

AGENDA

Notice is hereby given of a meeting of the Board of Commissioners of Burkburnett to be held on **Monday, July 21, 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-

Item 3. Pledge of Allegiance.

Item 4. CONSENT AGENDA:

A. Approval of Minutes from June 9, 2014 Special Called Meeting and June 16, 2014

Item 5. Discuss and take any action necessary on agreement with Sheppard Air Force Base for Mutual Aid in Fire Emergency Services.

Item 6. Discuss and take any action necessary on Community Sign and Use Policy.

Item 7. Discuss and take any action necessary on social media and networking policy for City employees.

Item 8. Discuss and take any action necessary on social media and networking policy for Board members.

Item 9. Resolution Number 566. A Resolution ordering payment of up to \$150,000 for initial funding of Neighborhood Reinvestment Grant Program for business façade improvement.

Item 10. Discuss and take any action necessary on agreement with Pinnacle Network Solutions.

Item 11. Discuss and take any action necessary on awarding construction contract for City of Burkburnett TxCDBG Grant.

Item 12. Discuss and take any action necessary on appointments to Zoning Board of Adjustment.

Item 13. Discuss and take any action necessary on appointment to the Cemetery Board.

Item 14. Discuss and take any action necessary on approval of ballot language for possible Charter Amendment.

Item 15. Review of monthly reports.

- A. Administration
- B. Public Works
- C. Public Safety
- D. Economic Development

Item 16. 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.

Item 17. City Manager’s report.

Item 18. 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 salutory 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 salutory 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 19. 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 10:00 a.m. on July 18, 2014 in compliance with the Open Meeting Act Chapter 551.


Janelle Dolan, City Clerk
Posted 7/18/14 @ 10:00 am

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 special called meeting on June 9, 2014 at 6:00 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
Michael Tugman	Commissioner

Others present: Mike Whaley City Manager; Trish Holley, Director of Administration; Gordon Smith, Director of Public Works; Janelle Dolan, City Clerk; and Ed Stahr, Chief of Police. Mike Guevara, City Attorney, Guevara, Decker & Arrott, PC.

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

Item 2. Invocation was given by Mike Guevara, City Attorney, Guevara, Decker & Arrott, PC.

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

Item 4. Gordon Smith, Director of Public Works, addressed the Mayor and Commissioner and stated Josh Stimpson of J.S. Welding provided an application for final plat for Lot 1, Block 1 Stimpson 2nd Addition (Daniels Road adjacent to BDC Industrial Park) and site plan. Mr. Smith reported on June 2, 2014 the Planning and Zoning Board met and staff presented the final plat and site plan. The property is zoned industrial and meets the final plating requirements of 45 ft. front building line set back and 25 ft. side and rear setback. Mr. Smith stated the property does have a 70 ft. drainage easement to where no building permits will be issued in the easement. The Planning and Zoning Commission of the City of Burkburnett voted unanimously to recommend to the Board of Commissioners approval of the final plat, Lot 1 Block 1, Stimpson 2nd Addition and site plan for J.S. Welding.

Motion was made by Commissioner Love, seconded by Commissioner Hardy to approve the final plat, Lot 1 Block 1, Stimpson 2nd Addition. Motion carried unanimously.

Item 5. Motion was made by Commissioner Love, seconded by Commissioner Hardy to approve the site plan for J.S. Welding. Motion carried unanimously.

Commissioner Brewster arrived at 6:15 p.m.

Item 6. Mike Guevara, City Attorney, Guevara, Decker & Arrott, PC, addressed the Mayor and Commissioners and reviewed the proposed 33 amendments to the Charter. Mr. Guevara stated many of the recommended amendments are aimed at correcting typographical errors and/or are simply “housekeeping measures”. Discussion was held on the fact that 33 proposals would be too much for many of the voters to address in one election.

Section 1 ELECTION ORDER AND NOTICE OF ELECTION

There is hereby ordered a Special Election to be participated in by the qualified voters of the City of Burkburnett, Texas, to be held on the 1st Tuesday in November, being the 4th day of November, 2014, between the hours of _____ and _____, for the purpose of submitting to the qualified voters of the City, for adoption or rejection, the following proposed amendments to the existing Charter of the City of Burkburnett, Texas.

Section 2 PROPOSED AMENDMENTS

I.

Amending Article III, Section 4 of the City Charter to correct a typographical error changing the word “choses” to “choices” so that the language shall read as follows:

“All real estate owned in fee simple title, or held by lease, sufferance, easement or otherwise; all public buildings, fire stations, parks, streets and alleys, and all property, whether real or personal, of whatever kind, character or description now owned or controlled by the City of Burkburnett, shall vest in, inure to, remain and be the property of said City of Burkburnett under this Charter; and all causes of action, choices in action, rights or privileges of every kind and character and all property of whatsoever character or description which may have been held, and is now held, controlled or used by said City of Burkburnett for public uses or in trust for the public, shall vest in and remain and inure to the City of Burkburnett under this Charter, and all suits and pending actions to which the City of Burkburnett heretofore was or now is a party, plaintiff or defendant, shall in no wise be affected or terminated by the adoption of this Charter, but shall be continued unabated.

Consensus of the Board to have all proposed amendments with typographical corrections on the ballot.

II.

Amending Article III, Section 10 of the City Charter clarifying the eminent domain authority for the City by authorizing the use of eminent domain authority as provided by the Constitution and laws of the State. The current language lists multiple areas of eminent domain authority. The new language will authorize the City to use the eminent domain authority provided by the Constitution and laws of the state of Texas so that the language will read as follows:

“The City shall have the full power and right to exercise the power of eminent domain where necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the Constitution and laws of the State of Texas. The City may exercise the power of eminent domain in any manner authorized or permitted by the Constitution and laws of the State. The power of eminent domain hereby conferred shall include the right of the City to take the fee in land so condemned and such power and authority shall include the right to condemn public property for such purposes. The City shall have and possess the power of condemnation for any municipal or public purposes even though not specifically enumerated in this Charter.”

Consensus of the Board to have this proposed amendment on the ballot.

III.

Amending Article III, Section 18 of the City Charter to correct a typographical error changing the word “damand” to “demand” so that the language shall read as follows:

“The City of Burkburnett shall have the power to buy, own, construct and to maintain and operate, within or without the city limits, a system or systems, of gas, or electric lighting plants, power plants, telephones, street railways, fertilizing plants, abattoirs, municipal railway terminals, loading and unloading devices, and shipping facilities, or any other public services or public utilities and to demand and receive compensation for services furnished for private purposes or otherwise, and to exercise the right to eminent domain for the appropriations of lands, rights-of-way or anything whatsoever that may be proper and necessary to efficiently carry out said objects. And said City of Burkburnett shall have the power to acquire by lease, purchase or condemnation, the property or any part thereof of any person, firm or corporation now or hereafter conducting any such business, for the purpose of operating such public utility or utilities and for the purpose of distributing such service throughout the city or any part thereof, and

the governing body of said city shall pass all ordinances or resolutions necessary or proper to give full force and effect to the provisions contained in this section.”

Consensus of the Board to have all proposed amendments with typographical corrections on the ballot.

IV.

Repealing Article III, Section 30 of the City Charter designating the fire limits within.

Consensus of the Board to have this proposed amendments IV, V, and VI on the ballot.

V.

Repealing Article III, Section 31 of the City Charter designating the materials that must be used for construction within the fire limits.

Consensus of the Board to have this proposed amendments IV, V, and VI on the ballot.

VI.

Repealing Article III, Section 32 of the City Charter authorizing the Board of Commissioners to extend the boundary of the fire limits.

Consensus of the Board to have the proposed amendments IV, V, and VI on the ballot.

VII.

Amending Article III, Section 34 of the City Charter by removing the requirement for fire escapes for all public buildings. The language will read as follows:

“In addition to the powers hereinbefore specifically enumerated, said city shall have the power to define all nuisances, prohibit the same within the city and outside the city limits for a distance of five thousand feet.

To police all parks, grounds, speed ways, streets, avenues and alleys owned by said city within or without the city limits.

To prohibit the pollution of all sources of water supply of said city, and to provide for the protection of water sheds.

To inspect dairies, slaughter pens, and slaughter houses, inside and outside the city limits of the city, from which meat or milk is furnished to the inhabitants of the city.

To license, operate and control the operation of all character of vehicles using public streets, and to prescribe the speed of the same, the qualifications of the operator of the same, and the lighting of the same by night and to provide for the giving of bond or other security for the operation of same.

To regulate, license and fix charges of fares made by any person owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire or transportation of freight for hire on the public streets and alleys of the city.

To license any lawful business, occupation or calling that is susceptible to the control of the police power.

To license, regulate, control or prohibit the erection of signs or bill boards within the corporate limits of said city.

To provide for Police and Fire Departments.

To provide for a Health Department and to establish all necessary rules and regulations protecting the health of the city and the establishment of quarantine stations and pest houses, emergency hospitals and hospitals, and to provide for the adoption of necessary quarantine laws to protect the inhabitants against contagious or infectious diseases.

To require property owners to make connections with the sewer system with their premises and to provide for fixing a lien against any property owner's premises, who fails or refuses to make sanitary sewer connections and to charge the cost against said owner and make it a personal liability, also provide for fixing penalties for failure to make sanitary sewer connections, provided 'the sewer system is owned and operated by the city.

To provide that gas companies, street car companies, telephone companies, telegraph companies and electric light companies or any other companies or individuals enjoying a franchise now or hereafter from the city to make and furnish extension of their service to such territory within the corporate limits as may be prescribed from time to time by ordinance.

To provide for the regulation and control of plumbers and plumbing works and to require efficiency in the same.

To provide for the inspection of weights, measures and meters and fix a standard of such weights, measures and meters, and to require conformity to such standards, and to provide penalties for failure to use or conform to the same, and to provide for inspection fees.

To provide for the issuance of permits for erecting all buildings; for the inspection of the construction of buildings, in respect to proper wiring for electric lights and other electric appliances; piping for gas, flues, chimneys, plumbing and sewer connections, and to enforce proper regulations in regard thereto.

To provide for the enforcement of all ordinances enacted by the city, by a fine not to exceed \$200.00; provided, that no ordinances enacted by the city shall prescribe a greater or less penalty than is prescribed for a like offense by the laws of this State.”

Consensus of the Board to have this proposed amendment on the ballot with the following change: To provide for the enforcement of all ordinances enacted by the city, by a fine not to exceed those set by state law.

VIII.

Amending Article III, Section 36 of the City Charter to reference Chapter 9 of the Texas Local Government Code as the statute that enumerates Home-Rule authority so that the language will read as follows:

“The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, the City of Burkburnett shall have and may exercise all other powers which, under the Constitution of this State and Chapter 9 of the Texas Local Government Code, it would be competent for this Charter to specifically enumerate.”

Consensus of the Board to have this proposed amendment on the ballot.

IX.

Amending Article IV, Section 1 of the City Charter to establish that the Board of Commissioners shall consist of a Mayor and six (6) commissioners. This change is necessary because of other amendments establishing that the Mayor will be elected by the registered voters in Burkburnett. The language will read as follows:

“The governing body of the City of Burkburnett shall consist of a Mayor and six (6) commissioners, and said body shall be known as the "Board of Commissioners.”

Consensus of the Board to have this proposed amendment on the ballot.

X.

Amending Article IV, Section 2 of the City Charter establishing a place system for the Commissioners, establishing that the Mayor be elected by the registered voters of Burkburnett and establishing three year terms for the Mayor and Commissioners. The language will read as follows:

“The Board of Commissioners shall be composed of the Mayor and six (6) commissioners elected at large. The commissioners shall be elected under a Place system, there being Places 1, 2, 3, 4, 5, and 6. The Mayor and each commissioner shall occupy a place on the Board and shall be elected by plurality from all candidates running for that position or place in the manner provided in this Charter and under the laws of the state of Texas, to serve for three (3) year terms. Following the election at which this Section is amended to establish the Place system, the place to be occupied by each commissioner in office shall be determined by the City Secretary in a manner that preserves the staggered term and, as near as possible, the election pattern existing prior to adoption of the Place

system.”

Motion made by Commissioner Brewster, seconded by Commissioner Lindenborn to have an at large system instead of place system for the elections of Commissioners.

Ayes: Mayor Law; Commissioner Brewster

Nays: Commissioners Ducos, Hardy, Lindenborn, Love, and Tugman

Motion failed. This proposed amendment will be on the ballot.

XI.

Amending Article IV, Section 5 of the City Charter establishing term limits for the Commissioners, the Mayor and individuals consecutively serving in both positions. The language will read as follows:

“No person shall be elected to and serve more than three (3) consecutive terms as a Commissioner, nor may any person be elected to serve more than three (3) consecutive terms as Mayor. Notwithstanding anything herein to the contrary, no person may be elected to and serve more than five (5) consecutive combined terms as a Commissioner and Mayor. For the purposes of this section, the fulfillment of an unexpired term, due to a vacancy in the Board of Commissioners or in the office of Mayor, whether by appointment, or election, shall not be considered as an elected term under provisions of this section.”

Motion made by Commissioner Tugman, seconded by Commissioner Brewster to have the term limits for the Commissioners to remain the same. Motion carried unanimously. Proposed amendment will not be on the ballot.

XII.

Amending Article IV, Section 6 of the City Charter establishing procedures for the filling of vacancies on the Board of Commissioners. The language will read as follows:

“(A) A single vacancy in the Board of Commissioners shall be filled within thirty (30) days of the occurrence of the vacancy by a majority vote of a quorum of the remaining members of the Board by selection of a person qualified for the position as described in this Charter. This appointee shall serve until the position can be filled at the next regular City election.

(B) When more than one vacancy shall develop at any one time, a special election shall be called by the Board of Commissioners for the next date available under the Texas Election Code to fill the vacancies in the same manner as described herein for regular elections. However, if the vacancies occur within ninety (90) days of a regular election, then no special election shall be called and

the remaining Commissioners shall appoint qualified persons to fill the vacancies until the regular election.”

Consensus of the Board to have this proposed amendment on the ballot with the following change: ...shall be filled within thirty (30) days of the occurrence of the vacancy by a vote of at least four (4) of the remaining members of the Board...

XIII.

Amending Article IV, Section 7 of the City Charter regarding the election of the Mayor Pro-Tem. The Board of Commissioners is recommending a change regarding the election of the Mayor. If the Charter amendment regarding the election of the Mayor is approved by the voters, there will be no need for the Board to elect a Mayor from its memberships. The amendment, including that change to the section title, will set forth the procedure to elect and duties of a Mayor Pro-Tem. The language will read as follows:

“Section 7. MAYOR PRO-TEM.

At the first meeting of the Board of Commissioners held after each general election in May, the Board shall elect one of its members to preside as Mayor Pro-Tem. The Mayor Pro-Tem shall have and exercise all powers of Mayor in the absence of, or during the disability from any cause of, the Mayor.”

Consensus of the Board to have this proposed amendment on the ballot.

XIV.

Amending Article IV, Section 9 of the City Charter regarding the compensation of the members of the Board of Commissioners so that the members of the Board will serve without compensation. The language will read as follows:

“The members constituting the Board of Commissioners shall receive no compensation for their service.”

Motion made by Commissioner Tugman, seconded by Commissioner Brewster to remove this proposed amendment from the ballot. Motion carried unanimously.

XV.

Amending Article IV, Section 12 of the City Charter to remove language regarding the election of the Mayor by the Board of Commissioners and to remove language regarding the requirement that the Mayor sign all contracts and bonds and serve as chief executive officer for the city. The language will read as follows:

“The Mayor of the City of Burkburnett shall preside over the meetings of said Board and perform such other duties consistent with the office as may be imposed upon him by this Charter and ordinances and resolutions passed in pursuance hereof. He may participate in the discussion of all matters coming before the Board and shall be entitled to a vote as a member thereof on all legislative and other matters but shall have no veto power. He shall be recognized as the official head of the city by the courts for the purpose of serving civil process, by the Governor for the purpose of enforcing military law, and for all ceremonial purposes. In times of danger and emergency, the Mayor, may, with the consent of the Board of Commissioners, take command of the police and govern the city by proclamation and maintain order and enforce all laws.”

Consensus of the Board to have this proposed amendment on the ballot with the following change:

*“The Mayor of the City of Burkburnett shall preside over the meetings of said Board and perform such other duties consistent with the office as may be imposed upon him by this Charter and ordinances and resolutions passed in pursuance hereof. He may participate in the discussion of all matters coming before the Board and shall be entitled to a vote as a member thereof on all legislative and other matters but shall have no veto power. **He shall sign all contracts entered into by the city and all bonds issued under the provisions of this Charter, and shall be the chief officer of the city.** He shall be recognized as the official head of the city by the courts for the purpose of serving civil process, by the Governor for the purpose of enforcing military law, and for all ceremonial purposes. In times of danger and emergency, the Mayor, may, with the consent of the Board of Commissioners, take command of the police and govern the city by proclamation and maintain order and enforce all laws.”*

XVI.

Amending Article IV, Section 18(B) of the City Charter to change the time of filling and posting notice of the referenced measures to seventy-two (72) hours to be consistent the time set forth in the Texas Open Meetings Act for notice of meetings. The language will read as follows:

“(B) Seventy-two (72) hours prior to the meeting at which a measure will be considered, a draft of the measure shall be filed with the City Secretary, and notice of that filing shall be posted at City Hall. The notice shall consist of the caption of the measure.”

