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AGENDA

Notice is hereby given of a meeting of the Board of Commissioners of Burkburnett to be held on **Monday, December 15, 2014 at 7:00 p.m.** at City Hall-Council Chambers, 501 Sheppard Road, Burkburnett, Texas for the purpose of considering the following agenda items. The Board of Commissioners may discuss and take action on any item on this agenda. The Board of Commissioners reserves the right to meet in a closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

The public may speak on items listed on the posted agenda. All persons desiring to address a specific agenda item must submit an "Appearance before the City Commissioners" form prior to the reading of the item to the City Clerk, Janelle Dolan. The Mayor will allow comments before each agenda item for which they have requested to be heard. Comments will be limited to three (3) minutes with a maximum two (2) minute extension following approval by a majority of the members of the Board of Commissioners.

Item 1. Mayor: Call meeting to order.

Item 2. Invocation-Mark Simons, Pastor of Jan Lee Baptist Church.

Item 3. Pledge of Allegiance.

Item 4. CONSENT AGENDA:

A. Approval of Minutes from November 17, 2014

Item 5. Mayor to close regular meeting and open "Public Hearing" for the following Planning & Zoning Commission Case:

A. Case #2014-19 rezone application for 1609 and 1611 Sheppard Rd., from Single Family Residential-6 (SF-6) to Residential Open (R-2).

Item 6. Mayor to close Public Hearing and reopen the regular meeting and take any action necessary on Planning & Zoning Commission Case:

A. Case #2014-19 rezone application for 1609 and 1611 Sheppard Rd., from Single Family Residential-6 (SF-6) to Residential Open (R-2).

Item 7. Discuss and take any action necessary on language for Stage 5 Water Restrictions.

Item 8. Ordinance Number 867. An ordinance amending Appendix J of the Water Conservation Plan; establishing criteria for the drought contingency plan; providing penalties, severability and an effective date.

Item 9. Discuss and take any action necessary on appointments to the Zoning Board of Adjustment (ZBA).

Item 10. Discuss and take any action necessary on appointments to the Cemetery Board.

Item 11. Review of monthly reports.

- A. Administration
- B. Public Works
 - Family Aquatic Center
 - Water Wells
 - Effluent/Reuse Water Vending
- C. Public Safety/Fire Department
- D. Economic Development
 - Prospect Update

Item 12. Public Comments.

The Board of Commissioners invites citizens to speak on any topic.

Please fill out an "Appearance Before City Commissioners" form in order to address the Commissioners and turn the form in prior to 7:00 p.m. to City Clerk, Janelle Dolan.

Public Comments are limited to five minutes. Time limits can be adjusted by the Mayor as to accommodate more or fewer speakers.

Unless the item is specifically noted on this agenda, the Board of Commissioners is required under the Texas Open Meetings Act to limit its response to one of the following:

***Responding with a statement of specific factual information or reciting the City's existing policy on that issue; or**

***Directing the person making the inquiry to visit with City Staff about the issue.**

Item 13. City Manager's report.

- A. Christmas and New Year's Holidays
- B. TML Region 5 Meeting

Item 14. Commissioner's Comments.

Pursuant to Government Code Section 551.0415, City Commissioner Members may make a report about items of Community interest during a meeting of the governing body without having given notice of the report. Items of community interest include:

***Expressions of thanks, congratulations, or condolence;**

***Information regarding holiday schedules;**

***An honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of the person's public office of public employment is not an honorary or salutary recognition for purposes of this subdivision;**

***A reminder about an upcoming event organized or sponsored by the governing body;**

***Information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; and**

***Announcements involving an imminent threat to the public health and safety of people in the municipality that has arisen after the posting of the agenda.**

Item 15. Adjournment.

I, Janelle Dolan, City Clerk for the City of Burkburnett, Texas do hereby certify that I posted this agenda on the glass front door of the City Hall, facing the outside at 1:30 p.m. on December 12, 2014 in compliance with the Open Meeting Act Chapter 551.

Janelle Dolan

Janelle Dolan, City Clerk

Posted 12/12/2014 @1:30 p.m

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodation or interpretive services must be made 72 hours prior to this meeting. Please contact the City Clerk's office at (940) 569-2263 for further information.

MINUTES

BOARD OF COMMISSIONERS

The Board of Commissioners of the City of Burkburnett, Texas met in a regular meeting on Monday, November 17, 2014 at 7:00 p.m. in the Council Chambers of the City Hall, 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
Bill Lindenborn	Mayor Pro Tem
Randy Brewster	Commissioner
Frank Ducos	Commissioner
Don Hardy	Commissioner
Marguerite Love	Commissioner
Mike Tugman	Commissioner

Others present: Mike Whaley, City Manager; Trish Holley, Director of Administration; Gordon Smith, Director of Public Works; Deana Sheriff, Economic Development Director; Janelle Dolan, City Clerk; and Ed Stahr, Police Chief; .

Item 1. Mayor Law called the meeting to order and welcomed the visitors.

Item 2. Invocation was given by Joe Coombes, Senior Pastor of First Baptist Church.

Item 3. The Pledge of Allegiance was led by Commissioner Love.

Item 4. Consent Agenda.

A. Approval of Minutes from October 20, 2014

Motion was made by Commissioner Love, seconded by Commissioner Ducos to approve Consent Agenda 4. Motion carried unanimously.

Item 5. Gordon Smith, Director of Public Works, addressed the Mayor and Commissioners and reported a variance request was submitted by Ms. Robbie Landrum who resides at 913 Mimosa Dr. She is requesting the Board of Commissioners allow her to drill a private water well in the front yard of her property. Ordinance Number 612 pertaining to drilling of private water wells restricts the well to the rear yard and does not allow for drilling in the front or side yard. Section 12 of the ordinance does allow for a variance request to be made under cases of emergency and hardship. Ms. Landrum chose to seek a variance from the City under hardship of the Drought Restrictions. Utility pole locations and site constraints will not allow the driller to enter the back yard to drill the

well even with sections of the fence removed. The proposed well site if approved will be required to have a well cover that is aesthetically pleasing.

Motion was made by Commissioner Tugman, seconded by Commissioner Love to approve the variance request for a front yard water well. Motion carried unanimously.

Item 6. Mike Whaley, City Manager, addressed the Mayor and Commissioners and stated Mike Avey has been the City's representative on the Wichita Appraisal District and his term is expiring on December 31, 2014. Mr. Whaley stated Mr. Avey also serves as the representative for both the City and Burkburnett ISD.

Motion was made by Commissioner Lindenborn, seconded by Commissioner Hardy to re-appoint Mike Avey to serve as Burkburnett's representative on the Wichita Appraisal District Board of Directors for a two-year term. Motion carried unanimously.

Item 7. Mr. Whaley addressed the Mayor and Commissioners and stated the Park and Recreation Board has requested the Board of Commissioners review their suggestions for donors and sponsors for the Family Aquatic Center. Mr. Whaley stated the Park and Recreation Board was not comfortable soliciting funds without further guidance from the Board of Commissioners. Jeremy Duff, Secretary of the Park and Recreation Board was present to answer any questions from the Board of Commissioners.

Motion was made by Commissioner Tugman, seconded by Commissioner Brewster to give the Park and Recreation Board the latitude to move forward but come back to the Board of Commissioners in some type of workshop format where discussion can be held on some of these options and how they are going to work. Motion carried unanimously.

