



## City Commission Agenda Memo

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

**Date:** May 21, 2012

**Item:** Discuss and take any action necessary on Resolution 528

### Background

IESI – Progressive Waste Solutions has approached the City and indicated a willingness to begin a feasibility study on the potential of establishing a recycling center in Burkburnett. IESI has already started offering recycling to businesses in Burkburnett to get a better understanding of community support and anticipated volumes. Community support would be a beneficial item in the feasibility study. The construction of a recycling center would be beneficial to the City by increasing our property values, providing new jobs, could bring in additional businesses that are ancillary to recycling centers, and would be environmentally friendly. Resolution 528 indicates that the City of Burkburnett supports IESI in studying the potential for a recycling center in Burkburnett.

### Fiscal Impact

N/A.

### Options

- Approve Resolution 528
- Take no Action

### Staff Recommendation

Staff recommends that the Commission approve Resolution 528

### Attachments

- Resolution 528

**RESOLUTION NUMBER 528**

**A RESOLUTION OF THE CITY OF BURKBURNETT, TEXAS,  
DECLARING SUPPORT FOR THE CONSTRUCTION OF A  
RECYCLING CENTER BY IESI – PROGRESSIVE WASTE  
SOLUTION COMPANY IN BURKBURNETT.**

WHEREAS, The Board of Commissioners of the City of BURKBURNETT supports economic development in the City; and

WHEREAS, The Board of Commissioners of the City of BURKBURNETT recognizes the value of recycling programs and the positive effects that recycling programs have on our environment and quality of life; and

WHEREAS, IESI – Progressive Waste Solutions has indicated a willingness to begin a feasibility study on the potential of establishing a recycling center in Burkburnett.

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

That the Board of Commissioners of the City of Burkburnett is in support of the development and construction of a recycling center in Burkburnett by IESI – Progressive Waste Solutions.

**PASSED, APPROVED, AND ADOPTED** on this 21st day of May, 2012, at a regular meeting of the Board of Commissioners of the City of Burkburnett Texas which meeting was held in compliance with the Open Meeting Act, Texas Government Code §551.001, *et Seq*, at which meeting a quorum was present and voting.

---

Carl Law, Mayor

**ATTEST:**

---

Janelle Dolan, City Clerk

There is no  
action needed  
on this  
agenda item.



## Board of Commission Agenda Memo

From: Mike Whaley,  
Director of Planning and Zoning

Date: May 21, 2012

Item: Rezoning Application, 903 Sycamore

### Background

An application to re-zone said property from residential SF-6 to Commercial was submitted by property owner Rik Lipscomb. Mr. Lipscomb owns the property adjacent to 903 Sycamore, formally 901 Sycamore which was recently rezoned commercial as well.

### Zoning Ordinance

Currently the property is zoned residential, SF-6 and the request for change is to Commercial. All mail outs to property owners within a 200 ft radius and proper notifications have been accomplished...

### Comprehensive Plan

The proposed change does meet the future land use plan as set for commercial development.

