

City of Killeen
Regular City Council Meeting
Killeen City Hall
February 10, 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, City Secretary Paula Miller, and Sergeant-at-Arms David Orr

Councilmember Evans gave the invocation, and Councilmember Wells 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 - Keep Killeen Beautiful Business of the Month

This was not presented.

PR-2 Proclamation - Black History Month

Mayor Hancock read a proclamation declaring the month of March as Black History Month and a proclamation celebrating the 100th Anniversary of the NAACP and presented both to Phyllis Jones.

PR-3 Presentation - Arts Commission Certificate of Appreciation to Vive Les Arts

Ann Farris, on behalf of the Arts Commission, presented a Certificate of Appreciation to Vive Les Arts.

PR-4 Presentation - Arts Commission Certificate of Appreciation to Vive Les Arts' Children's Theatre

Ann Farris, on behalf of the Arts Commission, presented a Certificate of Appreciation to Vive Les Arts' Children's Theater.

PR-5 Presentation - Killeen Sister Cities, Inc. Student Exchange Program

Lisa Humphreys briefed the City Council on the Killeen Sister Cities student exchange program.

PR-6 Presentation- Take 190 West Project

Beverly Zendt, Sheila Donahue, and Deanna Frazee briefed the City Council on the Take 190 West Project and events scheduled to occur.

Consent Agenda

- CA-1 Consider minutes of Regular City Council Meeting of January 27, 2009.
- CA-2 Consider a memorandum/resolution to [09-017R] endorse Oncor's CitySmart Energy Master Planning program for the City of Killeen.
- CA-3 Consider a memorandum/resolution [09-018R] awarding Bid No. 08-32 for Green Avenue minor drainage capital improvement project.
- CA-4 Consider a memorandum/resolution [09-019R] approving a professional services contract with Chiang Patel and Yerby, Inc., for the preliminary design of Little Nolan Creek Tributary 1 major drainage capital improvement project.
- CA-5 Consider a memorandum/resolution [09-020R] authorizing amendment No. 4 to design Watercrest Drive and University Drive at Clear Creek Road to eliminate the existing offset and reconfigure to one traffic signal.
- CA-7 Consider a memorandum/resolution [09-021R] authorizing modification No. 2 with Jacobs Engineering for the Lampasas River watershed Clean Water Act section 319(h) grant project.
- CA-9 Consider a memorandum/resolution [09-022R] authorizing a facility extension agreement for the three-phase extension to serve the North Reese Creek Lift Station.

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

- CA-6 Consider a memorandum/resolution awarding Bid No. 09-08 for the reconstruction of Trimmier Road project.

Citing a conflict of interest, Mayor Pro-Tem Latham stepped down from the dais.

This bid will reconstruct Trimmier Road into a five-lane street from Stan Schlueter Loop to Stagecoach Road, and the bid was fifty-six percent of the estimated cost.

Councilmember Cole moved to approve the resolution [09-023R], seconded by Councilmember Rivera. The motion was approved 6-0.

Mayor Pro-Tem Latham returned to Council deliberations.

- CA-8 Consider a memorandum/resolution authorizing the acquisition of real property interest for right-of-way purposes near the intersection of SH195 and SH201.

This parcel of property is the final remaining property needed to construct and install the grade separation at the intersection. The project will be bid in August, and work should be started by the end of the year.

Councilmember Cole moved to approve the resolution [09-024R], seconded by Councilmember Cospers. The motion was approved unanimously.

Public Hearings / Ordinances

PH-1 **HOLD** a public hearing and consider a request for an ordinance submitted by Robert Lee Crabb and Sue Jane Dowell (Case #Z08-57) to rezone approximately 2.43 acres, being part of the J. Goslin Survey, Abstract No 344 from R-1 (Single-Family Residential District) to B-3 (Local Business District). The property is located at the northeast intersection of Oak Hill Drive and Trimmier, Road, Killeen, Texas.

