



City of Killeen

Agenda

City Council Workshop

Tuesday, January 3, 2017

5:00 PM

Utility Collections
Conference Room
210 West Avenue C
Killeen, Texas 76541

Items for Discussion at Workshop

- [DS-17-001](#) Discuss Agenda Items for the Regular City Council Meeting of January 10, 2017
- [DS-17-002](#) Discuss City-Owned Property
- [DS-17-003](#) Discuss Vision 2030 2.0
- [DS-17-004](#) Discuss Solid Waste RFP
- [DS-17-005](#) Discuss Legislative Principles
- [DS-17-006](#) Discuss Unfunded Positions
- [DS-17-007](#) Discuss Outsourcing Municipal Jail
- [DS-17-008](#) Discuss Police Department Reorganization

Items for Regular City Council Meeting of January 10, 2017

Minutes

- [MN-17-001](#) Consider Minutes of Regular City Council Meeting of December 13, 2016.
Attachments: [Minutes](#)
[Okray Memorandum for Record RS-16-150](#)
[Johnson Statement for Record PH-16-048A](#)

Resolutions

- [RS-17-001](#) Consider a memorandum/resolution authorizing the execution of Change Order No. 11 to McLean Construction, Inc. for the Trimmier Road Widening Project.

Attachments: [Council Memorandum](#)
[Change Order](#)
[Change Order Tracking](#)
[Certificate of Interested Parties](#)

[RS-17-002](#) Consider a memorandum/resolution authorizing the purchase of uniforms for the Killeen Fire Department for fiscal year 2016-2017.

Attachments: [Council Memorandum](#)
[Buy Board - Miller Uniforms](#)
[Certificate of Interested Parties](#)

[RS-17-003](#) Consider a memorandum/resolution for the purchase of portable radios and mobile/vehicle mount units for the Fire Department.

Attachments: [Council Memorandum](#)
[Quote](#)
[Sole Source](#)
[Certificate of Interested Parties](#)

Ordinances

[OR-16-025](#) Consider an ordinance granting an electric franchise to Bartlett Electric Cooperative, Inc. (2nd of 3 Readings)

Attachments: [Council Memorandum](#)
[Ordinance](#)

[OR-17-001](#) Consider an ordinance ordering a general election to be held on May 6, 2017 to elect a District Council Member for each District.

Attachments: [Council Memorandum](#)
[Ordinance](#)

[OR-17-002](#) Consider an ordinance to amend the number of authorized Fire Rescue Officer and Fire Captain civil service positions for the Killeen Fire Department.

Attachments: [Council Memorandum](#)
[Ordinance](#)

[OR-17-003](#) Consider an ordinance amending sign regulations in Articles IV and V of Chapter 31 of the City of Killeen Code of Ordinances.

Attachments: [Council Memorandum](#)
[Ordinance](#)
[Minutes](#)

Public Hearings

[PH-16-048B](#) HOLD a public hearing and consider an ordinance amending the

FY2017 Annual Budget and Plan of Municipal Services of the City of Killeen to increase an expense account for an emergency environmental response.

Attachments: [Council Memorandum](#)

[Ordinance](#)

[PH-17-001](#)

HOLD a public hearing and consider an ordinance requested by John and Kimberly Anne Jones-Greenwalt (Case# Z16-23) to rezone approximately three (3) acres out of the J.S. Wilder Survey, Abstract No. 780, from "R-1" (Single-Family Residential District) to "A" (Agricultural District). The property is located at 2707 Polk Street, Killeen, Texas.

Attachments: [Council Memorandum](#)

[Attachment to CCMO](#)

[Minutes](#)

[Ordinance](#)

[Application](#)

[Location map](#)

[Buffer map](#)

[Considerations](#)

Adjournment

I certify that the above notice of meeting was posted on the Internet and on the bulletin boards at Killeen City Hall and at the Killeen Police Department on or before 5:00 p.m. on December 30, 2016.

Dianna Barker, City Secretary

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..

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.

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. No official action will be taken by Council.

Dedicated Service -- Every Day, for Everyone!



City of Killeen

Legislation Details

File #: DS-17-001 **Version:** 1 **Name:** Discuss Agenda Items for the Regular City Council Meeting of January 10, 2017
Type: Discussion Items **Status:** Discussion Items
File created: 12/1/2016 **In control:** City Council Workshop
On agenda: 1/3/2017 **Final action:**
Title: Discuss Agenda Items for the Regular City Council Meeting of January 10, 2017
Sponsors: City Manager Department
Indexes:
Code sections:
Attachments:

Date	Ver.	Action By	Action	Result
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City of Killeen

Legislation Details

File #: DS-17-002 **Version:** 1 **Name:** Discuss City-Owned Property
Type: Discussion Items **Status:** Discussion Items
File created: 11/18/2016 **In control:** City Council Workshop
On agenda: 1/3/2017 **Final action:**
Title: Discuss City-Owned Property
Sponsors: City Manager Department
Indexes:
Code sections:
Attachments:

Date	Ver.	Action By	Action	Result
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City of Killeen

Legislation Details

File #: DS-17-003 **Version:** 1 **Name:** Vision 2030 2.0
Type: Discussion Items **Status:** Discussion Items
File created: 12/20/2016 **In control:** City Council Workshop
On agenda: 1/3/2017 **Final action:**
Title: Discuss Vision 2030 2.0
Sponsors: City Manager Department, Deputy City Manager, Public Information Department
Indexes:
Code sections:
Attachments:

Date	Ver.	Action By	Action	Result
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City of Killeen

Legislation Details

File #: DS-17-004 **Version:** 1 **Name:** Discuss Solid Waste RFP
Type: Discussion Items **Status:** Discussion Items
File created: 11/3/2016 **In control:** City Council Workshop
On agenda: 1/3/2017 **Final action:**
Title: Discuss Solid Waste RFP
Sponsors: Public Works Department, Solid Waste
Indexes:
Code sections:
Attachments:

Date	Ver.	Action By	Action	Result
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City of Killeen

Legislation Details

File #: DS-17-005 **Version:** 1 **Name:** Discuss Legislative Agenda
Type: Discussion Items **Status:** Discussion Items
File created: 12/14/2016 **In control:** City Council Workshop
On agenda: 1/3/2017 **Final action:**
Title: Discuss Legislative Principles
Sponsors: City Manager Department, Public Information Department
Indexes:
Code sections:
Attachments:

Date	Ver.	Action By	Action	Result
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City of Killeen

Legislation Details

File #: DS-17-006 **Version:** 1 **Name:** Discuss Unfunded Positions
Type: Discussion Items **Status:** Discussion Items
File created: 12/9/2016 **In control:** City Council Workshop
On agenda: 1/3/2017 **Final action:**
Title: Discuss Unfunded Positions
Sponsors: Human Resources Department
Indexes:
Code sections:
Attachments:

Date	Ver.	Action By	Action	Result
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City of Killeen

Legislation Details

File #: DS-17-007 **Version:** 1 **Name:** Discuss Outsourcing Municipal Jail
Type: Discussion Items **Status:** Discussion Items
File created: 11/29/2016 **In control:** City Council Workshop
On agenda: 1/3/2017 **Final action:**
Title: Discuss Outsourcing Municipal Jail
Sponsors: Police Department
Indexes:
Code sections:
Attachments:

Date	Ver.	Action By	Action	Result
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City of Killeen

Legislation Details

File #: DS-17-008 **Version:** 1 **Name:** Discuss Police Department Reorganization
Type: Discussion Items **Status:** Discussion Items
File created: 11/29/2016 **In control:** City Council Workshop
On agenda: 1/3/2017 **Final action:**
Title: Discuss Police Department Reorganization
Sponsors: Police Department
Indexes:
Code sections:
Attachments:

Date	Ver.	Action By	Action	Result
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City of Killeen

Legislation Details

File #: MN-17-001 **Version:** 1 **Name:** Minutes of Regular City Council Meeting of December 13, 2016
Type: Minutes **Status:** Minutes
File created: 12/12/2016 **In control:** City Council Workshop
On agenda: 1/3/2017 **Final action:**
Title: Consider Minutes of Regular City Council Meeting of December 13, 2016.
Sponsors: City Secretary
Indexes:
Code sections:
Attachments: [Minutes](#)
[Okray Memorandum for Record RS-16-150](#)
[Johnson Statement for Record PH-16-048A](#)

Date	Ver.	Action By	Action	Result
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City of Killeen
Regular City Council Meeting
Killeen City Hall
December 13, 2016 at 5:00 p.m.

Presiding: Mayor Jose L. Segarra

Attending: Mayor Pro-Tem Brockley Moore, Councilmembers Jim Kilpatrick, Juan Rivera, Shirley Fleming, Gregory Johnson, Jonathan Okray, and Richard Young

Also attending were Interim City Manager Dennis M. Baldwin, City Attorney Kathryn Davis, City Secretary Dianna Barker, and Sergeant-at-Arms Gilman.

Councilmember Okray gave the invocation, and James Ralston led everyone in the Pledge of Allegiance.

Approval of Agenda

Motion was made by Mayor Pro-Tem Moore to approve the agenda pulling and postponing PH-16-048B from consideration until January 10th meeting. Motion seconded by Councilmember Rivera. The motion carried unanimously.

Minutes

Motion was made by Councilmember Kilpatrick to approve the minutes of the December 6th Regular City Council Meeting. Motion was seconded by Councilmember Rivera. Motion carried unanimously.

Resolutions

RS-16-147 Consider a memorandum/resolution approving the appointment of a City Auditor.
Staff comments: Eva Bark
Recommend the City Council approve the selection of Matthew Grady as City Auditor.

Motion was made by Councilmember Fleming to approve RS-16-147. Motion was seconded by Mayor Pro-Tem Moore. Motion carried unanimously.

RS-16-148 Consider a memorandum/resolution approving the appointment of an Executive Director of Public Works.
Staff comments: Eva Bark
Recommend the City Council approve the appointment of David Olson as Executive Director of Public Works.

Motion was made by Councilmember Kilpatrick to approve RS-16-148. Motion was seconded by Councilmember Fleming. Motion carried unanimously.

RS-16-149 Consider a memorandum/resolution authorizing the award of Bid No. 17-01 for a construction contract to Battery Warehouse for the construction of Stewart Neighborhood Project Phase 3- Sidewalk Reconstruction.
Staff comments: David Olson
City staff recommends the City Council award a construction contract for sidewalk

reconstruction and tree root removal associated with Stewart Neighborhood Project, Phase 3 - Sidewalk Reconstruction to the lowest responsive and responsible bidder for line item one (1) through line item twenty-four (24) to Battery Warehouse, McAllen, Texas, in the amount of \$150,405.92. Additionally, staff recommends that City Council authorize the City Manager to execute all necessary contract documents along with all change orders or supplemental agreements for the project within the amounts set by state and local law.

Motion was made by Mayor Pro-Tem Moore to approve RS-16-149. Motion was seconded by Councilmember Okray. Motion carried unanimously.

RS-16-150 Consider a memorandum/resolution authorizing the City Manager to enter into a professional services agreement with Mitchell and Associates, Inc. for the design of the Rosewood Drive Extension project.

Staff comments: David Olson

City staff recommends that the City Council authorize the City Manager to enter into an agreement with Mitchell and Associates, Inc., for a professional engineering services agreement for the design of the Rosewood Drive Extension and Heritage Oaks Hike and Bike Trail, Segment 3 project, in the amount of \$741,623 and that the City Manager be authorized to execute any and all change orders or supplemental agreements within the amount established by state and local law.

Motion was made by Councilmember Rivera to approve RS-16-150. Motion was seconded by Councilmember Kilpatrick.

Councilmember Okray made a motion to divide into two parts, Rosewood Drive Extension and Heritage Oaks Hike and Bike Trail. Motion was seconded by Councilmember Fleming.

Councilmember Okray made a statement for the record. See attached.

Motion tied 3 to 3 with Councilmember Johnson, Councilmember Okray, and Councilmember Fleming voting for the motion, and Councilmember Young, Councilmember Kilpatrick, and Councilmember Rivera opposing the motion. Mayor Pro-Tem Moore abstained. Mayor Segarra broke the tie by voting against the motion. Motion failed.

Motion on the main motion carried 6 to 1 with Councilmember Okray opposing.

RS-16-151 Consider a memorandum/resolution authorizing the City Manager to execute an advance funding agreement with the Texas Department of Transportation (TxDOT) to construct Heritage Oaks Hike and Bike Trail Segment 3A.

Staff comments: David Olson

The proposed project entails constructing a 12-foot wide concrete trail with associated lighting and trail amenities. This project would provide improved access to transportation alternatives for the community. City staff recommends that the City Council authorize the City Manager to enter into an advance funding agreement with the Texas Department of Transportation for the Transportation Alternatives Program and issue an initial payment in the amount of \$7,200 and subsequent payment in the amount of \$16,800 prior to bid advertising to the Texas Department of Transportation to accept the award funding and move forward with the project.

Motion was made by Councilmember Rivera to approve RS-16-151. Motion was seconded by Mayor Pro-Tem Moore. Motion carried 6 to 1 with Councilmember Okray opposing.

RS-16-152 Consider a memorandum/resolution authorizing Change Order No. 9 to RM Rodriguez

Construction, LP for the Killeen Fort Hood Regional Trail, Segment 3 project.

Staff comments: David Olson

Change Order No. 9 will add or subtract quantities to balance changes made in the field. This change will be the final adjustment to quantities for the project and is a portion of the closeout process. City staff recommends City Council authorize the City Manager to execute Change Order No. 9, which is a net decrease of \$77,195.58 for the Killeen Fort Hood Regional Trail, Segment 3 project with RM Rodriguez Construction.

Motion was made by Councilmember Kilpatrick to approve RS-16-152. Motion was seconded by Councilmember Young. Motion carried unanimously.

RS-16-154 Consider a memorandum/resolution to authorize participation in the Texas Water Development Board Grant for the Nolan Creek Regional Flood Protection Master Plan project.

Staff comments: Kristina Ramirez

Benefits of a regional flood protection master plan include prioritization and coordination of structural and nonstructural projects throughout the watershed, improved water quality, increased public education, and increased public safety. This grant would allow the City to proceed with the 2012 Drainage Master Plan planned project, without having to wait for funding in a future drainage bond. Staff recommends the City Council approve participation in the TWDB Flood Protection Planning Grant for the Nolan Creek Regional Flood Protection Master Plan project and authorize the City Manager to execute all contracts, change orders, documents, and agreements associated with the grant.

Motion was made by Mayor Pro-Tem Moore to approve RS-16-154. Motion was seconded by Councilmember Fleming. Motion carried 5 to 2 with Councilmember Kilpatrick and Councilmember Young opposing.

Public Hearings

PH-16-048A Consider a memorandum/resolution authorizing the execution of a professional services contract amendment with CG Environmental - Cleaning Guys, LLC, for the August 12, 2016, emergency environmental response.

Staff comments: Kristina Ramirez

In December 2014, the City entered into a contract for emergency response services with CG Environmental - Cleaning Guys, LLC (CG). The services within that contract were for hazardous material cleanup, remediation, and disposal, not to exceed \$50,000.00. On the morning of Friday, August 12, 2016, the City responded to a gas fire at 4415 E. Veterans Memorial Boulevard. Staff evaluated the situation and determined that the level of response needed required professional assistance. As a result, staff utilized the existing contract authorization to contact CG to request assistance in the containment, remediation, and disposal of petroleum products that entered the soil and watercourse. Due to previous payments to CG Environmental on other issues, city staff recommends that the City Council authorize the City Manager to enter into a contract amendment with CG Environmental - Cleaning Guys, LLC for \$214,199.02 for the August 12, 2016 Emergency Environmental Response project.

Motion was made by Mayor Pro-Tem Moore to approve PH-16-048A. Motion was seconded by Councilmember Okray.

Councilmember Johnson made a statement for the record. See attached.

Motion carried 5 to 2 with Councilmember Johnson and Councilmember Young opposing.

POSTPONED UNTIL JANUARY 10, 2017 MEETING.

PH-16-048B HOLD a public hearing and consider an ordinance amending the FY2017 Annual Budget and Plan of Municipal Services of the City of Killeen to increase an expense account for an emergency environmental response.

PH-16-049 HOLD a public hearing and consider an ordinance requested by Christian House of Prayer, Inc. (Case #Z16-22) to rezone Lot 1, Block 1, Christian House of Prayer Addition and Lot 1, Block 1, Christian House of Prayer Addition Phase 3, from “B-3” (Local Business District) to “B-4” (Business District). The property is located on the southwest corner of E. Stan Schlueter Loop (FM 3470) and Cunningham Road.

The City Secretary read the caption of the ordinance.

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-3 (LOCAL BUSINESS DISTRICT) TO B-4 (BUSINESS DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

Staff comments: Tony McIlwain

The staff notified forty-two (42) surrounding property owners regarding this request. Staff has received no protests. The Planning & Zoning Commission recommended approval of “B-4” (Business District) for approximately 47 acres, being all of Lot 1, Block 1, Christian House of Prayer Addition Phase 3 and the western 7.7 acres of Lot 1, Block 1, Christian House of Prayer Addition, by a vote of 6 to 0.

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

Motion was made by Councilmember Fleming to approve PH-16-049. Motion was seconded by Mayor Pro-Tem Moore. Motion carried unanimously.

PH-16-050 HOLD a public hearing and consider an ordinance amending the FY 2017 Annual Budget and Plan of Municipal Services of the City of Killeen for the transfer of unallocated Solid Waste funds to the General Fund.

The City Secretary read the caption of the ordinance.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS, AMENDING THE FY 2017 ANNUAL BUDGET AND PLAN OF MUNICIPAL SERVICES OF THE CITY OF KILLEEN TO ALLOW FOR THE TRANSFER OF UNALLOCATED SOLID WASTE FUNDS TO THE GENERAL FUND; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.

Staff comments: Jonathan Locke

Since the Fleet Replacement Program was terminated, the Solid Waste Fund will also recognize a \$1,517,515 reduction in expenses for FY 2017. The reduction in expenses

represents Solid Waste's contribution towards the Fleet Replacement Program. The total economic benefit for Solid Waste due to the termination of the Fleet Replacement Program is \$2,009,341. The recommendation is to make a one-time transfer of the unallocated funds from the closure of the Fleet Replacement Program from Solid Waste to the General Fund. The recommended amount of the one-time transfer is \$1,677,216. Staff recommends that City Council approve the ordinance allowing a one-time transfer of unallocated Solid Waste funds to the General Fund.

Mayor Segarra opened the public hearing.

James Ralston, 408 Yates Rd - Spoke against the proposal.
With no one else appearing the public hearing was closed.

Motion was made by Councilmember Rivera to approve PH-16-049. Motion was seconded by Councilmember Kilpatrick.

Councilmember Fleming made a motion to amend the original motion, adding that the money would be borrowed from the solid waste fund instead of being permanently transferred from the solid waste fund. Motion was seconded by Councilmember Young. Motion failed 2 to 5 with Councilmember Okray, Mayor Pro-Tem Moore, Councilmember Rivera, Councilmember Kilpatrick, and Councilmember Johnson opposing.

Motion on the main motion carried 4 to 3 with Councilmember Young, Councilmember Johnson, and Councilmember Fleming opposing.

Ordinances

OR-16-024 Consider an ordinance amending Chapter 30, Article IV, Division 1, Sections 30-102 & 103, water meter and tap fees.

The City Secretary read the caption of the ordinance.

AN ORDINANCE AMENDING CHAPTER 30 WATER, SEWERS, AND SEWAGE DISPOSAL, ARTICLE IV, DIVISION 1, OF THE OFFICIAL CODE OF ORDINANCES OF THE CITY OF KILLEEN, TEXAS, PROVIDING FOR REVISIONS TO WATER METER AND TAP FEES; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

Staff comments: David Olson

After extensive analysis of the City's current water service policy, staff has concluded that the following revisions to this policy are necessary:

1. Developer installs all new water services per City standards.
2. City Public Works inspectors monitor installations.
3. City water crew installs water meter and meter box.
4. Builder pays a \$200 meter connect fee for each service.
5. In established subdivisions, City water crew installs water service and meter after the builder has paid an \$800 fee for a long service or a \$500 fee for a short service 3/4" meter and increased fees for larger meters.

Staff recommends that City Council approve the amendment of Chapter 30 of the Code of Ordinances providing for revisions to water meter and tap fees, effective three months after its passage and publication according to law.

Motion was made by Councilmember Okray to approve OR-16-024. Motion was seconded by Councilmember Fleming. Motion carried 6 to 1 with Councilmember Young opposing.

OR-16-025 Consider an ordinance granting an electric franchise to Bartlett Electric Cooperative, Inc. (1st of 3 Readings)

The City Secretary read the caption of the ordinance.

AN ORDINANCE GRANTING AN ELECTRIC LIGHT, HEAT AND POWER FRANCHISE TO BARTLETT ELECTRIC COOPERATIVE, INC.; PROVIDING FOR A FEE FOR THE USE OF THE PUBLIC RIGHTS-OF-WAYS; AND PROVIDING THAT SUCH FEE SHALL BE IN LIEU OF OTHER FEES AND CHARGES, EXCEPTING AD VALOREM TAXES

Staff comments: Traci Briggs

Bartlett Electric Cooperative, Inc. (“Bartlett”) serves areas in the southern portions of the City that became part of the City through annexation. City staff has negotiated with Bartlett representatives to prepare the proposed franchise. The fee received by the City will be four percent (4%) of the gross receipts from the sale of electricity within the City limits, with payments made annually. The City Charter requires three (3) readings of a franchise ordinance. The three readings will be December 13, 2017; January 10, 2017; and January 24, 2017. It is proposed that this ordinance be effective March 25, 2017. Staff recommends the City Council approve the proposed franchise ordinance.

Motion was made by Councilmember Okray to approve the first reading of OR-16-025. Motion was seconded by Mayor Pro-Tem Moore. Motion carried unanimously.

Adjournment

With no further business, upon motion being made by Councilmember Okray, seconded by Councilmember Rivera, and unanimously approved, the meeting was adjourned at 6:31 p.m.

MEMORANDUM FOR
RECORD
RS-16-150, 12-13-16

January 20, 2015, a Special Council workshop was held to present the proposed Heritage Oaks Hike and Bike Trail (RS-15-008). By consensus, the City Council indicated an allocation of \$1,300,000 for the Heritage Oaks Park Project. The City Council also authorized Staff to enter into negotiation for the design of the proposed Hike and Bike Trail portion of the project and supported the submission of an application for the TxDOT 2015 TAP Call for Projects.

