welfare of the public and protect property and values.

The property is located along the south right-of-way of Elms Road and is locally known as 2901 W. Elms Road, Killeen, Texas

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. Communication towers are ancillary uses, and the request is consistent with the Comprehensive Plan.

Staff notified nine (9) surrounding property owners within a 200' notification boundary.

Staff recommended approval of the applicant's request for the monopole tower subject to the following conditions:

1. Any construction within the area to be zoned for the tower shall be located outside of any fire lanes to protect public safety.
2. Any additional construction on the property, located within or outside of the area to be zoned, that alters the drainage patterns or calculations will require the site to

come into compliance with drainage standards in order to make the site suitable for development.

3. Prior to permitting, the applicant shall provide a dimensioned/scaled as-built survey to include the requested zoning area, existing and proposed structures, fences, private and public infrastructure, public easements, and fire lanes.

Mr. Andy Kampen, KGI Wireless, was present to represent this request. He stated that Verizon Wireless will be using the tower for additional coverage in the area.

Chairman Frederick opened the public hearing.

With no one requesting to speak the public hearing was closed.

Commissioner Butler motioned to recommend approval of this request with the conditions as stated by staff recommendation to include the proposed tower will be constructed as a stealth tower. The motioned was seconded by Commissioner Hicks. The motioned passed 4-3 with Commissioners Steine, Hoover and Traina in opposition.

Chairman Frederick stated that this will be forwarded to City Council on May 14, 2013, with a recommendation to approve.

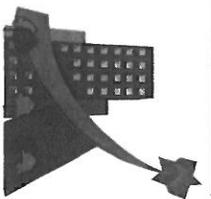
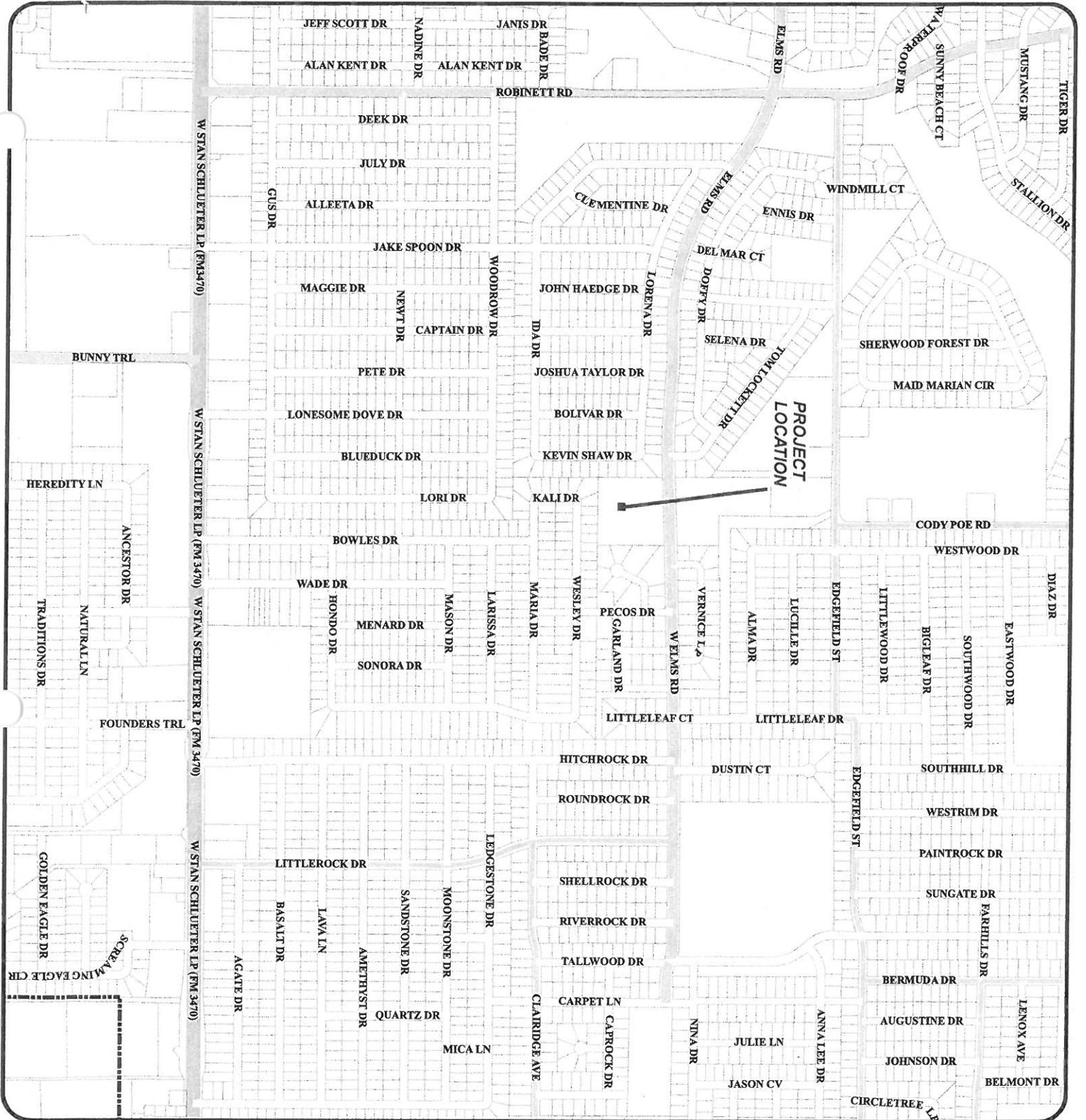
Zoning Case #Z13-09

Figure 1. Aerial Map



Figure 2. Street View





**PLANNING AND
DEVELOPMENT SERVICES**

ZONING CASE:

213-09

ZONING FROM:

B5 TO B5w/CUP

PROPERTY OWNER:

KIM, MIN TAE ETUX UN YONG

Legend
 Production: GISADMIN ZoningCases2013
 City Limits
 Production: GISADMIN Parcel

Date: 3/25/2013



CONSIDERATIONS

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

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 (if applicable)

Whether the use is in 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.

CITY COUNCIL MEMORANDUM FOR ORDINANCE

AGENDA ITEM

**ZONING case #Z13-10
B-5 (Business District) to RC-1 (Restaurant
and Alcohol Sales District)**

ORIGINATING DEPARTMENT

PLANNING & DEVELOPMENT SERVICES

Nature of the Request

This request is to rezone the footprint of the building on Lot 1, Block 1, Cha Addition, from B-5 (Business District) to RC-1 (Restaurant and Alcohol Sales District). The property is located at the southwest corner of the intersection E. Stan Schlueter Loop (FM 3470) and S. W.S. Young Drive and is locally addressed as 4524 S. W.S. Young Drive, Killeen, Texas.

District Descriptions:

A building or premises in the RC-1 (Restaurant and Alcohol Sales) District shall be used only for the following purposes:

- (1) A restaurant permitted to offer alcoholic beverages for sale operating under the rules and regulations promulgated by the Texas Alcoholic Beverage Commission, as amended, all of which are adopted hereby and made a part hereof for all purposes.
- (2) Any commercial, nonresidential use permitted in the B-4 district.

Applicant/Property Owner: Cha Park and Son Park

Property Location: The property is located at the northeast corner of the intersection E. Stan Schlueter Loop (FM 3470) and S. W.S. Young Drive and is locally addressed as 4524 S. W.S. Young Drive, Killeen, Texas.

Legal Description: Lot 1, Block 1, Cha Addition

Annexation/ Zoning/ Plat Case History:

- The property was annexed into the City on December 23, 1986, per ordinance # 86-87.
- The property was zoned from R-1 (Single Family Residential) to B-5 per ordinance # 05-96 on October 25, 2005.
- The subject property was platted as Cha Addition and recorded in Cabinet D, Slide 266-A, plat records of Bell County, Texas.

Character of the Area:

Existing Land Use(s) on the Property: Vacant commercial suites for lease.

Historic Properties: None

Infrastructure and Community Facilities

Emergency Response:

Fire Protection District: City of Killeen, Fire District 6

Miles from Fire Station: Approximately 1 mile from Fire Station 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 infrastructure is available with adequate size and pressure. Sewer infrastructure is immediately accessible to the subject property.

Transportation:

Existing conditions: South W.S. Young is classified as a 90' minor arterial on the city's thoroughfare plan. E. Stan Schlueter Loop (FM 3470) is classified a 110' principal arterial on the city's thoroughfare plan.

Proposed Improvements: None

Projected Traffic Generation: Minimal

Environmental Assessment

Topography: The elevation change on lot is approximately 14 foot.

Regulated Floodplain/Floodway/Creek: The subject site is not within any FEMA Special Flood Hazard Area.

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 rezone request is consistent with the future land use map of the Comprehensive Plan.

The staff notified one (1) surrounding property owners regarding this request. Staff has received one response from Rose Solis, the owner of 4501 Onion Road, who is in favor of the request.

Recommendation

The Planning and Zoning Commission recommended approval of the request, limited to the footprint of the existing building, by a vote of 6 to 1 (with Commissioner Traina in opposition). There are no existing public/ private schools, churches, or public/ private hospitals within 300' feet of the subject site as required under TABC section 109.33.



