



**Board of Commissioners Agenda Memo**

**From:** Tim James, P.E. – City Manager

**Date:** November 19, 2012

**Item:** Discuss and take any action necessary on the appointment of Zoning Board of Adjustment members.

**Background**

The Zoning Board of Adjustment (ZBA) is appointed by the Board of Commissioners. The term for Board members Bob Parker (Chair), Mickey Cornelius (Vice-Chair), and Angie Robertson in addition to alternates Glenn Whaley and Glen Hutchinson will expire in November. Board members Bob Parker and Mickey Cornelius and alternate member Glenn Whaley have indicated they are willing to serve again on the ZBA. Board member Angie Robertson and alternate member Glen Hutchinson have indicated that they no longer wish to be on the ZBA. Alternate member Glenn Whaley has also indicated he wishes to remain an alternate member.

**Fiscal Impact**

N/A

**Options**

- Appoint existing members willing to serve and find replacements for one Board member and one alternate
- Take no Action

**Staff Recommendation**

Staff has no specific recommendation

**Attachments**

- N/A



**Board of Commissioners Agenda Memo**

**From:** Tim James, P.E. – City Manager

**Date:** November 19, 2012

**Item:** Discuss and take any action necessary on the appointment of Mike Avey to serve as Burkburnett’s representative on the Wichita Appraisal District Board of Directors for a two-year term

**Background**

The term of Burkburnett representative Mike Avey on the Wichita Appraisal District Board of Directors will expire December 31, 2012. Mr. Avey serves as the representative for both the City of Burkburnett and Burkburnett ISD. Mr. Avey is eligible for re-appointment to a two-year term.

**Fiscal Impact**

N/A

**Options**

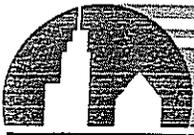
- Recommend the re-appointment of Mike Avey to serve as Burkburnett’s representative on the Wichita Appraisal District Board of Directors
- Take no Action

**Staff Recommendation**

Staff recommends that the Commissioners re-appoint Mike Avey

**Attachments**

- N/A



# WICHITA APPRAISAL DISTRICT

P.O. Box 5172 • 600 SCOTT STREET • WICHITA FALLS, TEXAS 76307

PHONE: (940) 322-2435 • FAX: (940) 322-8190

www.wadtx.com

"EQUALIZATION"

October 16, 2012

Mr. Tim James  
City Manager  
501 Sheppard Rd  
Burkburnett, Texas 76354

Dear Mr. James:

The term of the Burkburnett representative on the Wichita Appraisal District Board of Directors will expire December 31, 2012. Board members serve two-year terms. There is no term limit exclusion for members of the Board of Directors; therefore your present member is eligible for reappointment. Your representative serving at this time is:

Mike Avey

Burkburnett City & Burkburnett ISD

We would appreciate notification of your appointee prior to December 1, 2012, as the new terms begin January 1, 2013. If unable to appoint by this date, please notify us as soon as possible thereafter. Please forward a copy of your resolution for appointment as required by the Texas Property Tax Code. A list of all members of the 2012 Board of Directors is included for your review.

We appreciate your efforts on behalf of the taxpayers of Wichita County in consistently appointing quality Board members. If you have any questions about the Board appointments, please feel free to call me.

Sincerely,

Edward H. Trigg  
Chief Appraiser

EHT/sls  
Enclosure  
CC: Mike Avey



**Board of Commissioners Agenda Memo**

**From:** Tim James, P.E. – City Manager

**Date:** November 19, 2012

**Item:** Ordinance Number 823

**Background**

Commissioner Lindborn had requested that staff evaluate the options for establishing regulations to prohibit the intentional placement of grass and leaves in the right-of-way by residents. Proposed Ordinance 823 amends Chapter 96 of the Code of Ordinances and prohibits the dumping of waste material in the public right-of-way and also prohibits the intentional placement of grass and leaves in the public right-of-way.