The overall nine-mile multi-use trail plan consists of five segments: Segment 1- US 190 to Stagecoach Road, part of the US 190/FM 2410/Rosewood Drive Pass Through Funding (PTF) Project; Segment 2- Rosewood Drive from Stagecoach Road to Chaparral Road, part of the Rosewood Drive Extension Project; Segment 3- Rosewood Drive and Chaparral Road to the eastern boundary of investment property, part of the Chaparral Road Widening Project; Segment 4- KISD Elementary School south to US Government property in Bell County; and Segment 5- US Government property in Bell County to Stillhouse Hollow Lake. At the time of the consideration (RS-15-008), I assumed that funding for the remaining segments orbited in the price range of Segment 3, in total, an additional encumbrance of \$1.6 million.

To meet the spirit of the TxDOT/KTEMPO goal, priority consideration was given to projects that requested federal funding only for construction-associated costs. The total construction estimate of the associated project given at that time was \$3,500,000. The City was to provide approximately \$1,000,000 or twenty-nine percent of construction-related costs, \$2,500,000 or seventy-one percent reimbursement of the project's construction costs as the project progressed. \$1,300,000 was the cost briefed to council.

At the time, my support of the TAP Application, Call for Projects and support specifically for the Heritage Oaks Hike and Bike Trail was subject to emplacement of new revenue generating streams. Since that time, Council has enacted Impact Fess. However, associated rates for the fees remain at zero. Aside revenues generated from ratepayers and the ability to fund through Certificates of Obligations or General Bonds, we have the ability to match TAP Applications through refunding agreements. Impact Fees and Transportation Utility Fees reasonably and purposefully implemented through Chapter 25 and 26 of the Code of Ordinances in conjunction with more purposeful and meaningful enforcement of ordinance plausibly generate additional revenue streams in order to better provision ourselves for capital improvements and to revitalize capital already "bought and paid for".

I understand the concept of the decision of January 15, 2015. However, fundamental disagreement remains when considering the Parks and Recreation Master Plan. Should we address whether or not we are adequately and equally distributing the Federal and State funding opportunities in regard to north and south Killeen? For example, in addressing the basic needs of the AA Lane Neighborhood Park in a memorandum submitted in May 14, 2014, I attempted to provide perspective. At the time, the dollar value given to improve the park was \$750,000. Since then various rates have increased. This body has also considered and rejected a Transportation Utility Fee. We have also received the Parks and Recreation Master Plan suggesting the addition of parks in the southeast and southwest portions of our city. However, The Plan provides scant-to-none mention of consolidating, reorganizing, realigning, or closing existing park infrastructure or the viability of integrating existing park infrastructure into the Hike and Bike Trail System.

During other occasions of work and decision I have stated that my intent is not to complain about or impede the growth of our city. However, criticism will remain constant as projects such as the Heritage Oak Hike and Bike Trail Project remain constant with apparent modes of funding rely on sequences of refinancing agreements left and encumbered for another fiscal year in which to finance them.

We deftly move forward with the Heritage Oaks Hike and Bike Trail Project. I believe that the roadway extension, movement over the road, is a greater priority and have greater value to the city in the long-term. I also believe that in moving forward, fee structures (Impact Fees) above zero should be incorporated sooner than the time given for their incorporation, given the at least three year time span since their consideration and the completion of their rate study. Capital Improvement is constant and our growth will not be impeded. However, we need to position ourselves beyond reliance on refunding agreements in order to keep up with growth and sustain fiscal viability.

Jonathan L. Okray


Councilmember At-Large

While I understand the rationale behind this budget amendment request, I have concerns about its timing. The City determined on August 12 that the level of response required professional assistance.

The contractor in question was dispatched and began offering services an entire month prior to the City Council adopting the budget and plan of municipal services for fiscal 2017 on September 13th.

Although the final costs of these professional services were not known, I do feel that this expenditure request as an estimate could've been discussed and included in the City Council's deliberations during the budget season.

Over the past several years, I have seen time after time, high-ticket expenditure requests come before this governing body at what seems to be very strategically determined times.

These concerns have led me to oppose this agenda item.

Best,

Gregory Johnson
Killeen City Councilmember, At Large
254-702-5162



City of Killeen

Legislation Details

File #: RS-17-001 **Version:** 1 **Name:** Trimmier Rd Widening CO #11
Type: Resolution **Status:** Resolutions
File created: 10/31/2016 **In control:** City Council Workshop
On agenda: 1/3/2017 **Final action:**
Title: Consider a memorandum/resolution authorizing the execution of Change Order No. 11 to McLean Construction, Inc. for the Trimmier Road Widening Project.
Sponsors: Public Works Department, Transportation Division
Indexes:
Code sections:
Attachments: [Council Memorandum](#)
[Change Order](#)
[Change Order Tracking](#)
[Certificate of Interested Parties](#)

Date	Ver.	Action By	Action	Result
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CITY COUNCIL MEMORANDUM

AGENDA ITEM

AUTHORIZE THE EXECUTION OF CHANGE ORDER NO. 11 TO MCLEAN CONSTRUCTION, INC, FOR THE TRIMMIER ROAD WIDENING PROJECT

ORIGINATING DEPARTMENT

PUBLIC WORKS - TRANSPORTATION DIVISION

BACKGROUND INFORMATION

Due to the increasing volume of traffic on and around Trimmier Road, on March 26, 2013, the City Council authorized staff to enter into a professional services agreement with Mitchell and Associates, Inc., to prepare the designs for road widening and additional access improvements along Trimmier Road spanning from Jasper Drive to Elms Road and coinciding with construction being completed through the Texas Department of Transportation's (TxDOT) US 190 widening project (See CCM/R 13-029R.). At this time, TxDOT's US 190 expansion project extending from the main gate of Fort Hood to W. S. Young Drive is currently underway, increasing from (4) lanes to six (6) lanes. The project scope also includes the widening of Trimmier Road directly under US 190 within the TxDOT right-of-way.

On May 30, 2013, the Killeen-Temple Metropolitan Planning Organization (KTMPPO) distributed nomination forms for the Statewide Transportation Planning Metropolitan Mobility (STP-MM) Category 7 funds, an opportunity to help fund the projects within the Trimmier corridor. On September 10, 2013, City Council authorized submission of an application to participate in the KTMPPO (STP-MM) Category 7 funds project call (CCM/R 13-103R) to fund a portion (US 190 to Bacon Ranch Road) of the Trimmier Road Widening Project. The City Council also expressed its commitment to fund the remaining portion of the project (consisting of two parts of Trimmier: Bacon Ranch Road to Elms Road and US 190 to Jasper Road). On September 18, 2013, the KTMPPO awarded \$2,000,000 to the City of Killeen for the Category 7 project with a City match for the estimated balance of the portion of the project submitted. The portion of the project from US 190 to Bacon Ranch Road was estimated to total \$3,464,243, minus the \$2,000,000 Category 7 award and \$156,047 of TxDOT indirect costs, leaving a City match amount of \$1,308,196. The match and the remainder of the project were to be funded out of Certificates of Obligation indicated by the Reimbursement Resolution approved by City Council on February 25, 2014 (CCM/R 14-023R).

Prior to these actions, several City Council members had voiced concerns and City staff actions were begun to address traffic congestion, pedestrian improvements, and safety concerns on W. S. Young Drive, Lowe's Boulevard and the Trimmier corridors.

In relation to W.S. Young Drive, on January 26, 2007, the City Manager executed a professional services contract to design the widening of W. S. Young Drive from Bacon Ranch Road to Little Nolan Road. The purpose of this project was to improve the sight distance throughout this corridor and mitigate the potential for vehicular accidents. The installation of a continuous left

hand turn lane was intended to improve the sight distance for drivers turning from Bacon Ranch Road northbound onto W.S. Young Drive and the general traffic flow in the area.

In relation to Lowe's Boulevard, on July 12, 2011, the City Council authorized the award of a professional services agreement to design the extension of Lowe's Boulevard from Trimmier Road to Florence Road (CCM/R 10-100R). This project was previously included in the approved prioritized list in CCM/R 10-095R on August 24, 2010. The Certificate of Obligation funding for the prioritized projects was depleted prior to the Lowe's Boulevard project being advertised for bids.

As all of the above-described projects are either contiguous projects or in the same general vicinity and designed by the same firm, City staff proposed that they be combined into one bid package. Including these projects, as recommended, eliminates duplicity of effort and improves coordination for traffic control and construction project sequencing.

Following the above actions, on February 25, 2014, a Reimbursement Resolution was approved by City Council whereby a portion of a future Certificate of Obligation Bond issuance would be used for street improvements. The action proposed that the City's general fund advance funds for the projects identified; when proceeds from the sale of the Certificates of Obligation Bonds were received, any amounts previously advanced from the general fund would be repaid to the general fund (CCM/R 14-023R). On March 11, 2014, a required initial payment of \$37,448 from the City to the Texas Department of Transportation (TxDOT) for design review was authorized by City Council to be sent with an executed Advance Funding Agreement (CCM/R 14-029R) to secure the Category 7 funds previously discussed. The construction plans were then subsequently submitted to, and approved by, TxDOT. At that time, TxDOT authorized the City to proceed with the bidding process.

The City advertised for bids on July 27, 2014, August 3, 2014, and August 10, 2014. On August 28, 2014, at 3:15 p.m., bids were opened and read aloud for the construction of the Trimmier Road Widening Project. On September 23, 2014, the City Council authorized awarding a construction contract to McLean Construction, Inc. in the amount of \$6,845,845.00 (CCM/R 14-129R).

DISCUSSION/CONCLUSION

Change Order No. 11 will add plan quantities for items of work on the Trimmier Road portion of the Trimmier Road Widening project. This change order is recommended due to regulation changes requiring pedestrian push buttons and pole locations and the necessity of additional conduit to remove hazardous splicing beneath the roadway.

FISCAL IMPACT

The total cost of the project before this Change Order request was \$7,428,972.05. The total cost of this change is a net increase in the amount of \$97,905.10, resulting in a total contract price of \$7,551,654.15 or a cumulative 10.31% increase to the original contract. Funding is available in the Certificate of Obligation 2014, Trimmier Bond account number 347-3490-800.58-76 in the amount of \$539,867.

RECOMMENDATION

City staff recommends the City Council authorize the City Manager to execute Change Order No. 11 with McLean Construction, Inc., increasing the cost of the contract by \$97,905.10.

CHANGE ORDER

No. 11

OWNER: CITY OF KILLEEN
CONTRACTOR: McLean Construction, Inc
Contract: CSJ 0909-36- 147 RPIC: William K. Swearingen, Jr., P.E.
Project: Trimmier Road Widening
OWNER's Contract No. 313-002 OWNER's Bid No. 14-14
ENGINEER: William K. Swearingen, Jr, P.E. ENGINEER's Contract No. N/A

You are directed to make the following changes in the Contract Documents:

Description: This change order will add bid item quantities to the Trimmier Road portion of the Trimmier Road Widening project. See attached Bid Items Worksheet.

Reason for Change Order: This change is because of regulation changes required for pedestrian push buttons and pole locations, and adding additional conduit to remove splicing beneath the roadway.

Attachments: Bid Items worksheet.

CHANGE IN CONTRACT PRICE:
Original Contract Price \$ <u>6,845,845.00</u>
Net Increase (Decrease) from previous Change Orders No. <u>1</u> to <u>10</u> : \$ <u>607,904.05</u>
Contract Price prior to this Change Order: \$ <u>7,453,749.05</u>
Net increase (decrease) of this Change Order: \$ <u>97,905.10</u>
Contract Price with all approved Change Orders: \$ <u>7,551,654.15</u>

CHANGE IN CONTRACT TIMES:
Original Contract Times: Substantial Completion: <u>572</u> Ready for final payment: <u>602</u> (days or dates)
Net change from previous Change Orders No. <u>1</u> to No. <u>10</u> : Substantial Completion: <u>373</u> Ready for final payment: <u>373</u> (days)
Contract Times prior to this Change Order: Substantial Completion: <u>945</u> Ready for final payment: <u>975</u> (days or dates)
Net increase (decrease) this Change Order: Substantial Completion: <u>0</u> Ready for final payment: <u>0</u> (days)
Contract Times with all approved Change Orders: Substantial Completion: <u>945</u> Ready for final payment: <u>975</u> (days or dates)

RECOMMENDED:

By: _____
ENGINEER (Authorized Signature)
Date: _____

APPROVED:

By: _____
TxDOT (Authorized Signature)
Date: _____

ACCEPTED:

By: _____
CONTRACTOR (Authorized Signature)
Date: _____

APPROVED:

By: _____
OWNER (Authorized Signature)
Date: _____

JOB NAME: TRIMMIER ROAD - CO#11

CSJ: 0909-36-147

Changes to Trimmer Road portion only

Line No.	Item No.	Description	Bid Quantity	Previous Quantity	Proposed C/O Quantity	Proposed Quantity	UOM	Unit Price	Proposed Reduced Amount	Proposed Added Amount	Proposed Total Amount
(63)	620-2009	ELEC CONDR (NO. 6) BARE	275	275	36	311	LF	2.10		75.60	75.60
(65)	620-2011	ELEC CONDR (NO. 8) BARE	1310	1310	2255	3,565	LF	1.40		3,157.00	3,157.00
(66)	620-2012	ELEC CONDR (NO. 8) INSULATED	965	965	1003	1,968	LF	1.70		1,705.10	1,705.10
(68)	624-2012	GROUND BOX TY C (162911) W/APRON	8	8	1	9	EA	1,008.00		1,008.00	1,008.00
(69)	624-2034	REMOVE EXISTING GROUND BOXES	2	2	4	6	EA	168.00		672.00	672.00
(97)	680-2003	INSTALL HWY TRF SIG (SYSTEM)	3	3	1	4	EA	20,160.00		20,160.00	20,160.00
(104)	682-2027	VEH SIG SEC (12 IN) LED (RED)	24	24	-5	19	EA	224.00	-1,120.00		-1,120.00
(105)	682-2043	PED SIG SEC (12") (2 IND) (HOUSING ONLY)	22	22	4	26	EA	477.00		1,908.00	1,908.00
(106)	682-2066	PED SIG SEC (12 IN) LED (COUNTDOWN)	22	22	4	26	EA	314.00		1,256.00	1,256.00
(107)	684-2010	TRF SIG CBL (TY A) (12 AWG) (5 CONDR)	2010	2010	3656	5,666	LF	3.40		12,430.40	12,430.40
(108)	684-2012	TRF SIG CBL (TY A) (12 AWG) (7 CONDR)	1515	1515	28	1,543	LF	4.50		126.00	126.00
(109)	685-2005	RLCT RDSD FLASH BEACON ASSM(SOLAR PWRD)	1	1	1	2	EA	896.00		896.00	896.00
(114)	687-2001	PED POLE ASSEMBLY	3	3	13	16	EA	3,248.00		42,224.00	42,224.00
(118)	6266-2005	VIVDS COMMUNICATION CABLE (COAXIAL)	915	915	1635	2,550	LF	3.40		5,559.00	5,559.00
(120)	8346-2001	ETHERNET CABLE CAT 5	120	120	160	280	LF	3.40		544.00	544.00
(123)	8835-2001	ACCESSIBLE PEDESTRIAN SIGNAL UNITS	22	22	4	26	EA	1,568.00		6,272.00	6,272.00
(143.21)	682-2026	VEH SIG SEC (12IN) LED (RED) ARROW	0	0	4	4	EA	258.00		1,032.00	1,032.00
TOTAL									-1,120.00	\$99,025.10	97,905.10

CHANGE ORDER(S) FOR Trimmer Road Widening Project

(Project Name)

Department/Division:	Public Works	Bid No.:	14-14	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:	McLean Construcion	CCMR No.:	14-129R	
Original Contract Amount:	\$6,845,845.00			
Date CCMR Approved:	09/23/14			

HISTORY OF CHANGE ORDERS

CO#	Proposed or Approved	Date CCMR Approved	CCMR#	Amount	Account Number <small>(xxx-xxxx-xxx-xx.xx)</small>	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	05/01/15		\$0.00	347-3490-800.58-76	Add 147 days to contract time	\$6,845,845.00	0.00%
2	<input type="checkbox"/> Proposed <input checked="" type="checkbox"/> Approved	10/17/15		\$35,978.00	347-3490-800.58-76	8" , 4,000 psi Concrete Roadway pavement + 30 days	\$6,881,823.00	0.53%
3	<input type="checkbox"/> Proposed <input checked="" type="checkbox"/> Approved	11/25/15		\$401,246.50	347-3490-800.58-76	Lowe's Blvd Extension and N/S Connector Road revisions	\$7,283,069.50	6.39%
4	<input type="checkbox"/> Proposed <input checked="" type="checkbox"/> Approved	02/24/16		\$98,986.85	347-3490-800.58-76	Trimmer Road waterline and storm drainage revisions	\$7,382,056.35	7.83%
5	<input type="checkbox"/> Proposed <input checked="" type="checkbox"/> Approved	02/24/16		-\$6,590.50	347-3490-800.58-76	Adds/Deducts and Guard Rail	\$7,375,465.85	7.74%
6	<input type="checkbox"/> Proposed <input checked="" type="checkbox"/> Approved	04/05/16		\$7,675.00	347-3490-800.58-76	Trimmer Road waterline and storm drainage revisions	\$7,383,140.85	7.85%
7	<input type="checkbox"/> Proposed <input checked="" type="checkbox"/> Approved	04/05/16		\$30,971.20	347-3490-800.58-76	Adds/Deducts and Waterline Relocation at Lowes Blvd.	\$7,414,112.05	8.30%
8	<input type="checkbox"/> Proposed <input checked="" type="checkbox"/> Approved	05/13/16		\$14,860.00	347-3490-800.58-76	Lowering of waterline/adjust traffic signal conduits	\$7,428,972.05	8.52%
9	<input type="checkbox"/> Proposed <input checked="" type="checkbox"/> Approved	08/04/16		\$24,777.00	347-3490-800.58-76	Quantities change for Walmart Boulevard traffic signalization	\$7,453,749.05	8.88%
10	<input type="checkbox"/> Proposed <input type="checkbox"/> Approved	N/A		\$0.00	347-3490-800.58-76	Change Order #10 was not approved by City Council	\$7,453,749.05	8.88%
11	<input checked="" type="checkbox"/> Proposed <input type="checkbox"/> Approved			\$97,905.10	347-3490-800.58-76	Traffic Signal changes for future Maintenance Costs	\$7,551,654.15	10.31%

Vendor Signature/Date _____

Dept. Head Signature/Date _____

Recommended:

Recommended:

Purchasing Manager/Date _____

Director of Finance/Date _____

Recommended:

Approved/Disapproved:

City Attorney/Date

City Manager/Date

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
2016-129621

Date Filed:
10/27/2016

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

McLean Construction
Killeen, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Killeen

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

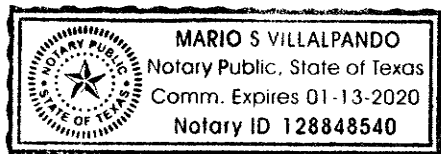
CSJ 0909-36-147
Trimmier Road Signals CO #11

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	McLean Construction	Killeen, TX United States	X	

5 Check only if there is NO Interested Party.

6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



AFFIX NOTARY STAMP / SEAL ABOVE

[Handwritten Signature]

Signature of authorized agent of contracting business entity

Sworn to and subscribed before me, by the said Steve Shepherd, this the 27 day of Oct, 2016, to certify which, witness my hand and seal of office.

[Handwritten Signature] _____
Signature of officer administering oath

Mario S. Villalpando _____
Printed name of officer administering oath

Title of officer administering oath



City of Killeen

Legislation Details

File #: RS-17-002 **Version:** 1 **Name:** Miller Uniform Purchase
Type: Resolution **Status:** Resolutions
File created: 12/14/2016 **In control:** City Council Workshop
On agenda: 1/3/2017 **Final action:**
Title: Consider a memorandum/resolution authorizing the purchase of uniforms for the Killeen Fire Department for fiscal year 2016-2017.
Sponsors: Fire Department
Indexes:
Code sections:
Attachments: [Council Memorandum](#)
[Buy Board - Miller Uniforms](#)
[Certificate of Interested Parties](#)

Date	Ver.	Action By	Action	Result
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CITY COUNCIL MEMORANDUM

AGENDA ITEM

Approval of purchase exceeding \$50,000 for Fire Department uniforms

ORIGINATING DEPARTMENT

Fire Department

BACKGROUND INFORMATION

Since 2009, the Fire Department has purchased its uniforms from Miller Uniforms and Emblems, Inc., the awarded supplier through a public safety uniform bid. The uniforms purchased are necessary to ensure all emergency service personnel are readily identifiable to the public as well as to maintain the professional appearance of KFD personnel. This fiscal year Miller Uniforms and Emblems, Inc. became a member of the Texas BuyBoard, a purchasing cooperative.

DISCUSSION/CONCLUSION

The Fire Department is requesting authority to purchase uniforms from Miller Uniforms and Emblems, Inc. in an amount exceeding the \$50,000 threshold for which Council approval is required. Miller Uniforms and Emblems, Inc. is a member of the Texas Association of School Boards (TASB) BuyBoard, therefore making this purchase exempt from state and local bidding requirements as found in The Texas Local Government Code 252.022. Miller Uniforms and Emblems' Buyboard contract, # 432-13, is effective through March 31, 2017.

FISCAL IMPACT

Funding for Fire Department uniforms is included in the 2016-2017 Uniform and Clothing budget (010-7070-442.41-20) in the amount of \$164,058 for fiscal year 2016-2017. The anticipated purchase amount for uniforms is \$100,000.

RECOMMENDATION

The city staff recommends that the city manager be authorized to execute the purchase of uniforms from Miller Uniforms and Emblems, Inc. through the remainder of its BuyBoard Cooperative Contract expiring March 31, 2017.



Phone: 800-695-2919
 Fax: 800-211-5454
 Email: info@buyboard.com

Welcome **Lorianne** [Log Off]

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[Purchase Order](#)

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Vendor Contract Information

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Search:

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 Vendor Discounts Only
 Catalog Pricing Only

Refine Your Search:

Vendors

Miller Uniforms & Emblems Inc.[X]

Price Range

Show all prices

Category

None Selected

Contract

None selected

Additional Searches:

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[Browse Contracts](#)

[Additional Resources](#)

Vendor Name: Miller Uniforms & Emblems Inc.

