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BURKBURNETT Texas
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Board of Commissioners Agenda Memo

From: Tim James, P.E. – City Manager

Date: October 15, 2012

Item: Discuss and take any action necessary on granting an easement across City property to Charlotte Spragins.

Background

Charlotte Spragins owns property immediately adjacent to the City owned River Creek Golf Course. A portion of Mrs. Spragins property adjacent to the west boundary of River Creek Golf Course is divided by a creek and she has historically accessed this portion of the property through City property. The proposed agreement specifies the terms of the easement.

Fiscal Impact

N/A

Options

- Approve dedication of easement
- Take no Action

Staff Recommendation

Staff recommends that the Commission approve the dedication of the easement

Attachments

- Easement agreement
- Map of area

EASEMENT AGREEMENT

This Easement Agreement (this "Agreement") is made on the ___ day of _____, 2011 between the City of Burkburnett, Texas, a Texas municipal corporation ("Grantor") and Charlotte Spragins ("Grantee").

Grant of Easement

1. For the consideration described in Paragraph 2 and subject to the limitations set forth herein, Grantor grants to Grantee an easement and right-of-way upon and across the lands which are more particularly described in Exhibit A (which is attached hereto and incorporated herein for all purposes, herein referred to as the "Property") of the Grantor limited to the area described in Paragraph 4 below.

Consideration

2. This easement is granted in consideration of the Grantee's payment to Grantor of the sum of $1.00 and other valuable consideration, receipt of which is acknowledged on behalf of Grantor.

Character of Easement

3. This instrument grants an easement appurtenant to the dominant tenement. The dominant tenement is that certain tract or parcel of land now owed by Grantee which is adjacent to, and immediately West of, the Property, and more particularly described on Exhibit "B". The East boundary line of the dominant tenement and the West boundary line of the Property are a common boundary line.

Location of Easement

4. The easement and right-of-way shall be located upon and across the Western-most 25 feet of the Property being a 25 feet wide access lane along and adjacent to the West boundary line of the Property.

Purpose of Easement

5. This right-of-way easement, with its rights and privileges, shall be used only for ingress and egress from Farm to Market Road 1177 to the tract of land which is immediately or directly adjacent to, and West of, the Property by Grantee, her tenants, servants, visitors, licensees, and invitees.

Duration of Easement

6. This easement shall be perpetual subject to the limitations set forth herein.

Nonexclusive Easement

7. The easement, rights, and privileges granted by this conveyance are nonexclusive, and Grantor reserves and retains the right to convey similar rights and easements to such other persons as Grantor may deem proper.

Indemnity

8. Grantee shall hold harmless, defend, and indemnify Grantor against any suits, liabilities, claims, demands, or damages, including but not limited to personal injuries and attorneys' fees, arising from Grantee's exercise of easement rights granted by this instrument including, without limitation, all claims by Grantee's invitees.

Termination

9. The easement, along with its rights and privileges, shall terminate when: (i) the need of the easement, as described in Paragraph 5 of this Agreement, ceases to exist and is abandoned by Grantee, or becomes impossible of performance or (ii) when an alternate means of ingress and egress from Farm to Market Road 1177 is reasonably available to the dominant tenement; that is, the tract immediately and directly adjacent to, and West of, the Property.

Use

10. Grantee agrees to comply with the following covenants with respect to the use of the easement:

a. Neither Grantee nor Grantee's tenants, servants, visitors, licensees, invitees will use the easement to access the Property and Golf Course facilities of Grantor and neither will use areas outside of the easement herein granted for ingress and egress, unless such easement becomes impassable.

b. Grantor agrees to maintain the roadway to be used for the easement. Grantee agrees to avoid making deep ruts in the easement area and, if ruts are made, will use a blade or fill material acceptable to Grantor, to smooth the surface area within 14 days of the time the ruts are made.

c. Grantee and Grantee's tenants, servants, visitors, licensees, and invitees will close and lock (if a lock is being used) all gates any time they enter or leave the dominant tenement using this easement. Grantor agrees to either allow a double locking chain or provide Grantee will a key to any single lock.

Grantee will be in violation of these covenants and this easement agreement may be terminated pursuant to paragraph 11 below if any violation is not remedied by Grantee within 30 days of written notice of such violation(s) by Grantor to Grantee. Notice to Grantee shall be to the address for the owner of the dominant tenement as shown by the records of the Wichita Appraisal District unless Grantee has provided Grantor with written notice of another address.