**Fiscal Impact**

N/A

**Options**

- Approve Ordinance 823
- Take no Action

**Staff Recommendation**

Staff recommends that the Commission approve Ordinance Number 823

**Attachments**

- Ordinance 823

**ORDINANCE NUMBER 823**

**AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS AMENDING CHAPTER 96-NUISANCES OF THE CODE OF ORDINANCES MAKING IT AN OFFENSE TO DEPOSIT, PLACE OR DUMP TRASH, GRASS CLIPPINGS, REFUSE, DEBRIS, TIN CANS, GLASS, WORN OUT AUTOMOBILE PARTS, WASTE MATERIAL ON ANY KIND OR CHARACTER UPON THE STREETS, ALLEYS OR PUBLIC LANDS WITHIN THE CITY LIMITS OF BURKBURNETT; PROVIDING A PENALTY FOR THE VIOLATION OF SUCH OFFENSES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE; FINDING AND DETERMINING THAT THE MEETING THIS ORDINANCE IS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**WHEREAS**, the Board of Commissioners of the City of Burkburnett is concerned about the depositing of trash in Burkburnett; and

**WHEREAS**, the Commissioners recognizes the health and safety concerns associated with insuring that this type of activity is prevented and the impact it has on the community as a whole; and

**WHEREAS**, the Commissioners finds that it is in the best interests of the health, safety and welfare of the people of Burkburnett to enact this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS, THAT:**

**SECTION 1.** That Chapter 96-Nuisances of the Code of Ordinances of the City of Burkburnett, Texas be amended as provided:

CHAPTER 96: NUISANCES

Section

- 96.01 Definitions
- 96.02 Public nuisances prohibited
- 96.03 Abatement procedure; service of notice
- 96.04 Refusal to abate nuisance; costs to city; privilege lien
- 96.05 Enumerations of nuisances cumulative
- 96.99 Penalty

96.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"ANY AND ALL OTHER OBJECTIONABLE, UNSIGHTLY, OR UNSANITARY MATTER OF WHATEVER NATURE." All uncultivated vegetable growth, objects and matter not included within the meaning of the other terms, and herein used, or any other matter or thing which is liable to produce or tend to produce an unhealthy, unwholesome or unsanitary condition.

"BRUSH." All trees or shrubbery under seven feet in height which are not cultivated or cared for by persons owning or controlling the premises.

"LOT, PARCEL or REAL ESTATE." In addition to those grounds within their respective boundaries, all lots or parcels of ground lying and being adjacent thereto and extending beyond the property line of any such lot or parcel of real estate to the curb line of adjacent streets where the curblineline has been established and 14 feet beyond the property line where no curblineline has been established and also to the center of adjacent alleys.

"RUBBISH." All refuse, tin cans, old vessels of all sorts, useless articles, discarded clothing, and textiles of all sorts, and in general all litter and other things usually included within the meaning of the term.

"WEEDS." All rank and uncultivated vegetable growth or matter which has grown to more than nine inches in height, or which, regardless of height, is liable to become an unwholesome mass or breeding place for mosquitoes or vermin.

(Ord. 432, passed - -86; Am. Ord. 509, passed 7-19-93)

#### 96.02 PUBLIC NUISANCES PROHIBITED.

- (A) The existence of weeds, rubbish or any other objectionable, unsightly and unsanitary matter of whatever nature covering or partly covering the surface of any lot, parcel or real estate within the city is hereby declared a nuisance.
- (B) The existence of any condition on any lot, parcel or real estate within the city which is liable to cause disease or produce, harbor or spread disease germs of any nature, or tends to render the surrounding atmosphere unhealthy, unwholesome, or obnoxious, is hereby declared a nuisance.
- (C) It shall be unlawful for any person:
  - (1) To allow any condition deemed a nuisance to exist on any lot, parcel or real estate which is owned or occupied by such person, or
  - (2) To recreate a condition deemed a nuisance on any property located within the city limits.
- (D) That no person, firm, or corporation shall hereafter deposit, place, or dump or cause to be deposited, placed or dumped, any trash, refuse, debris, tin cans, glass, worn out automobile parts, waste material of any kind or character upon the

streets, alleys, or public lands within the city limits of the City of Burkburnett, Texas.