The caption of the ordinance was read as follows:

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

This request was originally submitted for B-3 zoning for 2.43 acres located at the intersection of Oak Hill Drive and Trimmier Road. The request was noticed, resulting in four letters of protest representing twenty-two percent of the area. At the Planning and Zoning Commission meeting, the applicant revised his request for B-1 zoning for 1.51 acres, and the Commission voted 7-0 to recommend approval of the B-1 zoning request.

Mayor Hancock opened the public hearing. Allen Cloud, 1703 South W.S. Young Drive, and Robert Crabb, 502 E. Weinert, Seguin, appeared in support of the request for B-1 zoning. With no one else appearing, the public hearing was closed.

Councilmember Workman moved to approve the ordinance [09-005], seconded by Councilmember Cospers. The motion was approved unanimously.

PH-2 **HOLD** a public hearing and consider a request for an ordinance submitted by Killeen EGS Property and Bentina Ltd (Case #Z08-60) to rezone approximately 32.286 acres, being part of the Azra Webb Survey, Abstract No. 857 from R-1 (Single-Family Residential District) to R1-A (Single-Family Garden Home Residential District) for property located near the northwest intersection of Trimmier Road and Stagecoach Road, Killeen, Texas.

Citing a conflict of interest, Mayor Pro-Tem Latham stepped down from the dais.

The caption of the ordinance was read as follows:

This rezoning request is submitted on a tract located at the northwest intersection of Trimmier Road and Stagecoach Road. The applicant intends to develop lots of approximately 7,370 feet, larger than the standard R-1 standard of 6,000 feet. The R1-A zoning will allow a setback of twenty feet, rather than twenty-five feet in order to construct a larger house on each lot.

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 R1-A (SINGLE FAMILY GARDEN HOME RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

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

Councilmember Cole moved to approve the ordinance [09-006], seconded by Councilmember Rivera. The motion was approved 5-1 (Councilmember Workman in opposition).

Mayor Pro-Tem Latham returned to Council deliberations.

PH-3 **HOLD** a public hearing and consider a request for an ordinance submitted by Young Won Lee and Yeon Ok Lee (Case #Z08-61) to rezone approximately 4.765 acres, being Lot 1, Block 1, Lee Hotel and Plaza Addition from B-5 (Business District) to B-5 (Business District) and B-C-1 (General Business and Alcohol Sales District) for property located east of Saddle Ridge Estates Phase One and north of David Goode Addition and locally known as 5201 S. Ft. Hood Street, Killeen, Texas.

The caption of the ordinance was read as follows:

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

This rezoning request is submitted on property located at 5201 S. Ft. Hood Street, is the location of the former 7D Ranch Rentals and Mobile Home Park, consisting of several parcels with wooden buildings, one-story houses, and trailers. The property will be redeveloped for a two-story club. The B-C-1 zoning will be for the footprint of the building only. One letter of no objection and one letter of opposition were returned in response to the eighty-two letters of

notification, and the Planning and Zoning Commission voted to approve the zoning for the footprint of the building only.

Mayor Hancock opened the public hearing. Dan Corbin, 603 N. 8th Street, appeared in support of the application, and he noted that the location is not in the adult-oriented business zone. With no one else appearing, the public hearing was closed.

Councilmember Workman moved to approve the ordinance [09-007], seconded by Councilmember Wells. The motion was approved 5-2 (Councilmembers Cole and Cosper in opposition).

Ordinances / Resolutions

OR-1 Consider an ordinance amending the City of Killeen Code of Ordinances, Chapter 6-Animals.

The caption of the ordinance was read as follows:

AN ORDINANCE REPEALING CHAPTER 6, ARTICLE II, DIVISION 5 “VICIOUS ANIMALS;” AMENDING CHAPTER 6 “ANIMALS” OF THE CITY OF KILLEEN CODE OF ORDINANCES BY AMENDING VARIOUS SECTIONS IN ARTICLE I “IN GENERAL” AND ESTABLISHING COMPREHENSIVE DANGEROUS ANIMAL REGULATIONS IN ARTICLE II “ANIMAL CONTROL;” PROVIDING A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

The Animal Advisory Committee began working on a revision to the animal ordinance to identify what a dangerous animal is. This amendment repeals the section on vicious animals and replaces it with dangerous animals. It allows Animal Control to declare an animal as dangerous and gives the Municipal Judge more options and provides for public notice.

