

## ***MINUTES***

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

The Board of Commissioners of the City of Burkburnett, Texas met in a regular called meeting on Monday, July 19, 2010 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 Meeting Act. The following Commissioners were present:

Carl Law	Mayor
Charlene Lewis	Mayor Pro-Tem
Bill Lindenborn	Commissioner
Ted Kwas	Commissioner
Josh Andrajack	Commissioner
Chase Thronton	Commissioner
Raymond Holland	Commissioner

Other's present: Mike Slye, City Manager; Trish Holley, City Clerk; Mike Whaley, Director of Public Works; Don Ives, Director of Administration/Comptroller; Mike Tracy, Police Chief; Jay Cantrell, City Attorney; Lou Franklin and Susan Morris, Wichita Falls-Wichita County Public Health District; Dennis Merrill and Dennis John, Veolia, Inc. and Kelly Bolen, Executive Director-Burkburnett Development Corporation.

Other's present: Larry Russell, W.L. McGuire, Glen Hutchinson, Ron Clarke, Clay Gahagan, Brad Garrett, Kathy Patterson, Paula Smith, Zac & Ash Leonard, Warren Fretz, Eddie Viavattene, Bob & Gillis Carroll, Chip Smith, Don McKinnis, Mike Tugman, Kathleen McMurray, Doug Cheney, Stuart Tunnell, Marguerite & Jason Love, Jack Baber, Yvette Thornton, Curtis Salyer, Larry & Sharon Bankhead, Lee & Fran Potts, Brooks & Susie Hill, Jr., Brian Frances, Billy Ray Mize, Michael Bunton, Darren Broadus, Jason Jones, David & Teri Pickrel, Bill & Lynn Elder, James W. Phillips, Sr., Bob & Deanna Franklin, Sharron Cox, Stuart King, Susan Disney, Arnie & Nancy Wells, Cindy Guinn, Robert Farmer, Carl Alfert, Rod Ryalls, Debbie & Lee Harvey, Sr., Jack McMullen, W. L. Bunton, Mark Jackson, Bill & Janice Vincent, Flora Holland, Steve Schelter, Jim Kincaid, Helen Hudson, Larry Hudson, Mike Crowley and others that wasn't legible.

Mike Monghan representing Burkburnett Informer Star was present.

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

Item 2. Invocation was given by Pastor Don Pellikan, First United Methodist Church.

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

Item 4. Consent Agenda.

- A. Approval of minutes from June 9<sup>th</sup>, June 21<sup>st</sup> workshop session and June 21, 2010 regular meeting.

Motion was made by Commissioner Lewis, seconded by Commissioner Kwas to approve Consent Agenda Item 4A. Motion carried unanimously.

Item 5. Motion was made by Commissioner Andrajack, seconded by Commissioner Thornton to approve transferring the Housing Choice Voucher Program (Section 8 Housing) to the Burkburnett Housing Authority. Motion carried unanimously.

Item 6. Motion was made by Commissioner Kwas to approve a 12-month extension to the Veolia, Inc. Wastewater Treatment Plant operations contract, seconded by Commissioner Lindenborn. Motion carried unanimously.

Item 7. Ordinance Number 782 was presented in its entirety. Caption of same being:

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS ESTABLISHING REGULATIONS GOVERNING THE OPERATION OF LODGING ESTABLISHMENTS IN BURKBURNETT; PROVIDING FOR SEVERABILITY, FINDING THAT THIS ORDINANCE WAS ADOPTED AT AN OPEN MEETING AND FOR AN EFFECTIVE DATE.

Lou Franklin, Wichita Falls-Wichita County Public Health District Director addressed the Mayor and Commissioners. Ms. Franklin asked the Commissioners to reconsider the ordinance. Ms. Franklin stated the reason for the ordinance is to maintain health and security in the Wichita County hotels/motels. After numerous complaints after the Hotter Hell event, the health district created the lodging ordinance in order to inspect the hotels/motels, not to create another revenue source. The health district fees for the inspections are to simply cover their expenses of going collecting samples then having the samples tested. The ordinance is to protect the citizens and visitors to your city.

Jack McMullen, 1202 E. 3<sup>rd</sup> Street spoke against the ordinance. Mr. McMullen stated he has to comply with KOA standards as other major hotels do and does not see the need to pay extra fees for this service.

