

**REGULAR MEETING OF CITY COUNCIL  
NOVEMBER 15, 2011 – 1:30 P.M.**

<b>PRESENT:</b>	Jeff Brain	Mayor
	Leon DeWeese	Council Member
	Robert Vinyard	Council Member
	Marvin Dickson	Council Member
	Charles Gillingham	Council Member

<b>STAFF:</b>	Eddie Edwards	City Manager
	Rhonda Miller	Finance/IT Specialist
	Stella E. Sauls	City Secretary
	Jimmy Adams	Chief, Police Department
	Bruce Roberts	Captain, Police Department
	Kenneth Petr	Director, Planning and Zoning
	Scott Radach	Finance Director
	James Harder	Utilities Director
	Ted B. Dodd	Director, Public Works
	Ralph Earles	Assistant Director, Public Works
	Ivonne Mendoza	Clerk, Public Works

**VISITORS:** Meryl Barnett  
Judy Mihm  
Karen Logan  
Kyler Estes  
Kenneth Jones  
Alan Jones  
Steve Jones  
Dan Redd  
Bill Carder  
Scott Honeyfield  
Jason Boyd  
Alvin Carpenter  
Stanley Franks

**NEWS MEDIA:** Michelle Berry

**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 November 1, 2011, motion was made by Council Member Dickson, seconded by Council Member Gillingham, 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 first half of November were submitted for the consideration of the Council. Following discussion, motion was made by Council Member DeWeese, seconded by Council Member Dickson, to approve payment of the expenditures for the first half of November as submitted. The motion carried by the following vote:

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

**ORDINANCE O-004-11 "GOODS-IN-TRANSIT" TABLED:** Mayor Jeff Brain asked that this item be tabled. Motion made by Council Member Vinyard, seconded by Council Member Gillingham, to table Ordinance O-004-11, providing for the continued taxation of "Goods-in-Transit". The motion carried by the following vote:

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

**2011 TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROJECT APPROVED:** City Manager Eddie Edwards introduced Mr. Kyler Estes, a representative of the Panhandle Regional Planning Commission, who explained how beneficial this grant would be to the City of Borger. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member DeWeese, for the approval, adoption, and appointment of all resolutions, plans, procedures, and officers required for the Community Development Block Grant Project. The motion carried by the following vote:

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

The Resolutions read as follows:

**RESOLUTION R-014-11**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BORGER, TEXAS, PERTAINING TO AN INTERLOCAL AGREEMENT BETWEEN THE PANHANDLE REGIONAL PLANNING COMMISSION AND THE CITY OF BORGER FOR CONTRACT ADMINISTRATION OF A TEXAS DEPARTMENT OF AGRICULTURE COMMUNITY DEVELOPMENT BLOCK GRANT**

**WHEREAS**, the City of Borger has received notice from the Texas Department of Agriculture (TDA) of a Texas Community Development Program (TCDP) grant award, and;

**WHEREAS**, the Interlocal Governmental Cooperation Act provides for contractual agreements between governmental entities, and;

**WHEREAS**, pending contract execution with TDA, the City of Borger desires to contract the administration of its TCDP contract for Community Development Funds through an interlocal governmental cooperation contractual agreement with the Panhandle Regional Planning Commission (PRPC).

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

**That**, the Mayor is authorized to execute a contract with the PRPC under the Interlocal Governmental Cooperation Act for administrative services for the City of Borger's TCDP contract.

**PASSED, APPROVED, AND ADOPTED**, on this the 15<sup>th</sup> day of November, 2011, 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-015-11**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BORGER, TEXAS, AUTHORIZING SIGNATORIES FOR THE PURPOSES OF THE TEXAS COMMUNITY DEVELOPMENT PROGRAM (TCDP) GRANT AND AUTHORIZING THE CITY MANAGER TO ACT AS THE CITY'S CHIEF EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE CITY OF BORGER'S PARTICIPATION IN THE TCDP GRANT**

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

**That**, the Mayor, the City Manager, and the Director of Finance are hereby authorized to act as authorized signatories for the purposes of the above referenced grant.