Consensus of the Board to have this proposed amendment on the ballot.

XVII.

Amending Article IV, Section 20 of the City Charter to add language that an ordinance requiring publication in the official newspaper of the city will also be posted on the electronic version of that newspaper if the newspaper has an electronic version of its paper. The language will read as follows:

“Every ordinance imposing any penalty, fine, imprisonment or forfeiture shall, after the passage thereof, be published in every issue of the official paper, including inclusion on the electronic form, if any, of the newspaper, for ten days; if the official paper be published weekly, the publication shall be made in one issue thereof; and proof of such publication shall be made by the printer or publisher of such paper, making affidavit before some officer authorized by law to administer oaths, and filed with the person performing the duties of City Clerk or Secretary and shall be prima facie evidence of such publication and promulgation of such ordinance in all courts of the State, and such ordinance so published shall take effect, and be in force, from and after the publication thereof, unless otherwise expressly provided. Ordinances not required to be published shall take effect, and be in force from and after the passage, unless otherwise provided.

Consensus of the Board to not have this proposed amendment on the ballot.

XVIII.

Amending Article IV, Section 23 of the City Charter to allow for an ordinance amending the Code of Ordinances or a city ordinance to include only the language that is being amended. Since the City has codified many of its ordinances in the Code of Ordinances, there is no need for each ordinance that amends the Code of Ordinances to contain the entire language of the previous ordinances adopting that chapter or section. The revised language allows the ordinance to contain the entire language but does not make it mandatory. The language will read as follows:

“The Code of Ordinances and ordinances of the city may be amended by ordinance. The ordinance amending the Code of Ordinances or an ordinance may contain only the portion of the Code of Ordinances or ordinance that is being amended.”

Consensus of the Board to have this proposed amendment on the ballot.

XIX.

Amending Article IV, Section 33 of the City Charter to cause that the audit of the City books of accounts of each and every department, although continuous, shall be completed annually or in accordance with state law. The language will read as follows:

“The Board of Commissioners shall cause a continuous audit to be made of the books of accounts of each and every department of the city. Such audit shall be made by a nonresident certified public accountant, who shall be selected by said Board and contract entered into from year to year, and, if practicable, such contract shall provide that the books of the city shall be audited annually or in accordance with state law, the last audit to be made at the close of the fiscal year and which shall be a recapitulation of the quarterly audits, and such auditor’s report to the Board, in a condensed form, shall be published at least once in the official organ of the city.”

Consensus of the Board to have this proposed amendment on the ballot with the following changes: ...Such audit shall be made by a ~~nonresident~~ certified public accountant, who shall be selected by said Board and contract entered into from year to year, and, if practicable, such contract shall provide that the books of the city shall be audited annually or in accordance with state law, the last audit to be made at the close of the fiscal year ~~and which shall be a recapitulation of the quarterly audits,...~~

XX.

Amending Article IVa, Section 1 of the City Charter to correct a typographical error changing the word “fall” to “fill” so that the language shall read as follows:

“Any member of the Board of Commissioners, whether elected to office by the qualified electors of the city or elected by said Board to fill a vacancy, shall be subject to recall and removal from office by the qualified electors of the city as in this Charter provided.”

Consensus of the Board to have all proposed amendments with typographical corrections on the ballot.

XXI.

Amending Article IVa, Section 2 of the City Charter to remove the reference to the poll tax list and substitute “voter registration list” as the base for the calculation of the qualified voters of the city. The language will read as follows:

“Before the question of recall of such officers shall be submitted to the qualified electors of the city, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of City Clerk or Secretary, which said petition shall be signed by at least thirty percent of the qualified voters of the city, to be determined by the latest voter registration list of the city. Each signer of such recall petition shall personally sign his name thereto in ink or indelible pencil, and shall write after his name, his place of residence, giving name of street and number, and shall also write thereon the day of the month and year his signature was affixed.

Motion was made by Commissioner Tugman, seconded by Commissioner Hardy to postpone including any proposed amendments regarding the substitution of voter registration list for poll tax list. Motion carried unanimously.

XXII.

Amending Article IVa, Section 5 of the City Charter to allow for a period of twenty (20) days for the City Clerk to certify a recall petition and set procedures for recall petitions that do not meet the requirements for a recall petition. The language will read as follows:

“Within twenty (20) days after the date of the filing of the papers constituting the recall petition, the City Clerk shall certify to the Board of Commissioners the number of qualified voters within the City of Burkburnett, shall further certify the number of qualified voters signing said petition, and shall present such petition and his certificate thereto to said Board. The City Clerk shall declare void any papers constituting the recall petition which does not meet the requirements of Section 3 of this Article. If the papers constituting the recall petition are found by the City Clerk to be insufficient, the City Clerk shall notify the person filing the petition. The person filing the petition shall have fifteen (15) days from the date of such notice to file an amended or supplementary petition signed and filed as prescribed in the original petition. Within ten (10) days after the person files the supplemental petition, the City Clerk shall examine the amended or supplemental petition and certify its sufficiency. If the City Clerk finds the amended or supplementary petition to be insufficient, there shall be no further proceedings on the petition.

Consensus of the Board to have this proposed amendment on the ballot.

XXIII.

Amending Article IVb, Section 2(a) of the City Charter to remove the reference to the poll tax list and substitute “voter registration list” as the base for the calculation of the qualified voters of the city. The language will read as follows:

“(a) PETITION: A petition signed and verified in the manner and form required for recall petition in Article IVa by qualified electors equal to twenty percent of the total qualified electors of said city, as shown by its voter registration list, accompanied by the proposed legislation or measure in the form of a proposed ordinance or resolution, which must be written or printed, and requesting that such ordinance or resolution be submitted to a vote of the qualified electors, if not passed by the Board of Commissioners, shall be filed with the person performing the duties of City Clerk or Secretary.”

Motion was made by Commissioner Tugman, seconded by Commissioner Hardy to postpone including any proposed amendments regarding the substitution of voter registration list for poll tax list. Motion carried unanimously.

XXIV.

Amending Article IVb, Section 2(b) of the City Charter to remove the reference to the poll tax list and substitute “voter registration list” as the base for the calculation of the qualified voters of the city. The language will read as follows:

“(b) CERTIFICATE: Within five days after the filing of such petition the person performing the duties of City Clerk or Secretary shall certify the number of qualified voters residing in said City of Burkburnett, as shown by its voter registration list, and the number of signers of such petition, and shall present said certificate, petition and proposed ordinance or resolution to the Board of Commissioners.”

Motion was made by Commissioner Tugman, seconded by Commissioner Hardy to postpone including any proposed amendments regarding the substitution of voter registration list for poll tax list. Motion carried unanimously.

XXV.

Amending Article IVb, Section 3 of the City Charter to remove the reference to the poll tax list and substitute “voter registration list” as the base for the calculation of the qualified voters of the city. The language will read as follows:

“If, prior to the date when an ordinance or resolution shall take effect, or within thirty days after the publication of same, a petition signed and verified as required for recall petition in Article IVa and by section 2 (a) hereof, by the qualified voters of said city equal in number to twenty percent of the total qualified voters of said city, as shown by its latest voter registration list, shall be filed with the person performing the duties of City Clerk or Secretary, protesting against the enforcement or enactment of such ordinance or resolution, it shall be suspended from taking effect and no action theretofore taken under such ordinance or resolution shall be legal and valid. Immediately upon the filing of such petition, the person performing the duties of City Clerk or Secretary shall do all things required by section 2 (a) of this Article. Thereupon the Board of Commissioners shall immediately re-consider such ordinance or resolution and, if it does not entirely repeal the same, shall submit it to popular vote at the next municipal election, or said Board may, in its discretion call a special election for that purpose; and such ordinance or resolution shall not take effect unless a majority of the qualified electors voting thereon at such election shall vote in favor thereof.”

Motion was made by Commissioner Tugman, seconded by Commissioner Hardy to postpone including any proposed amendments regarding the substitution of voter registration list for poll tax list. Motion carried unanimously.

XXVI.

Amending Article V, Section 1 of the City Charter to add language that the City will enter into an employment agreement with the individual who holds the position of City Manager. The language will read as follows:

“The Board of Commissioners shall appoint the City Manager at the organization meeting of said Board or as soon thereafter as practicable, who shall be the administrative head of the municipal government, under the direction and supervision of said Board. The Board of Commissioners shall enter into an employment agreement with the City Manager.”

Consensus of the Board to not have this proposed amendment on the ballot.

XXVII.

Amending Article V, Section 2 of the City Charter to add language that the individual who is hired as City Manager and does not live within the City limits of the City of Burkburnett must move within the City limits within 90 days of employment as City Manager. The language will read as follows:

“The City Manager may or may not be a resident of the City of Burkburnett when appointed. The individual hired as City Manager will have ninety (90) days from their appointment as City Manager to move within the City limits of the City of Burkburnett.”

Consensus of the Board to have this proposed amendment on the ballot with the addition of the following language: ... their appointment as City Manager to move within the City limits of the City of Burkburnett and will continue to reside within the City limits during his employment agreement.” Motion carried unanimously.

XXVIII.

Amending Article V, Section 5c of the City Charter to remove the following language “and all subordinate employees of the city”. The language will read as follows:

“(c) With the advice and consent of the Board of Commissioners to appoint and remove all heads of departments (except where this Charter places in the Board of Commissioners such power of appointment);”

Motion made by Commissioner Tugman, seconded by Commissioner Ducos to change the proposed amendment to read as follows: The City Manager shall have the authority to hire and/or fire all employees of the City. Motion carried unanimously.

XXIX.

Amending Article VIII, Section 1 of the City Charter to remove language allowing an individual requesting a franchise to force an election and adding a reference to Chapter 311 of the Texas Transportation Code. The language will read as follows:

“The right of control, easement, user and the ownership of and title to the streets, highways, public thoroughfares and property of the City of Burkburnett, its avenues, parks, bridges, and all other public places and property are hereby declared to be inalienable, except by ordinance duly passed by a majority of all of the members of the Board of Commissioners and in accordance with Chapter 311 of the Texas Transportation Code; and no grant of any franchise, or lease or right to use the same, either on, along, through, across, under or over the same by any private corporation, association or individual, shall be granted by the Board of Commissioners, unless submitted to the vote of the legally qualified voters of the city, for a longer period than thirty years; provided. Even after election, no grant shall be made or authorized for a longer period than fifty years.”

Motion made by Commissioner Tugman, seconded by Commissioner Ducos to not include the proposed amendments XXIX and XXX on the ballot. Motion carried unanimously.

XXX.

Amending Article VIII, Section 8 of the City Charter to change the language regarding calling a franchise election to be ordered when the Board of Commissioners receives a petition signed by 10% of the registered voters of Burkburnett. Previous language required that the petition be signed by one hundred legally qualified voters. The change amends the section so that it is consistent with state law. The language will read as follows:

Pending the passage of any such ordinance or during the time intervening between its final passage and the expiration of the thirty days before which time it shall not take effect, it is hereby made the duty of the Board of Commissioners to order an election, if requested by written petition signed by 10% of the registered voters of Burkburnett, at which election the registered voters of Burkburnett shall vote for or against the proposed grant as set forth in detail by the ordinance conferring the rights and privileges upon the applicants therefor, which said ordinance shall be published at length and in full in the call for said election made by the Board of Commissioners, and if at said election the majority of the votes cast shall be for

said ordinance and the making of said proposed grant, the same shall thereupon become effective, but if a majority of the votes cast at said election so held shall be against the passage of said ordinance and the making of said grant, said ordinance shall not pass nor shall it confer any rights, powers or, privileges of any kind whatever upon the applicants therefor, and it shall be the duty of said Board, after canvassing the vote of said election to pass an ordinance repealing the ordinance which has been by it passed, if the same has been passed.

Motion by Commissioner Tugman, seconded by Commissioner Ducos to not include the proposed amendments XXIX and XXX on the ballot. Motion carried unanimously.

XXXI.

Repealing Article IX, Section 1 of the City Charter which allows the City Manager to appoint a City Tax Assessor-Collector.

Consensus of the Board to not have this proposed amendment on the ballot.

XXXII.

Amending Article IX, Section 7B of the City Charter to update the language regarding securing a tax warrant and to make reference to the applicable state law, Chapter 33 of the Texas Tax Code. The language will read as follows:

“(B) Business and Non-Business Personal Property. Upon securing a tax warrant as provided by Chapter 33 of the Texas Tax Code or other applicable state law, the city tax collector, accompanied by a peace officer, may seize, and take possession pending the sale of, as much of any business personal property, or certain non-business taxable personal property as may be reasonably necessary for the payment of all taxes, penalties, and interest owed, as well as all costs of seizure and sale.”

Consensus of the Board to not have this proposed amendment on the ballot.

XXXIII.

Adding Article XIII, Section 7 to the City Charter to clarify that the use of masculine, feminine or neuter genders shall be interpreted to include the other genders and the use of either the singular or plural number shall be interpreted to include the other number, unless such an interpretation is inconsistent with the use of that gender or number. The language will read as follows:

“Section 7. USE OF GENDER AND NUMBER.

The use of the masculine, feminine or neuter genders shall be interpreted to include the other genders, and the use of either the singular or the plural number

shall be interpreted to include the other number, unless such an interpretation in a particular case is inconsistent with the use of that gender or number.”

Consensus of the Board to not have this proposed amendment on the ballot.

Item 7. City Manager Comments.

Item 8. Commissioner Comments.

Item 9. Motion was made by Commissioner Tugman, seconded by Commissioner Brewster to adjourn. Motion carried unanimously.

Carl Law, Mayor

ATTEST:

Janelle Dolan, City Clerk

MINUTES

BOARD OF COMMISSIONERS

The Board of Commissioners of the City of Burkburnett, Texas met in a regular meeting on Monday, June 16, 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
Frank Ducos	Commissioner
Don Hardy	Commissioner
Marguerite Love	Commissioner
Michael Tugman	Commissioner

Commissioner Brewster was not present.

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

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

Item 2. Invocation was given by Commissioner Tugman.

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

Item 4. Consent Agenda.

- A. Approval of Minutes from May 19, 2014 Special Called Meeting and May 19, 2014

Motion was made by Commissioner Tugman, seconded by Commissioner Hardy 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 Mr. Adam Shinpaugh who resides at 1111 Cheryl Dr. requesting the Board of Commissioners allow him to drill a private water well in the front yard of his 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. Mr. Shinpaugh 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 Ducos, seconded by Commissioner Lindenborn to approve the variance request for a front yard water well. Motion carried unanimously.

Item 6. Mayor Law closed the regular meeting at 7:04 p.m. and opened the “Public Hearing” for the following Planning & Zoning Commission Cases:

- A. Case #2014-16, Specific Use Permit for 101 S. Ave D, to construct an accessory building for vehicle storage and a crematory facility.
 - B. Case #2014-17 re-zone application for 900 block and 1000 Block of Cheryl Dr., blocks rezoned as a carport overlay district.
-
- A. Case #2014-16, Specific Use Permit for 101 S. Ave D, to construct an accessory building for vehicle storage and a crematory facility.

Gordon Smith, Director of Public Works, addressed the Mayor and Commissioners and stated that Steve Mendenhall, owner of Owens and Brumley presented an application request for a Specific Use Provision to construct an accessory building for vehicle storage and a crematory facility at 101 S. Ave D. The property is zoned commercial business and Specific Use Provision is required for the crematory. Mr. Smith stated the Planning and Zoning Board unanimously approved the Specific Use Permit. Mr. Smith stated the owner has also submitted a variance request to the Zoning Board of Adjustment (ZBA) to reduce side and rear setbacks and they are scheduled to meet on June 17, 2014 to review the request.

- B. Case #2014-17 re-zone application for 900 block and 1000 Block of Cheryl Dr., blocks rezoned as a carport overlay district.

Mr. Smith addressed the Mayor and Commissioners and stated an application was presented by Edward Frye, owner of property located at 980 Cheryl Dr. This request is to allow for a carport overlay district on the 900 block and 1000 blk of Cheryl Dr. Mr. Smith reported 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. Mr. Smith stated the Planning and Zoning Board unanimously approved the request.

Item 7. Mayor Law closed the “Public Hearing” at 7:09 p.m. and reopened the regular meeting to take action on the Planning & Zoning Commission Cases:

- A. Case #2014-16, Specific Use Permit for 101 S. Ave D, to construct an accessory building for vehicle storage and a crematory facility.
- B. Case #2014-17 re-zone application for 900 block and 1000 Block of Cheryl Dr., blocks rezoned as a carport overlay district.

Case#2014-16: Motion was made by Commissioner Tugman, seconded by Commissioner Hardy to approve the Specific Use Permit for 101 S. Ave D to construct an accessory building for vehicle storage and a crematory facility with the provision that the variance request be approved by the ZBA. Motion carried unanimously.

Case#2014-17: Motion was made Commissioner Hardy, seconded by Commissioner Love to approve the re-zone application for 900 block and 1000 block of Cheryl Dr., blocks rezoned as a carport overlay district. Motion carried unanimously.

Item 8. Mr. Smith addressed the Mayor and Commissioners and stated Steven Mendenhall, owner of Owens and Brumley, presented an application request for a final plat to construct an accessory building for vehicle storage and a crematory facility at 101 S. Ave D. Mr. Smith stated the plat reflects proper building lot lines and easements. It also meets minimum requirements per the Zoning Ordinance and does not conflict with the Comprehensive Plan or the Subdivision Ordinance. Mr. Smith stated the Planning and Zoning Board unanimously approved the final plat and it is City staff’s recommendation to approve the final plat.

