

## ***MINUTES***

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

The Board of Commissioners of the City of Burkburnett, Texas met in a regular meeting on Monday, September 17, 2018, 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
Josh Andrajack	Commissioner
Randy Brewster	Commissioner
Jeremy Duff	Commissioner
Don Hardy	Commissioner
Marguerite Love	Commissioner

Others present: Mike Whaley, City Manager; Trish Holley, Director of Administration; Lawrence Cutrone, Director of Public Works; Richard Gordon, Executive Director of Burkburnett Development Corporation/Director of Planning; Janelle Stahr, City Clerk; Ed Stahr, Police Chief; Mike Guevara and Barbara Quirk, with Shahan, Guevara, Decker and Arrott, Attorneys at Law.

Item 1. Mayor Law called the meeting to order.

Item 2. Invocation was given by Commissioner Lindenborn.

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

Item 4. Consent Agenda.

- A. Approval of Minutes from August 1, 2018 and August 17, 2018 Special Called Meeting/Workshops; and August 20, 2018 Regular Scheduled Meeting

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

Item 5. Mike Whaley, City Manager, addressed the Mayor and Commissioners and stated that in the August regular meeting concerning this agenda item, there was a motion to approve the request for funding of \$48,105 for the project. Then a motion was made to lay the pending motion on the table in order to have all Board of Commissioners present for the discussion and vote. Mr. Whaley stated the motion will need to be taken off the table.

Commissioner Andrajack wanted to confirm the following: Is the property owner willing to deed the property to the City; Are they agreeable to the City becoming responsible for the maintenance of the property; and Is the property owner agreeable to no longer utilize the Journey's End Cemetery as an active cemetery? Mr. Whaley stated that both the Journey's End Cemetery Committee and the Providence Baptist Church have communicated that they are willing to transfer ownership of both the cemetery and residential lot to the City of Burkburnett with the understanding that the size of the proposed parking lot may be reduced, and the cemetery would cease performing burials at the site.

Commissioner Andrajack then amended his original motion, seconded by Commissioner Duff for the City to construct the roadway as originally presented along with four parking spaces instead of the original 19 parking spaces presented.

The following addressed the Mayor and Commissioners:

Pamela Dixon, Secretary of the Journey's End Cemetery Board – read names of the Foreign War Veterans buried in the Journey's End Cemetery. She also stated they have the documents ready for the transfer of ownership of the cemetery to the City.

Commissioner Duff stated originally after reviewing the budget, he did not feel comfortable spending almost \$50,000 on the proposal but the amended motion is much more palatable for him and with no future burials feels that four parking spots is more appropriate.

Ayes: Mayor Law; Commissioners Andrajack, Brewster, Duff, Hardy, and Love

Nay: Commissioner Lindenborn

Motion carried

Item 6. Mr. Whaley addressed the Mayor and Commissioners and stated staff is requesting direction regarding ownership of the property.

Motion was made by Commissioner Andrajack, seconded by Commissioner Hardy for the City to receive ownership of the Journey's End Cemetery and the associated parking lot.

Commissioner Andrajack explained that the intent of his motion is that it means the complete process of receiving ownership which includes the Mayor having the authority to execute any documents necessary to receive ownership with the understanding that the land is a gift to the City.

Ayes: Mayor Law; Commissioners Andrajack, Brewster, Duff, Hardy, and Love

Nay: Commissioner Lindenborn

Motion carried.

Commissioner Lindenborn stated he did want to go on the record that he was in favor of the original request and motion from the July regular meeting, without the City taking ownership of the property and that is why is voting against both motions.

Commissioner Love stated she wanted to go on the record also that she was not present at the July meeting when the original motion was discussed but since that meeting a lot of crafting of the proposal and working together has happened and she is now totally in support of the current motion and only wanted clarification previously.

Motion was made by Commissioner Andrajack, seconded by Commissioner Duff that once ownership of the property is received by the City the act of burials will cease.

