

**REGULAR MEETING OF CITY COUNCIL
APRIL 3, 2007**

1:30 P.M.

PRESENT: Jeff Brain Mayor
Garrett Spradling Mayor Pro-tem
Charles Loftis Council Member
Charles Gillingham Council Member
Leon DeWeese Council Member

STAFF: Wanda Klause City Manager
Eddie Edwards Assistant City Manager
Larry Mullenix Director, Planning & Zoning
Jimmy Adams Police Chief
Glynn Carlock Director of Finance
Henry Veach Director of Public Works
Danny Richards EOC Coordinator

VISITORS: Judy Mihm
Norma Luginbyhl
Terry Washer
Michael Pigg

NEWS MEDIA: None

MINUTES APPROVED: Following review of the minutes of the Regular Meeting of March 20, 2007, motion was made by Council Member Loftis, seconded by Council Member Gillingham, 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: The expenditures for the last half of March were submitted for the consideration of the Council. Following discussion, motion was made by Mayor Pro-tem Spradling, seconded by Council Member Loftis, to approve payment of the expenditures for the last half of March as submitted. The motion carried by the following vote:

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

PUBLIC HEARING CONDUCTED - ORDINANCE NO. O-003-07 APPROVED: Mayor Brain explained Council actions to date concerning Ordinance No. O-003-07 creating a sex offender safety zone in the City of Borger and opened a public hearing to allow for citizen comments. Norma Luginbyhl, Director, Hutchinson County Crisis Center, thanked the Council for their progressive and aggressive action concerning the introduction of the sex offender safety zone ordinance and she reiterated the importance of this ordinance to this community. Ms.

Luginbuhl also presented the Council with a plaque from Governor Perry declaring April as Sexual Abuse Awareness Month in the State of Texas.

Mayor Brain asked if anyone else wished to comment. There being no further comments, The Mayor closed the public hearing. Motion was made by Council Member Spradling, seconded by Council Member Loftis, to approve Ordinance No. O-003-07 on final reading. The motion carried by the following vote:

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

The captioned ordinance reads as follows:

AN ORDINANCE PERTAINING TO CHAPTER 8, OFFENSES AND NUISANCES, CREATING ARTICLE 8.09, SEXUAL OFFENDER SAFETY ZONE, OF THE CODE OF ORDINANCES OF THE CITY OF BORGER.

AN ORDINANCE TO ADOPT SEXUAL OFFENDER RESIDENCY RESTRICTIONS, TO PROHIBIT CERTAIN PERSONS SUBJECT TO THE SEX OFFENDER REGISTRATION ACT AND DEFINED AS SEXUAL OFFENDERS, FROM RESIDING WITHIN 500 FEET OF SPECIFIED LOCATIONS WITHIN THE CITY OF BORGER; RESTRICTING SEXUAL OFFENDERS' ACCESS TO PARKS AND CHILD CARE FACILITIES; PROVIDING FOR EXCEPTIONS; PROVIDING FOR PENALTIES; SEVERABILITY AND SUPERSEDING OR REPEALING ANY CONFLICTING ORDINANCES

RESOLUTION NO. R-004-07 APPROVED: Resolution No. R-004-07 was submitted pertaining to a settlement agreement between the Alliance of X-Cel Municipalities (of which Borger is a member) and Southwestern Public Service Co. on X-Cel's rate increase with the Texas Public Utilities Commission. Following discussion, motion was made by Council Member Loftis, seconded by Council Member Gillingham, to approve Resolution No. R-004-07 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-004-07

A RESOLUTION BY THE CITY OF BORGER, TEXAS ("CITY") APPROVING A SETTLEMENT REGARDING SOUTHWESTERN PUBLIC SERVICE COMPANY'S ("SPS") APPLICATION FOR A RATE INCREASE, INCLUDING SPS' APPLICATION TO RECONCILE ITS FUEL EXPENSES FOR THE YEARS 2004 AND 2005, ON APPEAL BEFORE THE PUBLIC UTILITY COMMISSION OF TEXAS; DETERMINING THAT THE

MEETING AT WHICH THIS RESOLUTION WAS PASSED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; AND MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

WHEREAS, Southwestern Public Service Company (“SPS”) on May 31, 2006 submitted to the City and to the Public Utility Commission of Texas (PUCT) an application to increase its rates by approximately \$47.9 million; and

WHEREAS, on May 31, 2006, SPS also submitted to the PUCT an application to reconcile its fuel expenses for the period of January, 2004 through December, 2005, during which reconciliation period SPS contends it incurred approximately \$957 million in total fuel and purchased-power expenses and an under recovery of approximately \$138 million; and

WHEREAS, the City joined 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; and

WHEREAS, the City retained the services of lawyers and consultants who primarily concentrate their practices on reviewing and analyzing the kinds of issues and subject matter contained in SPS’ rate-filing package, who after their initial investigation recommended to the City to deny SPS’ requested rate increase; and

WHEREAS, the City in a timely fashion denied SPS’ request for a base-rate increase; and

