

MINUTES

BOARD OF COMMISSIONERS

The Board of Commissioners of the City of Burkburnett, Texas, met in a Regular Meeting on Monday, October 21, 2019, at 7:00 p.m. at City Hall-Council Chambers, 501 Sheppard Road, Burkburnett, Texas. The meeting was open to the public, with notice being given in compliance with the Open Meetings Act. The following Commissioners were present:

Carl Law	Mayor
Marguerite Love	Mayor Pro-Tem
Josh Andrajack	Commissioner
Randy Brewster	Commissioner
Jeremy Duff	Commissioner
Ted Kwas	Commissioner
Bill Lindenborn	Commissioner

Others present were Lawrence Cutrone, City Manager; Brent Battista, Director of Parks and Recreation; Richard Gordon, Executive Director of Burkburnett Development Corporation / Director of Planning; Mike Whaley, Director of Public Works; Fred Tillman, Chief of Police; Rodney Ryalls, Fire Chief; Trish Holley, Director of Administration; Margie Poole, City Clerk; and Mike Guevara with Shahan Guevara Decker Arrott, Attorneys at Law.

ITEM 1. CALL MEETING TO ORDER: MAYOR

Mayor Law called the meeting to order at 7:00 p.m.

ITEM 2. INVOCATION

Chris Grant, Pastor; Abundant Life Church, Burkburnett, gave the invocation.

ITEM 3. PLEDGE OF ALLEGIANCE

Cub Scout Pack 600 presented the Colors and led the Pledge of Allegiance.

ITEM 4. CONSENT AGENDA

A. Approval of Minutes from September 16, 2019.

Commissioner Brewster made a motion, seconded by Commissioner Lindenborn, to approve the Consent Agenda. Motion carried unanimously.

ITEM 5. PERSONAL/AUDIENCE COMMENTS

Mrs. Joreen Ludeke addressed the Mayor and Commissioners with the request to consider implementing a recycling program. Mr. Lee Harvey, Board Member of the Burkburnett Senior Citizens' Center, thanked the Mayor, Commissioners, and the City of Burkburnett for their support of the recent fundraiser for Meals on Wheels.

ITEM 6. Mayor closed the Regular Meeting and opened the Public Hearing at 7:08 p.m. for the following Rezoning Applications:

- A. **Case #2019-46:** Rezone application for the 600 Block of N. Avenue C, rezoned from Residential-2 (R-2) to Residential-1 (R-1).
- B. **Case #2019-47:** Rezone application for the 400 Blocks of W. College and Buckner rezoned from Residential-2 (R-2) to Residential-1 (R-1).

Mr. Richard Gordon, Director of Planning, addressed the Mayor and Commissioners and stated that a development group is interested in constructing ten two-story townhome units facing N. Avenue C. On College Avenue, the developer would like to construct 12 additional townhomes, four facing Buckner Street and eight facing College Street. To construct these townhomes, the properties must be rezoned, and some building issues like lot size are still to be confirmed. The R-2 zoning district permits “stick-built” houses, mobile homes, and even small mobile home parks. Regarding these two locations, the Planning and Zoning Commission recommends the approval of the zoning requests.

County Commissioner Lee Harvey addressed the Mayor and Commissioners with his support for these two projects, as it diversifies the tax base and brings growth to Burkburnett.

ITEM 7. Mayor closed the Public Hearing and reopened the Regular Meeting at 7:17 p.m. to take any action necessary on the Rezoning Applications:

- A. **Case #2019-46:** Rezone application for the 600 Block of N. Avenue C, rezoned from Residential-2 (R-2) to Residential-1 (R-1).

Commissioner Andrajack asked for clarification of the difference in R-2 versus R-1. Richard Gordon clarified that R-1 allows for duplexes, triplexes, quadruplexes, townhomes, zero lot/patio homes, which are not permitted uses in the R-2 designation. Commissioner Andrajack then asked if a mobile home is allowable in R-1, and Mr. Gordon confirmed that it was allowed.

Commissioner Kwas commented that he was not in approval as the citizens were not in favor of this project on N. Avenue C. Commissioner Andrajack commented his support of this project but is concerned about the rezone to R-1, as it permits mobile homes, but would rather see a specific-use permit rather than a rezoning of the entire section.

Commissioner Lindenborn made a motion, seconded by Mayor Pro-Tem Love, to approve the rezoning request for Case #2019-46.