Address: 826 Rutland Dr
 Austin, TX 78758

Phone Number: (512) 302-5541

Email: Bobmiller@milleruniforms.Com

Website: <http://www.milleruniforms.Com>

Federal ID: 74-2493737

Contact: Bob Miller

Accepts RFQs: Yes

Minority Owned: No

Women Owned: No

Service-Disabled Veteran Owned: No

EDGAR: No

Contract Name: Public Safety & Fire House Supplies & Equipment

Contract Description: Full line of law enforcement and fire fighting supplies, equipment, & uniforms; firearms; ammunition; riot/body armor; vehicle equipment; thermal imaging; bike patrol; drug testing; speed enforcement; traffic signal; service/repair & installation

Contract#: 432-13

Effective Date: 04/01/2014

Expiration Date: 03/31/2017

Payment Terms: Net 30 days

Delivery Days: 45

Shipping Terms: Pre-paid and added to invoice

Freight Terms: FOB Destination

Ship Via: Common Carrier

Region Served: All Texas Regions

States Served: Texas

Quote Reference Number: 432-13

Return Policy: Case by case

Additional Dealers: Miller Uniforms, Houston, TX

Contract Documents

EDGAR Notice: [Click to view EDGAR Notice](#)

Proposal Documents: [Click to view BuyBoard Proposal Documents](#)

Regulatory Notice: [Click to view Bonding Regulatory Notice](#)

Contact us 800-695-2919

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY
CERTIFICATION OF FILING**

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Miller Uniforms & Emblems, Inc
Austin, TX United States

Certificate Number:
2016-145883

Date Filed:
12/13/2016

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Killeen, Texas

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

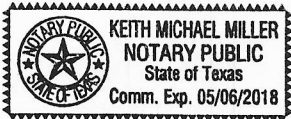
432-13
Public safety uniforms

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.



6 AFFIDAVIT



I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

Robert A Miller

Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said Robert A Miller, this the 13th day of December, 2016, to certify which, witness my hand and seal of office.

[Signature]
Signature of officer administering oath

Keith Miller
Printed name of officer administering oath

Treasurer
Title of officer administering oath



City of Killeen

Legislation Details

File #: RS-17-003 **Version:** 1 **Name:** Daily Wells Radio CCMR
Type: Resolution **Status:** Resolutions
File created: 12/14/2016 **In control:** City Council Workshop
On agenda: 1/3/2017 **Final action:**
Title: Consider a memorandum/resolution for the purchase of portable radios and mobile/vehicle mount units for the Fire Department.
Sponsors: Fire Department
Indexes:
Code sections:
Attachments: [Council Memorandum](#)
[Quote](#)
[Sole Source](#)
[Certificate of Interested Parties](#)

Date	Ver.	Action By	Action	Result
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CITY COUNCIL MEMORANDUM

AGENDA ITEM

Radio and mount unit purchase through Daily-Wells Communications

ORIGINATING DEPARTMENT

Fire Department

BACKGROUND INFORMATION

Approximately 70% of the Killeen Fire Department's portable and mobile radios are Ericsson LPE 50 and LPE 200 radios. These radios have reached the end of life and are no longer being produced nor do they have available parts for repair. The Bell County Communications Center (BCCC) has completed the build-out of the first phase of P25 upgrade and is scheduled to go online in the spring of 2017.

The radios needing to be purchased will be multi-band radios which allow us to meet our communication needs when we respond to Fort Hood for Automatic or Mutual Aid and when we are requested to deploy on State or FEMA deployments during emergencies. The Killeen Fire Department also requires all firefighters operating on an emergency scene to be equipped with and utilize a hand held radio for the purpose of remaining in constant contact with the incident commander for safety purposes.

The Killeen Fire Department is requesting to purchase 70 portable radios and 2 mobile/vehicle mount units from Daily-Wells Communications, who is the sole source provider of the Harris Radio Corporation. The Harris brand radios are the recommended radios to use with the proprietary radio system at the Bell County Communications Center.

DISCUSSION/CONCLUSION

General exemptions from the competitive bid/proposal are referenced in the Texas Local Government code section 252.002, and as stated, Daily-Wells Communications meets the sole source procurement rule.

Shown below is the breakdown of cost for the purchase of 70 portable radios and two (2) mobile/vehicle mount units. The breakdown below also shows a trade-in value for radios that KFD can no longer utilize; this special trade-in value is valid until January 31, 2017.

Item Description	Quantity	Unit Cost	Total Cost
XG-75Pe Portable- 700/800 MHz-EDACS	70	\$3,187.51	\$223,125.70
XG-75M/M7300 Mobile-700/800 MHz-EDACS	2	\$3,806.26	\$7,612.52
		Sub-Total	\$230,738.22
		Trade-In	(\$50,800)
		Total	\$179,938.22

FISCAL IMPACT

Funding of \$180,000 in the Fire Department's New Radio account (010-7070-442-46.30) for fiscal year 2016-2017 is available to accommodate the purchase price of \$179,938.22 for the purchase of 70 portable radios and two (2) mobile/vehicle mount units from Daily-Wells Communications.

RECOMMENDATION

The city staff recommends that the city manager be authorized to execute the purchase of 70 portable radios and two (2) mobile/vehicle mount units from Daily-Wells Communications, and that he is further authorized to execute any and all change orders authorized by law.

DAILEY-WELLS COMMUNICATIONS

HARRIS Inc., 3440 E, Houston St., San Antonio, TX 78219



To: Killeen Fire Dept- Captain Randy Pearson

From: Larry Sayles, 405-204-0347

Date: 12-Dec-16

Special Limited Time Offer

XG-75Pe Portable - 700/800 MHz - EDACS ProVoice, P25 Phase 1 & 2 Trunking -Single Key DES Encryption

Item	Part Number	Description	Qty.	Unit List	Disc. %	Unit Sale	Ext Sale
1	EVXG-PB78YE	PORTABLE,XG-75PE,768-861MHZ,SCAN,BLK-YEL	70	\$ 1,995.00	25%	\$ 1,496.25	\$ 104,737.50
2	EV-PA3Y	BATTERY,LI-ION,2000 MAH,HAZLOC C1D1,UL	70	\$ 190.00	25%	\$ 142.50	\$ 9,975.00
3	MAEV-NNC5X	ANTENNA,764-870 MHZ,1/4 WAVE,WHIP,FM	70	\$ 40.00	25%	\$ 30.00	\$ 2,100.00
4	MAEV-PKGED	Feature Package,EDACS Trunking	70	\$ 1,100.00	25%	\$ 825.00	\$ 57,750.00
5	MAEV-PKGPT	Feature Package,P25 Trunking	70	\$ 1,100.00	100%	\$ -	\$ -
6	EVXG-NPL4F	Feature, P25 PHASE 2 TDMA	70	\$ 250.00	25%	\$ 187.50	\$ 13,125.00
7	MAEV-NPL5K	Feature,ProFile OTAP Over-the-Air Prgm	70	\$ 265.00	25%	\$ 198.75	\$ 13,912.50
8	EV-PL4U	Feature, Single-Key DES Encryption	70	\$ 0.01	25%	\$ 0.01	\$ 0.70
9	MAEV-NHC2C	Case,Leather,w/Belt Loop,P7300	70	\$ 130.00	25%	\$ 97.50	\$ 6,825.00
10	EV-PA4B	BATTERY,LI-ION,2000MAH,SPARE,HAZLOC,UL	70	\$ 140.00	25%	\$ 105.00	\$ 7,350.00
11	MAEV-NCH9T	Charger,Single,Tri-Chem	70	\$ 120.00	25%	\$ 90.00	\$ 6,300.00
12	MAEV-NHC2G	Belt Clip,Standard,P7300	70	\$ 20.00	25%	\$ 15.00	\$ 1,050.00
SUB TOTAL							\$ 223,125.70
TRADE-IN							\$ (49,000.00)
TOTAL							\$ 174,125.70

Mobile/Vehicle Mount Units

XG-75M/M7300 Mobile 700/800 MHz, EDACS, P25 Phase 1 & 2 Trunking,Single Key DES - Remote Mount

Item	Part Number	Description	Qty.	Unit List	Disc. %	Unit Sale	Ext Sale
1	MAMW-SDMXX	MOBILE,XG-75M/M7300,764-870MHZ,HALF DPLX	2	\$ 2,300.00	25%	\$ 1,725.00	\$ 3,450.00
2	MAMW-PKGED	Feature Package,EDACS Trunking	2	\$ 1,100.00	25%	\$ 825.00	\$ 1,650.00
3	MAMW-PKGPT	Feature Package,P25 Trunking	2	\$ 1,100.00	100%	\$ -	\$ -
4	MW-PL4F	Feature, P25 Phase 2, TDMA	2	\$ 250.00	25%	\$ 187.50	\$ 375.00
5	MAMW-NPL5K	FEATURE,PROFILE OVER-THE-AIR-PROGRAMMING	2	\$ 265.00	25%	\$ 198.75	\$ 397.50
6	MW-PL4U	Feature, Single-Key DES Encryption	2	\$ 0.01	25%	\$ 0.01	\$ 0.02
7	MAMW-NCP9E	Control Unit,CH721,Scan,Remote Mount	2	\$ 720.00	25%	\$ 540.00	\$ 1,080.00
8	MAMW-NZN7R	ACCESSORIES,XG-75M/M7300 REMOTE MOUNT	2	\$ 360.00	25%	\$ 270.00	\$ 540.00
9	MAMW-NMC7Z	MICROPHONE,STD,STRAIGHT CONNECTOR	2	\$ 80.00	25%	\$ 60.00	\$ 120.00
SUB TOTAL							\$ 7,612.52
TRADE-IN							\$ (1,800.00)
TOTAL							\$ 5,812.52

Quote # KFD-XG75P-M-121216

Antennas Not Included with Mobiles- City of Killeen has been purchasing them direct.

Special one time Trade-in Prices for Killeen Fire valid until January 31, 2017.

Trade-in special pricing is available to Bell County Communications System users only.

Trade-in units must be able to power up and be from agencies existing radio inventory.

Trade-in units can be a mix of mobiles and portables on a one for one bases.

Shipping: FOB Dest- Pre-Pay and Add to Invoice

Terms: Net 30 days

City of Killeen
Sole/Single Source Purchase Form

Vendor Name: Dailey-Wells Communications
Vendor Contact: Brian Beatty
Phone: 972-550-2302 FAX: 972-550-2364

Check one: This is a recurring procurement from 10/16 to 10/17 (cannot exceed 1 yr)
(mm/yy) (mm/yy)

OR

This is a one-time procurement for this product or service. (Cost \$ _____)

Purpose: You will complete this form for procurements where the basis for the vendor selection is:

- 1) Only one *specific* supply or service that can reasonably meet your need
- 2) Only one vendor who can reasonably provide that supply or service

You MUST meet BOTH criteria to have a sole-source procurement.

You MUST meet criteria #1 to have a *brand name* sole source procurement.

Date of Request _____ Requisition or PO Number: _____
Requesting Department: Fire Department
Contact Name: Lorianne Luciano
Phone: 254-501-7696 Fax: _____
E-Mail: Lluciano@killeentexas.gov

Before a decision can be made to approve a request for Sole Source procurement, the following information is needed. Please provide all of the requested information on this form and submit it to the Purchasing Manager.

Note: A sole source justification cannot be based on price alone. If sole source is approved, your department will be required to make a determination that the price is fair and reasonable. Please submit applicable information on this form.

Note: If additional space is required, use additional sheets of paper and submit with this completed form.

1) NEEDS STATEMENT –

Describe in detail the product and/or service to be procured and how they meet your needs.

The radios will be used for emergency communications during calls for service. The Harris

brand radios are the only radios allowed for use with the proprietary radio system at the Bell County Communications Center. Daily-Wells is the sole source purchase and repair center for Harris Radio Corporation.

2) FEATURES REQUIREMENTS –

What unique design/performance features does this product/service have that are essential to your requirements? Please provide a brief yet technical explanation as to why these features are essential. Provide the manufacturer and model of your existing equipment. List the major features/capabilities of the product/service that are required:

The Harris radios are the only radios allowed on the Bell County Communications system.

3) COMPETING BRANDS INVESTIGATED –

What other suppliers did you contact? Did you consider other products or services with similar capabilities? Indicate the specific brands/models of competitors' products that were investigated and describe why, specifically, they do not meet some, or all, of the FEATURES REQUIREMENTS listed in Item #2. Requestor needs to state that to the best of his/her knowledge, these are the only companies that make this type of equipment. Please list sales representatives and telephone numbers so we may contact these vendors to verify that other products do not meet your needs.

See the attached sole source letter from Harris Communications.

4) BRAND NAME SOLE SOURCE –

Is the specific brand/model of product being recommended for procurement available from more than one source (i.e., dealers, distributors)? () Yes (X) No

If "Yes", this will be processed as a brand name sole source. Please provide the company names of known sources:

5) CONFLICT OF INTEREST STATEMENT -

The Department must have the vendor verify that there is no real or potential Conflict of Interest (CIQ) in recommending this product and/or service as a Sole Source procurement. If there is any potential for Conflict of Interest, the vendor is responsible for filling out a CIQ questionnaire.

6) SOLE SOURCE PURCHASE JUSTIFICATION MEMO-

Attach the memorandum from the vendor which addresses the five (5) criteria for justification of a sole source purchase, mentioned above.

Department Approval:

By signing below, the Department is certifying that the information submitted on this form is accurate. The final determination of sole source or brand name sole source will be made by the City Manager.

Kenneth Hawthorne 9/20/16
Signature (Department Head) Date

FOR PURCHASING DIVISION USE ONLY

RECOMMENDATION:

- Sole source approved – purchase as requested.
 Brand name approved – issue bid on a “no substitutes” basis.
 Sole Source not approved – issue bid using performance specifications.

[Signature] 9/21/16
Purchasing Manager Date

Recommend: Approval or Disapproval

[Signature] 10/4/16
Director of Finance Date Comments

Recommend: Approval or Disapproval

[Signature] 10-5-16
City Attorney Date Comments

Approved or Disapproved

[Signature] 10/5/16
City Manager Date Comments



8105 North Beltline Road
Suite 170
Irving, Texas 75063
Tele. 972.550.2302
Fax. 972.550.2364

September 19, 2016

Randy Jimenez
Purchasing Director
City of Killeen
101 N. College
Killeen, Texas 76541

Dear Mr. Jimenez:

Bell County has purchased and installed an Enhanced Digital Access Communications Systems (EDACS) manufactured by M/A-COM, Inc., now known as Harris Corporation. This system provides the critical Public Safety and Public Service communications for Bell County as well as the cities of Belton, Temple, Killeen, Harker Heights and many other agencies throughout the surrounding area.

At this time, EDACS/P25 equipment for this system falls under Harris Corporation intellectual property rights and the proprietary protocols represent a patent, copyright or secret process and are, therefore, currently only available from the manufacturer, Harris Corporation.

Dailey-Wells Communications is the only authorized Harris Corporation Network Solutions Provider to provide system sales, service and repairs to include mobiles, portables, control stations and other EDACS/P25 equipment for agencies operating on this communications system including the City of Killeen. This assignment was made effective September 2004 and does not have an end date. If this status should change at some point in the future you will be notified by Harris Corporation in writing. Orders for Harris Corporation equipment, service and associated accessories should be placed through Dailey-Wells Communications.

Thank you for your attention in this matter. Harris Corporation and Dailey-Wells Communications look forward to the opportunity to continue the service and sales support of EDACS Systems throughout your area.

Sincerely,

Brian Beatty
Manager Indirect Sales, Harris Corporation

Cc: Jim Sawyer, Director of Sales, Dailey-Wells Communications

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY
CERTIFICATION OF FILING**

Certificate Number:
2016-145820

Date Filed:
12/13/2016

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
Dailey and Wells Communications, Inc.
San Antonio, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.
City of Killeen Texas

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.
KFD-XG75P-M-121216
Two-Way Radio Equipment

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Wells, Richard	San Antonio, TX United States	X	

5 Check only if there is NO Interested Party.

6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



[Handwritten Signature]
Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said Jim Sawyer, this the 13 day of December, 2016, to certify which, witness my hand and seal of office.

[Handwritten Signature] Sharon Slaughter Notary
Signature of officer administering oath Printed name of officer administering oath Title of officer administering oath



City of Killeen

Legislation Details

File #: OR-16-025 **Version:** 1 **Name:** Bartlett Franchise
Type: Ordinance **Status:** Ordinances
File created: 11/21/2016 **In control:** City Council Workshop
On agenda: 1/3/2017 **Final action:**
Title: Consider an ordinance granting an electric franchise to Bartlett Electric Cooperative, Inc. (2nd of 3 Readings)
Sponsors: City Attorney Department
Indexes:
Code sections:
Attachments: [Council Memorandum](#)
[Ordinance](#)

Date	Ver.	Action By	Action	Result
12/13/2016	1	City Council		
12/6/2016	1	City Council Workshop		

CITY COUNCIL MEMORANDUM

AGENDA ITEM

An ordinance granting an electric franchise to Bartlett Electric Cooperative, Inc.

ORIGINATING DEPARTMENT

City Attorney

BACKGROUND INFORMATION

The City Charter states that the City has ownership and right of control and use of streets, highways, alleys, parks, public places, and all other real property. It further provides that the City Council may grant a right of use of City property to others for the purpose of furnishing to the public any general public service through a franchise.

Bartlett Electric Cooperative, Inc. ("Bartlett") serves areas in the southern portions of the City that became part of the City through annexation. Bartlett has not previously had a franchise with the City. Some portions of Bartlett's service area are also served by Oncor.

DISCUSSION/CONCLUSION

City staff has negotiated with Bartlett representatives to prepare the proposed franchise. The fee received by the City will be four percent (4%) of the gross receipts from the sale of electricity within the City limits, with payments made annually. Bartlett will add these fees to the bills of its customers, similar to the manner used by other franchisees to collect franchise fees. A conservative estimate of the annual fees to be collected is \$20,000.00.

The franchise term is proposed to expire on June 20, 2031, to match the City's other franchises. There is an automatic renewal term of three (3) months if not cancelled sixty (60) days before expiration.

The City Charter requires three (3) readings of a franchise ordinance, and the last reading must be not less than 30 days from the first. The three readings will be December 13, 2016; January 10, 2017; and January 24, 2017. A franchise does not take effect until 60 days after passage. It is proposed that this ordinance be effective March 25, 2017.

FISCAL IMPACT

As this is a new franchise, staff is unable to provide historical data. According to preliminary estimates, the annual fee paid by Bartlett is anticipated to be approximately \$20,000.00.

RECOMMENDATION

Recommend the City Council approve the proposed franchise ordinance.

AN ORDINANCE GRANTING AN ELECTRIC LIGHT, HEAT AND POWER FRANCHISE TO BARTLETT ELECTRIC COOPERATIVE, INC.; PROVIDING FOR A FEE FOR THE USE OF THE PUBLIC RIGHTS-OF-WAYS; AND PROVIDING THAT SUCH FEE SHALL BE IN LIEU OF OTHER FEES AND CHARGES, EXCEPTING AD VALOREM TAXES

WHEREAS, Bartlett Electric Cooperative, Inc., a Texas non-profit electric cooperative corporation (“Grantee”), is in the business of supplying electricity for light, heat, power and other purposes, and has applied pursuant to Article XI of the City of Killeen’s Charter, Local Government Code Chapter 282, and Chapter 33 of the Texas Utilities Code for consent of the City of Killeen, Texas (“City”) to make use of its public ways for the purpose of providing such service within the City; and

WHEREAS, it is hereby found and determined by the City Council that it is in the best interests of the City that such consent be granted, subject to the terms and conditions provided herein; and

WHEREAS, the meeting at which this ordinance was passed was open to the public, and notice of the time, place and purpose of said meeting was given as required by law, all in strict accordance with the requirements of the Texas Open Meetings Act;

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

SECTION 1: *Findings.* The City Council officially finds and declares that the facts and recitations set forth in the preamble to this ordinance are true and correct.

SECTION 2: *Grant.* Subject to the provisions of the City’s Code of Ordinances, as such may be amended from time to time, Grantee is hereby granted the right, privilege and franchise to construct, maintain, and operate in the present and future streets, alleys and public ways (“Public Rights-of-Way”) of the City of Killeen, Texas (including, to the extent allowed by law, any area subsequently annexed into the City during the term of this franchise), electric, light and power lines, with all necessary or desirable appurtenances (including underground conduit poles, wires, transmission lines and other structures and telephone wires for its own use) (the “System”) for the purpose of supplying electricity to the said City, the inhabitants thereof, and persons and corporations beyond the limits thereof, for light, heat, power and other purposes. This franchise does not confer upon Grantee the right, privilege or authority to provide data delivery service, cable television service, or telephone service, or to engage in any other business within the City other than the transmission and distribution of electric power as herein provided.

SECTION 3: *Term.* This franchise shall become effective upon the later of its passage and publication pursuant to the City’s Charter, and Grantee’s written acceptance as provided below, and unless sooner terminated as herein provided shall expire on June 30, 2031; provided that, unless either the City or Grantee gives written notice not less than sixty (60) days before the expiration of the term, the franchise shall be automatically renewed for an additional period of three (3) months from such expiration date, and shall be automatically renewed thereafter for like periods until canceled by written notice given not less than sixty (60) days before the expiration of any such renewal period.

SECTION 4: *Non-Exclusivity.* This franchise is not exclusive, and nothing herein contained shall be construed so as to prevent the City from granting other like or similar rights and privileges to any other person, firm or corporation, provided that such grant does not unreasonably interfere with the rights granted herein.