Item 8. Mr. Whaley addressed the Mayor and Commissioners and stated there is a vacancy on the Planning and Zoning Commission due to the resignation of Bob Franklin. Mr. Whaley reported a volunteer application was submitted by John Erickson. If approved Mr. Erickson would serve the remainder of Mr. Franklin's term which would expire on 5-21-2015.

Motion was made by Commissioner Lindenborn, seconded by Commissioner Ducos to approve John Erickson to serve on the Planning and Zoning Commission. Motion carried unanimously.

Item 9. Mr. Smith addressed the Mayor and Commissioners and stated there is a vacancy on the Park and Recreation Board due to the resignation of Mark Swope. Mr. Smith reported a volunteer application was submitted by Danny Cremeens and the Park and Recreation Board voted unanimously to recommend Mr. Cremeens to the Board of Commissioners for appointment to the Park and Recreation Board. If approved Mr. Cremeens would serve the remainder of Mr. Swope's term.

Motion was made by Commissioner Tugman, seconded by Commissioner Love to approve Danny Cremeens to serve on the Park and Recreation Board. Motion carried unanimously.

Item 10. Resolution Number 569 was presented in its entirety. A resolution authorizing the Burkburnett Development Corporation to fund \$500,000 for the development and support of the Burkburnett Family Aquatic Center. Deana Sheriff, Economic Development Director, addressed the Mayor and Commissioners and stated in September 2010 the Burkburnett Development Corporation (BDC) proposed entering into an agreement with the City to finance up to five hundred thousand dollars (\$500,000) for the development and support of the Family Aquatic Center, pending passage of Proposition Number 2 on the November 2, 2010 ballot. The Proposition passed, but a resolution was not put before the City for approval and this corrects the oversight.

Motion was made by Commissioner Brewster, seconded by Commissioner Hardy to approve Resolution Number 569 as presented. Motion carried unanimously.

Item 11. Review of monthly reports.

A. Administration-Nothing reported.

B. Public Works

- Family Aquatic Center-Mr. Smith reported progress on the Family Aquatic Center is going well and they are ahead of schedule at this time.
- Water Wells- Mr. Smith reported TCEQ is executing the 2nd water test on the wells at this time.
- Effluent/Reuse Water Vending- Mr. Smith reported the effluent water reuse vending machine is up and running and several individuals have been in to get their PINs.
- Community Development Block Grant (CDBG)-Mr. Smith reported this project is complete.

C. Public Safety/Fire Department-Ed Stahr, Police Chief, reviewed the Asset Forfeiture Fiscal Year Budget. Chief Stahr also reported there are 3 new reserves and Keenan Stubblefield is the new K-9 handler.

D. Economic Development-Ms. Sheriff provided prospect update and reported that 10 businesses have been approved for the Neighborhood Reinvestment Grant Program. Ms. Sheriff reported this is a positive impact in the community and instills a better sense of pride.

Item 12. The following addressed the Mayor and Commissioners:

Kyle Avey, 1500 Chaparral, Burkburnett, TX

Item 13. City Manager's report.

Mr. Whaley reported City Hall will be closed for the Thanksgiving Holiday on November 27 and November 28. The City Christmas party will be held on December 11 and the Christmas Parade is scheduled for December 12.

Item 14. Commission comments.

Item 15. Motion was made by Commissioner Tugman, seconded by Commissioner Hardy to adjourn. Motion carried unanimously.

Carl Law, Mayor

ATTEST:

Janelle Dolan, City Clerk



City Commission Agenda Memo

From: Gordon Smith, Director of Public Works

Date: December 8, 2014,

Item: Rezone Application: Single Family SF-6 (6,000 Square Feet Lots) to Residential 2 (open)

Background

The application was presented by Everett Davis owner of property located at 1609 and 1611 Sheppard Rd. This request is to rezone the property from SF-6 to R-2. Applicant stated reason for the request is to allow manufactured homes on the lots, due to they have a potential buyer.

Public Notices as required by the Zoning Ordinance were sent to the proposed district and all properties 200 feet adjacent to the proposed district. All publishing and mail out requirements have been met.

Two (2) responses were received. One written response from the Joseph "Brant" Stubblefield owner of 1601 Sheppard Rd. objecting to the zoning change (enclosed letter). Also one telephone response from Fred Morgan owner of 1618 Sheppard Rd. in favor of the request to change the zoning.

On December 8, 2014 the Planning and Zoning Board met and staff presented the information for review and a recommendation to City Commissioners. Mr. Davis was in attendance and presented additional information. The Board discussed the case and consider the overall evaluation of the request, and its assessment regarding how the request relates to the City's Comprehensive Plan.

Then a motion was made and seconded for denial of the zoning change request. Chairman Tim Cornelius took a vote. The vote was 3-2 in favor of denying the request.

The motion was made based on the request does not comply with the Comprehensive Plan and receipt of an objection from an adjacent landowner within 200 feet.

Zoning Ordinance

The request does not meet the guidelines as set forth by the Zoning Ordinance Section 10.

Comprehensive Plan

The Future Land Use Plan displays the property as medium density residential.

Subdivision Ordinance

N/A

Staff Recommendation:

Staff recommends accepting the recommendation of the Planning and Zoning Board for Non- Approval of the request based on non-compliance with existing approved Comprehensive Plan (Future Land Use Plan).

Attachments

Application

Site Plan

Letter from owner within 200 feet.

Zoning Ordinance Section 10

Future Land Use Plan

CITY OF BURKBURNETT
REZONING APPLICATION

OFFICE USE:

CASE NO. 2014-19

FEE PAID \$ 150.00

PROPERTY ADDRESS: 1609, 1611 SHEPPARD RD.

LEGAL DESCRIPTION: _____
LOT (S) BLOCK SECTION SUBDIVISION JEFF LANDRUM SUBDIVISION

AREA IN ACRES _____

PRESENT ZONING CLASSIFICATION _____ PROPOSED ZONING _____

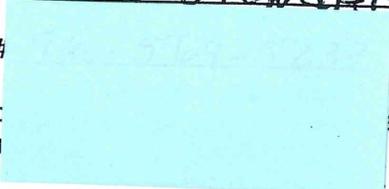
PRESENT USE N.A.

PROPOSED USE FAMILY DWELLING (MOBILE HOME)
mobile homes ALL AROUND

REASON FOR REQUEST rezone To allow Manufactured
Homes, We have potential Buyer, No one
has ever wanted to build on that property.

NAME OF APPLICANT EVERETT DAVIS

ADDRESS 500 Glendale BURKBURNETT, TX 76354

PHONE # 

I hereby certify that the information provided herein is true and correct, and that all required submissions (see reverse) have been made.