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

CASE #: 213-10

City of Killeen Zoning Change Application

General Zoning Change [] Conditional Use Permit

Name(s) of Property Owner: CHA PARK, SON PARK
 Current Address: 2713 LITTLE NOLAN RD.
 City: KILLEEN State: TX Zip: 76542
 Home Phone: (254) 371-4712 Business Phone: (254) 394-0191 Cell Phone: (254) 394-5611
 Email: PARKQUALITYHOMES @ LIVE.COM

Name of Applicant: _____
 (If different than Property Owner)

Address: _____
 City: _____ State: _____ Zip: _____
 Home Phone: () _____ Business Phone: () _____ Cell Phone () _____
 Email: _____

Address/Location of property to be rezoned: 4524 SOUTH W.S. YOUNG DR.
 Legal Description: LOT 1 BLOCK 1 CHA ADDITION

Metes & Bounds or Lot(s) Block Subdivision

Is the rezone request consistent with the Comprehensive Plan? YES NO
 Type of Ownership: Sole Ownership Partnership Corporation Other
 Present Zoning: BS Present Use: COMMERCIAL PLAZA - VACANT
 Proposed Zoning: RC-1 Proposed Use: GRILL & BAR
 Conditional Use Permit for: _____

This property was conveyed to owner by deed dated FEB 25, 2009 and recorded in Volume 6021, Page 763, 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)

**MINUTES
PLANNING AND ZONING COMMISSION MEETING
APRIL 22, 2013**

**CASE #Z13-10
B-5 TO RC-1**

HOLD a public hearing and consider a request by Cha Park and Son Park to rezone part of Lot 1, Block 1, Cha Addition, from B-5 (Business District) to RC-1 (General Business and Alcohol Sales District) for on premises sale and consumption of alcohol. The property is locally known as 4524 South W. S. Young Drive, Killeen, Texas.

Chairman Frederick requested staff comments.

Senior Planner Ferenc stated that this request is to rezone the footprint of the building on Lot 1, Block 1, Cha Addition, from B-5 (Business District) to RC-1 (Restaurant and Alcohol Sales District). The property is located at the northeast corner of the intersection E. Stan Schlueter Loop (FM 3470) and S. W.S. Young Drive and is locally addressed as 4524 S. W.S. Young Drive, Killeen, Texas.

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 rezone request is consistent with the future land use map of the Comprehensive Plan. The applicant would like to open a grill and bar.

The staff notified one (1) surrounding property owners regarding this request. Staff received one letter of support from Ms. Rose Solis.

Staff had no objection to the request. There are no existing public/ private schools, churches, or public/ private hospitals within 300’ feet of the subject site as required under TABC section 109.33.

Mr. Song Park, 1008 Bedrock Dr., Killeen, was present to represent this request. He requested the zoning for the full building since he didn’t know exactly where the bar and grill would be located. He stated that he has been in negotiation for suites 103 to 105.

Chairman Frederick opened the public hearing.

With no one requesting to speak the public hearing was closed

Commissioner Dorroh motioned to recommend approval of this request for the footprint of the building. The motioned was seconded by Commissioner Steine. The motioned passed 5-2 with Commissioners Hoover and Traina in opposition.

Chairman Frederick stated that this will be forwarded to City Council on May 14, 2013 with a recommendation to approve.

Zoning Case 13-10

Figure 1. Zoning Map



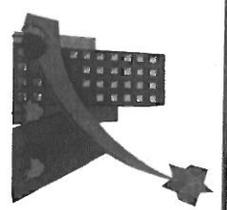
Figure 2. Aerial Map



Zoning Case 13-10

Figure 3. Current Photograph





**PLANNING AND
DEVELOPMENT SERVICES**

ZONING CASE:
#Z13-10
ZONING FROM:
B5 TO RCI

PROPERTY OWNER:
PARK, CHA D ETUX SON H

Legend
 Zoning Cases 2013
 City Limits
 Parcel

Date: 4/5/2013



CUT HERE	
YOUR NAME: <i>Rose Solis</i>	PHONE NUMBER: <i>254 220 2360</i>
CURRENT ADDRESS: <i>14639 Nutty Brown Rd. Austin Tx 78737</i>	
ADDRESS OF PROPERTY OWNED: <i>4501 Onion Rd. Killeen Tx 76542</i>	
COMMENTS: <i>I support to this request</i>	B-5 to RC-1
SIGNATURE: <i>R Solis</i>	SPO # <i>218-107</i>

RECEIVED
APR 16 2013
PLANNING

P.O. BOX 1329 · KILLEEN, TEXAS 76540-1329 · 254.501.7630 · 254.501.7628 FAX
WWW.CI.KILLEEN.TX.US

CONSIDERATIONS

Texas Supreme Court in *Pharr v. Tippitt*, 616 S. W 2nd 173 (Tex 1981) established general guidelines which the Planning and Zoning Commission and City Council should take into consideration when making their respective recommendation and decision on a zoning request.

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 (if applicable)

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.

CONSIDERATIONS

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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 (if applicable)

Whether the use is in 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.

CITY COUNCIL MEMORANDUM FOR ORDINANCE

AGENDA ITEM

**ZONING Case #Z13-12
B-5 (BUSINESS DISTRICT) to B-C-1
(GENERAL BUSINESS AND ALCOHOL SALES
DISTRICT)**

ORIGINATING DEPARTMENT

PLANNING & DEVELOPMENT SERVICES

Nature of the Request

This request is to rezone Suite #306 on Lot 3, Block 1, La Mer Addition, Phase Two from B-5 (Business District) to B-C-1 (General Business and Alcohol Sales District). The property is located east of Old Florence Road on E. Stan Schlueter Loop (FM 3470) and is locally addressed as 403 E. Stan Schlueter Loop, Suite #306, Killeen, Texas.

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:

- (1) 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.
- (2) Any uses permitted in a "B-5" district, excluding the sale of beer, wine and/or any other alcoholic beverages for off-premises consumption.
- (3) 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: Stephen Hahn

Property Location: The property is located east of Old Florence Road on E. Stan Schlueter Loop (FM 3470) and is locally addressed as 403 E. Stan Schlueter Loop, Suite 306, Killeen, Texas.

Legal Description: Lot 3, Block 1, La Mer Addition, Phase Two

Annexation/ Zoning/ Plat Case History:

- The property was annexed into the City on December 23, 1986, per ordinance # 86-87.
- This property was rezoned from TR-1 (Temporary Single Family Residential District) to B-5 on January 23, 1995 per ordinance #95-2.
- The property was replatted as La Mer Addition Phase Two and recorded on December 3, 2008, in Cabinet D, Slide 249-D, Plat Records of bell County, Texas.

-

Character of the Area:

Existing Land Use(s) on the Property: An existing business and vacant commercial suites exist on the property.

Historic Properties: None

Infrastructure and Community Facilities**Emergency Response:**

Fire Protection District: City of Killeen, Fire District 6

Fire Response Zone: 6-4

Miles from Fire Station: Approximately 1.7 miles from Fire Station 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 infrastructure is available with adequate size and pressure. Sewer infrastructure is immediately accessible to the subject property.

Transportation:

Existing conditions: E. Stan Schlueter Loop (FM 3470) is classified a 110' principal arterial on the city's thoroughfare plan. Old Florence Road is classified as a 70' collector on the city's thoroughfare plan.

Proposed Improvements: None

Projected Traffic Generation: Minimal

Environmental Assessment

Topography: The site 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 rezone request is consistent with the future land use map of the Comprehensive Plan.

Public Notification

The staff notified one hundred forty-six (146) property owners surrounding property owners regarding this request. The following six (6) property owners have protested: Barry G. Kendrick, the owner of 4805 Lindsey Drive; Carolyn Ciesiolka, the owner of 4802 Lindsey Drive; Leroy Jones, the owner of 311 James Loop, Wilfredo Feliciano, on behalf of Iglesia Cristiana Monte Sinai church, which is located at 701 E. Stan Schlueter Loop (FM 3470); Melville E. Macie Sr., the owner of 4801 Topsey Drive; and Carmina Jimeno, the owner of 722 Hickory Drive and 4907 Topsey Drive.

Recommendation

The Planning and Zoning Commission recommended approval of the applicant's request, to include the back patio area, by a vote of 5 to 2 (with Commissioners Traina and Hoover in opposition). There are no existing public/ private schools, churches, or public/ private hospitals within 300' feet of the subject site as required under TABC section 109.33.



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

CASE #: 213-12

City of Killeen Zoning Change Application

[] General Zoning Change [] Conditional Use Permit

Name(s) of Property Owner: Stephen Hahn

Current Address: 4013 E Stan Schlueter Loop

City: Killeen State: Texas Zip: 76542

Home Phone: () _____ Business Phone: ~~(254) 680-7575~~ Phone: ~~(254) 680-319~~ 319-3990

Email: daddycat222@gmail.com

Name of Applicant: Kevin Stuart
(If different than Property Owner)

Address: 2013 Sandy Point Road

City: Harker Heights State: Texas Zip: 76548

Home Phone: () _____ Business Phone: () _____ Cell Phone: () 614-329-2979

Email: KStuart@StuartArtGroup.com

Address/Location of property to be rezoned: 403 E. Stan Schlueter Loop Suite 306

Legal Description: (K5) to include outdoor seating area

Metes & Bounds or Lot(s) 3 Block 1

Subdivision LA Mer Addition, Phase Two

Is the rezone request consistent with the Comprehensive Plan? YES NO

Type of Ownership: _____ Sole Ownership _____ Partnership Corporation _____ Other

Present Zoning: B-5 Present Use: Empty Suite

Proposed Zoning: B-C-1 Proposed Use: Wine Bar

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: Stephen Hahn / Kevin Stuart
Mailing Address: 4013 E. Stan Schlueter Loop
City: Killeen State: Texas Zip: 76542
Home Phone: () _____ Business Phone: 254-680-7575 Email: daddy cat 222@gmail.com
254-319-3990

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. This authorization only applies to this specific zoning request.

