

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

**1:30 P.M.**

<b>PRESENT:</b>	Leon DeWeese Charles Gillingham Marvin Dickson Robert Vinyard	Council Member Council Member Council Member Council Member
<b>ABSENT:</b>	Jeff Brain	Mayor
<b>STAFF:</b>	Wanda Klause Eddie Edwards Larry Mullenix Danny Richards Ted Dodd Bruce Roberts Bob Watson Glynn Carlock	City Manager Asst. City Manager Planning & Zoning Director Director EOC Director of Public Works Captain, Police Dept. Fire Chief Finance Director
<b>VISITORS:</b>	Kent Satterwhite	CRMWA
<b>NEWS MEDIA:</b>	Brooke Huff	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 regular meeting of October 20, 2009, motion was made by Council Member Dickson, seconded by Council Member Vinyard, to approve 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 Gillingham, seconded by Council Member Dickson, to approve payment of the expenditures for the last half of October as submitted. The motion carried by the following vote:

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

**RESOLUTION NO. R-016-09 APPROVED:** Diana' Hooks, Chief Appraiser of Hutchinson County Appraisal District, submitted a letter requesting the City Council cast their votes, by resolution, for a candidate to serve as the City of Borger's representative on the Hutchinson County Appraisal District Board of Directors. Following discussion, motion was made by Council Member Gillingham, seconded by Council Member Dickson, to approve Resolution No. R-016-09 casting the City's 287 votes for Clarence McDaniel as the City's representative to the HCAD Board of Directors. The motion carried by the following vote:

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

The resolution reads as follows:

### **RESOLUTION R-016-09**

**WHEREAS**, Texas Senate Bill 621 required the creation and election of a Board of Directors of a Central Tax Appraisal District for each county in the State; Section 6.03 of the Texas Property Tax Code contains the "voting instructions" for casting the votes; and

**WHEREAS**, Diana' Hicks, Chief Appraiser of Hutchinson County, has requested a resolution from the City of Borger designating for which nominee the City of Borger's votes will be cast.

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

That two hundred and eighty seven (287) votes allocated to the City of Borger for the term 2010-2011 are cast for Clarence McDaniel.

**PASSED, APPROVED, AND ADOPTED**, on this the 3<sup>rd</sup> day of November, 2009, 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. ☆

**ORDINANCE NO. O-010-09 INTRODUCED:** Assistant City Manager Eddie Edwards submitted Ordinance No. O-010-09 annexing a 16.79 acre tract of land in Section 23, Block Y, A&B Survey. Dennis Jack, CEO, Golden Plains Community Hospital, petitioned the Council on August 18, 2009 to annex a 20 acre tract of land out of Section 23, Block Y, A&B Survey, being a portion of a 188.61 acre tract as described in Volume 1499, Page 226, of the Deed of Records of Hutchinson County, Texas. Subsequently, City staff advised the Council as to several things that must occur prior to annexation: 1) Council formally received the petition for annexation; 2) instructed staff to prepare a service plan for the area proposed for annexation; and, 3) scheduled two public hearings for October 6, 2009 to allow for citizen comments. Mr.

Edwards informed the Council that all of the requirements as set out in LGC, Chapter 43, Annexation, have been met; the remaining act is to introduce an ordinance annexing the 16.79 acre tract in Section 23, Block Y, A&B survey. Following discussion, motion was made by Council Member Dickson, seconded by Council Member Gillingham, to introduce Ordinance No. O-010-09, annexing a 16.79 acre tract of land in Section 23, Block Y, A&B Survey. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

**RESOLUTION R-017-09 APPROVED:** Eddie Edwards, Assistant City Manager, and Kent Satterwhite, General Manager, CRMWA, explained the reasons for refunding bonds, series 1999 (Bureau of Reclamation Prepayment Project), and asked that the resolution be approved. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Dickson to approve Resolution No. R-017-09 authorizing the refunding of Canadian River Municipal Water Authority Contract Revenue and Refunding Bonds, Series 1999, (Bureau of Reclamation Prepayment Project). The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

The resolution read as follows:

#### **RESOLUTION R-017-09**

#### **RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BORGER, TEXAS, AUTHORIZING REFUNDING OF CANADIAN RIVER MUNICIPAL WATER AUTHORITY CONTRACT REVENUE REFUNDING BONDS, SERIES 1999 (BUREAU OF RECLAMATION PREPAYMENT PROJECT)**

