

**REGULAR MEETING OF CITY COUNCIL  
APRIL 18, 2017 - 1:30 P.M.**

<b>PRESENT:</b>	Robert Vinyard	Mayor
	Marvin Dickson	Mayor Pro-Tem
	Odis McClellan	Council Member
	Karen Felker	Council Member
	Milton Ooley	Council Member

<b>STAFF:</b>	Eddie Edwards	City Manager
	Stella E. Sauls	City Secretary
	Scott Radach	Director, Finance
	Anthony Griffin	Judge, Municipal Court
	Linda Lou Lewis	Administrative Asst., Municipal Court
	Al Rodela	City Marshal
	Larry Byrd	Combination Building Inspector
	Bruce Roberts	Chief, Police Department
	Ralph Earles	Director, Parks /Recreation
	Rhonda Miller	I/T Specialist

**VISITORS:** Jesse Shuffield  
Brandy Callahan

**NEWS MEDIA:** April Davis

**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.

**MINUTES APPROVED:** Following review of the minutes of the work session and regular meeting of April 4, 2017, motion was made by Council Member Dickson, seconded by Council Members Felker and McClellan, to approve the minutes of the work session and regular meeting of April 4, 2017. 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 April

2017 were submitted for the consideration of the Council. Following discussion, motion was made by Council Member Felker, seconded by Council Member Dickson, to approve payment of the expenditures for the first half of April 2017 as submitted. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

**RESOLUTION R-002-17 DENYING SPS's APPLICATION TO IMPLEMENT PROPOSED SURCHARGE RATES APPROVED:** City Manager Eddie Edwards explained to the Council that the lawyers for the Alliance of Xcel Municipalities ("AXM") suggested that the City deny the surcharge. Following discussion, motion was made by Council Member Dickson, seconded by Council Member Felker, to approve Resolution R-002-17 denying SPS's application to implement proposed surcharge rates. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

Resolution R-002-17 reads as follows:

**RESOLUTION NO. R-002-17**

**RESOLUTION BY THE CITY OF BORGER, TEXAS ("CITY") DENYING THE SURCHARGE RELATED TO DOCKET NO. 45524 SUBMITTED BY SOUTHWESTERN PUBLIC SERVICE COMPANY ON ABOUT APRIL 6, 2017; AUTHORIZING PARTICIPATION IN A COALITION OF SIMILARLY SITUATED CITIES; AUTHORIZING PARTICIPATION IN RELATED RATE PROCEEDINGS; REQUIRING THE REIMBURSEMENT OF MUNICIPAL RATE CASE EXPENSES; AUTHORIZING THE RETENTION OF SPECIAL COUNSEL; 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 about April 6, 2017, Southwestern Public Service Company, LLC ("SPS") filed an application for authority to implement a surcharge related to Docket No. 45524; 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's rates, operations, and services within the municipality; and,

**WHEREAS**, the amount of SPS's proposed surcharge is \$13.7 million; and,

**WHEREAS**, SPS proposes to implement the surcharge over a five-month period from July 1, 2017 through November 30, 2017; and,

**WHEREAS**, the City will require the assistance of specialized legal counsel and rate experts to review the merits of SPS's application to implement the surcharge, and in particular to confirm the accuracy of SPS's calculations of its proposed surcharge; and,

**WHEREAS**, in order to maximize the efficient use of resources and expertise in reviewing SPS's request it is prudent to coordinate the City's efforts with a coalition of similarly situated municipalities; and,

**WHEREAS**, the City, in matters regarding SPS's rates, services, and operations has in the past joined with other local regulatory authorities in the Alliance of Xcel Municipalities ("AXM") of cities and hereby continues its participation in AXM; and,

**WHEREAS**, SPS simultaneously filed its application to implement a surcharge with the Public Utility Commission of Texas, therefore the decision of the Public Utility Commission of Texas could have an impact on the rates charged within the City and in order for the City's participation to be meaningful it is important that the City promptly intervene in such proceeding at the Public Utility Commission of Texas; and,

**WHEREAS**, SPS failed to show that its proposed surcharge is reasonable and therefore the City has concluded that SPS's proposed rate increase is unreasonable.

**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.** The City **DENIES** SPS's application filed on about April 6, 2017 to implement a net surcharge.

**Section 3.** The City authorizes intervention in proceedings related to SPS's application before the Public Utility Commission of Texas and related proceedings in courts of law as part of the coalition of cities known as the Alliance of Xcel Municipalities ("AXM").

**Section 4.** The City hereby orders SPS to reimburse the City's rate case expenses, as part of the Alliance of Xcel Municipalities, and that it do so on a monthly basis and within 30 days after submission of the City's invoices related to its review of the proposed surcharge or to related proceedings involving SPS before the City, the Public Utility Commission of Texas, or any court of law.

**Section 5.** Subject to the right to terminate employment at any time, the City retains and 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 and to retain such experts as may be reasonably necessary for review of SPS's surcharge application subject to approval by the City.

**Section 6.** The City shall review the invoices of the lawyers and rate experts for reasonableness before submitting the invoices to SPS for reimbursement.

**Section 7.** A copy of this Resolution shall be sent to SPS, care of Jeremiah W. Cunningham, Rate Case Manager, Southwestern Public Service Company, P.O. Box 1261, Amarillo, Texas 79105; and to Mr. Alfred R. Herrera, Herrera & Boyle, PLLC, 816 Congress Ave., Suite 1250, Austin, Texas 78701.

**Section 8.** The meeting at which this Resolution was approved was in all things conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

**Section 9.** This Resolution shall become effective from and after its passage.

**PASSED, APPROVED, AND ADOPTED**, on this the 18<sup>th</sup> day of April, 2017, 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, Texas Gov't Code, §551.001, et. seq. at which meeting a quorum was present and voting.

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**MEETING ADJOURNED:** There being no further business, motion was made by Council Member Dickson, seconded by Council Felker, to adjourn the motion. 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 Secretary