Motion was made by Commissioner Ducos, seconded by Commissioner Lindenborn to approve the final plat, Owens and Brumley Addition Block 1, Lot 1. Motion carried unanimously.

Item 9. Ordinance Number 856 was presented. Caption of same being:

AN ORDINANCE SUPERSEDING ORDINANCE NUMBER 853 OF THE CITY OF BURKBURNETT, TEXAS PRESENTLY CODIFIED AS CHAPTER 53, WATER 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.

Mike Whaley, City Manager, addressed the Mayor and Commissioners and stated Ordinance Number 856 is an extension of Ordinance Number 853 which the

Board of Commissioner approved on March 17th. Ordinance Number 856 continues a water rate increase to help offset the deficit in water revenue due to the reduction in water sales in our current position concerning the drought and conservation efforts. The first 2,000 gallons within the rate structure has a flat rate of \$20.00, the next 8,000 gallons had previously been \$4.15 per thousand. The increase only effected the next 8,000 gallons and the rate increased from \$4.15 to \$6.15 per thousand. Also, the Ordinance does show that after 90 days, pending no further action by the Board of Commissioners, the rate will revert back to \$4.15 per thousand for the next 8,000 gallons.

Motion was made by Commissioner Lindenborn, seconded by Commissioner Love to approve Ordinance Number 856 as presented.

Ayes: Mayor Law; Commissioners: Lindenborn, Hardy, Love, and Tugman

Nay: Commissioner Ducos

Motion carried.

Item 10. Ordinance Number 857 was presented. Caption of same being:

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS SPECIFYING THE SPEED LIMIT INSIDE THE CITY LIMITS FOR THE 500 TO 700 BLOCK OF DAVEY DRIVE; AMENDING SECTION 71.05(B) OF THE CITY OF BURKBURNETT CODE OF ORDINANCES; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND ORDERING PUBLICATION IN ACCORDANCE WITH THE CHARTER OF THE CITY OF BURKBURNETT.

Ed Stahr, Chief of Police, addressed the Mayor and Commissioners and stated during the Board of Commissioners meeting on May 19, 2014 the Commissioners requested the speed limit on Davey Drive be reduced from 30 mph to 25 mph for the overall safety of the area.

Motion was made by Commissioner Lindenborn, seconded by Commissioner Ducos to approve Ordinance Number 857 as presented. Motion carried unanimously.

Item 11. Mr. Whaley addressed the Mayor and Commissioners and stated there are two members of the Planning and Zoning Board whose terms are expiring this month, Jerry Coker and Howard Locklin. Both Mr. Coker and Mr. Locklin have expressed a willingness to serve another term. Mr. Aaron King has also submitted a volunteer application indicating his desire to serve on the Planning Zoning Board.

Motion was made by Commissioner Love to appoint Aaron King and Jerry Coker to the Planning and Zoning Board. Motion died for lack of a second.

Motion was made Commissioner Hardy, seconded by Commissioner Tugman to appoint Aaron King and Howard Locklin to the Planning and Zoning Board.

Ayes: Mayor Law; Commissioners Lindenborn, Ducos, Hardy and Love

Nay: Commissioner Tugman

Motion carried.

Item 12. Mr. Whaley, addressed the Mayor and Commissioners and stated as a member of the NORTEX Regional Planning Commission, the Mayor for the City of Burkburnett is seated on the General Membership Committee. In the event the Mayor is unable to attend, a proxy from the City of Burkburnett is required to be assigned. A quorum of the member entity's governing body must sign a letter assigning the proxy.

Motion was made by Commissioner Lindenborn, seconded by Commissioner Hardy to appoint Mike Whaley and Mike Tugman as proxy to the NORTEX Regional Planning Commission.

Ayes: Mayor Law; Commissioners Lindenborn, Ducos, Hardy, and Love

Abstained: Commissioner Tugman

Motion carried.

Item 13. Review of monthly reports.

A. Administration-None.

B. Public Works- Mr. Smith reported the results from well analysis are looking good and the final pump should be installed this week.

C. Public Safety- None

D. Economic Development-Deana Sheriff, Economic Development Director, reported two new businesses are open; Texas Best Donuts and Monkey Butt Leathers. Ms. Sheriff also reported they are two additional businesses opening later this summer. The Community Center LED sign should be installed the week of July 17.

Item 14. There were no public comments.

Item 15. City Manager's report.

A. Kiosk Update- Mr. Whaley reported the kiosk has been delivered. There are some renovations that need to be made for the installation of the Kiosk. Mr. Whaley stated the drive thru will stay open.

B. Water Vending Machine Update-Mr. Whaley stated the electrical work is being completed at the water vending machine.

C. Events-TML Region 5 Quarterly Meeting scheduled for June 19th
in Lakeside City.

Item 16. Commission comments.

Item 17. 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: Mike Whaley
Date: July 21, 2014
Item: Mutual Aid In Fire Emergency Services

Background

This agreement is a renewal of a long-standing agreement the City of Burkburnett has had with SAFB to respond to the request by either party for mutual aid in fighting a fire. Chief Ryalls will be available to discuss further if needed.

Fiscal Impact

N/A

Options

- Approve Renewal
- Deny

Staff Recommendation

Staff recommends approval as presented

Attachments

Copy Mutual Aid In Fire Emergency Services

MUTUAL AID IN FIRE EMERGENCY SERVICES

This Mutual Aid Agreement (the "Agreement"), is made and entered into this 1st day of October 2014, between the Secretary of the Air Force (the "Air Force") acting by and through the Commander, Sheppard AFB, TX, pursuant to the authority of 42 U.S.C. § 1856a and the Burkburnett Volunteer Fire Department. Together the Air Force and Burkburnett Volunteer Fire Department are hereinafter referred to as the "Parties".

WITNESSETH:

WHEREAS, each of the Parties hereto maintains equipment and personnel for the suppression of fires and the management of other emergency incidents occurring within areas under their respective jurisdictions; and

WHEREAS, as set forth in 42 U.S.C. § 1856 the term 'fire protection' includes personal services and equipment required for fire prevention, the protection of life and property from fire, fire fighting, and emergency services, including basic medical support, basic and advanced life support, hazardous material containment and confinement, and special rescue incidents involving vehicular and water mishaps, and trench, building, and confined space extractions; and

WHEREAS, the Parties hereto desire to augment the fire protection capabilities available in their respective jurisdictions by entering into this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, obligations and agreements herein established, the Parties hereby agree as follows:

- a. The authority to enter into this Agreement is set forth in 42 U.S.C. § 1856a, and Title 15 United States Code Section 2210, the regulations implementing same at Title 44 Code of Federal Regulations Part 151 *Emergency Management and Assistance* and Air Force Instruction 32-2001, *Fire Emergency Services Program*.
- b. This Agreement will serve as the agreement between the Parties for securing to each mutual aid in fire protection services as defined above.
- c. On request to a representative of the Sheppard AFB Fire Emergency Services by a representative of the Burkburnett Volunteer Fire Department, fire protection equipment and personnel of the Sheppard AFB Fire Emergency Services will be dispatched to any point within the area for which the Burkburnett Volunteer Fire Department normally provides fire protection services as designated by the representatives of the Burkburnett Volunteer Fire Department. Automatic aid is authorized.
- d. On request to a representative of the Burkburnett Volunteer Fire Department by a representative of the Sheppard AFB Fire Emergency Services, fire protection equipment and personnel of the Burkburnett Volunteer Fire Department will be dispatched to any point within the jurisdiction of the Sheppard AFB Fire Emergency Services as designated by the representative of the Sheppard AFB Fire Emergency Services. Automatic aid is authorized.

e. Any dispatch of equipment and personnel by the Parties pursuant to this Agreement is subject to the following conditions:

(1) Any request for aid hereunder will include a statement of the amount and type of equipment and personnel requested and will specify the location to which the equipment and personnel are to be dispatched, but the amount and type of equipment and the number of personnel to be furnished will be determined by the responding organization. The requesting organization will ensure access to site for the responding organization.

(2) The responding organization will report to the officer in charge of the requesting organization at the location to which the equipment is dispatched, and will be subject to the orders of that official.

(3) The responding organization will be released by the requesting organization when the services of the responding organization are no longer required or when the responding organization is needed within the area for which it normally provides fire protection.

(4) Hazardous Materials incident response will include the response to, and control and containment of any release or suspected release of any material suspected to be or known to be hazardous. Where the properties of a released material are not known, it will be considered hazardous until proven otherwise by the requesting organization using all technical resources available. Cleanup and removal of contained hazardous materials will be the responsibility of the requesting organization.

(5) In the event of a crash of an aircraft owned or operated by the United States or military aircraft of any foreign nation within the area for which the Burkburnett Volunteer Fire Department normally provides fire protection services, the chief of the Sheppard AFB Fire Emergency Services or his or her representative may assume full command on arrival at the scene of the crash.

(6) Where local agencies do not assign an incident safety officer, an Air Force representative will be assigned to act as the incident safety officer for Sheppard AFB Fire Emergency Services to observe Air Force operations.

f. Each Party hereby agrees that its intent with respect to the rendering of assistance to the other Party under this Agreement is not to seek reimbursement from the Party requesting such assistance. Notwithstanding the above, the Parties hereby recognize that pursuant to the Section 11 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. § 2210) and Federal regulations issued there under (44 CFR Part 151), Burkburnett Volunteer Fire Department is permitted to seek reimbursement for all or any part of its direct expenses and losses (defined as additional fire fighting costs over normal operational costs) incurred in fighting fires on property under the jurisdiction of the United States. Furthermore, under the authority of 42 U.S.C. § 1856a, and pursuant to any applicable state or local law each Party hereby reserves the right to seek reimbursement from the other for all or any part of the costs (defined as additional fire fighting costs over normal operational costs) incurred by it in providing fire protection services to the other Party in response to a request for assistance.

g. Both Parties agree to implement the National Incident Management System during all emergency responses on and off installations in accordance with National Fire Protection Association (NFPA) Standard 1561.

h. Each Party waives all claims against the other Party for compensation for any loss, damage, personal injury, or death occurring as a consequence of the performance of this Agreement. This provision does not waive any right of reimbursement pursuant to paragraph f.

i. All equipment used by Burkburnett Volunteer Fire Department in carrying out this Agreement will, at the time of action hereunder, be owned by it; and all personnel acting for Burkburnett Volunteer Fire Department under this Agreement will, at the time of such action, be an employee or volunteer member of Burkburnett Volunteer Fire Department.

j. The rendering of assistance under the terms of this Agreement will not be mandatory; however, the Party receiving a request for assistance will endeavor to immediately inform the requesting Party if the requested assistance cannot be provided and, if assistance can be provided, the quantity of such resources as may be dispatched in response to such request.

k. Neither Party will hold the other Party liable or at fault for failing to respond to any request for assistance or for failing to respond to such a request in a timely manner or with less than optimum equipment and/or personnel, it being the understanding of the Parties that each is primarily and ultimately responsible for the provision of fire protection services needed within their own jurisdictions.

l. Should a dispute arise between the Parties under or related to this Agreement, the Parties agree that within 30 days after notice of the dispute from one Party to the other, the Parties will attempt to resolve the dispute through negotiations. If such negotiations reach an impasse, the Parties agree that within 60 days after Notice of an impasse, they will attempt to resolve the matter through any method or combination of non-binding alternative dispute resolution (ADR) methods available under the Administrative Dispute Resolution Act of 1996, Pub. L. No. 104-320 (codified at 5 U.S.C. §§ 571-583). The cost of any third party neutral will be divided equally between the Parties, and the selection of any third party neutral will be by agreement of the Parties. If such ADR proceeding does not result in resolution of the dispute, the Parties may separately pursue any remedy available to a Party under the law. However, both Parties agree that the initiation of formal litigation does not preclude further attempts at resolving the dispute through alternative dispute resolution methods. Both Parties agree that the terms of this clause will be considered the "Administrative Remedies" that must be exhausted, prior to institution of any formal litigation.

m. All notices, requests, demands, and other communications which may or are required to be delivered hereunder will be in writing and will be delivered by messenger, by a nationally-recognized overnight mail delivery service or by certified mail, return receipt requested, at the following addresses:

For the Air Force:

Sheppard AFB Fire Emergency Services
c/o Commander
419 Avenue G, Suite 1
Sheppard AFB, TX 76311-2941

And:
Department of the Air Force
AFCEC/CXF
139 Barnes Dr, Suite 1
Tyndall AFB FL 32403-5319

And:
Sheppard AFB Fire Emergency Services
c/o Fire Chief
1024 Avenue K
Sheppard AFB, TX 76311

For Burkburnett Volunteer Fire Department:
Burkburnett Volunteer Fire Department
c/o Fire Chief
100 Tommy Thornton Way Street
Burkburnett, TX 76354

TERMS OF THE AGREEMENT

n. This Agreement will become effective on the date of the last signature to the Agreement and will remain in effect for 5 years from that date (the "Term") and automatically renews annually for a term of 20 years. Either Party may unilaterally terminate this Agreement during the Term by sending notification of its intent to terminate to the other Party at least one hundred and eighty (180) days in advance of the proposed date of termination. Such notification will be in the form of a written submission to the other Party.

o. Upon becoming effective, this Agreement will supersede and cancel all previous agreements between the Parties concerning the rendering of assistance from one to the other for the purposes stated in this Agreement.

p. The modification or amendment of this Agreement, or any of the provisions of this Agreement, will not become effective unless executed in writing by both Parties.

q. This Agreement may be executed in one or more counterparts, each of which will be deemed an original.

IN WITNESS WHEREOF, The Parties have caused this Agreement to be executed by their duly authorized representatives on the dates shown below:

FIRE DEPARTMENT
For Burkburnett Volunteer Fire Department

THE UNITED STATES OF AMERICA
by the Secretary of the Air Force:

By: _____

By: _____

Name: _____

Name:  _____

RODNEY A. RYALLS
Fire Chief

SCOTT A. KINDSVATER
Brigadier General, USAF
Commander, 82d Training Wing

Date: _____

Date: **JUN 25 2014** _____



City Commission Agenda Memo

From: Mike Whaley
Date: July 21, 2014
Item: Community Sign an Use Policy

Background

As you know, the LED Community Sign has been installed at the Community Center. The proposed policy will establish guidelines for the use and operation of the new sign. This is a standard policy.

Fiscal Impact

N/A

Options

- Approve Policy
- Approve Policy with revisions

Staff Recommendation

Staff recommends approval as presented

Attachments

Copy of Community Sign an Use Policy

CITY OF BURKBURNETT
COMMUNITY SIGN & USE POLICY

SECTION 1: SCOPE

- A. BACKGROUND: The City of Burkburnett (“City”) owns and operates a community sign. The sign is located at 735 Davey Drive. The sign is a computerized LED electronic message center.
- B. PURPOSE: The purpose of the community sign is to promote city and community organization events.

SECTION 2: CRITERIA/PROCEDURE

- A. ELIGIBLE USERS: Not-for-profit and government organizations are eligible users of the community sign. Examples of not-for-profit and government organizations include, but are not limited to: youth organizations, Lion Clubs, Rotary Clubs, religious institutions, government institutions, educational institutions, senior citizen clubs, etc. For-profit organizations may use the community sign when hosting a non-profit community event with City approval from the Burkburnett City Manager. The Community Sign shall not be used for commercial advertising, nor to advertise or promote political candidates, political parties, or political issues.
- B. APPLICATION: Community Sign Use applications shall be submitted to the City Clerk at least 14 calendar days prior to the proposed start date of a message. Community Sign Use applications must be in writing, and must include the following:
- Name of event to be promoted
 - Name of sponsoring organization
 - Contact person’s information, including complete address and daytime telephone number
 - Date(s) of event
 - Time period requested for community sign use.

Community Sign Use applications will be accepted and documented on a first-come-first-serve basis, based on receipt of completed applications. Incomplete applications will be denied. In the event that too many message requests are received for a particular date, the City reserves the right to adjust display dates or decide what messages will be displayed, in an attempt to honor all requests. The City will make a good faith effort to play messages in the order in which they were received.

All messages must be of broad community interest. Applications for messages that contain, but are not limited to the following, will be denied: political campaign messages, for-profit advertising, religious messages, messages pertaining to illegal activities, and any message containing profanity or offensive language.

The City shall also honor traditional events, which are held annually, by reserving the Community Sign for those purposes.

- C. MESSAGE: All messages should be as short as possible, with a maximum of 100 characters. Messages may not contain graphics. The message must be supplied by the applicant. The City will not create graphics. All messages are subject to change by the City, and the City is not responsible for errors.
- D. DURATION: Messages shall be played no more than 14 days in advance of an event, with a 14 day maximum duration. The length of time a message is displayed and number of times a message is displayed in a given day is at the discretion of the City.
- E. ANNUAL USE: Organizations are limited to a maximum of four messages per year.
- F. MESSAGE PRIORITY: The City reserves the right to prioritize the order of all messages played on the community sign. Messages from the City, along with any emergency notices, take precedence over community messages.
- G. CHARGE: Use of the community sign is provided at no charge.
- H. APPROVAL: Messages will be reviewed and approved by the City Manager, or his/her designee.



