AGENDA

Notice is hereby given of a meeting of the Board of Commissioners of Burkburnett to be held on **Monday, November 16, 2015 at 7:00 p.m.** at City Hall-Council Chambers, 501 Sheppard Road, Burkburnett, Texas for the purpose of considering the following agenda items. The Board of Commissioners may discuss and take action on any item on this agenda. The Board of Commissioners reserves the right to meet in a closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.
The public may speak on items listed on the posted agenda. All persons desiring to address a specific agenda item must submit an "Appearance before the City Commissioners" form prior to the reading of the item to the City Clerk, Janelle Dolan. The Mayor will allow comments before each agenda item for which they have requested to be heard. Comments will be limited to three (3) minutes with a maximum two (2) minute extension following approval by a majority of the members of the Board of Commissioners.

Item 1. Mayor: Call meeting to order.

Item 2. Invocation- Mark Hendry, Minister, Avenue "C" Church of Christ

Item 3. Pledge of Allegiance.

Item 4. CONSENT AGENDA:

A. Approval of Minutes from October 19, 2015.

Item 5. Pursuant to the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, the Board of Commissioners may convene in Executive Session regarding the following matters:

A. SECTION 551.071 – Consultation with Attorney

Ordinance Number 891. An ordinance granting the authority for the execution of a waste services contract with IESI TX Corporation, requiring use of IESI TX Corporation for solid waste disposal within city limits and provide criminal penalties for non-compliance.

Item 6. Reconvene to regular session and take action, if any, on matters discussed in Executive Session.

Item 7. Ordinance Number 892. An ordinance establishing regulations for food establishments, including food service establishments, retail food stores, mobile food units and roadside food vendors.

Item 8. Discuss and take any action necessary on appointments to the Cemetery Board.

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

Item 10. Discuss and take any action regarding the placement of the national motto "In God We Trust" on all city vehicles.

Item 11. Resolution Number 595. A resolution amending fees for the Burkburnett Memorial Cemetery.

Item 12. Pursuant to the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, the Board of Commissioners may convene in Executive Session regarding the following matters:

A. B. SECTION 551.072-Deliberation Regarding Real Property

a. Facility Assessment

Item 13. Reconvene to regular session and take action, if any, on matters discussed in Executive Session.

Item 14. Review of monthly reports.

A. Public Works

- Update on Roller Road improvements.

Item 15. 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 16. City Manager's report.

- Thanksgiving Holiday- City Hall closed November 26th and 27th
- Christmas Dinner-December 10, 2015 at 6pm
- Christmas Parade-December 11, 2015

Item 17. Commissioner's Comments.

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

***Expressions of thanks, congratulations, or condolence;**
***Information regarding holiday schedules;**
***An honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of the person's public office of public employment is not an honorary or salutary recognition for purposes of this subdivision;**
***A reminder about an upcoming event organized or sponsored by the governing body;**
***Information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; and**

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

Item 18. Adjournment.

I, Janelle Dolan, City Clerk for the City of Burkburnett, Texas do hereby certify that I posted this agenda on the glass front door of the City Hall, facing the outside at 1:00 p.m. on November 13, 2015 in compliance with the Open Meeting Act Chapter 551.

Janelle Dolan

Janelle Dolan, City Clerk
Posted 11/13/15 @ 1:00 PM

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

MINUTES

BOARD OF COMMISSIONERS

The Board of Commissioners of the City of Burkburnett, Texas met in a regular meeting on Monday October 19, 2015 at 7:00 p.m. in the Council Chambers of the City Hall, 501 Sheppard Road, Burkburnett, Texas. The meeting was open to the public with notice being given in compliance with the Open Meetings Act. The following Commissioners were present:

Carl Law	Mayor
Bill Lindenborn	Mayor Pro Tem
Randy Brewster	Commissioner
Frank Ducos	Commissioner
Don Hardy	Commissioner
Marguerite Love	Commissioner
Mike Tugman	Commissioner

Others present: Mike Whaley, City Manager; Trish Holley, Director of Administration; Gordon Smith, Director of Public Works; Janelle Dolan, City Clerk; Ed Stahr, Police Chief; Gary Robinett, Economic Development Director; Rod Ryalls, Fire Chief; Jonny Zellner, Emergency Management Coordinator; Mike Guevara, Shahan, Guevara, Decker and Arrott, Attorneys at Law; and David Medanich, FirstSouthwest.

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

Item 2. Invocation was given by Robert Blackmon, Youth Minister, Central Baptist Church.

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

Item 4. Consent Agenda.

A. Approval of Minutes from September 8, September 15, and September 18 Special Called Meetings and September 21, 2015 Regular Meeting.

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

Item 5. Ordinance Number 889 was presented. Caption of same being:

AN ORDINANCE AUTHORIZING THE ISSUANCE OF "CITY OF BURKBURNETT, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, SERIES 2015"; SPECIFYING THE TERMS AND FEATURES OF SAID BONDS; LEVYING A CONTINUING DIRECT ANNUAL AD VALOREM TAX FOR THE PAYMENT OF SAID BONDS; PROVIDING

FOR THE REDEMPTION OF THE OBLIGATIONS BEING REFUNDED; AND RESOLVING OTHER MATTERS INCIDENT AND RELATED TO THE ISSUANCE, SALE, PAYMENT AND DELIVERY OF SAID BONDS, INCLUDING THE APPROVAL AND EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT, PURCHASE CONTRACT AND AN ESCROW AGREEMENT AND THE APPROVAL AND DISTRIBUTION OF AN OFFICIAL STATEMENT; AND PROVIDING AN EFFECTIVE DATE.

David Medanich, First Southwest, addressed the Mayor and Commissioners and reported that the transaction is refunding, for savings, the outstanding 2003 Certificates of Obligation and the 2006 General Obligation Bonds. The average outstanding interest rate for these two bond issues is 4.30%. The average interest rate of the new bonds associated with this component of the transaction is projected at 2.36%. The projected total savings that the City will realize from this refunding is approximately $200,000. The savings number is net of any issuance costs (paid through the bond issue), and the new bonds are not extending the final maturity date of the 2003 or 2006 issues.

The other component to this transaction is the refunding of the 2014 Tax Notes to a 20 year payout which is how the transaction would have been structured if a long term financing option was available at that time. (As a reminder, the tax notes were issued because the City had to move quickly and could not wait on the required issuance process associated with certificates of obligation). Since the City is extending the final term of the issue (and still within the useful life of the asset), the City will incur extra interest expense and therefore, not realize a total savings. However, since tax notes can't exceed a 7 year maturity by law, the debt service increases from about $100,000 2016-2018 to $465,000 2019-2021 to accommodate the principal payments. This refunding mitigates the future debt service increase. The projected average interest rate for this portion of the refunding is 3.15%. The existing tax notes are outstanding at a rate of 2.95%. The extra interest expense as a result of moving the final maturity from 2021 to 2034 is about $348,000 in total.