Ayes: Mayor Law; Commissioners Andrajack, Brewster, Duff, Hardy, and Love

Nay: Commissioner Lindenborn

Motion carried.

Item 7. Discuss and take any action necessary on Ordinance Number 938.

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS AMENDING THE FISCAL YEAR 2019 GENERAL FUND AND CAPTIAL IMPROVEMENT FUND; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQURIED BY LAW.

Motion was made by Commissioner Andrajack, seconded by Commissioner Duff to approve Ordinance Number 938 with the amendment to the ordinance to reflect the amount of \$26,943.

Ayes: Mayor Law; Commissioners Andrajack, Brewster, Duff, Hardy, and Love

Nay: Commissioner Lindenborn

Motion carried

Item 8. Resolution Number 648 was presented in its entirety.

RESOLUTION OF THE CITY OF BURKBURNETT AUTHORIZING THE FILING OF A GRANT APPLICATION WITH THE NORTEX RPC FOR A WATER, SEWER OR STREET IMPROVEMENT PROJECT TO BE DETERMINED AT A LATER DATE FROM THE TEXAS DEPARTMENT OF AGRICULTURE; AUTHORIZING THE MAYOR OR HIS DESIGNEE TO ACT ON BEHALF OF THE CITY IN ALL MATTERS RELATED TO THE APPLICATION; AND PLEDGING THAT IF A GRANT IS RECEIVED THE CITY OF BURKBURNETT WILL COMPLY WITH THE GRANT REQUIREMENTS OF THE NORTEX RPC, THE TEXAS DEPARTMENT OF AGRICULTURE AND THE STATE OF TEXAS.

Lawrence Cutrone, Director of Public Works, addressed the Mayor and Commissioners and stated this resolution is a requirement of the TX Community Development Block

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Grant Program (CDBG) sponsored by the Texas Department of Agriculture. The City of Burkburnett has participated in this grant program in the past and has successfully completed various projects which allowed us to improve our firefighting capabilities and overall water quality by increasing main sizes and installing new or additional fire hydrants. The grant fund cap is \$275,000.00 with City matching fund required at \$55,000.00. This resolution (along with the interlocal agreement/contract) effectively assigns NORTEX as the facilitator of the grant for the City of Burkburnett at the cost of \$30,000. That cost will come out of the grant proceeds at no additional cost to the City. There is also an additional match made by the Burkburnett Development Corporation. Mr. Cutrone stated the City is scoring highly and should receive the grant.

Motion was made by Commissioner Lindenborn, seconded by Commissioner Hardy to approve Resolution Number 648 as presented. Motion carried unanimously.

Item 9. Mr. Cutrone stated the interlocal agreement/contract for administration services with NORTEX is required in order to allow NORTEX to facilitate the CDBG for the City of Burkburnett.

Motion was made by Commissioner Andrajack, seconded by Commissioner Duff to approve the Interlocal Governmental Cooperation Contract with NORTEX. Motion carried unanimously.

Item 10. Resolution Number 647 was presented in its entirety, Final Reading.

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS AUTHORIZING AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE BURKBURNETT DEVELOPMENT CORPORATION AND BOOMTOWN PERFORMANCE LLC PROVIDING FOR THE PAYMENT OF ECONOMIC INCENTIVES IN RETURN FOR THE CREATION OF JOBS AND TO MODIFY THE FITNESS FACILITY WITHIN BURKBURNETT, TEXAS.

Richard Gordon, Executive Director of the Burkburnett Development Corporation (BDC), addressed the Mayor and Commissioners and stated Mr. Mark Barefield and Mr. Shane Ballard have approached the BDC regarding financial incentives and proposed development agreement in order to open and operate a CrossFit Gym at 10459 W Daniels Rd. Mr. Gordon stated the proposed incentive agreement consists of the following:

- \$5,500 job creation incentive (1 employee at \$2500 and 3 part-time positions at \$1000 per employee) to be paid after receiving certificate of occupancy); and
- \$4,000 to assist in remodeling for conversion of facility into a CrossFit facility tendered in receipt of certificate of occupancy; and
- \$1,000 Sign grant under the NRG program paid at 50% of cost of sign up to \$1000 per terms of NRG Program.