Ayes (5): Mayor Law, Mayor Pro Tem Love, Commissioners Brewster, Duff, and Lindenborn
Nays (2): Commissioners Andrajack and Kwas

Motion carried.

- B. **Case #2019-47:** Rezone application for the 400 Blocks of W. College and Buckner rezoned from Residential-2 (R-2) to Residential-1 (R-1).

Commissioner Andrajack commented that none of these lots were designed to have mobile homes constructed on them, and there is no commitment that the townhomes will be built on these sites. Once the rezoning is complete, Commissioner Andrajack expressed concern that anyone can purchase these properties and put a mobile home on it, so he would like to proceed with a specific-use permit rather than a rezone. Mr. Gordon then clarified that both R-1 and R-2 permit mobile homes, and the pieces of property are being considered for rezoning for the specific purpose of

constructing townhomes, not mobile homes. Mr. Mike Whaley, Director of Public Works, then further clarified that the current zoning of R-2 allows for mobile homes. R-1 also allows for mobile homes but allows for additional developments such as townhouses, duplexes, triplexes, and quadruplexes.

Mayor Pro-Tem Love made a motion, seconded by Commissioner Lindenborn, to approve the rezoning request for Case #2019-47. Motion carried unanimously.

ITEM 8. Discuss and take any action necessary on the Interlocal Agreement Between Burkburnett Independent School District and the City of Burkburnett.

Mr. Richard Gordon, Director of Planning, addressed the Mayor and Commissioners stating that since entering into the agreement with the Texas Communities Group with handling Trust Properties, our terms agreement with the Burkburnett ISD is being clarified. When a property is sold with a net benefit to the city of over \$2500, the Burkburnett ISD is to receive a proportional share of the proceeds. For lower value properties, the assignments are all to the city, because the city does maintain those properties. This agreement only validates the actions required in the Texas Property Code.

Commissioner Andrajack made a motion, seconded by Commissioner Duff, to approve the Interlocal Agreement Between Burkburnett Independent School District and the City of Burkburnett as presented. Motion carried unanimously.

ITEM 9. Discuss and take any action necessary on the Four (4) Tax Deeds and Property Cards for Trust Property in the City of Burkburnett from Texas Communities Group: (1) 126 Avenue F; (2) 709 E College Street; (3) 625 E 3rd Street; and (4) 508 E 5th Street.

Mr. Richard Gordon, Director of Planning, addressed the Mayor and Commissioners, stating that these are four additional trust properties that the city is maintaining and have entered under contract with one property selling for \$3000.

Mayor Pro Tem Love made a motion, seconded by Commissioner Brewster, that the city move forward with the four tax deeds as presented. Motion carried unanimously.

ITEM 10. Resolution Number 666. First Reading.

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS AUTHORIZING AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE BURKBURNETT DEVELOPMENT CORPORATION AND LEE HARVEY PROVIDING FOR THE PAYMENT OF ECONOMIC INCENTIVES IN RETURN FOR THE NEW BUSINESS DEVELOPMENT WITHIN BURKBURNETT, TEXAS.

ITEM 11. Discuss and take any action necessary on Ordinance Number 957.

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 102: SMOKING IN PUBLIC PLACES TO ADD CITY OWNED FACILITIES TO PUBLIC PLACES, TO RAISE THE SMOKING AGE AND TO BAN THE SALE OF FLAVORED LIQUID AND AEROSOLS; REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING AN OPEN MEETINGS CLAUSE; AND PROVIDING FOR RELATED MATTERS.

Mr. Lawrence Cutrone, City Manager, addressed the Mayor and Commissioners, stating that the new ordinance will ban the sale of flavored e-cigarette liquid and aerosols. The new ordinance also raises the legal age to smoke to 21 years of age, and it also bans smoking in city-owned facilities and areas. It will also amend Ordinance Chapter 102 the existing Ordinance regarding smoking around public facilities.

Commissioner Lindenborn questioned why are we looking at something that is already passed as state law. Mr. Guevara, with Shahan Guevara Decker Arrott, Attorneys at Law, clarified that this new ordinance is re-defining public place to include any city-owned facility and adding the sale of the flavored liquids and aerosols. Regarding legal age, Commissioner Duff further clarified that current Ordinance reads 18 years, and since the state changed it to 21, it is just changing the Ordinance to comply with state law. The discussion then focused on the ramifications of the violation and enforcement of this Ordinance. Commissioner Andrajack then questioned if the Ordinance would take effect immediately regarding inventory already purchased by local businesses. Mr. Guevara confirmed that the Ordinance, as written, would take effect immediately.