Councilmember Cole moved to approve the ordinance [09-008], seconded by Councilmember Rivera. The motion was approved unanimously.

OR-2 Consider an ordinance amending the City of Killeen Code of Ordinances, Chapter 13 relating to smoking in public places.

The caption of the ordinance was read as follows:

AN ORDINANCE OF THE CITY OF KILLEEN, TX, AMENDING CHAPTER 13 OF THE KILLEEN CITY CODE OF ORDINANCES BY REPEALING THE CURRENT ARTICLE III “SMOKING” AND REPLACING IT WITH ARTICLE III “SMOKING IN PUBLIC PLACES” MAKING IT UNLAWFUL FOR A PERSON TO SMOKE IN A PUBLIC PLACE; MAKING IT UNLAWFUL TO SMOKE IN CERTAIN PUBLIC OUTDOOR PLACES AND EVENTS; PROVIDING EXCEPTIONS; ESTABLISHING EMPLOYER RESPONSIBILITY TO PROVIDE NON-SMOKING WORKPLACE; REQUIRING APPROPRIATE SIGNAGE;

PROHIBITING RETALIATION; PROVIDING FOR ENFORCEMENT, VIOLATION AND PENALTY; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS, AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

City Attorney Davis advised a committee had been formed approximately a year ago and had been meeting regularly since August. The committee received presentations from the Health Department and held two public hearings, and several versions of the ordinance have been reviewed. The major provisions of the ordinance are to prohibit smoking: in most enclosed public places; within fifteen feet of an entrance of an enclosed area where smoking is prohibited; in seating areas and bleachers of outdoor areas during sporting events; in the outdoor patio area of the Stonetree Golf club house; and in playgrounds and inside the fenced areas of public pools. There are exceptions for: private dwellings if not used for day or health care; a designated smoking room in a hotel or motel; a retail tobacco store; a private or semi-private room in a nursing home under certain circumstances; an outdoor workplace; a bingo facility; a facility operated by some fraternal organizations; a bar; a pool hall, and a bowling alley. The effective date of the ordinance is June 1.

Councilmember Rivera believed the final ordinance was not fair to everyone and too many changes have been made at the last minute.

Councilmember Rivera moved to disapprove the ordinance, seconded by Councilmember Cole.

Councilmember Cole believed the ordinance would be unenforceable, and it appeared to him the only change between the current ordinance and this one applies to restaurants after all the exceptions were added. He believed the current ordinance should be enforced rather than adopting the one proposed. Councilmember Rivera asked whether the proposed ordinance would be unconstitutional. City Attorney Davis advised an ordinance must apply equally to everyone, and any exceptions must be justified. If the exception is for an adult-only participation, then an exemption can be granted.

A vote was taken on the motion, and it was disapproved 2-5 (Mayor Pro-Tem Latham and Councilmembers Cosper, Evans, Wells, and Workman in opposition).

Mayor Pro-Tem Latham moved to approve the ordinance [09-009], seconded by Councilmember Wells. Councilmember Evans pointed out the State Legislature is considering a smoking ban, but it is unknown whether it will be enacted. This ordinance has been proposed for health and safety concerns. The motion was approved 5-2 (Councilmembers Cole and Rivera in opposition).

Citizens Petitions and Information

CP-1 Shebra Davis (4007 Mustang Drive) - Ordinance Amendment - Neighbors Parking in Front of her House

Ms. Davis did not appear.

Adjournment

With no further business, upon motion being made by Mayor Pro-Tem Latham, seconded by Councilmember Evans, and unanimously approved, the meeting was adjourned at 7:35 p.m.

Timothy L. Hancock, Mayor

Paula Miller, City Secretary