**That**, the Mayor, the City Manager, and the Director of Finance are hereby authorized to sign and complete all State of Texas Purchase Vouchers for the above referenced grant.

**That**, the Mayor, the City Manager, and the Director of Finance are hereby authorized to sign and complete Requests for Payment for the above referenced grant.

**That**, the City Council directs and authorizes the City Manager to act as the City of Borger's, Chief Executive Officer and Authorized Representative in all matters in connection with participation in the above referenced TCDP grant.

**PASSED, APPROVED, AND ADOPTED**, on this the 15<sup>th</sup> day of November, 2011, 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-016-11**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BORGER, TEXAS, ADOPTING A CITIZEN COMPLAINT PROCEDURE RELATED TO THE CITY OF BORGER'S PARTICIPATION IN A TEXAS COMMUNITY DEVELOPMENT PROGRAM (TCDP) GRANT**

**WHEREAS**, the City of Borger has received notice from the Texas Department of Rural Affairs (TDRA) of a Texas Community Development Program (TCDP) grant award; and,

**WHEREAS**, TDRA requires that the City of Borger have in place citizen complaint procedures related to this project.

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

**That**, the following complaint procedures be adopted by the City Council of the City of Borger, Texas:

Texas Community Development Program  
Complaint Procedures

The City of Borger will use the following system for reviewing complaints associated with the Texas Community Development Program (TCDP):

- a. A citizen who has a complaint regarding the local government's participation in a TCDP application and/or grant activity, may submit his/her views in writing to the Mayor of the City of Borger, during regular business hours.
- b. The city will respond in writing to the complaint within seven (7) working days of the date in which the complaint was received.
- c. If the City of Borger is unable to resolve the issues stated in the complaint to both parties satisfaction, the City will refer the complaint to the following agency:

Texas Department of Rural Affairs  
Program Compliance Division  
P.O. Box 12877  
Austin, Texas 78711

**PASSED, APPROVED, AND ADOPTED**, on this the 15<sup>th</sup> day of November, 2011, 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-017-11**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BORGER, TEXAS, ADOPTING A POLICY PROHIBITING THE USE OF EXCESSIVE FORCE DURING NONVIOLENT CIVIL RIGHTS DEMONSTRATIONS**

**WHEREAS**, the Congress of the United States has passed the Armstrong/Walker "Excessive Force" Amendment (Section 104(L)(1) of Title I of the Housing and Community Development Act of 1974 as amended, prohibiting the use of excessive force by a local law enforcement agency against any individual engaged in a nonviolent civil rights demonstration within its jurisdiction; and,

**WHEREAS**, the City of Borger, Texas has received a 2011 Texas Community Development Grant and is required to comply with the Armstrong/Walker "Excessive Force" Amendment; and,

**WHEREAS**, the use of excessive force against demonstrators may cause the City to lose its 2011 Texas Community Development Grant and/or the eligibility for future federal grants.

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

**Section 1**

**That**, it is the policy of the City of Borger to prohibit the use of excessive force by local law enforcement agencies within the City's jurisdiction against any individual engaged in a nonviolent civil rights demonstration. The City also prohibits the physical barring of any entrance or exit of such a facility and will enforce all applicable State laws regarding the same.

**Section 2**

**That**, the City Council directs the Police Chief to implement this Resolution by amending applicable Police Department policies and/or procedures.

**Section 3**

**PASSED, APPROVED, AND ADOPTED**, on this the 15<sup>th</sup> day of November, 2011, 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-018-11**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BORGER, TEXAS, SELECTING A QUALIFIED ENGINEERING FIRM UNDER THE PROFESSIONAL SERVICE PROCUREMENT ACT TO SERVE AS PROJECT ENGINEER FOR THE CITY OF BORGER'S TEXAS COMMUNITY DEVELOPMENT PROGRAM (TCDP) GRANT**

**WHEREAS**, the City of Borger has applied for and received grant assistance under the Texas Community Development Program operated by the Texas Department of Agriculture; and,

