



## Planning and Zoning Commission Agenda Memo

From: Mike Whaley,  
Director of Planning and Zoning

Date: September 17, 2012

Item: Carport Overlay District 900 Blk Victoria

### Background

The application was presented by Ed Stahr owner of property located at 986 Victoria Dr. This request is to allow for a carport overlay district on the 900 block of Victoria Dr. All publishing and mail out requirements have been met. Also, the required amount of signatures (75%) has been satisfied and ownership has been verified by City staff. 18 out of the 23 total property owners on the block has signed the petition.

### Zoning Ordinance

All the carport district requirements have been satisfied as set forth by the Zoning ordinance. The P&Z Commission unanimously approved request.

### Comprehensive Plan

Does not conflict with the Comprehensive plan.

### Subdivision Ordinance

Does not conflict with the sub-division ordinance.

### Staff Recommendations

The Staff recommends approval.

### Attachments

Application

Petition

Area map highlighting block to be overlaid





## Board of Commissioners Agenda Memo

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

**Date:** September 17, 2012

**Item:** Discuss and take any action on professional services agreement with LBG-Guyton Associates.

### Background

LBG-Guyton Associates is a Groundwater and Environmental Engineering firm located in Austin TX. The Board of Commissioners had previously given direction to staff to move forward with the water well project and to focus on developing increased supply from our existing aquifer. Staff worked with LBG-Guyton Associates to develop a plan for the next phase. This agreement provides for the consultant to identify two new test well locations, design the specifications for the test wells, and assist with the evaluation of the test wells. In order to determine the most cost effective way to increase the water supply for the City, it was recommended that the City drill new test wells to determine the maximum productivity of the existing aquifer. Once the maximum productivity of the aquifer is established, the City will be able to move forward with comparing various alternatives and evaluating the most cost effective way to increase the water supply for Burkburnett.

### Fiscal Impact

The cost of the professional services will not exceed \$4,000. This cost is for the engineering services and does not include drilling costs.

### Options

- Approve the professional services agreement with LBG-Guyton Associates
- Take no Action

### Staff Recommendation

Staff recommends approval of the professional services agreement with LBG Guyton Associates.

### Attachments

- Professional Services Agreement

**LBG-GUYTON ASSOCIATES  
PROFESSIONAL GROUNDWATER AND  
ENVIRONMENTAL ENGINEERING**

1101 CAPITAL OF TEXAS HIGHWAY  
SUITE B-220  
AUSTIN, TX 78746  
512-327-9640  
FAX: 512-327-5573  
[www.lbgweb.com](http://www.lbgweb.com)

September 12, 2012

Tim James, P.E.  
City Manager  
City of Burkburnett  
501 Sheppard Road  
Burkburnett, Texas 76354

**RE: Proposal and Cost Estimate for Professional Consulting on New Test Wells**

Dear Mr. James,

LBG-Guyton Associates is pleased to respond to your request for proposal. The City of Burkburnett is seeking the services of groundwater professionals to assist the City in a variety of tasks. Based on our conversations, we propose to support your test well drilling program with the following tasks.

1. Assist the City staff in evaluating locations for up to two new test wells based on data obtained from the city regarding the existing wells.
2. Make recommendations to the City staff in regards to designing test wells that are similar in construction to public water supply wells from a production standpoint, but that would not be pre-approved by TCEQ or intended to be post-approved by TCEQ. LBG-Guyton will not be responsible for sealing any well designs or drawings. LBG-Guyton will provide a summary of design and construction concepts that should be followed by the driller and the City.
3. Make recommendations to the City staff regarding development procedures the driller should use to ensure maximum production from the wells.
4. Assist the City staff in designing a 36-hour pump test that can be performed by the driller and City staff to test the production capacity of the new wells.

**LBG-Guyton Background**

William F. Guyton Associates was formed in 1951 as the first consulting firm in Texas focusing on groundwater. The firm has performed groundwater resources and development projects in Texas and other states in the south and southwest region of the United States. In 1993, LBG-Guyton Associates was formed from the merger of William F. Guyton Associates, Inc. and Leggette, Brashears and Graham, Inc. LBG-Guyton Associates is a wholly owned subsidiary of Leggette, Brashears and Graham and is privately owned by 14 principals.



