

**REGULAR MEETING OF CITY COUNCIL
OCTOBER 7, 2008**

1:30 P.M.

PRESENT:	Jeff Brain	Mayor
	Leon DeWeese	Council Member
	Charles Gillingham	Council Member
	Marvin Dickson	Council Member
	Robert Vinyard	Council Member
STAFF:	Wanda Klause	City Manager
	Eddie Edwards	Assistant City Manager
	Larry Mullenix	Director of Planning & Zoning
	Ted Dodd	Director of Public Works
	Ralph Earles	Asst. to Director of Public Works
	Jimmy Adams	Police Chief
	Bob Watson	Fire Chief
	Danny Richards	EOC Coordinator
VISITORS:	Terry Maxwell	
	John Ray	
NEWS MEDIA:	Michelle Berry	Borger News Herald

QUESTIONS OR COMMENTS: None.

MINUTES APPROVED: Following review of the minutes of the regular meeting of September 16, 2008, motion was made by Council Member DeWeese, 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 last half of September were submitted for the consideration of the Council. Following discussion, motion was made by Council Member Dickson, seconded by Council Member DeWeese, to approve payment of the expenditures for the last half of September as submitted. The motion carried by the following vote:

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

RESOLUTION NO. R-017-08 DENYING THE RATE INCREASE PROPOSED BY SOUTHWESTERN PUBLIC SERVICE COMPANY APPROVED:

Assistant City Manager Eddie Edwards reviewed the findings of the Alliance of Xcel Municipalities (AXM), experts and consultants retained by the Alliance to review the rate application filed by SPS, and shared this information with the Council. The consensus of their findings determined that the rate increase proposed by SPS is not 'just and reasonable' based upon a number of factors; therefore, AXM's experts and special counsel recommended that the cities deny the SPS requested rate application by approving a resolution citing said factors. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Gillingham, to approve Resolution No. R-017-08 to deny the rate increase proposed by Southwestern Public Service Company. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

The Resolution reads as follows:

RESOLUTION R-017-08

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 or about June 12, 2008 to increase its system-wide, annual revenue requirement, by approximately \$84.2 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 17, 2008, and the City suspended the effective date for the City to take final action until October 15, 2008; 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, work papers 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 the books and records of SPS and additional voluminous data provided by 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.

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

PART 1. FINDINGS

- (A) On or about June 12, 2008, SPS filed a rate-filing package with the City based on a test year ending December 31, 2007, seeking to increase rates by approximately \$84.2 million with a proposed effective date of July 17, 2008, which was suspended, to October 15, 2008.
- (B) SPS’ requested increase represents an increase in base-rate revenue of approximately 21.35%.
- (C) 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 assuming consumption of 1000 kWh per month:

(D)

	Current	Proposed	Dollar	Percentage
	Total Charges	Total Charges	Increase	Change
Residential Service				
Summer	\$108.58	\$120.56	\$11.98	11.03%
Winter	\$84.55	\$109.64	\$9.50	9.49%
Residential Service				
With Space Heaters				
Summer	\$108.58	\$120.56	\$11.98	11.03%
Winter	\$88.74	\$94.90	\$6.16	6.94%
Small General Service				
Summer	\$111.11	\$108.44	-\$2.67	-2.40%
Winter	\$102.11	\$99.35	-\$2.76	-2.70%

(E) 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.

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

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

(H) While AXM's experts will conclude their investigation no earlier than October 13, 2007, including fuel reconciliation issues, based on current information, AXM's experts believe that SPS is not entitled to its requested increase in rates.

(I) 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:

- SPS has failed to reasonably calculate its consolidated tax savings adjustment, thereby significantly overstating its asserted revenue requirement.
- SPS has failed to normalize its non-fuel production operations and maintenance (O&M) expenses, which were unusually high in the test year, thereby overstating its revenue requirement.
- SPS failed to adjust its Test-Year energy sales to account for abnormal weather, thereby understating present base rate revenue requirements.
- SPS has overstated its asserted cost of equity by seeking an excessive return on equity of 11.25%;
- The request seeks an excessive level of depreciation expenses in rates and understates the net salvage value of its production plant; and
- The request proposes a marked departure from SPS' historic rate design by directly assigning and surcharging all municipal franchise fees to in-city ratepayers only, which change is unreasonable;
- SPS has proposed to increase its Service Availability Charge for Residential Service from \$5.10 to \$6.50 for residential consumers, an increase of approximately 27% in the customer charge, which brings into question such changes' consistency with energy conservation measures;
- SPS overstates the credits associated with SPS' interruptible service.

(I) 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 or about June 12, 2008, is denied.

PART 3. SPS is directed to reimburse all municipal rate case expenses incurred by the City in relation to the filing and to continue to do so in the event SPS appeals the City's actions on SPS' rate application.

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.

PASSED, APPROVED, AND ADOPTED, on this the 7th day of October, 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.