The BDC board approved the incentive contract for submission to the Commissioners at the August 14, 2018 board meeting by a unanimous vote (5-0). Board members present and voting were Casey McCleskey, Robert Jones, Jonathan Ellzey, Stacy Hopkins, and Ted Kwas. Absent voting members were Danny Cremeens and Teresa Brantley.

Motion was made by Commissioner Hardy, seconded by Commissioner Andrajack to approve Resolution Number 647 as presented. Motion carried unanimously.

Item 11. Resolution Number 649 was presented in its entirety.

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS, APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE (“ACSC”) AND ATMOS ENERGY CORP., MID-TEX DIVISION REGARDING THE COMPANY’S 2018 RATE REVIEW MECHANISM FILINGS; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT; FINDING THE RATES TO BE SET BY THE ATTACHED SETTLEMENT TARIFFS TO BE JUST AND REASONABLE AND IN THE PUBLIC INTEREST; APPROVING AN ATTACHED EXHIBIT ESTABLISHING A BENCHMARK FOR PENSIONS AND RETIREE MEDICAL BENEFITS; APPROVING AN ATTACHED EXHIBIT REGARDING AMORTIZATION OF REGULATORY LIABILITY; REQUIRING THE COMPANY TO REIMBURSE ACSC’S REASONABLE RATEMAKING EXPENSES; DETERMINING THAT THIS RESOLUTION WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS RESOLUTION TO THE COMPANY AND THE ACSC’S LEGAL

Mr. Whaley stated a model staff report was provided by Atmos Cities Steering Committee legal representative Geoffrey Gay with Lloyd Gosselink, Attorneys at Law regarding a rate increase request by Atmos Mid-Tex which was filed on April 1st of this year. The request has since been under review and a settlement has been negotiated. The Executive Committee of ACSC is now recommending cities accept the settlement agreement by October 1st. Mr. Whaley reviewed some of the highlights of the settlement agreement and stated staff is recommending approval of the resolution.:

- Atmos Mid-Tex original system-wide revenue recovery request was \$42 million
- Settlement agreement is \$24.9 Million, savings reduction of \$17.1 million
- Delivery Cost Increase Residential: \$1.06 or 1.94%
- Delivery Cost Increase Commercial: \$3.20 or 1.21%
- Delivery Cost Increase Transportation: \$82.93 or 2.11%
- Delivery Cost Increase Industrial: \$82.93 or 1.61%

Motion was made by Commissioner Love, seconded by Commissioner Andrajack to approve Resolution Number 649 as presented. Motion carried unanimously.

Item 12. Mr. Gordon addressed the Mayor and Commissioners and presented a balanced budget for Fiscal Year 2019. Mr. Gordon also addressed the fiscal commitments that were included in the proposed budget.

Motion was made by Commissioner Andrajack, seconded by Commissioner Lindenborn to approve the Fiscal Year 2019 Budget of the Burkburnett Development Corporation. Motion carried unanimously.

Item 13. Ordinance Number 939 was discussed in its entirety.

AN ORDINANCE ADOPTING THE FISCAL YEAR OPERATING BUDGET OCTOBER 1, 2018 – SEPTEMBER 30, 2019 FOR THE CITY OF BURKBURNETT, TEXAS AND APPROPRIATING THE SEVERAL SUMS SET UP THEREIN TO THE OBJECTS AND PURPOSES THEREIN NAMED AND PROVIDING AN EFFECTIVE DATE.

Motion was made Commissioner Lindenborn, seconded by Commissioner Hardy to approve Ordinance Number 939 as presented. Motion carried unanimously.

Item 14. Discuss and take any action necessary on Ordinance Number 940.

