

**REGULAR MEETING OF CITY COUNCIL
JUNE 3, 2008**

1:30 P.M.

PRESENT: Jeff Brain Mayor
Leon DeWeese Council Member
Marvin Dickson Council Member
Robert Vinyard Council Member

ABSENT: Charles Gillingham Council Member

STAFF: Wanda Klause City Manager
Eddie Edwards Assistant City Manager
Kathy Harber Secretary, Planning & Zoning
Jimmy Adams Chief of Police
Bruce Roberts Captain
Bob Watson Fire Chief
Danny Richards EOC Coordinator
Glynn Carlock Director of Finance
Ted Dodd Director of Public Works
Larry Byrd Code Enforcement
Stella Sauls Deputy City Secretary

VISITORS: Judy Mihm
Marilyn Brown
Harvey Hathaway
Emily Sargent
Roberta Monden
Marty Vinyard

NEWS MEDIA: Michelle Berry Borger News Herald

OATH OF OFFICE ADMINISTERED TO NEWLY ELECTED COUNCIL

MEMBER: Stella Sauls, Deputy City Secretary, administered the Oath of Office and Statement of Elected Officer to Jeff Brain. Mayor Brain was presented with a Certificate of Election.

MINUTES APPROVED: Following review of the minutes of the regular meeting of May 20, 2008, motion was made by Council Member Dickson, 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: The expenditures for the last half of May were submitted for the consideration of the Council. Following discussion, motion was made by Council Member DeWeese, seconded by Council Member Dickson, 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 RELAY FOR LIFE APPROVED: Marilyn Brown, member, Relay for Life Committee, requested permission to tie purple ribbons around trees in Huber Park to heighten awareness for Relay for Life events. Ms. Brown said the committee members will assume responsibility for the condition of the ribbons and will also remove them following the event in Huber Park. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Dickson, to approve the request. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

BOARD MEMBERS APPOINTED TO BORGER ECONOMIC DEVELOPMENT CORPORATION BOARD OF DIRECTORS: Dan Redd, Chief Executive Officer of the Borger Economic Development Corporation, submitted a letter to the Council requesting the appointment of two board members for three year terms. Sara Bumgarner and Scott Mills have served a total of six years, therefore, they are not eligible for reappointment. The names of Roberta Monden and Norm Sargent have been recommended for consideration of appointment. Following discussion, motion was made by Council Member DeWeese, seconded by Council Member Dickson, to appoint Roberta Monden and Norm Sargent to the BEDC Board of Directors for three year terms respectively. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

ORDINANCE NO. O-008-08 INTRODUCED: Ordinance No. O-008-08 providing for a fee to defray costs of collecting delinquent fines, fees, and other debts pursuant to Article 103.0031 of the Texas Code of Criminal Procedure was submitted for the Council's consideration. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member DeWeese, to introduce Ordinance No. O-008-08 on first reading. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

ONE (1) OPERATION FACELIFT CONTRACT APPROVED: One operation facelift contract was received requesting demolition and cleanup of the following property:

- a. 130 Cottonwood, Lot 1, Block 3, Philview Camp Addition

Following discussion, motion was made by Council Member DeWeese, seconded by Council Member Dickson, to approve the operation facelift contract for 130 Cottonwood Street. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

FIRE CHIEF BOB WATSON AUTHORIZED TO APPLY FOR A SAFER GRANT THROUGH THE FEDERAL EMERGENCY MANAGEMENT AGENCY:

Fire Chief Bob Watson submitted a request to apply for a SAFER (Staffing for Adequate Fire and Emergency Response) Grant through the Federal Emergency Management Agency. This grant will provide 90% of the cost associated with hiring additional firefighters for the first year of a four year program. The fourth year the percentage paid by the grant reduces to 30%. Following Chief Watson's presentation, motion was made by Council Member Vinyard, seconded by Council Member DeWeese, to authorize the Fire Chief to apply for the SAFER grant. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

RESOLUTION NO. R-011-08 APPROVED: Eddie Edwards, Assistant City Manager, submitted Resolution No. R-011-08 pertaining to an application by SPS Company to revise its interruptible credit option tariff, and implement a new saver's switch and other related relief. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Dickson, to approve Resolution No. R-011-08 pertaining to SPS's application to revise its interruptible credit option tariff, implement a new saver's switch, and related relief be approved as submitted. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

Resolution No. R-011-08 reads as follows:

RESOLUTION NO. R-011-08

A RESOLUTION BY THE CITY OF BORGER, TEXAS ("CITY") APPROVING SOUTHWESTERN PUBLIC SERVICE COMPANY'S ("SPS") PROPOSED TARIFF SHEETS RELATED TO CERTAIN INTERRUPTIBLE-SERVICE TARIFFS FILED ON OR ABOUT MAY 13, 2008; EXPRESSLY DECLINING TO

