MINUTES

BOARD OF COMMISSIONERS

The Board of Commissioners of the City of Burkburnett, Texas, met in a Regular Meeting on Tuesday, February 15, 2022, at 7:00 p.m. at City Hall-Council Chambers, 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
- Cory Brinkley: Commissioner, Place 1
- Randy Brewster: Commissioner, Place 2
- Mike Tugman: Commissioner, Place 3
- John Beard: Commissioner, Place 4
- Marguerite Love: Mayor Pro-Tem, Commissioner, Place 5
- Bill Lindenborn: Commissioner, Place 6

Others present were Lawrence Cutrone, City Manager; Mike Whaley, Director of Public Works; Sarah Culp, Planning Director; Trish Holley, Director of Administration; Mike Guevara, City Attorney; and Margie Poole, City Clerk.

ITEM 1. CALL MEETING TO ORDER: MAYOR CARL LAW

Mayor Law called the meeting to order at 7:00 p.m.

ITEM 2. INVOCATION

Commissioner Lindenborn gave the invocation.

ITEM 3. PLEDGE OF ALLEGIANCE

Commissioner Brewster led the Pledge of Allegiance.

ITEM 4. CONSENT AGENDA

Approval of Minutes from the January 18, 2022 Regular Meeting.

Commissioner Brinkley made a motion, seconded by Commissioner Beard, to approve the Consent Agenda. Motion carried unanimously.

ITEM 5. PERSONAL/AUDIENCE COMMENTS

Stephanie Humberd and Michael Richter addressed the Mayor and Commissioners with their respective public comments.

ITEM 6. Discuss and take any action necessary Resolution Number 719.

A RESOLUTION OF SUPPORT OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS, SUPPORTING THE BURKBURNETT ROYAL GARDENS, LLC'S PROPOSED DEVELOPMENT OF AFFORDABLE RENTAL HOUSING KNOWN AS BURKBURNETT ROYAL GARDENS, TO BE LOCATED AT DW TAYLOR PATHWAY IN THE CITY OF BURKBURNETT, WICHITA COUNTY, FINDING AND DETERMINING THIS MEETING WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.
After a presentation by Lora Myrick, who represented this development in Burkburnett, Commissioner Lindenborn made a motion, seconded by Commissioner Brinkley, to approve Resolution Number 719. Motion carried unanimously.

ITEM 7. Discuss and take any action necessary regarding Ordinance Number 1013, matters incident and related to calling a bond election to be held in the City of Burkburnett, Texas. AN ORDINANCE CALLING A BOND ELECTION TO BE HELD IN THE CITY OF BURKBURNETT, TEXAS; MAKING PROVISION FOR THE CONDUCT OF A JOINT ELECTION; AND RESOLVING OTHER MATTERS INCIDENT AND RELATED TO SUCH ELECTION.

After a staff presentation by Mike Whaley, Director of Public Works, Mayor Pro-Tem Love made a motion, seconded by Commissioner Brinkley, to approve Ordinance Number 1013 calling for a Special Election for the Propositions A, B, C, D, and E. Motion carried unanimously.

ITEM 8. Discuss and take any action necessary regarding Ordinance Number 1014. AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS, AUTHORIZING AMENDMENT AND TERMINATION OF THE DEVELOPMENT AGREEMENT WITH THE CITY OF BURKBURNETT, TEXAS; LIPSCOMB CHEVROLET, AND TAX INCREMENT FINANCING DISTRICT, REINVESTMENT ZONE, CITY OF BURKBURNETT, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.

After a staff presentation by Sarah Culp, Director of Community Planning, Commissioner Tugman made a motion, seconded by Commissioner Lindenborn abstaining, to approve Ordinance Number 1014. Motion carried unanimously.

ITEM 9. Discuss and take any action necessary regarding Ordinance Number 1015. AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS AMENDING THE FISCAL YEAR 2022 CAPITAL IMPROVEMENT FUND BUDGET FOR BOOMTOWN BAY FAMILY AQUATIC CENTER FOR PAINTING THE SPRAY BUCKET: FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

After a staff presentation by Lawrence Cutrone, City Manager, Commissioner Tugman made a motion, seconded by Commissioner Beard, to approve Ordinance Number 1015. Motion carried unanimously.

ITEM 10. Discuss and take any action necessary on the Special District Election and Release Forms regarding opioid settlements with the following pharmaceutical manufacturers:
   A. Endo Pharmaceuticals
   B. Teva Pharmaceuticals

After a staff presentation by Lawrence Cutrone, City Manager, with a summary provided by Mike Guevara, City Attorney, Commissioner Tugman made a motion, seconded by Commissioner Lindenborn, to join the settlement agreements with Endo Pharmaceuticals and Teva Pharmaceuticals. Motion carried unanimously.
ITEM 11. Discuss and take any action necessary regarding Resolution Number 720.
A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS, REGARDING PUBLIC CENSURE OF COMMISSIONER CORY BRINKLEY.

Stephanie Humberd and Susan Mitchell addressed the Mayor and Commissioners with their respective comments regarding this agenda item.

Commissioner Tugman made a motion, seconded by Mayor Pro-Tem Love, to approve Resolution Number 720.