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: Stephen Hahn / Kevin Stuart Title owner
Printed/Typed Name of Agent: Stephen Hahn / Kevin Stuart Date 4/1/13
Signature of Applicant: Kevin Stuart Title bas owner
Printed/Typed Name of Applicant: Stephen Kevin Stuart Date 4/5/13 applicant
Signature of Property Owner: Stephen Hahn Title owner
Printed/Typed Name of Property Owner: Stephen Hahn Date 4/1/13
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.

**MINUTES
PLANNING AND ZONING COMMISSION MEETING
APRIL 22, 2013**

**CASE #Z13-12
B-5 TO B-C-1**

HOLD a public hearing and consider a request by Stephen Hahn to rezone a portion of Lot 3, Block 1, La Mer Addition, Phase Two, from B-5 (Business District) to B-C-1 (General Business and Alcohol Sales District) to allow for use as a wine bar. The property is locally known as 403 E. Stan Schlueter Loop (FM 3470), Suite #306, Killeen, Texas.

Chairman Frederick requested staff comments.

Senior Planner Ferenc stated that this request by Stephen Hahn is to rezone Suite #306 on Lot 3, Block 1, La Mer Addition, Phase Two from B-5 (Business District) to B-C-1 (General Business and Alcohol Sales District). The property is located east of Old Florence Road on E. Stan Schlueter Loop (FM 3470) and is locally addressed as 403 E. Stan Schlueter Loop, Suite #306, Killeen, Texas.

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 rezone request is consistent with the future land use map of the Comprehensive Plan.

The staff notified one hundred forty-six (146) property owners surrounding property owners regarding this request. Staff received five letters in opposition from Carolyn Ciesiolka, Wilfreda Feliciano, Melville, Carmino Jimeno, and a letter from Barry Kendrick.

Staff had no objection to the request. There are no existing public/ private schools, churches, or public/ private hospitals within 300' feet of the subject site as required under TABC section 109.33.

Mr. Kevin Stuart, Harker Heights, was present to represent this request. When he moved to the area, he found that there was no place to go for relaxation and have a glass of wine. Mr. Stuart stated that his plan for the wine bar is to have a place where citizens may go to relax and enjoy a glass of wine or beer and listen to live music. He also asked the commissioners to consider including an outdoor patio area that is adjacent to the building.

Chairman Frederick opened the public hearing.

Mr. Leroy Jones, 311 James Loop, Killeen, spoke in opposition to the request. His concerns were: lights, kids walking through the area to school and the noise level.

With no one else requesting to speak the public hearing was closed.

Commissioner Traina asked the applicant, "What hours will you be open?" Mr. Stuart

replied that at this time he plans on opening 4 p.m. or 5 p.m. until 10 p.m. or 11 p.m. during the week and on Friday and Saturdays he hopes to be open until midnight or 2:00 a.m., depending on business support

In response to the concern about noise, Mr. Stuart stated that any music would be inside the building and that his target audience would not be the type to play “thump-thump” music in their cars as they arrive because it will be a more cultural, higher level place for people to come.

Commissioner Dorroh motioned to recommend approval of this request for the footprint of the building to include the proposed outside patio area. The motioned was seconded by Commissioner Steine. The motioned passed 5-2 with Commissioners Hoover and Traina in opposition.

Chairman Frederick stated that this will be forwarded to City Council on May 14, 2013, with a recommendation to approve.

Figure 1. Zoning Map

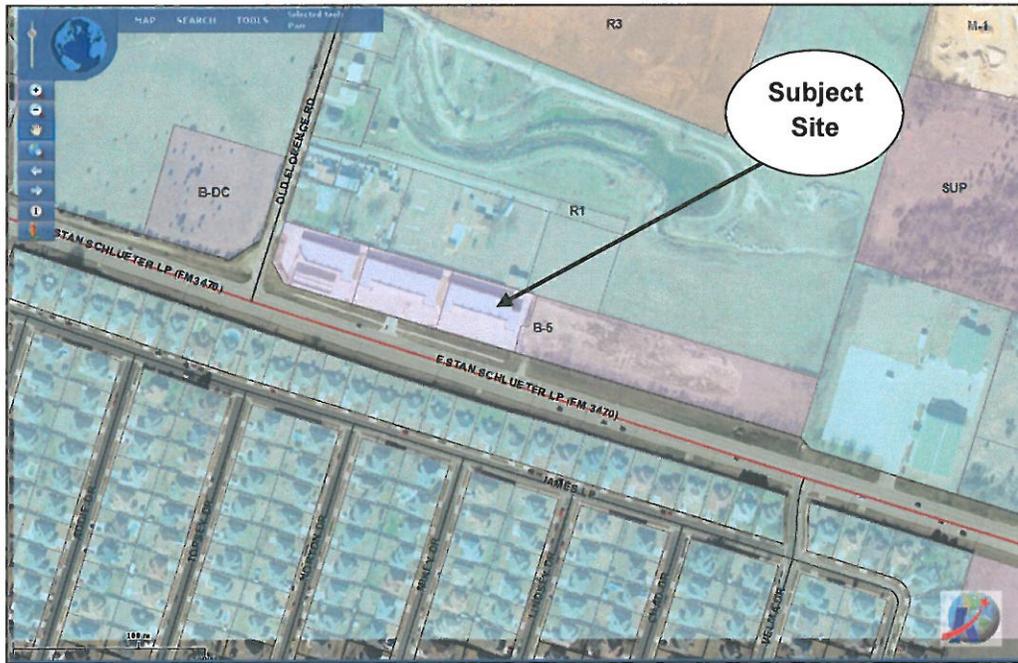
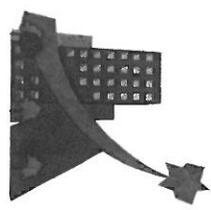
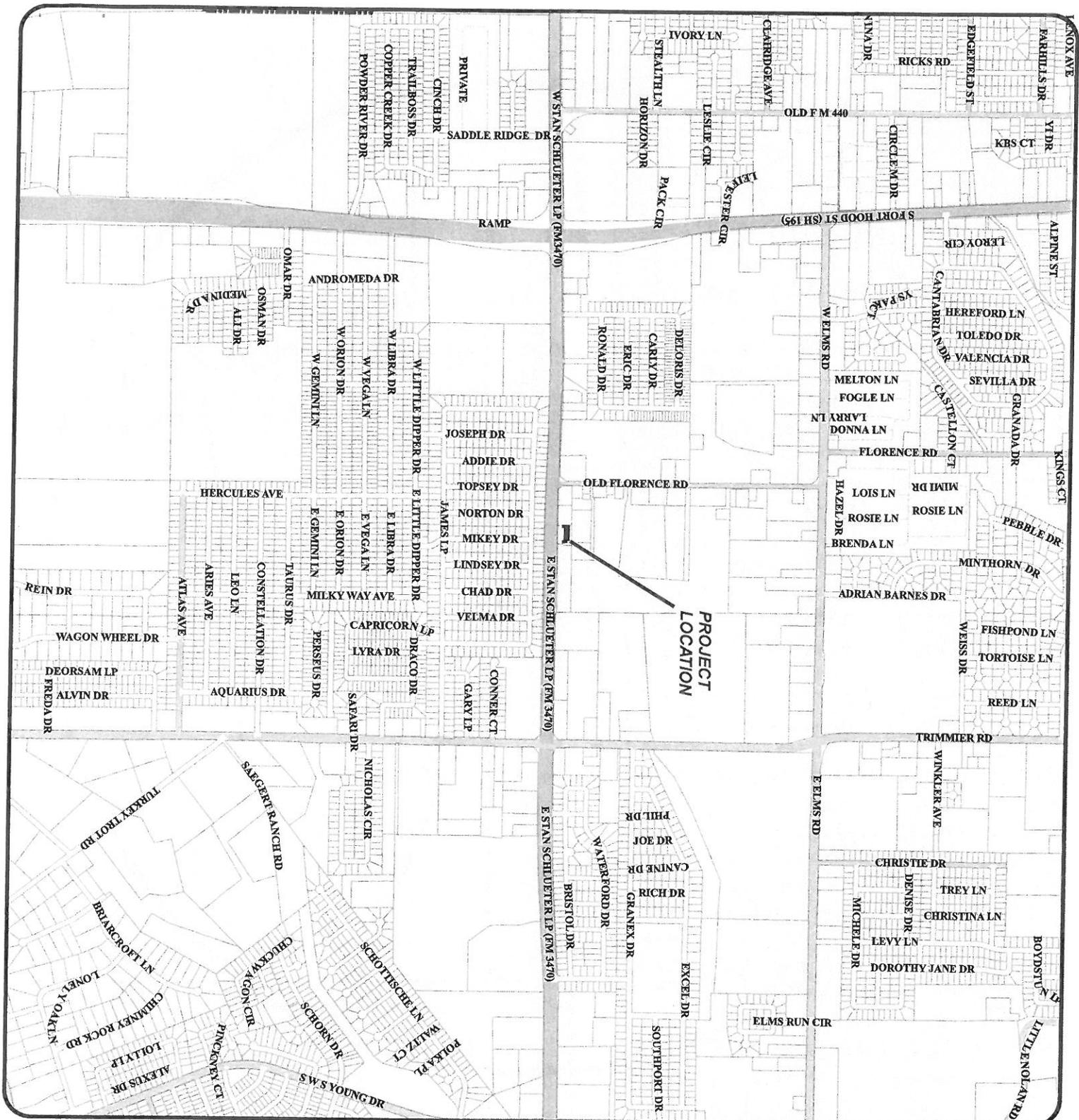


