

**REGULAR MEETING OF CITY COUNCIL
DECEMBER 15, 2009 1:30 P.M.**

PRESENT:	Jeff Brain Leon DeWeese Charles Gillingham Marvin Dickson Robert Vinyard	Mayor Council Member Council Member Council Member Council Member
STAFF:	Wanda Klause Eddie Edwards Larry Mullenix Ralph Earles Jimmie Adams Bruce Roberts Bob Watson Danny Richards	City Manager Assistant City Manager Planning & Zoning Asst. to Director of Public Works Police Chief Police Captain Fire Chief Emergency Operations Manager
VISITORS:	John Denton Dennis Jack	Retired Minister CEO, Golden Plains Community Hospital
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 regular meeting of December 1, 2009, 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 first half of December were submitted for the consideration of the Council. Following discussion, motion was made by Council Member Dickson, seconded by Council Member Gillingham, to approve payment of the expenditures for the first half of December as submitted. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

PUBLIC HEARING CONDUCTED – PLAT APPROVED: Mayor Brain opened a public hearing on the preliminary and final plat of a 20 acre tract of land in Section 23, Block Y, A&B Survey, to be known as Medical Center Campus Unit No. 1 and asked if anyone wished to comment. No comments were heard; therefore, Mayor Brain closed the public hearing. Motion was made by Council Member Vinyard, seconded by Council Member Dickson, to approve the preliminary and final plat of a 20 acre tract of land in Section 23, Block Y, A&B Survey, to be known as Medical Center Campus Unit No. 1. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

PRELIMINARY AND FINAL PLAT RECEIVED – PUBLIC HEARING

SCHEDULED: Larry Mullenix, Director of Planning and Zoning, submitted a 0.22 acre tract of land known as Tract 6-1, Section 18, Block Y, M&C Survey, to be platted as the Fernandez Building Site and requested that the Council receive the plat and schedule a public hearing for January 5, 2010 to allow for public comment. Following discussion, motion was made by Council Member Dickson, seconded by Council Member DeWeese, to receive the plat of a 0.22 acre tract known as Tract 6-1, Section 18, Block Y, M&C Survey, and schedule a public hearing for January 5, 2010. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

ZBA APPOINTMENTS MADE – RESOLUTION R-020-09 APPROVED:

Director of Planning and Zoning Larry Mullenix submitted a recommendation from the Zoning Board of Adjustment regarding the appointment of two alternate members to the Board and recommended the approval of a resolution to facilitate the appointments. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member DeWeese, to approve Resolution No. R-020-09 appointing Randy Don Meek and Gene Gallegas to alternate member status on the Zoning Board of Adjustment respectfully. The motion carried by the following votes:

Ayes: All members present voted aye.

Nays: None.

Resolution No. R-020-09 reads as follows:

RESOLUTION R-020-09

A RESOLUTION APPOINTING TWO ALTERNATE MEMBERS TO 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 provisions of Chapter 14, Zoning, Section 14.07.001 of the Code of ordinances of the City of Borger, Texas; and,

WHEREAS, in performance of its duty to do so by said Code of Ordinances, the City Council desires to appoint two alternate members to the Zoning Board of Adjustment, to perform the duties and responsibilities as provided by Chapter 14, Zoning, Section 14.07.001 of the Code of Ordinances; therefore,

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

SECTION 1

THAT, Randy Don Meek is hereby appointed to serve as an alternate member of the Zoning Board of Adjustment for a two (2) year term, beginning December 15, 2009 and expiring June 30, 2011; and

THAT, Gene Gallegas is hereby appointed to serve as an alternate member of the Zoning Board of Adjustment for a two (2) year term, beginning December 15, 2009 and expiring June 30, 2011; and

This resolution shall be recorded in the minutes of the City Council and filed for permanent recorded in the office of the City Secretary.

PASSED, APPROVED, AND ADOPTED, on this the 15th day of December, 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. △

RECOMMENDATIONS FROM BUILDING STANDARDS COMMISSION

APPROVED: After proper notice and hearings, the Building Standards Commission of the City of Borger has determined and declared the building(s) located on the property described herein as substandard and cannot reasonably be repaired and has ordered the demolition thereof as provided in the Substandard Building Ordinance.

The property in question is located at the following site:

1. 400 Delaware, Lot 9, Block 12, East Side Addition

Following discussion, motion was made by Council Member DeWeese, seconded by Council Member Dickson, to approve the recommendation submitted by the Building Standards Commission to demolish property located at 400 Delaware, Lot 9, Block 12, East Side Addition. The motion carried by the following vote:

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

RESOLUTION NO. R-021-09 DENYING SPS' APPLICATION TO REVISE CERTAIN MISCELLANEOUS SERVICE CHARGES REGARDING

RENEWABLE ENERGY CREDITS APPROVED: Assistant City Manager Eddie Edwards explained the SPS application to revise its Miscellaneous Service Charges Tariff as it pertains to Renewable Energy Credits. Following discussion, motion was made by Council Member Gillingham, seconded by Council Member Dickson, to approve the Resolution denying Southwestern Public Service Company's application to revise its Miscellaneous Service Tariff as it pertains to Renewable Energy Credits. The motion carried by the following vote:

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

The resolution read as follows:

RESOLUTION R-021-09

A RESOLUTION BY THE CITY COUNCIL OF BORGER, TEXAS, DENYING SOUTHWESTERN PUBLIC SERVICE COMPANY'S APPLICATION TO REVISE CERTAIN MISCELLANEOUS SERVICE CHARGES REGARDING RENEWABLE ENERGY CREDITS; AUTHORIZING THE CITY TO JOIN WITH OTHER CITIES IN THE ALLIANCE OF XCEL MUNICIPALITIES 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 December 4, 2009, Southwestern Public Service Company (“SPS”), a wholly-owned subsidiary of Xcel Energy, Inc. (“Xcel”) filed a Statement of Intent and Application (the “Application”) with the City of Borger, Texas (“City”) to revise its Miscellaneous Service Charges Tariff, Sheet IV-98, in order to sell Renewable Energy Credits (“RECs”); 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 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 tariff revision request of SPS, which was filed on December 4, 2009, consists of limited issues; and,

WHEREAS, a denial at the municipal level of the limited issues in this particular case allows for a more expeditious final resolution at the Public Utility Commission of Texas; and,

WHEREAS, the AXM Cities can fully participate in the final resolution of the proceeding at the Public Utility Commission of Texas;

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 hereby approved.

Section 2

The City hereby denies SPS’s Application and the revisions to its Miscellaneous Service Charges Tariff.

Section 3

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 and AXM shall select the experts to work with special counsel.

Section 4

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 5

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 6

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 7

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 8

This Resolution shall become effective from and after its passage.

PASSED, APPROVED, AND ADOPTED, on this the 15th day of December, 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. ►

MEETING ADJOURNED: Motion was made by Council Member Dickson, seconded by Council Member DeWeese, to adjourn the meeting. The motion carried by the following vote:

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

Mayor

ATTEST:

City Manager