After the motion and in response to Commissioner Tugman’s questions, the Mayor confirmed that approving the Resolution does not prohibit Commissioner Brinkley from (1) talking at this meeting, (2) doing anything other than talking with staff about issues provided by the City Manager.

Ayes (6): Mayor Law, Mayor Pro-Tem Love, Commissioner Beard, Commissioner Brewster, Commissioner Lindenborn, and Commissioner Tugman

Nays (1): Commissioner Brinkley

Motion carried.

ITEM 12. Discuss and take any action necessary regarding alleged violation of Section 36.85 of the Code of Conduct of the Code of Ordinances by Commissioner Tugman.

EXECUTIVE SESSION
At 7:45 p.m., The Mayor called for an Executive Session, stating that pursuant to the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, the Board of Commissioners may convene in Executive Session: Section 551.074 A(2) – to hear a complaint or a charge or against the public officer, Commissioner Tugman.

RECONVENE
Mayor Law reconvened the Regular Meeting at 8:27 p.m. Commissioner Brinkley made a motion to proceed forward with the Code of Conduct violations by Commissioner Tugman with letters D, L, and N. Motion not seconded; motion failed.

ITEM 13. 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 matters:

SECTION 551.071 - Consult with Attorney about pending or contemplated litigation or settlement of same.
A. Update on pending SOAH Hearing and Civil Litigation Matters:
Mr. Zachary Leonard

Mike Guevara, City Attorney, updated the Mayor and Commissioners regarding the SOAH Hearing stating that we have had the Hearing and that the Administrative Law Judge (ALJ) upheld the City’s designation. Mr. Leonard, through his attorney, filed a motion for a re-hearing, which was denied by the ALJ.

Regarding the District Court Case, Mr. Guevara stated that it was initially filed by Mr. Leonard against the City on March 15, 2021. The original and first amended pleading comprised

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approximately 11 different cause of actions filed against the City. Through our attorney, provided by the Texas Municipal League, the City did file a Plea to the Jurisdiction, which requests the Court to make a finding that the Court does not have jurisdiction regarding the allegations. After the Plea to the Jurisdiction Hearing, Judge Jeff McKnight of the 30th District Court in Wichita County dismissed eight of the alleged grounds leaving only an alleged violation of the Texas Open Meetings Act. Judge McKnight did allow Mr. Leonard to replead his causes of action for declaratory judgment and injunction.

The Judge set the Hearing for today (February 15, 2022), but it was continued. In his response to our Response to the First Amended Plea, there was an affidavit signed by Mr. Leonard attached to his response to the Defendants’ Plea to the Jurisdiction. In the affidavit, Mr. Leonard cites and quotes an email that he alleges that he received from Commissioner Brinkley.

Mr. Guevara stated that his concern is that it is his responsibility to represent the City of Burk Burnett as the City Attorney and to provide loyal, faithful, and aggressive representation. As such, Mr. Guevara asked the Board of Commissioners to take a vote to withhold Commissioner Brinkley from the Closed Session as to this item only going forward since we already have an allegation that he has released the information to somebody whose views are antagonistic to the City. Mr. Guevara’s concern is that any information he might give to the Board of Commissioners would be turned over to someone antagonistic with the City.

Commissioner Tugman made a motion, seconded by Mayor Pro-Tem Love, to exclude Commissioner Brinkley from any further conversations about the Zachary Leonard case. Motion carried unanimously.

Mayor Law closed the Regular Meeting and adjourned to Executive Session at 8:42 p.m.

**ITEM 14. RECONVENE**

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

Mayor Law reconvened the Regular Meeting at 9:18 p.m. Mayor Pro-Tem Love made a motion, seconded by Commissioner Lindenborn, to waive the attorney-client privilege as to the January 12, 2022 email string between Commissioners and City Attorney that has been partially released by Commissioner Brinkley at the discretion of our city attorney and litigation counsel.

Ayes (6): Mayor Law, Mayor Pro-Tem Love, Commissioner Beard, Commissioner Brewster, Commissioner Lindenborn, and Commissioner Tugman

Abstain (1): Commissioner Brinkley

Motion carried.

**ITEM 15. CITY MANAGER'S REPORT**

Lawrence Cutrone, City Manager, reported the following:

- Special-Called Meeting this Thursday at noon
- Friday, February 18, 2022: Last day for filing an application for a place on the ballot
- Saturday, February 19, 2022: Polar Plunge: Freezin’ for a Reason at Boomtown Bay
- Monday, February 21, 2022: City Hall will be closed for the Presidents' Day Holiday
- Monday, March 21, 2022 will be the next Regular Meeting Board of Commissioners
ITEM 16. COMMISSIONERS' COMMENTS
Commissioner Beard complimented the EMTs on their quick and helpful response. Commissioners Lindenborn and Brinkley thanked Greg Neal, upon his retirement, for his service. Mayor Law stated that the library is back open after the roof repairs and how honored he has been to have the opportunity to give away the City Burkburnett coins to VIPs during the last 13 years as Mayor.

ITEM 17. ADJOURNMENT
Commissioner Tugman made a motion, seconded by Commissioner Lindenborn, to adjourn. Motion carried unanimously, and the meeting adjourned at 9:23 p.m.

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Carl Law, Mayor

ATTEST:

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Margie Poole, City Clerk