- (E) That no person, firm, or corporation shall hereafter intentionally deposit, place, or dump or cause to be deposited, placed or dumped, any grass clipping, leaves, or yard waste material of any kind or character upon the streets, alleys, or public lands within the city limits of the City of Burkburnett, Texas.

#### 96.03 ABATEMENT PROCEDURE; SERVICE OF NOTICE.

(A) Whenever the existence of any such nuisance, as herein defined, on any lot or parcel or real estate situated in the city shall come to the knowledge of the City Health Officer, or the Wichita County Health Unit, or the City Manager, or any designated agent appointed or employed by the City Manager, it shall be his duty and he shall cause a written notice identifying such property to be issued forthwith to the person owning or having possession or control of same requiring the abatement of such nuisance by grubbing and removing such weeds, brush, rubbish, or other objectionable, unsightly or unsanitary matter of whatever nature, as the case may be. Such notice shall also state that in default of abatement by him within ten days from the date of the notice, the city may cause the same to be done and pay therefore and charge the cost and expense incurred in having such work done for improvements made to the owner of such property and fix a lien on such property. The City Health Officer or his duly authorized representatives, shall compile the cost of such work done and improvements made in abating such nuisance, and shall charge the same against the owner or possessor of the property. Before the city files a lien on such property as hereinafter provided it shall send a statement to the property owners or persons having possession and/or control of said property, and thereafter if the charges are not paid, then the lien shall be filed, including a \$100 administration fee.

(B) The notice, as required above, shall be in writing and either served personally or sent by letter addressed to the owner of the lot or parcel of real estate at his post office address or publication in a newspaper of general circulation in the city two times within ten consecutive days, if personal service may not be had, as aforesaid, or if the owner's address be unknown.

#### 96.04 REFUSAL TO ABATE NUISANCE; COSTS TO CITY; PRIVILEGE LIEN.

(A) In the event the owner shall fail or refuse to abate the nuisance within the time required in ' 96.03, the city may cause the nuisance to be abated and when the same is done the City Health Officer or his duly authorized representatives shall compile the cost of such work done or improvements made in abating such nuisance and shall charge such costs against the owner of such premises, as provided for in ' 96.03.

(B) A certified copy of such costs shall also be filed with the County Clerk of Wichita County and when the same is so filed the city shall have a privilege lien upon such lot or parcel of real estate, second only to tax liens and liens for street improvements, to secure the expenditures so made, and 10% interest on the amount from the date of such payment, after the fixing any such lien, as aforesaid,

and for any such expenditures, and interest, as herein before set out, suit may be instituted and recovery and foreclosure had in the name of the city in any court of competent jurisdiction, and in any such suit or action, the statement of charges ,so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended in any such work or improvements.

96.05 ENUMERATIONS OF NUISANCES CUMULATIVE.

The enumerations of the nuisances and the remedy for abating the same, as set out in this chapter, shall not be exclusive, but cumulative.

96.99 PENALTY.

Any person, or persons, or firm, or corporation who violates any of the provisions of this chapter or who fails to comply with this chapter shall be deemed guilty of a misdemeanor and upon conviction shall be fine a sum of not less than \$25 and not more than \$200 for each offense and each day's continuance of failure to comply therewith shall constitute a separate and distinct offense for each day.

**SECTION 2.** The fact that the dumping of trash, debris, or refuse, as aforesaid, on any public street, alley, or property within the city limits of the City of Burkburnett creates a health hazard and a nuisance, and for the protection of the public health and safety this ordinance shall take effect and be in force after passage and official publication.

**SECTION 3.** In the event any one or more of the provisions of this Ordinance should be declared to be invalid, unenforceable or illegal; such invalidity, unenforceability, or illegality shall not affect the validity, enforcement or legality of the remaining portions of this Ordinance.

**SECTION 4.** It is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public as required by law and notice of the time, place, and purpose of said meeting was given as required by law.