**WHEREAS**, the City of Borger has completed the Request for Proposals process required under the Professional Services Procurement Act, and has ranked those firms submitting proposals based upon qualifications and ability to perform; and,

**WHEREAS**, the City of Borger believes that Parkhill, Smith, and Cooper is the most qualified of those proposing firms to perform the desired services; and,

**WHEREAS**, the City of Borger is desirous to use the services of Parkhill, Smith, and Cooper to serve as project engineer for its 2011 Texas Community Development Block Grant (CDBG) Project; and,

**WHEREAS**, the City of Borger and Parkhill, Smith, and Cooper will enter into a contractual agreement for engineering services for their CDBG Project.

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

**That**, the City of Borger has selected Parkhill, Smith, and Cooper to provide engineering services for the City's participation in the CDBG Program.

**PASSED, APPROVED, AND ADOPTED**, on this the 15<sup>th</sup> day of November, 2011, 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.

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**RE-PLAT RECEIVED – PUBLIC HEARING SCHEDULED:** Director of Planning and Zoning Kenneth Petr submitted a memorandum from the Planning and Zoning Commission requesting the Council receive and consider the re-plat of a 10.76 acre tract of land located in Section 23, Block “Y”, A & B Survey and schedule a public hearing to hear public comment. Following discussion, motion was made by Council Member Dickson, seconded by Council Member Gillingham, to receive the re-plat of Blocks 2 & 3, North Park Addition, to be known as 900 College Avenue and schedule a public hearing for December 6, 2011 to hear public comment on same. The motion carried by the following vote:

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

**PRELIMINARY AND FINAL PLAT RECEIVED – PUBLIC HEARING SCHEDULED:** , Director of Planning and Zoning Kenneth Petr submitted a memorandum from the Planning and Zoning Commission requesting the Council receive and consider the Preliminary and Final Plat of a 4.165 acre tract of land located in the SE/4 of Section 34, Block “Y”, A & B Survey and schedule a public hearing to hear public comment. Following discussion, motion was made by Council Member Gillingham, seconded by Council Member DeWeese, to receive the Preliminary and Final Plat and schedule a public hearing for December 6, 2011 to hear public comment on same. The motion carried by the following vote:

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

**REZONING REQUEST RECEIVED – PUBLIC HEAIRNG SCHEDULED:** Director of Planning and Zoning Kenneth Petr submitted a memorandum from the Planning and Zoning Commission requesting the Council receive and consider a request to rezone 1.5 acres of land located in the SE/4 of Section 18 Block “Y”, M & C Survey, from Single (IF-2) zoning district to General Residence (GR) zoning district. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Dickson, to receive the rezoning request from Mr. Jeff Whittington and schedule a public hearing for December 6, 2011 to hear public comment on same. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

**SPECIFIC USE PERMIT RECEIVED – PUBLIC HEARING SCHEDULED:** Director of Planning and Zoning Kenneth Petr submitted a memorandum from the Planning and Zoning Commission requesting the Council receive and consider a request for a Specific Use Permit for a recovery center to be located at 920 S. Main Street, (Lots 23 – 24, Block 25, Isom Addition). Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Gillingham, to receive the request from Fellowship Baptist Church and schedule a public hearing for December 6, 2011 to hear public comment on same. The motion carried by the following motion.

Ayes: All members present voted aye.

Nays: None.

**PLANNING AND ZONING COMMISSION MEMBER APPOINTED:** Director of Planning and Zoning Kenneth Petr submitted a recommendation for appointment of one individual to fill the unexpired term of Laura Arrington on the Planning and Zoning Commission. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Gillingham, to appoint June Voight to serve an unexpired term on the Planning and Zoning Commission, expiring March 31, 2012. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

**POLICE VEHICLE BID AWARDED:** The following bids were received and tabulated for the consideration of the Council.

ITEM: Two (2) Police Utility Vehicles

Caldwell Country Chevrolet Caldwell, TX	2012 Chevrolet Tahoe	\$69,954.00
Defender Supply/Holiday Chevrolet Whitesboro, TX	2012 Chevrolet Tahoe	\$73,629.50