THREE (3) CHANGE ORDERS ON JOHNSON PARK YOUTH CENTER PROJECT APPROVED: Change Orders No. 3, 5 and 6 in the total amount of \$4,061.00 were submitted for the Council's consideration. Assistant City Manager Eddie Edwards reviewed the change orders and the cost of same with the Council recommending their approval. Following discussion, motion was made by Council Member Dickson, seconded by Council Member DeWeese, to approve Change Orders 3, 5 & 6 as submitted. The motion carried by the following vote:

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

SOLID WASTE DISPOSAL AGREEMENT BETWEEN THE CITY OF BORGER AND THE CITY OF PAMPA APPROVED: Assistant City Manager Eddie Edwards discussed an agreement for solid waste disposal between the City of Borger and the City of Pampa. Pampa is requesting an increase in tonnage delivered to their landfill from \$27.50 per ton to \$33.00 per ton. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Dickson, to approve the solid waste disposal agreement as submitted. The motion carried by the following vote:

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

PUBLIC HEARING CONDUCTED ON REZONING REQUEST: Mayor Brain opened a public hearing and asked if anyone wished to comment on a rezoning request submitted by Terry Maxwell, H & H Credit Union, to rezone Lots 7-10, Block 30, Isom Addition from General Residence to Retail. No comments were heard; therefore, the Mayor closed the public hearing. No further action.

ORDINANCE NO. O-012-08 APPROVED: Ordinance No. O-012-08 rezoning 500 W. Grand, Lots 7-10, Block 30, Isom Addition (H & H Credit Union) from General Residence to Retail was submitted for final consideration. Following discussion, motion was made by Council Member DeWeese, seconded by Council Member Dickson, to approve Ordinance No. O-012-08. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

The captioned ordinance reads as follows:

AN ORDINANCE AMENDING THE ZONING AND ZONING DISTRICT MAP OF THE CITY OF BORGER, TEXAS

RECOMMENDATION FROM HUTCHINSON COUNTY APPRAISAL

DISTRICT FOR DISPOSITION OF PROPERTY APPROVED: Chief Appraiser of the Hutchinson County Appraisal District Diana' Hooks submitted a recommendation to dispose of Lots 11-16, Block 46, 401 Deahl, 405 Deahl and 411 Deahl, Original Townsite Addition, which did not sell at a tax sale auction. Ms. Hooks stated that a bid of \$4,800.00 was received for this property; however, the lots are valued at \$10,246.14. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Dickson, to accept the bid of \$4,800.00. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

RECOMMENDATION FROM BUILDING STANDARDS COMMISSION

APPROVED: After proper notice and hearings the Building Standards Commission submitted a letter to the Council recommending the demolition of the following property:

- (a) 713 Coble, Lots 10-11, Block 17, Original Townsite

Following discussion, motion was made by Council Member Gillingham, seconded by Council Member Dickson, to approve demolition and cleanup of the recommended property. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

RECOMMENDATION FROM BUILDING STANDARDS COMMISSION

APPROVED: After proper notice and hearings the Building Standards Commission submitted a letter to the Council recommending the demolition of the following property:

- (a) 819 Roosevelt, Lot 8 and E/42' of Lot 9, Block 48, Isom Addition

Following discussion, motion was made by Council Member Vinyard, seconded by Council Member DeWeese, to approve demolition and cleanup of the recommended property. The motion carried by the following vote:

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

UTILITY EASEMENT AT COFIELD PARK APPROVED: Director of Planning and Zoning Larry Mullenix submitted a request from XCEL Energy for a utility easement to provide for a portion of the landscape sprinkler system at Cofield Park. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Gillingham, to authorize the Mayor to execute a utility easement for XCEL Energy as requested. The motion carried by the following vote:

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

PRELIMINARY AND FINAL PLAT OF JOSE RAMOS BUILDING SITE RECEIVED: Larry Mullenix, Director of Planning & Zoning, submitted the preliminary and final plat from Jose Ramos including all of Tract 1-A and 1-B and the N/2 of Tract 1-D containing 12.234 acres, located in the NE/4 of Section 17, Block Y, M&C Survey. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Dickson, to receive the Jose Ramos Building Site Plat. The motion carried by the following vote:

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

MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF BORGER AND THE PANHANDLE REGIONAL PLANNING COMMISSION CONCERNING PANCOM RADIO SYSTEM APPROVED: Danny Richards, Coordinator, EOC, submitted a Memorandum of Understanding between the City of Borger and the Panhandle Regional Planning Commission concerning the implementation of the Pancom Radio System. Following discussion, motion was made by Council Member DeWeese, seconded by Council Member Vinyard, to approve the Memorandum of Understanding between PRPC and the City of Borger as submitted. The motion carried by the following vote:

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

CITY COUNCIL WORK SESSION SCHEDULED: Motion was made by Council Member Vinyard, seconded by Council Member Dickson, to schedule a work session for 11:00 a.m., Tuesday, October 21, 2008. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: 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