

CITY OF BURTON

A **WORKSHOP MEETING** of the Burton City Council at 5:30 p.m. was held on Tuesday, June 4, 2024 in the Burton City Hall at 12200 E. Mulberry Street Spur 125, Burton, Texas.

Members Present:

Mayor Karen Buck

Councilmember Macey Tidwell

Councilmember Paul McLaughlin

Councilmember Jeff Eckhardt

Members Absent: Councilmember Tommie Gilmon; Councilmember Nathan Kalkhake.

Others Present: City Secretary, Angela Harrington and, Attorney, David Olson.

Citizens Present: Tiffany Eckhardt, Ned Ross, Susan Kiel, Joan Rogers, Andrea Fischer (Senator Lois Kolkhorst's Office) and Sarah Forsythe (Brenham Banner Press.)

Mayor Karen Buck called the meeting to order at 5:33 pm, established a quorum.

Citizen Presentations

Resident Ned Ross addressed council of his opinions regarding the Subdivision Ordinance presented at this meeting for discussion. He does not believe that the "tiny town" of Burton has any reason to have an ordinance like the one presented. He outlined his experience in being involved in and witnessing other city governments in action. He believes that the ordinance as presented is "nothing but an attempt to stifle development." He continued to say that he doesn't think that that was the intention but encouraged council to rethink it. He also stated that park space is public space and believes that the use of that space should be as flexible as possible.

Local Realtor Susan Kiel stated that she agrees with Ned Ross on the subdivision ordinance and believes that its implementation is "putting the cart before the horse." She has helped several property owners to divide their property and believes the council needs to simplify the requirements of the ordinance. She believes that large properties are limited in the city and she feels like the ordinance is an unnecessary step for the council to take at this time. She also shared with council and those in attendance a map of the city limits and the extraterritorial jurisdiction.

Resident Tiffany Eckhardt stated that she was reserving her comments for the Burton Bulletin and expressed her disapproval of the 3minute limit of citizens to present their topics of concern and inquired on whether she could give her 3 minutes to Ned Ross for his use. Attorney David Olson stated that "it really doesn't work that way" and that council is allowed to dictate when in the agenda public comments can be made as well as the number of persons who speak and the length and frequency of their presentations. ~~She responded by saying that "I don't really care what you have to say."~~ Then continued to express her feeling that limiting what people have to say to three (3) minutes is stifling. She feels that, if she was mayor or on city council, "she would want to know what the citizens she has chosen to serve feel about an issue that would directly affect them." Mayor Buck responded that State law is being followed. Councilmember Eckhardt then stated he realizes it is State law but he thinks it is "silly to limit people." Attorney Olson informed Councilmember Eckhardt that the council gets to set time limits if desired and three (3) minutes is generally accepted as a reasonable restraint on those comments but "you as a council collectively can elect to allow someone to speak more."

(At the July 9, 2024 meeting, a motion was made to "strike" the sentence indicated in the above paragraph.)

Resident Joan Rogers inquired as to whether the subdivision ordinance was on the website. The mayor responded that this meeting was just to talk about it. Attorney Olson said that the document provided is a draft and absolutely available to the public.

Discussion Items:

1. Review the Resumes of Engineering Firms in Consideration of a Contract for "As Needed" Engineering Services

Copies of the Statements of Qualification (SOQ) of Strand Associates was provided for each councilmember. A .pdf copy of BEFCO Engineering's submission was not received so, City Secretary, Angela Harrington, stated that she will contact them BEFCO to see if a .pdf is available.

Councilmember Jeff Eckhardt asked if these firms were being considered in regards to Item #2 (Subdivision Ordinance.) Mrs. Harrington responded that whatever firm is hired would be involved with the requirements of that ordinance but that there are other engineering needs of the city that are not related to that ordinance. Attorney Olson assured council that it is very common for cities to ask for Requests for Qualifications to make sure that the firm chosen is a good fit for the projects needing to be addressed. He continued to say that an engineering firm, in this instance, would be contracted in the same manner as Olson & Olson was contracted to provide legal services on an as needed basis. He believes it is healthy for any city to have an engineer in place to meet needs that arise. Mayor Buck shared her challenges is applying to the Texas Water Development Board (TWDB) for the main trunk water line that runs from E. Texas St. north to FM 1697 and FM 2780 and the challenges of not having a comprehensive map of the water system or having an engineer to ask questions. Councilmember Eckhardt expressed his discomfort in reviewing the SOQ's due to engineering not being his field of expertise. Attorney Olson suggested having a representative from both firms attend the next council meeting so that they can better explain their experience and how they can assist the city. The City Secretary stated that she would ask BEFCO to send a .pdf for their SOQ to make it easier for council to review and compare the two firms. It was explained by Attorney Olson that at this point in the procurement process it is not customary to discuss costs and fees. This is simply the time to decide who can meet the needs of the city. Mayor Buck suggested that council look at each firms completed projects and what skill sets they have to offer the city. Councilmember McLaughlin expressed his disbelief that the city hasn't retained an engineering firm for general use before and he believes that hiring one is overdue. Mayor Buck then shared her experience of sorting through the old maps that the city does have of portions of its infrastructure but there is no one place to look at to get a big picture of the water and sewer systems. She will contact each firm to see if a representative of each can come to the June 11th regular council meeting.