Figure 2. Aerial Map



Figure 3. Google Street View





**PLANNING AND
DEVELOPMENT SERVICES**

ZONING CASE:

#Z13-12

ZONING FROM:

B5 TO BCI

PROPERTY OWNER:

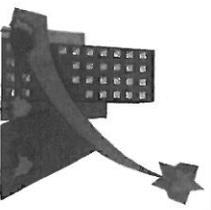
HAHN, STEPHEN

LEGEND

-  Shapes
-  Parcel
-  City Limits

Date: 4/8/2013





PLANNING AND DEVELOPMENT SERVICES

ZONING CASE:

#Z13-12

ZONING FROM:

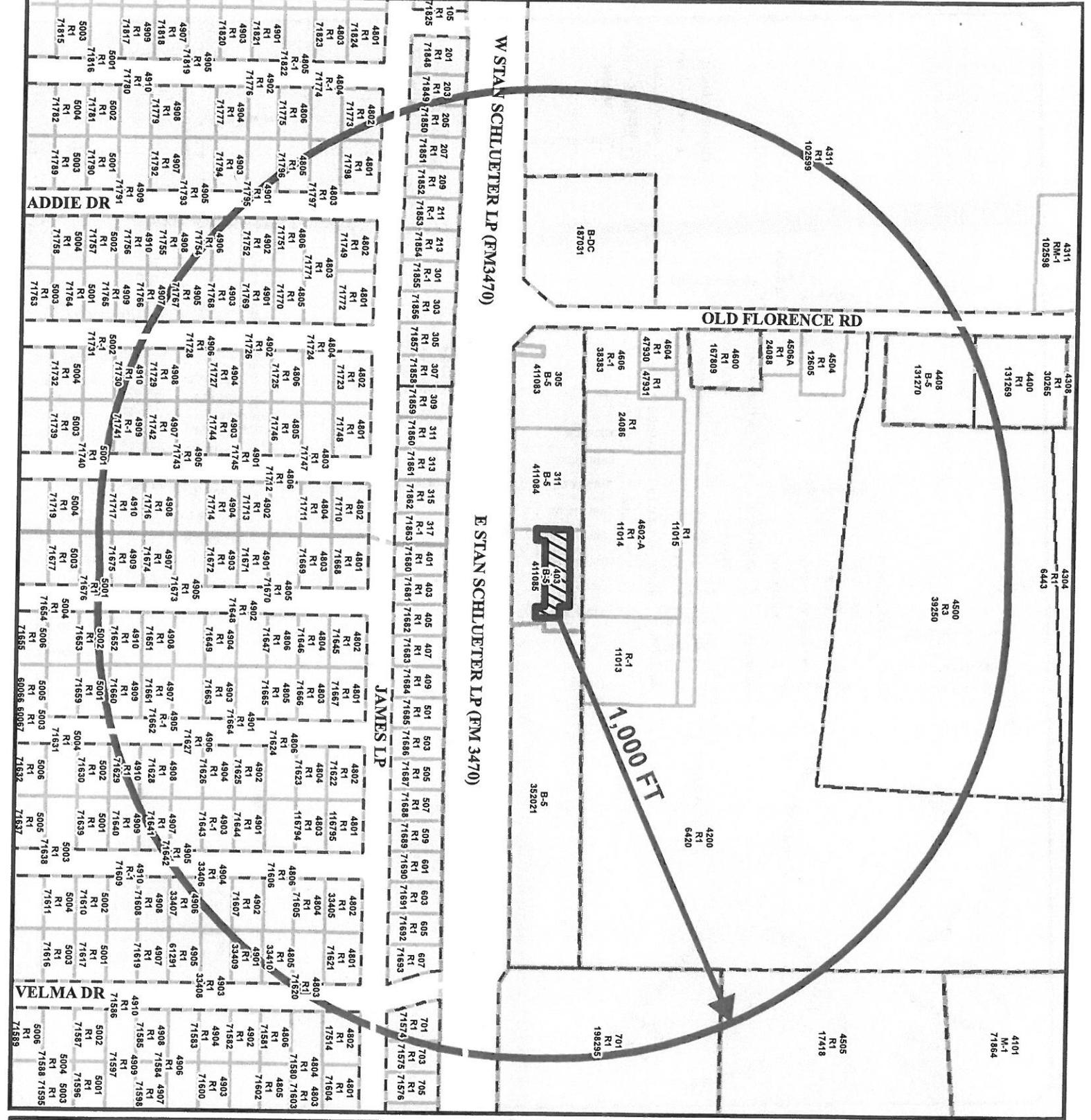
B5 TO BC1

PROPERTY OWNER:

HAHN, STEPHEN

- LEGEND**
- Zoning Case
 - 1,000 Ft. Buffer
 - Current Zoning
 - Subdivision
 - Parcel

Date: 4/8/2013



CUT HERE

YOUR NAME: <i>Wilfredo Feliciano</i>	PHONE NUMBER: <i>254-628-1539</i>
CURRENT ADDRESS: <i>701 E Stan Schlueter Loop, Killeen, TX 76542</i>	
ADDRESS OF PROPERTY OWNED: <i>701 E Stan Schlueter Loop, Killeen</i>	
COMMENTS: <i>I am in opposition for this rezoning petition.</i>	R-1 to B-C-1
SIGNATURE: <i>W. Feliciano</i>	SPO #Z13-121 RECEIVED

P.O. BOX 1329 · KILLEEN, TEXAS 76540-1329 · 254.501.7630 · 254.501.7628 FAX
WWW.CI.KILLEEN TX.US

APR 19 2013
PLANNING

CUT HERE

YOUR NAME: <i>Melville E. Macie Sr</i>	PHONE NUMBER: <i>554-2857</i>
CURRENT ADDRESS: <i>4801 TOPSEY DR</i>	
ADDRESS OF PROPERTY OWNED: <i>4801 TOPSEY DR</i>	
COMMENTS: <i>No not next to church + residential area. WE DON'T NEED ANOTHER BAR ON THE LOOP. WITH THE INCREASE IN TRAFFIC</i>	R-1 to B-C-1
SIGNATURE: <i>Melville E. Macie Sr</i>	SPO #Z13-121 RECEIVED

P.O. BOX 1329 · KILLEEN, TEXAS 76540-1329 · 254.501.7630 · 254.501.7628 FAX
WWW.CI.KILLEEN TX.US

APR 19 2013
PLANNING

WHO NEEDS
MORE DRINK
BY THE ROAD

CUT HERE

YOUR NAME: <i>CARMINA JIMENO</i>	PHONE NUMBER: <i>254-6348881</i>
CURRENT ADDRESS: <i>722 HICKORY DR</i>	
ADDRESS OF PROPERTY OWNED: <i>4907 TOPSEY DR.</i>	
COMMENTS: <i>We oppose the zoning</i>	R-1 to B-C-1
SIGNATURE: <i>Carmina Jimeno</i>	SPO #Z13-121 RECEIVED

P.O. BOX 1329 · KILLEEN, TEXAS 76540-1329 · 254.501.7630 · 254.501.7628 FAX
WWW.CI.KILLEEN TX.US

APR 19 2013
PLANNING

Attachments

CUT HERE

YOUR NAME:	<i>Carolyn Ciesiorka</i>	PHONE NUMBER:	<i>(254) 281-5343</i>
CURRENT ADDRESS:	<i>4802 Lindsey St Killeen, TX 76542</i>		
ADDRESS OF PROPERTY OWNED:	<i>4802 Lindsey St Killeen, TX 76542</i>		
COMMENTS:	<i>A bar that close will endanger children and families living here</i>		
SIGNATURE:	<i>Carolyn Ciesiorka</i>	R-1 to B-C-1	SPO # <i>213110080</i>

P.O. BOX 1329 · KILLEEN, TEXAS 76540-1329 · 254 501 7630 · 254.501.7628
 WWW.CI.KILLEEN.TX.US

APR 17 2013
 PLANNING

April 22, 2013
4805 Lindsey Dr
Killeen, Texas 76542

Re: Case #Z13-12
City Of Killeen Planning & Zoning Commission
City Hall
101 North College St.
Killeen, Texas 76540

Dear Sir'/Ma'am:

I am Barry Kendrick residing at 4805 Lindsey Dr in the James Way addition of Killeen. The James way addition is directly across Stan Schlueter Loop from the proposed business in this case, specifically Stephan Hahn's proposed wine bar at 403 Stan Schlueter Loop.

I am adamantly **opposed** to this business because of the precedent it may set for businesses of this nature in the future. The James Way addition is a quiet neighborhood of decent homes and residents. I have lived here for three years and have heard of no burglaries, crimes, or anything else of this nature in my neighborhood. I would like to keep it that way. In addition, just down the street to the west and south is an elementary school. The presence of a bar is a negative impact categorically.

If the requested rezoning is approved and the bar sees fruition, I fear other establishments of this type will encroach the area, thus bringing down this quiet, established, and virtually crime free neighborhood. There are several neighborhoods in Killeen that do not enjoy our level of serenity and lack of crime. We don't need another "bad side of town".

DO NOT APPROVE THIS REZONING REQUEST!

Thank you for your time and listening to my input.