SIGNATURE OF APPLICANT Everett Davis DATE 10-29-2014

SIGNATURE OF PROPERTY OWNER Everett Davis DATE 10-29-2014

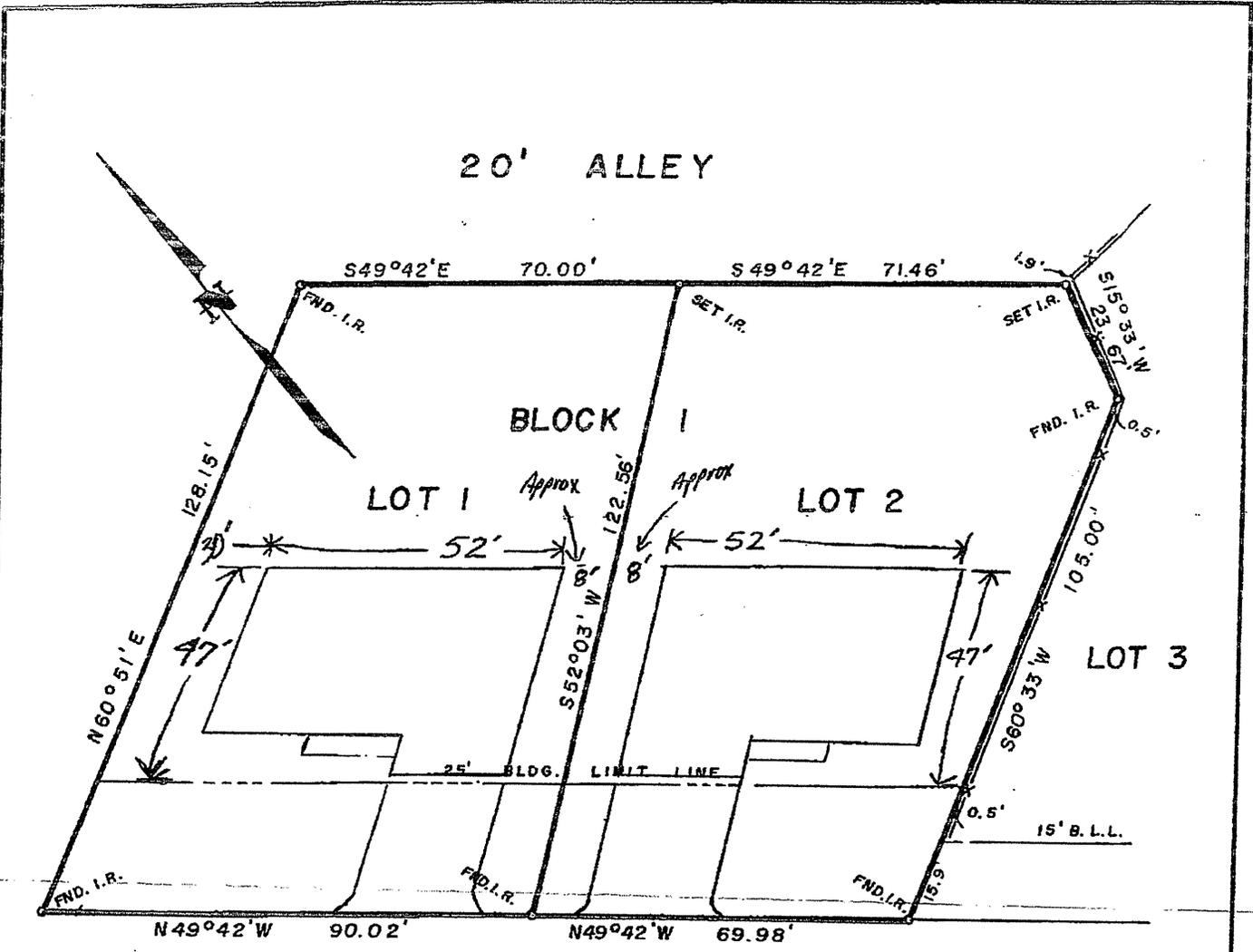
NOTE: SEE REVERSE SIDE FOR INSTRUCTIONS
Attach PUD application for a Planned Unit Development

PERMIT (To be completed by the Planning Department)

The rezoning request is hereby approved based on Ord. No. _____

The rezoning request is hereby disapproved by City Council on _____

Date _____
Director of Planning



STATE HIGHWAY NO. 240



The herein described property does not lie within the 100 Year Flood as delineated on the Flood Boundary and Floodway Map, City of BURKBURNETT, WICHITA County, Panel Number 0001-C as published by the U.S. Department of Housing and Urban Development Federal Insurance Administration. The Flood Zone designation is Zone C.

BASIS OF BEARING: EAST LINE OF S. H. No. 240 = N49°42' W.

Scale: 1 in. = 30 ft.

THE ABOVE DESCRIBED TRACT WAS SURVEYED
 FEBRUARY 13, 2007 AND THE DIMENSIONS
 SHOWN ARE HEREBY CERTIFIED TO BE TRUE AND CORRECT.

SURVEY LOTS 1 & 2, BLOCK 1
 JEFF LANDRUM SUBDIVISION
 BURKBURNETT
 WICHITA COUNTY, TEXAS

SURVEY FOR SCOTT JOHNSON
 CORLETT, PROBST & BOYD, L.L.P.
 Engineers & Surveyors
 4605 Old Jacksboro Hwy.
 Wichita Falls, Texas 76302
 940/723-1455

