

**REGULAR MEETING OF CITY COUNCIL
JUNE 6, 2006**

1:30 P.M.

PRESENT:	Jeff Brain Garrett Spradling Charles Gillingham Leon DeWeese	Mayor Mayor Pro-tem Council Member Council Member
ABSENT:	Charles Loftis	Council Member
STAFF:	Wanda Klause Eddie Edwards Tom Edmonds Larry Byrd Jimmy Adams Glynn Carlock Henry Veach Jim Harder	City Manager Assistant City Manager City Attorney Code Enforcement Officer Police Chief Director of Finance Director of Public Works Director of Utilities
VISITORS:	John Ray Ed Benz Dell Griffin David & Jacqueline Olson Doug Reese Alan Jones	
NEWS MEDIA:	None.	

MINUTES APPROVED: Following review of the minutes of the Regular Meeting of May 16, 2006, motion was made by Council Member Gillingham, seconded by Council Member DeWeese, to approve the minutes as written. The motion carried by the following vote:

Ayes: All members present voted aye.
Nays: None.

PAYMENT OF EXPENDITURES APPROVED: Following review, motion was made by Mayor Pro-tem Spradling, seconded by Council Member Gillingham, to approve payment of the expenditures for the last half of May as submitted. The motion carried by the following vote:

Ayes: All members present voted aye.
Nays: None.

REQUEST FROM TEXAS GAS SERVICE FOR INCREASE IN VOLUMETRIC

CHARGE APPROVED: Doug Reese, Area Manager, Texas Gas Service Company, spoke to the Council concerning a change in rates to increase the volumetric charge by \$0.0080 per Ccf for all general service rate schedules of Texas Gas Service in the City of Borger service area. This proposed change does not constitute a major change as defined by Section 104.101 of the Texas Utilities Code. The change will increase user fees by approximately \$0.45 per month. Following discussion, motion was made by Council Member Gillingham, seconded by Council Member DeWeese, to approve the increase in the volumetric charge by \$0.0080 per Ccf as requested. The motion carried by the following vote:

Ayes: All members present voted aye.
Nays: None.

ADVANCE FUNDING AGREEMENT AMENDMENT NO. 1 BETWEEN TX DOT AND THE CITY OF BORGER CONCERNING THE WILSON STREET PROJECT IN 2003

APPROVED: The City of Borger received notice from TX DOT regarding the results of an audit on the 2003 upgrade of Wilson Street that included paving and sidewalks. The audit reflected that the cost of the project was greater than originally estimated and the City of Borger owes an additional \$76,346.59. Following discussion, motion was made by Mayor Pro-tem

Spradling, seconded by Council Member Gillingham, to approve Advance Funding Agreement Amendment No. 1 in the amount of \$76,346.59. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

JAIL SERVICES AGREEMENT BETWEEN HUTCHINSON COUNTY AND THE CITY OF BORGER APPROVED:

A Jail Services Agreement between Hutchinson County and the City of Borger was submitted for the consideration of the Council. Assistant City Manager Eddie Edwards said that the new agreement was just a matter of housekeeping. Following discussion, motion was made by Council Member DeWeese, seconded by Council Member Gillingham, to approve the Jail Services Agreement. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

RESOLUTION NO. R-007-06 APPROVED:

Resolution No. R-007-06 was submitted for the consideration of the Council. This resolution authorizes the intervention in PUC Docket No. 32766 authorizing the suspension of the effective date in the rate filing of May 31, 2006 by Southwestern Public Service Company, and authorizes the joining with area cities to form a coalition to be known as the Alliance of Xcel Municipalities. Following discussion, motion was made by Council Member Gillingham, seconded by Mayor Pro-tem Spradling, to approve Resolution No. R-007-06 as written. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

The resolution reads as follows:

RESOLUTION NO. R-007-06

A RESOLUTION BY THE CITY OF BORGER, TEXAS ("CITY") AUTHORIZING THE CITY TO REVIEW FOR REASONABLENESS AND PRUDENCE THE RATES, COSTS AND EXPENSES OF SOUTHWESTERN PUBLIC SERVICE COMPANY ("SPS"), INCLUDING RECONCILING FUEL EXPENSES FOR THE PAST TWO YEARS OR MORE, WITH REGARD TO ANY SPS RATE FILING PACKAGE FILED WITH THE CITY AND THE PUBLIC UTILITY COMMISSION OF TEXAS; AUTHORIZING THE JOINING WITH A COALITION OF CITIES, KNOWN AS THE ALLIANCE OF XCEL MUNICIPALITIES ("AXM"), IN ORDER TO MORE EFFICIENTLY AND EFFECTIVELY CARRY OUT THE FOREGOING PURPOSES; AUTHORIZING THE HIRING OF ATTORNEYS AND CONSULTANTS; AUTHORIZING THE INTERVENTION BY THE CITY AT THE PUBLIC UTILITY COMMISSION OF TEXAS; REQUIRING THE REIMBURSEMENT OF REASONABLE LEGAL AND CONSULTANT EXPENSES; DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS PASSED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE

WHEREAS, Southwestern Public Service Company ("SPS") has not had a general rate case filed with the City or the Public Utility Commission of Texas since 1992; and

WHEREAS, SPS has become a wholly owned subsidiary of a very large utility holding company (Xcel Energy, Inc.) since its last general rate case; and

WHEREAS, SPS is long overdue for its rates to be reviewed as part of a general rate proceeding; and

WHEREAS, SPS has agreed to file a general rate case on or before May 31, 2006; and

WHEREAS, in connection with its general rate filing SPS is expected to file the testimony of more than thirty-five (35) witnesses with thousands of pages of schedules and workpapers; and

WHEREAS, the investigation of SPS's rate filing will require the specialized expertise of lawyers and consultants who primarily concentrate their practices on reviewing and analyzing the kinds of issues and subject matter contained in a general rate filing; and

WHEREAS, the City will join with other cities to form a coalition of cities to be known as the Alliance of Xcel Municipalities ("AXM") in order to coordinate the hiring and direction of legal counsel and consultants working on behalf of AXM and the City.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BORGER, TEXAS, THAT:

Section 1. That the findings set out in the preamble are in all things approved and incorporated herein as if fully set forth.

Section 2. The City is authorized to review the rate filing package of SPS for reasonableness and prudence and to carry out the authority granted local regulatory authorities under Chapters 33 and 36 of the Public Utility Regulatory Act as well as other provisions of the Act.

Section 3. The City is authorized to intervene at the Public Utility Commission of Texas and in any court of law concerning any aspect set forth in the SPS rate filing package.

Section 4. The City shall participate with other cities in the aforementioned proceedings as part of a coalition of cities known as the Alliance of Xcel Municipalities ("AXM") and AXM shall select the experts to work with special counsel.

Section 5. SPS shall reimburse within 30 days after submission the City's reasonable monthly costs associated with the City's activities related to the rate review or in related proceedings.

Section 6. Subject to the right to terminate employment at any time, the City authorizes Jim Boyle and Alfred R. Herrera to act as special counsel with regard to rate proceedings involving SPS before the City, the Public Utility Commission of Texas or any court of law.

Section 7. The meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

PASSED AND APPROVED this _____ day of _____ 2006.

/s/ Jeff Brain
Mayor

ATTEST:

/s/ Wanda Klause
City Secretary

RECOMMENDATIONS FROM BUILDING STANDARDS COMMISSION APPROVED:

After proper notice and hearings, the Building Standards Commission of the City of Borger has determined and declared the building(s) located on the properties described herein as substandard and cannot reasonably be repaired and has ordered the demolition thereof as provided in the Substandard Building Ordinance.

The properties in question are located at the following sites:

1. 1127 Valley Drive, Lot 18, Block 10, Phillips Addition
2. 911 Western, Lot 6, Block 15, Gateway Heights

Following discussion, motion was made by Council Member Gillingham, seconded by Council Member DeWeese, to approve the recommendation submitted by the Building Standards Commission. The motion carried by the following vote:

Ayes: All members present voted aye.
Nays: None.

APPEAL FROM DECISION OF BUILDING STANDARDS COMMISSION GRANTED:

Jackie Cannady, owner of property located at 1127 Valley Drive, appeared before the Council to appeal the decision of the Building Standards Commission to demolish structures located at 1127 Valley Drive. Following discussion, motion was made by Mayor Pro-tem Spradling, seconded by Council Member Gillingham, to grant a 90 day extension to Mr. Cannady in order for him to make the necessary improvements to this property to avoid demolition. The motion carried by the following vote:

Ayes: All members present voted aye.
Nays: None.