SECTION 5: *Rights Reserved.*

- A. The City reserves the right to lay, and permit to be laid, storm, sewer, gas, water, wastewater, voice, video, data and other pipelines, cable, and conduits or other improvements, and to do and permit to be done any underground or overhead work that may be necessary or proper in, across, along, over, through or under Public Rights-of-Way occupied by Grantee. The City also reserves the right to change in any manner any curb, sidewalk, highway, alley, public way, street, utility lines, water or wastewater pipes, gas lines, storm sewers, drainage basins, drainage ditches, and the like. Upon request by City, Grantee shall relocate its facilities at Grantee's expense, to the extent provided by Section 37.101(c) of the Texas Utilities Code, or successor or similar legislation, as amended. When Grantee is required by City to remove or relocate its poles, towers, conduits, cables and other facilities to accommodate public right-of-way improvements, and Grantee is eligible under Federal, State, County, City or other local agencies or programs for reimbursement of costs and expenses incurred by Grantee as a result of such removal or relocation and such reimbursement is required to be handled through City, Grantee's costs and expenses shall be included in any application by City for reimbursement, if Grantee submits its cost and expense documentation to City prior to the filing of the application. City shall provide reasonable notice to Grantee of the deadline for Grantee to submit documentation of the costs and expenses of such relocation to City. In the event of a conflict between this Franchise and an ordinance of the City addressing Public Rights-of-Way management, this Franchise shall control.
- B. If Grantee has spare ducts in its underground conduits or space on any of its poles not then necessary in the conduct of its business, it may permit the City to use one such duct in each conduit or reasonable communications space on poles, or both, for the City's police and fire alarm wires, traffic control wire or cable, fiber optic lines connecting City facilities or other similar, appropriate non-commercial, governmental use, and the City shall execute an attachment agreement with Grantee and pay Grantee a fair rental therefore. Upon notice by Grantee that such facilities have or will become necessary in the conduct of its business, the City shall cease its use of such facilities within ninety (90) days of such notice.
- C. If City abandons any public rights-of-way in which Grantee has facilities, such abandonment shall be conditioned on Grantee's right to maintain its use of the former public rights-of-way and on the obligation of the party to whom the public rights-of-way are abandoned to reimburse Grantee for all removal or relocation expenses if Grantee agrees to the removal or relocation of its facilities following abandonment of the public rights-of-way. If the party to whom the public rights-of-way are abandoned requests the Grantee to remove or relocate its facilities and Grantee agrees to such removal or relocation, such removal or relocation shall be done within a reasonable time at the expense of the party requesting the removal or relocation. If relocation cannot practically be made to another public right-of-way, the expense of any right-of-way acquisition shall be considered a relocation expense to be reimbursed by the party requesting the relocation.
- D. If the City requires the Grantee to adapt or conform its facilities, or in any manner to alter, relocate or change its property to enable any entity other than the City to use, or use with greater convenience, said public rights-of-way, the Grantee shall not be bound to make such changes until such other entity shall have undertaken, with good and sufficient bond, to reimburse the Grantee for any costs, loss or expense which will be caused by, or arises out of such change, alteration or relocation of Grantee's property or facilities.

- E. Grantee retains all of its lawful authority and rights under the Public Utility Regulatory Act (“PURA”) and any other applicable laws, rules and regulations.

SECTION 6: *Service Standard.* Service furnished hereunder to the City and its inhabitants shall be first class in all respects considering all circumstances, and shall be subject to such reasonable rules and regulations as the City may make from time to time. Grantee shall at all times comply with all applicable laws and regulations, and shall at its sole expense maintain all licenses, permits and certifications necessary or appropriate for the exercise of its rights hereunder. However, this Franchise shall in no way affect or impair the rights, obligations or remedies of the parties under PURA, or other state and federal law, rules or regulations. Nothing herein shall be deemed a waiver, release or relinquishment of either party’s right to contest, appeal or file suit with respect to any action or decision of the other party, including ordinances adopted by the City that Grantee believes are contrary to any federal, state or local law, rules or regulations.

SECTION 7: *Installation and Maintenance.* All of Grantee’s poles, conduits, structures and other appurtenances shall be erected and maintained in good order and condition, and so as not to unreasonably interfere with traffic over Public Rights-of-Way, or present a danger to life or property. Grantee shall promptly restore any Public Rights-of-Way to at least the same condition as existed prior to any damage caused by the exercise of Grantee’s rights hereunder. Grantee shall obtain a permit from the City Manager or designee in compliance with the City’s Streets, Sidewalks and Miscellaneous Public Places Ordinance Sec. 25-52 prior to installation of any new facilities. If a permit is not issued by the City to Grantee within one (1) week of Grantee’s application for such permit, then the permit shall be deemed granted. The location of all poles, conduits, and other structures shall be subject to approval of the City’s Public Works Director, but not so as to unreasonably interfere with the proper operation of said lines. An approval by such Director, or any other agent of the City, of any part of Grantee’s performance shall not be construed to waive compliance with this franchise or to establish a standard of performance other than required by this franchise or by law. Pursuant to the City’s Streets, Sidewalks and Miscellaneous Public Places Ordinance Sec. 25-52, Grantee shall provide the Public Works Director once each calendar month electronic “as-built” files depicting new infrastructure installed in the City limits or its extraterritorial jurisdiction, and a report giving the location of each utility pole which Grantee has set in the right-of-way of any and all streets and alleys in the City during the preceding calendar month. In addition, each January Grantee shall provide the Public Works Director updated electronic files reflecting Grantee’s current infrastructure location maps. All electronic files shall be in PDF or other format reasonably acceptable to the City.

SECTION 8: *Tree Pruning.* Grantee shall have the right and privilege, insofar as the City is able to grant the same, in accordance with National Arborist Association standards, of the pruning of all trees which overhang the Public Rights-of-Way, in such a manner and to such extent as will prevent the branches or limbs or other parts of such trees from touching or interfering with its wires, poles and other fixtures and equipment.

SECTION 9: *Books and Records.* During the term of this franchise and for a minimum of two years thereafter, Grantee shall keep and maintain comprehensive records, accounts, and financial and operating reports in a manner that will allow the City to verify Grantee’s compliance with the terms of this franchise. The Finance Director shall, upon 15 days’ advance notice, have the right to inspect such records. In the event such Director determines that Grantee has not complied with any term or condition of this franchise, the Director shall have the right to use those records in any manner necessary to resolve Grantee’s noncompliance. If Grantee provides confidential or proprietary information to the City under this or any other provision of this franchise, Grantee shall be solely responsible for identifying such information with markings calculated to bring the City’s attention to the proprietary or confidential nature of the

information. The City agrees to maintain the confidentiality of any non-public information obtained from Grantee so designated to the extent allowed by law. City shall not be liable to Grantee for the release of any information the City is required to release by law, or that the City, after consultation with legal counsel, in good faith believes it is required by law to release. City shall endeavor to: (i) provide notice to Grantee of any request for release of information marked by Grantee as proprietary or confidential prior to releasing the information so as to allow Grantee adequate time to pursue available remedies for protection; and (ii) provide Grantee with a copy of any request the City submits to the Texas Attorney General seeking an opinion on the disclosure of such information.

SECTION 10: *Franchise Fees.* In consideration of the privilege and license granted by the City, Grantee agrees to pay and City agrees to accept franchise fees paid on an annual basis. Franchise fees shall be calculated as four percent (4%) of the gross receipts from the sale of electricity within the City limits for the calendar year January to December, in lieu of any and all occupation taxes, assessments, municipal charges, fees, easement taxes, franchise taxes, license, permit and inspection fees or charges, street taxes, bonds, street or alley rentals, and all other taxes, charges, levies, fees and rentals of whatsoever kind and character which the City may impose or hereafter be authorized or empowered to levy and collect, excepting only the usual general and special ad valorem taxes which the City is authorized to levy and impose upon real and personal property, sales and use taxes, and special assessments for public improvements. The franchise fees hereunder shall be payable on or before the thirty first (31st) day of January following the year for which payment is made, beginning with the first such date following the Effective Date of this Franchise. However, the first such payment shall be prorated as necessary to reflect only those gross receipts received by the Grantee after the Effective Date of this Franchise. If any payment due date required herein falls on a weekend or bank holiday, payment shall be made on or before the close of business of the first working day after the payment due date. At the time such payment is delivered, Grantee shall file with the City a sworn report containing a detailed accounting of the calculated fee, together with such additional information as the City may reasonably require.

SECTION 11: *Late Fees; Audit Fees.* Grantee shall pay a late penalty calculated in accordance with the interest rate for customer deposits established by the Public Utility Commission of Texas (“PUC”) in accordance with Texas Utilities Code Section 183.003 as amended, for the time period involved on franchise fee payments (or portions thereof) that are not timely received by the City. In addition, if the results of any audit indicate Grantee underpaid the franchise fee by more than five percent (5%), then Grantee shall pay the reasonable costs of the audit.

SECTION 12: *No Waiver.* No acceptance of payment shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable under this franchise or for the performance of any other obligation hereunder. Any overpayment to the City through error or otherwise will, at the sole option of the City, either be refunded or offset against the next payment due from Grantee. Waiver of the City’s rights hereunder may only be effected by a written instrument approved by the City Council. The provisions of this Section will survive termination or expiration of this franchise.

SECTION 13: *Insurance.* Upon acceptance of this franchise by Grantee and before Grantee shall have any rights hereunder, Grantee shall file with the City a certificate of insurance evidencing General Liability Insurance which covers claims for bodily injury, property damage and death. Such insurance shall have minimum limits of \$1,000,000 per occurrence and be written by insurance companies authorized to do business in Texas and having a minimum A.M. Best rating of “A” Class “VII.” All insurance contracts and certificates of insurance will: (i) name the City as an “additional named insured;” (ii) state that coverage shall not be canceled, nonrenewed or materially changed except after 30 days written notice by certified mail to the City; (iii) waive subrogation against the City, its officers, employees

and elected representatives; and (iv) provide that such insurance is primary insurance with respect to the City, its officers, employees and elected representatives. Grantee shall continuously and without interruption maintain in force the insurance coverage and limits required by this Section.

SECTION 14: *Release and Indemnity.* The rights granted by this franchise shall not create any additional liability to the City. **GRANTEE HEREBY RELEASES AND DISCHARGES THE CITY FROM AND FURTHER COVENANTS AND WARRANTS THAT IT WILL PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY, ITS AGENTS, OFFICERS, OFFICIALS, LEGAL REPRESENTATIVES, EMPLOYEES, INSURERS AND ASSIGNS (COLLECTIVELY REFERRED TO IN THIS SECTION AS “THE CITY”) FROM ANY AND ALL FINES, DEMANDS, DAMAGES, INJURIES OR CLAIMS AND CAUSES OF ACTION ARISING BY REASON OF OR IN CONNECTION WITH: (i) THE ACTUAL OR ALLEGED ERRORS, INTENTIONAL ACTS, OMISSIONS OR NEGLIGENT ACTS OF GRANTEE (INCLUDING ITS OFFICERS, AGENTS, BONDING COMPANIES, EMPLOYEES AND ANY OTHER PARTY EMPLOYED OR CONTRACTED BY GRANTEE TO PERFORM UNDER THIS FRANCHISE) RELATING TO THIS FRANCHISE; AND (ii) ANY ACTION OR FAILURE TO ACT BY GRANTEE (INCLUDING ITS OFFICERS, AGENTS, BONDING COMPANIES, EMPLOYEES AND ANY OTHER PARTY EMPLOYED OR CONTRACTED BY GRANTEE) TO PERFORM UNDER THIS FRANCHISE IN CONNECTION WITH THE SYSTEM OR THIS FRANCHISE. IN THE EVENT OF JOINT AND CONCURRENT NEGLIGENCE OR FAULT OF BOTH THE CITY AND GRANTEE, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY OF THE DEFENSES OF THE PARTIES UNDER TEXAS LAW. FURTHER, IN THE EVENT OF JOINT AND CONCURRENT NEGLIGENCE OR FAULT OF BOTH THE GRANTEE AND THE CITY, RESPONSIBILITY FOR ALL COSTS OF DEFENSE SHALL BE APPORTIONED BETWEEN THE CITY AND GRANTEE BASED UPON THE COMPARATIVE FAULT OF EACH.** This indemnity clause shall apply to Grantee whether Grantee is immune from liability or not. As to any matters arising under this indemnity provision for which Grantee has agreed to indemnify the City, Grantee shall have the right to select defense counsel, subject to City’s approval, which will not be unreasonably withheld. If Grantee fails to retain counsel within seven (7) business days of City’s written notice that City is invoking its right to indemnification under this franchise, City shall have the right to retain defense counsel on its own behalf, and Grantee shall be liable for all reasonable defense costs incurred by City, except as provided above as to joint and concurrent negligence or fault. Grantee’s liability under this indemnity clause is separate from its duties under the insurance provisions of this franchise. This section is solely for the benefit of the City and does not create or grant any rights, contractual or otherwise, to any other person or entity. The City and Grantee shall promptly advise each other in writing of any known claim or demand against Grantee or City related to or arising out of the Grantee’s activities in the Public Rights-of-Way. The obligations of this Section will survive the expiration or termination of this franchise.

SECTION 15: *Default and Remedies.* The City will give Grantee not less than 30 days’ written notice of any alleged default hereunder, provided that if the nature of the alleged default is such that the giving of such notice is impractical due to a threat of harm to life or property then the City shall give such notice as may be reasonable under the circumstances. If Grantee remains in default beyond any period provided for cure thereof, the City may terminate this franchise unless Grantee has commenced a cure and is diligently pursuing such cure. Termination is final upon the effective date of City Council adoption of an ordinance ratifying the termination. Upon any termination of this franchise, all amounts owed by Grantee to the City shall immediately become due and payable and Grantee’s obligation to pay such sums shall survive the termination of this franchise. Alternatively, the City, at its sole option

and discretion and without waiving such uncured default, may determine to: (i) maintain this franchise in full force and effect and file suit against Grantee for damages, specific performance, injunctive relief, or some combination thereof; (ii) or pursue such other remedies as may be available to the City at law or in equity, or both. The City's rights and remedies herein shall be in addition to, and not in limitation of, any other rights or remedies provided by law, in equity, or by administrative proceeding before the PUC, Federal Energy Regulatory Commission, or respective successor or similar governmental agencies.

SECTION 16: *Force Majeure.* Except as may be expressly provided otherwise, Grantee shall not be liable to the City for any failure of performance hereunder due to causes beyond Grantee's control, including but not limited to: (a) acts of God, fire, explosion, vandalism, storm, or other similar occurrences; (b) national emergencies, insurrections, riots, acts of terrorism, or wars; or (c) strikes, lockouts, work stoppage, or other labor difficulties. To the extent practicable, the Grantee shall be prompt in restoring normal conditions, establishing new schedules and resuming operations as soon as the force majeure event causing the failure or delay has ceased. Grantee shall promptly notify the City of any delay in performance under this Section and such failure's effect on performance required under this franchise.

SECTION 17: *Successors and Assigns.* The rights granted by this franchise inure to the benefit of Grantee and any entity controlling, controlled by, or under common control with Grantee. Upon any assignment such related entity assumes all obligations of Grantee hereunder and is bound to the same extent as Grantee hereunder. Grantee shall give City written notice within sixty (60) days of any such assignment. However, this provision is subject to, and nothing contained herein shall be interpreted to prevail over the rights of any lender to Grantee, including, but not limited to, the United States of America, acting through the Rural Utilities Service and/or the National Rural Utilities Cooperative Finance Corporation or their successors, by virtue of 7 U.S.C. §907, or any successor thereto, as amended from time to time.

SECTION 18: *Entire Franchise; Amendment.* This ordinance sets forth the entirety of the franchise granted hereby, and no other understandings or agreements exist with regard to such matters. This ordinance supersedes all prior franchises granted to Grantee or its predecessors. This franchise may be amended only by an ordinance duly adopted by the City Council and accepted by Grantee.

SECTION 19: *Acceptance.* In order to accept this franchise, Grantee shall file its written acceptance within sixty (60) days after its passage and approval, and if it fails to do so this franchise shall automatically expire without necessity for any further action by the City Council.

PASSED AND APPROVED on this the _____ day of _____, 2017.

ATTEST:

Dianna Barker, City Secretary

Jose L. Segarra, Mayor

Kathryn H. Davis, City Attorney

Acceptance of Franchise

To the Honorable Mayor and City Council of the City of Killeen, Texas:

Bartlett Electric Cooperative, Inc., acting by and through the undersigned authorized officer, hereby accepts Ordinance No. _____ granting an electric light, heat and power franchise.

Bartlett Electric Cooperative, Inc.

By: _____

Bryan Lightfoot,
General Manager / CEO

Date: _____

ATTEST:

Secretary



City of Killeen

Legislation Details

File #: OR-17-001 **Version:** 1 **Name:** Calling for May 6, 2017 Election
Type: Ordinance **Status:** Ordinances
File created: 12/8/2016 **In control:** City Council Workshop
On agenda: 1/3/2017 **Final action:**
Title: Consider an ordinance ordering a general election to be held on May 6, 2017 to elect a District Council Member for each District.
Sponsors: City Secretary
Indexes:
Code sections:
Attachments: [Council Memorandum](#)
[Ordinance](#)

Date	Ver.	Action By	Action	Result
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CITY COUNCIL MEMORANDUM

AGENDA ITEM

Ordering a May 6, 2017 General Election

ORIGINATING DEPARTMENT

City Attorney/City Secretary

BACKGROUND INFORMATION

The Texas Election Code, Chapter 3, provides for the ordering of an election not later than the 78th day before the election date. In addition to any other elements required, each order must state the date of the election and the offices or measures to be voted on at the election.

The Texas Election Code, Chapter 4, also provides for giving notice of the election. The notice shall state the date and nature of the election, list the polling places, times the polling places will be open, and other information as required by law.

DISCUSSION/CONCLUSION

The attached ordinance has been prepared calling the election for the purpose of electing a Council Member for each of the 4 Districts and designating the polling places and times. Extended hours of early voting will be conducted on April 24th and May 2nd. In addition, should KISD have an election, early voting will also occur at the KISD Administration Building.

FISCAL IMPACT

The estimated cost to conduct this election is \$58,000.00. This has been budgeted in Account No. 010-1010-416.50-45, Election Expense. There will be cost-saving if KISD participates in a joint election with the city.

RECOMMENDATION

Staff recommends adoption of the proposed ordinance.

ORDINANCE _____

AN ORDINANCE ORDERING THE HOLDING OF AN ELECTION IN THE CITY OF KILLEEN, TEXAS, FOR THE PURPOSE OF ELECTING A COUNCILMEMBER FOR EACH OF THE 4 DISTRICTS; PROVIDING FOR THE FILING OF WRITTEN APPLICATION TO HAVE THEIR NAMES PRINTED ON THE OFFICIAL BALLOT; SPECIFYING THAT THE PROVISIONS OF THE GENERAL ELECTION LAWS SHALL CONTROL ALL QUESTIONS PERTAINING TO SUCH ELECTION; PRESCRIBING THE CONTENTS OF THE OFFICIAL BALLOT; PROVIDING FOR COMPENSATION; DESIGNATING THE POLLING PLACES, AND PROVIDING FOR POSTING AND PUBLICATION OF NOTICE OF ELECTION AND CONTAINING MISCELLANEOUS PROVISIONS.

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

SECTION 1. That, pursuant to the laws of the State of Texas and the Charter of the City of Killeen, it is ordered by the City Council that a general election be held in the City of Killeen, Texas, on May 6, 2017, for the purpose of electing from the City of Killeen a Council Member for District 1, 2, 3 and 4. Any reference in this ordinance hereinafter to “Election Day” shall mean May 6, 2017.

SECTION 2. The manner of holding the election and all questions pertaining to such election shall be governed by the V.T.C.A. Election Code, and the returns shall be made and canvassed and the results declared as in other legal elections of the City of Killeen.

SECTION 3. Any eligible and qualified person may have his or her name printed upon the official ballot as an independent candidate for the office of councilmember by filing a written application with the City Secretary beginning January 18th through 5:00 p.m. February 17, 2017. Any person wishing to file a declaration of write-in candidacy must do so not later than 5:00 p.m. on February 21, 2017.

SECTION 4. The names of all those who have filed their written applications to have their names printed on the official ballot as candidates shall be posted by the City Secretary in a conspicuous place at her office for the inspection of the public for at least ten days before she orders the ballot to be printed. The City Secretary shall preserve in her office for a period established by the Texas State Library and Archives Commission and adopted by the City all applications, statements, notice of objections, and other related papers.

SECTION 5. Any person eligible for the office of councilmember or other office who has filed his or her written application in accordance with the provisions of this ordinance shall have his or her name printed on the official ballot. Any such person may cause his or her name to be withdrawn at any time prior to 5:00 p.m. on February 24, 2017, by filing in writing with the City Secretary, a request to that effect over his signature, duly attested to by a Notary Public. No name so withdrawn shall be printed on the ballots. Not later than twenty days before the election, the City Secretary shall have the official ballots printed.

SECTION 6. Each qualified voter who desires to cast an early vote or who expects to be absent on the date of the election shall be entitled to an official ballot and to cast such ballot in accordance with the applicable provisions of Title 7, V.T.C.A., Election Code, beginning April 24, 2017, and continuing through May 2, 2017. The City Secretary will be the early voting clerk, who may appoint by written order one or more temporary deputies to serve as deputy early voting clerks in accordance with the applicable law. Early voting will be held in the first floor lobby of the Killeen City Hall, 101 North College (mailing address: PO Box 1329, Killeen, TX 76540, Attention: Early Voting Clerk), at the Killeen Community Center, 2201 E. Veterans Memorial Boulevard, Killeen, and at the Killeen Lions Park Senior Center, 1700-B E. Stan Schlueter Loop between the hours of 8:00 a.m. and 5:00 p.m. on each day of early voting except Saturdays, Sundays, and official State or City holidays. Provided, however, that on the first and last day of early voting, the hours shall be 7:00 a.m. to 7:00 p.m. For the 2017 election those dates shall be April 24th and May 2nd. The City Hall location for early voting is also where ballot applications and ballots voted by mail may be sent. Should the Killeen Independent School District also have an election on such date, branch early voting shall also be at the KISD School Administration Office, 200 North W.S. Young Drive, Killeen, between the hours of 8:00 a.m. and 5:00 p.m. on each day of early voting except Saturdays, Sundays, and official State holidays.

SECTION 7. The election shall be held in the hereafter-designated polling places between the hours of 7:00 a.m. to 7:00 p.m. on the date of the election.