Motion was made by Commissioner Tugman, seconded by Commissioner Ducos to approve Ordinance Number 889 as presented. Motion carried unanimously.

Item 6. Resolution Number 594 was presented in its entirety. A joint resolution between the City and Wichita County for Comprehensive Emergency Management. Jonny Zellner, Emergency Management Coordinator, addressed the Mayor and the Board and stated the city elected to participate in the Wichita County Emergency Operations Plan (EOP). The Texas Division of Emergency Management (TDEM) requires the EOP be updated every 5 years. The basic changes to the agreement are changing GDEM (Governors Division of Emergency Management) to TDEM (Texas Division of Emergency Management) and adding the Public Works Director into the City of Burkburnett's line of succession as requested. Participation with the Wichita County Emergency Operations Plan (EOP) is required for the City to be compliant and eligible for funding from state and federal grants.

Motion was made by Commissioner Brewster, seconded by Commissioner Lindenborn to approve Resolution Number 594 as presented. Motion carried unanimously.

Item 7. Ordinance Number 890 was presented. Caption of same being:

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS, AMENDING THE CODE OF ORDINANCES; TITLE IX. GENERAL REGULATIONS, AMENDING CHAPTER 94: FIRE PREVENTION; FIREWORKS; PROHIBITING THE SALE OR USE OF RESTRICTED FIREWORKS WITHIN CITY LIMITS; PROVIDING A SEVERABILITY CLAUSE REPEALING CONFLICTING ORDINANCES; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Mike Whaley, City Manager addressed the Mayor and Commissioners and stated Senate Bill 1593 was passed altering Texas Local Government Code 217.042 which addressed the sale of fireworks. Previously, home rule cities had the authority to prohibit the sale of fireworks within 5,000 feet of the city limits. With the change to Texas Local Government Code 217.042, home rule cities can no longer regulate fireworks under the nuisance provision of the chapter. The current ordinance restricts the sale of fireworks within 5,000 feet of the city limits. The amendment omits that language from the ordinance and aligns with new legislation that has passed.

The following addressed the Mayor and Commissioners:

David Munsey, 931 Schmoker Rd., requesting firework sales in city limits.
Rod Ryalls, Fire Chief
Ed Stahr, Police Chief

Motion was made by Commissioner Ducos, seconded by Commissioner Love to approve Ordinance Number 890 as presented.

Ayes: None
Nays: Mayor Law; Commissioners Lindenborn, Brewster, Ducos, Hardy, Love and Tugman
Motion failed.

Item 8. Ordinance Number 891. Caption of same being:

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT; GRANTING THE AUTHORITY FOR THE EXECUTION OF A WASTE SERVICES CONTRACT WITH IESI TX CORPORATION; REQUIRING USE OF IESI TX CORPORATION FOR SOLID WASTE DISPOSAL WITHIN BURKBURNETT CITY LIMITS; AND PROVIDING CRIMINAL PENALTIES FOR NON-COMPLIANCE; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE;

FINDING AND DETERMINING THAT THE MEETING THIS ORDINANCE IS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

Mr. Whaley addressed the City Manager and stated he had been approached by Progressive concerning the City's franchise agreement, specifically as it pertains to exclusive rights given to Progressive in the agreement. Mr. Whaley stated that in researching this issue with the city attorney, he discovered that in order for the City to enforce the terms in the franchise agreement, the City would have to adopt an ordinance that allows for enforcement of the exclusive franchise by fine. The ordinance that is presented effectively resolves this issue.

The following addressed the Mayor and Commissioners:

Mickey Fincannon, M & R Services, 1260 Harris Rd
Hayden Hansen, 675 Homestead, Wichita Falls
Kerry Wylie, 516, 516 ½, 512 N. Ave F
Darrell Arndt, 506 Mimosa
Dane Corsaut, 605 E. 6th
Ted Kwas, 304 Hayworth
Brian Rush, 1406 Quail Run
Robin Fincannon, 1260 Harris Rd

Mike Guevara, City Attorney, addressed the Mayor and Commissioners and stated the agreement with Progressive signed in 2007 is an exclusive contract but we cannot enforce it at this time.

No action was taken on this agenda item.

Item 9. Mr. Whaley addressed the Mayor and Commissioners and stated three bids were received for the proposed entry way signs. The low bid was received from M & F Litteken for $295,000. The Burkburnett Development Corporation (BDC) has budgeted $180,000 to go towards the construction of the signs. The low bid is $115,000 over the BDC commitment. Mr. Whaley stated he has worked with the contractors and architectural firm, and has been able to reduce the costs by $50,335 which lowers the bid to $244,665. Mr. Whaley stated he would recommend the Board allow the City to fund the additional $64,665 with a combination of monies from our pool cash reserve and street/parks operating maintenance budget.

Motion was made by Commissioner Brewster, seconded by Commissioner Ducos to accept the low bid of $244,665 from M & F Litteken for the entryway signs.

Ayes: Commissioners Brewster, Ducos and Love
Nays: Mayor Law; Commissioners Lindenborn, Hardy and Tugman
Motion failed.

Motion made by Commissioner Tugman, seconded by Commissioner Hardy to direct staff to continue to look for a way to build the entry way signs staying within the budget of $180,000. Motion carried unanimously.

Item 10. Mr. Whaley addressed the Mayor and Commissioners and reported he had received a request to place "In God We Trust" decals on the police units. The request was researched with the city attorney to determine the legality of the request. The U.S. Supreme Court has ruled that the phrase "In God We Trust" is "ceremonial" and "patriotic" and not an expression of religion. If the Board of Commissioners were to make a motion that a decal of "In God We Trust" be placed on the police units as a call for a return to patriotism and the morals that made this country great, the City would be in line with the Supreme Court ruling. Ed Stahr, Police Chief, stated he has polled his department and has 100 % approval from his employees and a local business owner will donate the decals and the labor to install them.

Motion was made by Commissioner Tugman, seconded by Commissioner Brewster for placement of the National Motto "In God We Trust" on all police vehicles. Motion carried unanimously.

Item11. Mayor Law closed the meeting at 8:32 p.m. and opened the Executive Session pursuant to the Texas Open Meetings Act, Chapter 551 of the Texas Government Code; the Board of Commissioners may convene in Executive Session regarding the following

A. SECTION 551.072-Deliberation Regarding Real Property

a. Facility Assessment

Item 12. Mayor Law reconvened the regular meeting at 9:19 p.m. No action was taken.

Item 13. Review of monthly reports.

A. Public Works- Gordon Smith, Director of Public Works, reported that a micro slurry seal had been placed on East and West Beverly Loops and Elizabeth Street.

Item 14. No public comments:

Item 15. No City Manager's report.

