

City of Killeen
Regular City Council Meeting
Killeen City Hall
January 13, 2009
6:00 p.m.

Presiding: Mayor Timothy L. Hancock

Attending: Mayor Pro-Tem Fred Latham and Councilmembers Larry Cole, Scott Cosper, Otis Evans, Juan Rivera, Kenny Wells, and Billy Workman

Also attending were City Manager Connie Green, City Attorney Kathryn Davis, Linda Meads for City Secretary Paula Miller, and Sergeant-at-Arms Sam Ellis

Councilmember Evans gave the invocation, and Councilmember Cole led everyone in the pledge of allegiance.

Approval of Agenda

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

Presentations

PR-1 Presentation - ONCOR City Smart is presenting the City of Killeen with an incentive check

Representatives of Oncor presented the City with a check in the amount of \$12,095.75 representing the City's energy savings in 2008 for innovative programs.

PR-2 Presentation - Arts Commission Certificate of Appreciation to Four Winds Intertribal Society

Ann Farris, on behalf of the Arts Commission, presented a certificate of appreciation to Four Winds Intertribal Society.

PR-3 Presentation - Arts Commission Certificate of Appreciation to Killeen Civic & Conference Center

Ann Farris, on behalf of the Arts Commission, presented a certificate of appreciation to the Killeen Civil and Conference Center.

PR-4 Presentation - TCEQ Public Drinking Water Recognition

Mayor Hancock presented a Public Drinking Water Recognition award from the Texas Commission on Environmental Quality for the City's water quality.

PR-5 Presentation – Web Awards for City Web Site

Mayor Hancock presented awards to Liz Rainey, the City's web master, for awards received for the City's web page design.

Consent Agenda

- CA-1 Consider minutes of Regular City Council Meeting of December 16, 2008.
- CA-2 Consider a memorandum/resolution [09-001R] approving change order No. 5 to the Passenger Boarding Bridges at Killeen-Fort Hood Regional Airport.
- CA-3 Consider a memorandum/resolution [09-002R] approving a professional services contract for design of terminal expansion at Killeen-Fort Hood Regional Airport.
- CA-4 Consider a memorandum/resolution [09-003R] authorizing purchase of bunker gear for fire fighters.
- CA-5 Consider a memorandum/resolution [09-004R] approving procurement of thermal imaging cameras through the Texas Association of School Boards Buy Board Cooperative for the fire department.
- CA-6 Consider a memorandum/resolution [09-005R] authorizing the acquisition of real property interests for right-of-way purposes near the intersection of SH 195 and SH 201.
- CA-7 Consider a memorandum/resolution [09-006R] adopting 2009 State Legislative Policy Statements.
- CA-8 Consider a memorandum/resolution [09-007R] authorizing purchase of replacement bunker gear for fire fighters.

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

Public Hearings / Ordinances

- PH-1 **HOLD** a public hearing and consider a request for an ordinance submitted by Glenn and Patricia Nellis (Case #Z08-53) to rezone approximately 0.459 acre, being part of the Robert Cunningham Survey, Abstract No. 199, from R-1 (Single-Family Residential District) to B-5 (Business District) with SUP (Special Use Permit) for dog grooming and boarding for less than 20 dogs, the property is locally known as 4606 Cunningham Road, Killeen, Texas.

The caption of the ordinance was read as follows:

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

This rezoning request is submitted to allow for a dog grooming operation. The application was originally for B-5 with a Special Use Permit for per grooming and boarding of animals. The

applicants revised their request and amended it for a B-3 since that zoning would allow for the proposed application. There was one letter of opposition returned in response to the five letters of notification; however, the applicant indicated he would be agreeable to a B-3 zoning. The Planning and Zoning Commission voted unanimously to recommend B-3 zoning.

Mayor Hancock opened the public hearing.

Pat Nellis, 4201 Cunningham, and Leroy W. Nellis, 6418 Zadock Woods, Austin, Texas, appeared in support of the application.

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

Councilmember Workman moved to approve the ordinance [09-001], seconded by Councilmember Rivera. The motion was approved unanimously.

PH-2 A. **HOLD** a public hearing and consider a request by W&B Development (Case #Z08-55) to rezone approximately 87.19 acres, being part of the Samuel D. Carothers Survey, Abstract No. 177 from R-1 (Single-Family Residential District) to PUD (Planned Unit Development) with R-1 (Single-family Residential District), the property is located on the east right-of-way of Featherline Road approximately 1,000 feet south of Stagecoach Road and north of Police Headquarters Addition, Killeen, Texas.

The caption of the ordinance was read as follows:

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

This rezoning request is submitted on property currently zoned R-1, and the applicant seeks to create a planned unit development (PUD) with an R-1 overlay. It will consist of 381 single-family homes. The PUD will allow for a deviation from the required 6,000 square foot lots. The Planning and Zoning Commission recommended approval of the request with the following conditions: a forty-two foot wide street paving section for a minimum length of one hundred feet from as measured from all subdivision entrances; minimum floor area shall be increased from 1,000 to 1,200 square feet; ninety percent requirement of native stone, brick, or other masonry produce for an entire home; no repeat or duplicate elevation within a group of five homes; and provide information in the PUD document detailing proposed recreational uses within Tract 1 to include a playground, pool, hike and bike trail, and at least one pond.

Councilmember Cole noted this item had been discussed at length during the workshop, and he asked why the applicant in this case had not been required to wait a year to return. City Planner Tony McIlwain advised that the one-year moratorium occurred when both the Planning and

Zoning Commission and the City Council rejected the application. The original application was to rezone from agricultural to PUD. Subsequently, the property has been rezoned R-1 and, thus, is a different case.

Mayor Hancock opened the public hearing.