23467
 EC 42-51

Richard K. Boyd

RICHARD K. BOYD
 REGISTERED PROFESSIONAL LAND SURVEYOR
 No. 3662

LOTS

5101695

6251 1/4 W
100

5E15-101-0000
1609 Sheppard Rd

5E15-102-0000
1611 Sheppard Rd

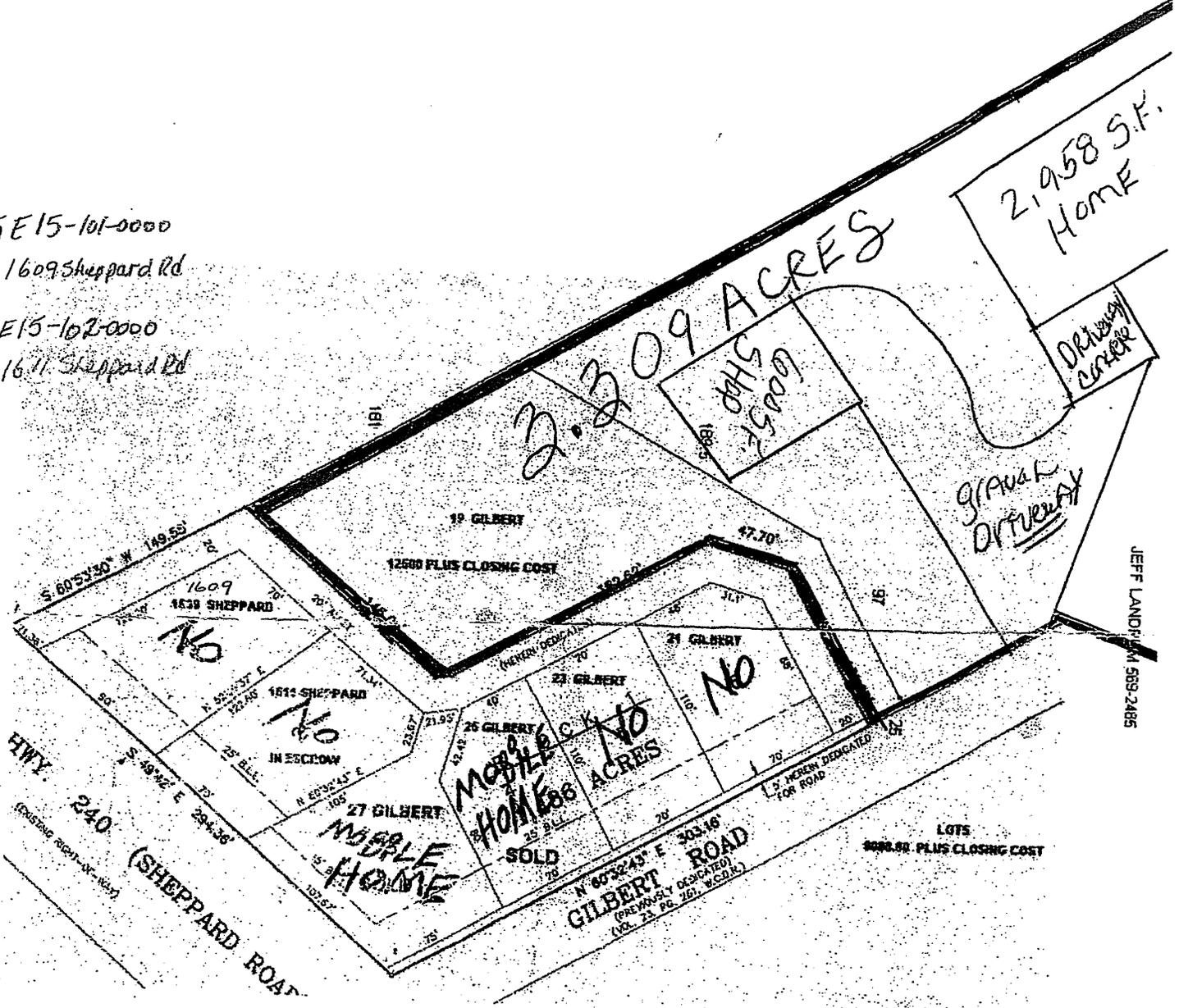
2,958 S.F.
HOME

2.209 ACRES

DRIVEWAY

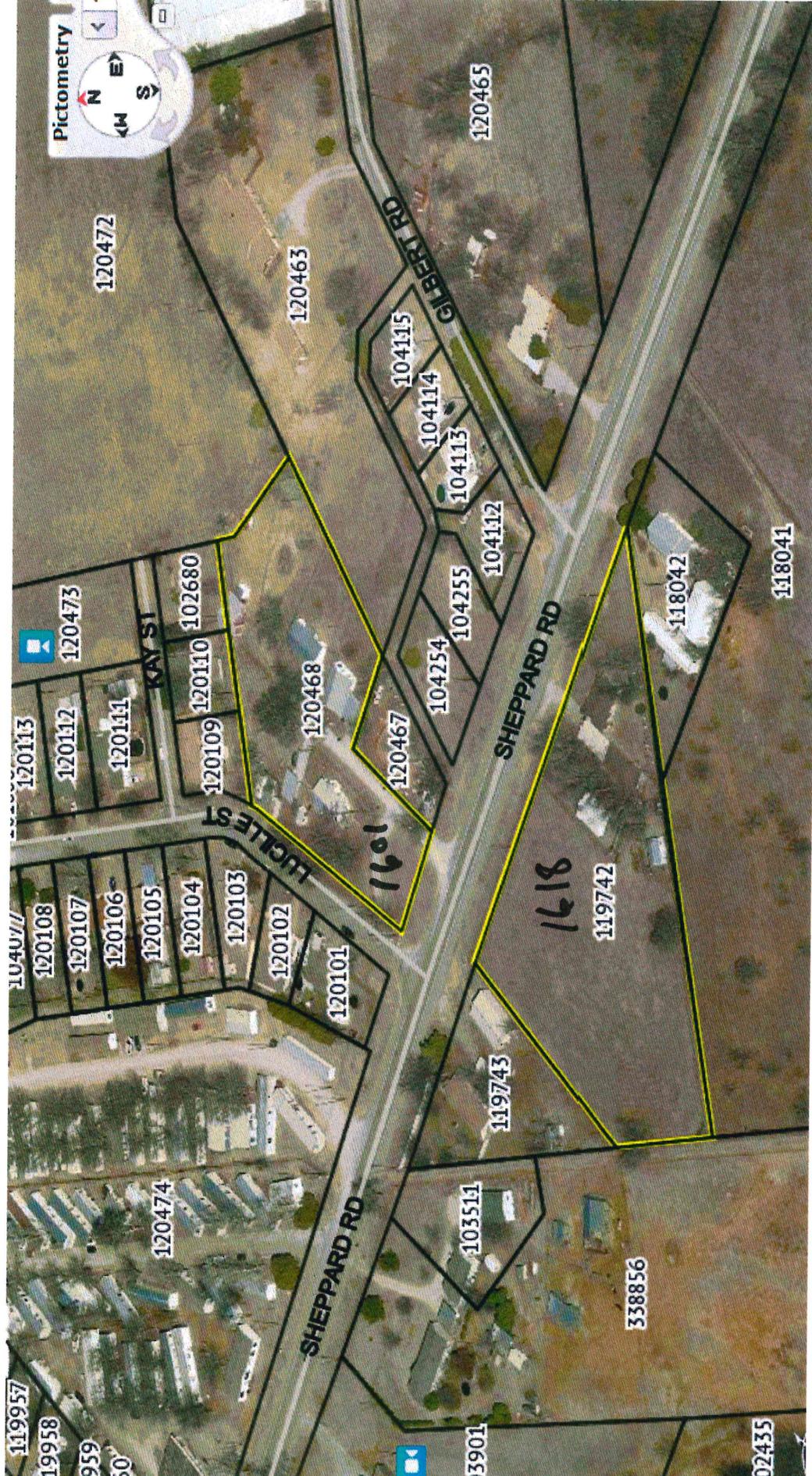
GRAVEL DRIVEWAY

JEFF LANDFORM 589-2485



DEAR CHRISTY & OLDENBURGER





**SECTION 10 CHANGES AND AMENDMENTS TO ZONING ORDINANCES
AND DISTRICTS, AND ADMINISTRATIVE PROCEDURES**

10.1 DECLARATION OF POLICY AND REVIEW CRITERIA:

The City declares the enactment of these regulations governing the use and development of land, buildings, and structures as a measure necessary to the orderly development of the community. Therefore, no change shall be made in these regulations or in the boundaries of the zoning districts except:

- A. To correct any error in the regulations or map;
- B. To recognize changed or changing conditions or circumstances in a particular locality;
- C. To recognize changes in technology, the style of living, or manner of conducting business; or
- D. To change the property to uses in accordance with the approved Comprehensive Plan.

In making a determination regarding a requested zoning change, the Planning and Zoning Commission and the Board of Commissioners shall consider the following factors:

- E. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to the general area and the City as a whole;
- F. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area, and shall note the findings;
- G. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such vacant land unavailable for development;
- H. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change;
- I. How other areas designated for similar development will be, or are unlikely to be, affected if the proposed amendment is approved; and
- J. Any other factors which will substantially affect the public health, safety, morals, or general welfare.



City Commission Agenda Memo

From: Mike Whaley
City Manager

Date: December 15, 2014

Item: Review Proposed Language Stage 5 Drought Restrictions (Omit Car Wash 20% Language)

Background

The City of Wichita Falls has recently amended their Drought Contingency Plan as it pertains the Stage 5 water restrictions. Specifically, they voted 4 to 2 to allow car washes to remain in operation when the lake levels reached a combined 20%. This would omit their existing restrictions which required car washes to close at 20% combined lake levels. As you know because the City of Burkburnett is a wholesale water customer of Wichita Falls, we are bound by contract to follow similar restrictions with our Drought Contingency Plan. We currently have similar language requiring car washes to be closed if lake levels reach a combined 20%. Because WF omitted this language from their Drought Contingency Plan, we can discuss the possibility of omitting this language from our plan as well. Burkburnett has two operational carwashes that have a combined average demand of less than 10,000 gallons per day. I believe we need to keep in mind that at this point and time our citizens are unable to wash their vehicles at home due to the current drought and restrictions. The carwashes we do have are providing a service to the community that they are unable to perform themselves.