**WHEREAS**, the City of Borger, Texas (the "City") has entered into that certain Agreement between the Canadian River Municipal Water Authority and the City of Borger, Texas, for the prepayment of the obligations to the United States of America incurred in connection with the construction of the Canadian River Project (the "Agreement") entered into as of February 16, 1999; and,

**WHEREAS**, the Canadian River Municipal Water Authority (the "Authority") has entered into similar agreements with each of the other cities that are members of the Authority (the "Member Cities"); and,

**WHEREAS**, the Authority issued its Canadian River Municipal Water Authority Contract Revenue Refunding Bonds, Series 1999 (Bureau of Reclamation Prepayment Project), by Resolution dated April 14, 1999 (the "Series 1999 Bonds"); and,

**WHEREAS**, the Authority has requested to refund the Series 1999 Bonds that remain outstanding; and,

**WHEREAS**, the Agreement requires certain notice requirements before the Authority may issue additional bonds, as defined in the Agreement; and,

**WHEREAS**, refunding bonds are additional bonds under the Agreement; and,

**WHEREAS**, the timing constraints of getting the governing bodies of all Member Cities of the Authority to meet and approve refunding bonds may prevent the Authority from issuing refunding bonds in a timely manner to provide savings to the Member Cities; and,

**WHEREAS**, it is in the best interest of the City to waive certain notice requirements under the Agreement and consent to the issuance of the bonds and to permit the Authority to refund all of the outstanding Series 1999 Bonds if present value savings of at least 3% can be achieved.

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

#### **SECTION 1**

**That**, in connection with the possible issuance of refunding bonds for all or a part of the Series 1999 Bonds, the City waives the notice requirements of Section 6.1(a) of the Agreement, and consents to the issuance of such refunding bonds, subject to the requirement that the refunding bonds provide present value debt service savings of at least 3%.

#### **SECTION 2**

**That**, the City Secretary be and is hereby authorized to deliver certified copies of this Resolution and Minutes pertaining to its adoption in such number as may be requested for said Authority's records and proceedings.

**PASSED, APPROVED, AND ADOPTED**, on this the 3<sup>rd</sup> day of November, 2009, 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 R-018-09 APPROVED:** Eddie Edwards, Assistant City Manager, and Kent Satterwhite, General Manager, CRMWA, explained the reasons for refunding bonds, series 1999 (Conjunctive Use Groundwater Project), and asked that the resolution be approved. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Dickson, to approve Resolution No. R-018-09 authorizing the refunding of Canadian River

Municipal Water Authority Contract Revenue and Refunding Bonds, Series 1999, (Conjunctive Use Groundwater Project). The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

The resolution read as follows:

**RESOLUTION R-018-09**

**RESOLUTION BY THE CITY COUNCIL OF THE  
CITY OF BORGER, TEXAS, AUTHORIZING  
REFUNDING OF CANADIAN RIVER MUNICIPAL  
WATER AUTHORITY CONTRACT REVENUE AND  
REFUNDING BONDS, SERIES 1999 (CONJUNCTIVE  
USE GROUNDWATER PROJECT)**

**WHEREAS**, the City of Borger, Texas (the “City”) has entered into that certain Agreement for the purchase and acquisition of Conjunctive Use Groundwater Project (the “Agreement”) entered into as of May 15, 1996, as amended, with the Canadian River Municipal Water Authority (the “Authority”); and,

**WHEREAS**, the Authority, has entered similar agreements with each of the other cities that are members of the Authority (the “Member Cities”); and,

**WHEREAS**, the Authority, issued its Canadian River Municipal Water Authority Contract Revenue and Refunding Bonds, Series 1999 (Conjunctive Use Groundwater Project) by Resolution dated May 15, 1999 and amended and restated on July 10, 1999 (the “Series 1999 Bonds”); and,

**WHEREAS**, a portion of the Series 1999 Bonds were refunded in 2005; and

**WHEREAS**, the Authority has requested to refund the Series 1999 Bonds that remain outstanding; and,

**WHEREAS**, the Agreement requires certain notice requirements before the Authority may issue additional bonds, as defined in the Agreement; and,

**WHEREAS**, refunding bonds are additional bonds under the Agreement; and,

**WHEREAS**, the timing constraints of getting the governing bodies of all Member Cities of the Authority to meet and approve refunding bonds may prevent the Authority from issuing refunding bonds in a timely manner to provide savings to the Member Cities; and,

**WHEREAS**, it is in the best interest of the City to waive certain notice

requirements under the Agreement and consent to the issuance of the bonds to permit the Authority to refund all of the outstanding Series 1999 Bonds if present value savings of at least 3% can be achieved.