LBG-Guyton Associates

Currently, Leggette, Brashears and Graham, Inc. has 16 offices throughout the US and over 170 professionals. In Texas, LBG-Guyton Associates has offices in Austin and Houston with a staff of 12 and 5 professionals, respectively. Our staff includes hydrogeologists, engineers, and hydrologists with experience in a wide variety of water related issues.

LBG-Guyton Associates has over 60 years of experience performing groundwater studies throughout the state and has significant experience with the Gulf Coast, Yegua-Jackson, and Carrizo-Wilcox aquifers. LBG-Guyton Associates is a registered as both a geoscience firm and an engineering firm in the State of Texas and most of our staff are either registered as professional geoscientists or professional engineers. LBG-Guyton Associates provides groundwater and environmental consulting and engineering services to municipalities, government agencies, and private sector establishments in the fields of quantitative hydrogeology, groundwater availability modeling and assessment, engineering, aquifer exploration and development, impacts of pumping, deep well drilling and construction, permitting, water-quality evaluation for municipal water supplies, mine dewatering, salt-water contamination due to petroleum operations, and conjunctive use of groundwater and surface water resources. The LBG-Guyton staff has extensive experience in the well design, drilling oversight, and aquifer testing, as well as planning, groundwater management, water well engineering, groundwater modeling, data management, geophysical services, and environmental sampling. We consistently provide exceptional services and quality deliverables resulting in repeat clients that account for about 80 percent of our business.

#### LBG-Guyton Experience

The LBG-Guyton office in Austin, Texas will support the City for this assignment. Tyler Davidson will be the project manager and will be the main contact for the project, and can be reached in the Austin office. Mr. Davidson's resume is attached.

#### Cost of Services

We will bill the City on a time and materials basis plus expenses, not to exceed \$4000. LBG-Guyton will be on call to support the City for requested tasks as per our Quick Start Contract, which is attached. Our standard fee schedule is also attached.

We look forward to working with you. Please feel free to call me at (512) 327-9640 or on my cell at (512) 796-8636 if you have any questions.

Sincerely,  
LBG-GUYTON ASSOCIATES



James Beach, PG  
Senior Vice President





## Board of Commissioners Agenda Memo

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

**Date:** September 17, 2012

**Item:** Ordinance Number 824 adopting FY 2013 Operating Budget

### Background

The Board of Commissioner has conducted three budget workshops, a record vote on the proposed tax rate, and two public hearings on the proposed FY 2013 Operating Budget. Ordinance Number 824 adopts the FY 2013 Operating Budget that has been discussed and presented in the previous workshops and public hearings.

### Fiscal Impact

Ordinance Number 824 establishes the Operating Budget for FY 2013.

### Options

Adopt Ordinance Number 824

### Staff Recommendation

Staff recommends that the Board of Commissioners adopt Ordinance Number 824.

### Attachments

Ordinance Number 824



September 17, 2012

Mayor and Board of Commissioners  
City of Burkburnett  
Burkburnett, TX 76354

It is my honor to present to you the operating budget for Fiscal Year 2013 in accordance with the Constitution and Laws of the State of Texas and the City Charter of the City of Burkburnett.

The City of Burkburnett is committed to the efficient delivery of quality services to its citizens. This commitment is the foundation behind policy decisions and priorities that ensures well-formulated plans for the operation of our City.

The FY 2013 Budget represents the hard work and dedication of the Board of Commissioners and City Staff to maintain effective and efficient operations. The Commission and staff have done a tremendous job of planning for the future while evaluating current programs and operations to develop a budget that provides for the continuation of quality services while looking to the future of the City.

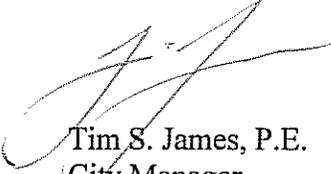
The Fiscal Year 2013 Budget includes:

- Anticipated Revenues - \$9,846,304
- Anticipated Expenditures - \$9,846,304

The anticipated FY 2013 revenues represent an increase of \$416,598 or 4.4% from the previous fiscal year and the anticipated FY 2013 expenditures represents an increase of \$427,770 or 4.5% from the previous fiscal year. The Ad Valorem tax rate was not increased and remains at \$0.5785820/\$100 valuation. In order to off-set the increased costs from the City's service providers, the sewer and garbage rates were increased in the FY 2013 Budget. The sewer base rate was increased from \$9.00/month to \$9.05/month and the sewer usage rate was increased from \$1.75/1,000 gallons to \$1.80/1,000 gallons. The garbage rate was increased from \$19.28/month to \$19.52/month.