Fiscal Impact

N/A

Options

- Approve Stage 5 Restrictions as presented (omitting car wash language)
- Approve Stage 5 Restrictions with revisions (Council)
- Do nothing at this time

Staff Recommendation

Staff recommends omitting language which would require closing car washes if lake levels reach a combined level of 20%

Attachments

Stage 5 Restrictions for City of Burkburnett

ORDINANCE NUMBER 867

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS, AMENDING APPENDIX J OF THE WATER CONSERVATION PLAN; ESTABLISHING CRITERIA FOR THE DROUGHT CONTINGENCY PLAN; PROVIDING PENALTIES, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Burkburnett, Texas recognizes that the amount of water available to the City and its water utility customers is limited and subject to depletion during periods of extended drought; and

WHEREAS, the City recognizes that natural limitations due to drought conditions and other acts of God cannot guarantee an uninterrupted water supply for all purposes; and

WHEREAS, the City has determined that the Water Conservation Plan should be amended to provide additional measures of water conservation to create reduction in water use; and

WHEREAS, as authorized under law, and in the best interest of the citizens of Burkburnett, Texas the Board of Commissioners deems it expedient and necessary to establish certain polices for the orderly and efficient management of limited water supplies.

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

SECTION 1. That Appendix J - Drought Contingency Plan, of the City of Burkburnett, Texas, Water Conservation Plan be amended to read:

Section I: Declaration of Policy, Purpose, and Intent

In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the City of Burkburnett hereby adopts the following regulations and restrictions on the delivery and consumption of water through an ordinance/or resolution.

Water uses regulated or prohibited under this Drought Contingency Plan (the Plan) are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply condition are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in Section XI of this Plan.

The content of this report is based on Texas Commission on Environmental Quality (TCEQ) rules, minimum requirements, and suggestions for developing of a Drought

Contingency Plan. These rules, requirements, and suggestions are contained in Title 30 Texas Administrative Code (TAC), Subchapter B, Rule §288.2 and the TCEQ Handbook on Drought Contingency Planning for Retail Public Water Suppliers (RG-424, April 2005). A copy of Rule §288.2 is attached to this report.

Section II: Public Involvement

Opportunity for the public to provide input into the preparation of the Plan was provided by the City of Burkburnett by the customary process of passing the ordinance to adopt this Plan. The public is invited to comment at the council meetings. Written notice of this agenda item is posted prior to each meeting.

Section III: Public Education

The City of Burkburnett will periodically provide the public with information about the Plan, including information about the conditions under which each stage of the Plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided by inserts in water bills, by publication in the local weekly newspaper, and by making the plan available on the City of Burkburnett official website (www.burkburnet.org).

Section IV: Coordination with Regional Water Planning Groups

The service area of the City of Burkburnett is located in Wichita County. Wichita County is located in the Region B Water Planning Group. A copy of the Plan has been provided to the Texas Water Planning Area Region B for approval.

Section V: Authorization

The City Manager or his/her designee, with consent of the Board of Commissioners, is hereby authorized and directed to implement the applicable provisions of this Plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The City Manager or his/her designee, with consent of the Board of Commissioners, shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan.

Section VI: Application

The provisions of this Plan shall apply to all persons, customers, and property utilizing water provided by the City of Burkburnett. The terms “person” and “customer” as used in the Plan include individuals, corporations, partnerships, associations, and all other legal entities.

Section VII: Definitions

For the purposes of this Plan, the following definitions shall apply:

Aesthetic water use: water use for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.

Commercial and institutional water use: water use which is integral to the operations of commercial and non-profit establishments and governmental entities such as retail establishments, hotels and motels, restaurants, and office buildings.

Conservation: those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

Customer: any person, company, or organization using water supplied by City of Burkburnett.

Domestic water use: water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

Even number address: street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.

Hand watering: Watering trees, flower beds, plants and gardens only with a handheld hose, soaker hose, bucket (5 gallons or less), watering can, or drip irrigation system.

Industrial water use: the use of water in processes designed to convert materials of lower value into forms having greater usability and value.

Landscape irrigation use: water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, and rights-of-way and medians.

Non-essential water use: water uses that are not essential nor required for the protection of public, health, safety, and welfare, including:

- (a) irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this Plan;
- (b) use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- (c) use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- (d) use of water to wash down buildings or structures for purposes other than immediate fire protection;
- (e) flushing gutters or permitting water to run or accumulate in any gutter or street;
- (f) use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- (g) failure to repair a controllable leak(s) within a reasonable period after having been

given notice directing the repair of such leak(s); and

(h) use of water from hydrants for construction purposes or any other purposes other than fire fighting.

Odd numbered address: street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

Section VIII: Criteria for Initiation and Termination of Drought Response Stages

The City Manager or his/her designee shall monitor water supply and/or demand conditions on a daily basis and shall determine when conditions warrant initiation or termination of each stage of the Plan, that is, when the specified “triggers” are reached.

The triggering criteria described below are based on an increase in demand and reduction in the water supply. After examining the average daily demands during maximum-use months for the last five years, demand-related triggers were developed based on the average daily demand (2.1 MG) during the maximum-use month (July 2007) extended over a period of ten days (21 MG). Supply-related triggers were developed from water-supply contracts with the City of Wichita Falls which sells water to the City of Burkburnett at a maximum rate of 4 MGD.

Stage 1 Triggers -- MILD Water Shortage Conditions

Requirements for initiation and termination: Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain water uses, defined in Section VII–Definitions, annually beginning on May 1 through September 30.

Stage 2 Triggers -- MODERATE Water Shortage Conditions

Requirements for initiation: Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses provided in Section IX of this Plan either of the following conditions exist:

- (a) The total demand equals or exceeds 21 million total gallons over a period of ten consecutive days.
- (b) The City of Burkburnett receives notice that the City of Wichita Falls will reduce its supply of water to Burkburnett by between 10 and 20 percent.

Requirements for termination: Stage 2 of the Plan may be rescinded when both of the following conditions have been met:

(a) Total water demand is less than 21 million total gallons over a period of ten consecutive days.

(b) The City receives notice that the City of Wichita Falls is restoring its supply of water to the City to at least 90 percent of preexisting quantity.

Upon termination of Stage 2, Stage 1 becomes operative.

Stage 3 Triggers – SEVERE Water Shortage Conditions

Requirements for initiation: Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 3 of this Plan when either of the following conditions exists:

(a) The total demand equals or exceeds 24 million total gallons over a period of ten consecutive days after implementing Stage 2.

(b) The City of Burkburnett receives notice that the City of Wichita Falls will reduce its supply of water to Burkburnett by between 20 and 30 percent.

Requirements for termination: Stage 3 of the Plan may be rescinded when both of the following conditions have been met:

(a) Total water demand is less than 24 million total gallons over a period of fifteen consecutive days.

(b) The City receives notice that the City of Wichita Falls is restoring its supply of water to the City to at least 80 percent of preexisting quantity.

Upon termination of Stage 3, Stage 2 becomes operative.

Stage 4 Triggers -- CRITICAL Water Shortage Conditions

Requirements for initiation: Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 4 of this Plan when either of the following conditions exists:

(a) The total demand equals or exceeds 27 million total gallons over a period of ten consecutive days after implementing Stage 3.

(b) The City of Burkburnett receives notice that the City of Wichita Falls will reduce its supply of water to Burkburnett by between 30 and 35 percent or the City of Wichita Falls is going to Stage 4.

Requirements for termination: Stage 4 of the Plan may be rescinded when both of the following conditions have been met:

(a) Total water demand is less than 27 million total gallons over a period of ten consecutive days.

