

**REGULAR MEETING OF CITY COUNCIL  
JUNE 5, 2012 – 1:30 P.M.**

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

<b>STAFF:</b>	Eddie Edwards	City Manager
	Danny Richards	E.O.C. Director
	Stella E. Sauls	City Secretary
	Jimmy Adams	Chief, Police Department
	Bruce Roberts	Captain, Police Department
	Anthony “Bud” Griffin	Lieutenant, Police Department
	Rhonda Miller	Finance/IT Specialist
	Kenneth Petr	Director, Planning and Zoning
	Ted B. Dodd	Director of Public Works
	Ralph Earles	Assistant Director of Public Works

<b>VISITORS:</b>	Ted Wilson	Pastor, St. Andrew Methodist Church
	Judy Mihm	
	Jesse Sheffield	
	Meryl Barnett	
	Brad Carpenter	
	Odis McClellan	
	Dennis Jack	

**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.

Dennis Jack, CEO of Golden Plains Community Hospital, presented the Council with a Commemorative Brick from the old hospital.

**MINUTES APPROVED:** Following review of the minutes of the regular meeting of May 15, 2012, motion was made by Council Member Dickson, seconded by Council Member Callahan, 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 Gillingham, seconded by Council Members Dickson, 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.

**ORDINANCE O-004-12, AMENDING CHAPTER 14, ZONING, SECTION 14.02.002 UPDATING ZONING DISTRICT MAP APPROVED:** Director of Planning and Zoning Kenneth Petr explained to the Council that the re-zoning has been approved causing the change to the district map; this ordinance is to reflect the change in the City's Code of Ordinances. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Gillingham, to approve on final reading Ordinance O-004-12, amending Chapter 14, Zoning, Section 14.02.002 directing changes to the zoning of various lots and updating Zoning District Map. The motion carried by the following vote:

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

The caption of Ordinance O-004-12 reads as follows:

**ORDINANCE O-004-12**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BORGER, TEXAS, AMENDING CHAPTER 14, ZONING, SECTION 14.02.002, ZONING DISTRICT MAP OF THE CITY OF BORGER, TEXAS BY REZONING: LOTS 17-27, BLOCK 5, ORIGINAL TOWNSITE FROM RETAIL TO COMMERCIAL; LOTS 9-10, BLOCK 49, ORIGINAL TOWNSITE FROM GENERAL RESIDENCE TO RETAIL; LOTS 4-6, BLOCK 66, ISOM FROM GENERAL RESIDENCE TO NEIGHBORHOOD SERVICE; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR AND AN EFFECTIVE DATE**

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**ORDINANCE O-005-12 INTRODUCED:** City Manager Eddie Edwards explained to the Council that all requirements for the annexation of a 16.361 tract of land have been met. Following discussion, motion was made by Council Member Callahan, seconded by Council Member Dickson, to introduce Ordinance O-005-12, annexing a 16.361 acre tract of land in Section 23, Block “Y”, Arnold land Barrett-Morris & Cumming Survey. The motion carried by the following vote:

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

The caption of Ordinance O-005-12 reads as follows:

**ORDINANCE O-005-12**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BORGER, TEXAS, PROVIDING FOR INCORPORATION; ANNEXING THE HEREINAFTER DESCRIBED PROPERTY TO THE CITY OF BORGER, EXTENDING THE BOUNDARIES OF SAID CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN THE CITY LIMITS, GRANTING TO SAID PROPERTY AND TO ALL FUTURE INHABITANTS OF SAID PROPERTY ALL THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID FUTURE INHABITANTS BY ALL OF THE ACTS AND ORDINANCES OF SAID CITY, AMENDING THE OFFICIAL MAP AND BOUNDARIES OF THE CITY, APPROVING A SERVICE PLAN FOR THE ANNEXED PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE**