**PASSED AND APPROVED** on this 19th day of November, 2012.

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Carl Law, Mayor

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Janelle Dolan, City Clerk



## Board of Commissioners Agenda Memo

**From:** Tim James, P.E. – City Manager

**Date:** November 19, 2012

**Item:** Ordinance Number 830

### Background

On October 15<sup>th</sup> the Board of Commissioners approved the establishment of an ordinance allowing golf carts on City streets for holiday parcel delivery. Commissioner Andrajack indicated he would prefer that the Ordinance provide for Christmas parcel delivery. Ordinance Number 830 specifies the regulations for allowing golf carts for Christmas parcel delivery.

### Fiscal Impact

N/A

### Options

- Approve Ordinance Number 830
- Recommend changes to Ordinance Number 830
- Take no Action

### Staff Recommendation

Staff recommends that the Commission approve Ordinance Number 830

### Attachments

- Ordinance Number 830

**ORDINANCE NUMBER 830**

**AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS ADDING CHAPTER 75-GOLF CARTS FOR CHRISTMAS PARCEL DELIVERY TO THE CODE OF ORDINANCES ALLOWING THE USE OF GOLF CARTS ON CITY STREETS FOR CHRISTMAS PARCEL DELIVERY WITHIN THE CITY LIMITS OF BURKBURNETT; PROVIDING A PENALTY FOR THE VIOLATION OF SUCH OFFENSES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE; FINDING AND DETERMINING THAT THE MEETING THIS ORDINANCE IS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**WHEREAS**, the Board of Commissioners of the City of Burkburnett has determined that the use of golf carts for Christmas parcel delivery would benefit the residents of Burkburnett; and

**WHEREAS**, the Commissioners recognize there is a need for certain restrictions to be placed on the use of golf carts for the delivery of Christmas parcels; and

**WHEREAS**, the Commissioners find that it is in the best interests of the health, safety and welfare of the people of Burkburnett to enact this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS, THAT:**

**SECTION 1.** That Chapter 75-Golf Carts for Christmas Parcel Delivery be added to the Code of Ordinances of the City of Burkburnett, Texas as provided:

CHAPTER 75: Golf Carts for Christmas Parcel Delivery

Section

- 75.01 Definitions
- 75.02 Allowable Period of Use
- 75.03 Location Restrictions
- 75.04 Required Equipment
- 75.05 Operators
- 75.10 Penalty

75.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"GOLF CART." As assigned by Texas Transportation Code 502.001.

"PUBLIC HIGHWAY." As assigned by Texas Transportation Code 502.001.

"ALLOWABLE USERS." An entity whose primary business is the delivery of parcels.

75.02 ALLOWABLE PERIOD OF USE.

Golf carts operated by allowable users may be used on public highways for Christmas parcel delivery from 12:00 a.m. on November 15<sup>th</sup> to 11:59 p.m. on December 31<sup>st</sup> of each year.

75.03 LOCATION RESTRICTIONS.

Golf carts may be operated on public highways with a speed limit of not more than 35 mph.

75.04 REQUIRED EQUIPMENT.

Golf carts used for Christmas parcel delivery shall be equipped with headlamps, tail lamps, reflectors, a parking brake, and mirrors.

75.05 OPERATORS.

Golf carts shall only be operated by allowable users with a valid driver's license that authorizes said person to operate a motor vehicle on public highways. Operators shall obey all state and local traffic laws.

75.10 PENALTY.

Any person, or persons, or firm, or corporation who violates any of the provisions of this chapter or who fails to comply with this chapter shall be deemed guilty of a misdemeanor and upon conviction shall be fined a sum of not less than \$25 and not more than \$200 for each offense and each day's continuance of failure to comply therewith shall constitute a separate and distinct offense for each day.

**SECTION 2.** This ordinance shall take effect and be in force after passage and official publication.

**SECTION 3.** In the event any one or more of the provisions of this Ordinance should be declared to be invalid, unenforceable or illegal; such invalidity, unenforceability, or illegality shall not affect the validity, enforcement or legality of the remaining portions of this Ordinance.

**SECTION 4.** It is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public as required by law and notice of the time, place, and purpose of said meeting was given as required by law.