### Subdivision Ordinance

N/A

### Staff Recommendations

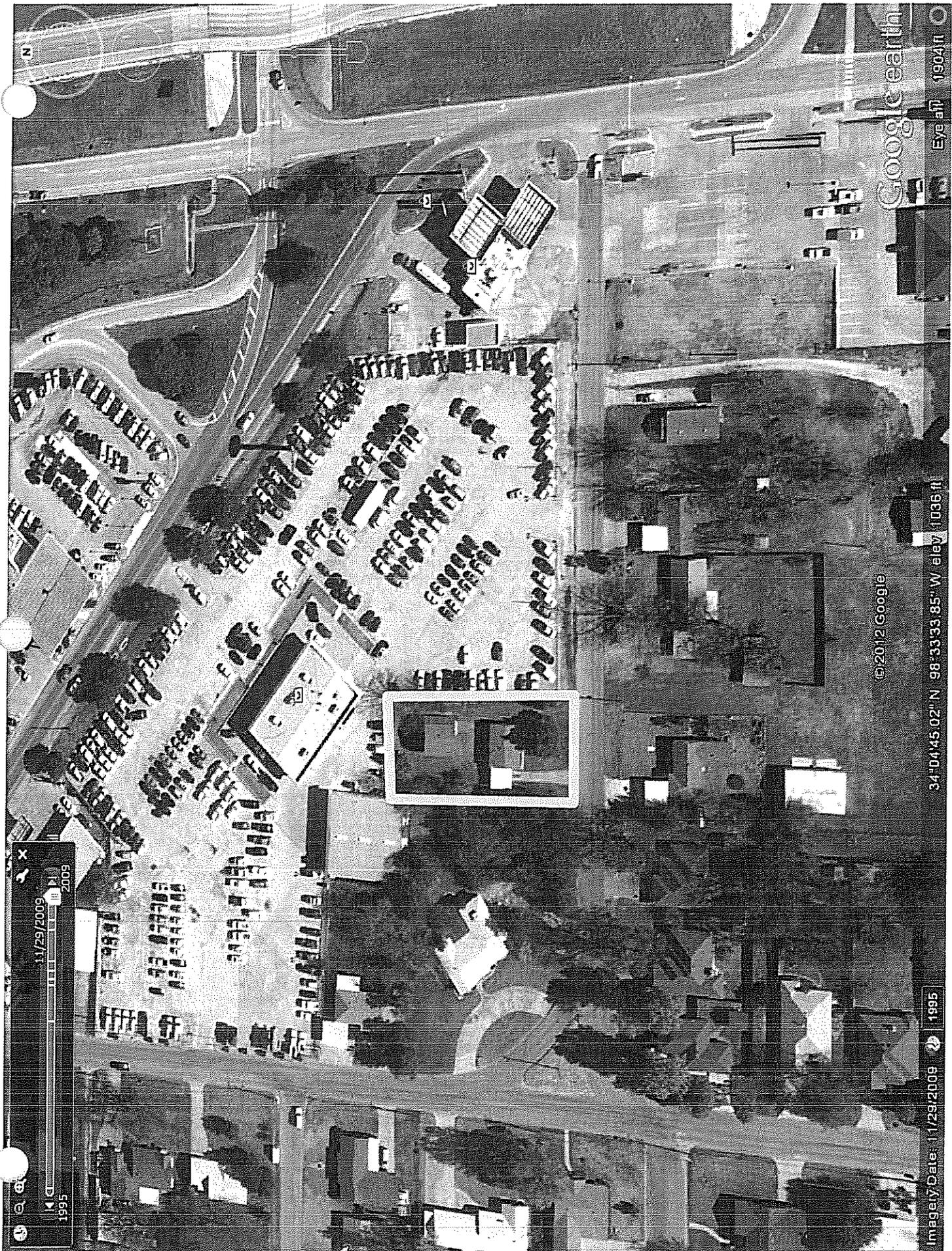
The Staff recommended approval.

### Attachments

Map of said property

### Planning and Zoning Commission

- The request was approved by a 4 to 1 vote



11/29/2009  
1995 2009

©2012 Google

Imagey Date: 11/29/2009 1995

34°04'45.02" N 98°33'33.85" W elev: 1036 ft

Google Earth Eye alt 1904 ft



## City Commission Agenda Memo

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

**Date:** May 21, 2012

**Item:** Discuss and take any action necessary on Resolution 527

### Background

On January 31, 2012 Atmos Energy Corporation, Mid-Tex Division, filed with Atmos Cities Steering Committee a request for a rate increase in excess of \$49 million. The City of Burkburnett is a member of the Atmos Cities Steering Committee (ACSC). On February 20, 2012 the City Commission approved Resolution 521 which suspended the effective date of the proposed rate increase to allow the ACSC attorneys and consultants time to study the proposed rate increase. The ACSC representatives have met with Atmos and attempted to negotiate a settlement but no settlement has been reached at this time and the deadline for any negotiations is June 11, 2012. The ACSC has requested that member cities pass a resolution denying the requested rate increase. The denial resolution will prevent the requested rate increase from automatically taking effect on June 11, 2012. Atmos is in agreement with this recommendation since it will provide more time for negotiations between Atmos and the ACSC.

### Fiscal Impact

N/A.

