

## ***MINUTES***

### ***BOARD OF COMMISSIONERS***

The Board of Commissioners of the City of Burkburnett, Texas met in a regular meeting on Monday, December 21, 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
Marguerite Love	Commissioner
Mike Tugman	Commissioner

Commissioner Don Hardy was not present.

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

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

Item 2. Invocation was given by Commissioner Tugman.

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

Item 4. Consent Agenda.

A. Approval of Minutes from November 16, 2015.

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

Item 5. Resolution Number 598 was presented in its entirety. A resolution of gratitude for Morgan Perron.

Motion was made by Commissioner Tugman, seconded by Commissioner Brewster to approve Resolution Number 598 as presented. Motion carried unanimously.

Item 6. Resolution Number 599 was presented in its entirety. A resolution of gratitude for Trace Davis and Morgan Perron.

Motion was made by Commissioner Tugman, seconded by Commissioner Brewster to approve Resolution Number 599 as presented. Motion carried unanimously.

Item 7. Mike Whaley, City Manager, addressed the Mayor and Commissioners and stated per the terms in the lease agreement for River Creek Golf Course, Scott Anderson is exercising his right to request a one year extension to the current lease agreement. Currently the lease agreement would end on December 31, 2016. This extension would effectively extend the lease through December 31, 2017. All other matters within the lease agreement will remain the same.

Motion was made by Commissioner Tugman, seconded by Commissioner Lindenborn to approve the one year extension to the current lease agreement for River Creek Golf Course. Motion carried unanimously.

Item 8. Ordinance Number 893 was presented. Caption of same being:

AN ORDINANCE PROVIDING FOR INCREASED PRIOR AND CURRENT SERVICE ANNUITIES UNDER THE ACT GOVERNING THE TEXAS MUNICIPAL RETIREMENT SYSTEM FOR RETIREES AND BENEFICIARIES OF DECEASED RETIREES OF THE CITY OF BURKBURNETT, AND ESTABLISHING AN EFFECTIVE DATE FOR THE ORDINANCE.

Mr. Whaley addressed the Mayor and Commissioners and stated a retiree requested the City consider a COLA increase in the retiree benefit. The last increase went into effect in 2008 and was a 70% Ad Hoc or a one-time increase to the retiree benefit. We have a total of 43 retirees. I have calculated a 30%, 50%, & 70% Ad Hoc increase. This table reflects the financial impact:

30% - \$4,703 increase in cost to City, 19 retirees will see an avg. mo. increase of \$25.52  
50% - \$18,719 increase in cost to City, 41 retirees will see an avg. mo. increase of \$51.48  
70% - \$40,941 increase in cost to City, 42 retirees will see an avg. mo. increase of \$116.57

No motion was made.

Item 9. Ed Stahr, Police Chief, addressed the Mayor and Commissioners and stated the Emergency Medical Service Advisory Board is an advisory board to ensure a quality EMS program by monitoring the personnel, vehicles, financial information and service level of the joint Ambulance Services Contract between the cities of Wichita Falls, Burkburnett, Iowa Park and Wichita County. It also reviews citizen complaints. Dan King has been jointly appointed to serve on this board by the City of Burkburnett and the City of Iowa Park. Mr. King's term is ending December 21, 2015. The City of Iowa Park will reappoint Mr. King at their December 14, 2015 meeting.

Motion was made by Commissioner Brewster, seconded by Commissioner Tugman to reappoint Dan King to the Emergency Medical Service Advisory Board. Motion carried unanimously.

Item 10. Resolution Number 596 was presented in its entirety. A resolution declaring support for the River Terrace Senior Apartments. Gary Robinett, Economic Development Director, addressed the Mayor and Commissioners and stated JES Development Company has applied to the TDHCA for 2016 Housing Tax Credits to build a 50 unit affordable senior housing rental project, to be known as “River Terrace Senior Apartments.” The approximate cost for development of the project is between \$7 and \$7.5 million dollars. Mr. Robinett reported JES Development Company has entered into a contract with Burkburnett Development Corporation to purchase 5.459 acres on Sheppard Road (ABST 322 WINTERS), located between the Red River Inn and Twilite Inn. Purchase price for the property was set at \$150,000, and sale is contingent upon JES Development Company receiving the TDHCA 2016 Housing Tax Credits. The resolution of support will help with the scoring for the TDHCA Housing Credits.

The following addressed the Mayor and Commissioners:

Mark Feaster, JES Development Company

Motion was made by Commissioner Brewster, seconded by Commissioner Ducos to approve Resolution number 596 as presented. Motion carried unanimously.

Item 11. Resolution Number 597 was presented in its entirety. A resolution authorizing the filing of a grant application with the Nortex Regional Planning Commission for a regional solid waste grants program grant. Gordon Smith, Director of Public Works, addressed the Mayor and Commissioners and stated this resolution is for fiscal year 2016/2017 of the solid waste grant program which is administered by NORTEX Regional Planning Commission. This resolution is necessary to allow the City to participate in the grant program. The City is requesting \$12,000.00 to assist in the removal of a dilapidated structure located at 122 W 1<sup>st</sup>. The grant allows Cities to utilize the grant funds to demolish any structure deemed dilapidated on property stricken off to the City and the clean-up of that property.