I would like to express my appreciation to all the City staff and department heads for their cooperation and assistance in the preparation of this budget. On behalf of all the City employees, I would like to express our appreciation to the Commission for all of your work and for your continued support.

Sincerely,



Tim S. James, P.E.  
City Manager

**ORDINANCE NUMBER 824**

**AN ORDINANCE ADOPTING THE FISCAL YEAR OPERATING BUDGET OCTOBER 1, 2012 – SEPTEMBER 30, 2013 FOR THE CITY OF BURKBURNETT, TEXAS AND APPROPRIATING THE SEVERAL SUMS SET UP THEREIN TO THE OBJECTS AND PURPOSES THEREIN NAMED, AND PROVIDING AN EFFECTIVE DATE.**

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

**SECTION 1.**

That the City of Burkburnett's operating budget for the fiscal year ending September 30, 2013, which is hereto attached, was duly prepared and filed with the City Clerk, where it is available for inspection of any taxpayer.

**SECTION 2.**

That the operating budget for the City of Burkburnett, Texas hereto attached for the fiscal period ending September 30, 2013 in the amount of \$9,846,304 be and the same is hereby in all respects finally approved and adopted as so changed, and the same shall be and is filed with the City Clerk of said City.

**SECTION 3.**

That the several amounts specified for the several purposes named in said operating budget be, and they are hereby appropriated to and for such purposes.

**SECTION 4.**

That this ordinance shall take effect and be in full force after its date of passage.

**SECTION 5.**

The Board of Commissioners finds that this ordinance relates to the immediate preservation of the public peace, health, safety and welfare and that the City's operating budget should be adopted at the earliest possible moment to comply with Article VI, Section 2 of the City Charter, as amended to continue the essential services to Burkburnett citizens.

**PASSED AND APPROVED** on this 17th day of September 2012.

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

**ATTEST:**

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



## Board of Commissioners Agenda Memo

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

**Date:** September 17, 2012

**Item:** Ordinance Number 825 adopting FY 2013 Capital Improvement Budget

### Background

The Board of Commissioner has conducted three budget workshops, a record vote on the proposed tax rate, and two public hearings on the proposed FY 2013 Operating Budget which included the Capital Improvement Budget. Ordinance Number 825 adopts the FY 2013 Capital Improvement Budget that has been discussed and presented in the previous workshops and public hearings.

### Fiscal Impact

Ordinance Number 825 establishes the Operating Budget for FY 2013.

### Options

Adopt Ordinance Number 825

### Staff Recommendation

Staff recommends that the Board of Commissioners adopt Ordinance Number 825.

### Attachments

Ordinance Number 825

**ORDINANCE NUMBER 825**

**AN ORDINANCE ADOPTING THE FISCAL YEAR CAPITAL IMPROVEMENT BUDGET OCTOBER 1, 2012 - SEPTEMBER 30, 2013 FOR THE CITY OF BURKBURNETT, TEXAS AND APPROPRIATING THE SEVERAL SUMS SET UP THEREIN TO THE OBJECTS AND PURPOSES THEREIN NAMED, AND PROVIDING AN EFFECTIVE DATE.**

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

**SECTION 1.**

That the City of Burkburnett's capital improvement budget for the fiscal year ending September 30, 2013, which is hereto attached, was duly prepared and filed with the City Clerk where it is available for inspection of any taxpayer.

**SECTION 2.**

That the capital improvement budget for the City of Burkburnett, Texas attached for the fiscal period ending September 30, 2013 in the amount of \$279,533 be and the same if hereby in all respects finally approved and adopted as so changed, and the same shall be and is filed with the City Clerk of said City.

**SECTION 3.**

That the several amounts specified for the several purposes named in said capital improvement budget be, and they are hereby appropriated to and for such purposes.

**SECTION 4.**

That this ordinance shall take effect and be in full force after its date of passage.

**SECTION 5.**

The Board of Commissioners finds that this ordinance relates to the immediate preservation of the public peace, health, safety and welfare and that the City's capital improvement budget should be adopted at the earliest possible moment. These planned capital improvements are to provide quality services to Burkburnett citizens.