Sincerely yours,

Barry G. Kendrick
(512) 734-5257

RECEIVED
APR 22 2013
PLANNING

CUT HERE	
YOUR NAME: Barry G. Kendrick	PHONE NUMBER: (512) 734-5257
CURRENT ADDRESS: 4805 Lindsey Dr Killeen, TX	
ADDRESS OF PROPERTY OWNED: Same	
COMMENTS: See attachment	R-1 to B-C-1
SIGNATURE: B. Kendrick	SPO #Z13-12/083

CONSIDERATIONS

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

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 (if applicable)

Whether the use is in 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.

CITY COUNCIL MEMORANDUM FOR ORDINANCE

AGENDA ITEM

**CONSIDER AN ORDINANCE CREATING
CHAPTER 31, ARTICLE IV, DIVISION 12B,
DISTRICT "NBD" NEIGHBORHOOD
BUSINESS DISTRICT**

ORIGINATING DEPARTMENT

PLANNING & DEVELOPMENT SERVICES

The Planning and Zoning Commission and city staff conducted several workshops and two public hearings regarding a proposed "NBD" Neighborhood Business District zoning classification. The purpose of the "NBD" is to provide for limited commercial uses serving the common and frequent needs of the residents in the immediate vicinity. This district is intended to permit the development of unified shopping centers, whether in single or multiple ownerships. The proposed ordinance is meant to encourage economic investment and quality community development within the city.

DISCUSSION/CONCLUSION

The Planning and Zoning Commission directed the staff to prepare a draft ordinance for public hearings that were held on Monday, April 8th and 22nd. During the two public hearings, the Commission received no additional community input.

FISCAL IMPACT

None associated with this action.

RECOMMENDATION

The Planning and Zoning Commission is forwarding the ordinance to the City Council with a recommendation for approval.

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

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 12B is hereby created to read as follows:

DIVISION 10A. DISTRICT “NBD” NEIGHBORHOOD BUSINESS DISTRICT

Sec. 31-316.1. Purpose.

The “NBD,” neighborhood business district is created to provide for limited commercial uses serving the common and frequent needs of the residents in the immediate vicinity. This district is intended to permit the development of unified shopping centers, whether in single or multiple ownerships.

31-316.2. Use regulations.

A building or premises in a “NBD” neighborhood business district shall not exceed gross building size of ten thousand (10,000) square feet and no single leased/ owned business area

shall exceed four thousand (4,000) square feet. This district shall allow all uses within the “B-3” Local Business District with the following exclusions:

- (1) Home for the aged.
- (2) Day Camp/Day Care Centers
- (3) Hospital, home or center for the chronic ill.
- (4) Mortuary or funeral chapel.
- (5) Appliance (household) sales and service.
- (6) Boat and accessory sales, rental and service.
- (7) Marine supplies, sales and service.
- (8) Restaurant or café with drive-in or drive-through service.
- (9) Tennis or swim club.
- (10) Hotel or motel.
- (11) Gasoline service station in excess of four (4) pumps, auto laundry or car wash.
- (12) Auto parts sales, new at retail.
- (13) Theaters or general release.
- (14) Mini/self-storage facilities.
- (15) Outdoor Fruits & vegetable sales (Farmer’s markets).
- (16) Auto repair.

Sec. 31-316.3. Height regulations.

No structure shall be erected in a “NBD” neighborhood business district having a height in excess of twenty-five (25) feet.

Sec. 31-316.4. Area regulations.

- (1) Size of yards. The size of yards in the “NBD” neighborhood business district shall be as follows:
 - (a) Front yards. There shall be a front yard having a depth of not less than twenty-five (25) feet.
 - (b) Side yards. There shall be a minimum side yard of thirty feet (30) feet if abutting a residentially zoned property. A side yard adjacent to a non-residential zoned property is zero. A side yard adjacent to a side street shall not be less than twenty-five (25) feet.
 - (c) Rear yards. There shall be a rear yard having a depth of not less than thirty (30) feet.
- (2) Size of lot. The size of lots in a “NBD” neighborhood business district shall be as follows:
 - (a) Lot area. No building or structure shall be erected on any lot having less than ten thousand (10,000) square feet.
 - (b) Lot width. The width of the lot shall not be less than one hundred (100) feet.
 - (c) Lot depth. The average depth of the lot shall not be less than one hundred (100) feet.

Sec. 31-316.5. Screening and Buffer Area regulations.

The screening device requirements in the district “NBD” neighborhood business district shall be the same as required in the “B-1” district. In addition, landscaping and adequate buffers are required to protect abutting and adjacent residential areas from potential impacts of parking, lighting and undesirable scale of commercial building elements. The required buffer shall be

thirty (30) feet when siding or backing all residential districts. The thirty (30) feet buffer may be reduced to twenty (20) feet by planting additional trees in accordance with the following formula:

A minimum eight (8) feet tall canopy tree shall count for 200 sq ft.

A minimum eight (8) feet tall non-canopy tree shall count for 100 sq ft.

The reduction in buffer area shall be calculated based on total square footage of the additional landscaping. For example:

Lot dimensions: 100' X 300'

Additional canopy trees proposed is 5

Credit for these trees: 5 X 200 = 1,000 sq ft.

Therefore, the applicable reduction shall be:

1000 sq. ft. divided by 100 (lot width) = 10 ft., and the net buffer required is Gross buffer required minus buffer reduction (30' minus 10' = 20').

No development shall be authorized within the buffer area except for required or permitted landscaping and screening, stormwater detention facilities, and pedestrian walkways. The increased setbacks, which are measured from the property line, shall be required on the property in the higher intensity zoning district, and shall be observed at the time of construction. These buffer requirements are in addition to the screening standards.

Sec. 31-316.6. Sign regulations.

Signs within the "NBD" neighborhood business district shall be a maximum size of eighty (80) square feet and shall be constructed as a monument sign or mounted flat against an exterior wall. Signs shall be non-flashing and shall be illuminated from an interior source.

Sec. 31-316.7. Architectural regulations.

The intent of the building design standards is to improve the visual appeal of storefronts and businesses to provide for compatibility with residential neighborhoods and reduce visual and noise impacts on abutting residential areas.

- (1) Exterior walls shall be constructed of stone, brick or stucco.
- (2) Windows shall be provided rather than blank walls. Windows shall begin from twelve (12) to thirty six (36) inches above the finished grade of the floor. A minimum of sixty (60%) percent of all glass which faces the street shall be in nonreflective, transparent glazing glass. At this building level, darkly tinted or reflective glass shall not be used. Window painting or advertizing signs are not permitted.
- (3) Exterior walls shall be articulated to reduce the mass and scale of an uniform impersonal appearance of large buildings and to provide visual interest. No uninterrupted length of any facade shall exceed fifty (50) feet and architectural features on exterior walls shall provide a minimum of three (3) of the following elements:
 - (a) Variation in color and materials;
 - (b) For walls between fifty (50) feet and up to one hundred (100) feet in length, wall plane projections or recesses having a depth of at least one (1) foot and extending at least two (2) feet of the length of the facade between projections and recesses;

- (c) For walls between one hundred (100) and up to two hundred (200) feet in length, wall plane projections or recesses having a depth of at least two (2) feet and extending at least three (3) feet of the length of the facade between projections and recesses;
 - (d) For walls greater than two hundred (200) feet in length, wall plane projections or recesses having a depth of at least two (2) feet and extending at least five (5) feet of the length of the facade between projections and recesses;
 - (e) Variation of a minimum of two (2) feet in height of parapets. Variation to parapet height may include pilasters and projecting raised entrance features;
 - (f) Pilasters projecting from the plane of the wall by a minimum of sixteen (16) inches;
 - (g) Canopies projecting a minimum of six (6) feet from the plane of the primary facade walls;
 - (h) Banding shall be complimentary to scale with the building (as approved by the Executive Director of Planning and Development Services);
 - (i) Repetitive ornamentation including decorated applied features such as wall-mounted light fixtures or applied materials. Repetitive ornamentation shall be located with a maximum spacing of forty (40) feet;
 - (j) The Executive Director of Planning and Development Services may grant an administrative approval to use materials not listed herein when the intent of the regulations is met, or when special situations arise regarding the rear of buildings.
- (d) Roof Lines. To provide a visual terminus to the tops of buildings and soften flat roof designs, roof designs must conform to one of the following options:
- (a) Roof Line with Architectural Focal Point. A roof line focal point refers to a prominent rooftop feature such as a peak, tower, gable, dome, barrel vault or roof line trellis structure; or
 - (b) Roof Line Variation. The roof line articulated through a variation or step in roof height or detail, such as:
 - (1) Projecting Cornice. Roof line articulated through a variation or step in cornice height or detail. Cornices must be located at or near the top of the wall or parapet;
 - (2) Articulated Parapet. Roof line parapets shall incorporate angled or curved detail elements; or
 - (3) Pitched Roof or Full Mansard. A roof with angled edges, with or without a defined ridgeline and extended eaves.
- (e) Rooftop and mechanical equipment shall effectively be screened from view through one or more of the following methods:
- (a) A concealing roof line; or
 - (b) A screening wall or grillwork directly surrounding the equipment.

Sec. 31-316.8. Parking and Lighting regulations.

- (1) Off-street parking and loading that is required in Sec 31-279 shall be provided for all uses in this district.