2. Ordinance 20240611 Prescribing Comprehensive Regulations, Development and Construction Standards for the Subdivision of Land within the City and its Extraterritorial Jurisdiction

Mayor Buck stated that we know of large parcels of land that are currently in probate court due to the family's disagreement on who gets what. One of those parcels of land could be subdivided. There are other parcels within the city that could be also. In the last several weeks, she has had two (2) different people who are not connected to each other approach her with rumors of a property that the owner is planning to subdivide. This is what led the city to consult with Bridgette Begle of Olson & Olson to gain information on subdivision regulation in the city. Her response stating that, when a plat is filed with the county, any rules in place apply. Therefore, if no rules are in place, there are no rules. Councilmember Eckhardt inquired as to whether these plots of land were within the city limits. Attorney Olson stated that the law also allows municipalities to regulate certain aspects within the extraterritorial jurisdiction which is one-half of a mile outside the city limits. Mayor Buck then went on to describe an example of why some type of regulation is needed using the sale of portions of Block 43 as an example. At this point, the conversation turned to who's responsibility it is to pay for water and sewer connections. The City Secretary

explained that, according to city policy, it is the property owner's responsibility to pay any cost incurred by an extension of services including water meter & sewer connection. Attorney Olson stated that it is what is customary. It was pointed out that benefit of having a subdivision ordinance is that it would lay out the requirement of any service extensions to be the responsibility of the subdivider, therefore, protecting the city finances and economy.

As those in attendance continued to interject into the council discussion, Attorney Olson interrupted and explained that it is up to council and the mayor to ask for public opinion or feedback during a meeting like this. Councilmember Echardt said that he was interested in what the opinions are of the public and made a motion to allow the continued open discussion of everyone present. Councilmember Tidwell seconded that motion and the conversation continued in a town hall manner with all taking part in the narrative. Real Estate Agent, Susan Kiel, explained an instance of the property owner having to pay for any services on the owner's side of connections. It was confirmed by the city secretary that anything on the property owner's side is their responsibility to pay for.

Mayor Buck pointed out that most of the discussion on this topic was of general issues and asked whether or not council wanted to continue discuss the actual ordinance presented. Councilmember Eckhardt said that due to our water well situation there is no rush to make any decisions at this time. He was in great rejection of any 40 page ordinance that was incomprehensible to most people. The ordinance presented to council was a model used by the City of Snook and in line with other small towns such as Somerville. Ned Ross, being an attorney, offered to take the ordinance and scale it back to only address the immediate issues. His opinion is that the city is not prepared for the depth presented. He stated that the conversation indicated that the utility infrastructure was the main concern of why this ordinance was put before council and that he could, at the request of council, draft an ordinance of what we can regulate at this time that would manage the impact on the city's infrastructure. Attorney Olson said that he would welcome any document that Mr. Ross submitted for review.

Mayor Buck expressed her belief that the city needs to be ready for the future, at least five (5) to ten (10) years. Attorney Olson stated that he does not know how ripe things are around Burton for development but encouraged council to put some kind of regulation in place that requires there to be some oversight even if it is the bare minimum (lot size, easements, utility, etc.) He spoke of the importance of having some sort of process in place prior to the need arising. Attorney Olson said that it would cost the city less to take Mr. Ross up on his offer to construct a document of 5 to 7 pages. There was some reluctance to accept the offer because using the city attorney would be a more neutral way to handle the situation but Councilmember Eckhardt encouraged council to accept Mr. Ross's offer. He believed it would be more prudent to allow Mr. Ross to handle the task of creating a framework for a new document because it would be coming from a resident of the city and saving the city money. Mayor Buck expressed her hesitation to allow a local resident to handle the task due to past experience with violations of the Open Meeting Act. She continued by pointing out that many of the small towns that Burton ISD played sports against in the 1980's have greatly increased in population: Hutto, Hallettsville, Pflugerville, Snook, Granger, etc. Mrs. Kiel expressed her belief that Burton has a limited footprint for development and agrees that there needs to be some oversight of development but not as in depth as what has been put on the table.