PRECINCT # 106
Fire Station #1
3800 Westcliff Road

PRECINCT #109
St. Joseph's Catholic Church
2903 East Rancier

PRECINCT #201/204
Fire Station #3
700 Twin Creek Drive

PRECINCT #205
Jackson Professional Learning Center
902 Rev. R. A. Abercrombie Drive

PRECINCT #206/402/409
Killeen Senior Center at Lions Club Park
1700 E. Stan Schlueter Loop

PRECINCT #207
Copper Mountain Library
3000 South W. S. Young Drive

PRECINCT #203/208/210
Cedar Valley Elementary School
4801 Chantz Drive

PRECINCT #404
Fire Station #7
3701 Watercrest Road

PRECINCT #405
Robert M. Shoemaker High School
3302 Clear Creek Road

PRECINCT #406
Central Fire Station
201 S. 28th Street

PRECINCT #401/412/413
Fowler Elementary School
4910 Katy Creek Lane

PRECINCT #408
Fire Station #5
905 West Jasper Road

PRECINCT #410
Fire Department Support Facility
114 W. Avenue D

SECTION 8. The City Council shall appoint presiding election judges and alternate presiding judges for the election at the precinct polling places and as the Early Voting Ballot Board to process the early voting results, provided that if neither the presiding judge nor the alternate presiding judge can serve and their inability to serve is discovered so late that it is impracticable to fill the vacancy in the normal manner, the Mayor shall have the authority and is hereby directed to appoint a replacement judge to preside at the election. The presiding election judge for each precinct shall appoint no more than two (2) election clerks in addition to the alternate presiding judge named herein to assist the judge in the conduct of the election. The presiding election judges, alternate presiding judges, and clerks shall be paid \$10.00 per hour for serving in such capacities, and the election judges and/or alternate judges shall be paid an additional \$25.00 for delivering the returns of such election to the City Secretary for proper tabulation. No presiding election judge, alternate presiding judge, or clerk shall be compensated for a period in excess of the time extending from one hour before the polls open until two hours after the polls close. The Early Voting Ballot Board shall be paid a set rate of \$50.00 for serving in such capacity that will include proper tabulation. Provided, however, that should the Early Voting Ballot Board need to reconvene to tabulate provisional ballots, they shall be paid an additional \$10.00 per hour for such services.

SECTION 9. The following positions shall be set forth on electronic ballots hereinafter provided, in substantially the following form:

**CITY OF KILLEEN GENERAL ELECTION
MAY 6, 2017
OFFICIAL BALLOT**

FOR COUNCILMEMBER, DISTRICT 1

Vote for One

- _____
- _____
- _____

FOR COUNCILMEMBER, DISTRICT 2

Vote for One

- _____
- _____
- _____
- _____

FOR COUNCILMEMBER, DISTRICT 3

Vote for One

- _____
- _____
- _____

FOR COUNCILMEMBER, DISTRICT 4

Vote for One

- _____
- _____
- _____

SECTION 10. Optical scan ballots shall be used for early voting by mail, curbside voting, and Election Day and the Model 100 Optical Scan Voting System and AutoMARK Voter Assist Terminal shall be used for early voting by personal appearance and on Election Day.

SECTION 11. All resident qualified electors of the City shall be permitted to vote at the election.

SECTION 12. The election materials enumerated in Sec. 272.001, et seq., V.T.C.A. Election Code, shall be printed and furnished in both English and Spanish for use at each polling place on Election Day and for early voting.

SECTION 13. Notice of election shall be given by posting substantial copies of the Notice of Election as prescribed by the Secretary of State's office in both English and Spanish at the Killeen City Hall, the official city website and at three (3) other public places in the City at least thirty (30) days prior to the date set for the election; and substantial copies of the Notice of Election in both English and Spanish shall be one time in a newspaper of general circulation in the City, the date of publication to be not less than fourteen (14) days prior to the date set for the election.

SECTION 14. Returns of election shall be made by the election officers to the City Council at a meeting following the election; the returns will be canvassed and the results of the election declared as prescribed by the Election Code, V.T.C.A., of the State of Texas and the City Charter.

SECTION 15. It is officially found, determined, and declared that the meeting at which this Ordinance has been adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered and acted upon at the meeting, including this Ordinance, was given, all as required by the applicable provisions of the Texas Government Code, Sec. 551.001, *et seq.*

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 10th day of January 2017, at which meeting a quorum was present, held in accordance with the provisions of the Texas Government Code, Sec. 551.001, *et seq.*

APPROVED

Jose L. Segarra, MAYOR

ATTEST:

Dianna Barker, CITY SECRETARY

APPROVED AS TO FORM

Kathryn H. Davis, CITY ATTORNEY



City of Killeen

Legislation Details

File #: OR-17-002 **Version:** 1 **Name:** Number of Authorized Civil Service Positions
Type: Ordinance **Status:** Ordinances
File created: 12/15/2016 **In control:** City Council Workshop
On agenda: 1/3/2017 **Final action:**
Title: Consider an ordinance to amend the number of authorized Fire Rescue Officer and Fire Captain civil service positions for the Killeen Fire Department.
Sponsors: Human Resources Department
Indexes:
Code sections:
Attachments: [Council Memorandum](#)
[Ordinance](#)

Date	Ver.	Action By	Action	Result
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CITY COUNCIL MEMORANDUM

AGENDA ITEM

Ordinance To Amend the Number of Authorized Fire Rescue Officer and Fire Captain Civil Service Positions for the Killeen Fire Department

ORIGINATING DEPARTMENT

Human Resources

BACKGROUND INFORMATION

The Texas Local Government Code (TLGC), Chapter 143, became effective September, 1987; this codification represents an effort to present in a coherent and practical format the laws and civil service procedures for Texas police and fire departments. The civil service system was established in the City of Killeen in an election duly called and lawfully conducted on August 13, 1977. The rules and regulations of TLGC Chapter 143 apply to all classified police and fire officers.

One of the provisions of TLGC, Chapter 143, is that the municipality's governing body establishes the civil service classifications by ordinance, and further prescribes the number of positions in each classification [TLGC 143.021(a)].

DISCUSSION/CONCLUSION

On October 6, 2015, Council approved the Department of Homeland Security SAFER (Staffing for Adequate Fire and Emergency Response) Grant for the City of Killeen's 2015 application for salary and benefits for 37 entry-level, full-time Fire and Rescue Officers. The SAFER grant hiring process was completed in 2016 with the plan to reclassify seven (7) of these authorizations to Fire Captains when Fire Station 9 opened. Fire Station 9 is scheduled to open January 2017, and the staffing requirement of Captains will be three (3) EMS Captains, three (3) Station Captains and one (1) Fire Prevention Captain, a total of seven (7).

Human Resources is requesting to reclassify seven (7) current Fire and Rescue Officer authorizations to seven (7) Fire Captain authorizations. This change will reduce the total Fire and Rescue Officer authorizations to 183 Fire and Rescue Officers authorizations, and will add seven (7) Fire Captain authorizations for a total of thirty-six (36) Fire Captain authorizations.

The seven (7) Fire Captain authorizations are funded in the 2017 budget.

The Human Resources Department is requesting changes to nature, not the total number, of the current fire staffing, by eliminating seven (7) Fire and Rescue Officers and adding seven (7) Fire Captains.

Current Strength of Force for KFD		Revised Strength of Force for KFD	
Fire and Rescue Officer	190	Fire and Rescue Officer	183
Fire Captain	29	Fire Captain	36
Battalion Chief	6	Battalion Chief	6
Deputy Chief of Fire	4	Deputy Chief of Fire	4

FISCAL IMPACT

The estimated salary and benefit cost to reclassify seven (7) Fire and Rescue Officers to seven (7) Fire Captains is \$65,365.49. Funding is available in the Fire Department's FY 2017 budget in account numbers 010-7070-442-40-05, 010-7070-442-45-10, 010-7070-442-45-15 and 010-7070-442-45-20.

RECOMMENDATION

Staff recommends the adoption of the proposed ordinance changing the nature, not the total number, of civil service positions, eliminating seven (7) entry-level, full-time Fire and Rescue Officer positions and adding seven (7) Fire Captain positions.

AN ORDINANCE OF THE CITY COUNCIL OF KILLEEN, TEXAS, TO AUTHORIZE THE NUMBER OF FIRE RESCUE OFFICER AND FIRE CAPTAIN CIVIL SERVICE POSITION IN THE KILLEEN FIRE DEPARTMENT TO COMPLY WITH THE PROVISIONS OF TEXAS LOCAL GOVERNMENT CODE §143.021; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

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

SECTION I. That the City Council authorizes the following civil service classifications of employees in the Fire Department of the city of Killeen shall be amended for the purpose of covering such employees under the provisions of Texas Local Government Code 143.021(a) as required by statute. These classifications and no others shall exist with the number shown indicating the number of positions in each classification:

<u>CLASSIFICATION</u>	<u>NUMBER IN EACH CLASSIFICATION</u>			
	<u>FY 16-17 (amended December, 2016)</u>		<u>FY 16-17 (amended January, 2017)</u>	
	<u>(Base Authorization)</u>	<u>(Over hire)</u>	<u>(Base Authorization)</u>	<u>(Over hire)</u>
Fire and Rescue Officer	190	7	183	7
Fire Captain	29	0	36	0
Battalion Chief	6	0	6	0
Deputy Fire Chief	4	0	4	0

That this change to amend the authorized number of Fire and Rescue Officers reflects an elimination to the number of the base authorizations of Fire and Rescue Officer positions by seven (7) authorized positions, and the addition to the authorized number of Fire Captain positions by seven (7) authorized positions.

SECTION II. That all other ordinances or parts of ordinances that are in conflict with the provisions of this ordinance are repealed to the extent of such conflict.

SECTION III. That should any part of this ordinance be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.

SECTION IV. That this ordinance shall be effective January 10, 2017, and 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 _____ 10th _____ day of January, 2017, 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

Jose L. Segarra, MAYOR

ATTEST:

Dianna Barker, CITY SECRETARY

APPROVED AS TO FORM:

Kathryn H. Davis, CITY ATTORNEY



City of Killeen

Legislation Details

File #: OR-17-003 **Version:** 1 **Name:** Articles IV and V, Chapter 31 Amendments
Type: Ordinance **Status:** Ordinances
File created: 11/9/2016 **In control:** City Council Workshop
On agenda: 1/3/2017 **Final action:**
Title: Consider an ordinance amending sign regulations in Articles IV and V of Chapter 31 of the City of Killeen Code of Ordinances.
Sponsors: Planning & Development Dept
Indexes:
Code sections:
Attachments: [Council Memorandum](#)
[Ordinance](#)
[Minutes](#)

Date	Ver.	Action By	Action	Result
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CITY COUNCIL MEMORANDUM

AGENDA ITEM

Ordinance Amending Sign Regulations in Articles IV and V of Chapter 31 of the City of Killeen Code of Ordinances

ORIGINATING DEPARTMENT

Planning and Development Services

BACKGROUND INFORMATION

In a recent case *Reed v. Town of Gilbert*, the Supreme Court of the United States invalidated sign ordinances across the nation in a significant shift from previous opinions related to freedom of speech and content-neutrality of signage. The plaintiff in the case claimed that the Town of Gilbert's sign ordinance made impermissible content-based distinctions between "Temporary Directional Signs", "Ideological Signs", and "Political Signs." These categories were based on what message the sign communicated and included varying size and time limitations based on those categories. The Supreme Court stated that content based laws, those that target speech based on its communicative intent, are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests. This standard is often called strict scrutiny and regulations subject to strict scrutiny are very rarely upheld. Therefore, the Supreme Court found these distinctions to be based on content and found them unconstitutional.

DISCUSSION/CONCLUSION

Staff completed a comprehensive review of the City's sign ordinances to identify any regulations that are not in compliance with the *Reed* decision. Like the Town of Gilbert's ordinance, the city's sign regulations include various categories of signs with different requirements that could now be considered content regulations and subject to strict scrutiny by the courts.

Due to these findings, Staff began to draft revisions necessary to comply with the new law. The Planning and Zoning Commission held three public hearings to gain public input. Additionally, at the request of the Planning and Zoning Commission, Staff met with a group of sign companies to ensure the involvement of affected parties.

The primary purpose of the proposed ordinance is to remove content based distinctions found mostly in the "Definitions" and "Signs allowed without a permit" sections. In addition, the revisions update and reorder parts of the ordinance for clarity, address citizen concerns that were voiced during the review process, and add a substitution clause allowing noncommercial speech anywhere commercial speech is allowed.

FISCAL IMPACT

There is no fiscal impact associated with this ordinance.

RECOMMENDATION

The Planning and Zoning Commission unanimously recommends that the City Council adopt the proposed ordinance amending sign regulations in Articles IV and V of Chapter 31 of the City of Killeen Code of Ordinances.

AN ORDINANCE AMENDING CHAPTER 31 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; AMENDING ARTICLE IV DISTRICT REGULATIONS AND ARTICLE V SUPPLEMENTAL REGULATIONS; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING 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 Local Government Code; and,

WHEREAS, the City of Killeen regulates signs under Chapter 31 of the City of Killeen’s adopted Code of Ordinances and under the authority granted by the Texas Local Government Code; and,

WHEREAS, the City Council acknowledges that signs are appropriate in some locations but incompatible with the character of certain land uses or traffic corridors; and,

WHEREAS, the City Council has determined that it is in the best interest of the City, in protection of the public health, safety and welfare, to amend, modify and supplements the City of Killeen’s existing sign regulations; and,

WHEREAS, under its police powers to promote the health, safety, and welfare of the citizens of this community, the City Council has determined that amended, modified and supplemented regulations should be established for the City of Killeen;

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

SECTION I. That Chapter 31 of the City of Killeen Code of Ordinances is hereby amended to read as follows:

ARTICLE IV. – DISTRICT REGULATIONS

DIVISION 2. – DISTRICT “A” AGRICULTURAL DISTRICT

Sec. 31-160. - Sign regulations.

The sign regulations for a district "A" agricultural district shall be the same as for district "R-1" single-family residential district, with the exception of "~~point-of-sale~~" on-premises signs in which signs shall not exceed a total of twenty-four (24) square feet in area per premises or eight (8) feet in height ~~and shall advertise only the name of the owner, trade names, products sold and/or the business or activity conducted on the premises where such signs are located~~. There shall be no more than three (3) "~~point-of-sale~~" on-premises signs allowed for property in excess of thirty (30) acres in size.

DIVISION 4. – DISTRICT "R-1" SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 31-186. – Use Regulations.

A building or premise in a district "R-1" single-family residential district shall be used only for the following purposes:

- (13) Accessory buildings and uses, incident to the uses in this section and located on the same lot therewith, not involving the conduct of a retail building.
- a. A sign or outside advertising display (as defined by subsection ~~2304101~~.1 of the ~~Killeen-International~~ Building Code) shall not be allowed as an accessory use, except that:
1. An ~~on-premises ground bulletin board~~ sign, limited to the provisions of subsection ~~31-504~~ 31-507(1A)(3) may be allowed as an accessory use to churches, places of worship, libraries, museums and public buildings.
 2. Any unilluminated signs allowed in section 31-503 may be allowed as an accessory use to any primary use authorized by this chapter.
 3. An ~~on-premises point of sale~~ sign, limited to the provisions of subsection 31-503(2), may be allowed as an accessory use to those primary uses authorized by subsection (8), provided that such signs shall be allowable only so long as these specified primary uses are allowed.

No authorized accessory use sign shall be located in a required side or rear yard which is adjacent to any other lot designated for residential use.

DIVISION 17. – DISTRICT “HOD” HISTORIC OVERLAY DISTRICT

Sec. 31-391. – Definitions.

For the purposes of this division, the following definitions shall apply:

~~Real estate sign shall mean any sign for which a permit is not required that is used to offer for sale, lease, or rent the property upon which the sign is placed or an off-premises real estate sign that is permitted for a temporary period as outlined in section 31-504 of the city's zoning ordinance.~~

Sec. 31-398. – Sign guidelines.

All new signs shall be developed with the overall context of the building and the area in mind. Sign materials, location, illumination and size shall be compatible with the architectural features of the building and the distinct character of the district and shall be appropriate to the era in which the building was constructed or the predominant era of neighboring buildings. The HPB may develop and the city council may approve such supplemental sign guidelines as it may find necessary to implement the regulations of the historic overlay district. Unless otherwise stated, permitting requirements established in chapter 31 of the city's zoning ordinance shall be strictly enforced.

A. The following signs shall be prohibited:

1. Signs that eclipse or obstruct significant architectural detail.
2. Off-premises signs.
3. Roof signs.
4. Temporary signs except where provided in this division.
5. Ground signs and detached pole signs except for those erected by the city for traffic control and except where otherwise provided for in this division.
6. ~~Real estate s~~Signs allowed without a permit under subsection 31-503(1) larger than 18" x 24" in size. One ~~real estate~~ sign under this subsection is allowed per property, and it must be displayed inside the building's window.
7. Banners except where provided for in this division.
8. Posters.

ARTICLE V. – SUPPLEMENTAL REGULATIONS

DIVISION 4. - SIGNS AND OUTDOOR ~~ADVERTISING~~-DISPLAYS

Sec. 31-501. - Statement of purpose.

The purpose of this division is to permit such signs that will not by their reason, size, location, construction, or manner of display, endanger the public safety, confuse, mislead or obstruct the vision necessary for traffic safety or otherwise endanger public health, safety and morals, and to permit and regulate signs in such a way as to support and complement land use objectives set forth in this chapter.

(Code 1963, Ch. 9, art. 2, § 36-1 [Ord. No. 83-73, § 1, 12-13-83])

Sec. 31-502. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned sign shall mean any lawfully erected on-premises sign ~~that identifies or advertises~~ awhere the business or activity ~~that~~ has ceased to operate on the premises where the sign or sign structure is located for more than one (1) year on non-leased property or for more than two (2) years on leased property, or a lawfully erected temporary or portable sign where the time period allowed for display of the sign has expired.

~~Announcing sign or construction sign shall mean any sign giving the name or names of principal contractors, architects, and lending institutions responsible for construction, structural alteration or repair on the site where the sign is placed, together with other information included thereon.~~

Banner sign shall mean any non-permanent sign usually made from cloth, vinyl or similar material denoting a business related advertisement, name, message, design, emblem, symbol or color that is suspended or displayed for advertisement, or to attract attention.

Bench sign shall mean a sign located on any part of the surface of a bench or seat placed on or adjacent to a public right-of-way.

~~Bulletin board sign shall mean a sign which identifies an institution or organization on the premises of which it is located and which contains the name of the institution or organization, the names of the individuals connected with it, and general announcements of events or activities occurring at the institution or similar messages.~~

Changeable electronic variable message sign (CEVMS) shall mean an off-premises sign which permits light to be turned on or off periodically or which is operated in a way whereby light is turned on or off periodically, including any illuminated sign in which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, including an LED (light emitting diode) or digital sign that varies in intensity or color. A CEVMS sign does not include a sign located within the right-of-way that functions as a traffic control device and that is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD), as amended and approved by the Federal Highway Administration as the National Standard.

Dilapidated or deteriorated shall mean any sign:

- a. Where elements of the sign surface or background have portions of the finished material missing, broken or otherwise existing in a condition that they are illegible;
- b. Where the structural support or frame members are visibly bent, broken, dented, torn or loose;
- c. Where the exterior of the support, frame members or sign have rust, corrosion or missing protective coating;
- d. Where the sign panel is visibly cracked, faded or, in the case of wood and similar products, splintered in such a way as to constitute an unsightly or harmful condition;
- e. Where the sign or its elements are twisted, leaning or are at angles other than angles that the sign was originally erected (i.e.: a sign that is out of vertical or horizontal alignment as a result of, for example, being blown over or due to the failure of a structural support); or
- f. Where the sign or its elements are not in compliance with the requirements of the adopted electrical code and/or the building code.

~~Directional and informational sign shall mean a sign that directs attention to the location of a facility or a group of facilities on the same property that the sign is located. Such signs include entrance and exit signs.~~

Electronic message display sign (EMD) shall mean an on-premises sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.

Flag shall mean a piece of cloth material designed to wave, usually rectangular, ~~of distinctive color and design and secured by one side only, used as a symbol, standard, signal, or emblem. Flags shall include official flags of government jurisdictions, flags indicating weather conditions, official flags of a company including logo flags and special event flags, or flags of religious, charitable, public, or nonprofit organizations.~~

Ground sign shall mean any permanent sign supported by uprights, braces, or poles and attached to the ground.

~~Holiday decoration sign shall mean temporary signs, including flags, in the nature of decorations clearly incidental to, and customarily and commonly associated with, any national, local or religious holiday.~~

Illegal sign shall mean a sign that does not meet the requirements of this division or an ordinance in effect at the time the sign was erected, as applicable.

Illuminated sign shall mean any sign which has characters, letters, figures, designs, or outlines illuminated by electric lights or luminous tubes whether such sources of illumination are a part of a sign or not.

Inflatable sign shall mean an individual inflatable device ~~at least three (3') feet in height or width~~, with or without a specific message, figure or design attached to its surface, that is used or intended to be used to attract attention. For the purpose of this division, an inflatable sign shall be considered a temporary sign.

Maintenance shall mean the cleaning, painting and/or repairing of sign parts, or replacement of defective parts of a sign in a manner that does not alter the basic copy, design, or structure of the sign. Maintenance does not include changing the design of the sign's support construction, changing the type of component materials, or increasing the illumination.

~~Menu board sign shall mean a sign associated with a business with a drive-through or walk-up service. Any business names or logos placed on a menu sign cannot exceed ten percent (10%) of the menu sign face area.~~

Monument sign shall mean a permanent ground sign where the entire bottom of the sign is affixed directly to the ground, but not affixed to a building, pole, or any other structure ~~or pole~~.

Multi-tenant ground sign shall mean a permanent ground sign ~~advertising located on premises where~~ two (2) or more separate tenancies ~~that~~ share the same parcel and/or building.

Mural shall mean any visual depiction or work of art including mosaic, painting or graphic art technique applied, painted, implanted or placed directly onto the exterior of any wall of a building. Such depictions shall not contain words, logos, emblems, trademarks or other similar devices which identify or advertise any product, service or business. Provided, however, such depictions may include a signature or sponsor's identification area within the depiction so long as such area does not exceed ten (10%) percent of the total size of the depiction, or two and one-half (2½%) percent of the surface area of the wall that the mural is attached to or painted upon, whichever is less. A mural shall not be considered a sign.

~~Nameplate sign shall mean a sign, located on the premises, giving the name or address, or both, of the owner or occupant of a building or premises.~~

Nonconforming sign shall mean a lawfully erected sign that does not comply with the provisions of this division or other rule enacted at a later date, or that later fails to comply with a law or rule due to changed conditions.

Off-premises sign shall mean a sign visible from any public traveled road or street displaying advertising or other copy that pertains to any business, person, organization, activity, event, place, service or product not manufactured, sold or provided on the same premises on which the sign is located. ~~This definition for off-premises signs shall include any sign that does not qualify as an approved on-premises sign.~~

On-premises sign shall mean a sign displaying advertising or other copy that pertains only to a business, person, organization, activity, event, place, service, or product manufactured, sold or provided on the same premises on which the sign is located. On-premises signs may include information pertaining to civic and registered non-profit organizations. An existing on-premises sign cannot be converted to a nonconforming off-premises sign subsequent to the effective date of the ordinance from which this section is derived.