**PASSED AND APPROVED** on this 17<sup>th</sup> day of September 2012.

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

**ATTEST:**

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



## Board of Commissioners Agenda Memo

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

**Date:** September 17, 2012

**Item:** Ordinance Number 826 setting the 2012 Tax Rate.

### Background

The Board of Commissioner has conducted three budget workshops, a record vote on the proposed tax rate, and two public hearings on the proposed FY 2013 Operating Budget based on the proposed 2012 Tax Rate. Ordinance Number 826 sets the 2012 Tax Rate that has been discussed and presented in the previous workshops and public hearings. The proposed Tax Rate is \$0.578582/\$100 in valuation, which is the same as the 2011 Tax Rate.

### Fiscal Impact

Ordinance Number 826 sets the 2012 Tax Rate.

### Options

Adopt Ordinance 826

### Staff Recommendation

Staff recommends that the Board of Commissioners adopt Ordinance Number 826.

### Attachments

Ordinance Number 826

**ORDINANCE NUMBER 826**

**AN ORDINANCE LEVYING AN ANNUAL AD VALOREM TAX FOR THE YEAR 2012. SETTING SPECIFIC TAX RATES, APPLICABLE TO ALL REAL, PERSONAL AND MIXED PROPERTY SITUATED WITHIN THE CITY OF BURKBURNETT CITY LIMITS; SETTING THE DUE DATE AND PROVIDING FOR PENALTIES AND INTEREST ON DELINQUENT TAXES.**

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

**SECTION 1.**

That an ad valorem tax rate of \$0.578582 per \$100.00 of market value, as said values are fixed by the Wichita County Appraisal District, be and the same is hereby levied for the year 2012 on all real property, personal property and mixed property located and situated within the city limits of the City of Burkburnett as of January 1, 2012.

**SECTION 2.**

That the above specified ad valorem tax rate be distributed as follows:

A. GENERAL FUND	\$1,960,000
B. INTEREST AND SINKING FUND	\$ 498,297
C. TIF FUND	\$ 35,300

**SECTION 3.**

Any person failing to pay their taxes after January 31, 2013, shall be subject to maximum penalties thereon allowed by law to be collected on delinquent taxes. All delinquent taxes shall bear interest at the highest per annum interest rate allowed by law to be collected on delinquent taxes and shall bear interest from date of delinquency until paid.

**PASSED, APPROVED AND EFFECTIVE** this 17<sup>th</sup> day of September 2012.

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

**ATTEST:**

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



## Board of Commissioners Agenda Memo

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

**Date:** September 17, 2012

**Item:** Ordinance Number 827 adjusting the City of Burkburnett garbage rates.

### Background

The Board of Commissioner has conducted three budget workshops, a record vote on the proposed tax rate, and two public hearings on the proposed FY 2013 Operating Budget which included the proposed garbage rates. Ordinance Number 827 adjusts the City of Burkburnett garbage rates which has been discussed and presented in the previous workshops and public hearings. The residential base rate is proposed to increase \$.24/month to \$19.52/ month. The garbage rate set for seniors is proposed to remain the same at 15.90/month.

### Fiscal Impact

Ordinance Number 827 adjusts the City of Burkburnett garbage rates.

### Options

Adopt Ordinance Number 827.

### Staff Recommendation

Staff recommends that the Board of Commissioners adopt Ordinance Number 827.

### Attachments

Ordinance Number 827

ORDINANCE NUMBER 827

AN ORDINANCE AMENDING ORDINANCE NUMBER 767 OF THE CITY OF BURKBURNETT, TEXAS PRESENTLY CODIFIED AS CHAPTER 50, GARBAGE AND REFUSE IN THE CODE OF ORDINANCES, SPECIFYING THE EFFECTIVE DATE; DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That Chapter 50 of the Code of Ordinances of the City of Burkburnett be amended by changing Section 50.10 to the following:

SECTION 50.10-COLLECTION CHARGES

(A) The monthly rates for residential garbage service set by the Board of Commissioners shall be as follows:

<u>Service</u>	<u>Rates</u>
Residential collection	\$19.52
Once a week pickup-polycart	
Once a week call in-bulk pickup	
Senior Citizens (65/over)	\$15.90
Once a week pickup-polycart	
Once a week call in-bulk pickup	

(B) The monthly rates for commercial garbage service set by the Board of Commissioners shall be as follows:

<u>CONTAINER</u>	<u>1X</u>	<u>2X</u>	<u>3X</u>	<u>5X</u>
2 -Cubic Yd.	\$ 48.56	\$ 96.87	\$149.51	\$259.42
4-Cubic Yd.	\$ 81.15	\$163.97	\$253.29	\$453.20
6-Cubic Yd.	\$120.72	\$251.95	\$378.93	\$678.80
8-Cubic Yd.	\$160.31	\$325.94	\$504.57	\$904.40

(C) The above schedule of rates shall be effective October 1, 2012.