City Commission Agenda Memo

From: Mike Whaley

Date: July 21, 2014

Item: EMPLOYEE SOCIAL MEDIA AND NETWORKING POLICY

Background

The purpose of this policy is to provide employees with clear guidelines when participating on personal social networking websites, web pages or other type of social media. It is not the City's intent to deter or prohibit employees from participating, accessing, or posting to these sites, but to make sure an employee's personal activities do not infringe upon the integrity or security of the City's operations, elected or appointed City officials, other employees or the citizens, and otherwise preserve and protect the professional interests of the City of Burkburnett. Employees must remember that their conduct both on and off duty is held to a higher standard and this includes their conduct in relation to social media networking sites.

Fiscal Impact

N/A

Options

- Approve Policy
- Approve Policy with revisions

Staff Recommendation

Staff recommends approval as presented

Attachments

Copy of Employee Social Media and Networking Policy

EMPLOYEE SOCIAL MEDIA AND NETWORKING POLICY

July 21, 2014

1. Statement of Purpose

The purpose of this policy is to provide employees with clear guidelines when participating on personal social networking websites, web pages or other types of social media. It is not the City's intent to deter or prohibit employees from participating, accessing, or posting to these sites, but to make sure an employee's personal activities do not infringe upon the integrity or security of the City's operations, elected or appointed City officials, other employees or the citizens, and otherwise preserve and protect the professional interests of the City of Burkburnett. Employees must remember that their conduct both on and off duty is held to a higher standard and this includes their conduct in relation to social media networking sites.

2. Definitions

Social Media

A variety of online sources that allow people to communicate, share information, share photos, videos, audio, and exchange text or other multimedia files (i.e. You Tube).

Social Networking Site

Any internet based website where members of that site can electronically gather to share personal profiles along with other information and photos with other members. Social networking sites include, but are not limited to MySpace, Facebook, Twitter, tagged.com, and Flickr.com

3. Policy

- A.** Employees shall not use, publish, distribute, post, transmit or disseminate any official City information, City documents, photographs, speeches, reports, communications, videos or evidence obtained in connection with an employee's official performance or duty with the City.
- B.** Employees shall not post on their personal social networking site or media photographs of City personnel wearing distinguishable uniforms, any City logos, seal or writing that identify them as an employee of the City of Burkburnett without first obtaining permission from the City Manager and the City personnel in the photograph. An individual could interpret the use of a City identifying logo or writing posted by a City employee as the official position or policy of the City.

- C. Confidential or proprietary information or similar information of third parties who have shared such information with the City should not be shared on social media outlets.
- D. Comments, opinions, or other communication that references, directly or indirectly, the actions or inactions, words, or deeds of any employee (including the poster) of the City acting in their official capacity that may bring criticism, ridicule, or otherwise discredit on the employee, another employee or the City is prohibited.
- E. No sexual, violent, racial or ethnically derogatory material, comments, pictures, artwork, video, or other reference may be posted along with any City reference.
- F. Employees shall not use City owned equipment for viewing, responding to or updating personnel social media or social networking sites. Data on City owned equipment can be subject to Public Information Act requests and discovery in litigation.
- G. Except while on breaks set forth in the Personnel Policy, employees are prohibited from viewing, responding to, or updating personal social media and social networking sites while on duty, includes the use of personally owned devices such as cellular telephones, tablets and personal laptops. While on duty, employees shall devote their time and attention to the business of the City.
- H. City policies, rules, regulations and standards of communication and conduct apply to employees that engage in social networking activities. Use of your City e-mail address and communicating in your official capacity will constitute conducting City business.

4. Disciplinary Actions

The City of Burburnett supports its employees' rights to engage in personal internet based activities but reminds employees to exercise good judgment by safeguarding themselves accordingly by not participating in any conduct that is likely to have an adverse effect on their integrity as an employee of the City or the reputation of the City of Burburnett as a whole. Therefore, employees are responsible for all content posted on or to any social networking site or media including that of another person once they become aware of it.

- A. Social media network sites are considered public and can be entered into evidence and used against employees and the City in court.
- B. Employees will be asked to remove any material considered in violation of this policy that is located on their personal social networking site or posted by the employee to any social media.

- C. Any employee becoming aware of or having knowledge of any violation of this policy shall notify their supervisor immediately for follow up action.
- D. Violations of this policy are subject to disciplinary action up to and including termination.

Mike Whaley
City Manager

ACKNOWLEDGMENT OF RECEIPT OF SOCIAL MEDIA AND NETWORKING
POLICY

I hereby acknowledge that I have received a copy of the Employee Social Media and Networking Policy.

Employee Signature

Date

Employee Printed Name



City Commission Agenda Memo

From: Mike Whaley

Date: July 21, 2014

Item: SOCIAL MEDIA AND NETWORKING POLICY FOR APPOINTED OFFICIALS

Background

The purpose of this policy is to provide elected and appointed officials (collectively referred to as “Officials”) of the City of Burkburnett with clear guidelines when participating on personal social networking websites, web pages or other type of social media. It is not the City’s intent to deter or prohibit officials from participating, accessing, or posting to these sites, but to make sure an official’s personal activities do not infringe upon the integrity or security of the City’s operations, employees of the City, other officials or the citizens, and otherwise preserve and protect the professional interests of the City of Burkburnett. Officials must remember that as representatives of the City their conduct both on and off duty is held to a higher standard and this includes their conduct in relation to social media networking sites.

Fiscal Impact

N/A

Options

- Approve Policy
- Approve Policy with revisions

Staff Recommendation

Staff recommends approval as presented

Attachments

Copy of Social Media and Networking Policy for Appointed Officials

SOCIAL MEDIA AND NETWORKING POLICY
FOR APPOINTED OFFICIALS

July 21, 2014

1. Statement of Purpose

The purpose of this policy is to provide individuals who are appointed by the Board of Commissioners to serve on City boards and committees (hereinafter referred to as “officials”) of the City of Burkburnett with clear guidelines when participating on personal social networking websites, web pages or other types of social media. It is not the City’s intent to deter or prohibit officials from participating, accessing, or posting to these sites, but to make sure an official’s personal activities do not infringe upon the integrity or security of the City’s operations, employees of the City, other officials or the citizens, and otherwise preserve and protect the professional interests of the City of Burkburnett. Officials must remember that as representatives of the City their conduct both on and off duty is held to a higher standard and this includes their conduct in relation to social media networking sites.

2. Definitions

Social Media

A variety of online sources that allow people to communicate, share information, share photos, videos, audio, and exchange text or other multimedia files (i.e. You Tube).

Social Networking Site

Any internet based website where members of that site can electronically gather to share personal profiles along with other information and photos with other members. Social networking sites include, but are not limited to MySpace, Facebook, Twitter, tagged.com, and Flickr.com

3. Policy

- A.** Officials shall exercise care and discretion in the use, publication, distribution, posting, transmission or dissemination of any official City information, City documents, photographs, speeches, reports, communications, videos or evidence obtained in connection with an official’s position and duty with the City.
- B.** Officials may not post on their personal social networking site or media photographs of City personnel or other City officials wearing distinguishable uniforms, any City logos, seal or writing that identify them as an employee of the City of Burkburnett without first obtaining permission from the City Manager and the City personnel in

the photograph. An individual could interpret the use of a City identifying logo or writing posted by a City employee as the official position or policy of the City.

- C. Confidential or proprietary information or similar information of third parties who have shared such information with the City should not be shared on social media outlets.
- D. Comments, opinions, or other communication that references, directly or indirectly, the actions or inactions, words, or deeds of any official or employee (including the poster) of the City acting in their official capacity that may bring criticism, ridicule, or otherwise discredit on the employee, another official or the City is discouraged.
- E. No sexual, violent, racial or ethnically derogatory material, comments, pictures, artwork, video, or other reference may be posted along with any City reference.
- F. Officials should not use City owned equipment for viewing, responding to or updating personnel social media or social networking sites. Data on City owned equipment can be subject to Public Information Act requests and discovery in litigation.

4. Disciplinary Actions

The City of Burkburnett supports its officials' rights to engage in personal internet based activities but reminds officials to exercise good judgment by safeguarding themselves accordingly by not participating in any conduct that is likely to have an adverse effect on their integrity as an official of the City or the reputation of the City of Burkburnett as a whole. Therefore, officials are responsible for all content posted on or to any social networking site or media including that of another person once they become aware of it.

- A. Social media network sites are considered public and can be entered into evidence and used against the official and the City in court.
- B. Officials will be asked to remove any material considered in violation of this policy that is located on their personal social networking site or posted by the official to any social media.
- C. Any official becoming aware of or having knowledge of any violation of this policy shall notify the Mayor immediately.
- D. Violations of this policy by an official could result in that official being removed from their appointed City position by the Board of Commissioners.

Carl Law, Mayor

ACKNOWLEDGMENT OF RECEIPT OF SOCIAL MEDIA AND NETWORKING
POLICY

I hereby acknowledge that I have received a copy of the Social Media and Networking Policy for Appointed Officials.

Official's Signature

Date

Official's Printed Name

Title



City Commission Agenda Memo

From: Deana Sheriff, Executive Director, Burkburnett Development Corporation

Date: July 21, 2014

Item: Resolution Number 566. A resolution ordering payment of up to \$150,000 for initial funding of a Neighborhood Reinvestment Grant Program for business building façade improvements.

Background

The Burkburnett Development Corporation (BDC) promotes Burkburnett and its unique character through the redevelopment and revitalization of existing business buildings throughout the community, historic preservation, and community involvement, and by providing educational and technical assistance to business and property owners. With existing buildings throughout Burkburnett as a key focus of the Economic Development Program, the BDC Board of Directors have adopted a program to assist business property owners with the redevelopment and revitalization of existing business buildings with a 50/50 matching grant program. The grant program would be administered by the BDC Board of Directors via a grant application process, review of work to be performed, and monitoring that all work is done in compliance with City Ordinances. Funds will be distributed by the BDC Board of Directors, not to exceed \$25,000 in matching funds per property.

Future funding for the Neighborhood Reinvestment Grant Program would come from sales tax generated from food sales from authorized vendors located at the Family Aquatic Center. It is anticipated that \$26,000 to \$45,000 would be generated annually from these sales for the NRGF (additional Resolution forthcoming at future date).

Fiscal Impact

Initial investment shall be \$150,000 of 4B funds from Burkburnett Development Corporation shall come from BDC reserve funds. Future funding would be based upon the prior year's sales tax collection from concessionaire food sales located at the Family Aquatic Center.

Options

- Approve Resolution Number 566
- Not approve Resolution Number 566

Staff Recommendation

Approve Resolution Number 566

Attachments

Resolution Number 566

RESOLUTION NUMBER 566

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS AUTHORIZING BURKBURNETT DEVELOPMENT CORPORATION TO FUND UP TO ONE-HUNDRED-FIFTY THOUSAND DOLLARS FOR THE INITIAL FUNDING OF A NEIGHBORHOOD REINVESTMENT GRANT PROGRAM FOR BUSINESS BUILDING FAÇADE IMPROVEMENTS, FINDING AND DETERMINING THIS MEETING WAS OPEN TO THE PUBLIC, AS REQUIRED BY LAW.

WHEREAS, the Burkburnett Development Corporation (the “BDC”) is a Type B economic development corporation created by the City of Burkburnett, Texas (the “City”), which has a population of less than 20,000; and

WHEREAS, the BDC has proposed to initially fund a matching grant program to assist business property owners with the redevelopment and revitalization of existing business buildings throughout the community, and future funding for the program would come from annual sales tax generated from concession food sales generated around the Family Aquatic Center: and

WHEREAS, this resolution has been given two readings before the Board of Commissioners: one on July 21, 2014 and another on the date this resolution was approved; and

WHEREAS, this resolution was approved in a meeting which was open to the public and preceded by proper notice as required by Chapter 551 of the Texas Government Code;

NOW, THEREFORE, be it **RESOLVED** by the BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TX THAT, the BDC is hereby authorized to fund up to one-hundred-fifty thousand dollars for the initial funding of a Neighborhood Reinvestment Grant Program for business building façade improvements;

FURTHER RESOLVED that the officers of the City are hereby authorized and directed to take such action as may be reasonably necessary to carry this resolution into effect.

First reading on July 21, 2014

APPROVED on this _____, 2014, Second and Final Reading.

Carl Law, Mayor

Janelle Dolan, City Clerk



City Commission Agenda Memo

From: Mike Whaley
Date: July 21, 2014
Item: Agreement with Pinnacle Network Solutions

Background

In the past, the City has leased space on the elevated water towers to various groups as a source of income, as well as to assist in the expansion of telecommunications networks and services for the community. We were approached by Pinnacle Network Solutions for such an agreement. Pinnacle would utilize space on all three of the elevated water towers with payment of \$1,525 an month (\$18,300 annually).

Fiscal Impact

Revenue of \$18,300

Options

- Approve Agreements
- Deny Agreements

Staff Recommendation

Staff recommends approval as presented

Attachments

Copy of Agreements with Pinnacle Solutions

LEASE AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 20__, between the City of Burkburnett, a Texas Municipality ("LESSOR") and Pinnacle Network Solutions a Texas registered L.L.C. ("LESSEE").

WHEREAS, LESSOR is the owner or lessee of certain real property located at the 202 East Fourth Street, Burkburnett, Wichita County, State of Texas, together with a water tower and or buildings situated thereon: and,

WHEREAS, LESSEE desires to lease a portion of the water tower on such real property, along with the ground space sufficient for the placement of the necessary transmitting and receiving broadcast equipment with a grant of a nonexclusive right and easement for ingress, egress, and right-of-way, seven (7) days a week, twenty-four (24) hours a day with LESSOR's notice and approval when applicable as hereinafter described (such portion of water tower situated on the real property and such easement and right-of-way hereinafter called the "Property"). The Property is more specifically described in, and substantially shown as outlined on Exhibit "A" attached hereto and made a part hereof;

NOW, THEREFORE, in consideration of the mutual promises contained in the Agreement, which hereby replaces and supersedes any previous agreements between the parties along with other good and valuable consideration, LESSOR and LESSEE hereby agree to the following:

1. Initial Term and Rental. This Agreement shall be for an initial term of five (5) years beginning upon the date this Lease Agreement is executed by LESSOR the ("Commencement Date"). The initial lease term shall be at an annual rental of \$6,099.96 payable in monthly rental of \$508.33. If the commencement date is on a date other than the first of a calendar month, LESSEE shall make a prorated payment of the installment of the monthly rental payable for the first partial month. Thereafter, the monthly rental payment shall be due and payable on the first (1st) of each month at LESSOR'S address as set forth in this agreement or such other address as provided by LESSOR to LESSEE in writing from time to time.

2. Continuance of Lease. This Agreement may be extended for one (1) additional five year term under the same terms and conditions as contained within this Agreement with the exception the rental amount for the extended term shall be subject to a fifteen (15%) inflation increase adjustment upon LESSEE extending this Agreement. LESSEE may terminate this Agreement for any reason during the initial term or extended term by providing LESSOR with written notice of its intention to terminate at least six (6) months prior to any such date. LESSOR may terminate this Agreement for any reason during the initial term or extended term by providing LESSEE with written notice of its intention to terminate at least six (6) months prior to any such date.

3. Title. LESSOR warrants that LESSOR is seized of good and marketable title to the Property and has full power and authority to enter into and execute this Agreement. LESSOR further warrants that there are no deeds to secure debt, mortgages, liens, judgments, restrictive covenants, or other encumbrances on the title to the Property that would prevent the LESSEE from using the Property for the use intended by LESSEE as hereinafter set forth in this Agreement. LESSOR agrees to provide to LESSEE proof of good and marketable title to the Property

upon request by LESSEE. LESSEE shall have the right to survey the property at its own expense should LESSEE decide such is necessary.

4. Governmental Approvals. LESSEE'S ability to use the Property is contingent upon its obtaining all certificates, permits, licenses and other approvals that may be required by any governmental authorities. LESSOR shall cooperate with LESSEE in its effort to obtain and maintain such certificates, permits, licenses and other approvals required by governmental authorities. LESSOR agrees to sign such papers as are required to file applications with the appropriate zoning authority and other governmental authorities for the proper zoning of the Property and for other certificates, permits, licenses and approvals as are required for the use of the Property intended by the LESSEE. If at any time during the term of this Agreement LESSEE is unable to use the Property for a Communications Facility in the manner intended by LESSEE due to imposed zoning conditions or requirements, or in the event that any necessary certificate, permit, license or approval is finally rejected or any previously issued certificate, permit license or approval is canceled, expires, lapses or otherwise withdrawn or terminated by the applicable governmental authority, or soil boring tests, structural analysis or radio propagation tests are found to be unsatisfactory so that LESSEE in its discretion will be unable to use the Property for a Communications Facility in the manner intended by LESSEE, LESSEE shall have the right to terminate this Agreement by written notice to LESSOR and all rentals paid to LESSOR prior to the termination date shall be retained by LESSOR. Upon such termination, this Agreement shall become null and void and LESSOR and LESSEE shall have no other further obligations to each other, other than LESSEE's obligation to remove its property as hereinafter provided.

5. Utility Services. During the term of this Agreement, LESSEE shall arrange for its own utility services to the Property. LESSOR shall cooperate with LESSEE when necessary to obtain those utility services LESSEE requires on the Property. LESSEE or its designated contractors shall abide by any State or City codes applicable.