Motion was made by Commissioner Lewis to approve the ordinance with the following: Correction to Section §117.05 Inspections (E) to read if a lodging establishment receives a numerical score of 69 or below and that they fees for inspections will not start until January 1, 2011. The motion was seconded by Commissioner Andrajack.

Ayes: Mayor Law, Commissioners Lewis, Andrajack, Lindenborn, Kwas and Thornton

Nays: Commissioner Holland  
Abstained: none

Motion carried.

Item 8. Motion was made by Commissioner Holland, seconded by Commissioner Thornton to approve an agreement with the American Red Cross to provide the use of the Burkburnett Community Center as a shelter site. Motion carried unanimously.

Item 9. Ordinance Number 783 was presented in its entirety. Caption of same being

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS ESTABLISHING CHILD SAFETY AREAS; MAKING IT UNLAWFUL FOR CERTAIN SEXUAL OFFENDERS TO RESIDE WITHIN 1,000 FEET OF CHILD SAFETY AREAS OR TO LOITER WITHIN A CHILD SAFETY AREA OR ON PUBLIC WAYS WITHIN 300 FEET OF CHILD SAFETY AREAS; PROHIBITING CERTAIN SEX OFFENDERS FROM INVITING CHILDREN TO TRICK OR TREAT; ESTABLISHING RESTRICTIONS ON THE RENTAL OF PROPERTY TO BE OCCUPIED BY CERTAIN SEX OFFENDERS AND A DUTY TO ADVISE PERSONS RENTING PROPERTY IF CERTAIN SEX OFFENDERS WILL OCCUPY THE PREMISES; PROVIDING EVIDENTIARY RULES FOR THE ADMINISTRATION OF THESE REGULATIONS; PROVIDING EXCEPTIONS TO THESE REGULATIONS; ESTABLISHING AN OFFENSE AND PENALTIES FOR VIOLATIONS OF THE ORDINANCE; PROVIDING FOR SEVERABILITY, FINDING THAT THIS ORDINANCE WAS ADOPTED AT AN OPEN MEETING AND ESTABLISHING AN EFFECTIVE DATE.

Motion was made by Commissioner Thornton, seconded by Commissioner Holland to approve Ordinance Number 783 with amending Section 100.07 Exceptions B(1) to include the word knowingly to the following sentence beginning with-“such residence may not **knowingly** be re-rented or re-let to a Sex Offender or to any person intending to allow a Sex Offender to occupy the residence and the regulations established by this chapter shall apply”. Motion carried unanimously.

Item 10. Motion was made by Commissioner Thornton, seconded by Commissioner Kwas to approve the proposed legal services Request for Proposal for City Attorney. Motion carried unanimously.

Item 11. Resolution Number 486 was presented in its entirety. A resolution designating signatures for all City of Burkburnett checking accounts.

Motion was made by Commissioner Thornton, seconded by Commissioner Holland to approve Resolution Number 486 designating the following authorized to sign City of Burkburnett checking accounts: Mike Slye, City Manager; Trish

Holley, City Clerk; Don Ives, Director of Administration/Comptroller and Mayor of the City of Burkburnett. Motion carried unanimously.

Item 12. Motion was made by Commissioner Andrajack, seconded by Commissioner Lindenborn to authorize City Manager in proceeding in researching funding options for a proposed Tax Increment Finance Zone project.

Ayes: Mayor Law, Commissioners: Andrajack, Kwas, Lindenborn, Lewis  
Nays: Commissioners: Thornton, Holland  
Abstained: None

Motion carried.

Item 13. Motion was made by Commissioner Lindenborn, seconded by Commissioner Andrajack authorization allowing Mike Slye to run for re-election to serve on the Texas Municipal League Intergovernmental Employee Benefits Pool Members Board of Directors representing Region 5. Motion carried unanimously.

Item 14. Rod Ryalls, Fire Chief addressed the Mayor and Commissioners. Chief Ryalls presented two locations for potential Burkburnett Volunteer Fire Department Training Site.

Chief Ryalls stated the two locations are located on FM 369 and Kelly Street. After much consideration by the Fire Department it was determined the Kelly Street location would meet the needs they are requiring.