- (b) The City receives notice that the City of Wichita Falls is restoring its supply of water to the City to at least 70 percent of preexisting quantity.

Upon termination of Stage 4, Stage 3 becomes operative.

Stage 5 Triggers -- EMERGENCY Water Shortage Conditions

Requirements for initiation: Customers shall be required to comply with the requirements and restrictions for Stage 5 of this Plan when City Manager, or his/her designee, determines that a water supply emergency exists. Conditions that may result in a water supply emergency may include the following:

- (a) Total water demand equals or exceeds 30 million total gallons over a period of ten consecutive days after implementing Stage 4;
- (b) The City of Burkburnett receives notice that the City of Wichita Falls will reduce its supply of water to Burkburnett by 35 percent or more;
- (c) Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service; or
- (d) Natural or man-made contamination of the water supply source(s).

Requirements for termination: Stage 5 of the Plan may be rescinded when all of the following applicable conditions have been met:

- (a) Total water demand is less than 30 million total gallons over a period of ten consecutive days.
- (b) The City receives notice that the City of Wichita Falls is restoring its supply of water to the City to at least 65 percent of preexisting quantity.
- (c) Repairs have been made and water service restored.
- (d) Contamination of the water supply source has been corrected and water service restored.

When Stage 5 conditions were a result of either (a) or (b) above, Stage 4 becomes operative upon termination of Stage 5. When Stage 5 conditions were a result of either (c) or (d) above, water supply operation may return to pre-existing conditions upon termination of Stage 5.

Stage 6 Triggers -- WATER ALLOCATION

In the event that water shortage conditions threaten public health, safety, and welfare, the City Manager is hereby authorized to allocate water as prescribed in Section IX of this

Plan. Customers shall be required to comply with the water allocation plan and comply with the requirements and restrictions for Stage 6 of this Plan.

Section IX: Drought Response Stages

The City Manager, or his/her designee, shall monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth in Section VIII of this Plan, shall determine that a mild, moderate, severe, critical, emergency or water shortage condition exists and shall implement the following notification procedures:

Notification

Notification of the Public: The City Manager or his/her designee shall notify the public by means of:

- (a) publication of notice in the local weekly newspaper;
- (b) inserts in water bills;
- (c) notifications by direct mail to customers; or
- (d) by any combination of these actions.

Additional Notification: The City Manager or his/her designee shall notify directly, or cause to be notified directly, only as appropriate to respective drought stages, the following individuals and entities:

- (a) Mayor / members of the City Council
- (b) Fire Chief
- (c) County Judge and Commissioners
- (d) TCEQ (required when mandatory restrictions are imposed)
- (e) Major water users
- (f) Critical water users (hospitals, etc)
- (g) Parks / street superintendents and public facilities managers

Stage 1 Response -- MILD Water Shortage Conditions

Target: Achieve a voluntary 5 percent reduction in total water use and raise public awareness.

Voluntary Water Use Restrictions for Reducing Demand:

(a) Water customers are requested to voluntarily limit the irrigation of landscaped areas to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and to irrigate landscapes only between the hours of midnight and 10:00 a.m. and 8:00 p.m. to midnight on designated watering days.

(b) All operations of the City of Burburnett shall adhere to water use restrictions prescribed for Stage 2 of the Plan.

(c) Water customers are requested to practice water conservation by checking for leaks, dripping faucets, and running toilets and by utilizing water conservation kits such as displacement bags, low-flow shower heads, and leak detector tablets, and to minimize or discontinue water use for non-essential purposes.

Stage 2 Response -- MODERATE Water Shortage Conditions

Target: Achieve a 15 percent reduction in total water use.

Water Use Restrictions for Demand Reduction: Under threat of penalty for violation, the following water use restrictions shall apply to all persons:

(a) Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and irrigation of landscaped areas is further limited to the hours of 12:00 midnight until 10:00 a.m. and between 8:00 p.m. and 12:00 midnight on designated watering days. However, irrigation of landscaped areas is permitted at anytime if it is by means of a hand-held hose, a faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system.

(b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight. Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rises. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public is contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.

(c) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or jacuzzi-type pools is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8 p.m. and 12:00 midnight.

(d) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.

(e) Use of water from hydrants shall be limited to fire fighting, related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under special permit from the City of Burkburnett.

(f) Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days between the hours 12:00 midnight and 10:00 a.m. and between 8 p.m. and 12:00 midnight. However, if the golf course utilizes a water source other than that provided by the City of Burkburnett, the facility shall not be subject to these regulations.

(g) All restaurants are prohibited from serving water to patrons except upon request of the patron.

(h) The following uses of water are defined as non-essential and are prohibited:

1. wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
2. use of water to wash down buildings or structures for purposes other than immediate fire protection;
3. use of water for dust control;
4. flushing gutters or permitting water to run or accumulate in any gutter or street; and
5. failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

Stage 3 Response -- SEVERE Water Shortage Conditions

Target: Achieve a 35 percent reduction in total water use.

Water Use Restrictions for Demand Reduction: All requirements of Stage 2 shall remain in effect during Stage 3 except:

- a) Irrigation of landscaped areas shall be limited to Sundays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9) between the hours of and between 8 pm and 12:00 midnight and shall only be by means of hand-held hoses, hand-held buckets, drip irrigation, hose-end sprinklers

with automatic timers, or permanently installed automatic sprinkler systems. The use of hose-end sprinklers without automatic timers is prohibited at all times.

- b) A water conservation surcharge will be applied to all residential and irrigation accounts when the City is under Stage 3. The surcharges will include:

Residential Meters

\$1.00 per 1,000 gallons for usage between 10,001 gallons and 15,000 gallons
\$2.00 per 1,000 gallons for usage between 15,001 gallons and 20,000 gallons
\$3.00 per 1,000 gallons for usage between 20,001 gallons and 25,000 gallons
\$4.00 per 1,000 gallons for usage over 25,001 gallons

Irrigation Meters

\$1.00 per 1,000 gallons for usage between 10,001 and 15,000 gallons
\$2.00 per 1,000 gallons for usage between 15,001 gallons and 20,000 gallons
\$4.00 per 1,000 gallons for usage between 20,001 gallons and 25,000 gallons
\$8.00 per 1,000 gallons for usage over 25,000 gallons

- c) The watering of golf course greens, tees, and fairways is prohibited unless the golf course utilizes a water source other than that provided by the City of Burkburnett or treated effluent water.
- d) The use of potable water for construction purposes from designated fire hydrants under special permit is to be discontinued.
- e) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
- f) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the immediate premises of a commercial car wash or commercial service station and not in the immediate interest of public health, safety, and welfare is prohibited
- g) Commercial car washes shall only operate 18 hours a day.

Stage 4 Response -- CRITICAL Water Shortage Conditions

Target: Achieve a 45 percent reduction in total water use.

Water Use Restrictions for Reducing Demand: All requirements of Stage 2 and 3 shall remain in effect during Stage 4 except:

- (a) It shall be unlawful to utilize any type of irrigation on any day at any time. This restriction includes all forms of irrigation, including spray bubbler, drip, hand-watering, etc. The City of Burkburnett will shut off all irrigation meters.

(b) The watering of Home Foundations is restricted to Sundays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9) between the hours of and between 8 pm and 12:00 midnight.

i. Foundations may only be watered with Soaker Hoses.

(c) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the premises of a commercial car wash and commercial service stations and not in the immediate interest of public health, safety, and welfare is prohibited.