Item 16. No Commissioner 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
City Manager

Date: November 16th, 2015

Item: Ordinance 891 Franchise Agreement IESI/Progressive

Background

This issue was discussed at our last BOC meeting regarding the Progressive franchise agreement; specifically exclusive rights granted within the agreement. As previously stated, I have been approached by Progressive requesting we uphold the exclusive rights within the agreement. In researching this issue with our attorney, I discovered that the agreement should have been adopted by ordinance and in order for the City to enforce the terms in the franchise agreement, we would have to adopt the franchise agreement by ordinance that allows for enforcement of the exclusive franchise by fine. The ordinance as presented effectively resolves this issue. We will also discuss the matter in greater detail in executive session.

Fiscal Impact

N/A

Options

- Approve Ordinance 891
- Take no action

Staff Recommendation

Staff recommends approval of Ordinance 891 Franchise Agreement Progressive

Attachments

Ordinance 891 Franchise Agreement Progressive
Franchise Agreement

ORDINANCE NUMBER 891

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT; GRANTING THE AUTHORITY FOR THE EXECUTION OF A WASTE SERVICES CONTRACT WITH IESI TX CORPORATION; REQUIRING USE OF IESI TX CORPORATION FOR SOLID WASTE DISPOSAL WITHIN BURKBURNETT CITY LIMITS; AND PROVIDING CRIMINAL PENALTIES FOR NON-COMPLIANCE; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE; FINDING AND DETERMINING THAT THE MEETING THIS ORDINANCE IS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the accumulation and the improper disposal of waste within the City constitutes as a hazard to the public health and safety and general welfare; and

WHEREAS, in the course of protecting the health and safety and general welfare of the citizens of the City of Burkburnett and of the public in general, it is incumbent upon the City Council of the City of Burkburnett to provide adequate garbage collection and disposal service for the citizens of the City of Burkburnett; and

WHEREAS, the City of Burkburnett has determined that it would be in the best interest of the citizens of Burkburnett and would promote the health and safety and general welfare of the citizens of the City of Burkburnett and the public in general to contract with IESI TX Corporation, to provide for the collection, removal and disposal of solid waste in the City of Burkburnett**;**

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT AS FOLLOWS:

Sec. 1.01: Contract

There is hereby granted by THE CITY OF BURKBURNETT, WICHITA COUNTY, TEXAS to IESI TX CORPORATION the exclusive right and privilege to operate and maintain within the City of Burkburnett, services for the collection, removal and disposal of Municipal Solid Waste and Construction and Demolition Waste. Services include but not limited to commercial, residential, industrial, and roll-off. The terms of the agreement with IESI TX Corporation are set forth in the Exclusive Franchise Agreement for the Collection, Hauling and Disposal of Municipal Solid Waste in the City of Burkburnett, Texas, (Exhibit A attached and incorporated herein).

Sec. 1.02: Participation in Service

Each residential, commercial, or industrial unit shall utilize the solid waste and construction and demolition waste service provided by the City's exclusive franchise holder as independent contractor. Failure to utilize such disposal services does not negate the charges for the services, nor does it relieve the unit of responsibility to pay said charges even if services have been halted for nonpayment.

Sec. 1.03: Penalty

Any individual or entity charged with violating this Ordinance shall be cited for a misdemeanor offense, and upon conviction for such violation, shall be punished by a penalty of not less than $25.00 nor more than $2,000.00. Each day of continuation of such violation shall be a separate offense and punishable as such.

Sec. 1.04: Severability

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

Sec. 1.05: Repeal of Conflicting Ordinances

All ordinances and portion of ordinances in conflict of this Ordinance are hereby repealed.

Sec. 1.06: Publication

The City Clerk is authorized and directed to publish the caption and penalty prescribed by this Ordinance in accordance with applicable law.

Sec. 1.07: Date Effective

This Ordinance shall be in full force and effect immediately upon passage and publication.

PASSED AND APPROVED on this the 19th day of October, 2015.

CITY OF BURKBURNETT

_____

CARL LAW, MAYOR

ATTEST:

_____

Janelle Dolan, City Clerk

City Commission Agenda Memo

From: Mike Whaley
City Manager

Date: November 16th, 2015

Item: Ordinance 892 Establishing Regulations for Food Establishments

Background
Susan Morris with the Wichita Falls-Wichita County Health District will be presenting a revised ordinance establishing regulations for food establishments. Most of the revision deal with changes in legislation pertaining to food establishments. Susan will explain in greater detail if necessary.

Fiscal Impact
N/A

Options
- Approve Ordinance 892
- Take no action

Staff Recommendation
Staff recommends approval of Ordinance 892 Establishing Regulations for Food Establishments

Attachments
Ordinance 892 Establishing Regulations for Food Establishments

ORDINANCE NUMBER 892

AN ORDINANCE ESTABLISHING REGULATIONS FOR FOOD ESTABLISHMENTS, INCLUDING FOOD SERVICE ESTABLISHMENTS, RETAIL FOOD STORES, MOBILE FOOD UNITS AND ROADSIDE FOOD VENDORS; PROHIBITING ANY VIOLATION OF SUCH REGULATIONS; ESTABLISHING A FINE; FINDING AND DETERMING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

THIS ORDINANE SUPERCEDES ANY PREVIOUS ORDINANCE ENTIRELY BY SETTING NEW OPERATING PROCEDURES FOR PERMITTING OF AFORE MENTIONED ESTABLISHEMENTS.

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

Section 1. That Chapter 95 of the Code of Ordinances of the City of Burkburnett, Texas be superseded by adding the following:

FOOD AND FOOD VENDORS AND ESTABLISHMENTS.

§95.30 DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Authorized agent and employee means an employee of the general environmental health division of the regulatory authority.

Food means a raw, cooked or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

Food establishment:

(a) Means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption:

(1) Such as a restaurant; retail food store; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location; ;(machine) self-service food market, conveyance used to transport people; institution; or food bank; and

(2) That relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

(b) Includes:

(1) An element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority; and

(2) An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises; and regardless of whether there is a charge for the food.

(c) Does not include:

(1) An establishment that offers only prepackaged foods that are not time/temperature control for safety food;

(2) A produce stand that only offers whole, uncut fresh fruits and vegetables;

(3) A food processing plant;

(4) A cottage food production operation as defined by Texas Health and Safety Code § 437.001;

(5) An area where food that is in a cottage food production operation is sold or offered for human consumption;

(6) A "bed and breakfast limited" facility as that phrase is defined by 25 Texas Administrative Code §228.2; if the consumer is informed by statements contained in published advertisements, mailed brochures, or placards posted at the registration area that the food is prepared in a kitchen that is not regulated and inspected by the Wichita City/County Public Health District; ; or

(7) A private home that receives catered or home-delivered food.

Frozen dessert(s) means soft serve and frozen yogurt.

Frozen dessert pre-mix means any raw dairy-based product used to create a frozen dessert.

Frozen yogurt means a food produced by the bacterial fermentation of milk and served frozen or partially frozen.

Highly susceptible population means persons who are more likely than other people in the general population to experience foodborne disease because they are:

(1) Immunocompromised; preschool age children, or older adults; and

(2) Obtaining food at a facility that provides services such as custodial care, health care, or assisted living, such as but not limited to a child or adult day care center, kidney dialysis center, hospital or nursing home, or nutritional or socialization services such as a senior center.