### Options

- Approve Resolution 527
- Take no Action

### Staff Recommendation

Staff recommends that the Commission approve Resolution 527

### Attachments

- Resolution 527
- Background memo from ACSC attorney

**RESOLUTION NUMBER 527**

**RESOLUTION OF THE CITY OF BURKBURKNETT  
DENYING ATMOS ENERGY CORP., MID-TEX  
DIVISION'S ("ATMOS MID-TEX") REQUESTED RATE  
CHANGE; REQUIRING THE COMPANY TO REIMBURSE  
THE CITY'S REASONABLE RATEMAKING EXPENSES;  
FINDING THAT THE MEETING AT WHICH THIS  
RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS  
REQUIRED BY LAW; REQUIRING NOTICE OF THIS  
RESOLUTION TO THE COMPANY AND ACSC'S LEGAL  
COUNSEL**

WHEREAS, the City of Burkburnett, Texas ("City") is a gas utility customer of Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or "Company"), and is a regulatory authority under the Gas Utility Regulatory Act ("GURA") and under Chapter 104, §104.001 et seq. of GURA, has exclusive original jurisdiction over Atmos Mid-Tex's rates, operations, and services within the City; and

WHEREAS, the City is a member of the Atmos Cities Steering Committee ("ACSC"), a coalition of over 150 similarly situated cities served by the Company that have joined together to facilitate the review and response to natural gas issues affecting rates charged in the Atmos Mid-Tex Division; and

WHEREAS, pursuant to the terms of the agreement settling the Company's 2007 Statement of Intent to increase rates, ACSC and the Company worked collectively to develop a Rate Review Mechanism ("RRM") tariff that allows for an expedited rate review process controlled in a three-year experiment by ACSC as a substitute to the current GRIP process instituted by the Legislature; and

WHEREAS, ACSC and the Company agreed to extend the RRM process in reaching a settlement in 2010 on the third RRM filing; and

WHEREAS, in 2011, ACSC and the Company engaged in good faith negotiations regarding the continuation of the RRM process, but were unable to come to ultimate agreement; and

WHEREAS, on or about January 31, 2012, the Company filed a Statement of Intent with the cities retaining original jurisdiction within its Mid-Tex service division to increase rates by approximately \$49 million; and

WHEREAS, Atmos Mid-Tex proposed March 6, 2012, as the effective date for its requested increase in rates; and

WHEREAS, the City suspended the effective date of Atmos Mid-Tex's proposed rate increase for the maximum period allowed by law and thus extended the City's jurisdiction until June 4, 2012; and

WHEREAS, on April 25, 2012, the Company extended the effective date for its proposed rates by one week, which similarly extended the City's jurisdiction until June 11, 2012; and

WHEREAS, the ACSC Executive Committee hired and directed legal counsel and consultants to prepare a common response to the Company's requested rate increase and to negotiate with the Company and direct any necessary litigation; and

WHEREAS, ACSC's consultants conducted a review of the Company's requested rate increase and found justification that the Company's rates should be decreased; and

WHEREAS, ACSC and the Company have engaged in settlement discussions but will be unable according to Company representations to reach settlement in sufficient time for cities to act before June 11, 2012; and

WHEREAS, failure by ACSC members to take action before June 11, 2012 would allow the Company the right to impose its full request on residents of said ACSC members; and

WHEREAS, the ACSC Settlement Committee recommends denial of the Company's proposed rate increase in order to continue settlement discussions pending the Company's appeal of cities' denials to the Railroad Commission of Texas; and

WHEREAS, the GURA § 103.022 provides that costs incurred by cities in ratemaking activities are to be reimbursed by the regulated utility.

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

1. That the rates proposed by Atmos Mid-Tex to be recovered through its gas rates charged to customers located within the City limits, are hereby found to be unreasonable and shall be denied.
2. That the Company shall continue to charge its existing rates to customers within the City and that said existing rates are reasonable.
3. That the City's reasonable rate case expenses shall be reimbursed by the Company.
4. That it is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

5. A copy of this Resolution shall be sent to Atmos Mid-Tex, care of David Park, Vice President Rates & Regulatory Affairs, at Atmos Energy Corporation, Mid-Tex Division, 5420 LBJ Freeway, Suite 1862, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

PASSED AND APPROVED this 21<sup>st</sup> day of May, 2012.