(d) Residential pools shall only drained when necessary to make repairs. The pool level shall only be lowered to the level necessary to make the repairs and may be refilled. Pools may be refilled due to evaporation loss. All water features (waterfalls, sprays, slides, etc.) for residential pools shall be prohibited.

(e) Commercial car washes shall only operate 8 hours a day, 6 days a week, between the hours of 1:00 p.m. and 9:00 p.m.

(f) The use of water for washing sidewalks, walkways, driveways, parking areas, streets, tennis courts, patios, or other hard-surfaced area, except to allow to alleviate immediate health or fire hazards is prohibited.

(g) A water conservation surcharge will be applied to all residential and irrigation accounts when the City is under Stage 4. The surcharges will include:

Residential Meters

\$3.00 per 1,000 gallons for usage between 10,001 gallons and 15,000 gallons

\$6.00 per 1,000 gallons for usage between 15,001 gallons and 20,000 gallons

\$9.00 per 1,000 gallons for usage between 20,001 gallons and 25,000 gallons

\$12.00 per 1,000 gallons for usage over 25,001 gallons

Stage 5 Response -- EMERGENCY Water Shortage Conditions

Target: Achieve a 50 percent reduction in total water use.

Water Use Restrictions for Reducing Demand: All requirements of Stage 2, 3 and 4 shall remain in effect during Stage 5 except:

(a) It shall be unlawful to utilize any type of irrigation on any day at any time. This restriction includes all forms of irrigation, including spray bubbler, drip, hand-watering, etc. The City of Burkburnett will shut off all irrigation meters.

(b) The watering of Home Foundations is restricted to Sundays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9)

between the hours of and between 8 pm and 12:00 midnight.

- i. Foundations may only be watered with Soaker Hoses.
- (c) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the premises of a commercial car wash and commercial service stations and not in the immediate interest of public health, safety, and welfare is prohibited.
- (d) It shall be prohibited to fill, refill or add potable water to any residential pool. All water features (waterfalls, sprays, slides, etc.) for residential pools shall be prohibited.
- (e) Commercial car washes shall only operate 17 hours a day, 7 days a week, between the hours of 5:00 a.m. and 10:00 p.m.
- (f) It shall be an affirmative defense that a car dealer or car rental company was preparing a vehicle for pickup and washed that vehicle on the day of pick up by the customer.
- (g) The use of water for washing sidewalks, walkways, driveways, parking areas, streets, tennis courts, patios, or other hard-surfaced area, except to allow to alleviate immediate health or fire hazards is prohibited.
- (h) A water conservation surcharge will be applied to all residential and irrigation accounts when the City is under Stage 4. The surcharges will include:

Residential Meters	
2,000-10,000 gallons	\$6.47 per thousand gallons
10,000-15,000 gallons	\$7.47 per thousand gallons
15,000-20,000 gallons	\$8.76 per thousand gallons
20,000-25,000 gallons	\$10.44 per thousand gallons
25,000 + gallons	\$12.65 per thousand gallons

~~(i) Washing vehicles when Lakes Arrowhead and Kickapoo are below 20%: It shall be unlawful for any person to use potable water to wash a vehicle at any time when the levels of Lakes Arrowhead and Kickapoo are at a combined capacity of less than 20%.~~

Stage 6 Response -- WATER ALLOCATION

In the event that water shortage conditions threaten public health, safety, and welfare, the City Manager is hereby authorized to allocate water according to the following water allocation plan:

Single-Family Residential Customers: The allocation to residential water customers residing in a single-family dwelling shall be as follows:

<u>Persons per Household</u>	<u>Gallons per Month</u>
1 or 2	6,000
3 or 4	7,000
5 or 6	8,000
7 or 8	9,000
9 or 10	10,000
11 or more	12,000

“Household” means the residential premises served by the customer’s meter.

“Persons per household” includes only those persons currently physically residing at the premises and expected to reside there for the entire billing period. It shall be assumed that a particular customer’s household is comprised of two (2) persons unless the customer notifies the City of Burkburnett of a greater number of persons per household on a form prescribed by the City Manager. The City Manager shall give his/her best effort to see that such forms are mailed, otherwise provided, or made available to every residential customer. If, however, a customer does not receive such a form, it shall be the customer’s responsibility to go to the City of Burkburnett offices to complete and sign the form claiming more than two (2) persons per household. New customers may claim more persons per household at the time of applying for water service on the form prescribed by the City Manager. When the number of persons per household increases so as to place the customer in a different allocation category, the customer may notify the City of Burkburnett on such form and the change will be implemented in the next practicable billing period. If the number of persons in a household is reduced, the customer shall notify the City of Burkburnett in writing within two (2) days. In prescribing the method for claiming more than two (2) persons per household, the City Manager shall adopt methods to insure the accuracy of the claim. Any person who knowingly, recklessly, or with criminal negligence falsely reports the number of persons in a household or fails to timely notify the City of Burkburnett of a reduction in the number of person in a household shall be fined I accordance with the enforcement measures described in Section X Enforcement.

Residential water customers shall pay the following surcharges:

- \$5.00 for the first 1,000 gallons over allocation.
- \$6.00 for the second 1,000 gallons over allocation.
- \$7.00 for the third 1,000 gallons over allocation.
- \$8.00 for each additional 1,000 gallons over allocation.

Surcharges shall be cumulative.

Master-Metered Multi-Family Residential Customers: The allocation to a customer billed from a master meter which jointly measures water to multiple permanent residential dwelling units (example: apartments, mobile homes) shall be allocated 6,000 gallons per month for each dwelling unit. It shall be assumed that such a customer’s meter serves two dwelling units unless the customer notifies the City of Burkburnett of a greater number on a form prescribed by the City Manager. The City Manager shall give his/her best

effort to see that such forms are mailed, otherwise provided, or made available to every such customer. If, however, a customer does not receive such a form, it shall be the customer's responsibility to go to the City of Burkburnett offices to complete and sign the form claiming more than two (2) dwellings. A dwelling unit may be claimed under this provision whether it is occupied or not. New customers may claim more dwelling units at the time of applying for water service on the form prescribed by the City Manager. If the number of dwelling units served by a master meter is reduced, the customer shall notify the City of Burkburnett in writing within two (2) days. In prescribing the method for claiming more than two (2) dwelling units, the City Manager shall adopt methods to insure the accuracy of the claim. Any person who knowingly, recklessly, or with criminal negligence falsely reports the number of dwelling units served by a master meter or fails to timely notify the City of Burkburnett of a reduction in the number of person in a household shall be fined in accordance with the enforcement measures described in Section X Enforcement. Customers billed from a master meter under this provision shall pay the following monthly surcharges:

- \$5.00 for 1,000 gallons over allocation up through 1,000 gallons for each dwelling unit.
- \$6.00 thereafter, for each additional 1,000 gallons over allocation up through a second 1,000 gallons for each dwelling unit.
- \$7.00 thereafter, for each additional 1,000 gallons over allocation up through a third 1,000 gallons for each dwelling unit.
- \$8.00 thereafter for each additional 1,000 gallons over allocation.

Surcharges shall be cumulative.