Imminent hazard to public health means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent illness based on:

(1) The number of potential illnesses, and

(2) The nature, severity, and duration of the anticipated illnesses.

Laboratory means a biological, physical or chemical laboratory which is under the supervision of the state or local health authority.

Mobile food unit (MFU) A vehicle mounted, self or otherwise propelled, self-contained food service operation, designed to be readily movable (including, but not limited to catering trucks, trailers, push carts, and roadside vendors) and used to store, prepare, display, serve or sell food. Mobile units must completely retain their mobility at all times. A Mobile Food Unit does not mean a stand or a booth. A roadside food vendor is classified as a MFU.

Mobile food unit operation means the business of a mobile food unit or mobile food pushcart.

Mobile food pushcart A non-self-propelled Mobile Food Unit limited to serving foods requiring a limited amount of preparation as authorized by the regulatory authority and is readily movable by one or two persons. A pushcart is classified as a Mobile Food Unit. A pushcart does not include non-self-propelled units owned and operated within a retail food store. This type of mobile unit requires the support of a Central Preparation Facility.

Person in Charge (PIC) The individual present at a food establishment who is responsible for the operation at the time of inspection.

Process means the method or amount of preparation of food utilized by a food establishment before the food is provided to the individual who will consume it.

Regulatory authority means the city-county public health district.

Soft serve means a food similar to ice cream which is created by the combination of air and dairy-based ingredients in a machine at the point of sale.

State rules means the state rules found at 25 Texas Administrative Code, chapter§§ 228.1, 228.2, 228.31-228.45, 228.61-228.83, 228.101-228.125, 228.141-228.154, 228.171-228.186, 228.201-228.213, 228.221-228.225, 228.241-228.257, and 228.271-228.278.. These rules are also known as the Texas Food Establishment Rules.

Vend and *vending* mean to sell, serve or otherwise provide food for human consumption.

§95.31 Adoption of Texas Food Establishment Rules.

The city adopts by reference the provisions of the current rules or the rules as amended by the state board of health found in 25 Texas Administrative Code, §§ 228.1, 228.2, 228.31-228.45, 228.61-228.83, 228.101-228.125, 228.141-228.154, 228.171-228.186, 228.201-228.213, 228.221-228.225, 228.241-228.257, and 228.271- 228.278. regarding the regulation of food establishments.

§95.32 Cleaning standards for commercial cooking equipment adopted.

All food equipment in use for commercial cooking within the city must be certified or classified for sanitation by an American National Standards Institute (ANSI)-accredited certification program. Standards applicable to the materials, design and construction of commercial cooking equipment shall apply only to equipment installed after December 3, 2009.

§95.33 Compliance with applicable laws required.

All persons who manage, operate, accept employment in, or are employed in any food establishment shall comply with all applicable federal and state statutes and regulations and with all applicable sections of this Code and city ordinances.

§95.34 Violations.

Any violation of this article, including a violation of the rules adopted by reference pursuant to §99.31 through§95.33, shall be a Class C misdemeanor punishable by a fine. Each day upon which a violation occurs shall constitute a separate violation.

§95.35 Permit Required.

A person may not operate a food establishment without a permit issued by the regulatory authority. Permits are not transferable from one person to another or from one location to another location, except as otherwise permitted by this division. A valid permit must be posted per §95.37 in or on every food establishment regulated by this division.

(1) Application and renewal.

(a) Any person desiring to operate a food establishment must make written application for a permit on forms provided by the regulatory authority. The application must contain the name and address of each applicant, the location and type of the proposed food establishment, and any information required by§95.37. The applicable must be submitted with the applicable fee. An incomplete application will not be accepted.

(b) Failure to provide all required information or falsifying information required may result in denial or revocation of the permit.

(c) All permits issued under this subdivision shall remain in force for one year from the date of issuance unless revoked or suspended by the regulatory authority. Permit fees shall be paid to the regulatory authority at the time of application for initial permits and fifteen (15) days prior to permit expiration for renewal permits. All permit holders, including non-profits, that submit renewal applications and or fees after the permit expires will be assessed a late charge. A complete application with updated information is required for each renewal permit. Any changes to the physical facility, menu or equipment must be reported to the regulatory authority when renewing permits.

§95.36 Permit Issuance

Prior to the approval of an initial food establishment permit or the renewal of an existing permit, the regulatory authority shall inspect the proposed food establishment to determine compliance with applicable laws and state rules. A food establishment that does not comply with applicable laws and state rules will be denied a permit or the renewal of a permit.

§95.37 Compliance required; posting; term; fee.

(a) Only persons who comply with the requirements of this division shall be entitled to receive and retain a permit required by this subdivision. Such permit shall be posted in a conspicuous place in public view in or on the food establishment. All permits issued under this subdivision remain in force one year from the date of issuance unless revoked or suspended.

(b) The following permits will be issued under this subdivision:

(1) Process 1: low to moderate risk. This process involves food sale with or without preparation and includes no cooking. Generally, the steps in this process are: Receive → Store → Prepare → Hold → Serve → Vend.

(2) Process 2: high risk. This process involves food preparation for same day service. Generally, the steps in this process are: Receive → Store → Prepare → Cook → Hold → Serve.

(3) Process 3: very high risk. This process involves complex food preparation. Generally, the steps in this process are: Receive → Store → Prepare → Cook → Cool → Reheat → Hot Hold → Serve.

Additionally, this process permit is required for:

(i) Any prepared foods that require a Hazard Analysis Critical Control Point Plan as defined by 25 Texas Administrative Code § 228.2 (64).

(ii) Any foods prepared for highly susceptible populations; or

(iii) Foods determined by the health district to be very high risk.

(4) Temporary events. These events last no more than seven consecutive days and applicants are limited to seven temporary event permits per year. No annually permitted establishment shall allow temporary event food vending at their site unless a temporary event application has been submitted to the regulatory authority.

(5) *Seasonal permit.* Any facility which operates for a period of no more than six consecutive months out of a 12-month period from January to December and has a limited menu that does not offer very high risk foods may apply for a seasonal permit instead of a Process 1 or 2 permit.

§95.38 Review of plans.

Whenever a food establishment is constructed or more than 20 percent of its square footage is remodeled or whenever an existing structure is converted to use as a food establishment, plans and specifications properly prepared for such construction, remodeling or conversion shall be submitted to the City of Burkburnett Building Inspection Division for dissemination to the regulatory authority for review before work is begun, except mobile food units which shall submit plans directly to the regulatory authority. If the structure is over 2,500 square feet or the cost of the structure exceeds $50,000, the plans must be submitted by an architect or engineer. The submitted plans and specifications shall indicate the proposed layout, equipment arrangement, mechanical plans and construction of materials of work areas, and the type and model of proposed fixed equipment and facilities. Every commissary shall additionally submit plans showing refrigerated and dry storage areas reserved for mobile unit use. Food establishments that have been closed and are being reopened under new management as the same type of establishment shall be required to submit new equipment specifications and a floor plan of the food establishment. The regulatory authority shall approve the plans and specifications if they meet the requirements of the rules adopted by this

division. The approved plans and specifications must be followed in construction, remodeling or conversion.
(b) Failure to follow the approved plans and specifications will result in a permit denial, suspension, or revocation.
(c) The regulatory authority may collect fees in consideration of reviewing plans

§95.39 Suspension.