Outdated copy face shall mean copy mounted on an off-premise sign face that advertises any activity or event that occurred more than 60 days prior to the current date. This definition shall include, but is not limited to any advertisement of a business, a product manufactured, sold or provided, or any type of service provided by any profit or non-profit entity that is no longer available and has not been available for 60 days.

Pennants and streamers shall mean any attention attracting devices consisting of pennants, streamers, tinsel, ribbons, reflectors, fringes, or similar objects strung together on a common line, string or wire that are attached to poles, buildings, or structures.

~~Point-of-sale sign shall mean any sign which carries the name of the firm, major enterprise, services or products offered for sale on the premises, or a combination of these things.~~

~~Political sign shall mean a sign that contains primarily a political message.~~

Portable sign shall mean a sign that is designed to be portable and that may be attached to a transporting mechanism. Should a question arise if a sign is portable, the building official shall determine whether a sign is portable.

Premises ~~shall be interchangeable with the word "occupancy" as used in this division and~~ shall mean a single, legally recorded, undivided tract of real property controlled exclusively by the proprietor, as identified on a recorded certificate of occupancy, of the establishment on the undivided tract.

~~Private sale or event sign shall mean an on-premises temporary sign advertising private, not-for-profit sales of personal property such as "garage sales" in accordance with chapter 15, article III of this code or private not-for-profit events such as picnics, carnivals, bazaars, game nights, art fairs, craft shows and Christmas tree sales.~~

Projecting wall sign shall mean any sign that projects from and has one (1) end attached to a building, and that does not employ ground support in any manner.

~~Real estate sign may be any sign for which a permit is not required, that is used to offer for sale, lease or rent the property upon which the sign is placed or an off-premises real estate sign that is permitted for a temporary period as outlined in section 31-504.~~

~~Roof sign shall mean any sign erected upon, against or directly above the roof of any building or structure. For the purposes of this division, a roof sign shall be regulated and considered the same as a wall sign.~~

Sign shall mean any identification, description, illustration, object or device, whether illuminated or non-illuminated, that is visible from any public place or is located on private property and exposed to the public and that directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise, or any logo, painting, banner, pennant, streamer, placard or temporary sign designated to advertise, identify or convey information, with the exception of window displays and flags. "Signs" shall also include the sign structure. The term "sign" does not include an official traffic-control sign, an official governmental marker, a national, state, city, or educational institution flag, or governmental signs.

Sign area shall mean that area being the total square footage of the combined message or display surface. This area does not include structural supports for a sign, whether they be columns, pylons, or a building, or a part thereof. On a multisided sign, only one (1) face is counted in computing the sign's area.

Sign structure shall mean anything built or constructed, whether or not permanently attached to a building, structure, the ground or other surface, which supports, or is capable of supporting a sign, and includes, without limitation, the pole, cabinet and decorative cover.

Street shall mean a public highway, road or thoroughfare which affords the principal means of access to adjacent lots. Street classifications utilized in this division shall be as ~~more definitively~~ defined in the city's adopted thoroughfare plan, as amended (i.e.; collector, minor or principal arterial, etc.).

Strobe shall mean a sign where the message or lighting flashes on and off more often than once every second.

~~Subdivision construction announcement sign shall mean any sign giving the name or names of the developers, principal builders, contractors, architects, and/or lending institutions responsible for the development and construction of a new subdivision.~~

Temporary sign shall mean any non-permanent sign or advertising device.

Visible shall mean capable of being seen, whether legible or not, without visual aid by a person with normal visual acuity.

Wall sign shall mean any permanent sign affixed to or painted on the wall or surface of any building or structure that projects no more than twelve (12") inches from the building or structure. For the purposes of this division, a roof sign erected upon, against or directly above the roof of any building or structure shall be regulated and considered the same as a wall sign.

Window display shall mean the interior display of any item, including merchandise, that can be viewed through a window or other glass surface located on a building's exterior wall, provided that such items are located no closer than twenty-four (24") inches from the inside of the window or other glass surface.

Window sign shall mean any sign painted on, affixed to, or attached to a building's exterior wall window(s) or other glass surface(s), or located twenty-four (24") inches or less from the interior side of a building's exterior wall window(s) or glass surface(s). For the purposes of this division, such a sign shall be regulated and considered the same as if it were a wall sign.

(Code 1963, Ch. 9, art. 2, § 36-2 [Ord. No. 83-73, § 1, 12-13-83]; Ord. No. 97-22, § I, 3-25-97; Ord. No. 05-43, § I, 6-14-05; Ord. No. 06-78, § II, 7-11-06; Ord. No. 08-051, § I, 7-8-08; Ord. No. 08-059, § I, 7-22-08; Ord. No. 10-080, § I, 12-28-10; Ord. No. 12-050, § I, 8-28-12)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 31-503. - Allowed without permit.

The following signs are permitted in any zoning district without a permit:

- (1) ~~Real estate signs. Signs advertising the sale, lease, or rental of the premises upon which the sign is located. Such~~ When premises is for sale, lease or rent, any sign that shall neither exceed six (6) square feet in area on residential tracts of one (1) acre or less, nor thirty-two (32) square feet on residential tracts greater than one (1) acre or on commercial tracts and complies with Section 31-507.
- (2) ~~Nameplate signs. A maximum of two~~ Signs per lease or business space denoting the name and address of the occupants of the premises, which signs shall not exceed four (4) square feet in area.
- (3) One sign per entrance door (illuminated or non-illuminated) shall be limited to two (2) square feet in size and located within five (5) feet of the entrance door.
- (4) One sign per drive entrance limited to maximum of two (2) square feet each.
- (5) Flags as defined in section 31-502 shall be limited to three flags per lot fronting public right of wayspaced at least twenty-five (25) feet apart as measured as a radial distance from the sign's base; however, the flag, in its entirety, must be contained within the owner's property. Flags must be attached to poles of sufficient strength to safely support the flag and materials used. Flags that become tattered or faded must be removed or replaced within 10 days of notice.
- (6) Bench signs, provided the sign face does not extend beyond any bench surface.
- (37) ~~Announcing signs or construction signs. Signs denoting the lending institutions, architect, engineer, or contractor responsible for construction~~ placed on premises where construction, repair, or renovation is in progress. Such signs shall neither exceed six (6) square feet in area on residential tracts of one (1) acre or less nor thirty-two (32) square feet on residential tracts greater than one (1) acre or on commercial tracts.
- (48) ~~Subdivision construction announcement signs. Such~~ After a subdivision has been released for construction, one sign per subdivision entrance which signs shall not exceed sixty-four (64) square feet in area, twelve (12') feet in overall height or sixteen (16') feet in overall width. A subdivision construction announcement sign shall be limited to one (1) sign per subdivision entrance and must be located within the subdivision and within the subdivision phase the sign advertises. A sign shall not be placed until the subdivision has been released for construction and permitted under this subsection must be removed when development of lots and buildings have ceased. The property owner shall be responsible for the maintenance, removal and compliance requirements of such signs.
- (579) ~~Public signs. Signs~~ or commemorative plaques of a public or noncommercial nature, which shall include community service information signs, public transit service signs, public utility information signs, safety signs, danger signs, trespassing signs, memorial signs placed by historical agencies recognized by the city, county, or state, signs indicating scenic or historic points of interest, and all signs erected by a public officer in performance of a public duty.
- ~~(6) Special announcement signs. Signs denoting special announcements recognizing a business or entity as the recipient of local, state, or national award may be posted on the property for up to thirty (30) days. These signs may not exceed thirty two (32) square feet and may be placed either on the building, on a post or between posts, and must not interfere with traffic visibility, maneuvering, parking, or fire lanes.~~
- ~~(7) Memorial signs. Commemorative plaques placed by historical agencies recognized by the city, county, or state.~~
- ~~(8) Holiday decoration signs. During appropriate seasons of the year.~~

~~___(9) Private sale or event sign. Advertising legally permitted sales and events.~~

~~(10) Bench signs. Provided the sign face does not extend beyond any bench surface.~~

~~(11) Parking and driveway directional and informational signs. Designed to offer assistance to motorists maneuvering into, out of, or within private property. Such signs are limited to maximum of two (2) square feet.~~

~~(3810) A sign Signs for a period of time no earlier than ninety (90) days before or ten (10) days after a federal, state, or local election that neither exceeds six (6) square feet in area on residential tracts of one (1) acre or less, nor thirty-twosix (3236) square feet on residential tracts greater than one (1) acre or on commercial tracts and otherwise complies with Section 31-507 .~~

~~(12) Political signs.~~

~~a. p Provided the sign:~~

- ~~i. has an effective area no greater than 36 square feet;~~
- ~~ii. is no more than 8 feet in height;~~
- ~~iii. is not illuminated;~~
- ~~iv. has no moving element(s); and~~
- ~~v. is located on private real property with the property owner's consent. For purposes of this provision, "private real property" does not include real property subject to an easement or other encumbrance that allows a municipality to use the property for a public purpose.~~

~~;~~and

~~vi. is not carrying the primarily political message on a temporary basis and is not generally available for rent or purchase to carry commercial advertising or other messages that are not primarily political.~~

~~b. Signs carrying a primarily political message but not meeting these requirements will be regulated under the appropriate section of this division, depending upon the sign's location, size, and any other relevant information.~~

~~(4311) Parking lot p Pole-mounted banner signs. Pole-mounted banner signs shall be mounted to permanent poles two-inches in diameter or larger. Such banners may contain the emblems, names, colors, products sold or services provided of business firms, religious, charitable, public or nonprofit organizations. Pole-mounted banners shall be limited to a maximum of one banner or a pair of banners per pole and each pole shall be spaced a minimum of fifty (50) linear feet apart along the street frontage. Banners shall not exceed a total of sixteen (16) square feet for each pole fronting collector, marginal access or local streets as shown on the city's thoroughfare master plan, or a total of forty-eight (48) square feet for each pole fronting principal arterial or minor arterial roadways as shown on the city's thoroughfare master plan. Banners shall be framed on at least two sides and it must be contained entirely on the property it advertises. Additional banners may be located within the interior of the lot at the same separation and size limits.~~

~~(14) Flags as defined in section 31-502 shall not be limited in size or number; however, the flag, in its entirety, must be contained within the owner's property. Flags must be attached to poles of sufficient strength to safely support the flag and materials used. Flags that become tattered or faded must be removed or replaced.~~

~~(91245) Sponsor advertisements. Signs located within or on the grounds of public facilities such as baseball fields, stadiums, community centers, and other public facilities that advertise local businesses and other sponsors for sporting or community activities.~~

~~(16) Open and closed signs. Signs denoting when a business is either open or closed for business. Such signs may be illuminated but shall be limited to two (2) square feet in size.~~

(Code 1963, Ch. 9, art. 2, § 36-3.1 [Ord. No. 83-73, § 1, 12-13-83]; Ord. No. 08-051, § I, 7-8-08; Ord. No. 10-080, § I, 12-28-10; Ord. No. 12-050, § I, 8-28-12)

Sec. 31-504. - Signs requiring permits.

~~On premises signs, off premises signs, portable signs, temporary signs and menu board~~ All signs, require a permit prior to installation with the exception of the sign types listed in section 31-503 above. Signs containing non-commercial speech are permitted anywhere that advertising or business signs are permitted, subject to the same regulations applicable to such signs. In addition, ~~the~~ The following signs may be permitted in any zoning district:

(1) ~~Bulletin board signs. Signs or bulletin boards customarily incidental to places of worship, libraries, museums, and other publicly owned buildings located in residentially zoned districts. Bulletin board signs that front principal arterial or minor arterial roadways as shown on the city's adopted thoroughfare master plan shall comply with section 31-507(A). Bulletin board signs that front collector, marginal access or local streets as shown on the city's adopted thoroughfare master plan shall comply with the following:~~

~~(a) Shall be limited to one sign per street frontage;~~

~~(b) Sign shall not exceed a total of fifty (50) square feet in face area;~~

~~(c) Shall set back a minimum of ten (10) feet from any street frontage property line and shall be limited to twenty (20) feet overall height;~~

~~(d) May be either static display or fully EMD;~~

~~(e) If an EMD sign, sign illumination shall cease between the hours 11:00 PM and 5:00 AM; and~~

~~(f) If an EMD sign, the sign shall comply with the CEVMS requirements of section 31-507(B)(11), subsections c. through i.~~

(2) ~~Point-of-sale signs. Any sign advertising a commercial enterprise that is allowed by its zoning regulation except that point-of-sale signs located in a district zoned residential shall not exceed a total of twenty-four (24) square feet in area per premises, or six (6) feet in height, and shall advertise only the name of the owner, trade names, products sold and/or the business or activity conducted on the premises where such sign is located. Such signs shall set back a minimum of ten (10') feet from any street frontage or property line.~~

(3) Temporary off-premises signs: When a premises is for sale and displays a sign allowed under Sec. 31-503(1), the owner may also obtain a permit for temporary off-premises real estate sales signs. ~~Any sign advertising the sale or conveyance of residential property that is not located upon the residential property that is the subject of the advertisement, to include directional signs to view an open house, a model home or a home on display incident to a parade of homes, such signs shall be permitted~~ in compliance with the following criteria:

a. Application for a permit to display temporary off-premises ~~real estate~~ signs will be submitted to the building and inspections department. Upon payment of applicable permit and sticker fees, approved permits will be granted a sticker that must be attached to the sign.

b. Signs shall be no larger than 24" x 36".

c. The height of any temporary off-premises ~~real estate sales~~ sign shall be no greater than forty-eight (48) inches.

~~d. Signs may be displayed while the subject property is available for sale and while a sign is displayed on the subject property.~~

~~e. Except as provided in subsection (1), signs shall not be located on public right-of-way or within the visibility triangle defined in section 28-241 of this code as the triangle sight area, at all intersections, which shall include that portion of public right-of-way and any corner lot within the adjacent curb lines, and a diagonal line intersecting such curb lines at points thirty-five (35) feet back~~

~~from their intersection (such curb lines being extended if necessary to determine the intersection point). Signs shall be a minimum of ten (10) feet from the edge of the street or curb.~~

~~(1) Signs may be placed in the visibility triangle only if the signs have a height of no greater than two (2) feet as measured from the top of the curb of the adjacent streets within the visibility triangle.~~

~~fd. Signs shall only be located on private property with the consent of the property owner and the distance between the temporary off-premises ~~real-estate~~ sign and the closest temporary off-premises real-estate sales sign or any small or medium off-premises sign shall be greater than thirty (30) feet measured as a radial distance from the existing sign's base.~~

~~ge. Temporary off-premises signs shall be constructed of durable waterproof materials.~~

~~f. Temporary off-premises signs shall only be displayed on the following days of the week: Friday, Saturday, Sunday, and Monday.~~

~~—Off-premises real estate signs that have not been permitted, do not display a valid sticker or display a sticker that shows signs of tampering are subject to enforcement action. Enforcement action includes but is not limited to removal and disposal of the illegal sign and possible citation of responsible individuals or realty offices.~~

~~(2)(4) — Temporary signs. Temporary on-premises signs shall be allowed ~~only~~ as follows:~~

- a. A permit is required prior to installation of temporary signs. The permit fee shall be five dollars (\$5.00) for the first five (5) day period and an additional five dollars (\$5.00) for each subsequent five (5) day increment.
- b. Except as provided below, only one (1) temporary wall sign and one (1) temporary ground sign areis allowed per street frontage for each lease or business space at any given time. Each sign must be permitted separately.
- c. A business with frontage in excess of one hundred fiftythree hundred (150300) feet may place additional temporary signs for each one-three hundred and fifty (150300) feet of street frontage or fraction thereof with a permit for each additional sign.
- d. Except for an inflatable sign, a temporary sign shall be limited to sixty-fourthirty-two (6432) square feet.
- e. Temporary sign placement is limited to the owner's premises.
- f. Temporary sign permits shall be issued in increments of five (5) days. Permits shall not be issued to a lease space or business space for more than one hundred and twenty days (120) per calendar year.
- g. Each temporary sign permit shall expire on the date shown on the permit.

~~(23) Wall and window signs meeting the requirements of Section 31-506.~~

~~(34) Ground signs meeting the requirements of Section 31-507.~~

(Code 1963, Ch. 9, art. 2, § 36-3.2 [Ord. No. 83-73, § 1, 12-13-83]; Ord. No. 06-78, § III, 7-11-06; Ord. No. 06-134, § I, 12-19-06; Ord. No. 08-095, § I, 11-18-08; Ord. No. 10-080, § I, 12-28-10; Ord. No. 12-050, § I, 8-28-12)

Sec. 31-505. - Prohibited signs.

It shall be unlawful to erect, ~~or~~ maintain, or allow to remain:

~~(1) — Any sign except as allowed by this division.~~

(1)

~~(2) Any portable sign, except as permitted under the provisions of section 31-507(A)(5) or any temporary sign permitted under the provisions of section 31-504.~~

~~(3) Any political sign not meeting the requirements of section 31-503(12) for a period of time which is earlier than ninety (90) days before or ten (10) days after the election which is being announced.~~

(42) Signs located on public right-of-way or within the visibility triangle at all intersections, which shall include that portion of public right-of-way and any corner lot within the adjacent curb lines, and a diagonal line intersecting such curb lines at points thirty-five (35) feet back from their intersection (such curb lines being extended if necessary to determine the intersection point). Signs shall be a minimum of ten (10) feet from the edge of the street or curb. Signs shall not be within twenty (20) feet of the intersection of a street curb and the edge of a driveway. Signs permitted in Sections 31-506(1) and (2) are excepted from this restriction, provided that the sign does not encroach into the right of way or street.

Signs may be placed in the visibility triangle only if the signs have a height of no greater than two (2) feet as measured from the top of the curb of the adjacent streets within the visibility triangle.

~~Any sign face or support within ten (10) feet of a street curb line, except as permitted in sections 31-506(1), (2) and 31-507(A)(68).~~

~~(5) Any sign face or support within twenty (20) feet of the intersection of any street curb line and the edge of any driveway, unless it is an otherwise permitted sign that has a height of no greater than two (2) feet as measured from the top of the curb of the adjacent streets and except as permitted in sections 31-506(1), (2) and 31-507(A)(68).~~

~~(6) Any sign face or support within thirty-five (35) feet of the intersection of any street curb line and any other street curb line, unless it is an otherwise permitted sign that has a height of no greater than two (2) feet as measured from the top of the curb of the adjacent streets and except as permitted in sections 31-507(A)(68).~~

~~(7) Any off-premises sign, except as permitted in section 31-507(B).~~

(83) Any flashing sign, strobe, or lights unless specifically allowed in this division.

(94) Any signSigns which havees a luminance greater than any traffic signal within two hundred (200) feet of the sign as measured by any light metering device for which a National Bureau of Standards test procedure exists.

(405) A signSigns that occupyies a parking space required by the minimum standards provided under article V, division 3 of this chapter.

(446) Signs attached to any fence or property boundary wallsExcept for public signs denoted in section 31-503(537) and political signs denoted in section 31-503(428), no sign shall be attached to any fence or property boundary walls.

(427) Any banners, pennants, streamers, tinsel, staked signs, stringed signs or temporary signs, unless specifically allowed in another section of this division.

(438) Any signSigns located in the right-of-way of a public street, alley or thoroughfare; a sign located in the visibility triangle, as defined in chapter 28 of this code; or an illegal sign, unanchored sign or a sign that has been damaged in such a manner that the sign's condition constitutes a threat to the health, safety, and welfare of the public. All such signs are hereby declared to be public nuisances that endanger public health, safety and welfare, and upon discovery, may be abated in accordance with section 31-524 of this division.

(Code 1963, Ch. 9, art. 2, § 36-3.3 [Ord. No. 83-73, § 1, 12-13-83; Ord. No. 87-10, §§ 3,4, 2-24-87]; Ord. No. 97-22, § I, 3-25-97; Ord. No. 97-63, § I, 11-25-97; Ord. No. 08-095, § I, 11-18-08 Ord. No. 10-080, § I, 12-28-10; Ord. No. 12-050, § I, 8-28-12)

Sec. 31-506. - Wall and window signs.

Wall signs shall meet the following requirements:

- (1) An allowable wall sign may not extend more than twelve (12) inches from the facade of a building except as provided in (2) below.
- (2) When the premises does not maintain the maximum ground signs allowed, one (1) projecting wall sign is allowed and may project no closer than two (2) feet to a street curb. Such alternate sign may not exceed thirty-two (32) square feet in area and no part of the sign may descend closer to grade than nine (9) feet.

(3) ~~Wall signs facing street frontage.~~The total cumulative size of wall signs shall not exceed ~~the following wall area to sign face ratios:~~

~~a. Twenty five (25%) percent wall area to sign face ratio for principal arterial frontage (maximum size 672 square feet for each sign);~~

~~b. Twenty (20%) percent wall area, which includes windows and doors, to sign face ratio ~~for minor arterials~~ (maximum size ~~400~~ 500 ~~672~~ square feet for each sign); ~~and~~~~

~~c. Fifteen (15 %) percent wall area to sign face ratio for collector, marginal access, or local street (maximum size 200 square feet for each sign).~~

~~(4) Wall signs not facing street frontage shall be allowed fifteen (15 %) percent wall area to sign face ratio with a maximum size of 200 square feet for each sign.~~

~~(5) Rear entry doors may have nameplate signs in accordance with section 31-503(2).~~

~~(6) Buildings facing multiple street frontages may have wall signs for each street frontage in accordance with 31-506(3) above.~~

~~(7) Menu board signs placed on the wall shall be limited to thirty-two (32) square feet.~~

(84) An EMD wall sign shall be allowed subject to the following restrictions:

a. Allowed only in "B-1" or less restrictive zoning districts;

b. In B-1, B-2, or NBD zoning districts, aAn EMD wall sign face shall not exceed fifty (50%) percent of the allowable sign face area and must comply with requirements of section 31-507(B)(11) subsections a. and b.;

c. In B-3 or less restrictive zoning districts, an EMD wall sign face shall not exceed fifty (50%) percent of the allowable sign face area unless it is in compliance with requirements of section 31-507(B)(11) subsections a. and b.;

ed. Permissible installation of an EMD wall sign shall be limited to property fronting Principal arterial, ~~or~~ Minor Arterial, or Collector roadway frontages. If an EMD wall sign is installed on property fronting a Collector, the sign shall not be located within three hundred (300) feet of a residential district unless the property operates as an allowable non-residential use;

de. An owner shall be able to control the illumination intensity of any EMD sign; and

ef. An EMD wall sign allowed under this section shall comply with the CEVMS requirements of section 31-507(B)(11), subsections c. through i.