Commissioner Brewster made a motion, seconded by Commissioner Kwas, to adopt Ordinance 957.

Commissioner Brewster addressed the Mayor and fellow Commissioners regarding the vaping issue in school and provided background and details on the use of e-cigarettes, inclusive of data from the Surgeon General and the Centers for Disease Control and Prevention. The discussion then focused on the ramifications and enforcement of the ban on flavored e-cigarettes.

Commissioner Andrajack made a motion, seconded by Commissioner Brewster, to amend the motion on the floor to allow a 30-day runoff until enforcement of the Ordinance to allow businesses who have already invested in their inventory to sell the inventory.

Ayes (3): Commissioners Andrajack, Brewster, and Kwas

Nays (4): Mayor Law, Mayor Pro Tem Love, Commissioners Duff, and Lindenborn

The amended motion fails.

Main Motion - Commissioner Brewster made a motion, seconded by Commissioner Kwas, to adopt Ordinance 957.

Ayes (2): Commissioners Andrajack and Brewster

Nays (5): Mayor Law, Mayor Pro Tem Love, Commissioners Duff, Lindenborn, and Kwas

The main motion fails.

ITEM 12. Discuss and take any action necessary on Ordinance Number 958.

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS, AMENDING THE CODE OF ORDINANCES BY REPEALING AND REPLACING CHAPTER 75: GOLF CARTS; REGULATING THE OPERATION OF GOLF CARTS WITHIN THE CITY LIMITS OF BURKBURNETT; REPEALING OF ALL PORTIONS OF THE CODE OF ORDINANCES IN CONFLICT; PROVIDING A PENALTY; PROVIDING FOR PUBLISHED NOTICE; PROVIDING AN OPEN MEETINGS CLAUSE; AND PROVIDING FOR RELATED MATTERS.

Mr. Lawrence Cutrone, City Manager, addressed the Mayor and Commissioners, stating that new Ordinance will replace existing Ordinance Chapter 75 and allow for the registration, operations, necessary provisions, and penalties for golf cart usage on public roads. The Mayor noted the error in the title of the current Chapter 75. The discussion then focused on the details of the Ordinance, including the crossing prohibited roads, insurance, parcel delivery, use of a trailer, cost, pro-rated registration, driving range, and enforcement of this Ordinance.

Commissioner Andrajack made a motion, seconded by Commissioner Brewster, to postpone action on Ordinance Number 958 until the November regularly scheduled meeting.

Ayes (6): Mayor Law, Mayor Pro Tem Love, Commissioners Andrajack, Duff, Kwas, and Lindenborn
Nays (1): Commissioner Brewster

Motion carried.

ITEM 13. EXECUTIVE SESSION

Pursuant to the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, the Board of Commissioners may convene in Executive Session regarding the following matters:

- A. SECTION 551.071 – Consult with Attorney
 - a. Pending Police Department State Office of Administrative Hearing (SOAH) Matter

Mayor Law closed the meeting at 8:26 p.m. and opened the Executive Session.

ITEM 14. RECONVENE

Reconvene to regular session and take action, if any, on matters discussed in Executive Session.

Mayor Law reconvened the meeting at 8:43 p.m. No action was taken.

ITEM 15. CITY MANAGER'S REPORT

- A. Friendship Festival Summary – a record number of vendors (60). Great attendance and feedback.
- B. Waste Connections Texas Cities Got Talent Competition at the Texas Municipal League Annual Conference – received 3rd place in the singing competition and was awarded \$1000 for Parks Beautification use.
- C. Sheppard Military Affairs Committee (SMAC) Dinner: October 24, 2019.
- D. SAFB Open House and Air Show 2019: October 26-27, 2019 (SAFB).
- E. Painted Pumpkin Roll: November 3, 2019, at Friendship Park.

ITEM 16. COMMISSIONERS' COMMENTS

Commissioner Duff asked who participated in the TML competition. Richard Gordon confirmed that the competition team was Commissioner Brewster, Mayor Pro Tem Love, Lawrence Cutrone, Richard Gordon, Brent Battista, Mike Whaley, Trish Holley, Margie Poole, Chief of Police Fred Tillman, and Fire Chief, Rod Ryalls, and Brian Love.

ITEM 17. ADJOURNMENT

Commissioner Andrajack made a motion, seconded by Commissioner Lindenborn, to adjourn. The meeting adjourned at 8:46 p.m.

Carl Law, Mayor

ATTEST:

Margie Poole, City Clerk