---

Carl Law, Mayor

ATTEST:

---

Janelle Dolan, City Clerk

Mr. Gay's Direct Line: (512) 322-5875  
Email: ggay@lglawfirm.com

## MEMORANDUM

TO: Atmos Cities Steering Committee Members

FROM: Geoffrey M. Gay  
Georgia Crump  
Eileen McPhee

DATE: April 30, 2012

RE: Denial Resolution For Atmos Mid-Tex's Requested Rate Increase

### Background on Atmos Mid-Tex Rate Case

On January 31, 2012, Atmos Energy Corporation, Mid-Tex Division ("Atmos Mid-Tex" or "Company") filed with Atmos Cities Steering Committee ("ACSC") city members that exercise original jurisdiction a request for a rate increase in excess of \$49 million. ACSC members passed resolutions suspending the effective date of the proposed increase to allow ACSC attorneys and consultants to study the request. A summary of the consultants' findings is attached as Exhibit A. The ACSC Settlement Committee has met with Company officials to negotiate a settlement. While ACSC has given the Company a settlement offer, Atmos Mid-Tex does not want to provide a written offer before the expiration of city jurisdiction on June 11, 2012.

### Timing of City Action

ACSC members with original jurisdiction suspended the proposed effective date of March 6, 2012, extending city jurisdiction until June 4, 2012. On April 25, 2012, the Company extended its effective date by a week, which similarly extended the June 4, 2012 deadline to June 11, 2012. It does not appear that settlement could be achieved within a time frame that would allow the City to take action prior to June 11, 2012. Thus, ACSC members are encouraged to pass a denial resolution. Atmos Mid-Tex has promised to support the action which does not preclude a subsequent settlement. If settlement is achieved, ACSC will return to member cities with a request for approval of the settlement.

**Recommendation and Explanation of Denial Resolution**

The ACSC Settlement Committee recommends the ACSC cities pass resolutions denying Atmos Mid-Tex's proposed rate increase. The denial resolution will prevent the Company's proposed rate increase from automatically taking effect on June 11, 2012, and allow more time to engage in settlement discussions. Atmos will appeal your denial to the Railroad Commission which will trigger a 185-day time frame for action by the Commission. Settlement will hopefully occur before a hearing takes place. Please contact Geoffrey Gay if you have any questions or concerns.

## Exhibit A

### ACSC Consultants' Recommended Adjustments to Atmos Mid-Tex's 2012 Statement of Intent to Increase Rates<sup>1</sup>

Following a review of the Company's 2012 Statement of Intent, ACSC consultants found justification for an approximately \$77 million decrease to the Company's requested revenue, resulting in a \$23 million decrease to the current rates charged by Atmos Mid-Tex. ACSC consultants' recommendation for a rate decrease is based upon the following major components:<sup>2</sup>

- Lowering the Company's return on equity from 10.9% to 9.5%, resulting in a revenue requirement decrease of over \$30 million
- Removing the Company's improper post-test year adjustment to add plant from January to March 2012, resulting in a revenue requirement decrease of approximately \$5 million
- Removing the Company's proposal for an energy efficiency plan to be funded only by ratepayers, resulting in a revenue requirement decrease of over \$1 million
- Various adjustments to accumulated deferred income tax, resulting in a revenue requirement decrease of approximately \$10 million
- Recognizing new depreciation rates as filed by the Company (without adjustment by ACSC consultants), resulting in a revenue requirement decrease of approximately \$15 million
- Various adjustments to the Company's requested level of operating and maintenance (O&M) expense, resulting in a revenue requirement decrease of over \$8 million
- Reducing rate base to account for ratepayer supplied funds relating to other post-employment benefits (FASB 106), resulting in a revenue requirement decrease of over \$8 million
- Cap residential customer charge at \$9.00, instead of Atmos' requested \$18.00.

---

<sup>1</sup> All figures are adjustments resulting in a revenue requirement impact to Atmos' filed case system-wide. Factoring out Dallas, the ACSC cities would see slight decreases in the numbers listed above.

<sup>2</sup> Please note that the adjustments listed are on a stand-alone basis, and may have a different impact when combined with the other adjustments.



## City Commission Agenda Memo

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

**Date:** May 21, 2012

**Item:** Discuss and take any action necessary on appointments to Planning and Zoning Commission

### Background

The terms of Planning and Zoning Commissioners Larry Ford and Frank Andrajack have expired. According to the Zoning Ordinance, Planning and Zoning Commissioners shall be nominated by the Mayor and must be approved by a simple majority of the Board of Commissioners. Terms shall be for 3 years. Bob Franklin and Tim Cornelius have been nominated to fill the vacant positions. Both Mr. Franklin and Mr. Cornelius have indicated they would be willing to serve.