(a) The regulatory authority may, without warning, notice, or hearing, suspend any permit to operate a food establishment if the operation of the food establishment constitutes an imminent hazard to public health. A supervisor at the regulatory authority will confirm the hazard before suspension is effective when possible. Suspension is effective upon service of the written notice required by this subdivision. When a permit is suspended, food operations shall immediately cease. The regulatory authority may end the suspension at any time if the reason for suspension no longer exists.

(b) Whenever a permit is suspended, the holder of the permit or the person in charge of the food establishment at the time of suspension shall be notified in writing that the permit is, upon service of the notice, immediately suspended. Opportunity for a hearing will be provided if the holder of the permit files a written request with the regulatory authority within ten days of receipt of written notice of suspension. Whenever a permit is suspended and a request for hearing made, the holder of the permit shall be afforded a hearing within 20 days of the receipt by the regulatory authority of a request for a hearing. If no written request for a hearing is filed within ten days, the suspension is sustained. The regulatory authority may end the suspension at any time if reasons for suspension no longer exist.

§95.40 Revocation of permit.

The regulatory authority may, after providing opportunity for a hearing, revoke a food establishment permit for serious or repeated violations of any of the requirements of this division or for interference with the regulatory authority in the performance of its duties. Prior to revocation, the regulatory authority shall notify the holder of the permit or the person in charge of the food establishment at the time of revocation, in writing, of the reason for which the permit is subject to revocation. The permit shall be revoked at the end of ten days following service of such notice unless the holder of the permit files a written request for a hearing with the regulatory authority within such ten-day period. If no request for a hearing is filed within the ten-day period, the revocation of the permit becomes final.

§95.41 Service of notice; conduct of hearings.

(a) A notice as required in this subdivision is properly served when it is delivered to the holder of the permit or the person in charge of the food establishment at the time of the notice or when it is sent by registered or certified mail, return receipt requested, to the last

known address of the holder of the permit. A copy of the notice shall be filed in the records of the regulatory authority.

(b) The regulatory authority shall conduct the hearings provided for in this subdivision at a time and place designated by the regulatory authority. Based upon the recorded evidence of such hearing, the regulatory authority shall make final findings and shall sustain, modify or rescind any notice or order considered in the hearing. The regulatory authority shall furnish a written report of the hearing decision to the holder of the permit.

(c) The regulatory authority may charge re-inspection fees for compliance inspections scheduled as a result of a revocation hearing that may require additional inspections.

§95.42 Frozen dessert standards.

(a) All frozen desserts must meet the following standards:

(1) Maximum temperature: 41°F;

(2) Maximum total coliform; 150/ml.

(b) All soft serve must meet the following standard:

(1) Maximum standard plate count: 200,000/ml.

§95.43 Frozen dessert certification required.

(a) Every food establishment that prepares, serves, provides, sells, displays or stores for future sale, or offers for sale frozen desserts for human consumption must have a frozen dessert certification in addition to its permit, regardless of permit category.

(b) In order to receive and maintain frozen dessert certification:

(1) One employee from each mobile, stationary, temporary, seasonal or permanent facility or location must attend and successfully complete frozen dessert training. Such training is good for two years. The regulatory authority will provide frozen dessert training four times a year to provide instruction in general operation, cleaning and maintenance procedures.

(2) At least one sample of any frozen dessert pre-mix and one sample of any final frozen dessert product shall be sampled annually by the regulatory authority from each machine operated by a food establishment. Each sample will be submitted to an approved laboratory for analysis of its content.

(3) If any samples collected from a food establishment are not within the standards established in Sec.95.42, additional samples will be collected and an inspection of the equipment and facility will be conducted to determine the reason

for the violation of the standards. No food establishment shall adopt any procedures that would result in repeated failures of the first samples collected for any annual inspection. Two consecutive frozen dessert samples determined by laboratory analysis to be above the limits of the standards will result in suspension of the permit to operate the food establishment or suspension of the frozen dessert certification. A resample and inspection fee will be charged for each consecutive inspection and sample tested after a permit or certification has been suspended.

(c) The certification shall be posted in a conspicuous place in public view.

(d) All certifications issued under this subdivision shall remain in force for one year from the date of issuance unless revoked or suspended.

§95.44 Suspension, revocation and reinstatement of frozen dessert certification.

(a) A frozen dessert certification issued under this subdivision may be suspended or revoked by the regulatory authority upon the violation by the holder of any of the terms of this article.

(b) Any person or food establishment whose frozen dessert certification has been suspended or revoked shall immediately discontinue the preparation, service, provision, sale, display or storage for future sale of frozen dessert until the defects that caused the suspension have been corrected and the certification reinstated. Following correction, the applicant may request reinstatement of the certification by the regulatory authority. The regulatory authority may require the certification holder to demonstrate proper cleaning procedures and maintenance of the frozen dessert equipment before reinstating the certification.

(c) Notice of suspension or revocation, and the conduct of hearing for any suspension or revocation of a frozen dessert certification shall be conducted under the procedures established in 26-481 through 26-483.

§95.45 Labeling.

All frozen dessert products and frozen dessert pre-mix not sold at the point of manufactured origin must be properly labeled according to current Food and Drug Administration guidelines.

§95.46 Vending without certification.

It shall be unlawful for any person to prepare, serve, provide, sell, display or store for future sale, or offer for sale frozen desserts at a food establishment that does not hold a current frozen dessert certification.

§95.47 Possession or receiving from manufacturer without certification.

It shall be unlawful for any person to receive into the city for sale or to offer for sale in the city or to have in storage for future sale ice cream mix or frozen dessert pre-mix without first applying for all required permits and certifications from the regulatory authority.

§95.48 Food handler training certificate.

It shall be unlawful for any person to accept employment in any food establishment without securing a food handler's training certificate. It shall be unlawful for any person operating or managing any food establishment to employ or retain any person or allow any person to work as a food handler unless that person has obtained either a current temporary receipt issued under section 26-548 or a current food handler's training certificate.

§95.49 Application.

The regulatory authority may administer a food handler's training certificate and food protection manager's certificate program. Any person who is required to have certificate under this division shall attend and successfully complete a training approved by the regulatory authority, Texas Department of State Health Services or a course *accredited by the American National Standards Institute.*

It is the responsibility of the Person in Charge of the food establishment to keep a certificate of completion of the training course for all employees of the food establishment available on site for compliance review by the inspector.

§95.50 Temporary receipt; issuance.