Failure to Perform

11. Should Grantee fail to perform any covenant, undertaking, or obligation under this Agreement, all rights and privileges granted to Grantee by this Agreement shall terminate, and this Agreement shall be of no further force or effect. This paragraph in no way is intended to allow termination of any implied easement or easement of necessity owned by Grantee. Grantor may terminate this easement agreement by filing an affidavit of the facts related thereto in the Official Public Records of the County Clerk of Wichita County, Texas.

Rights Reserved

12. Grantor retains, reserves, and shall continue to enjoy the use of the surface of the easement area described in Paragraph 4 for any and all purposes that do not interfere with or prevent Grantee's use of the easement. This includes, without limitation, the right to build and use the surface of the easement area for a road, golf cart path or walkways.

Entire Agreement

13. This Agreement contains the entire agreement between the parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and agreed to by both parties.

Binding Effect

14. This Agreement shall bind and inure to the benefit of the respective parties, their personal representatives, successors, and assigns.

Executed as of the date and year first written above.

City of Burkburnett, Texas

_____ By:_____

Charlotte Spragins Carl Law, Mayor

STATE OF TEXAS)

COUNTY OF WICHITA)

This instrument was acknowledged before me on the ____ day of_____, 2011 by Charlotte Spragins.

_____

Notary Public, State of Texas

STATE OF TEXAS)

COUNTY OF WICHITA)

This instrument was acknowledged before me on the ____ day of _____, 2011 by Carl Law, Mayor of the City of Burkburnett, Texas, a Texas municipal corporation on behalf of said corporation.

_____

Notary Public, State of Texas

EXHIBIT "A" TO THAT CERTAIN EASEMENT AGREEMENT BETWEEN THE CITY OF BURKBURNETT AND CHARLOTTE SPRAGINS

The 145 acres, more or less, out of the following described Tracts A, B, C, and D, which is currently utilized as a golf course known as River Creek Golf Course, such 145 acres being bounded on the South by FM 1177 and on the North by the Red River Bluff:

TRACT A:
70.38 acres of land, more or less, BEGINNING in the South line of Anderson Survey at a point 1000 vrs. South and 152.275 vrs. East of the Southwest corner of Gilbert Survey;
THENCE North to a point in the Texas-Oklahoma boundary line approximately 270 vrs. to a point due North of a point 152.275 vrs. East of the point of beginning;
THENCE South parallel with the West boundary line of this tract to a point in the South boundary line of Anderson Survey;
THENCE West 152.275 vrs. to point of BEGINNING.

TRACT B:
66.35 acres of land, more or less, BEGINNING in the South line of Anderson Survey at a point 1000 vrs. South and 304.55 vrs. East of the Southwest corner of Gilbert Survey;
THENCE North to a point in the Texas-Oklahoma boundary line;
THENCE in a Southeasterly direction along said boundary line approximately 270 vrs. to a point due North of a point 152.275 vrs. East of the point of beginning;
THENCE South parallel to the West boundary line of this tract to a point in the South boundary line of Anderson Survey;
THENCE West 152.275 vrs. to the point of BEGINNING.

TRACT C:
63.12 acres of land, more or less, BEGINNING in the South line of Anderson Survey at a point 1000 vrs. South and 456.82 vrs. East of the Southwest corner of Gilbert Survey;
THENCE North to a point in the Texas-Oklahoma boundary line;
THENCE in a Southeasterly direction along said boundary line approximately 270 vrs. to a point due North of a point 152.275 vrs. East of the point of beginning;
THENCE South parallel with the West boundary line of this tract to a point in the South boundary line of Anderson Survey;
THENCE West 152.275 vrs. to the place of BEGINNING.

TRACT D:
72.82 acres of land, more or less, being a part of the M. Gilbert Survey, Abstract 87, and the W.H. Anderson Survey, Abstract 1, Wichita County, Texas, to-wit:
BEGINNING at a point 1000 vrs. South to the Southwest corner of said Gilbert Survey and on the South boundary line of said Anderson Survey;
THENCE North 2770 vrs. to the Texas-Oklahoma boundary line, a stake for corner;
THENCE with said boundary line in a Southeasterly direction approximately 270 vrs. to a point due North of a point 152.275 vrs. east of the point of beginning;
THENCE South parallel to the West boundary line of this tract to a point in the South boundary line of said Anderson Survey;
THENCE West 152.275 vrs. to the point of BEGINNING.

