

**City of Killeen**  
Regular City Council Meeting  
Killeen City Hall  
October 17, 2017 at 5:00 p.m.

Presiding: Mayor Jose L. Segarra

Attending: Mayor Pro-Tem Jim Kilpatrick, Councilmembers Debbie Nash-King, Juan Rivera, Shirley Fleming, Gregory Johnson, Jonathan Okray, and Steve Harris (arrived at 5:17)

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

Elder Mr. Jackson gave the invocation, and Councilmember Nash-King led everyone in the Pledge of Allegiance.

**Approval of Agenda**

*Motion was made by Mayor Pro-Tem Kilpatrick to approve the agenda as written. Motion seconded by Councilmember Fleming. The motion carried 6 to 0.*

**Minutes**

*Motion was made by Councilmember Okray to approve the minutes of the September 26th Regular City Council Meeting. Motion was seconded by Councilmember Johnson. Motion carried 6 to 0.*

**Resolutions**

**RS-17-105** Consider a memorandum/resolution to enter into a Memorandum of Understanding with the Texas Commission on Fire Protection and the Killeen Fire Academy.

**Staff comments:** Brian Brank

The Texas Commission on Fire Protection has started the process of setting up facilities for Commission online testing throughout the state of Texas. This MOU gives the KFD fire training center the ability to establish online testing at the KFD fire academy facility. Staff recommends that the City Council approve the Memorandum of Understanding with the Texas Commission on Fire Protection (TCFP) and authorize the City Manager, or his designee, to execute the agreements.

*Motion was made by Councilmember Rivera to approve RS-17-105. Motion was seconded by Councilmember Nash-King. Motion carried 6 to 0.*

**RS-17-106** Consider a memorandum/resolution authorizing a lease with purchase option of a backhoe for the Street Services division.

**Staff comments:** Frank Tydlacka

The three-year lease on one of the Street Services division's existing backhoes expires in December 2017. The Street Services division is requesting to initiate a new three-year backhoe lease with a purchase option at the end of the lease. Staff recommends the procurement of the backhoe from Holt CAT, through the TASB BuyBoard, with financing provided by Caterpillar Financial Services Corporation on a three-year lease of \$1,909.45 per month, FY 2018-2021, and that the City Manager or designee is expressly authorized to execute any and all change orders within the amounts set by state and local law.

*Motion was made by Councilmember Fleming to approve RS-17-106. Motion was seconded by Councilmember Johnson. Motion carried 6 to 0.*

**RS-17-107** Consider a memorandum/resolution approving a release and settlement agreement in the case of Beau Burkett Media LP v City of Killeen, Killeen Zoning Board of Adjustment, and Earl Abbott.

**Staff comments:** Kathy Davis

Burkett Media's application for a sign permit for a 672 sq. ft. billboard was denied because it was proposed within the 1500 foot radius of another large off-premises sign. On May 17, 2017, Burkett filed a petition. The petition alleges various claims including that the determination of the Building Official and Zoning Board are illegal, that the city's sign is illegal under TxDOT regulations, and that the city's ordinance is unconstitutional. In response to a Federal Judges' recommendation, the City and TML negotiated a settlement agreement with Burkett Media subject to City Council approval. The negotiated settlement is beneficial to the City, and will result in more than \$100,000 worth of free advertising for the City. Staff recommends that City Council approve the proposed settlement agreement with Burkett Media LP, and authorize the permitting of Burkett Media's proposed sign at the requested location which encroaches into the required 750 foot required distance by approximately 50 feet.

*Motion was made by Mayor Pro-Tem Kilpatrick to approve RS-17-107. Motion was seconded by Councilmember Fleming. Motion carried 5 to 1 with Councilmember Okray opposing.*

### **Public Hearings**

**PH-17-045** HOLD a public hearing and consider an ordinance requested by Richard Taylor of Eco-Site, L.L.C. on behalf of Florence HH MHP, L.L.C., (Case#Z17-21) to rezone approximately 0.058 acre, out of the John Essary Survey, Abstract 296, from "RMH" (Residential Mobile Home District) to "RMH" with a Conditional Use Permit (CUP) for a 110 feet tall monopole communication structure. The property is locally known as 3205 Florence Road, Killeen, Texas.

