

**REGULAR MEETING OF CITY COUNCIL  
JULY 15, 2008**

**1:30 P.M.**

<b>PRESENT:</b>	Jeff Brain	Mayor
	Leon DeWeese	Council Member
	Charles Gillingham	Council Member
	Marvin Dickson	Council Member
	Robert Vinyard	Council Member
<b>STAFF:</b>	Wanda Klause	City Manager
	Eddie Edwards	Assistant City Manager
	Larry Mullenix	Director of Planning & Zoning
	Danny Richards	EOC Coordinator
	Glynn Carlock	Director of Finance
	Ted Dodd	Director of Public Works
	Ralph Earles	Asst. to Director of Public Works
	Jim Harder	Director of Utilities
<b>VISITORS:</b>	Judy Mihm	
	Dan Redd	
<b>NEWS MEDIA:</b>	Michelle Berry	Borger News Herald

**MONTHLY DEPARTMENTAL REPORTS APPROVED:** Monthly departmental reports for the month of June were submitted for review. Following discussion, motion was made by Council Member DeWeese, seconded by Council Member Gillingham, to approve the reports as written. The motion carried by the following vote:

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

**MINUTES APPROVED:** Following review of the minutes of the regular meeting of July 1, 2008, motion was made by Council Member Gillingham, seconded by Council Member Dickson, 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 first half of July were submitted for the consideration of the Council. Following discussion, motion was made by Council Member DeWeese, seconded by Council Member

Vinyard, to approve payment of the expenditures for the first half of July as submitted. The motion carried by the following vote:

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

**PROPOSED BUDGET FOR 2008-2009 FOR BEDC REMOVED FROM TABLE:**

Mayor Brain cited action needed to remove from the table the Borger Economic Development Corporation 2008-2009 proposed budget. Motion was made by Council Member Gillingham, seconded by Council Member DeWeese, to remove from the table the proposed budget of the Borger Economic Development Corporation for 2008-2009. The motion carried by the following vote:

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

**BORGER ECONOMIC DEVELOPMENT CORPORATION'S PROPOSED**

**BUDGET FOR 2008-2009 APPROVED:** Dan Redd, Chief Executive Officer of the Borger Economic Development Corporation, reviewed the Corporation's budget in detail. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Dickson, to approve BEDC's 2008-2009 budget. The motion carried by the following vote:

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

**LEASE AGREEMENT BETWEEN T-MOBIL AND CITY OF BORGER**

**APPROVED:** Eddie Edwards, Assistant City Manager, submitted a lease agreement between T-Mobil and the City for a 10,000 square foot site on West Third Street close to the city's sludge drying area. The terms of the lease call for a payment of \$750.00 per month to be paid to the City by T-Mobil. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Dickson, to approve the lease agreement between T-Mobil and the City of Borger as written. The motion carried by the following vote:

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

**RESOLUTION NO. R-012-08 APPROVED:** Eddie Edwards, Assistant City Manager, asked the Council to approve Resolution No. R-012-08 effectively suspending SPS's proposed effective date for its rate increase by 90 days, and also approve the request for interim rates in accordance with the settlement reached in SPS's 2006 rate case. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member DeWeese, to approve the resolution suspending the effective date of the

2008 base rate increase application of SPS for ninety days, and approve certain interim rates as submitted. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

The resolution reads as follows:

**RESOLUTION R-012-08**

**A RESOLUTION BY THE CITY OF BORGER, TEXAS (“CITY”) SUSPENDING THE EFFECTIVE DATE FOR NINETY DAYS IN CONNECTION WITH THE RATE INCREASE FILING OF SOUTHWESTERN PUBLIC SERVICE COMPANY ON JUNE 12, 2008; APPROVAL OF CERTAIN INTERIM RATES; AUTHORIZING THE CITY TO JOIN WITH OTHER CITIES IN THE ALLIANCE OF XCEL MUNICIPALITIES (“AXM”) TO DIRECT THE ACTIVITIES OF LAWYERS AND CONSULTANTS; AUTHORIZING THE HIRING OF ATTORNEYS AND CONSULTANTS; REQUIRING REIMBURSEMENT OF REASONABLE LEGAL AND CONSULTANT 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**, on or about June 12, 2008, Southwestern Public Service Company (“SPS”), a wholly-owned subsidiary of Xcel Energy, Inc. (Xcel) filed a Statement of

Intent with the City of Borger, Texas (“City”) to increase its system wide, annual revenue requirement, by approximately \$84.2 million; and,

**WHEREAS**, SPS’ application with the City includes a request to reconcile its fuel expenses for the calendar years 2006 and 2007 to recover an additional \$50.6 million previously under-recovered through its fuel factor during calendar years 2006 and 2007; and,

**WHEREAS**, SPS’ application for a rate increase includes a request for approval of interim rates associated with its purchased-power agreement (PPA) with the Lea Power Partners (LPP) generating facility; 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; and,

**WHEREAS**, a coalition of cities known as Alliance of Xcel Municipalities (“AXM”) has been organized to review the reasonableness of rates and services in SPS’ service territory in Texas; and,

**WHEREAS**, the City has participated as a member of the AXM in prior ratemaking proceedings involving SPS; and,

**WHEREAS**, the City benefits from the expertise and the efficiencies of AXM in reviewing the reasonableness of SPS’ rates, operations, and services; and,

**WHEREAS**, under PURA § 33.022 SPS is required to reimburse the reasonable rate case expenses of the AXM cities; and,

**WHEREAS**, the rate request of SPS, which was filed on June 12, 2008, consists of a voluminous amount of pages of testimony, exhibits, schedules and work papers; and,