(a) When an applicant for a certificate required by this division makes application to the regulatory authority, a temporary receipt, valid for 30 calendar days, will be issued to the applicant to allow the applicant to continue employment at a food establishment while completing the course required by Sec. 95.49. Applicants are limited to one successive temporary receipt. If an applicant has not successfully completed the training course by the time the temporary receipt expires, he cannot continue employment as a food handler.

(b) Upon successful completion of the training course, the regulatory authority will issue a food handler's training certificate, which shall expire two years from the date of the food handler's certificate application

§95.51 Training courses accepted.

The regulatory authority shall accept training issued by all companies or programs approved by the Texas Department of State Health Services under 25 TAC §228.33

§95.52. Fee.

A fee shall be charged by the health district for completing the food handler's training certificate. There shall be a charge for replacement cards.

§95.53 Records to be kept.

MOBILE FOOD VENDORS.

§ 95.60- Permit requirements.

(a) No person shall operate a mobile food unit who does not possess a valid, current mobile food unit permit from the regulatory authority as provided in this article. The permit for a mobile food unit shall specify the type of food to be vended, the manner in which the food is to be vended, and include a description of any vehicle or pushcart to be used in the food vending operation.

(b) A person seeking a mobile food unit permit from the regulatory authority shall make application on a form provided by the regulatory authority, and shall provide all of the information listed in the following subsections as part of the application:

(1) The name and address of the owner and operator;

(2) A copy of a current driver's license of the owner and operator, if the mobile food unit is to be powered by a motor or towed;

(3) If the applicant represents a corporation, limited liability company, association, or partnership, the names and addresses of the persons responsible for the entity's operations;

(4) The name under which the mobile food unit will be operated;

(5) A description of the type of food or the specific foods to be vended;

(6) The manner of mobile food vending operation to be conducted;

(7) A description of all vehicles to be used in the mobile food unit operation along with the license or registration and vehicle identification number of said vehicles, and a copy of the current certificate of liability for all said vehicles;

(8) The address and food establishment permit number of the central preparation facility for all vehicles to be used in the mobile food unit operation; and

(9) Any other information required by the regulatory authority as it pertains to the safe operation of the mobile food unit.

(c) Upon receiving a proper application for a mobile food unit permit, the regulatory authority shall inspect the location, food, equipment, vehicles and other reasonable matters concerning the mobile food unit operation and shall issue a permit and a sticker only if:

(1) The application complies with subsection (b) and

(2) The inspection reveals compliance with the applicable requirements of all federal and state statutes and regulations, and city ordinances governing the proposed mobile food unit operation.

(d) Fees shall be determined by the risk process level appropriate for the establishment and be in addition to any central preparation facility fees.

(e) A valid permit sticker shall be displayed by a mobile food unit.

(f) Mobile food unit permits shall be valid for one year from the date of issuance unless suspended or revoked.

(g) Mobile food unit permits shall not be transferred or assigned and shall be considered revoked should the character of the food vending operation be changed from that specified in the permit.

(h) Every mobile food unit permit shall be renewed each year in like manner as the original permit application.

(i) The regulatory authority shall make routine, unannounced inspections of mobile food units, mobile food pushcarts, and commissaries when applicable, to determine whether or not the operation is being conducted in such a manner as to comply with the conditions of the permit, the provisions of this article, other applicable city ordinances and state and federal statutes, regulations and rules.

(j) The regulatory authority may take and retain samples of food and other substances used in the preparation of food and examine it for the detection of unwholesome and deleterious qualities. The regulatory authority may condemn and forbid the sale of or cause to be removed or destroyed, any food which is adulterated, tainted, diseased, fermented, decaying or otherwise unwholesome, unclean or deleterious to health. The owner, operator or other person in charge of such food shall immediately and in the presence of the regulatory authority, destroy such adulterated, tainted, diseased, fermented, decaying or otherwise unwholesome, unclean food as directed by the regulatory authority.

§95.61 - Operation requirements and restrictions.

Mobile food units are subject to the following requirements and restrictions unless specifically addressed otherwise:

(1) It shall be unlawful to operate any mobile food unit handling time/temperature control food for safety (TCS) as defined by Chapter 25 of the Texas Administrative Code, Section 228.2(144) unless the mobile food unit is commercially manufactured.

(2) It shall be unlawful for a person to vend on any portion of city streets where the speed limit exceeds 30 miles per hour or on four-lane divided roadways.

(3) It shall be unlawful for a person to vend from a mobile food unit within an "active school crossing zone" as defined by the Texas Transportation Code.

(4) It shall be unlawful for a person to vend from a mobile food unit unless the mobile food unit is lawfully parked or stopped.

(5) It shall be unlawful for a person to vend from the side of the mobile food unit facing moving traffic. Mobile food units shall vend from as near as possible to the curb or edge of the street.

(6) It shall be unlawful for a person to vend from a mobile food unit to a person standing in the roadway.

(7) It shall be unlawful for a person to stop a mobile food unit on the left side of a one-way street to vend.

(8) It shall be unlawful for a person to vend from a mobile food unit on a street unless there is a clear view of the mobile food unit for a distance of 200 feet in each direction.

(9) It shall be unlawful for a person to make any alteration, removal, attachments, placement or change in, under or upon a mobile food unit that would prevent or otherwise reduce ready mobility.

§95.62 - Sanitation requirements for all mobile food units.

Mobile food units (including mobile food pushcarts) shall comply with the following requirements. These requirements pertain to all such establishments unless specifically addressed otherwise:

(1) Mobile food units shall comply with all sanitation and construction regulations as outlined in 25 Texas Administrative Code Rule 228.221as adopted in this chapter unless specifically addressed in this section.

(2)A mobile food unit shall be operated from a central preparation facility and shall report to the central preparation facility each day of operation for all cleaning and servicing operations. The mobile food unit shall acquire needed supplies from the central preparation facility or other approved source. The mobile food unit shall provide documentation of each visit to the central preparation facility and shall have that documentation available for inspection. Mobile food units dispensing fresh fish and shrimp, prepackaged novelty ice cream, whole, uncut fruit and vegetables and individual portion size nonperishable foods such as pickles, candy, peanuts and including snow cones/shaved ice/raspas are exempt from this provision.

(3) Certain foods shall require additional equipment or sanitation procedures to ensure safety:

a. Mobile food units that sell snow cones, shaved ice, or raspas shall provide a gravity fed hand washing system, soap, and paper towels at the establishment. Such establishments shall be designed so as to enable the operator of the unit to protect the equipment, syrup, ice and utensils used in the operation of the unit from dust, insects and rodents while the unit is in transit or overnight storage.

b. Mobile food units or mobile food pushcarts that sell shrimp, fish, shellfish, or crusteacea shall ensure that all such products are safe for human consumption, from an approved source, in sound condition, and free from

spoilage, filth, or any other type of contamination. Shrimp shall be maintained at 41° Fahrenheit or below, and stored in either a mechanical refrigeration unit, or in ice in a clean and sanitized container with a lid. Ice must be from an approved source. Additionally, the establishment must install a three-compartment sink, plumbed with hot (minimum 110° F) and cold running water under pressure, for the purpose of cleaning and sanitizing the food contact surfaces of equipment and utensils. A handwash sink "equipped to provide water at a temperature of at least 100° F through a mixing valve or combination faucet" shall also be provided and furnished with soap and paper towels.