Motion was made by Commissioner Lindenborn, seconded by Commissioner Ducos to approve Resolution Number 597 as presented. Motion carried unanimously.

Item 12. Ordinance Number 890 was presented in its entirety. 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 USE OF RESTRICTED FIREWORKS WITHIN CITY LIMITS; ALLOWING THE SALE OF FIREWORKS WITHIN CITY LIMITS; PROVIDING A SEVERABILITY CLAUSE REPEALING CONFLICTING ORDINANCES; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Mr. Whaley addressed the Mayor and Commissioners and stated Senate Bill 1593 was passed altering 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. 217.042 of the Local Government Code was changed so that home rule cities can no longer regulate fireworks under the nuisance provision of that chapter. Our ordinance currently restricts the sale of fireworks within 5,000 feet of the city limits. This amendment omits that language from the ordinance and aligns the City with the new legislation that has been passed. Secondly, at our previous meeting, the Board of Commissioners discussed the possibility of allowing fireworks sales within the City Limits. This ordinance allows sales with certain additional requirements: 1) signage requirements stating the use of fireworks inside City limits are prohibited 2) time requirements for set up of site and teardown of site once season is over.

The following addressed the Mayor and Commissioners:

David Munsey, 931 Schmoker Rd.  
Thomas Watson, 209 S. Ave B Lot 21  
Ed Stahr, Police Chief  
Rod Ryalls, Fire Chief

Motion was made by Commissioner Tugman, seconded by Commissioner Brewster to approve Ordinance Number 890 as presented.

Ayes: Mayor Law; Commissioners Brewster, Ducos, Tugman

Nays: Commissioners Lindenborn and Love

Motion carried.

Item 13. Mayor Law closed the regular meeting at 7:35 p.m. and opened the “Public Hearing” for the following Planning & Zoning Commission Cases:

A. Amend Section 27.11 (page 90) of Zoning Ordinance #589 as follows:

Add Fireworks Sales to use chart (COMMERCIAL USES). Add “S” to the use chart to allow Fireworks Sales by Specific Use Provision in commercial business districts and industrial districts.

B. Case #2015-24, Specific Use Provision for 936 Cropper Rd. R, to allow for a Wrecker Service Impound Yard.

C. Case#2015-25, Specific Use Provision for 208 S. Red River Expressway vacant lot frontage, to allow for the seasonal business of Firework Sales.

Mr. Smith addressed the Mayor and Commissioners regarding amending the Zoning Ordinance. He stated that David Munsey, Owner of Rebel Fireworks LLC. presented a request to add Fireworks Sales to the zoning ordinance. Public notices were submitted as required by the Zoning Ordinance. Mr. Smith stated on December 7, 2015 the Planning

and Zoning Board met and staff presented the information for review and a recommendation to City Commissioners. Mr. Munsey was in attendance and presented additional information. The Planning and Zoning Board discussed the case and considered the overall evaluation of the request. The Planning and Zoning Board voted unanimously to recommend approval to the Board of Commissioners to: Add Fireworks Sales to use chart (Commercial Uses). Add "S" to the use chart to allow Fireworks Sales by Specific Use Provision in commercial business and industrial districts.

Case #2015-24 - Mr. Smith addressed the Mayor and Commissioners and stated a specific use application was presented by Mr. Daniel Hill lessee of the property located at 936 Cropper Rd. R. The applicant is requesting a Certificate of Occupancy to conduct the daily business of a Wrecker Service Impound Yard. The owner of the property is Dude Smith, who was contacted and verified he was aware of the request and it was authorized. Public notices as required by the Zoning Ordinance were sent to the proposed district and all properties 200 feet adjacent to the proposed district. On December 7, 2015 the Planning and Zoning Board met and staff presented the information for review and requested a recommendation to City Commissioners. Mr. Hill was in attendance and presented additional information. The Board discussed the case and considered the overall evaluation of the request. The Board expressed concerns over the impound yard turning into a salvage yard. Staff assured the Planning & Zoning Board that with the specific use provision if any changes in use occur, staff will immediately issue a notice to cease any unauthorized use. Mr. Hill informed the Planning & Zoning Board that it was not his intent to keep the cars impounded, but as soon as vehicles could be released to auction he would move them out. Some would be moved out within a week and the most a vehicle would stay was 90 days. The Planning & Zoning Board voted unanimously to recommend to the Board of Commissioners approval of the specific use request.

Case #2015-25 – Mr. Smith addressed the Mayor and Commissioners and stated David Munsey, Owner of Rebel Fireworks LLC. presented an application request for a Specific Use Provision (SUP) to place an enclosed trailer on a seasonal basis at 208 S. Red River Expressway Burkburnett Texas (Vacant Lot directly in front of Subway fronting the service road) . The property is zoned Commercial Business and a Specific Use Provision is required for Fireworks Sales. The enclosed trailer is 8 feet x 18 feet and will be located on the property per the proposed site plan on a seasonal basis. The owner of the property is Mike Shallenberger and he has signed approval of the application. Public notices were submitted as required by the Zoning Ordinance. On December 7, 2015 the Planning and Zoning Board met and staff presented the information for review and a recommendation to City Commissioners. Mr. Munsey was in attendance and presented additional information on how the business would be a seasonal business and the enclosed trailer would be removed after each sale season. The Board discussed the case and considered the overall evaluation of the request. The Planning & Zoning Board voted unanimously to recommend to the Board of Commissioners approval of the specific use request.