APPROVE SPS' METHODOLOGY FOR CALCULATING CERTAIN CREDITS AND AVOIDED COSTS; EXPRESSLY RESERVING TO THE CITY THE RIGHT TO REVIEW IN SPS' NEXT GENERAL RATE CASE THE METHODOLOGY UNDERLYING CERTAIN CREDITS AND AVOIDED COSTS; REQUIRING THE REIMBURSEMENT OF EXPENSES ASSOCIATED WITH THE REVIEW OF SPS' TARIFFS; 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") timely notified the City of SPS' intention to be revise its tariffs to provide interruptible service to certain customers; and

WHEREAS, SPS did in fact on or about May 13, 2008 file its *Application of Southwestern Public Service Company for Authority to: (1) Revise its Interruptible Credit Option Tariff; (2) Implement a New Saver's Switch Tariff; and (3) Related Relief* (hereinafter referred to as SPS' "Interruptible Service Tariffs"); and

WHEREAS, SPS proposed an effective date of June 17, 2008, for its proposed Interruptible Service Tariffs; and

WHEREAS, the City pursuant to its authority granted local regulatory authorities under Chapters 33 and 36 of the Public Utility Regulatory Act as well as other provisions of the Act, has original jurisdiction over SPS' rates, operations, and services within the municipality, including the authority to review SPS' proposed Interruptible Service Tariffs for reasonableness; and

WHEREAS, a coalition of cities known as the Alliance of Xcel Municipalities ("AXM") has been organized to review the reasonableness of rates and services provided by SPS, a subsidiary of Xcel Energy, and the City in the past has participated in the AXM and hereby continues its participation in the AXM; and

WHEREAS, SPS' rate request consists of a material amount of documentation, including testimony, exhibits, schedules and proposed tariffs, all of a highly complex nature; and

WHEREAS, it is not possible for the City to complete its review of SPS' filing within 35 days; and

WHEREAS, SPS seeks approval not only of its proposed rates, but also of its proposed methodology used to calculate certain credits attendant to its Interruptible Service Tariffs, including calculation of SPS' avoided costs upon which such credits are based, each of which constitutes a complex undertaking; and

WHEREAS, the City is nonetheless desirous of facilitating implementation of reasonable means that may forestall the need to build and/or purchase additional generating capacity and allow its citizens the opportunity to subscribe to the optional services proposed by SPS; and

WHEREAS, SPS' application notes that SPS will not implement its Interruptible Service Tariffs until late 2008 or early 2009; and

WHEREAS, the City will need a reasonable amount of time before it is ready to approve the methodology underlying calculation of the credits in SPS' Interruptible Service Tariffs and the methodology SPS used to calculate its avoided costs underlying such credits; and

WHEREAS, a thorough review of the methodology used to calculate certain credits attendant to its Interruptible Service Tariffs, including calculation of SPS' avoided costs upon which such credits are based, is better accomplished in a general rate case where all of the company's operations, services, rates, customer classifications, rate design, expenses and revenues are subject to review.

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

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

Section 2. SPS' proposed tariff sheets for its revised "Interruptible Credit Option" Tariff; its "Residential Controlled Air Conditioning and Water Heater Rider" tariff; and its "Commercial and Industrial Controlled Air Conditioning Rider" tariff are hereby approved with an effective date of June 17, 2008.

Section 3. The City hereby expressly declines to approve the methodology by which SPS calculated the credits and the avoided cost underlying the credits to be issued under its proposed tariffs.

Section 4. The City's approval of SPS' tariff sheets for its revised "Interruptible Credit Option" Tariff; its "Residential Controlled Air Conditioning and Water Heater Rider" tariff; and its "Commercial and Industrial Controlled Air Conditioning Rider" tariff, is granted subject to the City's express reservation of the right to review in SPS' next general rate case (which is expected to be filed on or about June 6, 2008), the methodology underlying the credits and SPS' calculation of its avoided costs.

Section 5. SPS' proposed form of notice and its proposed notice procedure is hereby approved.

Section 6. The City is a participant in a coalition of cities known as the Alliance of Xcel Municipalities ("AXM").

Section 7. SPS shall reimburse within 30 days after submission the City's reasonable costs associated with the City's activities related to this rate review or to related proceedings involving SPS before the City, the Public Utility Commission of Texas, or any court of law.

Section 8. Subject to the right to terminate employment at any time, the City authorizes the law firm of Herrera & Boyle, PLLC 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 9. A copy of this resolution shall be sent to Mr. James Bagley, Director, Regulatory Administration, Xcel Energy, 600 S. Tyler, Suite 2400, Amarillo, Texas 79101, and to Mr. Marcus Norris, City Attorney, City of Amarillo, P.O. Box 1971, Amarillo, Texas 79105-1971

Section 10. 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.

Section 11. This resolution shall become effective from and after its passage.

PASSED, APPROVED, AND ADOPTED, on this the 3rd day of June, 2008, at a regular meeting of the City Council of the City of Borger, Texas which meeting was held in compliance with the Open Meetings Act, Tex Gov't Code, §551.001, et.seq.

QUESTIONS OR COMMENTS: No questions were asked and 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 551.072, Deliberations about Real Property.

- a. Discuss possible sale of real property Block 39, Gateway Heights.

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

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

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

Mayor

ATTEST:

City Manager