REQUEST FROM FUZZY'S INDUSTRIAL MAINTENANCE AND MANUFACTURING TO EXTEND STREET CLOSURE APPROVED:

Alan Jones, representing Fuzzy's Industrial Maintenance and Manufacturing, requested that the Council consider extending the temporary closure of First Street from Main to Deahl by approximately six weeks. Following discussion, motion was made by Mayor Pro-tem Spradling, seconded by Council Member Gillingham, to approve the temporary closure of First Street from Main to Deahl until July 18, 2006. The motion carried by the following vote:

Ayes: All members present voted aye.
Nays: None.

OPERATION FACELIFT APPROVED: Larry Byrd, Code Enforcement Officer, submitted an operation facelift contract requesting the demolition of structures located at 1121 Hackberry. Following discussion, motion was made by Mayor Pro-tem Spradling, seconded by Council Member DeWeese, to approve the operation facelift contract on property located at 1121 Hackberry. The motion carried by the following vote:

Ayes: All members present voted aye.
Nays: None.

PLAT RECEIVED - PUBLIC HEARING SCHEDULED: Larry Byrd, Code Enforcement Officer, submitted a preliminary and final plat for Block 34, Fairlanes Unit 5 Addition located in Section 32, Block Y, A&B Survey. Following discussion, motion was made by Council Member Gillingham, seconded by Mayor Pro-tem Spradling, to receive the plat and scheduled a public hearing to allow for citizen comments for 1:30 p.m., June 20, 2006. The motion carried by the following vote:

Ayes: All members present voted aye.
Nays: None.

PLAT RECEIVED - PUBLIC HEARING SCHEDULED: Larry Byrd, Code Enforcement Officer, submitted a preliminary and final plat for a 0.990 acre tract of land in SE/4 of Section 18, Block Y, M&C Survey. Following discussion, motion was made by Council Member Gillingham, seconded by Council Member DeWeese, to receive the plat and scheduled a public hearing to allow for citizen comments for 1:30 p.m., June 20, 2006. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

RECOMMENDATIONS FROM HUTCHINSON COUNTY APPRAISAL DISTRICT FOR DISPOSITION OF PROPERTY APPROVED:

Bill Swink, Chief Appraiser of the Hutchinson County Appraisal District, submitted the following recommendations to dispose of property which did not sell at a tax sale auction:

(a) Lot 12, Block 11, Rock Creek Addition.

Following discussion, motion was made by, Mayor Pro-tem Spradling, seconded by Council Member Gillingham, to approve the sale as recommended. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

EXECUTIVE SESSION: Mayor Brain stated that in compliance with Chapter 551, Govt. Code, Vernon's Texas Codes Annotated, Section 551.071 Consultations with Attorney; Section 551.072 Real Property; Section 551.074 Personnel Matters, and Section 551.096 Economic Development Incentives, the Council would retire into executive session to discuss the following:

1. Discuss and consider a contract with Degussa for the sale of water.

COUNCIL RETURNED TO OPEN SESSION: Following the executive session, Mayor Brain reconvened the regular meeting and stated that the Council discussed a contract with Degussa for the sale of water.

The Mayor stated that no action was necessary at this time.

QUESTIONS AND COMMENTS FROM CITIZENS: Ed Benz, representing the Hutchinson County Museum, was present to discuss the demolition of a structure located at 601 N. Coble. Mr. Benz stated that the property has historical significance to Borger and asked that it be removed from the demolition list.

Mayor Brain advised Mr. Benz that the property belongs to HUD and HUD requested that it be demolished. The property was approved for demolition on June 21, 2005; however, with the number of structures to be demolished, this property had just come to the top of the list.

A lengthy discussion ensued during which time the Council advised Mr. Benz that they could take no action on his request because the item was not on the city council agenda.

Becky Alexander, sister to the former owner of the property Betty Newby, was present and asked the Council for 90 days in which to go through the house looking for pictures, etc. The Council advised Ms. Alexander that the City does not own the property; therefore, could not officially grant permission for anyone to enter the property.

The Mayor said that city staff was in charge of the property. He recommended that interested parties address their concerns and requests to the staff.

No further discussion was had.

MEETING ADJOURNED: There being no further business, the meeting was adjourned.

Mayor

ATTEST:

City Secretary