Burkburnett Police Officer Zac Leonard, Burkburnett addressed the Mayor and Commissioners. Mr. Leonard stated the training site would be beneficial to the fire department and to the police department.

Motion was made by Commissioner Holland, seconded by Commissioner Andrajack to approve the Kelly Street location for a multi-purpose city training site. Motion carried unanimously.

Item 15. Resolution Number 487 was presented in its entirety. A resolution authorizing the Burkburnett Development Corporation economic incentive agreement with the Red River Marketplace in the amount of \$30,000.00. 1<sup>st</sup> reading-no action to be taken.

Item 16. Resolution Number 488 was presented in its entirety. A resolution authorizing the Burkburnett Development Corporation economic incentive agreement with the Blacksox in the amount of \$20,000.00. 1<sup>st</sup> reading-no action to be taken.

Item 17. Commissioner Kwas requested Resolution Number 489. A resolution approving and supporting the City of Burkburnett's desire to return to the rule of law as determined by the Charter.

Commissioner Kwas stated he wants everyone to abide by the Charter as written for us to operate under, I don't agree with how it has been re-written, it was written as a statement at the beginning and should be carried out.

The Board had a lengthy discussion regarding the words "to return to the rule of law" and "and to abolish all things not authorized by such City Charter and restore all items not in place as required by such City Charter. City Clerk added (better described in Exhibit A as attached and changed the wording from City Council to Board of Commissioners as referred to in the City Charter).

After a lengthy discussion, it was determined to change the word *return* to *abide by* and to delete *and to abolish all items not authorized by such City Charter and restore all items not in place as required by such City Charter (better described in Exhibit A as attached) and the entire Section 2.*

City Clerk, Trish Holley read the entire Resolution as follows with changes:

#### **RESOLUTION NUMBER 489**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS APPROVING AND SUPPORTING THE CITY OF BURKBURNETT'S DESIRE TO ABIDE BY THE RULE OF THE LAW AS DETERMINED BY THE CITY CHARTER.**

**WHEREAS,** it is the desire of the Board of Commissioners of the City of Burkburnett, Texas to govern the City of Burkburnett strictly by the City Charter.

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

**SECTION 1.** That the Board of Commissioners of the City of Burkburnett, Texas desire to govern the City of Burkburnett strictly by the City Charter.

**PASSED AND APPROVED** on this 19<sup>th</sup> day of July, 2010.

Carl Law, Mayor

ATTEST:

Trish Holley, City Clerk

Lee Harvey, Sr. 1052 JanLee, Burkburnett spoke to the Board concerning the controversy of calling past Commissioners crooks and not abiding by the Charter.

Motion was made by Commissioner Kwas, seconded by Commissioner Andrajack to approve Resolution Number 489 as read and with the changes made.

Ayes: Commissioners: Kwas, Andrajack, Lewis, Holland, Thornton  
Nays: Mayor Law, Commissioner Lindenborn  
Abstained: None

Item 18. Resolution Number 490 was presented. Mayor Law read the resolution of gratitude to City Attorney Jay Cantrell. A blanket depicting the city flag was presented to Mr. Cantrell for his years of service to the City. Mr. Cantrell received a standing ovation.

Motion was made by Commissioner Andrajack, seconded by Commissioner Holland to approve Resolution Number 490 as presented. Motion carried unanimously.

Item 19. Review of monthly reports.

- A. Administration-Don Ives, Director of Administration/Comptroller briefly highlighted the financial and personnel reports.
- B. Public Works-Mike Whaley, Director of Public Works briefly informed the board on the HES project on Ameron/County, CBGB water line project, the potential Family Dollar store, NTS Broadband lines between Burkburnett and Wichita Falls.
- C. Public Safety-Mike Tracey, Chief of Police reported Scott Hogue had been promoted to Sergeant. Chief Ryalls reported Kelly Bob Carter is assistant Fire Chief and Rob Snyder has taken the Captain position.

Item 19. Personal Audience Comments to Commissioners/Comments on Agenda Items.

W. L. Bunton, 1585 Ratt Road, Wichita Falls, Texas addressed the Board stating there are illegal activities going on at City Hall.