Bill King, 186 Lonely Oaks, appeared in opposition to the request and cited concerns of density and incongruity with surrounding neighborhoods.

Don Clay, 3739 E. Stagecoach, expressed concerns of safety for children having to walk along Stagecoach Road and said there was no need for this amount of development at this time.

Fred Garvin, 2859 E. Stagecoach, advised he was opposed to the rezoning.

John Chomko, 477 Llewellyn, asked why a $\frac{3}{4}$ majority vote was not required. City Attorney Davis advised that notice was provided to residents within 200 feet of the property, and in order to require a $\frac{3}{4}$ majority vote, twenty percent of those would have to object to the rezoning. That did not happen in this case. As for the prior case, it was not “legally” denied; rather, it had not been approved by the required $\frac{3}{4}$ majority. While some of the aspects of this request are the same, this request is not the same as the prior request, and the applicant is not required to wait one year before bringing it back.

Virginia Deerkop, 3495 Stagecoach, expressed her concern that one of the entrances to the development was directly across from her driveway. She asked that the entrance be relocated.

Bruce Whitis, 3000 Illinois, said he has agreed with the recommendations of the Planning and Zoning Commission. There will be 381 residential lots with fifteen acres of open space that will include a pool, hike and bike trail, playground, and ponds. The entrances will be landscaped, and architectural controls will be placed in the PUD document. There will be no garage conversions allowed since two-car garages are requirements for all residences.

Brad Retz, 1878 Stagecoach, said the area is not ready for this type of development because of lack of water and sewer and improvements to the major roads.

B. J. Cummings, 198 Harlan Drive, said his main concern was traffic and the risk to children walking to schools in the area.

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

City Attorney Davis advised that if a motion to approve is made, it should include the recommendations of the Planning and Zoning Commission in addition to the PUD standards originally proposed.

Councilmember Evans moved to approve the ordinance [09-002] with the following requirements: 381 lots; twenty-foot setback required for front and rear yards, fifteen-foot setback for side yards that abut a street, and five-foot setback for interior side yards; minimum floor area

of 1,200 square feet; ninety percent requirement of native stone, brick, or other masonry product, fully sodded front yard with one tree and five bushes; forty-two-foot wide street paving section for a minimum length of one hundred feet as measured from all subdivision entrances; no repeat or duplicate elevation within a group of five homes; information in the PUD document detailing the proposed recreational uses in Tract 1. Councilmember Cosper seconded the motion, and noted that growth to the south is inevitable and the City had to be proactive. Councilmember Cole said he had been against the project from the beginning; however, the PUD as now proposed will provide more controls than would simply an R-1 development. Councilmember Rivera believed the PUD restrictions would be better for this area, and Mayor Pro-Tem Latham pointed out the road in the area will all have to be improved. The City Council has listened to the citizens. Councilmember Workman advised he is still in opposition to the development because of density, water and sewer issues, inadequate streets, and safety of children. Mayor Hancock noted the concerns of safety are valid and that the Council has listened to the citizens.

The motion was approved 6-1 (Councilmember Workman in opposition).

- B. Consider a request by W&B Development, Ltd (Case #08-069FS: Yowell Ranch Phase One (PUD)) for a plat of approximately 87.19 acres, being part of the Samuel D. Carothers Survey, Abstract No. 177 for property located on the east right-of-way of Featherline Road approximately 1,000 feet south of Stagecoach Road and north of Police Headquarters Addition, Killeen, Texas.

This plat covers the development of the previous rezoning and creates 381 lots and green space. The plat meets all development regulations, and the Planning and Zoning Commission voted to recommend approval of the plat.

Councilmember Wells moved to approve the plat, seconded by Councilmember Evans. The motion was approved 6-1 (Councilmember Workman in opposition).

Ordinances / Resolutions

- OR-1 Consider a memorandum/resolution [09-007R] approving the appointment of members to the Airport Expansion Committee (AEC).

Mayor Pro-Tem Latham moved to appoint Jean Shine, John Sutton, and Glenn Morrison to the Airport Expansion Committee, seconded by Councilmember Cosper. The motion was approved unanimously.

- OR-2 Consider an ordinance to amend the police department civil service pay plan to authorize clothing assignment pay for police officers.

The caption of the ordinance was read as follows:

AN ORDINANCE OF THE CITY COUNCIL OF KILLEEN, TEXAS UPDATING THE POLICE DEPARTMENT PAY PLAN TO ESTABLISH CLOTHING ASSIGNMENT PAY AND THE CRITERIA AND CONDITIONS UNDER WHICH THIS PAYMENT MAY

OCCUR AS TO COMPLY WITH THE PROVISIONS OF TEXAS LOCAL GOVERNMENT CODE 143.021, 143.041 AND 143.042; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

Human Resources Director Debbie Maynor advised an Internal Revenue Service audit determined that the clothing allowance paid to those police officers who are required to wear plain clothes in addition or instead of a uniform is taxable income, rather than a reimbursement. The pay plan must be amended to set forth the amount of assignment pay and the conditions under which it can be made, not to exceed fifty dollars per month.

Mayor Pro-Tem Latham moved to approve the ordinance [09-003], seconded by Councilmember Rivera. The motion was approved unanimously.

Citizens Petitions and Information

CP-1 John Pimenpel (708 W. Ave D)-Not Enough Help for People with Disabilities

Mr. Pimenpel did not appear.

CP-2 Julius Shaw (605 N. Gray)-What was the Justice Department Recommendation for the Killeen Police Department?

Mr. Shaw did not appear.

Adjournment

With no further business, upon motion being made by Councilmember Wells, seconded by Councilmember Rivera, and unanimously approved, the meeting was adjourned at 7:51 p.m.

Timothy L. Hancock, Mayor

Paula Miller, City Secretary