(Code 1963, Ch. 9, art. 2, § 36-4.1 [Ord. No. 83-73, § 1, 12-13-83]; Ord. No. 10-003, § VII, 2-9-10; Ord. No. 10-080, § I, 12-28-10; Ord. No. 12-050, § I, 8-28-12)

Sec. 31-507. - Ground signs.

~~Ground signs shall not be subject to building lines, but~~ Ground signs shall not be located in publically held easements encroach into public rights of way or easements, but shall be located entirely within the premises.

- (A) On-premises ground signs in "R-MP," "R-3," "R-3F," or "R-3A," "B-1" or less restrictive districts shall meet the following requirements:
- (1) Only one (1) permanent ~~point-of-sale~~ ground sign structure consisting of one (1) or more sign cabinets, may be erected on any premises zoned "B-1" or less restrictive, except that premises which have more than three hundred (300') feet of combined frontage along a public way or street, other than an alley, may have one (1) additional ground sign for each additional three hundred (300') feet of frontage or fraction thereof. Such signs shall not exceed the area, height, or setback as listed in Table 507(A)(1) below:

Table 507(A)(1)

Sign Type	Maximum Overall Height	Maximum Square footage	Minimum Setback (a)
Single or multi-tenant monument sign	6	50	0
Single-tenant ground or pole sign	35	300	10
Multi-tenant ground or pole sign	40	450	10

~~Ground signs shall not be subject to building lines, but shall not be located in publically held easements.~~ Ground signs fronting Central Texas Expressway (the frontage road of US Highway 190) may have an overall maximum height of forty-two and one-half (42.5) feet measured from the highest point of the sign to the grade level of Central Texas Expressway.

- (2) In connection with mobile home parks (R-MP) (mobile home park district) or apartment complexes zoned "R-3," "R-3F," or "R-3A," no sign intended to be read from any public way or street adjoining the district shall be permitted except:

~~a. No more than one for one (1) identification-ground sign, not to exceeding thirty-two (32) square feet in area, for each principal entrance.~~

~~b. No more than one (1) sign, not exceeding sixteen (16) square feet in area, advertising property for sale, lease, or rent, or indicating "vacancy" or "no vacancy" may be erected at each entrance.~~

~~c. Such signs shall set back a minimum of ten (10') feet from any street frontage and/or property line.~~

~~(3) For allowable non-residential uses located in residentially-zoned districts, bulletin board on-premises ground signs that front principal arterial or minor arterial roadways as shown on the city's adopted thoroughfare master plan shall comply with section 31-507(A). Bulletin board on-premises ground signs that front collector, marginal access or local streets as shown on the city's adopted thoroughfare master plan shall comply with the following:~~

~~(a) Shall be limited to one sign per street frontage;~~

- (b) Sign shall not exceed a total of fifty (50) square feet in face area;
- (c) Shall set back a minimum of ten (10) feet from any street frontage property line and shall be limited to twenty (20) feet overall height;
- (d) May be either static display or fully EMD;
- (e) If an EMD sign, sign illumination shall cease between the hours 11:00 PM and 5:00 AM; and
- (f) If an EMD sign, the sign shall comply with the CEVMS requirements of section 31-507(B)(11), subsections c. through i.

(34) Illuminated ground signs shall not be located within one hundred (100) feet of a residential district unless the property operates as an allowable non-residential use.

(5) In no case may Non-illuminated a ground signs shall not of any kind exceed twenty (20) feet in height if located within fifty (50) feet of a single-family or two-family zoned residential district unless the property operates as an allowable non-residential use.

(46) In addition to the number of ground signs otherwise allowed in this chapter, Menu board ground signs shall be allowed i a business with a drive-through or walk up service n addition to the number of allowed ground signs shall be allowed up to two in section 31-507(A) (1) above additional and ground signs shall be limited to fifty (50) square feet total face area for all menu board sign face areas. each.

(57) Portable signs:

- a. It shall be unlawful to locate a portable sign on any site until the building official has determined that it is in compliance with the provisions of this division, and was issued a permit for such sign has been obtained. All portable signs shall be secured to resist wind loads.
- b. A permit for a portable sign ~~shall not will expire at the end of the calendar year. be issued for more than a one (1) year period.~~
- c. An adequate site plan must be submitted with the application to locate the sign.
- d. The portable sign may not be located in a parking space that is required by division 3 of this article.
- e. The size of the portable sign face shall not exceed five (5) feet high and twelve (12) feet wide.
- ~~f. If the building official finds a violation of any provision of this division, the official shall notify the person responsible to cease such violation within a reasonable time to be determined by the building official.~~
- ~~g. If the violation is not remedied within the time prescribed by the building official, the official may cancel the portable sign permit, if any, and bring action against the party or parties in violation.~~
- ~~h. All existing portable signs in use as of the effective date of the ordinance from which this subsection is derived, and which do not conform to this section, must comply with the provisions of this division within ninety (90) days of the effective date of this division or be found in violation hereof.~~
- ~~if. A property may not have more than one (1) portable sign at a time. A portable ground sign may only be used in place of an allowable ground sign not used per section 507(A)(1) above.~~

- ~~(6) Ground signs may be erected within ten (10) feet of a street curb line, but not within twenty (20) feet of the intersection of a street curb and the edge of a driveway, nor within thirty-five (35) feet of the intersection of a street curb line and another street curb line, provided that:~~
- ~~a. The total of the cross-sectional diameters of the supports does not exceed eighteen (18) inches if one (1) support is used or twenty-four (24) inches if two (2) supports are used;~~
 - ~~b. A clear height of nine (9) feet is maintained between the ground and the bottom of the sign; and~~
 - ~~c. The sign face does not project over a public right-of-way or street.~~

(78) An EMD ground sign shall be allowed as an on-premises ground sign subject to the following restrictions:

- a. Allowed only in "B-1" or less restrictive zoning districts;
- b. In B-1, -or-B-2, or NBD zoning districts, an EMD ground sign face shall not exceed fifty (50%) percent of the allowable sign face area and must comply with requirements of section 31-507(B)(11) subsections a. and b.;
- c. In B-3 or less restrictive zoning districts, an EMD ground sign face shall not exceed fifty (50%) percent of the allowable sign face area unless it is in compliance with requirements of section 31-507(B)(11) subsections a. and b.;

~~An EMD sign face shall not exceed fifty (50%) percent of the allowable sign face area;~~

- ~~e. An EMD sign shall be set back a minimum of one hundred (100) linear feet from the sign's base to the property line along the same side of the road from any A-R1 or residentially zoned districts;~~
- ~~d. Permissible installation of an EMD sign shall be limited to property abutting minor or principal arterial street frontages;~~
- ~~ed. Permissible installation of an EMD wall sign shall be limited to property fronting Principal arterial, Minor Arterial, or Collector roadway frontages. If an EMD wall sign is installed on property fronting a Collector, the sign shall not be located within three hundred (300) feet of a residential district unless the property operates as an allowable non-residential use;~~
- e. An owner shall be able to control the illumination intensity of any EMD sign; and
- ffe. An on-premises EMD sign allowed under this section shall comply with the CEVMS requirements of section 31-507(B)(11), subsections c. through i.

(B) Off-premises ground signs are subject to compliance with all the regulatory provisions contained herein, as amended. These regulations apply to all off-premises signs located within the city limits of the city of Killeen and the city's extra territorial jurisdiction (ETJ) as established by state law. Should any restrictions be in conflict, the more stringent shall control.

- (1) All new or existing off-premises signs shall be registered with the city of Killeen building and inspections department.
 - a. Registration shall be required within 180 days from the effective date of this ordinance and annually each year. The registration shall identify the size of the off-premises sign to be registered and provide a detailed description of its location measured to the closest intersection. In addition, registration is required within ninety (90) days upon any subsequent annexation within the then expanded ETJ.
 - b. Registration shall expire December 31 of each calendar year. Registration shall be accompanied by a non-refundable fee of \$40.00 for each off-premises sign to be registered.
 - c. Sign registration is not transferable and in event of sale of the sign, the buyer and seller shall be jointly responsible to assure re-registration within 15 days of the sale.

- d. Any off-premises sign removed, structurally altered or repaired shall be reported to the building and inspections department within 15 days of removal or work.
 - e. It shall be an offense for any person to maintain an off-premises sign not lawfully registered as listed above or to allow a registration to lapse for more than 30 days.
 - f. New and existing registered off-premises signs shall permanently affix the sign tag or plate issued by the city visible from the closest roadway. No new off-premises sign may advertise until final approval inspection has been obtained and no new or existing off-premises sign may advertise or continue to advertise without a current sign tag properly affixed.
 - g. Off-premises signs may not be combined with on-premises advertisement.
- (2) A permit shall be obtained prior to the erection, repair, alteration or relocation of any off-premises sign except for routine maintenance or repair and/or replacement of sign face copy.
- a. No off-premises sign may be installed by anyone not registered to perform such work in the city of Killeen.
 - b. Off-premises signs requiring an electrical permit or incorporating any electrical lighting or wiring must have such work performed by a person licensed and registered with the city of Killeen building and inspections department.
 - c. Sign registration is not transferable and in the event of sale of the sign, the buyer and seller shall be jointly responsible to assure re-registration within 15 days of the sale.
 - d. Off-premises signs shall be constructed in accordance with local and state building and electrical codes. Stamped structural engineering plans shall accompany the sign permit applications and shall be subject to wind speed requirements as set forth in the International Building Code, as amended.
- (3) Off-premises signs may be illuminated except for signs that contain, include, or are illuminated by:
- a. Any flashing, intermittent or moving light or lights, including any type of screen using animated or scrolling displays other than those providing public service information such as time, date, temperature or weather;
 - b. Unshielded lights that direct beams or rays of light at any portion of the traveled way;
 - c. Lights of such intensity as to cause glare or vision impairment of the driver of a motor vehicle;
 - d. Lights that interfere with the effectiveness or obscure an official traffic sign, device or signal.
- (4) An off-premises sign shall not be erected within three hundred (300) feet of the property line of any property which is zoned agricultural or residential, used as a public park, public or private school, church, courthouse, city hall, residence, public museum or any building or premises operated by a public entity. Such measurement shall be from the sign's base to the protected property line in the most direct line.

Sec. 31-515. - Application for permit.

- A. The application for a sign permit shall be accompanied by following plans and other information:
- (1) The name, address, and telephone number of the owner or persons entitled to possession of the sign and the sign contractor or erector.
 - (2) The location by street address of the proposed sign structure.

- (3) Complete information as required on application forms provided by the building and inspections division including a site plan and elevation drawings of the proposed sign, caption of the proposed sign, and such other data as are pertinent to the application.
- (4) Plans indicating the scope and structural detail of the work to be done, including details of all connections, guide lines, supports and footings, and materials to be used. Structural details and material specifications shall be prepared and sealed by a professional engineer licensed in the State of Texas for any sign installed 20 feet or more in height and/or having a sign area (including the sign cabinet or frame) of 200 square feet or more and as provided in 31-507(B)(2).
- (5) Application for, and required information for such application, an electrical permit for all electric signs if the person building the sign is to make the electrical connection.
- (6) A statement of valuation of each sign.

B. Each ground sign shall be permitted separately. Wall signs shall be permitted as a group per each side of the building.

Sec. 31-517. - Plans review fee.

Except for portable and temporary signs, a plan review fee shall be paid for each sign permit application submitted for review. The plan review fees shall be as follows:

Wall sign _____ ~~.....~~ \$1025.00 each _____

On-premises ground sign ~~.....~~ \$25.00 each

Off-premises ground sign ~~.....~~ per section 8-11(d)
of this code
[see Fee Schedule]

All plan review fees are to be paid at the time of application to the City and such fees are non-refundable.

(Code 1963, Ch. 9, art. 2, § 36-6.3 [Ord. No. 83-73, § 1, 12-13-83]; Ord. No. 10-080, § I, 12-28-10)

Sec. 31-518. - Expired permit application.

Sign permit applications shall expire forty-five (45) calendar days from the date such permit has been approved and applicable fees remain unpaid, or remains disapproved for more than forty-five (45) calendar days. The building official may grant an additional thirty (30) day extension upon written evidence from the applicant justifying the delay to complete the permit issuance.

(Code 1963, Ch. 9, art. 2, § 36-6.4 [Ord. No. 83-73, § 1, 12-13-83]; Ord. No. 12-050, § I, 8-28-12)

Sec. 31-519. - Permit fees and penalties.

Sign permit fees, related electrical permit fees and related penalties shall be in accordance with section 8-11 of this code of ordinances.

(Code 1963, Ch. 9, art. 2, § 36-6.5 [Ord. No. 83-73, § 1, 12-13-83]; Ord. No. 10-080, § I, 12-28-10)

Sec. 31-520. - Failed inspection charges.

A failed inspection charge will be assessed upon each failed inspection. The failed inspection charge shall be in accordance with re-inspection fees located in section 8-11 of this code of ordinances.

(Code 1963, Ch. 9, art. 2, § 36-6.6 [Ord. No. 83-73, § 1, 12-13-83]; Ord. No. 10-080, § I, 12-28-10)

Sec. 31-523. - Sign maintenance regulations.

(A) Purpose.

- (1) The purpose of this section is to establish maintenance regulations for signs so that the signs are maintained in a reasonably safe condition and continue to conform to the aesthetic standards established in this division. This section shall apply to all signs that are allowed in this division 4.
- (2) Signs which do not conform to all applicable provisions of this section shall be made to conform by means of alteration, repainting, reinforcing, repairing or any other such operation short of relocation, reconstruction or removal within one hundred eighty (180) days from the effective date of the ordinance from which this section is derived.

(B) Declaration of nuisance. An abandoned sign or a sign determined to be in a dilapidated or deteriorated condition is detrimental to the health, safety and welfare of the public, tending to reduce the value of surrounding property and contributing to urban blight, and is hereby found to be adverse to the vitality, maintenance and continuing development of the city and is hereby found and declared to be a public nuisance.

(C) Maintenance of signs.

- (1) Maintenance. All portions of a sign, including the display surface, shall be kept in good repair at all times so that the entire sign is clearly legible and free of damage, deterioration and/or defacement. Each sign shall be maintained in a safe and presentable manner, including the replacement of defective parts and other acts required for the maintenance of such sign, without altering the basic copy, design or structure of the sign.
- (2) Dilapidated, deteriorated or abandoned signs. No person shall maintain or allow to be maintained on any premises owned or controlled by him or her any sign which is in a dilapidated, deteriorated or abandoned condition as defined herein. Upon notice of violation, any such sign shall be promptly removed or repaired by the owner of the sign or the owner of the premises where the sign is located in accordance with such notice.
- (3) Sign face **required**. No person shall maintain or permit to be maintained on any premises owned or controlled by him or her any sign that has had the sign face removed. Such sign shall have a blank face installed.
- (4) Violations.
 - (a) A person, for purposes of this section, shall mean the owner, agent, or any other individual or legal entity having the beneficial use of a sign and/or the owner or lessee of the land or structure where the sign is located.
 - (b) It shall be unlawful for any person to abandon or fail to maintain, or otherwise allow the continued existence of any sign that is in violation of section 31-523 of this division.
 - (c) It shall be unlawful for any person to violate any term or provision of this division.

(Ord. No. 10-080, § I, 12-28-10; Ord. No. 12-050, § I, 8-28-12)

Sec. 31-524. - Enforcement and appeals.

- (A) Authority. The building official is hereby authorized to enforce any violation of this division to include, without limitation, ordering the repair of any dilapidated or deteriorated sign or the removal of any abandoned or illegal sign from property within the corporate city limits of the city of Killeen or its ETJ, in accordance with the enforcement mechanisms set forth in this section or as otherwise provided by this code of ordinances.
- (B) Nuisance abatement. The city may, in conjunction with the enforcement remedies provided in this division or as a separate action, abate a nuisance as follows:
 - (1) Notice of violation (NOV): nuisance.
 - (a) Any owner of any lot, parcel of land, or premises within the city limits having on it a nuisance described in this division shall be required to remove, abate, or cure such nuisance within fifteen (15) calendar days from the date of receipt of a NOV declaring the same from the director. Receipt is presumed to occur five (5) calendar days following the date the NOV is mailed.
 - (b) Any owner of any lot, parcel of land, or premises who receives the NOV described in this subsection (B) who cannot remove, abate or cure the nuisance due to weather conditions or who requires additional time to arrange a contractor to remove, abate or cure the nuisance may request and, at the building official's discretion, may be granted an extension of time, not to exceed fourteen (14) calendar days.
 - (c) A NOV issued under this subsection (B) shall be given to the owner as follows:
 - (i) personally, in writing; or
 - (ii) by letter (regular mail) addressed to the owner at the owner's address as recorded in the tax appraisal district records of the appraisal district in which the property is located; or
 - (iii) if personal service cannot be obtained:
 - a. by publication at least once; or
 - b. by posting the notice on or near the front door of each building on the premises to which the violation relates; or
 - c. by posting the notice on a placard attached to a stake driven into the ground on the premises to which the violation relates, if the premises contains no buildings.
 - (d) A NOV issued under this subsection (B) may also be sent by letter (regular mail) to any operator, lessee, occupant or person in control of the property known to the director, as applicable.
 - (e) If the director mails a NOV to an owner in accordance with this subsection (B), and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.
 - (2) City authorized to abate. If the owner fails to comply with the NOV issued under this subsection (B), within the period prescribed, the city may enter the premises and remove, abate, or cure such nuisance.
 - (3) Emergency removal of sign or removal of sign in right-of-way. The city may immediately remove a sign, without prior notice, which the building official finds to be an immediate and imminent threat to the public safety because of its location or dilapidated, deteriorated or structural condition, or a sign that is located in publicly-held right-of-way, and may dispose of the same. Such removal and disposal shall be at the owner's sole expense, in accordance with this section.

- (4) Lien on property. If the city abates a nuisance under this subsection (B), the owner of such premises shall be notified by regular mail of the expenses incurred therefrom and the administrative fee provided in paragraph (5) of this subsection (B). If such charges are not paid within thirty (30) calendar days of the date of such notice, the director shall cause to be filed with the county clerk documentation of such expenses sufficient to establish a lien against the premises on which the nuisance was abated.
- (5) Remedies, expenses, and citation. Any owner who violates this division shall be subject to abatement restitution, penal fine(s) or both, revocation of permit, or any other relief provided by law. A person who fails to abate such nuisance within the time provided shall be required to pay an administrative fee of one hundred dollars (\$100.00) in addition to the expenses incurred by the city to abate the nuisance.

(C) Enforcement remedies.

- a. Criminal penalties. Any person, firm, corporation or other entity violating any of the provisions or terms of this division shall be deemed guilty of a misdemeanor, and upon conviction thereof, be subject to a fine of not less than \$100 and not exceeding \$2,000 for each offense, and each and every day or portion thereof that such violation shall continue shall constitute a separate offense.
- b. Civil remedies. The city may file a civil action in state district court to enforce the requirements of this ordinance, seeking injunctive relief and/or civil penalties up to \$1,000 per day for each offense as authorized by subchapter B of chapter 54 of the Texas local government code, as amended, or any other applicable law.
- c. Remedies cumulative. All remedies authorized under this division are cumulative of all others unless otherwise expressly provided. Accordingly, the filing of a criminal action shall not preclude the pursuit of a civil or administrative action for violation of this section nor shall the filing of a civil action preclude the pursuit of any other action or remedy, administrative or criminal.

(D) Appeals.

- a. Decisions of the building official may be appealed in writing to city manager or his designee within ten (10) business days of the decision of the building official. The city manager shall issue a written decision within five (5) business days of receiving the appeal. If the city manager does not issue a decision within five (5) business days, the appeal shall be considered denied.
- b. Decisions of the building official or denial of an appeal to the city manager may be submitted to the board of adjustment as provided in article II, division 3 of this chapter.

(Ord. No. 10-080, § I, 12-28-10; Ord. No. 12-050, § I, 8-28-12)

Secs. 31-525—31-549. - Reserved.

SECTION II. 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 III. 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 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 _____, 2017, 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

Jose L. Segarra, MAYOR

ATTEST:

APPROVED AS TO FORM:

Dianna Barker, CITY SECRETARY

Kathryn H. Davis, CITY ATTORNEY

**MINUTES
PLANNING AND ZONING COMMISSION MEETING
NOVEMBER 7, 2016**

**ORDINANCE AMENDMENT
CHAPTER 31, ARTIVCLE IV, DISTRICT REGULATIONS AND ARTICLE V,
DIVISION IV, SIGNS AND OUTDOOR ADVERTISING DISPLAYS**

HOLD a public hearing and consider proposed amendments to sign regulations within the Killeen Code of Ordinances, Chapter 31, Article IV, District Regulations, and Article V, Division IV, Signs and Outdoor Advertising Displays. (Third Public Hearing)

Chairman Frederick requested staff comments.

Deputy City Attorney Holli Clements briefed the Commission the amendments to the sign ordinance.

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

Vice Chair Dorroh motioned to recommend approval of the amendments to the sign regulations. Commissioner Cooper seconded the motion. The motion passed 7-0.

Chairman Frederick stated that this request will be forwarded to City Council with a recommendation to approve



City of Killeen

Legislation Details

File #: PH-16-048B **Version:** 1 **Name:** Budget Amendment - Drainage Utility
Type: Ordinance/Public Hearing **Status:** Public Hearings
File created: 11/16/2016 **In control:** City Council Workshop
On agenda: 1/3/2017 **Final action:**
Title: HOLD a public hearing and consider an ordinance amending the FY2017 Annual Budget and Plan of Municipal Services of the City of Killeen to increase an expense account for an emergency environmental response.
Sponsors: Environmental Services, Finance Department
Indexes:
Code sections:
Attachments: [Council Memorandum](#)
[Ordinance](#)

Date	Ver.	Action By	Action	Result
12/13/2016	1	City Council		
12/6/2016	1	City Council Workshop		

CITY COUNCIL MEMORANDUM

AGENDA ITEM

Fiscal Year 2017 Drainage Utility Fund
Budget Amendment

ORIGINATING DEPARTMENT

Public Works - Environmental Services

BACKGROUND INFORMATION

The City currently holds a Municipal Separate Storm Sewer System (MS4) permit with the Texas Commission on Environmental Quality (TCEQ). As part of that permit, the City is responsible for the water quality in our watercourses. That TCEQ permit and current city ordinances require the City to respond to, contain, and remediate any known point discharge not comprised entirely of storm water.