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

**SECTION 1**

**That**, in connection with the possible issuance of refunding bonds for all or a part of the Series 1999 Bonds, the City waives the notice requirements of Section 4.1(a) of the Agreement, and consents to the issuance of such refunding bonds, subject to the requirement that the refunding bonds provide present value debt service savings of at least 3%.

**SECTION 2**

**That**, the City Secretary be and is hereby authorized to deliver certified copies of this Resolution and Minutes pertaining to its adoption in such number as may be requested for said Authority's records and proceedings.

**PASSED, APPROVED, AND ADOPTED**, on this the 3<sup>rd</sup> day of November, 2009, 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. ✨

**NO ACTION TAKEN ON DEMOLITION OF STRUCTURES**: Director of Planning and Zoning Larry Mullenix requested that no action be taken on the demolition of 306 E. Fifth, Lots 17-18, Block 40, Original Townsite and 400 Delaware, Lot 9, Block 12, Eastside Addition. No action taken. ✨

**PUBLIC HEARING CONDUCTED - REZONING AMENDMENT #285 APPROVED**: Larry Mullenix, Director of Planning and Zoning, submitted a request from the Hutchinson County Hospital District to rezone a 20 acre tract of land located in Section 23, Block Y, A&B Survey from Estate Agriculture to a Commercial zoned district.

Council Member DeWeese opened a public hearing on rezoning request #285 and asked if anyone wished to speak. No comments were heard; therefore, Councilman DeWeese closed the public hearing. Following discussion, motion was made by Council Member Dickson, seconded by Council Member Gillingham, to approve rezoning amendment #285, rezoning a 20 acre tract of land located in Section 23, Block Y, A&B Survey, from Estate Agriculture to a Commercial zoned district. The motion carried by the following vote:

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

**ZONING BOARD OF ADJUSTMENT MEMBERS APPOINTED:** Director of Planning and Zoning Larry Mullenix submitted a recommendation for appointment of two individuals to move from alternate member status to regular member status on the Zoning Board of Adjustment. Terms to expire June 30, 2011. Following discussion, motion was made by Council Member Vinyard , seconded by Council Member Dickson, to appoint Dean Cooke and Randy Lopez from alternate member status to regular member status on the Zoning Board of Adjustment. Terms to expire June 30, 2011. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

The resolution reads as follows:

**RESOLUTION R-019-09**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BORGER,  
TEXAS, APPOINTING TWO ALTERNATE MEMBERS TO REGULAR  
MEMBER STATUS ON THE ZONING BOARD OF ADJUSTMENT**

**WHEREAS**, due to the expiration of terms, two vacancies have occurred on the Zoning Board of Adjustment; and,

**WHEREAS**, pursuant to the Code of Ordinances, Chapter 14, Zoning, Section 14.07.001, Board of Adjustment, the City Council desires to appoint two alternate members to regular member status on the Zoning Board of Adjustment, to perform the duties and responsibilities as provided by said Chapter

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

**THAT**, Dean Cook is hereby appointed to serve as a regular member of the Zoning Board of Adjustment to a term which will expire on June 30, 2011.

**THAT**, Randy Lopez is hereby appointed to serve as a regular member of the Zoning Board of Adjustment to a term which will expire on June 30, 2011.

**PASSED, APPROVED, AND ADOPTED**, on this the 3<sup>rd</sup> day of November, 2009, 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. 

**ORDINANCE O-011-09 INTRODUCED AMENDING THE ZONING DISTRICT MAP:**

Larry Mullenix, Director of Planning & Zoning, submitted Ordinance No. O-011-09 amending the Zoning District Map to reflect the rezoning of a 20 acre tract of land located in Section 23, Block Y, A&B Survey and requested the Council introduce same. Following discussion, motion was made by Council Member Gillingham, seconded by Council Member Vinyard, to introduce Ordinance O-011-09 amending the Zoning District Map to reflect the rezoning of a 20 acre tract of land located in Section 23, Block Y, A&B Survey. The motion carried by the following vote:

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

**MEETING ADJOURNED:** There being no further business, motion was made by Council Member Dickson , seconded by Council Member Gillingham , to adjourn the meeting. The motion carried by the following vote:

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

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Mayor

**ATTEST:**

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City Manager