Mayor Buck then explained her experience reading through years of council meeting minutes and finding very little indication that the city utility infrastructure was given much attention by past councils. Most of the revenue and energy was aimed at the police department due to very frequent turn-over in personnel and the resources that a police department requires. The city never had much money to spend on other things such as road repairs and the utility infrastructure. Burton is finally at a place financially where it can start moving forward. Mrs. Eckhardt stated her belief that the current administration of the city has no interest in what the actual residents think are the topics that should be more focused on. She said that at the budget meeting she was told that economic development was not a priority. She feels that there should be more effort to recruit businesses to come to Burton and to finding places for

businesses to be established. She feels the city should be focusing on economic development. She believes that the current administration operates on a "my way or the highway" mentality. Attorney Olson believes that they are both right and should find a way to coexist. He continued by saying that, whether having standards for development was cumbersome or not, any new developer is not going to develop in a place that has no standards and consistency. His example was regarding Bucee's and the fact that it would not put a store here if they don't see properties around them being held to a certain standard. "They will not develop in the wild west." There need to be sufficient rules in place and some sort of basic subdivision rules. Councilmember Tidwell spoke up to say that the utility infrastructure is first in importance and that Mrs. Eckhardt was wrong about being told that economic development is not important. She believes the spirit of what was actually said is that the current state of our infrastructure cannot handle development if there were to be any and that standards need to be set prior to development. Therefore, the city's utility infrastructure should be the focus prior to asking businesses to move in where the city is required to provide utility service when the city cannot provide those at this time. Mr. Ned Ross told everyone that something he learned from the city attorney of West University, Jim Dougherty. Attorney Dougherty told him years ago a Zoning 101 is that "all you need to start with is the premise that land use regulation is a blunt instrument and we need to remember that as we go forward with this over the next year or two. Particularly when you have developed land and now you are going to overlay a regulatory construct. It's not bad to do that but it is a blunt instrument and you have to be careful how it is used." He agrees that our charming little city needs some regulatory construct that fits the existing infrastructure so when we do come up with a document, we need someone to lay out the map and determine where everything is. He continued by expressing his belief that there is no stability in our utility systems, including electricity and gas. He cautioned against slapping something in place just to do something about the need of regulation.

The mayor told everyone that the ordinance placed in front of them was taken from Snook which was about the same size of Burton but closer to College Station. If we are able to put together a sub-committee of council or let Ned put together something, we need to be sure that the laws of the Open Meetings Act and Public Information Act are followed. Councilmember Eckhardt expressed his lack of understanding why a councilmember couldn't just get together with other residents and discuss things regarding the city for him to bring to council. Attorney Olson spoke up to say that you have to be very careful about informal gatherings because if another councilmember walks through the door, you have a violation of law. Councilmember Eckhardt continued by saying that he doesn't want to break the rules but he thinks "it is incredibly important that the citizens of the town to, first know about what's going on and to be able to help formulate a plan." Attorney Olson said that he's pretty sure that the mayor's intention was exactly that. The concern is that if two (2) councilmembers are even on a Facebook page together it becomes a violation of the Open Meetings Act.

Various comments were reiterated and the discussion on the item was summed up by Attorney Olson that he believes the intent of the mayor was to protect the residents and for the any costs to the city would be recovered. Mayor Buck stated that an engineer would be able to look at the city and tell us what the potential is for new growth. Mr. Ross inquired of the ability to enforce and ordinance with Attorney Olson stating that any oversight of a project would be as easy as an engineering letting Olson & Olson know of any infraction and a suit being filed at the Justice of the Peace court. He stated that there are code enforcement agencies out there that could be contracted.

3. Where do we go from here regarding city park use? (Rules, application, permits, 9122001 issues, etc.)

Discussion on this item began with the mayor recapping the topic as discussed at the May 14, 2024 regular council meeting. She had called Mark Conley who was the mayor at the time Ordinance 9122001 was adopted to gather the intent of it and what was going on to prompt council to adopt it. Basically, there was a lot of instances of people drinking alcohol and randomly hanging out in various places around the city. The council at that time was trying to

discourage this practice. At the May 14, 2024 meeting, the intent was simply to remove any chance of the city being held liable for what might happen during or after an event in the park that included alcohol.

Mayor Buck asked Attorney Olson to speak on any liability issues created by alcohol use on city property. His response was that there really wasn't any liability of the city. He also told council that it is not uncommon for there to be a permit issued for events taking place on city property. Rules can also be put in place that outline the serving of alcohol only being done by TABC certified bar tenders.