On the morning of Friday, August 12, 2016, the City responded to a gas fire at 4415 E. Veterans Memorial Boulevard. Due to the nature of the contamination, the City utilized CG Environmental - Cleaning Guys, LLC. to respond to the gas fire. Testing, final disposal and remediation were not completed until October 21, 2016.

DISCUSSION/CONCLUSION

Staff coordinated emergency environmental response compliance with various regulatory agencies. The regulatory agencies included Environmental Protection Agency (EPA), U.S. Department of Transportation, TCEQ, and Texas Parks & Wildlife (TPW). The Fiscal Year 2016-2017 adopted budget (Ordinance #16-044) did not include funding for this magnitude of emergency environmental response.

FISCAL IMPACT

The Fiscal Year 2017 budget will be revised to reflect the increase of \$214,199.02 in expense account 575-3476-432.47-99 (Professional Services - Special Services account). Funding is available in the 575 Drainage Utility Fund's fund balance. The adopted FY17 expenditures in the Drainage Utility are \$4,236,547.00. The impact to the Drainage Utility Fund's reserve account will be a reduction from a projected FY17 ending fund balance of \$4,102,671.00 to \$3,888,471.98.

RECOMMENDATION

City staff recommends that the City Council approve the attached ordinance authorizing the additional expenditure of \$214,199.02 for the August 12, 2016, emergency environmental response.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS, AMENDING THE FY 2017 ANNUAL BUDGET AND PLAN OF MUNICIPAL SERVICES OF THE CITY OF KILLEEN BY INCREASING A DRAINAGE UTILITY FUND EXPENSE ACCOUNT; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS a budget for the City of Killeen Drainage Utility Fund Environmental Services for the Fiscal Year October 1, 2016, to September 30, 2017, has been adopted by City Council in accordance with the City Charter; and

WHEREAS the City of Killeen is required to respond to, contain and remediate any known point discharge not comprised entirely of storm water; and

WHEREAS the City of Killeen Drainage Utility Fund Environmental Services budget will be higher than expected; and

WHEREAS the need for the additional funds in the Drainage Utility Fund Environmental Services budget requires a budget amendment;

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

SECTION I. That Ordinance #16-044 adopting a budget for operating the municipal government of the City of Killeen for the Fiscal Year October 1, 2016, to September 30, 2017, be amended as to the portion of said budget as follows:

Drainage Utility Fund

Account Number	Account Name	Original Budget	Budget Increase	Amended Budget
575-3476-432.47-99	Professional Services – Special Services	\$10,000.00	\$214,199.02	\$224,199.02

SECTION II. That the City Council finds that the public notice and public hearing requirements of Section 56 of the City Charter have been complied with prior to the enactment of this ordinance.

SECTION III. That should any section or part of any section or paragraph 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 IV. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

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

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 13th day of December, 2016, 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

Jose L. Segarra, MAYOR

ATTEST:

Dianna Barker, CITY SECRETARY

APPROVED AS TO FORM:

Kathryn H. Davis, CITY ATTORNEY



City of Killeen

Legislation Details

File #: PH-17-001 **Version:** 1 **Name:** Zoning 16-23
Type: Ordinance/Public Hearing **Status:** Public Hearings
File created: 12/8/2016 **In control:** City Council Workshop
On agenda: 1/3/2017 **Final action:**
Title: HOLD a public hearing and consider an ordinance requested by John and Kimberly Anne Jones-Greenwalt (Case# Z16-23) to rezone approximately three (3) acres out of the J.S. Wilder Survey, Abstract No. 780, from "R-1" (Single-Family Residential District) to "A" (Agricultural District). The property is located at 2707 Polk Street, Killeen, Texas.
Sponsors: Planning & Development Dept
Indexes:
Code sections:
Attachments: [Council Memorandum](#)
[Attachment to CCMO](#)
[Minutes](#)
[Ordinance](#)
[Application](#)
[Location map](#)
[Buffer map](#)
[Considerations](#)

Date	Ver.	Action By	Action	Result
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CITY COUNCIL MEMORANDUM

AGENDA ITEM

ZONING CASE #Z16-23 "R-1" (SINGLE-FAMILY RESIDENTIAL DISTRICT) TO "A" (AGRICULTURAL DISTRICT)

ORIGINATING DEPARTMENT

PLANNING & DEVELOPMENT SERVICES

John and Kimberly Anne Jones-Greenwalt submit this request to rezone approximately three (3) acres out of the J. S. Wilder Survey, Abstract No. 780, from "R-1" (Single-Family Residential District) to "A" (Agricultural District). The property is located at 2707 Polk Street, Killeen, Texas.

A building or premises in a district "A" (Agricultural District) shall be used only for the following purposes:

- (1) Stables, commercial or private
- (2) Agricultural uses to include animal production, crop production, horticulture, and support housing
- (3) Home occupations as permitted in district "R-1" (Single-Family Residential District)
- (4) Agricultural single-family residential in accordance with division 3 of this article
- (5) Accessory buildings customarily incident to the uses in this section

Property Specifics

Applicant/Property Owner: John and Kimberly Anne Jones-Greenwalt

Property Location: 2707 Polk Street, Killeen, Texas

Legal Description: J.S. Wilder Survey, Abstract No. 780

Zoning/ Plat Case History:

- There is no recent zoning activity for this property.
- The property has not been platted.

Character of the Area

Existing Land Use(s) on the Property: This property contains an existing single family residence. The surrounding community is characterized by large lot single-family housing and large homestead tracts.

Historic Properties: There are no historic structures on this property.

Figure 1. Location Map

See Attachment

Infrastructure and Community Facilities

Water, Sewer and Drainage Services:

Provider: City of Killeen

Within Service Area: Yes

Feasibility Study or Service Commitment: The extension of water and sewer is not required for this proposed use.

Transportation:

Existing conditions: Polk Street is characterized as a local street on the City's adopted Thoroughfare Plan.

Proposed Improvements: There are no planned transportation improvements as part of this zoning request.

Projected Traffic Generation: There will be no increase in traffic as a result of this consideration.

Environmental Assessment

Topography/Regulated Floodplain/Floodway/Creek: This site ranges in elevation from 834' to 842' and does not lie within a FEMA regulatory Special Flood Hazard Area (SFHA).

Land Use Analysis

Land Use Plan: The land is designated as 'Estate' on the Future Land Use Map (FLUM) of the Comprehensive Plan.

Plan Recommendation: The Comprehensive Plan allows the following development types within the 'Estate' designation: detached residential dwellings, public/institutional uses, and parks and public spaces.

Consistency: The applicant's request is consistent with the FLUM.

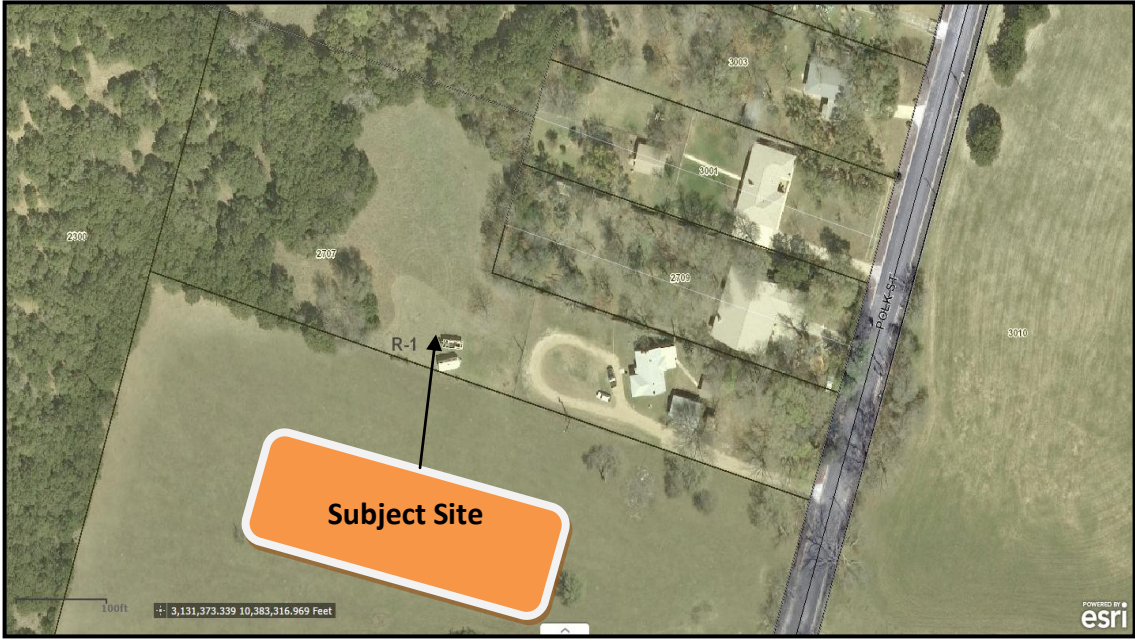
Public Notification

The staff notified nine surrounding property owners regarding this request. Staff has received no protests.

Recommendation

The Planning & Zoning Commission recommended approval by a vote of 8 to 0 for the applicant's zoning request.

Figure 1. Location Map



**MINUTES
PLANNING AND ZONING COMMISSION MEETING
DECEMBER 19, 2016**

**CASE #Z16-23
R-1 to "A"**

HOLD a public hearing and consider a request submitted by John Greenwalt and Kimberly Anne Jones-Greenwalt to rezone approximately three (3) acres, out of the J. S. Wilder Survey, Abstract No. 780, from R-1 (Single-family Residential District) to "A" (Agricultural District). The property is locally known as 2707 Polk Street, Killeen, Texas.

Chairman Frederick requested staff comments.

City Planner, Tony McIlwain, stated this request is submitted by John and Kimberly Anne Jones-Greenwalt submit this request to rezone approximately three (3) acres out of the J. S. Wilder Survey, Abstract No. 780, from "R-1" (Single-Family Residential District) to "A" (Agricultural District). The property is located at 2707 Polk Street, Killeen, Texas. The land is designated as 'Estate' on the Future Land Use Map (FLUM) of the Comprehensive Plan and the applicant's request is consistent with the Future Land Use (FLUM). Staff recommends approval of the applicant's zoning request.

The staff notified nine surrounding property owners within a 200' notification boundary regarding this request and no responses have been received.

Mr. John Greenwalt, 2707 Polk Street, Killeen, Texas, was present to represent this request.

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

Vice Chair Dorroh motioned to recommend approval of the request. Commissioner Latham seconded the motion. The motion passed unanimously.

Chairman Frederick stated that this request will be forwarded to City Council with a recommendation to approve.

ORDINANCE _____

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 “A” (AGRICULTURAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, John and Kimberly Anne Jones- Greenwalt have presented to the City of Killeen a request for amendment of the Zoning Ordinance of the City of Killeen by changing the classification of approximately three (3) acres, being part of the J. S. Wilder Survey, Abstract No. 780, which is more specifically known as 2707 Polk Street, Killeen, Texas, from “R-1” (Single-Family Residential District) to “A” (Agricultural District), said request having been duly presented and recommended for approval by the Planning and Zoning Commission of the City of Killeen on the 19th day of December 2016, and due notice of the filing of said request and the date of hearing thereon was given as required by law, and hearing on said request was set for 5:00 P.M., on the 10th day of January 2017, at the City Hall, City of Killeen;

WHEREAS, the City Council at said hearing duly considered said request, the action of the Planning and Zoning Commission and the evidence in support thereof, and the City Council being of a majority that the request should be approved;

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

Section I. That the zoning classification of the following described tract be changed from “R-1” (Single-family Residential District) to “A” (Agricultural District) for approximately three (3) acres area, being part of the J. S. Wilder Survey, Abstract No. 780, Killeen, Texas. The property is locally known as 2707 Polk Street, Killeen, Texas.

Section II. That should any section 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 this ordinance shall take effect immediately upon passage of the ordinance.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 10th day of January 2017, 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:

Jose L. Segarra, MAYOR

ATTEST:

Dianna Barker, CITY SECRETARY

APPROVED AS TO FORM

Kathryn H. Davis, City Attorney

Case #16-23

Ord. #



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

CASE #: 216-23

City of Killeen Zoning Change Application

General Zoning Change \$300.00 Conditional Use Permit \$500.00

Name(s) of Property Owner: John Greenawalt & Kimberly Anne Jones-Greenawalt

Current Address: 2707 Polk St

City: Killeen State: TX Zip: 76543

Home Phone: () _____ Business Phone: () _____ Cell Phone: 901-569-5291

Email: juansuerte@hotmail.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: 2707 Polk St.

Legal Description: _____

Metes & Bounds or Lot(s) Block Subdivision

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

If NO, a FLUM amendment application must be submitted.

Type of Ownership: Sole Ownership Partnership Corporation Other

Present Zoning: R-1 Present Use: Residential

Proposed Zoning: Ag Proposed Use: _____

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: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____ - _____

Home Phone: (____) _____ Business Phone: (____) _____ Email: _____

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

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

Printed/Typed Name of Agent _____ Date _____

Signature of Agent _____ Title _____

Printed/Typed Name of Agent _____ Date _____

Signature of Applicant _____ Title _____

Printed/Typed Name of Applicant _____ Date _____

Signature of Property Owner _____ Title _____

Printed/Typed Name of Property Owner John A. Greenawalt Date 11-14-16

Signature of Property Owner John A. Greenawalt Title _____

Printed/Typed Name of Property Owner Kimberly A. Jones-Greenawalt Date 11-14-16

Signature of Property Owner Kimberly A. Jones-Greenawalt 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.



**PLANNING AND
DEVELOPMENT SERVICES**

ZONING CASE:

Z16-23

ZONING FROM:

R-1 To A

APPLICANT:

JOHN GREENAWALT &
KIMBERLY ANNE
JONES-GREENAWALT

PROPERTY OWNER:

JOHN GREENAWALT &
KIMBERLY ANNE
JONES-GREENAWALT

LEGAL DESCRIPTION:

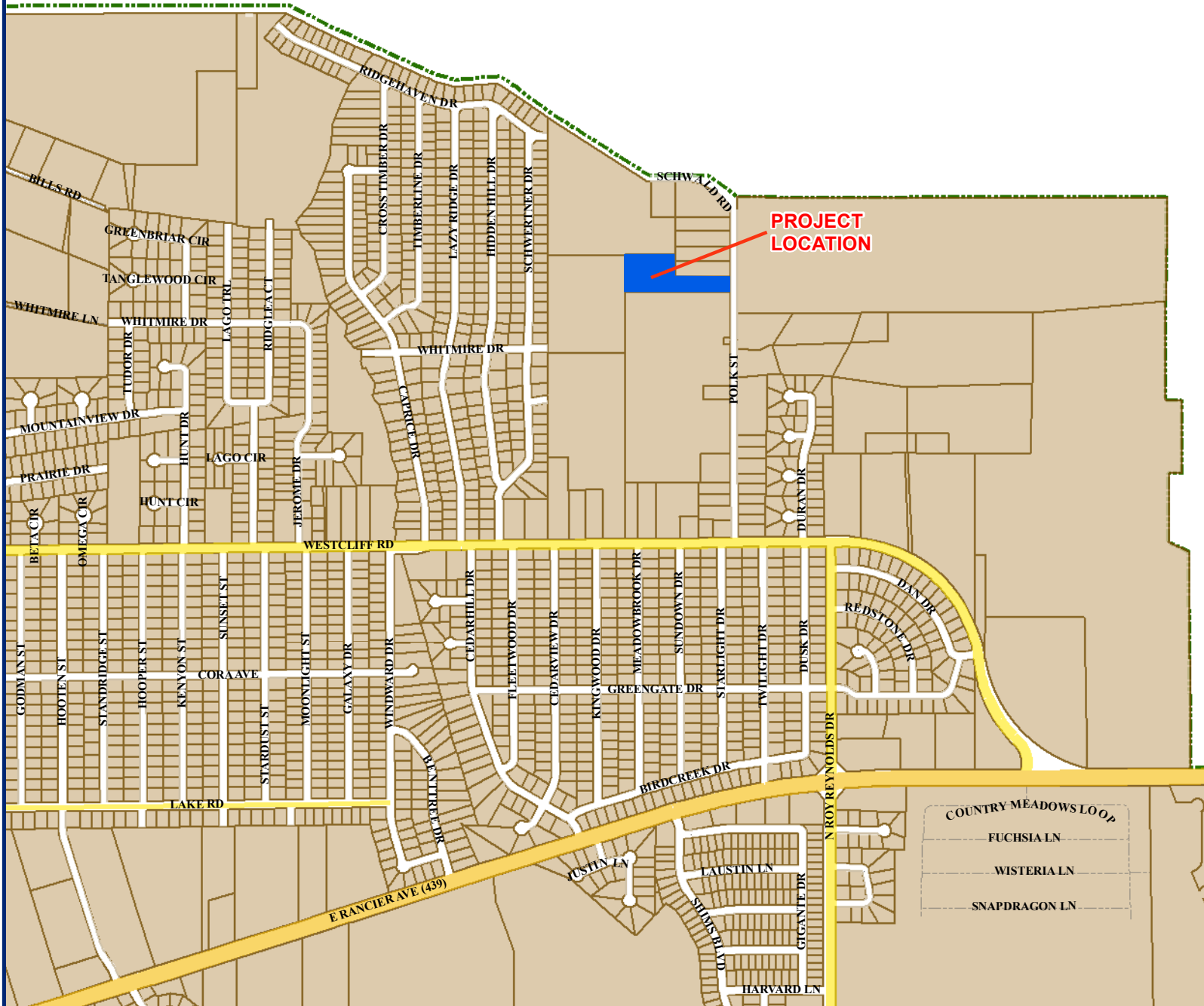
A0913BC J S WILDER,
780-18, ACRES 3.149

Legend

-  Zoning Case
-  Parcel
-  City Limits



Date: 11/23/2016





**PLANNING AND
DEVELOPMENT SERVICES**

ZONING CASE:

Z16-23

ZONING FROM:

R-1 To A

APPLICANT:

JOHN GREENAWALT &
KIMBERLY ANNE
JONES-GREENAWALT







PROPERTY OWNER:

JOHN GREENAWALT &
KIMBERLY ANNE
JONES-GREENAWALT

LEGAL DESCRIPTION:

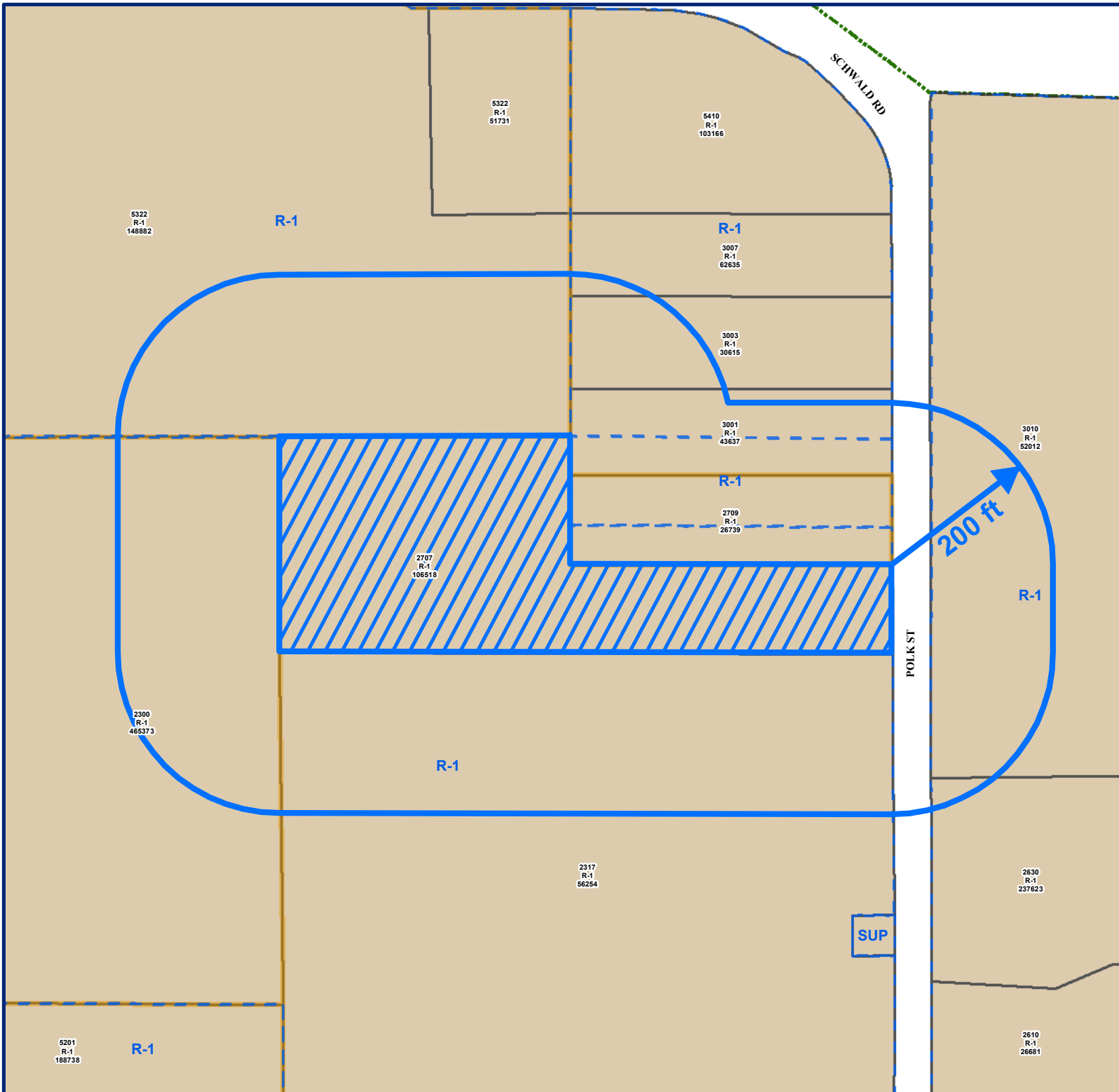
A0913BC J S WILDER,
780-18, ACRES 3.149

LEGEND

-  200' Buffer
-  Zoning Case
-  Current Zoning
-  Subdivision
-  Parcel
-  City Limits



Date: 11/23/2016



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.