AN ORDINANCE ADOPTING THE FISCAL YEAR CAPITAL IMPROVEMENT BUDGET OCTOBER 1, 2018 - SEPTEMBER 30, 2019 FOR THE CITY OF BURKBURNETT, TEXAS AND APPROPRIATING THE SEVERAL SUMS SET UP THEREIN TO THE OBJECTS AND PURPOSES THEREIN NAMED AND PROVIDING AN EFFECTIVE DATE.

Motion was made Commissioner Andrajack, seconded by Commissioner Duff to approve Ordinance Number 940 as presented. Motion carried unanimously.

Item 15. Discuss and take any action necessary on Ordinance Number 941.

AN ORDINANCE LEVYING AN ANNUAL AD VALOREM TAX FOR THE YEAR 2018 SETTING SPECIFIC TAX RATES, APPLICABLE TO ALL REAL, PERSONAL AND MIXED PROPERTY SITUATED WITHIN THE CITY OF BURKBURNETT CITY LIMITS; SETTING THE DUE DATE AND PROVIDING FOR PENALTIES AND INTEREST ON DELIQUENT TAXES.

Motion was made Commissioner Hardy, seconded by Commissioner Love to approve Ordinance Number 941 as presented. Motion carried unanimously.

Item 16. Discuss and take any action necessary on Ordinance Number 942.

AN ORDINANCE AMENDING ORDINANCE NUMBER 928 OF THE CITY OF BURKBURNETT, TEXAS PRESENTLY CODIFIED AS CHAPTER 50, GARBAGE AND REFUSE IN THE CODE OF ORDINANCES, SPECIFYING THE EFFECTIVE DATE; DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

Motion was made Commissioner Duff, seconded by Commissioner Andrajack to approve Ordinance Number 942 as presented. Motion carried unanimously.

Item 17. Discuss and take any action necessary on Ordinance Number 943.

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS, ABANDONING A TEN-FOOT WIDE UTILITY EASEMENT ON THE EAST SIDE OF LOT 24, BLOCK 2 ROLLER ESTATES; AND PROVIDING AN EFFECTIVE DATE.

Richard Gordon, Director of Planning, addressed the Mayor and Commissioners and stated builder Eddie Holcomb constructed a new home at 7467 Roller Rd that encroached 6 inches into a utility easement along the east property line of Lot 24, Block 2, Roller Estates. The 10-foot-wide easement has no utilities present and no plans for utilities in this easement. Mr. Holcomb has made the request to abandon this easement or redefine the easement area. Mr. Gordon stated the City Attorney has recommended abandonment of the easement.

Motion was made Commissioner Lindenborn, seconded by Commissioner Andrajack to approve Ordinance Number 943 as presented. Motion carried unanimously.

Item 18. Mr. Whaley addressed the Mayor and Commissioners and stated he received a request from a Commissioner to put the weekly updates from all senior staff back on the agenda for discussion. Discussion held on the advantages and disadvantages of all senior staff providing weekly updates in addition to the City Manager's weekly update.

Motion was made by Commissioner Brewster, seconded by Commissioner Love to bring back the weekly updates by all senior staff.

Ayes: Mayor Law; Commissioners Brewster and Love

Nays: Commissioner Andrajack, Duff, Hardy and Lindenborn

Motion failed.

Item 19. No public comments.

Item 20. City Manager's report.

- Commissioner Love and Frank Ducos have been appointed to the Golf Committee.

- TML Region 5 Meeting – Sept 20 at 5:45 pm, Burkburnett Community Center
- BISD Family Night at the Park -Friendship Park- September 26, 2018 at 5:45 pm to 8:20 pm
- Volunteer Fire Department Installation Dinner -October 4 at 6:30 pm
- Boomtown Glow Run 5K -October 5 at 8 pm (Pre-Party 7 pm)
- Friendship Festival – October 6, 12 pm – 6 pm
- TML Annual Conference – October 10-12, Fort Worth

Item 21. No Commissioners Comments.

Item 22. Motion was made by Commissioner Lindenborn, seconded by Commissioner Duff to adjourn. Motion carried unanimously.

Carl Law, Mayor

**ATTEST:**

Janelle Stahr, City Clerk