Councilmember McLaughlin explained to those in attendance why this ordinance was enacted in 2023 and the subsequent revisions in 2023 and 2024. He mentioned the use of the park by a Burton Beautification Association that has recently acquired a 501(c)(3) and asked if the city should make having that distinction a requirement for using the park. Attorney Olson stated that it is quite easy to form a non-profit organization and there are undesirable groups that can attain one as well. There was discussion regarding the "wording being muddy."

Councilmember Eckhardt asked if the city has to have this ordinance or anything like it. He doesn't agree with having this ordinance when there are so many events held in town: Trunk or Treat, Sip-n-Swirl, Cotton Gin Festival, Ranger Day, etc. The City Secretary pointed out that the council has the ability to rescind any ordinance.

Councilmember Eckhardt and Tidwell both indicated that rescinding the ordinance would be their preference. He doesn't believe the city needs to have any park rules, regulations or forms to fill out regarding use of the park. He also said: people are adults; it was reported that the council deliberated 30 minutes regarding this ordinance at the last meeting and that they were made to look like idiots. Attorney Olson stated that public intoxication is already a state law misdemeanor. He stated that, in light of the fact that we are paying the Washington County Sheriff's Office to uphold the law in the city, law enforcement would be able to handle any alcohol issues. Attorney Olson said that the rule of thumb for small towns like Burton is "Less is more." Councilmember Tidwell asked if 9122001 is rescinded, can there still be a park rule not allowing alcohol in the park? Olson replied, "absolutely."

There was then discussion regarding the Friends & Neighbors Ball Park. Mr. Ross stated that, if council wanted to limit alcohol on city properties, they should be addressing the ball field. There was then in-depth discussion regarding the three (3) Laas-Weeren Park ordinances and what portions of them to keep or get rid of. Councilmember Eckhardt recommended getting rid of all three. Olson recommended having some rules for the park.

Attorney Olson asked about an agreement with the management of the Friends & Neighbors Ball Park. Mayor Buck and the city secretary said that no agreement has ever been found. He recommends drawing up an agreement to protect everyone.

Mayor Buck thanked everyone for being at the meeting and the meeting was adjourned at 7:15pm.

Attest:

Angela Hamington
City Secretary

Karen Buck
Mayor Karen Buck

ORDINANCE NO. 9122001

COPY

CONSUMPTION OF ALCHOLIC BEVERAGES ON CITY PROPERTY OR CITY STREETS.

Section 1. Definitions.

For purposes of this ordinance the following terms shall have the meanings set forth below:

City: The City of Burton, Texas

Person: Any individual, firm, partnership, association, corporation, company or organization of any kind whatsoever.

Shall: The word "Shall" is always mandatory and not merely directory.

Alcoholic Beverage: An intoxicating liquor containing alcohol.

Intoxicated: (A) Not having the normal use of mental or physical faculties by reason of the introduction of alcohol, a controlled substance, a drug, a dangerous drug, a combination of the two or more of those substances, or any other substance into the Body; or (B) having an alcohol concentration of 0.08 or more.

Section 2. Consumption of alcoholic beverages on City Property (Streets or Parks).

- (a.) A person commits an offense if the person knowingly consumes liquor or beer on the premises of City property.
- (b.) A person commits an offence if the person appears in a public place while intoxicated to the degree that the person may endanger the person or another.
- (c.) A person commits an offense if the person knowingly consumes liquor or beer on the premises of a holder of an off-premises permit.
- (d.) A person commits an offense if the person possesses an open container or consumes an alcoholic beverage on a public street, public alley, or a public sidewalk within 1,000 feet of the property line of a facility that is a public or private school that provides all or any part of kindergarten through twelfth grade.

Section 3. Enforcement of Ordinance.

Any person, firm, or corporation in violation of this ordinance, or shall fail to comply therewith, shall be deemed guilty of a misdemeanor and shall be liable to a fine.

Section 4. Exemption for Festivals.

Drinking will only be allowed on festival grounds during festival times and under festival jurisdiction of the festival. Festival security will be responsible for enforcing this.

Section 5. Penalty

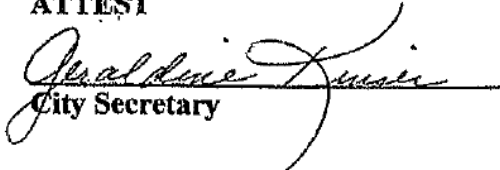
Upon conviction of any such violation shall be fined in the sum of not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00).

APPROVED: Passed September 12, 2001



Mayor

ATTEST



City Secretary