**SECTION 2.** That this ordinance shall take effect immediately on all garbage bills rendered on or after October 1, 2012.

**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 that notice of the time, place and purpose of said meeting was given. This ordinance shall become effective following its publication as required by City Charter, Article IV, Section 20.

**PASSED AND APPROVED** on this 17<sup>th</sup> day of September 2012.

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

**ATTEST:**

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



## Board of Commissioners Agenda Memo

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

**Date:** September 17, 2012

**Item:** Ordinance Number 828 adjusting the City of Burkburnett sewer rates.

### Background

The Board of Commissioner has conducted three budget workshops, a record vote on the proposed tax rate, and two public hearings on the proposed FY 2013 Operating Budget which included the proposed sewer rates. Ordinance Number 828 adjusts the City of Burkburnett sewer rates which has been discussed and presented in the previous workshops and public hearings. The proposed increase to the sewer base rate is \$.05/month from \$9.00/month to \$9.05/month. The proposed increase to usage rate is \$.05/1000 gallons from \$1.75/1000 gallons to \$1.80/1000 gallons.

### Fiscal Impact

Ordinance Number 828 adjusts the City of Burkburnett sewer rates.

### Options

Adopt Ordinance Number 828.

### Staff Recommendation

Staff recommends that the Board of Commissioners adopt Ordinance Number 828.

### Attachments

Ordinance Number 828

**ORDINANCE NUMBER 828**

**AN ORDINANCE SUPERSEDING ORDINANCE NUMBER 766 OF THE CITY OF BURKBURNETT, TEXAS PRESENTLY CODIFIED AS CHAPTER 52, SEWERS IN THE CODE OF ORDINANCES, SPECIFYING THE EFFECTIVE DATE; DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

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

**Section 1.** That Chapter 52 of the Code of Ordinances of the City of Burkburnett be amended by changing Section 52.60 to the following:

**SECTION 52.60-RATES & CHARGES**

Users of the City of Burkburnett Sewer System shall be subject to the following rates effective October 1, 2012:

**A. Residential User Charges**

- (1) Residential User Charges shall be calculated from the following formula:

Monthly User Charge = Base Rate + \$1.80 (Average Water Consumption)

Where: Monthly User Charge = the amount in dollars charged for basic residential sewer services.

Base Rate –\$9.05

Average Monthly Water Consumption = the average monthly water consumption during the months of December, January and February measured in 1,000 gallon units.

- (2) Whenever Average Monthly Water Consumption has not yet been established, a minimum charge of \$21.00 per month shall be used.

**B. Commercial User Charges**

- (1) Commercial User is hereby defined for the purposes of this Ordinance as anyone who uses water for purposes other than domestic use.  
(2) Commercial User Charges shall be calculated from the following formula:

Monthly User Charge = Base Rate + \$2.00 (Monthly Water Consumption)

Where: Monthly User Charge = the amount in dollars charged for basic commercial sewer services.

Base Rate = \$9.00

Monthly Water Consumption = the monthly water consumption measured in 1,000 gallon units.

**Section 2.** That this ordinance shall take effect immediately on all sewer bills rendered on or after October 1, 2012.

**Section 3.** In the event any one or more of the provision 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 that notice of said time, place and purpose of said meeting was given. This ordinance shall become effective following its publication as required by City Charter, Article IV, Section 20.

**PASSED AND APPROVED** on this 17<sup>th</sup> day of September 2012.

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

**ATTEST:**

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



## Board of Commissioners Agenda Memo

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

**Date:** September 17, 2012

**Item:** Discuss and take any action necessary on Ordinance Number 829.

### Background

There has been input from several citizens representing a desire for Burkburnett to obtain a Tree City USA designation so several Commissioners have requested that staff look into the process. In order to be considered for the designation, one of the requirements is that the City adopt a Tree Ordinance. Ordinance Number 829 will meet the necessary requirement and would establish specifications for trees on public property, establish an advisory board for trees, and provide regulations for diseased and dangerous trees.