**WHEREAS**, it is not possible for the City to complete its review of SPS' Statement of Intent and supporting documentation within 35 days; and,

**WHEREAS**, pursuant to the terms of the settlement reached in SPS' most recent rate case SPS' was permitted to seek recovery of a portion of its costs associated with its purchases of power from the Lea Power Partners power plant in the form of a request for interim rate relief in the amount of approximately \$1.5 million per month commencing with the commercial operation date of the Lea Power Partners power plant; and,

**WHEREAS**, any interim base-rate relief related to the Lea Power Partners power plant is subject to refund in the event the Lea Power Partners power plant does not achieve certain operating standards, or in the event its costs are less than is recovered through interim rates; and,

**WHEREAS**, SPS as part of its request for interim rate relief proposes to reduce its fuel charges via a credit of approximately \$1.955 million per month for a net savings to ratepayers of approximately \$455,000 per month.

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

**Section 1.** The findings set out in the preamble are in all things hereby approved.

**Section 2.** The effective date for SPS' filing of June 12, 2008 for its rate request is hereby suspended for an additional ninety days or at least until October 15, 2008.

**Section 3.** SPS' request for interim base-rate relief associated with a portion of its costs related to its purchases of power from the Lea Power Partners power plant is hereby approved, provided however, that:

a. Such interim rate relief is not implemented until the date that the Lea Power Partners power plant is in commercial operation;

b. SPS demonstrates that it is actually making payments in accordance with its purchased power agreement for such power;

c. The Lea Power Partners power plant is operating in accordance with the operating standards set forth in the Unanimous Stipulation entered into in Docket No. 32766, SPS' most recently concluded general rate case; and

d. Such interim base-rate relief is subject to refund in accordance with the provisions of the Unanimous Stipulation entered into in Docket No. 32766, SPS' most recently concluded general rate case.

**Section 4.** The statutory timeline may be further extended if SPS does not provide timely and meaningful public notice of its request to increase rates or if its rate-filing package is materially deficient.

**Section 5.** 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 6.** 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 7.** 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 8.** 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 9.** 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 10.** This resolution shall become effective from and after its passage.

**PASSED, APPROVED, AND ADOPTED,** on this the 15<sup>th</sup> day of July, 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. at which meeting a quorum was present and voting.

**RESOLUTION NO. R-013-08 APPROVED:** Resolution No. R-013-08 authorizing the submission of a FY 2009 Regional Solid Waste Grants Program Application to the Panhandle Regional Planning Commission was submitted for the consideration of the Council. Director of Public Works Ted Dodd explained the application process and how the 100 yard waste dumpsters will be utilized should the grant be approved. Following discussion, motion was made by Council Member DeWeese, seconded by Council Member Dickson, to approve the resolution authorizing the staff to submit an application to PRPC pertaining to the solid waste grant. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

The resolution reads as follows:

#### **RESOLUTION NO. R-013-08**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BORGER,  
TEXAS, AUTHORIZING THE SUBMISSION OF A FY2009 REGIONAL SOLID  
WASTE GRANTS PROGRAM APPLICATION TO THE PANHANDLE**

**REGIONAL PLANNING COMMISSION (PRPC) AND AUTHORIZING THE CITY MANAGER TO REPRESENT THE CITY IN ALL MATTERS PERTAINING TO THIS APPLICATION.**

**WHEREAS**, the citizens of the State of Texas, either directly or indirectly, pay into a state-managed solid waste tipping fee fund which provides the Texas Commission on Environmental Quality (TCEQ) the funding to administer a variety of programs designed to afford the state a higher degree of environmental protection; and,

**WHEREAS**, a portion of these TCEQ-administered tipping fee funds have been made available to the state's local governments through the regional councils of governments of Texas to provide grants for regional/local solid waste management projects; and,

**WHEREAS**, the primary intent of these grant funds is that they be used to implement/enhance programs at the regional/local level which promote the management goals of the regional and state solid waste plans; and,

**WHEREAS**, the City of Borger is eligible to receive these funds and desires to undertake a program which advances the solid waste management goals and objectives of the state solid waste management plan and the Panhandle Regional Solid Waste Management Plan.

**NOW THEREFORE**, be it resolved by the City Council of the City of Borger, Texas, that;

1. That the City Council has reviewed this application and has duly authorized its submission to the PRPC.
  
2. That City is applying for funds to equip and implement a program to be known as the City of Borger's Recycling and Waste Reduction Enhancement Project.
  
3. That the City Council designates the City Manager to act as it's duly authorized representative in all matters pertaining to this application.
  
4. That any grant funds received will be used for their intended purpose.
  
5. That as a condition of funding, the City of agrees to provide the necessary certifications and assurances required by the TCEQ.

**PASSED, APPROVED, AND ADOPTED**, on this the 15<sup>th</sup> day of July, 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. at which meeting a quorum was present and voting.

**BOARD APPOINTMENTS MADE TO BUILDING STANDARDS COMMISSION:**

Director of Planning & Zoning Larry Mullenix requested that Fran Simmons and Brandon West be appointed to serve four year terms on the Building Standards Commission. Mr. Mullenix also recommended that Dennis Hood and Mark Miller be reappointed to serve another four year term. Terms to expire June 30, 2012. Following discussion, motion was made by Council Member Gillingham, seconded by Council Member Dickson, to appoint Fran Simmons and Brandon West to the Building Standards Commission for four year terms, and reappoint Dennis Hood and Mark Miller to serve another four year term. Terms to expire June 30, 2012. The motion carried by the following vote:

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

**QUESTIONS OR COMMENTS:** None.

**MEETING ADJOURNED:** Motion was made by Council Member DeWeese, 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 Manager