

**REGULAR MEETING OF CITY COUNCIL  
JUNE 1, 2010 - 1:30 P.M.**

**PRESENT:** Jeff Brain Mayor  
Leon DeWeese Council Member  
Robert Vinyard Council Member  
Charles Gillingham Council Member

**ABSENT:** Marvin Dickson Council Member

**STAFF:** Eddie Edwards City Manager  
Stella E. Sauls City Secretary  
Kathie Harber Deputy City Secretary  
Danny Richards E.O.C. Director  
Bruce Roberts Captain, Police Department  
Jason Whisler Lieutenant, Police Department  
Ted Dodd Public Works Director  
Larry Byrd Code Enforcement Officer II

**VISITORS:** Rick Nichols Pastor, Central Baptist Church  
Judy Mihm  
Pete Loftis  
Bill Carder

**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 heard.

**MINUTES APPROVED:** Following review of the minutes of the regular meeting of May 18, 2010, motion was made by Council Member Gillingham, seconded by Council Member Vinyard, to approve the minutes as submitted. 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 May were submitted for the consideration of the Council. Following discussion, motion was made by

Council Member Vinyard, seconded by Council Member DeWeese, to approve payment of the expenditures for the last half of May as submitted. The motion carried by the following vote:

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

**RESOLUTION R-009-10 SUSPENDING SPS' APPLICATION TO INCREASE RATES FOR 90 DAYS APPROVED:** City Manager Eddie Edwards explained the SPS application to increase rates. Following discussion, motion was made by Council Member Gillingham, seconded by Council Member Vinyard that Resolution R-009-10 to suspend SPS' proposed effective date for 90 days be approved as submitted. The motion carried by the following vote:

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

The resolution reads as follows:

**RESOLUTION R-009-10**

**RESOLUTION BY THE CITY OF BORGER, TEXAS SUSPENDING THE EFFECTIVE DATE FOR NINETY DAYS IN CONNECTION WITH THE RATE INCREASE FILING OF SOUTHWESTERN PUBLIC SERVICE COMPANY ON MAY 17, 2010; 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") SPS filed a Statement of Intent with the City of Borger, Texas ("City") to increase its base-rate revenue requirement for its Texas retail service area by approximately \$62 million and to reconcile its fuel cost for the years of calendar years 2008 and 2009; 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 within the municipality; and,

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

**WHEREAS**, the City, in matters regarding applications by SPS to change rates, has in the past joined with other local regulatory authorities to form the Alliance of Xcel Municipalities ("AXM") and hereby continues its participation in AXM; and,

**WHEREAS**, the rate request and fuel reconciliation of SPS, which was filed on May 17, 2009, consists of a voluminous amount of information including SPS' rate-filing package, pre-filed direct testimony, exhibits, schedules, and work papers; and,

**WHEREAS**, SPS proposed June 21, 2010 as the effective date for its requested increase in rates, which is the 35<sup>th</sup> day after the date SPS submitted its application; and,

**WHEREAS**, it is not possible for the City to complete its review of SPS' filing within 35 days; and,

**WHEREAS**, the City will need an adequate amount of time to review and evaluate SPS' rate application to enable the City to adopt a final decision as a local regulatory authority with regard to SPS' requested rate increase.

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

**Section 1**

**That**, the findings set out in the preamble are in all things hereby approved.

**Section 2**

**That**, SPS's proposed effective date of June 21, 2010 for its filing of May 17, 2010, is hereby suspended for an additional ninety (90) days, or at least until September 19, 2010.

**Section 3**

**That**, the statutory suspension period may be further extended if SPS does not provide timely and meaningful, and proper public notice of its request to increase rates, or if it's rate-filing package is materially deficient.

**Section 4**

**That**, the City continues its participation with other cities in a coalition of cities known as the Alliance of Xcel Municipalities ("AXM") with the understanding that the Steering Committee of AXM is to provide direction and guidance to Special Counsel representing said cities.

**Section 5**

**That**, the City employs Herrera & Boyle, PLLC as Special Counsel to represent the City with regard to the requested increase in rates by SPS and related proceedings before local and state regulatory authorities and any court of law and authorizes Special Counsel to employ such rate experts as may be necessary for review and evaluation of SPS' rate application.

**Section 6**

**That**, the City, in coordination with the Steering Committee, shall review the invoices of the lawyers and rate experts for reasonableness before submitting the invoices to SPS for reimbursement.

**Section 7**

**That**, SPS shall reimburse the City on a monthly basis, through AXM's coordinating city, the City of Amarillo, Texas, for the reasonable costs of attorneys and consultants and expenses related thereto, upon the presentation of invoices reviewed by the City of Amarillo.

**Section 8**

**That**, the City Secretary or other appropriate city official shall notify SPS of this Resolution by sending a copy of the Resolution to James M. Bagley, Manager, Regulatory Administration Xcel Energy Services Inc., P.O. Box 1261, Amarillo, Texas 79105, and AXM shall be notified by sending a copy of this resolution to Mr. Marcus Norris, City Attorney, City of Amarillo, Texas by fax to 806-378-3018.