- (2) Parking shall not be located in the rear or side when abutting single family residentially zoned property.
- (3) Light standards shall not exceed sixteen (16) feet in height, and shall be fully shielded and shall not shine on any abutting property or public right-of-way.
- (4) Wall mounted exterior lighting shall not shine on any abutting property or right of way.
- (5) An access management plan shall be submitted with any plat for subdivision of property or approval of a site plan.

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 May, 2013, 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

**MINUTES
PLANNING AND ZONING COMMISSION MEETING
APRIL 22, 2013**

NEIGHBORHOOD BUSINESS DISTRICT (NBD)

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

Chairman Frederick requested staff comments.

City Planner McIlwain stated that the Planning and Zoning Commission directed staff to contact the development community for their input regarding the creation of the new business district. The purpose of the “NBD” is to provide for limited commercial uses serving the common and frequent needs of the residents in the immediate vicinity. This district is intended to permit the development of unified shopping centers, whether in single or multiple ownerships. The proposed ordinance is meant to encourage economic investment and quality community development within the city.

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

Vice Chair Langford motioned approve the draft ordinance as written and forward to City Council. Commissioner Dorroh seconded the motion. The motion passed unanimously.

Chairman Frederick stated that the ordinance will be forward to City Council to be heard on May 14, 2013 with a recommendation to approve.

ORDINANCE NO.

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

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 Texas Local Government Code; and,

WHEREAS, the City of Killeen has declared the application and enforcement of the City's nuisance control and abatement regulations found in Chapter 18 of the Killeen Code of Ordinances 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 amend nuisance control and abatement regulations to encourage voluntary compliance and discourage repeat offenses; and,

WHEREAS, the City Council finds that such amendments are necessary and desirable to minimize the establishment of nuisance conditions within the City in order to protect the public safety, health, convenience, comfort, prosperity and general welfare of the City.

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

SECTION I. That Chapter 18, Article I, Section 18-1 is hereby amended to read as follows:

Sec. 18-1. Definitions.

As used in this article I through IV, the following words, terms, and phrases shall be defined as follows:

Abandoned shall mean to cease the care or maintenance thereof, or to intentionally leave behind.

Abate shall mean to eliminate or cure by removal, repair, rehabilitation, or demolition.

Approved receptacle shall mean a container that is composed of durable material and designed to prevent the discharge of its contents and to make its contents inaccessible to animals, vermin, or other pests.

Bar ditch shall mean a depression along the side of a road that is intended to convey storm water from the roadway.

Brush shall mean any low woody vegetation, dense undergrowth, decaying scrub vegetation or the dead remains of such.

Building shall mean a structure built for the support, shelter, or enclosure of a person, chattel, machine, equipment, or other movable property.

Building official shall mean the building official charged with administration of this chapter or his duly authorized representative.

Code enforcement director shall mean the director of code enforcement charged with enforcement of this chapter or his duly authorized representative.

Easement, for the purpose of this chapter, shall mean a grant by a property owner to the public or other entity for the use of a defined strip of land, for such purpose as the installation, maintenance, and/or repair of utility lines, or other public services whose ownership and care of the land encompassed by such easement is maintained by the property owner.

Fill dirt shall mean soil, gravel, rock, brick, concrete, mortar or other similar material, as allowed in Chapter 32, brought to property, in accordance with Chapters 12, 26 and 32 of this Code, to solidify the ground's foundation or increase elevation.

Junk shall mean used iron, metal, furniture, tires, appliances, and other similar items openly stored, discarded, or abandoned on property or premises.

Litter shall mean any garbage or rubbish as defined in section 24-26 and herein, and all other waste material which creates a nuisance or potential danger to public health, safety, and welfare if not deposited in an approved receptacle.

Occupant shall mean any person living or sleeping in a building or having possession of a space within a building.

Open storage shall mean the open storage or placement of an item on any premise or property which is not entirely enclosed by a building or behind an approved screening device and is visible from any public street or right-of-way.

Owner shall mean any person, agent, firm, partnership, corporation, association, family, group, or owner's agent. It also includes the singular and plural.

Person shall mean any individual, firm, partnership, corporation, association, family, group, occupant, owner's agent, lessee, renter, or tenant. It also includes the singular and plural.

Personal or movable property shall include every species of property, except real property as defined in this section.

Premises shall mean a lot, plot, or parcel of land including the buildings or structures thereon. The term includes a yard, ground, walk, driveway, fence, porch, steps, or other structures appurtenant to the property.

Property shall mean any premise, personal or real property.

Public nuisance shall mean the allowance of, or the maintaining of, an unlawful condition, act, or use of any property or premise affecting the public's life, health, safety, or general welfare within the city limits.

Public place, property, or right-of-way shall mean any place to which the public or substantial group of the public has access and includes, but is not limited to, streets, alleys, parkways, sidewalks, highways and common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

~~*Real or immovable property* shall include land and whatever is erected or growing upon or affixed to land.~~

Refuse shall mean all solid waste (except body waste), including garbage, rubbish, ashes, street cleanings, dead animals, and solid market and industrial wastes.

Top soil shall mean the top layer of soil that is removed when a lot is graded or prepared for construction.

Weeds shall mean any herbage or vegetation, but excludes cultivated shrubs, bushes, trees, flowers, and crops.
(Ord. No. 00-78, § I, 10-24-00; Ord. No. 06-36, § I, 3-28-06; Ord. No. 07-093, § I, 10-16-07)

Cross reference(s)--Solid waste, Ch. 24.

State law reference(s)--Authority of city to prohibit conditions, V.A.C.S. art. 4436.

Secs. 18-2--18-10. Reserved.

SECTION II. That Chapter 18, Article III, Sections 18-21, 18-22, and 18-28 are hereby amended to read as follows:

Sec. 18-21. High weeds, grass, or brush.

A. Generally: It shall be unlawful for any owner, lessee, occupant, or person in control of any lot, parcel of land, or premise within the city limits to allow the accumulation of high weeds, grass, or brush to exist in excess of the standards provided herein. Such violation is considered a health and fire hazard and, as such, is hereby declared to be a public nuisance.

B. Height limitations.

1. Property two (2) acres or less. Any accumulation of weeds, grass, or brush on any lot, parcel of land, or premise two (2) acres or less shall not exceed a height of more than twelve (12) inches.

a. ~~Exception to 1. Paragraph 1 above shall not apply to those portions of property that have unusually steep slopes which make mowing the property hazardous.~~

2. Property over two (2) acres. Any accumulation of weeds, grass, or brush on any property of more than two (2) acres shall not exceed a height of more than twelve (12) inches within fifty (50) feet adjacent to and along any dedicated public street or right-of-way or adjacent to any lot that is occupied by a residence or business. Any accumulation of weeds, grass, or brush on the remaining area of the property shall not exceed a height of more than forty-eight (48) inches.

a. Exception to 2: Paragraph 2 above shall not apply to property within the city limits for which a current agricultural exemption is filed with Bell County.

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C. Property adjoining public rights-of-way.

1. Except as provided in paragraph 2 below, any private property adjoining a public right-of-way within the city including that which is between the sidewalk and the curb must be maintained by the owner, occupant, lessee, or person in control of such adjoining private property. Any growth of weeds and grass shall not exceed twelve (12) inches in height, and all brush must be cleared from such right-of-way. This requirement does not apply to right-of-way behind any private property that backs up has a rear property line adjacent to a street classified as an arterial or collector in the city's thoroughfare plan.

2. The city shall maintain all bar ditches adjoining a public right-of-way within the city limits.

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D. This section shall not apply to property with cultivated shrubs, bushes, trees flowers or crops, or those portions of property that have vegetation other than weeds and grass or but not property with slopes greater than 3 feet rise per 1 foot run of lot, or other terrain features that inhibit mowing or development; and however, these exceptions only apply when the conditions which will not create a fire or health hazard if left in their natural state.

E. This section shall not apply to those portions of property that are wetlands as defined and regulated in Chapter 32.

(Ord. No. 00-78, § I, 10-24-00; Ord. No. 06-36, § I, 3-28-06)

Sec. 18-22. Dangerous weeds over 48 inches high.

A. The city may abate, without notice, weeds that have grown higher than 48 inches and are an immediate danger to the life, health, or safety of any person. After such abatement, notice shall be given as follows:

1. Not later than the 10th day after the date the city abates weeds under this section, the city shall give notice to the property owner in the manner required by section 18-42.
 - a. The notice shall contain:
 - (i) an identification, which is not required to be a legal description, of the property;
 - (ii) a description of the violation(s) of the ordinance that occurred on the property;
 - (iii) a statement that the city abated the weeds; and
 - (iv) an explanation of the property owner's right to request an administrative hearing about the city's abatement of the weeds.
 - b. The city shall conduct an administrative hearing before the building official on the abatement of weeds under this section if, not later than the 30th day after the date of the abatement of the weeds, the property owner files with the building official a written request for a hearing.
 - c. An administrative hearing conducted under this section shall be conducted not later than the 20th day after the date a request for a hearing is filed. The owner may testify or present any witnesses or written information relating to the city's abatement of the weeds.
 - d. The city may assess expenses and create liens under this section as it assesses expenses and creates liens under sections 18-445 and 18-456.
 - e. ~~This~~The authority granted by this section is in addition to the authority in sections 18-413 and 18-424. Article IV of this Chapter.

(Ord. No. 00-78, § I, 10-24-00; Ord. No. 06-36, § I, 3-28-06; Ord. No. 07-093, § I, 10-16-07)

State law reference—Additional authority to abate dangerous weeds, V.C.T.A. Health & Safety Code, § 342.008.

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Sec. 18-28. Fill dirt.