(4) Liquid waste resulting from any mobile vending operation shall be stored in permanently installed retention tanks of at least 15 percent larger capacity than the water supply tank but of no less than 30 gallon capacity and shall be drained and thoroughly flushed during servicing operations. All liquid waste shall be discharged to an approved sanitary sewage disposal system at the central preparation facility.

(5) All food that requires packaging or advance preparation by the mobile food unit shall be processed in the central preparation facility.

(6) Mobile food units which are parked and engaged in operations shall provide waste containers for customers sufficient to handle the volume of waste generated by the mobile food unit. Waste containers shall be emptied or disposed of at the central preparation facility.

§95.63 - Sanitation requirements for mobile food units with facilities to prepare food.

Mobile food units preparing and vending food on-site, commonly referred to in the trade as "hot trucks," shall comply with the following additional requirements:

(1) A mobile food unit servicing area shall be provided at the central preparation facility, and shall include at least overhead protection for any supplying, cleaning or servicing operation. Within this servicing area, there shall be a location provided for the flushing and the draining of liquid waste separate from the location provided for water servicing and for the loading and the unloading of food and related supplies.

(2) The central preparation facility will provide a date/time device, with associated means to record the date and time, and require each mobile food unit that is serviced to document the date and time of arrival and departure from the central preparation facility. The mobile food unit will make available for inspection the record of the date and time of the servicing at the central preparation facility.

(3) Approved water storage facilities for potable water shall be provided on the mobile food unit and shall be of sufficient capacity (minimum 25 gallons) to furnish enough water for food preparation, utensil cleaning and sanitizing, and hand washing. The water inlet shall be located in such a position that it will not be contaminated by waste discharge, road dust, oil or grease and it shall be kept

capped when not being used to fill the storage facility. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water and gas distribution pipes or tubing shall be constructed and installed in accordance with public health and plumbing standards as set out by the ordinances of the city. The water for said operations shall be from an approved source.

(4) Either of the following shall be provided by the mobile food unit for its operations:

a. A heating device of sufficient capacity to produce 110° Fahrenheit hot water; or

b. An instantaneous heater capable of producing 110° Fahrenheit hot water.

(5) All operations related to the preparation of food shall be carried on from within the mobile food unit.

(6) Any additional equipment or the arrangement thereof other than approved when the permit was issued shall be prohibited unless approved in advance by the regulatory authority.

§95.64 - Sanitation requirements for mobile food pushcarts.

In addition to those requirements applicable to all mobile food units, the following requirements shall be met by mobile food pushcarts:

(1) All equipment utilized in the mobile food pushcart shall have prior approval of the regulatory authority.

(2) Snow cone, shaved ice, and raspa vendors shall provide a gravity fed hand washing station on the mobile food pushcart. Soap and paper towels are to be provided. Waste water from hand washing is to be collected in a sealable container and disposed of in a sanitary sewer.

(3) Any additional equipment or the arrangement thereof other than approved when the permit was issued shall be prohibited unless approved in advance by the regulatory authority.

(4) The mobile food pushcart shall be located in clean surroundings, on concrete, brick or equally impervious ground and maintained in a clean and sanitary condition.

(5) It shall be unlawful for a mobile food pushcart to operate on the public streets.

(6) The mobile food unit pushcart shall be cleaned and serviced at the central preparation facility at the beginning of each day and shall be stored inside a building when not in operation. The mobile food unit shall acquire needed supplies from the central preparation facility or other approved source. The mobile food unit shall provide documentation of each visit to the central preparation facility and shall have that documentation available for inspection.

(7) Each mobile food pushcart vending food in storage containers open to the air shall:

a. Provide only single service articles for use by consumers; and

b. Set aside a separate space for non-food related items.

(8) Each mobile food pushcart shall have a stainless steel hand wash lavatory and a stainless steel sink with a minimum of two compartments when utensil washing is required. Both must provide adequate amounts of hot and cold water under pressure, and access shall be provided to a supply of paper towels, soap, and detergent. Each mobile food pushcart shall also have adequate drain board space. This subsection does not apply to mobile food hand-cards vending only prepackaged food products.

(9) Each mobile food pushcart shall provide and have available for the public a fly proof, lidded trash container for the disposal of refuse. Such trash container may be either on the mobile food pushcart or located conveniently nearby.

(10) Each mobile food pushcart employing butane or propane tanks shall comply with any and all applicable fire department regulations. Ground fault interrupters may be required by the fire department as a safety feature to prevent electrical shock. Each mobile food pushcart subject to these requirements shall be equipped with an approved fire extinguisher with a 2A 10BC rating.

(11) When the mobile food pushcart is operated outside, a cleanable canopy shall extend over the mobile food pushcart and cover its top surface.

(12) No advertising shall be permitted on any mobile food pushcart except for the posting of prices, the identification of the name of the product, and the name of the vendor.

Sec §95.65 Permit Fees

The Wichita Falls/Wichita County Local Public Health District shall be authorized to collect fees for permits annually.

PASSED AND APRPOVED ON this 16th day of November 2015.

_____

Carl Law, Mayor

ATTEST:

_____

Janelle Dolan, City Clerk

City Commission Agenda Memo

From: Gordon Smith, Director of Public Works

Date: November 11, 2015

Item: Re-Appointments for Cemetery Board

Background

At the November 9, 2015 Cemetery Board meeting, Staff informed Board Members Mr. Ron Clarke, Ms. Denise Kirkpatrick and Ms. Nova Dickson that their term appointments to the Cemetery Board was nearing completion and asked if they would consider re-appointment to the board.

All three board members expressed they would like to continue to serve and asked their re-appointments be presented to the City Commissioners for consideration.

Fiscal Impact

N/A

Options

- Approve Appointment
- Not approve Appointment

Staff Recommendation

Approve Re-Appointments of Mr. Ron Clarke, Ms. Denise Kirkpatrick and Ms. Nova Dickson to the Cemetery Board for a 2 year appointment.

Attachments

N/A

City Commission Agenda Memo

From: Mike Whaley

Date: November 16th, 2015

Item: ZBA Appointment

Background

Lyn Seebo is currently serving on our Zoning Board of Adjustments. Her 2-year term expires on December 16th of this year. I have been in touch with Mrs. Seebo and she has expressed the desire to continue to serve on the board for another 2-year term. It would be my recommendation that we reappoint Mrs. Seebo to the ZBA.