### Fiscal Impact

There is no projected fiscal impact associated with the Tree Ordinance at this time.

### Options

- Approve Ordinance Number 829
- Take no Action

### Staff Recommendation

Staff recommends that the Commission approve Ordinance Number 829.

### Attachments

- Ordinance Number 829

## ORDINANCE NUMBER 829

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS ADDING CHAPTER 102-TREE REGULATIONS TO THE CODE OF ORDINANCES TO PROVIDE FOR THE CARE OF PUBLIC TREES; TO CREATE A TREE ADVISORY BOARD; TO ESTABLISH PRACTICES GOVERNING THE PLANTING, CARE AND REMOVAL OF TREES ON PUBLIC PROPERTY; TO MAKE PROVISION FOR THE REMOVAL OF DISEASED TREES ON PRIVATE PROPERTY UNDER CERTAIN CONDITIONS; PROVIDING FOR A PENALTY FOR VIOLATIONS; PROVIDING FOR SAVINGS AND SEVERABILITY CLAUSES; AND PROVIDING FOR 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, Texas, recognizes that trees generally protect and enhance the quality of life and general welfare of the town; and

WHEREAS, the citizens of Burkburnett have long valued trees as a natural and often irreplaceable community resource and recognize them as assets for their beauty and service; and

WHEREAS, the Board of Commissioners of Burkburnett, Texas, has further determined that the protection and care of trees located on city property is essential to the present and future health, safety, and welfare of all citizens, and accordingly, have determined that the adoption and implementation of this "Public Tree Care" ordinance is meritorious and necessary.

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

PART 1: Title IX of the Code of Ordinances of the City of Burkburnett, Texas, is hereby amended to read as follows:

### Chapter 102 – Tree Regulations

#### 102.01. Purpose.

To enhance the quality of life and the present and future health, safety, and welfare of all citizens, to enhance property values, and to ensure proper planting and care of trees on public property, the Board of Commissioners herein creates a Tree Advisory Board, establishes practices governing the planting and care of trees on public property, and makes provision for the emergency removal of trees on private property under certain conditions.

#### 102.02. Definitions.

As used in this Article, the following words and phrases shall have the meanings indicated:

*Damage* – any injury to or destruction of a tree, including but not limited to: uprooting;

severance of all or part the root system or main trunk; storage of material on or compaction of surrounding soil; a substantial change in the natural grade above a root system or around a trunk; surrounding the tree with impervious paving materials; or any trauma caused by accident or collision.

*Nuisance* – any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; or threatens public health, safety and welfare.

*Parkway* – the area along a public street between the curb and the sidewalk; or if there is no curb or sidewalk, the unpaved portion of the area between the street right-of-way line and the paved portion of the street or alley.

*Public property* – all grounds and rights-of-way (ROWS) owned or maintained by the City.

*Public tree* – any tree or woody vegetation on city-owned or city-maintained property or rights-of-way.

*Top or Topping* – the non-standard practice of cutting back of limbs to stubs within a tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

### **102.03. Authority and power.**

(a) *Delegation of authority and responsibility.* The Director of Public Works and/or his designee, hereinafter referred to as the "Director", shall have the authority and responsibility to plant, prune, maintain and remove trees and woody plants growing in or upon all city streets, rights-of-ways, city parks, and other public property. This shall include the removal of trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, or other pest disease.

(b) *Coordination among city departments.* All city departments will coordinate as necessary with the Director and will provide services as required to ensure compliance with this Ordinance as it relates to streets, alleys, rights-of-way, drainage, easements and other public properties not under direct jurisdiction of the Director.

(c) *Interference.* No person shall hinder, prevent, delay, or interfere with the Director or his agents while engaged in carrying out the execution or enforcement of this Ordinance.

### **102.04. Tree advisory board.**

The Board of Commissioners hereby creates a "Tree Advisory Board," hereinafter referred to as the "Board."

(a) *Membership.* The Board shall consist of five members approved by Board of Commissioners. Members of the Board will serve without compensation.

(b) *Term of office.* Board members shall be appointed for three year staggered terms. In the

event that a vacancy shall occur during the term of any member, a successor shall be appointed by the Board of Commissioners.

(c) *Officers.* The Board shall annually select one of the members to serve as chair, may appoint a second member to serve as vice-chair, and may appoint a third member to serve as secretary.