6. Use. LESSEE shall use the property for the purpose of constructing, maintaining, and operating a communications facility and uses incidental thereto, which may consist of such facilities as are necessary to house telecommunications equipment and for antenna structure of sufficient type, as determined by LESSEE, now or in the future to meet LESSEE's telecommunication needs and all cable, wiring and supports and all necessary appurtenances thereto (collectively, the "Communications Facility"). All improvements to the Property necessary for LESSEE's use shall be made at LESSEE's expense. LESSOR further acknowledges that LESSEE may desire to change equipment in the future in order to accommodate increased customer capacity and as additional advances of telecommunications equipment and technology are made. For the purposes of this Agreement, LESSEE shall install three (3) panel antennas on the outside of the cat walk railing connected to the ground equipment cabinet by two (2) 1 5/8" coax each. LESSEE shall additionally install one (1) microwave dish on the outside of the cat walk railing or tower leg connected to the ground equipment by one (1) 1 5/8" coax or elliptical waveguide. A drawing of the tower showing the location of the equipment to be installed by LESSEE under this agreement is attached as Exhibit B. LESSEE shall also have the option, provided space is available, to install one (1) additional microwave dish and feed line (similar to the first) in the future by formally exercising the option in writing and increasing the annual rent by \$1,500.00 payable in monthly rental of \$125.00 thereafter. No less than thirty (30) days prior to installation of an additional dish, antenna, feed lines or other equipment, LESSEE will provide to LESSOR an amended drawing showing all of LESSEE's equipment on the tower and to be placed on the tower if LESSEE exercises its option to install additional equipment. LESSOR shall

approve all construction before the commencement of work by LESSEE. Any additions to this equipment configuration cannot be made without the consent of the LESSOR. All feed lines shall be painted to blend with the existing water tower.

7. **Access.** . LESSOR grants to LESSEE the right to use all common areas such as elevators, rooftops, hallways, stairways, parking lots, and such other areas as are reasonably required during the construction and installation and to maintain the operate the Communications Facility mentioned herein. LESSEE will contact the utility emergency contact for notification regarding access to the Facilities after 4:30 p.m. on weekdays, on weekends and on holidays for servicing LESSEE equipment on the tower or in the utility facility.

8. **Indemnification.** LESSEE shall indemnify and hold LESSOR harmless against any liability or loss from personal injury or property damage resulting from or arising out of the use and occupancy of the Property by LESSEE or its employees or agents, excepting however, such liabilities and losses as may be due to or caused by the acts or omissions of LESSOR or its employees or agents. LESSOR agrees that LESSEE may self-insure against any loss or damage, which could be covered by a comprehensive general public liability policy.

9. **Removal of Improvements.** Title to all improvements constructed or installed by LESSEE on the Property shall remain in LESSEE and all improvements constructed or installed by LESSEE shall at all times be and remain the property of LESSEE, regardless of whether such improvements are attached or affixed to the Property. LESSEE, upon termination of this Agreement, shall within a reasonable period, remove all improvements, fixtures and personal property constructed or installed on the Property by LESSEE and restore the Property to its original above grade condition, reasonable wear and tear excepted. If such removal causes LESSEE to remain on the Property after termination of this Agreement, LESSEE shall pay rent at the then existing monthly rate, or on the existing monthly pro rata basis if based upon a longer payment term, until such time as the removal is complete.

10. **Sale of Property.** If LESSOR at any time during the initial or any extended term of this Agreement, decides to sell the Property, or all or part of LESSOR's Surrounding Property, to a purchaser other than LESSEE, such sale shall be subject to this Agreement and LESSEE's rights hereunder.

11. **Quiet Enjoyment.** LESSOR covenants that LESSEE on paying the rental and performing the covenants, terms and conditions required of LESSEE contained herein, shall peaceably and quietly have, hold and enjoy the Property and the leasehold estate granted to LESSEE by virtue of this Agreement.

12. **Assignment.** This Agreement may be sold, assigned, transferred, or subleased at any time by LESSEE to LESSEE's parent company or any affiliate or subsidiary of LESSEE or its parent company, to any entity with or into which LESSEE is merged or consolidated, or to any entity resulting from reorganization of LESSEE or its parent company. Otherwise, this Agreement may not be sold, assigned, transferred, or subleased without the written consent of LESSOR, such consent not to be unreasonably withheld.

13. **Condemnation.** If the whole of the Property or such portion thereof as will make

the Property unusable for the purpose herein leased, is condemned by any legally constituted public authority, then this Agreement and the term hereby granted, shall cease from the time when possession thereof is taken by the public authority, and rental shall be accounted for as between LESSOR and LESSEE as of that date. Any lesser condemnation shall in no way affect the respective rights and obligations of LESSOR and LESSEE hereunder. However, nothing in this paragraph shall be construed to limit or adversely affect LESSEE's right to an award of compensation from any condemnation proceeding for the taking of LESSEE's leasehold interest hereunder or for the taking of LESSEE's improvements, fixtures, equipment and personal property.

14. Opportunity to Cure. If LESSEE should fail to pay any rental or other amounts payable under this Agreement when due, or if LESSEE should fail to perform any other of the covenants, terms or conditions of this Agreement, prior to exercising any rights or remedies against LESSEE on account thereof, LESSOR shall first provide LESSEE with written notice of the failure and provide LESSEE with a thirty (30) day period to cure such failure (if the failure is a failure to pay rental or any other sum of money under this Agreement) or a sixty (60) day period to cure such failure (if failure is a failure to perform any other covenant, term or condition of this Agreement). If the failure is not a failure to pay rental or any other sum of money hereunder but is not capable of being cured within a sixty (60) day period, LESSEE shall be afforded a reasonable period of time to cure the failure provided that LESSEE promptly commences curing the failure after the notice and prosecutes the cure to completion with due diligence.

15. Insurance. LESSEE shall, at all times during the term of this Agreement, maintain in force a policy of insurance providing the following coverage:

- A. Commercial general liability insurance of \$1,000,000 for injury to or death of any one person and \$2,000,000 in any one such occurrence; and \$1,000,000 for damage to or destruction of property in any one occurrence.
- B. LESSEE shall require the insurer of the policy to waive any rights of subrogation against the LESSOR arising from payments made by such insurer under such policy.
- C. LESSEE shall name LESSOR as additional insured, providing copy of coverage to LESSOR.

16. Tower Maintenance. In the event LESSOR contracts for service, maintenance, repair or repaint of the tower, LESSOR shall notify LESSEE of timeframe for service, maintenance, repair or repaint with at least ninety (90) days advance notice to allow LESSEE sufficient time to secure a temporary means of continuing broadband services for customers.

17. Governing Law. This Agreement shall be governed and interpreted by, and construed in accordance with the law of the State of Texas.

18. Notices. All notices hereunder must be in writing and shall be deemed validly given on the date when deposited in the United States mail, by certified mail, return receipt requested, addressed as follows (or to any other address that the party to be notified may have designated to the other party like notice at least ten (10) days thereto):

LESSEE: Pinnacle Network Solutions
Attention:

LESSOR: City of Burkburnett
Attn:
510 Sheppard
Burkburnett, TX 76354
(940) 569-2263

19. Binding Effort. This Agreement shall extend to and bind the heirs, personal representatives, successors and assigns of LESSOR and LESSEE and shall constitute covenants running with the land.

20. Miscellaneous. This Agreement cannot be modified except by a written modification executed by LESSOR and LESSEE in the same manner as this Agreement is executed. The headings, captions and numbers in this Agreement are solely for convenience and shall not be construed or interpreting any provision of this Agreement. Wherever appropriate in this Agreement, personal pronouns shall be deemed to include other genders and the singular to include the plural, if applicable. This Agreement contains all promises, statements, assertions or representations by LESSOR or LESSEE.

21. Interference. LESSEE's Communications Facility shall not disturb the communication configurations, equipment and frequencies, if any, that exist on LESSOR'S property on the commencement date ("Preexisting Communications:), and LESSEE's Communications Facility shall comply with all noninterference rules of the Federal Communications Commission ("FCC"). LESSOR shall use reasonable efforts to not permit any new use on any portion of LESSOR'S property as may now exist and may exist in the future which would unreasonably interfere with the communications operations of LESSEE's Communications Facility. LESSEE shall be responsible for all testing needed to confirm that LESSEE's communications frequencies are compatible with Pre-existing Communications if any are installed on LESSOR's facilities on the Commencement Date and that no interference exists between the various communications equipment and frequencies. LESSOR will use reasonable efforts to require any new lessee to abide by provisions similar to this Paragraph 21 but will not be liable for monetary damages or equitable relief for interference caused by existing or future communications equipment or frequencies used on LESSOR's building.

22. Waivers and Disclaimers; Memorandum Lease. At the request of LESSEE or LESSEE's lenders, LESSOR shall execute such documents as are reasonably requested by LESSEE from time to time for the purpose of releasing, waiving or disclaiming any interest of LESSOR in and to the equipment of LESSEE. In addition to the forgoing, at LESSEE's request and expense (including reimbursement of reasonable out-of-pocket expenses incurred by LESSOR hereunder), LESSOR agrees to execute a memorandum of lease in a form suitable for recording and acceptable to LESSOR and LESSEE. LESSEE agrees to provide LESSOR with a certified copy of any such memorandum following any recordation of the same.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their respective seals the day and year first above written.

LESSOR: City of Burkburnett
A Texas Municipality

By: _____

Title: _____

ATTEST:

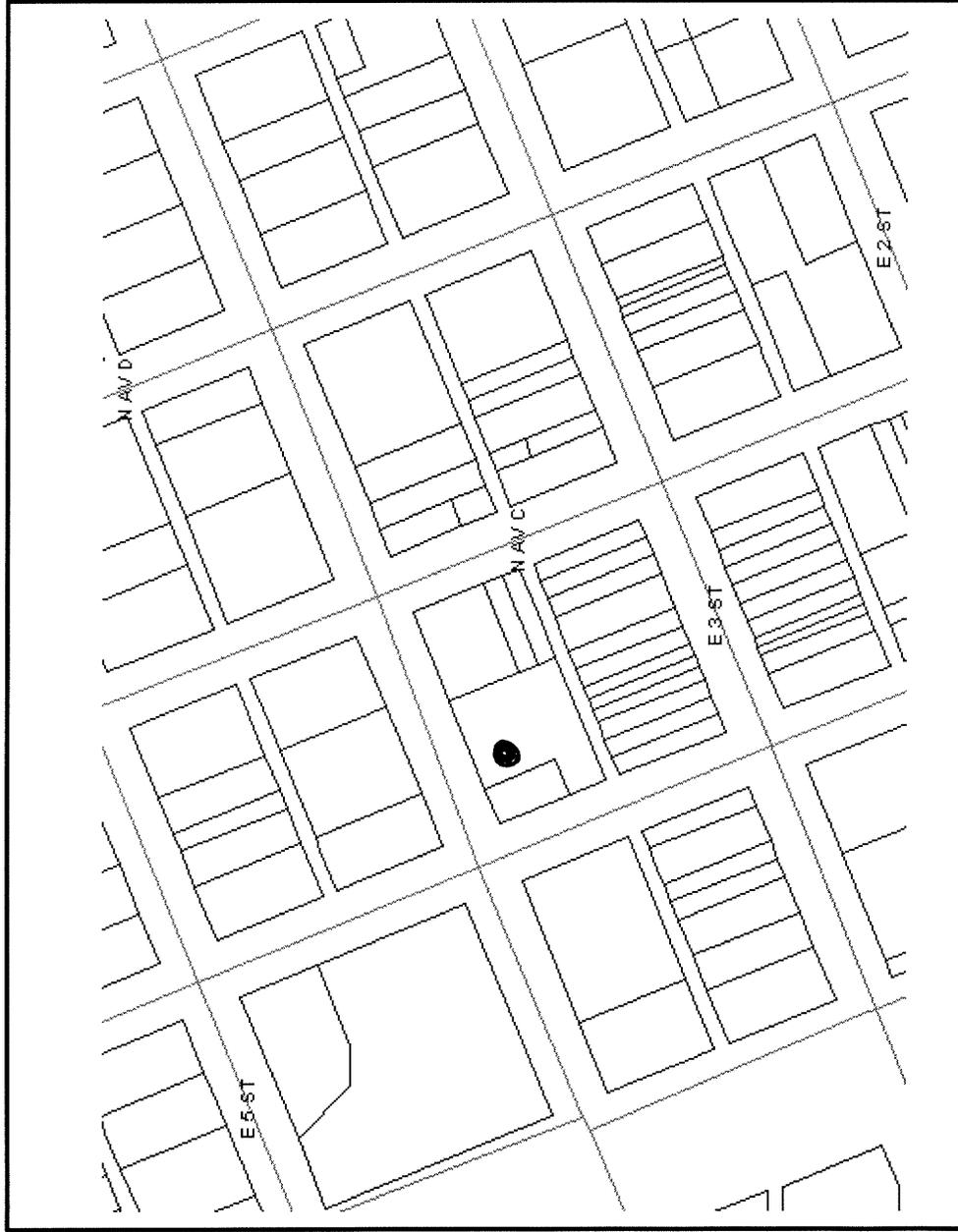
City Clerk

LESSEE: Pinnacle Network Solutions
A Texas registered L.L.C.

By: _____

Title: _____

EXHIBIT A



- Street Names (STREET)
- Streets (TYPE)
 - 0
 - 1
 - 2
 - 3
 - 4
 - 6
 - 5
 - 7
- Parcels
- Easements
- City_Limits

LEASE AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 20__, between the City of Burkburnett, a Texas Municipality ("LESSOR") and Pinnacle Network Solutions a Texas registered L.L.C. ("LESSEE").

WHEREAS, LESSOR is the owner or lessee of certain real property located at the 613 South FM 369, Burkburnett, Wichita County, State of Texas, together with a water tower and or buildings situated thereon: and,

WHEREAS, LESSEE desires to lease a portion of the water tower on such real property, along with the ground space sufficient for the placement of the necessary transmitting and receiving broadcast equipment with a grant of a nonexclusive right and easement for ingress, egress, and right-of-way, seven (7) days a week, twenty-four (24) hours a day with LESSOR's notice and approval when applicable as hereinafter described (such portion of water tower situated on the real property and such easement and right-of-way hereinafter called the "Property"). The Property is more specifically described in, and substantially shown as outlined on Exhibit "A" attached hereto and made a part hereof;

NOW, THEREFORE, in consideration of the mutual promises contained in the Agreement, which hereby replaces and supersedes any previous agreements between the parties along with other good and valuable consideration, LESSOR and LESSEE hereby agree to the following:

1. Initial Term and Rental. This Agreement shall be for an initial term of five (5) years beginning upon the date this Lease Agreement is executed by LESSOR the ("Commencement Date"). The initial lease term shall be at an annual rental of \$6,099.96 payable in monthly rental of \$508.33. If the commencement date is on a date other than the first of a calendar month, LESSEE shall make a prorated payment of the installment of the monthly rental payable for the first partial month. Thereafter, the monthly rental payment shall be due and payable on the first (1st) of each month at LESSOR'S address as set forth in this agreement or such other address as provided by LESSOR to LESSEE in writing from time to time.

2. Continuance of Lease. This Agreement may be extended for one (1) additional five year term under the same terms and conditions as contained within this Agreement with the exception the rental amount for the extended term shall be subject to a fifteen (15%) inflation increase adjustment upon LESSEE extending this Agreement. LESSEE may terminate this Agreement for any reason during the initial term or extended term by providing LESSOR with written notice of its intention to terminate at least six (6) months prior to any such date. LESSOR may terminate this Agreement for any reason during the initial term or extended term by providing LESSEE with written notice of its intention to terminate at least six (6) months prior to any such date.

3. Title. LESSOR warrants that LESSOR is seized of good and marketable title to the Property and has full power and authority to enter into and execute this Agreement. LESSOR further warrants that there are no deeds to secure debt, mortgages, liens, judgments, restrictive covenants, or other encumbrances on the title to the Property that would prevent the LESSEE from using the Property for the use intended by LESSEE as hereinafter set forth in this Agreement. LESSOR agrees to provide to LESSEE proof of good and marketable title to the Property

upon request by LESSEE. LESSEE shall have the right to survey the property at its own expense should LESSEE decide such is necessary.

4. Governmental Approvals. LESSEE'S ability to use the Property is contingent upon its obtaining all certificates, permits, licenses and other approvals that may be required by any governmental authorities. LESSOR shall cooperate with LESSEE in its effort to obtain and maintain such certificates, permits, licenses and other approvals required by governmental authorities. LESSOR agrees to sign such papers as are required to file applications with the appropriate zoning authority and other governmental authorities for the proper zoning of the Property and for other certificates, permits, licenses and approvals as are required for the use of the Property intended by the LESSEE. If at any time during the term of this Agreement LESSEE is unable to use the Property for a Communications Facility in the manner intended by LESSEE due to imposed zoning conditions or requirements, or in the event that any necessary certificate, permit, license or approval is finally rejected or any previously issued certificate, permit license or approval is canceled, expires, lapses or otherwise withdrawn or terminated by the applicable governmental authority, or soil boring tests, structural analysis or radio propagation tests are found to be unsatisfactory so that LESSEE in its discretion will be unable to use the Property for a Communications Facility in the manner intended by LESSEE, LESSEE shall have the right to terminate this Agreement by written notice to LESSOR and all rentals paid to LESSOR prior to the termination date shall be retained by LESSOR. Upon such termination, this Agreement shall become null and void and LESSOR and LESSEE shall have no other further obligations to each other, other than LESSEE's obligation to remove its property as hereinafter provided.