Fiscal Impact

N/A

Options

- Reappoint Lyn Seebo
- Make additional nominations

Staff Recommendation

Staff recommends reappointing Lyn Seebo

Attachments

N/A

City Commission Agenda Memo

From: Mike Whaley
City Manager

Date: November 16th, 2015

Item: "In God We Trust" Decal, All Departments

Background

As instructed, we have put for your consideration the request to place "In God We Trust" decals on all city vehicles. The U.S. Supreme Court has ruled that the phrase "In God We Trust" is "ceremonial" and "patriotic" and not an expression of religion. If the BOC were to make a motion that a sticker with "In God We Trust" be placed on all City vehicles as a call for a return to patriotism and the morals that made this country great, the City would be in line with the Supreme Court ruling.

Fiscal Impact

N/A

Options

- Approve Request to place decals on vehicles
- Deny request

Staff Recommendation

Staff recommends approval of request to place "In God We Trust" decals on all vehicles

Attachments

N/A

City Commission Agenda Memo

From: Gordon Smith, Director of Public Works

Date: November 11, 2015

Item: Resolution Number 595- a resolution amending fees for the Burkburnett Memorial Cemetery.

Background

The Cemetery Board received and reviewed a proposal from Celestial Etched Arts on providing brass military maker nameplates for the memorial monument at the new pavilion. Celestial Etched Arts presented that they could provide the 3"inch x 11" inch brass name plate with etched lasermark black font at a cost of $110.00 per nameplate.

The board reviewed the quality of the sample material, mounting and discussed availability of order size. Celestial Etched Arts stated that the plaque could be designed to mount with screws or construction adhesive and also provided the size of the order would not affect the price or time of delivery.

The board reviewed the $110.00 cost compared to the current cost of $200.00 previously set by the City. A motion was made to recommend to City Commissioners consideration amending and reducing the established fee of $200.00 per nameplate to $125.00. The board further recommended the $15 difference would be to cover mounting and administration cost.

The board voted and unanimously approved the recommendation be presented for consideration.

Fiscal Impact

N/A

Options

- Approve Resolution 595
- Not approve Resolution 595

Staff Recommendation

Approve Resolution Number 595

Attachments

Resolution 595
Celestial Etched Art's Proposal
Picture of Sample Plaque

RESOLUTION NUMBER 595

A RESOLUTION AMENDING THE FEES FOR THE BURKBURNETT MEMORIAL CEMETERY; SETTING AN EFFECTIVE DATE AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. The following fees are hereby established for the Burkburnett Memorial Cemetery:

Curbing	$ 5.00
Headstone	$ 5.00
Interment of Cremains	$ 50.00
Military Name Plate	$125.00
One Adult Burial Space	$900.00
One Cremation Burial Space	$450.00
One Infant Burial Space	$300.00

SECTION 2. This resolution shall become effective immediately upon approval.

SECTION 3. This meeting was open to the public as required by law.

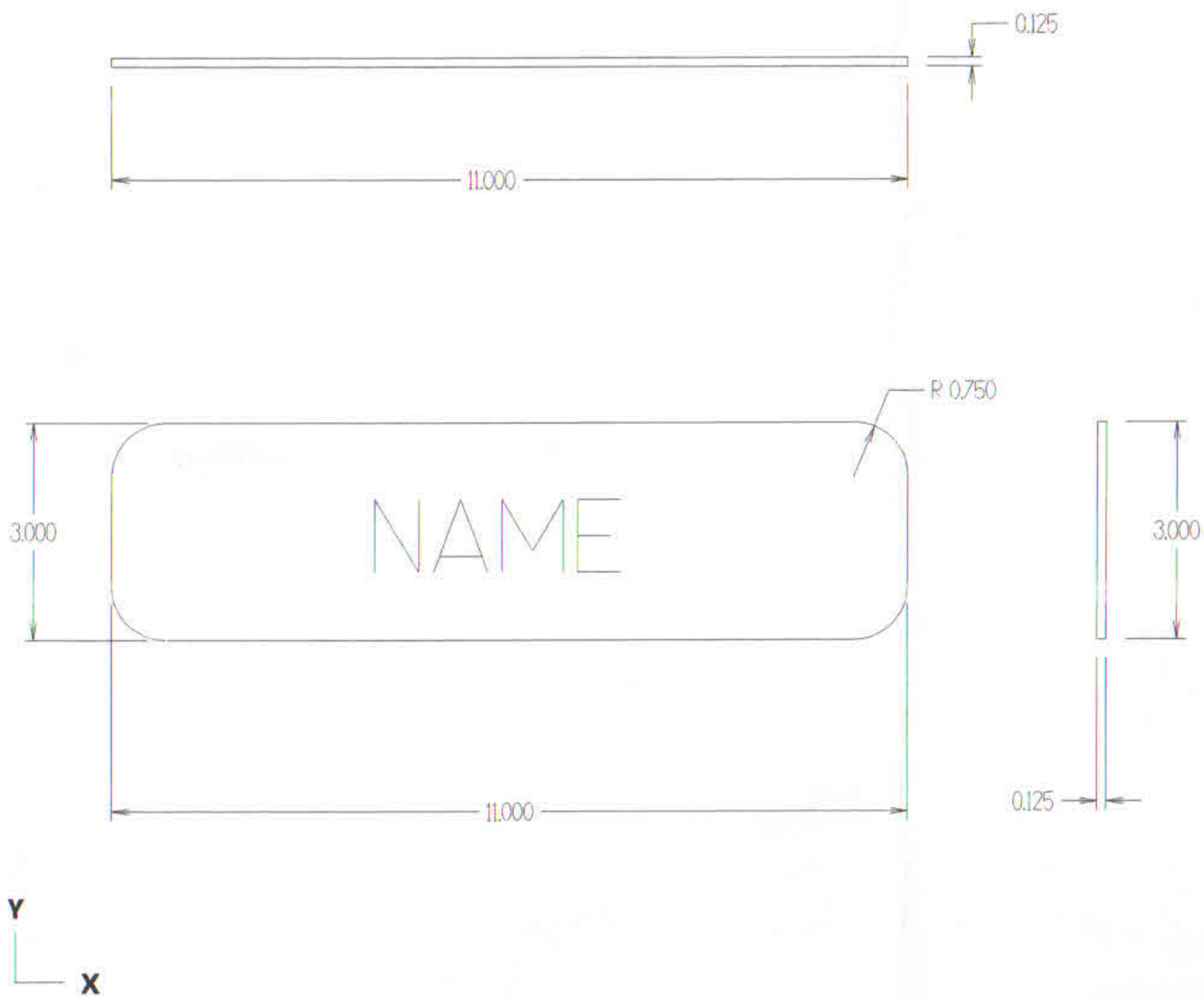
PASSED AND APPROVED on this 16th day of November, 2015.

_____
Carl Law, Mayor

ATTEST:

_____
Janelle Dolan, City Clerk

Jeremy P. Dougherty
U.S. Marine Corp
1936 - 2003



NAME PLATE

MATERIAL: BRONZE 2.4992 Inch

Gview:TOP WCS:TOP Cplane:TOP

Jeremy P. Dougherty
U.S. Marine Corp
1936 - 2003