

REGULAR MEETING OF CITY COUNCIL
SEPTEMBER 12, 2006 1:30 P.M.

PRESENT:	Charles "Pete" Loftis	Council Member
	Charles Gillingham	Council Member
	Leon DeWeese	Council Member
ABSENT:	Jeff Brain	Mayor
	Garrett Spradling	Mayor Pro-tem
STAFF:	Wanda Klause	City Manager
	Eddie Edwards	Asst. City Manager
	Larry Mullenix	Director, Planning & Zoning
	Jimmy Adams	Chief of Police
	Gayland Darnell	Fire Chief
	Danny Richards	EOC Coordinator
VISITORS:	Lucy Carpenter	
	Robert Friedman	

COUNCIL MEMBER APPOINTED TO PERFORM MAYOR'S DUTIES: City Manager Wanda Klause stated that both the Mayor and Mayor Pro-tem were absent which initializes Chapter 41 of the City Charter. Klause said that Chapter 41 states that during the absence of the Mayor, the Mayor's duties shall be performed by another member appointed by the Council. Motion was made by Council Member Gillingham, seconded by Council Member DeWeese, to appoint Charles "Pete" Loftis to perform the mayor's duties at this meeting. The motion carried by the following vote:

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

PUBLIC HEARING CONDUCTED - ORDINANCE NO. O-014-06

INTRODUCED: Council Member Loftis opened the city's second public hearing on its proposed ad valorem tax rate for 2006. The proposed ad valorem tax rate and debt service tax rate for 2006 is \$0.58039 per \$100 valuation. This rate will raise \$285,249 more than taxes imposed last year. Council Member Loftis asked if anyone present wished to comment. No comments were heard; therefore, Council Member Loftis closed the public hearing. No further action taken.

ORDINANCE NO. O-014-06 INTRODUCED: Ordinance No. O-014-06 fixing and levying municipal ad valorem taxes of the City of Borger, Texas for the fiscal year beginning October 1, 2006 and ending September 30, 2007 at the rate of \$0.58039 per

\$100 valuation and for directing the assessment thereof; providing for a date on which such taxes become due and delinquent together with penalties and interest thereon; providing for repealing, savings and severability clauses; providing for an effective date of this ordinance; and providing for the publication of the caption hereof was submitted for the consideration of the Council. Following discussion, motion was made by Council Member Gillingham, seconded by Council Member DeWeese, to introduce Ordinance No. O-014-06 as written. The motion carried by the following vote:

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

CONTRACT AMENDMENT BETWEEN THE CITIES OF BORGER AND PAMPA FOR DISPOSAL OF SOLID WASTE APPROVED: City Manager Wanda Klause submitted a contract amendment between the cities of Borger and Pampa concerning an increase for municipal solid waste and garbage disposal delivered to Pampa's landfill. Klause said the cost per ton was increased by \$1.50. Pampa representatives said the increase was due to the increase in fuel costs and the cost to comply with TCEQ rules and regulations. Following discussion, motion was made by Council Member DeWeese, seconded by Council Member Gillingham, to approve the contract amendment. The motion carried by the following vote:

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

CONTRACT FOR SERVICES BETWEEN THE TEXAS HISTORICAL COMMISSION AND THE CITY OF BORGER APPROVED: The Texas Historical Commission submitted a contract pursuant to V.T.C.A., Government Code, §442.005, to establish funds to be used to pay for salary, benefits, and operational expenses of a Regional Coordinator for the Texas Plains Trail Region in the amount of \$50,000. The City monitors the expenditure of funds as set out in the contract. Term of this contract is September 1, 2006 through August 31, 2007. Following discussion, motion was made by Council Member Gillingham, seconded by Council Member DeWeese, to approve the contract between the Texas Historical Commission and the City of Borger. The motion carried by the following vote:

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

RECOMMENDATION FROM HUTCHINSON COUNTY APPRAISAL DISTRICT FOR DISPOSITION OF PROPERTY APPROVED: Bill Swink, Chief Appraiser of the Hutchinson County Appraisal District, submitted the following recommendation to dispose of property which did not sell at a tax sale auction:

- (a) Lot 27 & S/15' of Lot 28, Block 27, Original Townsite

Mr. Swink recommended that a bid of \$1,500 from Robert Friedman be accepted. Following discussion, motion was made by Council Member DeWeese, seconded by Council Member Gillingham, to approve the sale of the property as recommended. The motion carried by the following vote:

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

RESOLUTION NO. R-014-06 APPROVED DENYING SPS COMPANY A RATE INCREASE: Resolution No. R-014-06 denying the rate increase proposed by the Southwestern Public Service Company was submitted for the consideration of the Council. Following discussion, motion was made by Council Member Gillingham, seconded by Council Member DeWeese, to approve the resolution. The motion carried by the following vote:

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

The resolution read as follows:

RESOLUTION NO. R-014-06

A RESOLUTION DENYING THE RATE INCREASE PROPOSED BY THE SOUTHWESTERN PUBLIC SERVICE COMPANY; REQUIRING THE REIMBURSEMENT OF MUNICIPAL RATE CASE EXPENSES; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE

WHEREAS, Southwestern Public Service Company (SPS) filed a Statement of Intent with the City of Borger, Texas (“City”) on May 31, 2006 to increase its system-wide, annual revenue requirement, by approximately \$47.9 million; and

WHEREAS, the City is a regulatory authority under the Public Utility Regulatory Act (“PURA”) and under Chapter 33, §33.001 et seq. of PURA has exclusive original jurisdiction over SPS’ rates, operations, and services of a utility within the municipality; and

WHEREAS, the original effective date for the SPS rate increase request was July 5, 2006, the City has suspended the effective date for the City to take final action until October 3, 2006; and

WHEREAS, the City, acting in concert with other cities known as the Alliance of Xcel Municipalities (“AXM”), has employed rate experts to review the testimony, schedules, workpapers and other documents provided by SPS in its Statement of Intent and in response to discovery requests; and

WHEREAS, the City’s rate experts have reviewed tens of thousands of pages of the books and records of SPS and the review is on-going; and

WHEREAS, based upon the review of the rate experts the request to increase rates should be denied.

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

PART 1. FINDINGS

(A) On May 31, 2006, SPS filed a rate-filing package with the City based on a test year ending December 31, 2005, seeking to increase rates by \$47.9 million with a proposed effective date of July 5, 2006, which was suspended, to October 3, 2006.

(B) Based on company-provided information, SPS’ proposal would result in an average monthly increase per customer within the City for the following sample of rates:

	Current Total Charges	Proposed Total Charges	Dollar Increase	Percentage Change
Residential Lighting-Energy				
Summer	\$88.55	\$93.85	\$5.30	5.99%
Winter	\$84.55	\$88.44	\$3.89	4.60%

Residential Space Heating					
 With Water Heating					
Summer	\$74.18	\$92.25	\$18.07	24.36%	
Winter	\$72.18	\$86.84	\$14.66	20.31%	
Residential Heat Pump					
 With Water Heating					
Summer	\$76.53	\$92.25	\$15.72	20.54%	
Winter	\$74.13	\$86.84	\$12.71	17.15%	
Residential Space Heating					
Summer	\$85.72	\$91.54	\$5.82	6.79%	
Winter	\$68.72	\$86.13	\$17.41	25.33%	
Residential Water Heating					
Summer	\$75.35	\$92.89	\$17.54	23.28%	
Winter	\$73.35	\$87.48	\$14.13	19.26%	
Residential Heat Pump					
Summer	\$86.65	\$93.13	\$6.48	7.48%	
Winter	\$72.25	\$87.72	\$15.47	21.41%	
General Service-Energy					
Summer	\$104.46	\$102.21	-\$2.25	-2.15%	
Winter	99.46	92.38	-\$7.08	-7.12%	

(C) The City has exclusive original jurisdiction under the Public Utility Regulatory Act, Texas Utilities Code Chapter 33, §33.001 et seq. to evaluate SPS' proposed rate increase.