### Fiscal Impact

N/A

### Options

- Approve nominations
- Make alternate recommendations

### Staff Recommendation

Staff has no specific recommendation

### Attachments

N/A



## City Commission Agenda Memo

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

**Date:** May 21, 2012

**Item:** Discuss and take any action necessary on Resolution 529

### Background

On May 8 2012 the Burkburnett Development Corporation (BDC) recommended entering into an economic incentive agreement with Beltech Global/Gary Belvin. The proposed agreement would provide Beltech Global a loan in the amount of \$5,000 for the creation of jobs in Burkburnett. If during the first year, Beltech Global maintains two or more jobs, then Beltech Global shall be entitled to a credit of \$2,500. If during the second year, Beltech Global maintains two or more jobs, then Beltech Global shall be entitled to another \$2,500 credit. If Beltech Global does not meet the terms of the agreement, the principal amount shall be due and payable at the expiration of twenty-four months: at which time the entire balance of principal shall become immediately due and payable. Resolution 529 will require two readings. This would constitute the first reading.

### Fiscal Impact

The incentive agreement will be funded by the BDC

### Options

- Approve Resolution
- Deny Resolution
- Make recommendations on modifications to proposed economic incentive agreement
- Take no Action

### Staff Recommendation

Staff recommends approval of Resolution 529

### Attachments

Resolution Number 529

**RESOLUTION NUMBER 529**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS AUTHORIZING AN ECONOMIC INCENTIVE AGREEMENT BETWEEN THE BURKBURNETT DEVELOPMENT CORPORATION AND BELTECH GLOBAL/GARY BELVIN OF BURKBURNETT PROVIDING FOR ECONOMIC INCENTIVES IN RETURN FOR THE EXPANSION AND RETENTION OF BUSINESS ENTERPRISES WITHIN BURKBURNETT, TEXAS.**

**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 entering into an agreement with Beltech Global/Gary Belvin of Burkburnett wherein the BDC will provide Beltech Global of Burkburnett with an economic incentives package totaling \$5,000.00 in return for the expansion of business within Burkburnett, Texas; and

**WHEREAS**, this resolution has been given two readings before the Board of Commissioners: one on May 21, 2012 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** that the BDC is hereby authorized to enter into *an agreement* with Beltech Global and Gary Belvin (Maker) of Burkburnett to provide \$5,000.00 in economic incentives for the expansion of business enterprise within the Burkburnett. The agreement would provide a loan in the amount of \$5000.00 in incentives for the creation of jobs within our community. During the initial annual period if, Beltech Global shall maintain two or more jobs (inclusive of the Maker), then the Beltech Global shall be entitled to a credit of \$2500.00. During the second annual period, if Beltech Global shall maintain two or more jobs (inclusive of Maker), then Beltech Global shall be entitled to another \$2500.00 credit. If the Maker defaults on the performance agreement, the principal amount shall be due and payable at the expiration of twenty-four months: at which time the entire balance of principal shall become immediately due and payable.

**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 May 21, 2012.

**APPROVED** on this \_\_\_\_<sup>th</sup> day \_\_\_\_\_, 2012, Second and Final Reading.

---

Carl Law, Mayor

---

Janelle Dolan, City Clerk



## City Commission Agenda Memo

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

**Date:** May 21, 2012

**Item:** Discuss and take any action necessary on Resolution 530

### Background

On May 8 2012 the Burkburnett Development Corporation (BDC) recommended entering into an economic incentive agreement with Burk Market. The proposed agreement would provide Burk Market with \$2,000 for each new full time position created in Burkburnett not to exceed \$30,000 over a two-year period which would begin one-year from the effective date of the agreement. Each new position must be in place for a period of not less than 12 months. The BDC would also agree to provide Burk Market with one-fifth of the sales tax generated by Burk Market each year for three consecutive years, not to exceed \$17,600 per year beginning one year from the effective date of the agreement. Burk Market will be required to provide sales tax reports to the BDC for review and approval. Resolution Number 530 will require two readings. This would constitute the first reading.