(d) *Meetings.* The Board shall meet a minimum of four times each year. All meetings shall be open to the public. The Board chair may schedule additional meetings as needed.

(e) *Duties.* The Board shall act in an advisory capacity to the Board of Commissioners and shall:

- (1) Coordinate and promote Arbor Day activities;
- (2) Review and update a five-year plan to plant and maintain trees on city property;
- (3) Support public awareness and education programs relating to trees;
- (4) Review city department concerns relating to tree care;
- (5) Submit an annual report of its activities to the Board of Commissioners;
- (6) Assist with the annual application to renew the Tree City USA designation;
- (7) Develop of a list of recommended trees for planting on city property; and
- (8) Other duties that may be assigned by the Board of Commissioners.

#### **102.05. Tree planting and care standards.**

(a) *Standards.* All planting and maintenance of public trees shall conform to the American National Standards Institute (ANSI) A-300 "Standards for Tree Care Operations" and shall follow all tree care Best Management Practices (BMPs) published by the International Society of Arboriculture.

(b) *Requirements of franchise utility companies.* Franchise utility companies shall provide advance notice to the City of their intended non-emergency tree pruning schedule and location of impacted area. All maintenance of public trees for utility clearance shall conform to all applicable utility industry standards.

(c) *Tree species list.* The Director shall develop and maintain an official list of desirable tree species for planting on public property in two size classes: Ornamental (20 feet or less in height at maturity) and Shade (greater than 20 feet at maturity). Only trees from this approved list may be planted without written approval from the Director.

(d) *Planting distances.* The Director shall develop and maintain an official set of spacing requirements for the planting of trees on public property. No tree may be planted within the visibility triangle of a street intersection or within ten (10) feet of a fire hydrant.

(e) *Planting trees under electric utility lines.* Only trees listed as Ornamental trees on the official city tree species list may be planted under or within fifteen (15) lateral feet of any overhead utility wire.

(f) *Protection of public trees during construction.* Any person, firm, corporation, or city

department performing construction in the area of any public tree must employ appropriate measures to protect the tree, including, but not limited to, placing barriers around the tree to prevent any damage.

**102.06. Adjacent owner responsibility.**

(a) The owner of land adjacent to any city street or highway, when acting within the provisions of this Ordinance, may plant and maintain trees in the adjacent parkway area with the approval of the Director. Property owners are responsible for the reasonable and routine maintenance of trees and other landscaping in the adjacent parkway area.

(b) No property owner shall allow a tree, or other plant growing on his or her property or within the adjacent parkway to obstruct or interfere with pedestrians or the view of drivers, thereby creating a hazard. If an obstruction persists, the Director shall notify the property owner to prune or remove the tree or plant. If the owner fails to comply with the notice, the City may undertake the necessary work and charge the cost to the property owner.

**102.07. Prohibition against harming public trees.**

(a) It shall be unlawful for any person, firm or corporation to damage, remove, or cause the damage or removal of a tree on public property without written permission from the Director.

(b) It shall be unlawful for any person, firm or corporation to attach any cable, wire or signs or any other object to any street, park, or public tree.

(c) It shall be unlawful for any person, firm or corporation to “top” any public tree. Trees severely damaged by storms or other causes, where best pruning practices are impractical may be exempted from this provision at the determination of the Director.

**102.08. Certain trees declared a nuisance.**

Any tree, or limb thereof, on private property determined by the Director to have contracted a lethal, communicable disease or insect; to be dead or dying; to obstruct the view of traffic signs or the free passage of pedestrians or vehicles; or that threatens public health, safety, and welfare is declared a nuisance and the City may require its treatment or removal. Private property owners have the duty, at their own expense, to remove or treat nuisance trees on their property. The City may remove such trees at the owner's expense if the owner does not comply with treatment and/or removal as specified by the Director within the written notification period.

**102.09. Violations and penalty.**

Any person, firm or corporation violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and shall be subject to a fine not to exceed five hundred dollars (\$500.00) for each offense.

**102.10. Appeals.**

All appeals to a violation shall be made in writing and heard by the Board of Commissioners.

**PART 2. Savings/repeal.**

That all ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

**PART 3. Severability.**

That should any word, sentence, clause, paragraph or provision of this Ordinance be held to be invalid or unconstitutional the remaining provisions of this Ordinance shall remain in full force and effect.

**PART 4. Effective date.**

That this Ordinance shall become effective after its passage and publication according to law.