WHEREAS, SPS in a timely fashion appealed to the PUCT, the City’s denial of SPS’ base-rate increase; and

WHEREAS, after lengthy negotiations between the AXM, SPS, and other parties to the rate proceedings pending before the PUCT, the parties have reached a unanimous agreement to resolve their differences by way of settlement; and

WHEREAS, as part of the settlement, SPS has agreed to (a) implement certain improvements in quality of service; (b) cooperate with the City in drafting a certain transmission cost-recovery rule pending before the PUCT; (c) a reduced increase in base rates; (d) a reduction in its 2004-2005 reconcilable fuel expenses; and (e) to a further reduction in its 2006-2007 reconcilable fuel expenses; and

WHEREAS, resolution of the case as set forth in the settlement will serve to reduce rate case expenses and bring certainty not otherwise available from a fully litigated outcome of the case.

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 approves a settlement of SPS' rate application and fuel-reconciliation petition, that incorporates the following terms:

- a. A base-rate increase of \$23 million as opposed to SPS' requested base-rate increase of \$47.9 million;
- b. A reduction in reconcilable fuel expenses for the period of 2004-2005 of \$27 million;
- c. A further reduction in reconcilable fuel expenses for the period of 2006-2007 of \$2.3 million;
- d. A cap on the increase of its service-availability charge for residential customers of \$5.10 per month, and of \$11.00 per month for its small business customers;
- e. No net increase in the overall rates paid by the Canadian River Municipal Water Authority;
- f. A commitment by SPS to spend an additional \$5 million in 2007 and an additional \$5 million in 2008 for the addition of apprentices, journeyman lineman, meterman, design engineers, area engineers, substation electricians and relay technicians, and managers and/or community service representatives, all with the goal of improving SPS' quality of service;
- g. A commitment by SPS to cooperate with AXM and the City to attempt to reach a consensus on proposed language for a transmission cost-recovery rule currently pending before the PUCT;

- h. The litigation of a sole issue related to SPS' wholesale contract with the El Paso Electric Company; and
- i. Reimbursement of AXM's and the City's rate case expenses.

Section 3. 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 _____ 2007.

ATTEST:

MAYOR

CITY MANAGER

PUBLIC HEARING CONDUCTED - PRELIMINARY AND FINAL RE-PLAT

APPROVED: Mayor Jeff Brain explained the request from Terry Washer to re-plat a 1.008 acre tract in Section 32, Block Y, A & B Survey, Fairlanes Addition Unit Twelve, and asked if anyone wished to comment concerning this re-plat. No comments were heard; therefore, the Mayor closed the public hearing. Following discussion, motion was made by Council Member DeWeese, seconded by Mayor Pro-tem Spradling, to approve the re-plat. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

BID AWARDED: The following bid was submitted for consideration of award by the City Council.

ITEM: Wal-Mart Lift Station Wet Well – bid by Smith Loveless

ITEM	QTY	DESCRIPTION	UNIT PRICE	TOTAL PRICE
1	1	Wet well mounted, packaged	\$31,857.00	\$31,857.00

lift station with 5 HP pumps
rated for 100 GPM @ 26'
of head, 480 volt, 3 phase
electrical.

Jim Harder, Director of Utilities, explained the need for the wet well packaged lift station. Mr. Harder advised the Council that 90% of the city's wet well lift stations were made by Smith-Loveless, and said his crew preferred this brand. Following discussion, motion was made by Mayor Pro-tem Spradling, seconded by Mr. Loftis, to award bid for the wet well mounted packaged lift station to Smith-Loveless as recommended. The motion carried by the following vote:

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

SUBORDINATION AGREEMENT APPROVED: Michael Pigg with Twenty Cent Ministries addressed the Council concerning the city subordinating an 8 x 120 foot section of right-of-way along 401 Kaye Avenue. Following discussion, motion was made by Council Member Loftis, seconded by Council Member DeWeese, to approve the Subordination Agreement. The motion carried by the following vote:

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

QUESTIONS AND COMMENTS FROM CITIZENS: No comments were heard.

EXECUTIVE SESSION: Mayor Brain stated that in compliance with Chapter 551, Govt. Code, Vernon's Texas Codes Annotated, the Council would retire into executive session relative to Section 551.074 Personnel Matters as follows:

(a) Discuss reassignment and duties of personnel.

COUNCIL RETURNED TO OPEN SESSION: Following the executive session, Mayor Brain reconvened the regular meeting and stated that the Council discussed the reassignment of and duties of personnel. No decisions were made and no action was taken.

MEETING ADJOURNED: Motion was made by Council Member Loftis, seconded by Council Member Gillingham, to adjourn the meeting. The motion carried by the following vote:

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

WORK SESSION CONDUCTED: The Mayor stated that the work session was open; however, no official action could be taken. Council and staff discussed signage for rear entrance

of City Hall, and discussed the appointment of a Certified Local Government Committee. No decisions were made.

MEETING ADJOURNED: Motion was made by Council Member Loftis, seconded by Council Member Gillingham, to adjourn the meeting. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

Mayor

ATTEST:

City Secretary