EXHIBIT "B" TO THAT CERTAIN EASEMENT AGREEMENT BETWEEN THE CITY OF BURKBURNETT AND CHARLOTTE SPRAGINS

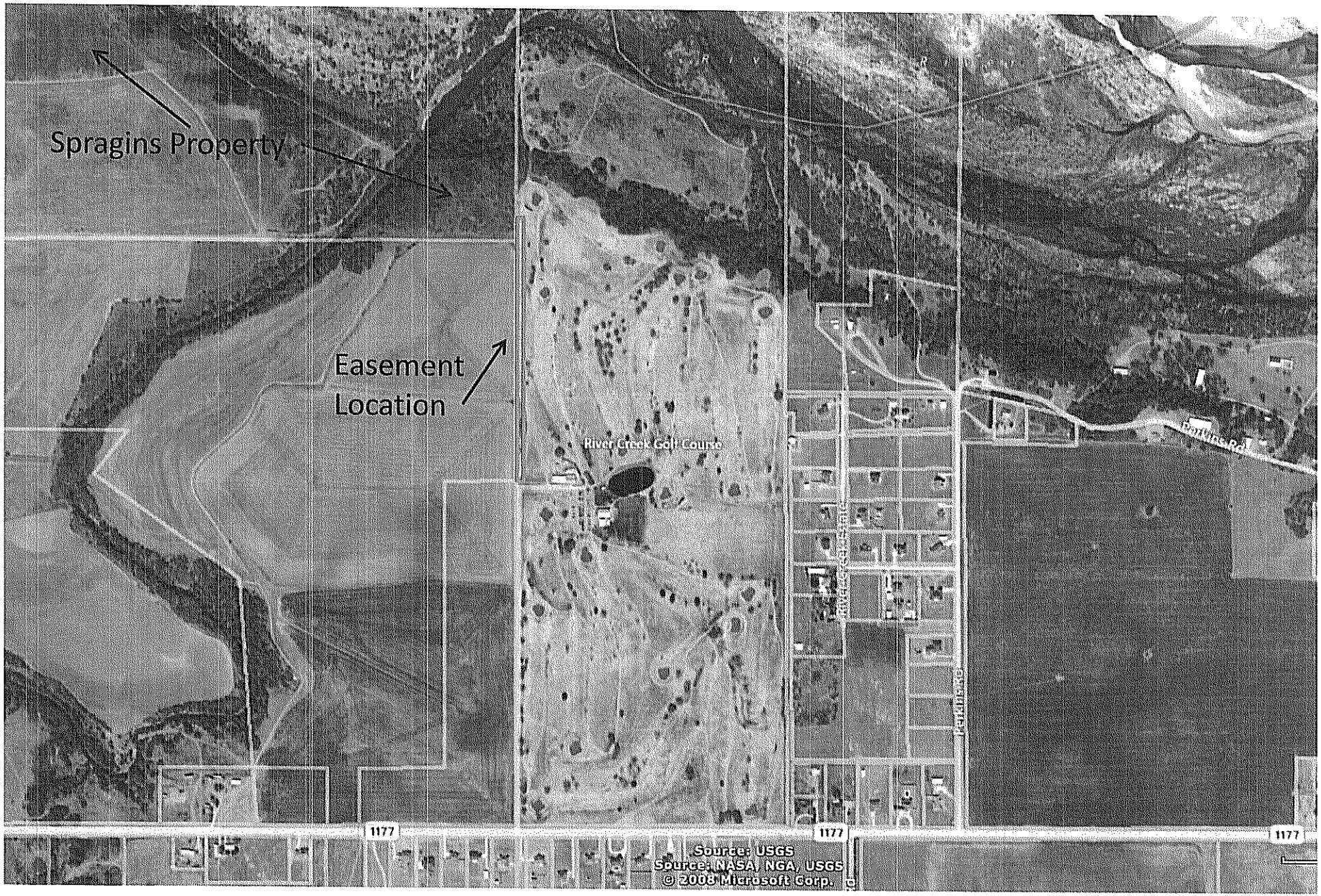
Subdivision Nos. One (1), Two (2) and Four (4) of the Kenney Subdivision of the W. H. Anderson Survey, Abstract No. 1 and the John Deck Survey, Abstract No. 52, Wichita County, Texas, SAVE AND EXCEPT the South 140 acres of said Subdivision No. 2.

Said land is more particularly described by metes and bounds as to each such Subdivision as follows, to-wit:

Subdivision No. 1: BEGINNING at a small hackberry tree on the South bank of Gilbert Creek and just a little Southeast of the bridge across the same, the Southwest corner of this survey and the Northwest corner of Subdivision No. 2 described below; THENCE North crossing Gilbert's Creek at 799 varas cross the North line of the W. H. Anderson Survey and the South boundary line of the John Deck Survey, at 1343 varas a stake the Northwest corner of this subdivision; THENCE East at 1345 varas a stake at foot of bluff from which an elm bears South 27-1/2 deg. West 38 varas; THENCE South 1343 varas a stake the Northeast corner of Subdivision No. 2 of the W. H. Anderson and John Deck Surveys, and the Southeast corner of this survey; THENCE West 1345 varas to the beginning and containing 320 acres of land.