5. Utility Services. During the term of this Agreement, LESSEE shall arrange for its own utility services to the Property. LESSOR shall cooperate with LESSEE when necessary to obtain those utility services LESSEE requires on the Property. LESSEE or its designated contractors shall abide by any State or City codes applicable.

6. Use. LESSEE shall use the property for the purpose of constructing, maintaining, and operating a communications facility and uses incidental thereto, which may consist of such facilities as are necessary to house telecommunications equipment and for antenna structure of sufficient type, as determined by LESSEE, now or in the future to meet LESSEE's telecommunication needs and all cable, wiring and supports and all necessary appurtenances thereto (collectively, the "Communications Facility"). All improvements to the Property necessary for LESSEE's use shall be made at LESSEE's expense. LESSOR further acknowledges that LESSEE may desire to change equipment in the future in order to accommodate increased customer capacity and as additional advances of telecommunications equipment and technology are made. For the purposes of this Agreement, LESSEE shall install three (3) panel antennas on the outside of the cat walk railing connected to the ground equipment cabinet by two (2) 1 5/8" coax each. LESSEE shall additionally install one (1) microwave dish on the outside of the cat walk railing or tower leg connected to the ground equipment by one (1) 1 5/8" coax or elliptical waveguide. A drawing of the tower showing the location of the equipment to be installed by LESSEE under this agreement is attached as Exhibit B. LESSEE shall also have the option, provided space is available, to install one (1) additional microwave dish and feed line (similar to the first) in the future by formally exercising the option in writing and increasing the annual rent by \$1,500.00 payable in monthly rental of \$125.00 thereafter. No less than thirty (30) days prior to installation of an additional dish, antenna, feed lines or other equipment, LESSEE will provide to LESSOR an amended drawing showing all of LESSEE's equipment on the tower and to be placed on the tower if LESSEE exercises its option to install additional equipment. LESSOR shall

approve all construction before the commencement of work by LESSEE. Any additions to this equipment configuration cannot be made without the consent of the LESSOR. All feed lines shall be painted to blend with the existing water tower.

7. **Access.** . LESSOR grants to LESSEE the right to use all common areas such as elevators, rooftops, hallways, stairways, parking lots, and such other areas as are reasonably required during the construction and installation and to maintain the operate the Communications Facility mentioned herein. LESSEE will contact the utility emergency contact for notification regarding access to the Facilities after 4:30 p.m. on weekdays, on weekends and on holidays for servicing LESSEE equipment on the tower or in the utility facility.

8. **Indemnification.** LESSEE shall indemnify and hold LESSOR harmless against any liability or loss from personal injury or property damage resulting from or arising out of the use and occupancy of the Property by LESSEE or its employees or agents, excepting however, such liabilities and losses as may be due to or caused by the acts or omissions of LESSOR or its employees or agents. LESSOR agrees that LESSEE may self-insure against any loss or damage, which could be covered by a comprehensive general public liability policy.

9. **Removal of Improvements.** Title to all improvements constructed or installed by LESSEE on the Property shall remain in LESSEE and all improvements constructed or installed by LESSEE shall at all times be and remain the property of LESSEE, regardless of whether such improvements are attached or affixed to the Property. LESSEE, upon termination of this Agreement, shall within a reasonable period, remove all improvements, fixtures and personal property constructed or installed on the Property by LESSEE and restore the Property to its original above grade condition, reasonable wear and tear excepted. If such removal causes LESSEE to remain on the Property after termination of this Agreement, LESSEE shall pay rent at the then existing monthly rate, or on the existing monthly pro rata basis if based upon a longer payment term, until such time as the removal is complete.

10. **Sale of Property.** If LESSOR at any time during the initial or any extended term of this Agreement, decides to sell the Property, or all or part of LESSOR's Surrounding Property, to a purchaser other than LESSEE, such sale shall be subject to this Agreement and LESSEE's rights hereunder.

11. **Quiet Enjoyment.** LESSOR covenants that LESSEE on paying the rental and performing the covenants, terms and conditions required of LESSEE contained herein, shall peaceably and quietly have, hold and enjoy the Property and the leasehold estate granted to LESSEE by virtue of this Agreement.

12. **Assignment.** This Agreement may be sold, assigned, transferred, or subleased at any time by LESSEE to LESSEE's parent company or any affiliate or subsidiary of LESSEE or its parent company, to any entity with or into which LESSEE is merged or consolidated, or to any entity resulting from reorganization of LESSEE or its parent company. Otherwise, this Agreement may not be sold, assigned, transferred, or subleased without the written consent of LESSOR, such consent not to be unreasonably withheld.

13. **Condemnation.** If the whole of the Property or such portion thereof as will make

the Property unusable for the purpose herein leased, is condemned by any legally constituted public authority, then this Agreement and the term hereby granted, shall cease from the time when possession thereof is taken by the public authority, and rental shall be accounted for as between LESSOR and LESSEE as of that date. Any lesser condemnation shall in no way affect the respective rights and obligations of LESSOR and LESSEE hereunder. However, nothing in this paragraph shall be construed to limit or adversely affect LESSEE's right to an award of compensation from any condemnation proceeding for the taking of LESSEE's leasehold interest hereunder or for the taking of LESSEE's improvements, fixtures, equipment and personal property.

14. Opportunity to Cure. If LESSEE should fail to pay any rental or other amounts payable under this Agreement when due, or if LESSEE should fail to perform any other of the covenants, terms or conditions of this Agreement, prior to exercising any rights or remedies against LESSEE on account thereof, LESSOR shall first provide LESSEE with written notice of the failure and provide LESSEE with a thirty (30) day period to cure such failure (if the failure is a failure to pay rental or any other sum of money under this Agreement) or a sixty (60) day period to cure such failure (if failure is a failure to perform any other covenant, term or condition of this Agreement). If the failure is not a failure to pay rental or any other sum of money hereunder but is not capable of being cured within a sixty (60) day period, LESSEE shall be afforded a reasonable period of time to cure the failure provided that LESSEE promptly commences curing the failure after the notice and prosecutes the cure to completion with due diligence.

15. Insurance. LESSEE shall, at all times during the term of this Agreement, maintain in force a policy of insurance providing the following coverage:

- A. Commercial general liability insurance of \$1,000,000 for injury to or death of any one person and \$2,000,000 in any one such occurrence; and \$1,000,000 for damage to or destruction of property in any one occurrence.
- B. LESSEE shall require the insurer of the policy to waive any rights of subrogation against the LESSOR arising from payments made by such insurer under such policy.
- C. LESSEE shall name LESSOR as additional insured, providing copy of coverage to LESSOR.

16. Tower Maintenance. In the event LESSOR contracts for service, maintenance, repair or repaint of the tower, LESSOR shall notify LESSEE of timeframe for service, maintenance, repair or repaint with at least ninety (90) days advance notice to allow LESSEE sufficient time to secure a temporary means of continuing broadband services for customers.

17. Governing Law. This Agreement shall be governed and interpreted by, and construed in accordance with the law of the State of Texas.

18. Notices. All notices hereunder must be in writing and shall be deemed validly given on the date when deposited in the United States mail, by certified mail, return receipt requested, addressed as follows (or to any other address that the party to be notified may have designated to the other party like notice at least ten (10) days thereto):

LESSEE: Pinnacle Network Solutions
Attention:

LESSOR: City of Burkburnett
Attn:
510 Sheppard
Burkburnett, TX 76354
(940) 569-2263

19. Binding Effort. This Agreement shall extend to and bind the heirs, personal representatives, successors and assigns of LESSOR and LESSEE and shall constitute covenants running with the land.

20. Miscellaneous. This Agreement cannot be modified except by a written modification executed by LESSOR and LESSEE in the same manner as this Agreement is executed. The headings, captions and numbers in this Agreement are solely for convenience and shall not be construed or interpreting any provision of this Agreement. Wherever appropriate in this Agreement, personal pronouns shall be deemed to include other genders and the singular to include the plural, if applicable. This Agreement contains all promises, statements, assertions or representations by LESSOR or LESSEE.

21. Interference. LESSEE's Communications Facility shall not disturb the communication configurations, equipment and frequencies, if any, that exist on LESSOR'S property on the commencement date ("Preexisting Communications:), and LESSEE's Communications Facility shall comply with all noninterference rules of the Federal Communications Commission ("FCC"). LESSOR shall use reasonable efforts to not permit any new use on any portion of LESSOR'S property as may now exist and may exist in the future which would unreasonably interfere with the communications operations of LESSEE's Communications Facility. LESSEE shall be responsible for all testing needed to confirm that LESSEE's communications frequencies are compatible with Pre-existing Communications if any are installed on LESSOR's facilities on the Commencement Date and that no interference exists between the various communications equipment and frequencies. LESSOR will use reasonable efforts to require any new lessee to abide by provisions similar to this Paragraph 21 but will not be liable for monetary damages or equitable relief for interference caused by existing or future communications equipment or frequencies used on LESSOR's building.

22. Waivers and Disclaimers; Memorandum Lease. At the request of LESSEE or LESSEE's lenders, LESSOR shall execute such documents as are reasonably requested by LESSEE from time to time for the purpose of releasing, waiving or disclaiming any interest of LESSOR in and to the equipment of LESSEE. In addition to the forgoing, at LESSEE's request and expense (including reimbursement of reasonable out-of-pocket expenses incurred by LESSOR hereunder), LESSOR agrees to execute a memorandum of lease in a form suitable for recording and acceptable to LESSOR and LESSEE. LESSEE agrees to provide LESSOR with a certified copy of any such memorandum following any recordation of the same.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their respective seals the day and year first above written.

LESSOR: City of Burkburnett
A Texas Municipality

By: _____

Title: _____

ATTEST:

City Clerk

LESSEE: Pinnacle Network Solutions
A Texas registered L.L.C.

By: _____

Title: _____

LEASE AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 20__, between the City of Burkburnett, a Texas Municipality ("LESSOR") and Pinnacle Network Solutions a Texas registered L.L.C. ("LESSEE").

WHEREAS, LESSOR is the owner or lessee of certain real property located at the intersections of Harriett and Kramer Streets, Burkburnett, Wichita County, State of Texas, together with a water tower and or buildings situated thereon: and,

WHEREAS, LESSEE desires to lease a portion of the water tower on such real property, along with the ground space sufficient for the placement of the necessary transmitting and receiving broadcast equipment with a grant of a nonexclusive right and easement for ingress, egress, and right-of-way, seven (7) days a week, twenty-four (24) hours a day with LESSOR's notice and approval when applicable as hereinafter described (such portion of water tower situated on the real property and such easement and right-of-way hereinafter called the "Property"). The Property is more specifically described in, and substantially shown as outlined on Exhibit "A" attached hereto and made a part hereof;

NOW, THEREFORE, in consideration of the mutual promises contained in the Agreement, which hereby replaces and supersedes any previous agreements between the parties along with other good and valuable consideration, LESSOR and LESSEE hereby agree to the following:

1. Initial Term and Rental. This Agreement shall be for an initial term of five (5) years beginning upon the date this Lease Agreement is executed by LESSOR the ("Commencement Date"). The initial lease term shall be at an annual rental of \$6,099.96 payable in monthly rental of \$508.33. If the commencement date is on a date other than the first of a calendar month, LESSEE shall make a prorated payment of the installment of the monthly rental payable for the first partial month. Thereafter, the monthly rental payment shall be due and payable on the first (1st) of each month at LESSOR'S address as set forth in this agreement or such other address as provided by LESSOR to LESSEE in writing from time to time.

2. Continuance of Lease. This Agreement may be extended for one (1) additional five year term under the same terms and conditions as contained within this Agreement with the exception the rental amount for the extended term shall be subject to a fifteen (15%) inflation increase adjustment upon LESSEE extending this Agreement. LESSEE may terminate this Agreement for any reason during the initial term or extended term by providing LESSOR with written notice of its intention to terminate at least six (6) months prior to any such date. LESSOR may terminate this Agreement for any reason during the initial term or extended term by providing LESSEE with written notice of its intention to terminate at least six (6) months prior to any such date.

3. Title. LESSOR warrants that LESSOR is seized of good and marketable title to the Property and has full power and authority to enter into and execute this Agreement. LESSOR further warrants that there are no deeds to secure debt, mortgages, liens, judgments, restrictive covenants, or other encumbrances on the title to the Property that would prevent the LESSEE from using the Property for the use intended by LESSEE as hereinafter set forth in this Agreement. LESSOR agrees to provide to LESSEE proof of good and marketable title to the Property

upon request by LESSEE. LESSEE shall have the right to survey the property at its own expense should LESSEE decide such is necessary.

4. Governmental Approvals. LESSEE'S ability to use the Property is contingent upon its obtaining all certificates, permits, licenses and other approvals that may be required by any governmental authorities. LESSOR shall cooperate with LESSEE in its effort to obtain and maintain such certificates, permits, licenses and other approvals required by governmental authorities. LESSOR agrees to sign such papers as are required to file applications with the appropriate zoning authority and other governmental authorities for the proper zoning of the Property and for other certificates, permits, licenses and approvals as are required for the use of the Property intended by the LESSEE. If at any time during the term of this Agreement LESSEE is unable to use the Property for a Communications Facility in the manner intended by LESSEE due to imposed zoning conditions or requirements, or in the event that any necessary certificate, permit, license or approval is finally rejected or any previously issued certificate, permit license or approval is canceled, expires, lapses or otherwise withdrawn or terminated by the applicable governmental authority, or soil boring tests, structural analysis or radio propagation tests are found to be unsatisfactory so that LESSEE in its discretion will be unable to use the Property for a Communications Facility in the manner intended by LESSEE, LESSEE shall have the right to terminate this Agreement by written notice to LESSOR and all rentals paid to LESSOR prior to the termination date shall be retained by LESSOR. Upon such termination, this Agreement shall become null and void and LESSOR and LESSEE shall have no other further obligations to each other, other than LESSEE's obligation to remove its property as hereinafter provided.

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approve all construction before the commencement of work by LESSEE. Any additions to this equipment configuration cannot be made without the consent of the LESSOR. All feed lines shall be painted to blend with the existing water tower.

7. **Access.** . LESSOR grants to LESSEE the right to use all common areas such as elevators, rooftops, hallways, stairways, parking lots, and such other areas as are reasonably required during the construction and installation and to maintain the operate the Communications Facility mentioned herein. LESSEE will contact the utility emergency contact for notification regarding access to the Facilities after 4:30 p.m. on weekdays, on weekends and on holidays for servicing LESSEE equipment on the tower or in the utility facility.

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13. **Condemnation.** If the whole of the Property or such portion thereof as will make

the Property unusable for the purpose herein leased, is condemned by any legally constituted public authority, then this Agreement and the term hereby granted, shall cease from the time when possession thereof is taken by the public authority, and rental shall be accounted for as between LESSOR and LESSEE as of that date. Any lesser condemnation shall in no way affect the respective rights and obligations of LESSOR and LESSEE hereunder. However, nothing in this paragraph shall be construed to limit or adversely affect LESSEE's right to an award of compensation from any condemnation proceeding for the taking of LESSEE's leasehold interest hereunder or for the taking of LESSEE's improvements, fixtures, equipment and personal property.

14. Opportunity to Cure. If LESSEE should fail to pay any rental or other amounts payable under this Agreement when due, or if LESSEE should fail to perform any other of the covenants, terms or conditions of this Agreement, prior to exercising any rights or remedies against LESSEE on account thereof, LESSOR shall first provide LESSEE with written notice of the failure and provide LESSEE with a thirty (30) day period to cure such failure (if the failure is a failure to pay rental or any other sum of money under this Agreement) or a sixty (60) day period to cure such failure (if failure is a failure to perform any other covenant, term or condition of this Agreement). If the failure is not a failure to pay rental or any other sum of money hereunder but is not capable of being cured within a sixty (60) day period, LESSEE shall be afforded a reasonable period of time to cure the failure provided that LESSEE promptly commences curing the failure after the notice and prosecutes the cure to completion with due diligence.

15. Insurance. LESSEE shall, at all times during the term of this Agreement, maintain in force a policy of insurance providing the following coverage:

- A. Commercial general liability insurance of \$1,000,000 for injury to or death of any one person and \$2,000,000 in any one such occurrence; and \$1,000,000 for damage to or destruction of property in any one occurrence.
- B. LESSEE shall require the insurer of the policy to waive any rights of subrogation against the LESSOR arising from payments made by such insurer under such policy.
- C. LESSEE shall name LESSOR as additional insured, providing copy of coverage to LESSOR.

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17. Governing Law. This Agreement shall be governed and interpreted by, and construed in accordance with the law of the State of Texas.

18. Notices. All notices hereunder must be in writing and shall be deemed validly given on the date when deposited in the United States mail, by certified mail, return receipt requested, addressed as follows (or to any other address that the party to be notified may have designated to the other party like notice at least ten (10) days thereto):

LESSEE: Pinnacle Network Solutions
Attention:

LESSOR: City of Burkburnett
Attn:
510 Sheppard
Burkburnett, TX 76354
(940) 569-2263

19. Binding Effort. This Agreement shall extend to and bind the heirs, personal representatives, successors and assigns of LESSOR and LESSEE and shall constitute covenants running with the land.