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 JOHN ESSARY SURVEY, ABSTRACT 296, CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM "RMH" (RESIDENTIAL MOBILE HOME DISTRICT) TO "RMH" WITH A CONDITIONAL USE PERMIT (CUP); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**Staff comments:** Tony McIlwain

The staff notified nine surrounding property owners within a 200 feet notification boundary regarding this request. As of the date of this report, no letters in support or opposition have been received. This zoning request conforms to the City's policy and procedures as detailed in Chapter 31 of the Killeen Code of Ordinances. The Planning and Zoning Commission, by a vote of 5 to 0, recommends approval of the applicant's request for a Conditional Use Permit (CUP) subject to the applicant's request of a reduction in the required setback from 110 feet to 50 feet with no additional landscaping

around the enclosure and that the enclosure be setback 25 feet from the rear of the property.

- Councilmember Harris came in at this point, 5:17p.m. -

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

*Motion was made by Councilmember Rivera to approve PH-17-045. Motion was seconded by Councilmember Okray. Motion carried unanimously.*

**PH-17-046A** HOLD a public hearing and consider an ordinance requested by the Planning staff (FLUM#Z17-22) to amend the Comprehensive Plan's Future Land Use Map (FLUM) from an 'Estate' designated area to a 'General Residential' designated area for approximately 2.673 acres, being part of the Robert Cunningham Survey, Abstract No. 199. The subject property is generally located along the west right-of-way of Cunningham Road, north of Hope Lane and west of Fawn Drive, Killeen, Texas.

City Secretary read the caption of the ordinance.

**AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN'S FUTURE LAND USE MAP FROM 'ESTATE' TO 'GENERAL RESIDENTIAL' FOR 2.673 ACRES OUT OF THE ROBERT CUNNINGHAM SURVEY, ABSTRACT NO. 199, FOR PROPERTY GENERALLY LOCATED ON THE WEST RIGHT-OF-WAY OF CUNNINGHAM ROAD, NORTH OF HOPE LANE AND WEST OF FAWN DRIVE, KILLEEN, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**Staff comments:** Tony McIlwain

This FLUM amendment request conforms to the city's policy as detailed in the Comprehensive Plan. The Planning and Zoning Commission recommended, by a vote of 4 to 1, approval of amending the FLUM from 'Estate' to 'General Residential' for the 2.673 acres as requested by staff. It shall be noted that, in this particular instance, the subject property and surrounding area are designated as 'Estate' on the FLUM, a significant amount of land within the quadrant of Hope Lane, Onion Road, Stagecoach Road, and Cunningham Road that is zoned as "R-1". Therefore, development is allowed to occur in conformance with the current zoning of the land even if it is not consistent with the community character as detailed in the Comprehensive Plan.

Mayor Segarra opened the public hearing.

Michelle Lee, Killeen Engineering & Surveying, 2901 E. Stan Schlueter Loop – spoke in favor of the request.

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

*Motion was made by Councilmember Okray to approve PH-17-046A. Motion was seconded by Councilmember Johnson. Motion carried unanimously.*

**PH-17-046B** HOLD a public hearing and consider an ordinance requested by Lagan Construction, Inc., (Case#Z17-22) to rezone approximately 2.673 acres out of the Robert Cunningham Survey, Abstract No. 199, from "A" (Agricultural District) to "R-1" (Single-Family Residential District). The property is located north of Hope Lane, approximately 1,200

feet west of Cunningham Road, Killeen, Texas.

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 “A” (AGRICULTURAL DISTRICT) TO “R-1” (SINGLE-FAMILY RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**Staff comments:** Tony McIlwain

The staff notified five (5) surrounding property owners regarding this request. Staff has received no protests at this time. The Planning and Zoning Commission recommended, by a vote of 4 to 1, approval of the zoning change as requested by the applicant.

Mayor Segarra opened the public hearing.

Michelle Lee, Killeen Engineering & Surveying, 2901 E. Stan Schlueter Loop - spoke in favor of the request.

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

*Motion was made by Councilmember Fleming to approve PH-17-046B. Motion was seconded by Councilmember Johnson. Motion carried unanimously.*

### **Adjournment**

With no further business, upon motion being made by Councilmember Rivera, seconded by Councilmember Okray, and unanimously approved, the meeting was adjourned at 5:30 p.m.

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Jose L. Segarra, Mayor

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Dianna Barker, City Secretary