(D) The City has joined a coalition of cities, known as Alliance of Xcel Municipalities ("AXM").

(E) AXM has hired experts to evaluate and make recommendations regarding the proposed rate increase.

(F) While AXM's experts will conclude their investigation no earlier than October 24, 2006 for cost allocation and rate design issues, and October 31, 2006 for revenue requirements, including fuel reconciliation issues, based on current information, AXM's experts believe that SPS is not entitled to its requested increase in rates.

(G) These experts have determined that the rate increase proposed by SPS is not just and reasonable based upon, but not limited to, the following factors:

The request seeks an excessive return on equity of 11.60%;

The request seeks an excessive equity ratio of 51.13%;

The request seeks excessive level of depreciation in rates; and

The request proposes a marked departure from SPS' historic rate design by directly assigning and surcharging municipal franchise fees and consolidating 36 different rate schedules into 8 rate classes;

SPS proposed changes to its line-loss factors which impact calculation of SPS' fuel-adjustment factors and jurisdictional and customer-class allocation factors; and

SPS quality of service including its timeliness for installations of new service (including service to new subdivisions); delays in fulfilling requests for relocation of service; the frequency of outages; delays in disconnection of service in emergency situations and the lack of adequate levels of local customer service representatives;

(H) The 11.60% return on equity proposed by SPS is materially higher than the return on equity considered to be reasonable in SPS' affiliate's most recent rate cases before the regulatory commissions of Wisconsin (11.00%) and Minnesota (10.64%), and materially higher than recommended by the staff of the regulatory commission of Colorado (9.50%).

(I) SPS' proposal does not appear to include short-term debt in calculating its overall rate of return, thereby increasing the overall return on investments and making the rate increase request considerably larger than reasonably justified.

(J) SPS' proposal requests an unreasonable equity ratio of 51.13%, thereby increasing the overall return on investments and making the rate increase request considerably larger than justified.

(K) SPS has proposed a rate design that shifts recovery of its costs by increasing its Service Availability Charges, for example, from \$4.65 to \$12.75 for residential consumers, and reducing its usage charges, each change which brings into question such changes' consistency with energy conservation measures.

(L) SPS' proposal to directly assign recovery of municipal franchise fees and surcharge such fees is unreasonable.

(M) The failure of SPS to provide sufficient cost information related to its affiliate transactions has made it difficult to analyze the components and the reasonableness of the requested costs and expenses related to SPS' affiliate transactions.

(N) 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.

PART 2. Based upon the foregoing findings the rate increase proposed by SPS and filed with the City on May 31, 2006, is denied.

PART 3. SPS is directed to reimburse all municipal rate case expenses incurred by the City in relation to the filing.

PART 4. A copy of this Resolution shall be sent to Mr. James Bagley, Manager, Regulatory Administration, Xcel Energy, P.O. Box 1261, Amarillo, Texas 79105, and to Mr. Marcus W. Norris, City Attorney, City of Amarillo, 509 E. 7th, P.O. Box 1971, Amarillo, Texas 79105-1971.

PART 5. This resolution shall become effective from and after its passage.

ORDINANCE NO. O-013-06 DESIGNATING CHARGES FOR REFUSE

COLLECTION INTRODUCED: Ordinance No. O-013-06 amending the City of Borger, Code of Ordinances, Chapter 13, Utilities, Article 13.06, Solid Waste, Section 13.06.045, Charges, (A), (1), (2), (3) and (5) Designating Charges for Refuse Collection and Removal was submitted for the consideration of the Council on first reading. Following discussion, motion was made by Council Member DeWeese, seconded by Council Member Gillingham, to introduce the ordinance. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

QUESTIONS OR COMMENTS: No questions or comments were heard.

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

Mayor

ATTEST:

City Manager