A. It shall be unlawful for any owner, lessee, occupant or person in control of any lot, parcel of land, or premise within the city limits to accumulate fill dirt visible from any public place unless the fill dirt is leveled at least once every ~~six (6) months~~ thirty (30) days.

B. This section does not apply to top soil and gravel stock piled, ~~or~~ stored for sale, or lawfully permitted for development or state permitted material storage properties.

C. Soil, gravel, rock, brick, concrete, mortar and other similar material brought in for a purpose other than to solidify the ground's foundation or increase elevation is not allowed.

D. Requirements in Chapters 12, 26 and 32 must be met before the placement of fill dirt materials.

(Ord. No. 06-36, § I, 3-28-06)

Secs. 18-29–18-40. Reserved.

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 _____, 2013, 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: _____

CITY COUNCIL MEMORANDUM

AGENDA ITEM

**ORDINANCE CANVASSING THE
RETURNS AND DECLARING RESULTS
OF MAY 11, 2013, GENERAL AND
SPECIAL ELECTION**

ORIGINATING DEPARTMENT

CITY SECRETARY *pm*

BACKGROUND INFORMATION

On May 11, 2013, the City of Killeen conducted a general election for four District Councilmembers and a special election to consider propositions to amend the Home Rule Charter.

DISCUSSION/CONCLUSION

State and local law requires the City Council to canvass the election returns and declare the results.

FISCAL IMPACT

There is no fiscal impact on the budget.

RECOMMENDATION

Recommend adoption of the proposed ordinance.

FINAL DISPOSITION

N/A

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

WHEREAS, on this the 14th day of May 2013, the City Council of the City of Killeen, Texas, convened in regular session open to the public at the regular meeting place thereof with all members present, constituting a quorum, and among other proceedings had were the following:

Councilmember _____ introduced an ordinance canvassing returns and declaring the results of a general and special election held on May 11, 2013, and moved its adoption. The motion was seconded by Councilmember _____, and the motion prevailed by the following vote: Ayes _____; Noes _____; Abstentions: _____.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:

Section I. There came on to be considered the returns of an election held on the 11th day of May 2013, for the purpose of electing the hereinafter named officials and consideration of propositions to amend the Home Rule Charter, and it appearing from said returns, duly and legally made, that _____ voters cast ballots at said election, and that each of the candidates in said election received the following votes:

FOR COUNCILMEMBER, DISTRICT 1

Wayne Gilmore _____ Total Received

FOR COUNCILMEMBER, DISTRICT 2

Jose Segarra _____ Total Received

FOR COUNCILMEMBER, DISTRICT 3

Terry J. Clark _____ Total Received
Mike Lower _____ Total Received

FOR COUNCILMEMBER, DISTRICT 4

Steve Harris _____ Total Received

That each of the propositions in said election received the following votes:

Proposition 1 - Change of District Boundaries

Amend the Charter of the City of Killeen to require the city council to review district boundaries within two (2) years after the federal decennial census has been conducted and reported and that changes to such districts shall only be effective after approval pursuant to federal law; and to make certain other grammatical and technical changes related thereto.

FOR THE PROPOSITION	_____	Total Received
AGAINST THE PROPOSITION	_____	Total Received

Proposition 2 - Change of District Boundaries – Councilmember Term

Amend the Charter of the City of Killeen to clarify that a councilmember who no longer lives in the district for which he was elected because of changed boundaries remains in office until the end of his term; and to make certain other grammatical and technical changes related thereto.

FOR THE PROPOSITION	_____	Total Received
AGAINST THE PROPOSITION	_____	Total Received

Proposition 3 - Municipal Court

Amend the Charter of the City of Killeen to clarify that the Municipal Court of Killeen is a Court of Record as authorized by state law; and to make certain other grammatical and technical changes thereto.

FOR THE PROPOSITION	_____	Total Received
AGAINST THE PROPOSITION	_____	Total Received

Proposition 4 - Occupation and License Taxes

Amend the Charter of the City of Killeen to repeal the section on levying and collecting occupation and license taxes; and to make certain other grammatical and technical changes thereto.

FOR THE PROPOSITION	_____	Total Received
AGAINST THE PROPOSITION	_____	Total Received

Proposition 5 - Uniform Election Dates

Amend the Charter of the City of Killeen to provide that all elections referenced in the Charter shall be held on a uniform election date as provided in the Texas Elections Code; and to make certain other grammatical and technical changes thereto.

FOR THE PROPOSITION _____ Total Received
AGAINST THE PROPOSITION _____ Total Received

Proposition 6 - Term Limits

Amend the Charter of the City of Killeen to clarify that after a councilmember has served three (3) successive terms, he is ineligible to succeed either himself or another councilmember; and to make certain other grammatical and technical changes thereto.

FOR THE PROPOSITION _____ Total Received
AGAINST THE PROPOSITION _____ Total Received

Proposition 7 - Councilmember Qualifications – Attendance

Amend the Charter of the City of Killeen to provide that a councilmember immediately forfeits his office for failing to attend three (3) consecutive regular meetings of the city council without being excused; and to make certain other grammatical and technical changes thereto.

FOR THE PROPOSITION _____ Total Received
AGAINST THE PROPOSITION _____ Total Received

Proposition 8 - Appointment and Duties of Assistant City Manager

Amend the Charter of the City of Killeen to clarify that the city manager may appoint assistant city managers, that an assistant city manager may also head a department, and that an assistant city manager may countersign the city manager’s signature on checks in the event the city manager also serves as the director of finance; and to make certain other grammatical and technical changes related thereto.

FOR THE PROPOSITION _____ Total Received
AGAINST THE PROPOSITION _____ Total Received

Proposition 9 - Municipal Judge—Qualifications

Amend the Charter of the City of Killeen to require that the presiding judge and each associate judge of the municipal court be a competent and duly-licensed attorney; and to make certain other grammatical and technical changes relating thereto.

FOR THE PROPOSITION _____ Total Received
AGAINST THE PROPOSITION _____ Total Received

Proposition 10 - Municipal Judge—Terms

Amend the Charter of the City of Killeen to clarify that the city council may appoint the presiding judge and each associate judge to successive terms; and to make certain other grammatical and technical changes relating thereto.

FOR THE PROPOSITION _____ Total Received
AGAINST THE PROPOSITION _____ Total Received

Proposition 11 - Legal Department

Amend the Charter of the City of Killeen to clarify that the council may authorize deputy and assistant city attorneys as needed, and to remove redundant language; and to make certain other grammatical and technical changes relating thereto.

FOR THE PROPOSITION _____ Total Received
AGAINST THE PROPOSITION _____ Total Received

Proposition 12 - Auditors

Amend the Charter of the City of Killeen to clarify that, prior to the end of each fiscal year, the city council shall designate an external auditor to perform an independent audit of the city, and that the city council may appoint an internal city auditor, both of whom must be Certified Public Accountants; and to make certain other grammatical and technical changes relating thereto.

FOR THE PROPOSITION _____ Total Received
AGAINST THE PROPOSITION _____ Total Received

Proposition 13 - Budget – Submission

Amend the Charter of the City of Killeen to provide that the city manager must submit a proposed budget to the city council not less than forty-five (45) days prior to the beginning of each fiscal year; and to make certain other grammatical and technical changes relating thereto.

FOR THE PROPOSITION _____ Total Received
AGAINST THE PROPOSITION _____ Total Received

Proposition 14 - Budget – Inspection

Amend the Charter of the City of Killeen to provide that copies of the budget will be made available for inspection by, rather than distributed to, any interested person; and to make certain other grammatical and technical changes relating thereto.

FOR THE PROPOSITION _____ Total Received
AGAINST THE PROPOSITION _____ Total Received

Proposition 15 - Budget – Contingent Appropriations

Amend the Charter of the City of Killeen to repeal the section on contingent appropriations; and to make certain other grammatical and technical changes relating thereto.

FOR THE PROPOSITION _____ Total Received
AGAINST THE PROPOSITION _____ Total Received

Proposition 16 - Budget – Emergency Appropriations

Amend the Charter of the City of Killeen to repeal the section on emergency appropriations; and to make certain other grammatical and technical changes relating thereto.

FOR THE PROPOSITION _____ Total Received
AGAINST THE PROPOSITION _____ Total Received

Proposition 17 - Budget – Transfers of Appropriations

Amend the Charter of the City of Killeen to provide that transfers of appropriations may be done at any time during the budget year by ordinance; and to make certain other grammatical and technical changes relating thereto.

FOR THE PROPOSITION _____ Total Received
AGAINST THE PROPOSITION _____ Total Received

Proposition 18 - Qualifications of Finance Director

Amend the Charter of the City of Killeen to provide that the director of finance shall be a Certified Public Accountant; and to make certain other grammatical and technical changes relating thereto.

FOR THE PROPOSITION _____ Total Received
AGAINST THE PROPOSITION _____ Total Received

Proposition 19 - Duties of Finance Director

Amend the Charter of the City of Killeen to remove the daily job requirements of the director of finance so that those requirements can be addressed through a job description in the same manner that all other department director job descriptions are addressed; and to make certain other grammatical and technical changes relating thereto.

FOR THE PROPOSITION _____ Total Received
AGAINST THE PROPOSITION _____ Total Received

Proposition 20 - Surety Bonds

Amend the Charter of the City of Killeen to repeal the section on bonding; and to make certain other grammatical and technical changes relating thereto.