### Fiscal Impact

The incentive agreement will be funded by the BDC

### Options

- Approve Resolution
- Deny Resolution
- Make recommendations on modifications to proposed economic incentive agreement
- Take no Action

### Staff Recommendation

Staff recommends approval of Resolution 530

### Attachments

Resolution Number 530

**RESOLUTION NUMBER 530**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS AUTHORIZING AN ECONOMIC INCENTIVE AGREEMENT BETWEEN THE BURKBURNETT DEVELOPMENT CORPORATION AND BURK MARKET PROVIDING FOR THE PAYMENT OF ECONOMIC INCENTIVES IN RETURN FOR THE EXPANSION AND RETENTION OF BUSINESS AND ENTERPRISES WITHIN THE CITY BURKBURNETT, TEXAS.**

**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 entering into an agreement with Burk Market wherein the Burkburnett Development Corporation will provide Burk Market of Burkburnett \$2,000.00 for each new full time position created in Burkburnett not to exceed \$30,000.00 over a two-year period. The BDC has agreed to provide these economic incentives in return for the retention and expansion of business enterprises within Burkburnett, Texas; and

**WHEREAS**, the BDC would also agree to provide Burk Market of Burkburnett one-fifth of the sales tax generated for the benefit of the City of Burkburnett on an annual basis for three consecutive years not to exceed \$17,600.00 per year.

**WHEREAS**, this resolution has been given two readings before the Board of Commissioners: one on May 21, 2012 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** that the BDC is hereby authorized to enter into *an agreement* with Burk Market to provide Burk Market of Burkburnett \$2,000.00 for each new full time position created in Burkburnett not to exceed \$30,000.00 over a two-year period, beginning one year from the effective date of the agreement. The agreement will require that the new position must be in place for a period of not less than twelve months from the creation of the position. The agreement will also provide Burk Market of Burkburnett one-fifth of the sales tax generated for the benefit of the City of Burkburnett on an annual basis for three consecutive years not to exceed \$17,600.00 per year, beginning one year from the effective date of the agreement. The agreement will require that Burk Market provide the sales tax reports to the BDC Board for review and approval.

**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 May 21, 2012.

**APPROVED** on this \_\_\_\_<sup>th</sup> day \_\_\_\_\_, 2012, Second and Final Reading.

---

Carl Law, Mayor

---

Janelle Dolan, City Clerk



## City Commission Agenda Memo

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

**Date:** May 21, 2012

**Item:** Discuss and take any action necessary on Kramer and Heritage intersection regarding pedestrian crossing and speed limits.

### Background

Commissioner Brewster has requested to discuss with the City Commission some concerns about the Kramer and Heritage intersection. Two concerns he has brought forward include the safety of pedestrians and bicycles crossing Kramer at this intersection and the speed limit on Kramer in this vicinity. Currently there is no marked pedestrian crossing at Kramer and Heritage and the speed limit on Kramer is 35 mph. The alteration of the existing speed limit or the placement of a pedestrian crossing would need to be studied to ensure compliance with applicable ordinances, laws, and the Texas Manual on Uniform Traffic Control Devices.

### Fiscal Impact

There will be cost associated with the installation of new traffic control devices but since alternatives have not been developed at this time, no cost estimates has been established.

### Options

- Direct staff to study the concerns at Kramer and Heritage and bring back recommendations to City Commission
- Take no Action

### Staff Recommendation

Staff recommends that the intersection be studied.

### Attachments

N/A



## City Commission Agenda Memo

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

**Date:** May 21, 2012

**Item:** Discuss and take any action necessary on Community Involvement Programs.

### Background

Several ideas have been brought forward by Commissioners about various Community Involvement Programs. All municipal governments strive to equally represent the citizens within the respective community. One trend in municipal government is to create Community Involvement Programs to increase open communications with citizens. The benefits of Community Involvement Programs can include: achieving greater buy-in from residents on decisions, building trust between the government and citizens, developing better and more creative solutions to citizen concerns, implementing policies and programs faster and easier, developing informed and cooperative citizen partners, and establishing credibility with residents. There are many different Community Involvement Programs that have been used by municipalities. Each program is tailored to address the needs in each community. A few examples of programs that have been used by other municipalities include:

- Town Hall meetings
- Mayor's round table discussions
- Citizen academies
- Citizen surveys
- Social Media
- Advisory Boards
- Volunteer Programs

This is not an all-inclusive list but rather a few of the methods that have been used by other municipalities. The establishment of any new Community Involvement Program will require some time to define the process, procedures, and goals.

### Fiscal Impact

The establishment of any Community Involvement Program will have a financial impact through materials and labor costs. The extent of any financial impact cannot be estimated until a specific program is evaluated.

**Options**

- Direct staff to begin work on specific programs
- Specify process for future discussions and/or workshops
- Defer further action until budget workshops
- Take no Action

**Staff Recommendation**

Staff has no specific recommendation

**Attachments**

N/A