Subdivision No. 2: BEGINNING at a stake in the center of a lane on the South boundary line of the W. H. Anderson Survey, 1070 varas East of its Southwest corner; THENCE North with said line 1343 varas to a small hackberry tree marked X the Northwest corner of this subdivision and the Southwest corner of Subdivision No. 1 on the South bank of Gilbert Creek and near bridge over same; THENCE East 1345 varas a stake the Northeast corner of this subdivision and the Southwest corner of Subdivision No. 4; THENCE South at 320 varas the North bank of Gilbert Creek, at 1343 varas a stake under fence in the South line of this subdivision, the Southeast corner of this subdivision; THENCE West 1345 varas to the beginning and containing 320 acres of land; SAVE AND EXCEPT the South 140 acres of said Subdivision No. 2, as more fully described in that certain conveyance from S. B. Dunn to J. Z. Dunn, recorded in Volume 1037, Page 833 of the Deed Records of Wichita County, Texas.

Subdivision No. 4: BEGINNING at a stake on the East line of said W. H. Anderson Survey, at the Northeast corner of Subdivision No. 3 of said W. H. Anderson and John Deck Surveys; THENCE North crossing Gilbert Creek at 799 varas pass Northeast corner of said W. H. Anderson Survey at 947 varas a stake and corner of the John Deck Survey, on the South bank of Red River; THENCE North 47-1/2 Deg. West 586 varas a stake, the Northeast corner of this subdivision on the South bank of Red River; THENCE West 1053 varas a stake the Northeast corner of Subdivision No. 1, Anderson and Deck Surveys, from which an elm marked X bears South 27-1/2 deg. West 38 varas; THENCE South 1343 varas a stake and four pits, the Northwest corner of Subdivision No. 3; THENCE East cross Gilbert Creek 1485 varas to the place of beginning, containing 338 acres of land.


Spragins Property
Easement Location
River Creek Golf Course
Perkins Rd
1177
1177
1177
Source: USGS
Source: NASA, NGA, USGS
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BURKBURNETT Texas
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Board of Commissioners Agenda Memo

From: Tim James, P.E. – City Manager

Date: October 15, 2012

Item: Discuss and take any action necessary on Resolution Number 538.

Background

At the September 17th Board of Commissioners Meeting, the Board voted to set up a Voluntary Contribution Program for the Burkburnett Boys and Girls Club. Resolution Number 538 establishes the guidelines for the Voluntary Contribution Program.

Fiscal Impact

N/A

Options

- Approve Resolution Number 538
- Recommend changes to Resolution Number 538
- Take no Action

Staff Recommendation

Staff recommends that the Commission approve Resolution Number 538.

Attachments

- Resolution Number 538

RESOLUTION NUMBER 538

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS AUTHORIZING THE ESTABLISHMENT OF A VOLUNTARY CONTRIBUTION PROGRAM FOR THE BURKBURNETT BOYS AND GIRLS CLUB; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of Burkburnett provides funds to the Burkburnett Boys and Girls Club for recreational programs; and

WHEREAS, the Board of Commissioners has determined that the programs provided by the Burkburnett Boys and Girls Club are a benefit to the community; and

WHEREAS, the Board of Commissioners of the City of Burkburnett has determined that the establishment of a voluntary contribution program for the Burkburnett Boys and Girls Club would be a beneficial program for residents of Burkburnett.

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners of the City of Burkburnett, Texas, that:

Section 1. The City of Burkburnett hereby establishes a Voluntary Contribution Program for the Burkburnett Boys and Girls Club.

Section 2. The Voluntary Contribution Program shall include:

1. Residents will be offered the opportunity to voluntarily contribute to the Burkburnett Boys and Girls Club by increasing the amount of their monthly utility bill.
2. Residents that desire to contribute to the program will be required to sign a Voluntary Contribution form and designate the amount they wish to contribute each month.
3. All funds received from the Voluntary Contribution Program for the Burkburnett Boys and Girls Club will be placed in a separate account and will be provided to the Boys and Club on a monthly basis.
4. Residents may change their voluntary contribution amount at any time by submitting a revised Voluntary Contribution form. The revised contribution will be included on the next regular utility bill.
5. Residents will be notified in advance of the start of the Voluntary Contribution Program through information provided to the local newspaper, the City's website, and information included with the monthly utility bill.

Section 3. It is hereby officially found and determined that the meeting at which this resolution was passed was open to the public as required by law.

PASSED AND APPROVED on this 15th day of October 2012.

_____
Carl Law, Mayor

ATTEST:

_____
Janelle Dolan, City Clerk