**PASSED AND APPROVED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

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

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



## Board of Commissioners Agenda Memo

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

**Date:** September 17, 2012

**Item:** Discuss and take any action necessary on voluntary contribution program on utility bills

### Background

During the FY 2013 budget workshop a proposal to increase the City's allocation to the Boys and Girls Club for recreation programs was discussed. An option of including a voluntary contribution on the utility bill was proposed. The proposed program consisted of the inclusion of a voluntary contribution on each utility bill for recreation programs provided by the Boys and Girls Club.

The Board of Commissioners approved moving forward with the voluntary contribution on August 20<sup>th</sup>. The approval included a \$0.50 voluntary contribution to be placed on all utility bills and allow residents to opt out of the program. Commissioner Lindenborn has requested to re-evaluate the proposed program.

### Other program information:

- The City has set aside \$9,500 in the proposed FY 2013 budget to help pay for the recreation programs provided by the Boys and Girls Club. (This is the same amount as previous years)
- All funds collected by the City through the voluntary contribution program would be set aside in a separate fund and would be provided to the Boys and Girls Club and would not be used for any other purpose. (Based on advice from the City Attorney)
- Any resident that would not want to participate in the program could opt out of the voluntary program by contacting the City and requesting to be removed from the program.

### Fiscal Impact

The City would not see any increase in revenue through the voluntary contribution program since all collections would be provided to the Boys and Girls Club.

### Options

- Approve changes to the voluntary contribution program
- Take no Action (existing approved program would remain in effect)
- Discontinue voluntary contribution program



## Board of Commissioners Agenda Memo

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

**Date:** September 17, 2012

**Item:** Discuss and take any action on establishing the number of members for the Charter Review Committee.

### Background

The Board of Commissioners has previously given direction to move ahead with the process of forming a Charter Review Committee. The City placed an ad in the Informer Star soliciting applicants for the Committee and Commissioners have provided nominations of individuals also. The City has received a total of 27 applications or nominations for people to serve on the Committee. The first step in selecting a Charter Review Committee will be to determine the number of members to serve on the Committee.

### Fiscal Impact

N/A

### Options

- Determine number of members to serve on Committee
- Take no Action

### Staff Recommendation

Staff recommends that the Commission consider selecting an odd number of members.

### Attachments

- Names of individuals for consideration as members of the Charter Review Committee.



## Board of Commissioners Agenda Memo

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

**Date:** September 17, 2012

**Item:** Discuss and take any action on selecting the members of the Charter Review Committee.

### Background

The Board of Commissioners has previously given direction to move ahead with the process of forming a Charter Review Committee. The City placed an ad in the Informer Star soliciting applicants for the Committee and Commissioners have provided nominations of individuals also. The City has received a total of 27 applications or nominations for people to serve on the Committee. After determining the number of members to serve on the Committee, the Board of Commissioners will need to identify a selection process. All selections processes for advisory boards must be done in open session. Each City we have spoken with that has conducted a Charter Review selected the members in different ways. Methods to consider could include:

- Each Commissioner could nominate the recommended number of Committee members from the complete list of candidates, staff could compile the list of nominations, and the Board could select the candidates with the most nominations for the Committee.
- The Commission could appoint a selection committee to review the nominations, interview candidates, and make a recommendation to the Commission.
- The Commission could develop a questionnaire process where the candidates would complete a questionnaire, return it to staff, staff would distribute the completed questionnaires to the Commissioners for review, and the Commissioners could make their nominations at a subsequent meeting.

These are just a few methods that have been used and do not include all available options.

### Fiscal Impact

N/A

### Options

- Select Members
- Determine selection process
- Take no Action

**Staff Recommendation**

Staff has no specific recommendation.

**Attachments**

- Names of individuals for consideration as members of the Charter Review Committee



Lesley Boyle  
Cory Brinkley  
Michael Bunton  
Ron Clarke  
Danny Cremeens  
Mike Crowley  
Scott Davison  
Jeremy Duff  
Carl English  
Mark Ewell  
Mel Feller  
Bob Franklin  
Casey Gahagan  
Raymond Holland  
Sally Hood  
Jerry Johnson  
Jason Jones  
Robert Jones



Ted Kwas  
Dan Keown  
Rodney McCleskey, Jr.  
John“Jack”McMullen  
Susan Mitchell  
Brint Richter  
Rick Sims  
Mark Swope  
Chase Thornton