Commercial Customers: A monthly water allocation shall be established by the City Manager, or his/her designee, for each nonresidential commercial customer other than an industrial customer who uses water for processing purposes. The non-residential customer's allocation shall be approximately 75 percent of the customer's usage for corresponding month's billing period for the previous 12 months. If the customer's billing history is shorter than 12 months, the monthly average for the period for which there is a record shall be used for any monthly period for which no history exists. Provided, however, a customer, 75 percent of whose monthly usage is less than 6,000 gallons, shall be allocated 5,000 gallons. The City Manager shall give his/her best effort to see that notice of each non-residential customer's allocation is mailed to such customer. If, however, a customer does not receive such notice, it shall be the customer's responsibility to contact the City of Burkburnett to determine the allocation. Upon request of the customer or at the initiative of the City Manager, the allocation may be reduced or increased if, (1) the designated period does not accurately reflect the customer's normal water usage, (2) one nonresidential customer agrees to transfer part of its allocation to another nonresidential customer, or (3) other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the City Manager. Nonresidential commercial customers shall pay the following surcharges:

- \$5.00 per thousand gallons for the first 1,000 gallons over allocation.
- \$6.00 per thousand gallons for the second 1,000 gallons over allocation.

\$7.00 per thousand gallons for the third 1,000 gallons over allocation.
\$8.00 per thousand gallons for each additional 1,000 gallons over allocation.

The surcharges shall be cumulative. As used herein, “block rate” means the charge to the customer per 1,000 gallons at the regular water rate schedule at the level of the customer’s allocation.

Industrial Customers: A monthly water allocation shall be established by the City Manager, or his/her designee, for each industrial customer, which uses water for processing purposes. The industrial customer’s allocation shall be approximately 90 percent of the customer’s water usage baseline. Ninety (90) days after the initial imposition of the allocation for industrial customers, the industrial customer’s allocation shall be further reduced to 85 percent of the customer’s water usage baseline. The industrial customer’s water use baseline will be computed on the average water use for the 3-month period ending prior to the date of implementation of Stage 2 of the Plan. If the industrial water customer’s billing history is shorter than 3 months, the monthly average for the period for which there is a record shall be used for any monthly period for which no billing history exists. The City Manager shall give his/her best effort to see that notice of each industrial customer’s allocation is mailed to such customer. If, however, a customer does not receive such notice, it shall be the customer’s responsibility to contact the City of Burkburnett to determine the allocation, and the allocation shall be fully effective notwithstanding the lack of receipt of written notice. Upon request of the customer or at the initiative of the City Manager, the allocation may be reduced or increased, (1) if the designated period does not accurately reflect the customer’s normal water use because the customer had shutdown a major processing unit for repair or overhaul during the period, (2) the customer has added or is in the process of adding significant additional processing capacity, (3) the customer has shutdown or significantly reduced the production of a major processing unit, (4) the customer has previously implemented significant permanent water conservation measures such that the ability to further reduce water use is limited, (5) the customer agrees to transfer part of its allocation to another industrial customer, or (6) if other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the City Manager. Industrial customers shall pay the following surcharges:

\$5.00 per thousand gallons for the first 1,000 gallons over allocation.
\$6.00 per thousand gallons for the second 1,000 gallons over allocation.
\$7.00 per thousand gallons for the third 1,000 gallons over allocation.
\$8.00 per thousand gallons for each additional 1,000 gallons over allocation.

The surcharges shall be cumulative. As used herein, “block rate” means the charge to the customer per 1,000 gallons at the regular water rate schedule at the level of the customer’s allocation.

Section X: Enforcement

(a) No person shall knowingly or intentionally allow the use of water from the City of Burkburnett for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this Plan, or in an amount in

excess of that permitted by the drought response stage in effect at the time pursuant to action taken by City Manager, or his/her designee, in accordance with provisions of this Plan.

(b) Any person who violates this Plan is guilty of a misdemeanor and, upon conviction shall be punished by a fine of not less than two hundred dollars (\$200) and not more than one thousand dollars (\$1000). Each day that one or more of the provisions in this Plan is violated shall constitute a separate offense. If a person is convicted of three or more distinct violations of this Plan, the City Manager shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a re-connection charge, hereby established at twenty- five dollars \$25, and any other costs incurred by the City of Burkburnett in discontinuing service. A zero tolerance policy is in effect. In addition, suitable assurance must be given to the City Manager that the same action shall not be repeated while the Plan is in effect. Compliance with this plan may also be sought through injunctive relief in the district court.

(c) Any person, including a person classified as a water customer of the City of Burkburnett, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on property within the parents' control shall constitute a rebuttable presumption that the parent committed the violation, but any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of this Plan and that the parent could not have reasonably known of the violation.

(d) Any employee of the City of Burkburnett, police officer, or other employee designated by the City Manager, may issue a citation to a person he/she reasonably believes to be in violation of this Ordinance. The citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, if known, the offense charged, and shall direct him/her to appear in the municipal court on the date shown on the citation for which the date shall not be less than 3 days nor more than 5 days from the date the citation was issued. The alleged violator shall be served a copy

of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over 14 years of age who is a member of the violator's immediate family or is a resident of the violator's residence. The alleged violator shall appear in municipal court to enter a plea of guilty or not guilty for the violation of this Plan. If the alleged violator fails to appear in municipal court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant. These cases shall be expedited and given preferential setting in municipal court before all other cases.

Section XI: Variances

The City Manager, or his/her designee, may, in writing, grant temporary variance for existing water uses otherwise prohibited under this Plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance and if one or more of the following conditions are met:

- (a) Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.
- (b) Alternative methods can be implemented which will achieve the same level of reduction in water use.

Persons requesting an exemption from the provisions of this Ordinance shall file a petition for variance with the City of Burkburnett within 5 days after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the City Manager, or his/her designee, and shall include the following:

- (a) Name and address of the petitioner(s).
- (b) Purpose of water use.
- (c) Specific provision(s) of the Plan from which the petitioner is requesting relief.
- (d) Detailed statement as to how the specific provision of the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Ordinance.
- (e) Description of the relief requested.
- (f) Period of time for which the variance is sought.
- (g) Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.
- (h) Other pertinent information.

Section XII: Severability

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Plan shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Plan.

SECTION 2. That all ordinances that are in conflict with the provisions of this ordinance be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. Should any paragraph, sentence, subdivision, clause, phrase, or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

SECTION 4. This ordinance shall be in full force and effect immediately upon passage and publication.

SECTION 5. 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 the public notice of the time, place and purpose of said meeting was given as required by law.

PASSED AND APPROVED on this 19th day of May 2014.

Carl Law, Mayor

ATTEST:

Janelle Dolan, City Clerk



City Commission Agenda Memo

From: Mike Whaley, City Manager

Date: December 15, 2014

Item: Discuss and take any action necessary on appointments to the Zoning Board of Adjustment.

Background

The Zoning Board of Adjustment (ZBA) is appointed by the Board of Commissioners. The terms for Board members Mickey Cornelius and Donna Beaver will expire this month. Both members are eligible for re-appointment and have expressed willingness to continue to serve.

Fiscal Impact

N/A

Options

- Re-Appoint the existing members
- Make alternate appointments
- Take no Action

Staff Recommendation

Staff has no specific recommendation.

Attachments

None



City Commission Agenda Memo

From: Gordon Smith, Director of Public Works

Date: December 15, 2014

Item: Discuss and take any action necessary on Cemetery Board appointments.

Background

The terms of three Cemetery Board members expire in December. The members with terms expiring are: Kathy Patterson, Paula Smith, and Brenda Whaley. All members are eligible for re-appointment. All members were contacted and expressed willingness to continue to serve.

Fiscal Impact

N/A

Options

- Re-Appoint the existing members
- Make alternate appointments
- Take no Action

Staff Recommendation

Staff has no specific recommendation.

Attachments

None