

**REGULAR MEETING OF CITY COUNCIL
FEBRUARY 3, 2009**

1:30 P.M.

PRESENT:	Jeff Brain Charles Gillingham Marvin Dickson Robert Vinyard	Mayor Council Member Council Member Council Member
ABSENT:	Leon DeWeese	Council Member
STAFF:	Wanda Klause Eddie Edwards Larry Mullenix Bruce Roberts Bob Watson Ted Dodd Danny Richards	City Manager Asst. City Manager Director, Planning & Zoning Captain, Police Department Fire Chief Director of Public Works EOC Coordinator
VISITORS:	Brandy Callahan Robert Bradley Beverly Bradley Raymond Loftis Judy Mihm	Downtown Merchants
NEWS MEDIA:	Michelle Berry	Borger News Herald

QUESTIONS AND COMMENTS FROM CITIZENS:

Citizens who have indicated their desire to speak to the City Council will be heard at this time. In compliance with the Texas Open Meetings Act, unless the subject matter is on the agenda, City Council members are prevented from acting on the subject and may respond only with statements of factual information or existing city policy; however, City Council members may request city staff to place the subject matter on a future agenda. Citizens are limited to three (3) minutes for their presentation to the City Council.

No comments were heard.

MINUTES APPROVED: Following review of the minutes of the work session of January 6, 2009, and the regular meeting of January 20, 2009, motion was made by Council Member Vinyard, 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: Following review, motion was made by Council Member Dickson, seconded by Council Member Vinyard, to approve payment of the

expenditures for the last half of January as submitted. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

REQUEST FROM DOWNTOWN MERCHANT'S APPROVED: Brandy Callahan, President, Downtown Merchants Association, requested permission to block the 500 and 600 blocks of North Main Street on May 2, 2009 for a community wide garage sale. Ms. Callahan also requested the use of city barricades. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Gillingham, to approve the request to block the 500 and 600 blocks of Main Street, and the use of city barricades as requested. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

REQUEST FROM DOWNTOWN MERCHANTS APPROVED: Brandy Callahan, President, Downtown Merchants Association, requested the following pertaining to the 21st annual Beach Bash:

1. Permission to block off the 500, 600 and 700 blocks of North Main on Saturday, June 6, 2009 between the hours of 7:00 a.m. through 6:00 p.m.
2. Permission to use the City Hall parking lot, and the parking lot across from the Morley Theatre.
3. Request the City to provide sand to be placed in the 500 block of North Main.
4. Request the City to provide and place bleachers and barricades for the event.
5. Provide for Police walk through.
6. Provide trash cans and dumpsters.

Following discussion, motion was made by Council Member Dickson, seconded by Council Member Gillingham, to grant permission and provide materials as requested by the Downtown Merchants pertaining to the 21st annual Beach Bash on June 6, 2009. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

RESOLUTION NO. R-001-09 APPROVED: Assistant City Manager Eddie Edwards submitted a resolution for Council's consideration. This resolution authorizes participation through the Alliance of Xcel Municipalities in regard to Project 36358; authorizes employment of legal counsel and compensation for the same to ensure its effective participation at the PUC in responding to the effort by monopoly utilities to render ineffective the existing rate-review safeguards. Following discussion, motion was made by Council Member Dickson, seconded by Council Member Gillingham, to approve Resolution No. R-001-09 as recommended. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

The resolution reads as follows:

RESOLUTION NO. R-001-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BORGER, TEXAS (“CITY”) AUTHORIZING PARTICIPATION THROUGH THE ALLIANCE OF XCEL MUNICIPALITIES (“AXM”); AUTHORIZING EMPLOYMENT OF LEGAL COUNSEL AND COMPENSATION FOR THE SAME; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; AND DECLARING AN EFFECTIVE DATE

WHEREAS, in November 2008, the Public Utility Commission of Texas Staff (“Staff”) filed notice of Project 36358—Consideration of Alternative Ratemaking Methodologies; and

WHEREAS, Project 36358 was initiated by American Electric Power Company (“AEP”) in an attempt to eliminate the traditional rate review process and cost of service regulation applicable to monopoly utilities; and

WHEREAS, other utilities, including Southwestern Public Service Company, a subsidiary of Xcel, Inc., are expected to join with AEP in order to make it much easier to implement rate increases; and

WHEREAS, if successful, Project 36358 marks the beginning of elimination of effective regulation of monopoly electric utilities; and

WHEREAS, the Public Utility Commission of Texas (“PUC”) has set January 6, 2009, as the deadline date for submitting briefs on the legality of “streamlined” regulation proposals; and

WHEREAS, responding to the questions of legality regarding Project 36358 requires the expertise of lawyers and experts who specialize in matters of utility regulation; and

WHEREAS, the coalition known as the Alliance of Xcel Municipalities (“AXM”) has previously participated in proceedings at the PUC, and participation in AXM will benefit electric customers within our municipality by ensuring a meaningful review of electric utilities’ expenses and revenues, thereby helping to maintain reasonable rates; and

WHEREAS, it is necessary to assess the member cities of AXM in order to ensure its effective participation at the PUC in responding to the effort by monopoly utilities to render ineffective the existing rate-review safeguards.