**Section 9**

**That**, 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 10**

**That**, this resolution shall become effective from and after its passage.

**PASSED, APPROVED, AND ADOPTED**, on this the 1<sup>st</sup> day of June, 2010, 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.

\*\*\*\*\*

**PUBLIC HEARING SCHEDULED:** City Manager Eddie Edwards explained that a public hearing was required to review the effects of the Juvenile Curfew Ordinance and allow for public comment. Following discussion, motion was made by Council Member Gillingham, seconded by Council Member DeWeese to set a public hearing for 1:30 p.m. June 15, 2010 to review the effects of the Juvenile Curfew Ordinance and allow for public comment. The motion carried by the following vote:

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

**PRELIMINARY AND FINAL RE-PLAT RECEIVED – PUBLIC HEARING**

**SCHEDULED:** Deputy City Secretary Kathie Harber submitted a recommendation from the Planning & Zoning Commission to re-plat Block 9, Huber Camp Section 2, containing 2.7435 acres, located in the NE/4 of Section 24, Block “Y”, A&B Survey, Hutchinson County, Texas, to be platted as the Penn Avenue Addition, and requested that the Council receive the plat and set a public hearing for same. Following discussion, motion was made by Council Member DeWeese, seconded by Council Member Vinyard, to receive the re-plat for Block 9, Huber Camp Section 2, containing 2.7435 acres located in the NE/4 of Section 24, Block “Y”, A&B Survey, Hutchinson County, Texas and be platted as the Penn Avenue Addition, and set a public hearing for June 15, 2010, to allow for public comment. The motion carried by the following vote:

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

**NO ACTION TAKEN ON DEMOLITION OF STRUCTURES:** Code Enforcement Officer Larry Byrd requested the Council take no action on the demolition of 1224 Hazelwood, Lot 9, Block 6, Gateway Addition. No action taken.

**RESOLUTION R-008-10 APPROVED:** Deputy City Secretary Kathie Harber, submitted a recommendation to re-appoint one member, appoint two individuals to move from alternate member status to regular member status, and appoint two alternate members to the Zoning Board of Adjustment. Terms expire June 30, 2013. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Gillingham, to re-appoint Mike

Blansett as a regular member, appoint Randy Meek and Gene Gallegos from alternate member status to regular member status, and appoint Brad Carpenter and James Baker as alternate members to the Zoning Board of Adjustments. The motion carried by the following vote:

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

The resolution reads as follows:

**RESOLUTION  
R – 008-10**

**A RESOLUTION RE-APPOINTING ONE REGULAR MEMBER, APPOINTING TWO ALTERNATE MEMBERS TO REGULAR MEMBER STATUS, AND APPOINTING TWO ALTERNATE MEMBERS TO THE ZONING BOARD OF ADJUSTMENT.**

**WHEREAS**, due to the expiration of terms, three 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 in performance of its duty to do so by said Code of Ordinances, the City Council desires to reappoint one member, appoint two alternate members to regular member status, and appoint two alternate members to the Zoning Board of Adjustment, to perform the duties and responsibilities as provided by said Chapter 14; therefore,

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

**SECTION 1**

**THAT**, Mike Blansett is hereby re-appointed to serve as a regular member of the Zoning Board of Adjustment to a term which will expire on June 30, 2012; and

**THAT**, Randy Meek is hereby appointed to serve as a regular member of the Zoning Board of Adjustment to a term which will expire on June 30, 2012; and

**THAT**, Gene Gallegos is hereby appointed to serve as a regular member of the Zoning Board of Adjustment to a term which will expire on June 30, 2012; and

**THAT**, Brad Carpenter is hereby appointed to serve as an alternate member of the Zoning Board of Adjustment to a term which will expire on June 30, 2012; and

**THAT**, James Baker is hereby appointed to serve as an alternate member of the Zoning Board of Adjustment to a term which will expire on June 30, 2012; 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 1<sup>st</sup> day of June, 2010, 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.

\*\*\*\*\*

**BID AWARDED FOR 2010 SEALCOAT PROGRAM:** Director of Public Works Ted Dodd, submitted the recommendation for the group sealcoat 2010 bid. The following bids were received and tabulated:

G.W. James, Inc., Pampa, TX	82,145 SY	\$1.75	\$ 143,753.75
Lewis Construction Co., Dumas, TX	82,145 SY	\$1.69	\$ 138,825.05

Following discussion, motion was made by Council Member Gillingham, seconded by Council Member Vinyard, to award bid to the low bidder, Lewis Construction Co., Dumas, TX, for 82,145 square yards of paving materials @ \$1.69 per square yard for a total cost of \$138,825.05. 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 Vinyard, seconded by Council Member Gillingham. The motion carried by the following vote:

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

---

Mayor

**ATTEST:**

---

City Secretary