Country Chevrolet Borger, TX	No submission	No submission
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ITEM: One (1) Police Vehicle

Caldwell Country Chevrolet Caldwell, TX	2012 Caprice PPV	\$41,518.00
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Dallas Dodge, Dallas, TX	2012 Dodge Charger PPV	\$34,200.00
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Following discussion, motion was made by Council Member Gillingham, seconded by Council Member DeWeese, to award a bid in the amount of \$69,954 for two (2) fully equipped Police Package 2012 Chevrolet Tahoes to Caldwell Country Chevrolet and award a bid in the amount of \$34,200 for one (1) fully equipped Police Package Dodge Charger to Dallas Dodge. The motion carried by the following vote:

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

**RESOLUTION R-019-11 APPROVED:** Director of Public Works Ted Dodd explained that this resolution is part of the grant process through the Panhandle Regional Planning Commission (PRPC). Following discussion, motion was made by Council Member Dickson, seconded by Council Member DeWeese, to approve Resolution R-019-11, pertaining to a Solid Waste Grant through the PRPC. The motion carried by the following vote:

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

The Resolution reads as follows:

**RESOLUTION NO. R-019-11**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BORGER, TEXAS, AUTHORIZING THE SUBMISSION OF A FY 2012 REGIONAL SOLID WASTE GRANTS PROGRAM APPLICATION TO THE PANHANDLE REGIONAL PLANNING COMMISSION (PRPC) AND AUTHORIZING THE CITY MANAGER TO REPRESENT THE CITY IN ALL MATTERS PERTAINING TO THIS APPLICATION.**

**WHEREAS**, the citizens of the State of Texas, either directly or indirectly, pay into a state-managed solid waste tipping fee fund which provides the Texas Commission on Environmental Quality (TCEQ) the funding to administer a variety of programs designed to afford the state a higher degree of environmental protection; and

**WHEREAS**, a portion of these TCEQ-administered tipping fee funds have been made available to the state's local governments through the regional councils of governments of

Texas to provide grants for regional/local solid waste management projects; and

**WHEREAS**, the primary intent of these grant funds is that they be used to implement/enhance programs at the regional/local level which promote the management goals of the regional and state solid waste plans; and

**WHEREAS**, the City of Borger is eligible to receive these funds and desires to undertake a program which advances the solid waste management goals and objectives of the state solid waste management plan and the Panhandle Regional Solid Waste Management Plan.

**NOW THEREFORE**, be it resolved by the City Council of the City of Borger, Texas:

1. That the City Council has reviewed the project details and has duly authorized the submission of a related grant application to the PRPC.
2. That City is applying for funds to equip and implement a program to be known as the **City of Borger Project**.
3. That the City Council designates the City Manager to act as it's duly authorized representative in all matters pertaining to this application.
4. That any grant funds received will be used for their intended purpose.
5. That as a condition of funding, the City of Borger agrees to provide the necessary certifications and assurances required by the TCEQ.

**CONSIDERED AND APPROVED THIS** 15th **DAY OF** November, 2011

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**EXECUTION SESSION:** Mayor Brain stated that in compliance with Chapter 551, Govt. Code, Vernon's Texas Codes Annotated, the Council would retire into executive session relative to Sections, 551.072, Real Property and 551.071, Consultation with Attorney.

- a. Discuss potential transfer of ownership of the water line and associated easements connecting the South River Booster to the Trigg Booster.
- b. Discuss pending litigation – William Charles Lee v Terry Holman (City of Borger).

**COUNCIL RETURNED TO OPEN SESSION:** Following the executive session, Mayor Brain reconvened the regular meeting and announced that the Council discussed Sections 551.072, Real Property and 551.071, Consultation with Attorney.

- a. Discussed potential transfer of ownership of the water line and associated easements connecting the South River Booster to the Trigg Booster.
- b. Discussed pending litigation – William Charles Lee v Terry Holman (City of Borger).

No action was taken on these items.

**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 Secretary