20. Miscellaneous. This Agreement cannot be modified except by a written modification executed by LESSOR and LESSEE in the same manner as this Agreement is executed. The headings, captions and numbers in this Agreement are solely for convenience and shall not be construed or interpreting any provision of this Agreement. Wherever appropriate in this Agreement, personal pronouns shall be deemed to include other genders and the singular to include the plural, if applicable. This Agreement contains all promises, statements, assertions or representations by LESSOR or LESSEE.

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22. Waivers and Disclaimers; Memorandum Lease. At the request of LESSEE or LESSEE's lenders, LESSOR shall execute such documents as are reasonably requested by LESSEE from time to time for the purpose of releasing, waiving or disclaiming any interest of LESSOR in and to the equipment of LESSEE. In addition to the forgoing, at LESSEE's request and expense (including reimbursement of reasonable out-of-pocket expenses incurred by LESSOR hereunder), LESSOR agrees to execute a memorandum of lease in a form suitable for recording and acceptable to LESSOR and LESSEE. LESSEE agrees to provide LESSOR with a certified copy of any such memorandum following any recordation of the same.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their respective seals the day and year first above written.

LESSOR: City of Burkburnett
A Texas Municipality

By: _____

Title: _____

ATTEST:

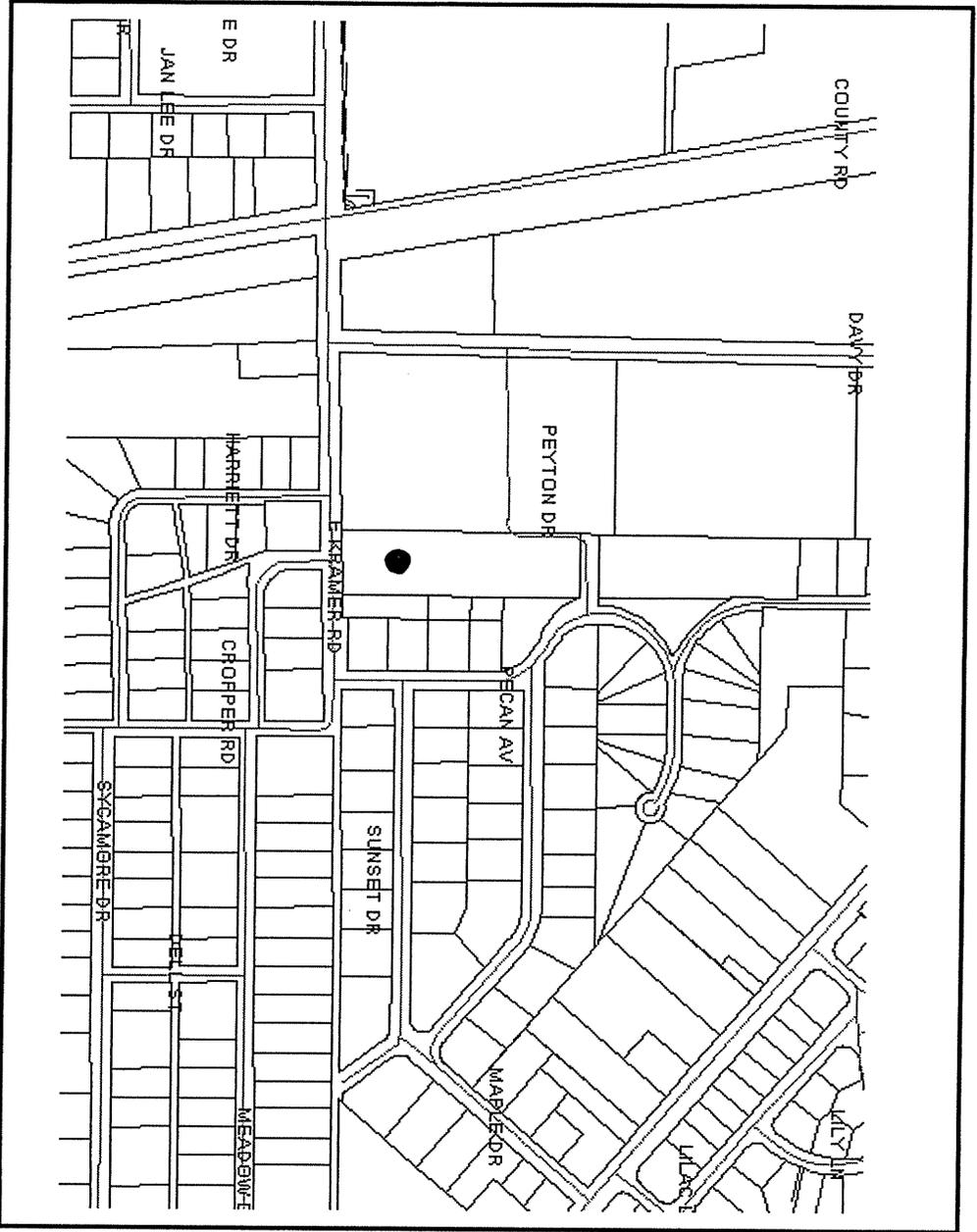
City Clerk

LESSEE: Pinnacle Network Solutions
A Texas registered L.L.C.

By: _____

Title: _____

EXHIBIT A



Street Names (STREET)

- Streets (TYPE)
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- Parcels
- Easements
- City Limits



City Commission Agenda Memo

From: Gordon Smith, Director of Public Works

Date: July 21, 2014

Item: Award the Construction Bid Contract for the Community Development Block Grant 2014 Waterline Replacement TCDP Project No. 713059- Troy Mills Addition

Background

The City was awarded the CDBG from the Texas Dept of Agriculture for the amount of \$275,000.00. The funds are designated to replace undersized water mains and increase fire protection for the Troy Mills Addition between Oklahoma Cut Off and the Service Rd.

Fiscal Impact

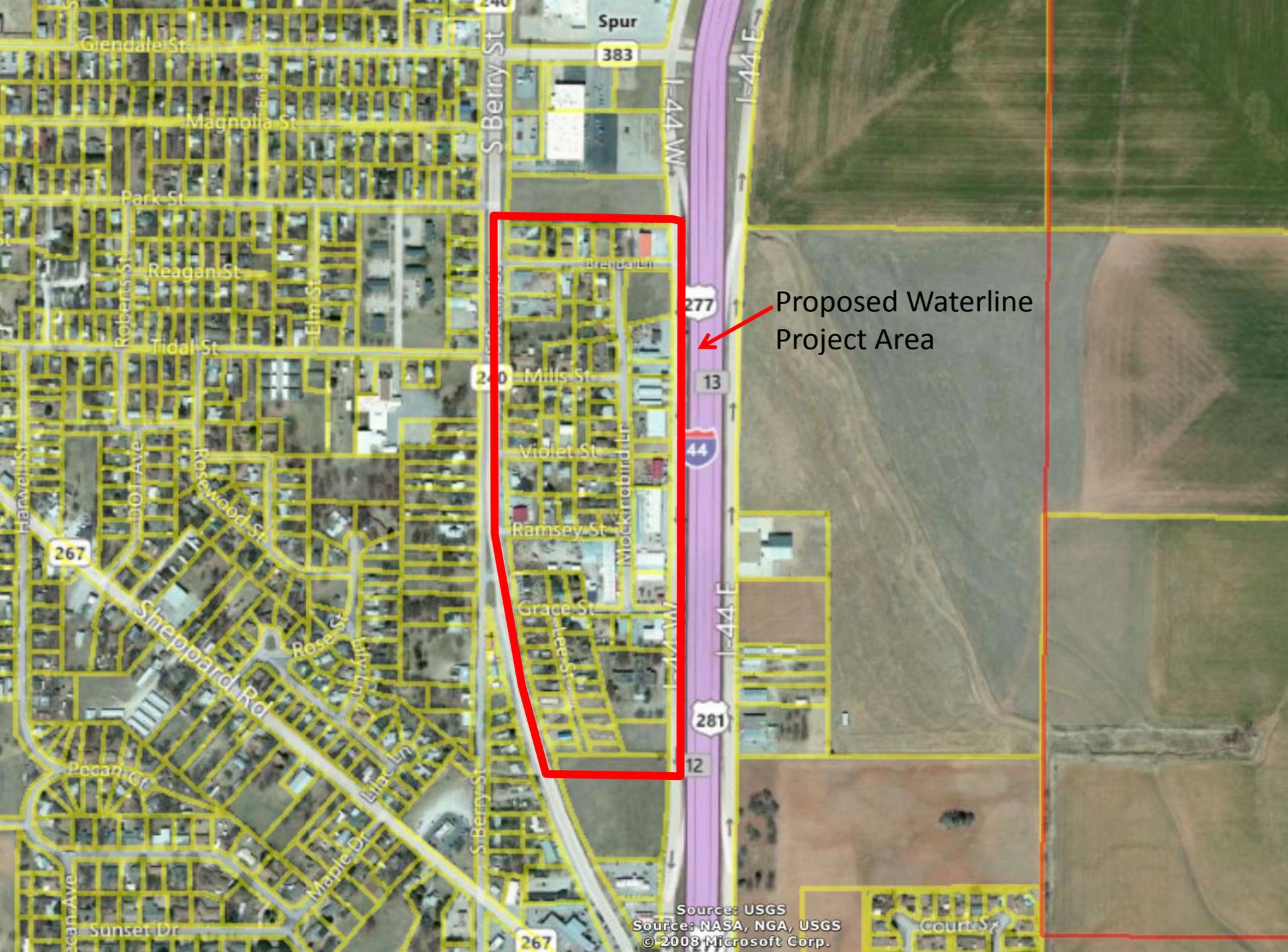
Bid Tabulation Spreadsheet forthcoming after the Bid opening scheduled for July 17, 2014 2:00 pm.

Staff Recommendation

Recommendation forthcoming with bid tabulation report.

Attachments

- 1) Troy Mills Addition Exhibit



Proposed Waterline
Project Area



Elm St

Tidal St

S Berry St

S Berry St

Mills St

Violet St

Ramsey St

Rose St

Greenwood St

Grace St

Grace St

281

44

277

13

281

44

277

240

-44 W

-44 E

-44 E

Source: USGS
Source: NASA, NGA, USGS
© 2008 Microsoft Corp.



City Commission Agenda Memo

From: Mike Whaley
Date: July 21, 2014
Item: ZBA Appointments

Background

A vacancy occurred on the Zoning Board of Adjustments when Mr. Ducos was elected to the Board of Commissioners. Also, Mr. Bob Parker and Mr. Glenn Whaley have resigned from their positions. Mrs. Donna Beaver currently serves as an alternate and is willing to serve as a regular member on the Board. Also, Mr. Roy Cheney has applied to serve on the Board as a regular member and Mr. Matt Horn has applied to serve as an alternate member. Staff is recommending the Board of Commissioners appoint these applicants as stated.

Fiscal Impact

N/A

Options

- Approve current applicants as stated above
- Make additional nominations

Staff Recommendation

Staff recommends approval as presented

Attachments

Copy of Applications



City Commission Agenda Memo

From: Gordon Smith, Director of Public Works

Date: July 21, 2014

Item: Appointment for Cemetery Board

Background

On July 14, 2014 the Cemetery Board met and one item was to review the application of Mr. Ted Kwas for a recommendation to City Commissioners for an appointment to the Cemetery Board. The Cemetery Board voted unanimously to recommend Mr. Ted Kwas for appointment to the vacant position on the Cemetery Board.

The vacant position was created upon the resignation of Mrs. Shannon Waitman.

Fiscal Impact

N/A

Options

- Approve Appointment
- Not approve Appointment

Staff Recommendation

Approve Appointment of Mr. Ted Kwas to the Cemetery Board

Attachments

Mr. Ted Kwas' application

**CITY OF BURKBURNETT
VOLUNTEER APPLICATION
FOR BOARDS, COMMISSIONS OR COMMITTEES**

DATE: 4-16-14

(Applications retained for 12 months)

Full Name: <u>Theophile</u> <u>RWAS</u> Maiden (if applicable):			
Address: <u>304 Hayworth St.</u>		E-mail Address: <u>FOREIGN-Retired@yahoo.com</u>	
Date of Birth: <u>10-24-36</u>	Social Security # (not mandatory):	Home Phone: <u>940-569-1725</u>	
Spouse's Name: <u>BRIGITTE</u>		Work Phone:	
# of Children:	Years Residing in Burkburnett <u>50</u>	Other Cities Lived In:	
High School Name:		Location:	
College Information:			
	Name of College(s)	Location	Degree
1.			Date Degree Received
2.			
3.			
Occupation: <u>RETIRED AF</u>		Employer:	
Employer's Address: (City, State, Zip)			
Professional Associations/Organizations: <u>NRA - UFW - AA</u>			
Previous & Current Community Service: (Memberships, Offices held, etc.) <u>CITY COMMISSIONER</u>			
Hobbies/Interests: <u>HOT WHEELS</u>			
Clubs & Organizations:			
Selection of Boards (Indicate first, second, third and fourth choices for board memberships by placing a number in space adjacent to the board's name)			
<input checked="" type="checkbox"/> Cemetery Board	<input type="checkbox"/> Planning & Zoning	<input type="checkbox"/> Zoning Board of Adjustment	
<input type="checkbox"/> Parks/Recreation	<input type="checkbox"/> Friends of Library	<input type="checkbox"/> Golf Committee	
<input type="checkbox"/> HOT Committee	<input type="checkbox"/> Appraisal Review	<input type="checkbox"/> Library Board of Directors	
<input type="checkbox"/> Burkburnett Develop. Corp.		<input type="checkbox"/> Ad Hoc Charter Committee	
Are you registered to vote in Wichita County? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
Please explain why you want to serve on the boards listed above and/or your qualifications: <u>INTEREST IN CITY AFFAIRS</u>			

By executing this document, the applicant does hereby certify and affirm the truth and accuracy of the information contained herein. The applicant further authorizes the Board of Commissioners, or its designee, to verify any information. The applicant agrees to release and hold harmless the City from all claims incident to the verification of information contained herein.

Please return this application to: Janelle Dolan, City Clerk
City of Burkburnett
501 Sheppard Road
Burkburnett, TX 76354
(940)569-2263
(940)569-4192 fax
tholley@burkburnett.org

Janelle Dolan
Signature of Applicant



City Commission Agenda Memo

From: Mike Whaley
Date: July 21, 2014
Item: Review Charter Ballot Language

Background

Attorney Mike Guevara will be presenting what should be the final ballot language for review and approval. Mike will be in attendance. Also, a decision will need to be made regarding how you would like staff to proceed at this point.

Fiscal Impact

N/A

Options

- Approve Charter Ballot Language as presented
- Approve Charter Ballot Language with revisions

Staff Recommendation

Staff has no specific recommendations

Attachments

Copy of Proposed Charter Ballot Language

ORDINANCE NO. _____

AN ORDINANCE ORDERING AND PROVIDING NOTICE OF A SPECIAL HOME-RULE ELECTION IN THE CITY OF BURKBURNETT, TEXAS, TO BE HELD ON NOVEMBER 4, 2014 FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS, FOR ADOPTION OR REJECTION, PROPOSED AMENDMENTS TO THE EXISTING CHARTER OF THE CITY OF BURKBURNETT, TEXAS, AS AMENDED; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Burkburnett, Texas, in the exercise of the discretion reposed in it by the Constitution and laws of this State, and in accordance with the provisions of Chapter 9 of the Texas Local Government Code, has determined to submit the following proposed amendments of the existing Charter of the City of Burkburnett at a special election to be held concurrently with the general election to be held November 4, 2014;

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

**Section 1
ELECTION ORDER AND NOTICE OF ELECTION**

There is hereby ordered a Special Election to be participated in by the qualified voters of the City of Burkburnett, Texas, to be held on the 1st Tuesday in November, being the 4th day of November, 2014, between the hours of _____ and _____, for the purpose of submitting to the qualified voters of the City, for adoption or rejection, the following proposed amendments to the existing Charter of the City of Burkburnett, Texas.

**Section 2
PROPOSED AMENDMENTS**

I.

Amending Article III, Section 4 of the City Charter to correct a typographical error changing the word “choses” to “choices” so that the language shall read as follows:

“All real estate owned in fee simple title, or held by lease, sufferance, easement or otherwise; all public buildings, fire stations, parks, streets and alleys, and all property, whether real or personal, of whatever kind, character or description now owned or controlled by the City of Burkburnett, shall vest in, inure to, remain and be the property of said City of Burkburnett under this Charter; and all causes of action, choices in action, rights or privileges of every kind and character and all property of whatsoever character or description which may have been held, and is now held, controlled or used by said City of Burkburnett for public uses or in trust

for the public, shall vest in and remain and inure to the City of Burkburnett under this Charter, and all suits and pending actions to which the City of Burkburnett heretofore was or now is a party, plaintiff or defendant, shall in no wise be affected or terminated by the adoption of this Charter, but shall be continued unabated.

II.