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 to this resolution are in all things approved and adopted.
- Section 2.** The City of Borger, Texas, is authorized to participate in PUC Project No. 36358 with other member cities of AXM.
- Section 3.** The AXM steering committee will provide direction and guidance to legal and consulting experts with regard to Project 36358 and subsequent related proceedings.
- Section 4.** The City authorizes the law firm of Herrera & Boyle, PLLC to act on behalf of the City and AXM in connection with Project No. 36358.
- Section 5.** Legal counsel for AXM is authorized to take such actions in connection with Project 36358 as are in the best interest of the ratepayers of AXM located within the city's municipal boundaries, consistent with the instructions of the steering committee, including administrative or judicial proceedings related to Project 36358.
- Section 6.** The City commits to compensate the law firm of Herrera & Boyle, PLLC, according to a predetermined per capita pro rata share of expenses as set forth in Attachment A.
- Section 7.** The meeting at which this resolution was adopted was approved and was, in all things, conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.
- Section 8.** This resolution shall become effective from and after its passage.

JOHNSON PARK YOUTH CENTER CONSTRUCTION CHANGE REQUESTS

APPROVED: Eddie Edwards, Assistant City Manager, submitted change requests 7, 11, 12b, and 13 from Plains Builders, Inc. for the Johnson Park Youth Center Complex. These construction change requests involve new pool heaters and pumps in the amount of \$47,838.00, an additional water feature for the wading pool in the amount of \$9,438.00, and \$2,145.00 for CMU veneer to replace some existing brick, and \$2,200.00 for excavation of a 50' x 30' x 3' layer of rock. Total of these change requests is \$61,621.00. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Dickson, to approve construction change requests 7, 11, 12b and 13 as submitted by Plains Builders, Inc. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

COFIELD COMMUNITY CENTER POLICIES CONSIDERED: Assistant City Manager Eddie Edwards submitted a revised policy for the Cofield Community Center for consideration of the City Council. The major changes were to the rental fee, security deposit, and alcohol permit fee. Several people in attendance voiced their concerns relative to these changes, stating in part that the City was making it cost prohibitive to rent the facility. Following a lengthy discussion, motion was made by Council Member Vinyard, seconded by Council Member Dickson, to leave the current policy as is pending further consideration. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

ORDER AND NOTICE FOR GENERAL ELECTION OF OFFICERS APPROVED: An order and notice for the general election of officers to be conducted on May 9, 2009 was submitted for the consideration of the Council. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Gillingham, to approve the order and notice for a general election May 9, 2009, as submitted. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

JOINT ELECTION ORDER APPROVED: A joint election order between the City of Borger, Borger Independent School District, and the Hutchinson County Hospital District to share expenses at the election scheduled for May 9, 2009, was submitted for the consideration of the Council. Following discussion, motion was made by Council Member Dickson, seconded by Council Member Gillingham, to approve the joint election order. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

INTER-LOCAL AGREEMENT BETWEEN HUTCHINSON COUNTY DISTRICT ATTORNEY, CITY OF BORGER AND THE BORGER POLICE CHIEF FOR SEIZED FORFEITED ASSETS APPROVED: An inter-local agreement between the Hutchinson County District Attorney, the City of Borger, and the Borger Police Chief for seized forfeited assets was submitted for the consideration of the Council. State statutes have afforded law enforcement the ability to seize assets as the result of illegal criminal activities. Following discussion, motion was made by Council Member Dickson, seconded by Council Member Vinyard, to approve the Inter-Local Agreement as written. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

UPDATE ON THE RURAL/URBAN HAZARD MITIGATION PROGRAM: Bob Watson, Fire Chief, updated the Council on progress made in the Rural/Urban Hazard Mitigation Program since its approval in 2008. Chief Watson stated that several of the smaller prescribed burns have been completed and that work in the Rock Creek area is currently in progress. Over the next several months other areas along the south and west side of the city will also be targeted. Chief Watson described the amount of planning and pre-burn work required to successfully and safely conduct a prescribed burn. Chief Watson concluded by thanking the Council for their continued support of the Departments efforts to protect the citizens of Borger.

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

Mayor

ATTEST:

City Manager