Bill Elder, 1015 Mimosa, Burkburnett addressed the Board and reported on the Commissioners activities during Commissioners meetings and outside meetings.

Item 20. City Manager's report.

- A. Zoning Board of Adjustment Committee appointment process. Mr. Slye stated Judge Barney Fudge resigned his position with the ZBA Board. For those interested in applying for that Committee, a volunteer application is on the Burkburnett City website or you may pick one up at City Hall.
- B. Budget Workshop will be held on July 29<sup>th</sup> at Noon.

Item 21. Council comments.

Commissioner Thornton thanked everyone for coming, it's a packed room, every decision I make is accounted for in my mind, the best interest for the citizens, that being said, if I have a question, I will ask it and I think discussions are good, I think we can have a heated discussion, vote and afterwards move forward, the country has been ran this way for 300 years, I think heated discussions, getting everyone's perspective, I think everybody here takes the whole city's needs into consideration when decisions are made.

Commissioner Holland thanked everyone for coming and welcome aboard Mr. Ives; I hope you enjoy it as much as I do. Jay I hate to see you leave, we've spent a lot of time working together, I agree with Chase, he is right, we try to make the best decisions possible, that's why we were elected, we don't see eye to eye, but we all know each other well enough that I think we can get along, one thing I like, you can wander around the streets and people will tell you what they think and I hope we are doing what is right for the voters, that is why we were elected to try and make changes and get things straighten out, appreciate it.

Commissioner Lewis thanked everyone for coming, Mayor Vincent, I want to say how proud I was of you during that time and I'm proud of Mayor Law, I think he is doing an excellent job, Lee thank you, I think we can all agree to disagree and still serve. I think I've earned my \$9.23 cents at this meeting.

Commissioner Lindenborn stated it was good to be back after being absent for a month, thanks to everyone for their thoughts and prayers while off with surgery; I'm recuperating and getting stronger every day. I appreciate everyone being here, it's refreshing to see some new faces and hear new thoughts. I also want to recognize Mayors Vincent, Potts and Mize and Commissioners Elder, Franklin, Tugman and Wells for your service to the city and I look forward in getting the budget worked out, welcome to Don Ives and good luck to Jay Cantrell.

Commissioner Kwas stated it was good to see everyone taking an interest in the city affairs, I spent 8 years trying to get elected to this Commission, if I didn't have the needs and thoughts of the city and citizens in my mind, then there is no way I would have ran for this position, it's the citizens that I'm trying to take care of, to take care of your needs, there are a lot of hard decisions to make up here, if you don't like the way I'm doing my job, fine, you can recall me, that's up to you but in my mind people that were on the city council never really read the City Charter and found out what was going on and who was suppose to do what, I don't want to rub personalities but Mr. Elder, he didn't read the Charter, it says the Mayor is to be the CEO, we've had that disagreement since I've started running, but this is my thoughts, the previous Council & Mayors as a whole has done a pretty good job, I don't slight them for anything, you can't keep saying,

this is the way we've done it for years and let it ride at that, it doesn't cut it with me, it never has, change is inevitable, if you don't like change, pack your bags and get out of town, that's all I have to say.

Commissioner Andrajack thanked Jay Cantrell for his service to the City and Don welcome aboard, glad to have you as part of our city going into the future, we are excited to have you and I think you bring a strong background that will be beneficial to the future of the city, I'd like to thank everyone here tonight and I wish you a good evening, thank you for coming.

Mayor Law began by making an announcement that he was appointing Commissioner Lewis and Commissioner Andrajack to serve with him in reviewing the applications for City Attorney and then make the presentation to the entire City Council. The other comment was that although I voted against the resolution to support and abide by the Charter, I have since the day I sat down at this desk, have always attempted to abide by the City Charter, I took an oath that I would preserve, protect and defend the Constitution and laws of the United States and of this State, I think I've done that and I will continue to do that despite the fact that I voted against the Resolution that says we should abide by the Charter. I thank you all for coming; we have not decided to move to the Community Center due to audio problems but may have to eventually move. Thank you again for coming.

Item 22. Motion was made by Commissioner Holland, seconded by Commissioner Andrajack to adjourn. Motion carried unanimously.

Carl Law, Mayor

**ATTEST:**

Trish Holley, City Clerk