Amending Article III, Section 10 of the City Charter clarifying the eminent domain authority for the City by authorizing the use of eminent domain authority as provided by the Constitution and laws of the State. The current language lists multiple areas of eminent domain authority. The new language will authorize the City to use the eminent domain authority provided by the Constitution and laws of the state of Texas so that the language will read as follows:

“The City shall have the full power and right to exercise the power of eminent domain where necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the Constitution and laws of the State of Texas. The City may exercise the power of eminent domain in any manner authorized or permitted by the Constitution and laws of the State. The power of eminent domain hereby conferred shall include the right of the City to take the fee in land so condemned and such power and authority shall include the right to condemn public property for such purposes. The City shall have and possess the power of condemnation for any municipal or public purposes even though not specifically enumerated in this Charter.”

III.

Amending Article III, Section 18 of the City Charter to correct a typographical error changing the word “damand” to “demand” so that the language shall read as follows:

“The City of Burkburnett shall have the power to buy, own, construct and to maintain and operate, within or without the city limits, a system or systems, of gas, or electric lighting plants, power plants, telephones, street railways, fertilizing plants, abattoirs, municipal railway terminals, loading and unloading devices, and shipping facilities, or any other public services or public utilities and to demand and receive compensation for services furnished for private purposes or otherwise, and to exercise the right to eminent domain for the appropriations of lands, rights-of-way or anything whatsoever that may be proper and necessary to efficiently carry out said objects. And said City of Burkburnett shall have the power to acquire by lease, purchase or condemnation, the property or any part thereof of any person, firm or corporation now or hereafter conducting any such business, for the purpose of operating such public utility or utilities and for the purpose of distributing such service throughout the city or any part thereof, and the governing body of said city shall pass all ordinances or resolutions necessary or proper to give full force and effect to the provisions contained in this section.”

IV.

Repealing Article III, Section 30 of the City Charter designating the fire limits within the City.

V.

Repealing Article III, Section 31 of the City Charter designating the materials that must be used for construction within the fire limits.

VI.

Repealing Article III, Section 32 of the City Charter authorizing the Board of Commissioners to extend the boundary of the fire limits.

VII.

Amending Article III, Section 34 of the City Charter by removing the requirement for fire escapes for all public buildings. The language will read as follows:

“In addition to the powers hereinbefore specifically enumerated, said city shall have the power to define all nuisances, prohibit the same within the city and outside the city limits for a distance of five thousand feet.

To police all parks, grounds, speed ways, streets, avenues and alleys owned by said city within or without the city limits.

To prohibit the pollution of all sources of water supply of said city, and to provide for the protection of water sheds.

To inspect dairies, slaughter pens, and slaughter houses, inside and outside the city limits of the city, from which meat or milk is furnished to the inhabitants of the city.

To license, operate and control the operation of all character of vehicles using public streets, and to prescribe the speed of the same, the qualifications of the operator of the same, and the lighting of the same by night and to provide for the giving of bond or other security for the operation of same.

To regulate, license and fix charges of fares made by any person owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire or transportation of freight for hire on the public streets and alleys of the city.

To license any lawful business, occupation or calling that is susceptible to the control of the police power.

To license, regulate, control or prohibit the erection of signs or bill boards within the corporate limits of said city.

To provide for Police and Fire Departments.

To provide for a Health Department and to establish all necessary rules and regulations protecting the health of the city and the establishment of quarantine stations and pest houses, emergency hospitals and hospitals, and to provide for the

adoption of necessary quarantine laws to protect the inhabitants against contagious or infectious diseases.

To require property owners to make connections with the sewer system with their premises and to provide for fixing a lien against any property owner's premises, who fails or refuses to make sanitary sewer connections and to charge the cost against said owner and make it a personal liability, also provide for fixing penalties for failure to make sanitary sewer connections, provided the sewer system is owned and operated by the city.

To provide that gas companies, street car companies, telephone companies, telegraph companies and electric light companies or any other companies or individuals enjoying a franchise now or hereafter from the city to make and furnish extension of their service to such territory within the corporate limits as may be prescribed from time to time by ordinance.

To provide for the regulation and control of plumbers and plumbing works and to require efficiency in the same.

To provide for the inspection of weights, measures and meters and fix a standard of such weights, measures and meters, and to require conformity to such standards, and to provide penalties for failure to use or conform to the same, and to provide for inspection fees.

To provide for the issuance of permits for erecting all buildings; for the inspection of the construction of buildings, in respect to proper wiring for electric lights and other electric appliances; piping for gas, flues, chimneys, plumbing and sewer connections, and to enforce proper regulations in regard thereto.

To provide for the enforcement of all ordinances enacted by the city, by a fine not to exceed **the amount allowed by state law**; provided, that no ordinances enacted by the city shall prescribe a greater or less penalty than is prescribed for a like offense by the laws of this State.”

VIII.

Amending Article III, Section 36 of the City Charter to reference Chapter 9 of the Texas Local Government Code as the statute that enumerates Home-Rule authority so that the language will read as follows:

“The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, the City of Burkburnett shall have and may exercise all other powers which, under the Constitution and laws of this State, it would be competent for this Charter to specifically enumerate.”

IX.

Amending Article IV, Section 1 of the City Charter to establish that the Board of Commissioners shall consist of a Mayor and six (6) commissioners. This change is necessary because of other amendments establishing that the Mayor will be elected by the registered voters in Burkburnett. The language will read as follows:

“The governing body of the City of Burkburnett shall consist of a Mayor and six (6) commissioners, and said body shall be known as the "Board of Commissioners."

X.

Amending Article IV, Section 2 of the City Charter establishing a place system for the Commissioners, establishing that the Mayor be elected by the registered voters of Burkburnett and establishing three year terms for the Mayor and Commissioners. The language will read as follows:

“The Board of Commissioners shall be composed of the Mayor and six (6) commissioners elected at large. The commissioners shall be elected under a Place system, there being Places 1, 2, 3, 4, 5, and 6. The Mayor and each commissioner shall occupy a place on the Board and shall be elected by plurality from all candidates running for that position or place in the manner provided in this Charter and under the laws of the state of Texas, to serve for three (3) year terms. The election of the positions of the Mayor and two commissioners will be held during the general election in May 2015. An individual seeking election for one of the commissioner places on the ballot for the May 2015 election will notify the City Clerk whether that individual is running for either Place 1 or Place 2. The individuals elected to the position of Mayor or Place 1 or Place 2 will be elected for a two year term. The City will hold the election for Place 3, Place 4, Place 5 and Place 6 during the general election in May 2016. An individual seeking election for one of the commissioner places on the ballot for the May 2016 election will notify the City Clerk whether that individual is running for Place 3, Place 4, Place 5 and Place 6. The individuals elected for Place 3 and Place 4 will serve a two year term. The individuals elected for Place 5 and Place 6 will serve a three year term. The individuals elected to the position of Mayor and each place during each election subsequent to the general election will serve a three year term.”

XI.

Amending Article IV, Section 6 of the City Charter establishing procedures for the filling of vacancies on the Board of Commissioners. The language will read as follows:

“(A) A single vacancy in the Board of Commissioners shall be filled within thirty (30) days of the occurrence of the vacancy **by an affirmative vote of at least four of the remaining members** of the Board by selection of a person qualified for the position as described in this Charter. This appointee shall serve until the position can be filled at the next regular City election.

(B) When more than one vacancy shall develop at any one time, a special election shall be called by the Board of Commissioners for the next date available under the Texas Election Code to fill the vacancies in the same manner as

described herein for regular elections. However, if the vacancies occur within ninety (90) days of a regular election, then no special election shall be called and the remaining Commissioners shall appoint qualified persons to fill the vacancies until the regular election.”

XII.

Amending Article IV, Section 7 of the City Charter regarding the election of the Mayor Pro-Tem. The Board of Commissioners is recommending a change regarding the election of the Mayor. If the Charter amendment regarding the election of the Mayor is approved by the voters, there will be no need for the Board to elect a Mayor from its memberships. The amendment, including that change to the section title, will set forth the procedure to elect and duties of a Mayor Pro-Tem. The language will read as follows:

“Section 7. MAYOR PRO-TEM.

At the first meeting of the Board of Commissioners held after each general election in May, the Board shall elect one of its members to preside as Mayor Pro-Tem. The Mayor Pro-Tem shall have and exercise all powers of Mayor in the absence of the Mayor or during the disability from any cause of the Mayor.”

XIII.

Amending Article IV, Section 12 of the City Charter to remove language regarding the election of the Mayor by the Board of Commissioners. The language will read as follows:

“The Mayor of the City of Burkburnett shall preside over the meetings of said Board and perform such other duties consistent with the office as may be imposed upon him by this Charter and ordinances and resolutions passed in pursuance hereof. He may participate in the discussion of all matters coming before the Board and shall be entitled to a vote as a member thereof on all legislative and other matters but shall have no veto power. He shall sign all contracts entered into by the city and all bonds issued under the provisions of this Charter, and shall be the chief executive officer of the city. He shall be recognized as the official head of the city by the courts for the purpose of serving civil process, by the Governor for the purpose of enforcing military law, and for all ceremonial purposes. In times of danger and emergency, the Mayor, may, with the consent of the Board of Commissioners, take command of the police and govern the city by proclamation and maintain order and enforce all laws.”

XIV.

Amending Article IV, Section 18(B) of the City Charter to change the time of filing and posting notice of the referenced measures to seventy-two (72) hours to be consistent with the time set forth in the Texas Open Meetings Act for notice of meetings. The language will read as follows:

“(B) Seventy-two (72) hours prior to the meeting at which a measure will be considered, a draft of the measure shall be filed with the City Clerk, and notice of that filing shall be posted at City Hall. The notice shall consist of the caption of the measure.”

XV.

Amending Article IV, Section 23 of the City Charter to allow for an ordinance amending the Code of Ordinances or a city ordinance to include only the language that is being amended. Since the City has codified many of its ordinances in the Code of Ordinances, there is no need for each ordinance that amends the Code of Ordinances to contain the entire language of the previous ordinances adopting that chapter or section. The revised language allows the ordinance to contain the entire language but does not make it mandatory. The language will read as follows:

“The Code of Ordinances and ordinances of the city may be amended by ordinance. The ordinance amending the Code of Ordinances or an ordinance may contain only the portion of the Code of Ordinances or ordinance that is being amended.”

XVI.

Amending Article IV, Section 33 of the City Charter to cause that the audit of the City books of accounts of each and every department, although continuous, shall be completed annually or in accordance with state law. The language will read as follows:

“The Board of Commissioners shall cause a continuous audit to be made of the books of accounts of each and every department of the city. Such audit shall be made by a certified public accountant, who shall be selected by said Board and contract entered into from year to year, and, if practicable, such contract shall provide that the books of the city shall be audited annually or in accordance with state law, the audit to be made at the close of the fiscal year and such auditor’s report to the Board, in a condensed form, shall be published at least once in the official paper of the city.”

XVII.

Amending Article IVa, Section 1 of the City Charter to correct a typographical error changing the word “fall” to “fill” so that the language shall read as follows:

“Any member of the Board of Commissioners, whether elected to office by the qualified electors of the city or elected by said Board to fill a vacancy, shall be subject to recall and removal from office by the qualified electors of the city as in this Charter provided.”

XVIII.

Amending Article IVa, Section 5 of the City Charter to allow for a period of twenty (20) days for the City Clerk to certify a recall petition and set procedures for recall petitions that do not meet the requirements for a recall petition. The language will read as follows:

“Within twenty (20) days after the date of the filing of the papers constituting the recall petition, the City Clerk shall certify to the Board of Commissioners the number of qualified voters within the City of Burkburnett, shall further certify the number of qualified voters signing said petition, and shall present such petition and his certificate thereto to said Board. The City Clerk shall declare void any papers constituting the recall petition which does not meet the requirements of Section 3 of this Article. If the papers constituting the recall petition are found by the City Clerk to be insufficient, the City Clerk shall notify the person filing the petition. The person filing the petition shall have fifteen (15) days from the date of such notice to file an amended or supplementary petition signed and filed as prescribed in the original petition. Within ten (10) days after the person files the supplemental petition, the City Clerk shall examine the amended or supplemental petition and certify its sufficiency. If the City Clerk finds the amended or supplementary petition to be insufficient, there shall be no further proceedings on the petition.

XIX.

Amending Article V, Section 2 of the City Charter to add language that the individual who is hired as City Manager and does not live within the City limits of the City of Burkburnett must move to and reside within the City limits within 90 days of employment as City Manager. The language will read as follows:

“The City Manager may or may not be a resident of the City of Burkburnett when appointed. The individual hired as City Manager will have ninety (90) days from their appointment as City Manager to move within the City limits of the City of Burkburnett and must continue to reside within the City limits of the City of Burkburnett during their term of employment as City Manager.”

XX.

Amending Article V, Section 5c of the City Charter to all the City Manager the authority to appoint and remove all other City employees”. The language will read as follows:

“(c) to appoint and remove all other City employees;”

Section 3

The official ballots to be used in this special election shall comply with the applicable provisions of the Texas Election Code, shall state each proposed amendment separately and distinctly so

that the voters shall pass upon each amendment separately and apart from another so that each voter may vote “For” or “Against” any amendment or amendments without voting “For” or “Against” all such amendments, and shall have written or printed thereon the following:

CHARTER AMENDMENTS

I.

- FOR
- AGAINST

Shall Article III, Section 4 of the City Charter be amended to correct a typographical error changing the word “choses” to “choices”?

II.

- FOR
- AGAINST

Shall Article III, Section 10 of the City Charter be amended to authorize the City to exercise eminent domain authority as provided by the Constitution and laws of the State?

III.

- FOR
- AGAINST

Shall Article III, Section 18 of the City Charter be amended to correct a typographical error changing the word “damand” to “demand”?

IV.

- FOR
- AGAINST

Shall Article III, Section 30 of the City Charter regarding the setting of fire limits within the City be repealed?

V.

- FOR
- AGAINST

Shall Article III, Section 31 of the City Charter regarding the requirement to use certain materials for construction within the fire limits be repealed?

VI.

- FOR
- AGAINST

Shall Article III, Section 32 of the City Charter allowing the Board of Commissioners to extend the boundary of the fire limits be repealed?

VII.

- FOR
- AGAINST

Shall Article III, Section 34 of the City Charter be amended to remove the language which requires the construction of fire escapes on all public buildings and to allow for an increase in fines as allowed by state law?

VIII.

- FOR
- AGAINST

Shall Article III, Section 36 of the City Charter be amended to reference Chapter 9 of the Local Government Code as the appropriate statute for the enumeration of Home-Rule municipal authority?

IX.

- FOR
- AGAINST

Shall Article IV, Section 1 of the City Charter be amended to establish that the Board of Commissions shall consist of the Mayor and six (6) commissioners?

X.

- FOR
- AGAINST

Shall Article IV, Section 2 of the City Charter be amended to establish the place system for the election of Commissioners, establish that the Mayor is elected by the registered voters of Burkburnett and establishing three year terms of office for the Mayor and Commissioners?

XI.

- FOR
- AGAINST

Shall Article IV, Section 6 of the City Charter be amended to establish that the Board of Commissioners shall fill a single vacancy on the Board by at least four members of the remaining members of the Board within thirty (30) days of the occurrence of the vacancy, to establish that the Board of Commissioners will call a special election in the event that there are more than one vacancy on the Board at one time and to establish the timing for the special election?

XII.

- FOR
- AGAINST

Shall Article IV, Section 7 of the City Charter be retitled Mayor Pro-Tem and amended to remove the language regarding the election of the Mayor by the Board of Commissioners and set out the procedures for the Board of Commissioners to elect and the duties of the Mayor Pro-Tem?

XIII.

- FOR
- AGAINST

Shall Article IV, Section 12 of the City Charter be amended to remove language regarding the election of the Mayor by the Board of Commissioners?

XIV.

- FOR
- AGAINST

Shall Article IV, Section 18(b) of the City Charter be amended to change the time of filling and posting notice of certain measures to seventy-two (72) hours to be consistent with the time set forth in the Texas Open Meetings Act for notice of meetings?

XV.

- FOR
- AGAINST

Shall Article IV, Section 23 of the City Charter be amended to allow for an ordinance amending the Code of Ordinances or a city ordinance to include only the language that is being amended or added?

XVI.

- FOR
- AGAINST

Shall Article IV, Section 33 of the City Charter be amended to cause that the audit of the City books of accounts of each and every department shall be completed annually or in accordance with state law?

XVII.

- FOR
- AGAINST

Shall Article IVa, Section 1 of the City Charter be amended to correct a typographical error changing the word “fall” to “fill”?

XIII.

- FOR
- AGAINST

Shall Article IVa, Section 5 of the City Charter be amended to set a period of twenty (20) days for the City Clerk to certify a recall petition; to authorize the City Clerk to determine whether a recall petition is void, to set a period of fifteen (15) days for the person filing a recall petition to amend or supplement the petition to make it valid in the event a petition is declared void and set a period of ten (10) days for the City Clerk to review an amended or supplemental documentation for certification?

XIX.

- FOR
- AGAINST

Shall Article V, Section 2 of the City Charter be amended to require that the individual who is hired as City Manager and does not live within the City limits of the City of Burkburnett must move within the City limits within 90 days of employment as City Manager and reside in the City limits during the term of employment as City Manager?

XX.

- FOR
- AGAINST

Shall Article V, Section 5c of the City Charter be amended to authorize the City Manager to appoint and remove all other City employees?

**Section 4
POLLING PLACES**

PASSED AND APPROVED this _____ day of _____, 20__.

By: _____
Mayor

ATTEST:

City Clerk