FOR THE PROPOSITION	_____	Total Received
AGAINST THE PROPOSITION	_____	Total Received

Proposition 21 - Tax Administration

Amend the Charter of the City of Killeen to repeal provisions relating to tax collection and assessment that are no longer duties and responsibilities of the city as provided in state law; and to make certain other grammatical and technical changes thereto.

FOR THE PROPOSITION	_____	Total Received
AGAINST THE PROPOSITION	_____	Total Received

Proposition 22 - Initiative & Referendum—Petition Requirements

Amend the Charter of the City of Killeen to clarify that the required number of signers of a petition for an initiative ordinance or a referendum is determined by the number of voters who voted in the last regular election of the mayor and at-large councilmembers; and to make certain other grammatical and technical changes relating thereto.

FOR THE PROPOSITION	_____	Total Received
AGAINST THE PROPOSITION	_____	Total Received

Proposition 23 - Recall—Petition Blanks

Amend the Charter of the City of Killeen to provide that the city clerk (city secretary) shall have one business day to provide petition blanks to a requesting elector; and to make certain other grammatical and technical changes relating thereto.

FOR THE PROPOSITION	_____	Total Received
AGAINST THE PROPOSITION	_____	Total Received

Proposition 24 - Recall—Signers of Petitions

Amend the Charter of the City of Killeen to clarify that a recall petition for the mayor or at-large councilmember must be signed by a number equal to more than fifty percent (50%) of the total number of voters in the last election at which three at-large councilmembers and the mayor were elected, and to clarify that a recall petition for a district councilmember must be signed by a number equal to more than fifty percent (50%) of the total number of voters for that district in the last election where that district seat was filled; and to make certain other grammatical and technical changes relating thereto.

FOR THE PROPOSITION _____ Total Received
AGAINST THE PROPOSITION _____ Total Received

Proposition 25 - Recall—Circulators of Petitions

Amend the Charter of the City of Killeen to add that the elector who initiates a recall petition drive may allow others to assist in the circulation of the petitions, to establish a process to identify those circulators, and to provide for an affidavit of each circulator to be provided along with the completed petition; and to make certain other grammatical and technical changes relating thereto.

FOR THE PROPOSITION _____ Total Received
AGAINST THE PROPOSITION _____ Total Received

Proposition 26 - Recall—Election

Amend the Charter of the City of Killeen to give the city clerk (city secretary) ten (10) days to submit a certified recall petition to the city council, and clarify that only a resident qualified to vote in an election for a candidate may vote in a recall election for that candidate; and to make certain other grammatical and technical changes relating thereto.

FOR THE PROPOSITION _____ Total Received
AGAINST THE PROPOSITION _____ Total Received

Proposition 27 - Recall—Waiting Period

Amend the Charter of the City of Killeen to clarify that the six-month waiting period to file a recall petition against a councilmember begins when a councilmember begins a term rather than when the councilmember takes office; and to make certain other grammatical and technical changes relating thereto.

FOR THE PROPOSITION _____ Total Received
AGAINST THE PROPOSITION _____ Total Received

Proposition 28 - Recall—Limitations of Recalls

Amend the Charter of the City of Killeen to clarify that if a councilmember is re-elected after a recall petition is filed but before the recall election takes place, then the recall petition is invalidated; and to make certain other grammatical and technical changes relating thereto.

FOR THE PROPOSITION _____ Total Received
AGAINST THE PROPOSITION _____ Total Received

Proposition 29 - Recall—Recourse in Court

Amend the Charter of the City of Killeen to clarify that, should the city council fail or refuse to order a required recall election, an elector may seek recourse in a court of competent jurisdiction; and to make certain other grammatical and technical changes relating thereto.

FOR THE PROPOSITION _____ Total Received
AGAINST THE PROPOSITION _____ Total Received

Proposition 30 - Franchises and Public Utilities

Amend the Charter of the City of Killeen to repeal provisions inconsistent with state law, repeal provisions for a petition for granting a franchise, and adding language to provide for compensation to the city in the placement of a utility; and to make certain other grammatical and technical changes relating thereto.

FOR THE PROPOSITION _____ Total Received
AGAINST THE PROPOSITION _____ Total Received

Proposition 31 - Administrative and Technical Changes Throughout

Amend the Charter of the City of Killeen to remove obsolete, redundant, or unnecessary language, and to modernize terminology, with no substantive changes to the content or meaning; and to make certain other grammatical and technical changes thereto.

FOR THE PROPOSITION _____ Total Received
AGAINST THE PROPOSITION _____ Total Received

Proposition 32 - Compliance with Laws

Amend the Charter of the City of Killeen to remove provisions where a state or federal law or regulation has superseded Charter language or otherwise made it unnecessary; and to make certain other grammatical and technical changes thereto.

FOR THE PROPOSITION _____ Total Received
AGAINST THE PROPOSITION _____ Total Received

Proposition 33 - Savings Clause

Amend the Charter of the City of Killeen to clarify that all provisions not specifically changed by current and future Charter Amendments shall continue on, and deleting obsolete language; and to make certain other grammatical and technical changes relating thereto.

FOR THE PROPOSITION _____ Total Received
AGAINST THE PROPOSITION _____ Total Received

Section II. That said election was duly called; that notice of said election was given in accordance with law; and that said election was held in accordance with law.

Section III. That Wayne Gilmore, Jose Segarra, _____, and Steve Harris were duly elected Councilmembers of their respective districts at said election, subject to the taking of their oaths.

Section IV. That Proposition 1 was duly approved/disapproved by _____ votes at said election. That Proposition 2 was duly approved/disapproved by _____ votes at said election. That Proposition 3 was duly approved/disapproved by _____ votes at said election. That Proposition 4 was duly approved/disapproved by _____ votes at said election. That Proposition 5 was duly approved/disapproved by _____ votes at said election. That Proposition 6 was duly approved/disapproved by _____ votes at said election. That Proposition 7 was duly approved/disapproved by _____ votes at said election. That Proposition 8 was duly approved/disapproved by _____ votes at said election. That Proposition 9 was duly approved/disapproved by _____ votes at said election. That Proposition 10 was duly approved/disapproved by _____ votes at said election. That Proposition 11 was duly approved/disapproved by _____ votes at said election. That Proposition 12 was duly approved/disapproved by _____ votes at said election. That Proposition 13 was duly approved/disapproved by _____ votes at said election. That Proposition 14 was duly approved/disapproved by _____ votes at said election. That Proposition 15 was duly approved/disapproved by _____ votes at said election. That Proposition 16 was duly approved/disapproved by _____ votes at said election. That Proposition 17 was duly approved/disapproved by _____ votes at said election. That Proposition 18 was duly approved/disapproved by _____ votes at said election. That Proposition 19 was duly approved/disapproved by _____ votes at said election. That Proposition 20 was duly approved/disapproved by _____ votes at said election. That Proposition 21 was duly approved/disapproved by _____ votes at said election. That Proposition 22 was duly approved/disapproved by _____ votes at said election. That Proposition 23 was duly approved/disapproved by _____ votes at said election. That Proposition 24 was duly approved/disapproved by _____ votes at said election. That Proposition 25 was duly approved/disapproved by _____ votes at said election. That Proposition 26 was duly approved/disapproved by _____ votes at said election. That Proposition 27 was duly approved/disapproved by _____ votes at said election. That Proposition 28 was duly approved/disapproved by _____ votes at said election. That Proposition 29 was duly approved/disapproved by _____ votes at said election. That Proposition 30 was duly approved/disapproved by _____ votes at said election. That Proposition 31 was duly approved/disapproved by _____ votes at said election. That Proposition 32 was duly approved/disapproved by _____ votes at said election. That Proposition 33 was duly approved/disapproved by _____ votes at said election.

Section IV. That this ordinance shall be effective upon its passage and approval according to law.

PASSED AND APPROVED at a special meeting of the City Council of the City of Killeen, Texas, this 14th day of May 2013, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code § 551.001 et seq.

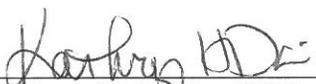
APPROVED:

Daniel A. Corbin, MAYOR

ATTEST:

Paula A. Miller, CITY SECRETARY

APPROVED AS TO FORM:



Kathryn H. Davis, CITY ATTORNEY

Regular	5-14-13
Item #	<u>OR-1</u>
CCM/R	<u> </u>

CITY COUNCIL MEMORANDUM

AGENDA ITEM

**CONSIDER ELECTION OF NEW
MAYOR PRO-TEM**

ORIGINATING DEPARTMENT

CITY SECRETARY

BACKGROUND INFORMATION

Historically, the City Council has elected a Mayor Pro-Tem after each general election.

DISCUSSION/CONCLUSION

The City Charter provides for the position of Mayor Pro-Tem. The Mayor Pro-Tem acts as the Mayor during the absence or disability of the Mayor, and, if a vacancy shall occur, becomes the Mayor until the next regular general election. The Charter provides for the Council to “elect a mayor pro tem from their number....”

FISCAL IMPACT

There is no fiscal impact on the budget.

RECOMMENDATION

That _____ is hereby elected to serve as Mayor Pro-Tem for the City of Killeen.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS:

That the above election is hereby accepted and approved.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 14th day of May 2013, at which meeting a quorum was present, held in accordance with the provisions of Section 551.001, Texas Government Code, *et seq.*

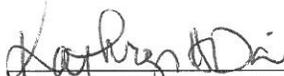
APPROVED

Daniel A. Corbin, Mayor

ATTEST:

Paula A. Miller, City Secretary

APPROVED AS TO FORM:



Kathryn H. Davis, City Attorney