**PASSED AND APPROVED** on this 19th day of November, 2012.

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Carl Law, Mayor

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Janelle Dolan, City Clerk



## Board of Commissioners Agenda Memo

**From:** Tim James, P.E. – City Manager

**Date:** November 19, 2012

**Item:** Resolution Number 540

### Background

The Board of Commissioners authorized a change in the organizational structure of the City at the November 1, 2012 meeting. Resolution Number 540 reflects the approved changes.

### Fiscal Impact

N/A

### Options

- Approve Resolution Number 540
- Take no Action

### Staff Recommendation

Staff recommends that the Commissioners approve Resolution Number 540

### Attachments

- Resolution Number 540

RESOLUTION NUMBER 540

**A RESOLUTION DEFINING AND CLARIFYING THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS INTERPRETATION OF ARTICLE V, SECTION 5 (c) PERTAINING TO THE 'ADVICE AND CONSENT' OF THE BOARD OF COMMISSIONERS IN THE PERSONNEL HIRING AND FIRING DECISIONS OF THE CITY; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**WHEREAS**, the City of Burkburnett has had a long-standing practice of providing the Board of Commissioners with a monthly Personnel Report that reflects all of the personnel decisions of the prior month; and

**WHEREAS**, the monthly Personnel Report has served as adequate 'advice and consent' of the Board of Commissioners as required by the City Charter; and

**WHEREAS**, the current Board of Commissioners would like to provide additional direction to the City Manager as it relates to the personnel practices of the City; **NOW THEREFORE**,

**BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS:**

**Section 1.** The hiring and firing of Senior Staff Department positions and all organizational restructuring plans require the City Manager to bring the Board of Commissioners his/her recommendation along with all of the supporting documentation and seek Council consent prior to affecting the personnel decisions or implementing an organizational structure change. Senior Staff Department positions are defined as: Chief of Police, Public Works Director, City Clerk, and the Finance Director/Controller.

**Section 2.** The hiring and firing of all other positions within the city's organization will continue the past practice of reporting on a monthly basis to the Board of Commissioners rendering the Board of Commissioner's 'advice and consent' to those personnel decisions after the decision(s) have been made.

**PASSED AND APPROVED** at a meeting of the Board of Commissioners of the City of Burkburnett on this 19th day of November, 2012.

\_\_\_\_\_  
Carl Law, Mayor

**ATTEST:**

\_\_\_\_\_  
Janelle Dolan, City Clerk



**Board of Commissioners Agenda Memo**

**From:** Tim James, P.E. – City Manager

**Date:** November 19, 2012

**Item:** Discuss and take any action necessary on Charter Review Committee selection process

**Background**

During the Board of Commissioners workshop conducted on November 1<sup>st</sup>, the Commission discussed options for selecting the Charter Review Committee. The City Attorney has recommended that the Commission formally approve the process. The proposed process would include:

- Each Commissioner will select up to 18 names for the list of all applicants and provide it to staff.
- Staff will take the information from each Commissioner and will compile a comprehensive list. The list will include a score for each applicant based on the number of times each applicant was selected by a Commissioner
- At the Dec 17<sup>th</sup> Board of Commissioners meeting, staff will read the names selected on each Commissioners list in alphabetical order. Staff will also read the list of applicants with their respective total scores.
- The Board of Commissioners can then make a motion and select 15 applicants based on the results of the list.

**Fiscal Impact**

N/A

**Options**

- Approve the proposed Charter Review Committee Selection Process
- Recommend an alternate process
- Take no Action

**Staff Recommendation**

Staff has no specific recommendation

**Attachments**

- N/A



**Board of Commissioners Agenda Memo**

**From:** Tim James, P.E. – City Manager

**Date:** November 19, 2012

**Item:** Discuss and take any action necessary on proposed amendments to BDC Bylaws

**Background**

Mayor Law has requested that the Board of Commissioners consider amending the BDC Bylaws to:

- Remove Board of Commissioners as ex-officio members
- Require the BDC to use the City Attorney for legal advice and review

**Fiscal Impact**

/A

**Options**

- Recommend changes to the BDC Bylaws
- Take no Action

**Staff Recommendation**

Staff has no specific recommendation

**Attachments**

- BDC Bylaws