Item 14. Mayor Law closed the “Public Hearing” at 7:13 p.m. and reopened the regular meeting to take action on the Planning & Zoning Commission Cases:

A. Amend Section 27.11 (page 90) of Zoning Ordinance #589 as follows:

Add Fireworks Sales to use chart (COMMERCIAL USES). Add “S” to the use chart to allow Fireworks Sales by Specific Use Provision in commercial business districts and industrial districts.

B. Case #2015-24, Specific Use Provision for 936 Cropper Rd. R, to allow for a Wrecker Service Impound Yard.

C. Case#2015-25, Specific Use Provision for 208 S. Red River Expressway vacant lot frontage, to allow for the seasonal business of Firework Sales.

Motion was made by Commissioner Tugman, seconded by Commissioner Brewster to approve adding Fireworks Sales to use chart (Commercial Uses) and adding “S” to the use chart to allow Fireworks Sales by Specific Use Provision in commercial business and industrial districts.

Ayes: Mayor Law; Commissioners Brewster, Ducos, Tugman

Nays: Commissioners Lindenborn and Love

Motion carried.

Case #2015-24 Motion was made by Commissioner Love, seconded by Commissioner Lindenborn to approve the Specific Use Provision for 936 Cropper Rd. R, to allow for a Wrecker Service Impound Yard.

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

Nays: Commissioner Tugman

Motion carried.

Case#2015-25 Motion was made by Commissioner Brewster, seconded by Commissioner Ducos to approve the Specific Use Provision for 208 S. Red River Expressway vacant lot frontage, to allow for the seasonal business of Firework Sales.

Ayes: Mayor Law; Commissioners Brewster, Ducos, Tugman

Nays: Commissioners Lindenborn and Love

Motion carried.

Item 15. Ordinance Number 894 was presented in its entirety. Caption of same being:

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS AMENDING ZONING ORDINANCE NUMBER 589, SECTION 27.11 (PAGE 90), BY ADDING FIREWORK SALES TO USE CHART

(COMMERCIAL USES); ADDING “S” TO THE USE CHART TO ALLOW FIREWORK SALES BY SPECIFIC USE PROVISION IN COMMERCIAL BUSINESS DISTRICTS AND INDUSTRIAL DISTRICTS; ADDING “S” TO THE USE CHART TO ALLOW A FIREWORKS SALES BY SPECIFIC USE PROVISION IN COMMERCIAL BUSINESS DISTRICTS; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

Mr. Whaley addressed the Mayor and Commissioners and stated this ordinance is required by the Zoning Ordinance in order to finalize the decision to amend the Zoning Ordinance by adding the sale of fireworks to the use charts.

Motion was made by Commissioner Brewster, seconded by Commissioner Tugman to approve Ordinance Number 894 as presented.

Ayes: Mayor Law; Commissioners Brewster, Ducos, Tugman

Nays: Commissioners Lindenborn and Love

Motion carried.

The Mayor allowed those that had signed up to speak on Item 16 to do so before the Board of Commissioners convened into Executive Session.

The following addressed the Mayor and Commissioners:

Jonny Zellner, 1011 Jewel

Item 16. Mayor Law closed the meeting at 7:54 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 551.074-Personnel matters:

a. Discussion and take any action necessary regarding the salaries and potential raises for the following employees:

1. Amanda Angle
2. Daniel Elbaum
3. Roy Mullens
4. Michael Ikeler
5. Blake Deeb
6. Matthew McDonald
7. Keenan Stubblefield
8. Donnie Osborn
9. Liberty Billingsley
10. Jonathan Zellner
11. Jeffery KRC

12. Steven Barnes
13. Eric Holt
14. Royce Challis
15. Zachary Leonard
16. Juan Gonzales
17. Donald Morgan
18. Lahoma Vaughn
19. Eddie Stahr

Item 17. Mayor Law reconvened the regular meeting at 8:39 p.m. Motion was made by Commissioner Tugman, seconded by Commissioner Brewster to give the City Manager the authority to amend the budget to provide additional compensation of up to \$70,000 based on his discretion to be effective January 1, 2016. Motion carried unanimously.

Item 18. There were no public comments.

Item 19. Mr. Whaley reviewed the following dates:

- Christmas Holiday- City Hall closed December 25<sup>th</sup>
- Tracy Cissell Retirement – December 31<sup>st</sup> , 2:30 pm, Courtroom, Police Department
- New Year’s Eve – City Hall closed January 1<sup>st</sup>

Item 20. No Commissioner comments.

Item 21. Motion was made by Commissioner Lindenborn, seconded by Commissioner Ducos to adjourn. Motion carried unanimously.

Carl Law, Mayor

**ATTEST:**

Janelle Dolan, City Clerk