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**PUBLIC HEARING CONDUCTED – REZONING REQUEST APPROVED:** Director of Planning and Zoning Kenneth Petr explained that this rezoning request is to change Section 23, Block “Y”, A & B Survey from Estate Agriculture (EA) zoning district to Commercial (C) zoning district. Mayor Brain opened the public hearing and asked if there were any comments. There were comments in favor of the rezone. There being no further comments, Mayor Brain closed the public hearing. Motion was made by Council Member Vinyard, seconded by Council Member Gillingham, to approve the rezoning of Section 23, Block “Y”, A & B Survey, from an Estate Agricultural (EA) zoning district to a Commercial (C) zoning district. The motion carried by the following vote:

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

**ORDINANCE O-006-12, AMENDING CHAPTER 14, ZONING SECTION 14.02.002 UPDATING ZONING DISTRICT MAP INTRODUCED:** Director of Planning and Zoning Kenneth Petr explained to the Council this is the next step in rezoning of Section 23, Block “Y”, A & B Survey. Motion was made by Council Member Dickson, seconded by Council Member Vinyard, to introduce Ordinance O-006-12, amending Chapter 14, Zoning, Section 14.02.002, directing changes to the zoning districts, and updating the Zoning District Map. The motion carried by the following vote:

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

The caption of Ordinance O-006-12 reads as follows:

**ORDINANCE O-006-12**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BORGER, TEXAS, AMENDING CHAPTER 14, ZONING, SECTION 14.02.002, ZONING DISTRICT MAP OF THE CITY OF BORGER, TEXAS BY REZONING A 19.773 ACRE TRACT OF LAND SITUATED IN SECTION 23, BLOCK Y, ARNOLD AND BARRETT SURVEY, HUTCHINSON COUNTY TEXAS FROM ESTATE AND AGRICULTURE TO COMMERCIAL; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR AND AN EFFECTIVE DATE**

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**INTERLOCAL AGREEMENT BETWEEN THE BORGER INDEPEDENCE SCHOOL DISTRICT AND CITY OF BORGER FOR THE 2012-2013 SCHOOL RESOURCE OFFICER PROGRAM APPROVED:** City Manager Eddie Edwards explained to the Council that the City of Borger did not receive a grant this year to help fund this program, but stated the school and city would like to continue this program regardless. Mr. Edwards stated in previous years with the grant the distribution between the City and School District was 75/25 this year in lieu of the grant the distribution would be 50/50. Following discussion, motion was made by Council Member Gillingham, seconded by Council Member Vinyard, to approve the Interlocal Agreement between the Borger Independent School District and the City of Borger for the 2012-2013 School Resource Officer Program. The motion carried by the following vote:

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

**RECOMMENDATION FROM THE PLANNING AND ZONING COMMISSION**

**RECEIVED:** Director of Planning and Zoning Kenneth Petr explained to the Council that Mr. Steve Williams made a request to rezone Lots 4-9, Block 4, Johnson Heights Addition from General Residence (GR) zoning district to Commercial (C) zoning district. Following discussion, motion was made by Council Member Dickson, seconded by Council Member's Vinyard and Gillingham, to receive the Planning and Zoning Commission's recommendation, and schedule public hearing for 1:30 p.m., June 19, 2012, to hear citizen comment on same. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

**RESOLUTION R-006-12, AUTHORIZING SUBMISSION OF THE TOBACCO ENFORCEMENT CONTRACT APPLICATION FOR LOCAL LAW ENFORCEMENT AGENCIES APPROVED:**

Lieutenant Anthony Griffin explained to the Council that the process to receive the funds from the Tobacco Enforcement Contract has changed. It is no longer a grant process but a funding program. This program will work on a refund basis rather than receiving money up front. Following discussion, motion was made by Council Member Gillingham, seconded by Council Member Callahan, to approve Resolution R-006-12, authorizing submission of the Tobacco Enforcement Contract Application for Local Law Enforcement Agencies to the Texas School Safety Center at Texas State University – San Marcos on behalf of the Department of State Health Services, Mental Health Substance Abuse Division. The motion carried by the following votes:

Ayes: All members present voted aye.

Nays: None.

Resolution R-006-12 reads as follows:

**RESOLUTION R-006-12**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BORGER, TEXAS, AUTHORIZING THE SUBMISSION OF THE APPLICATION FOR TOBACCO ENFORCEMENT PROGRAM FUNDING TO TEXAS SCHOOL SAFETY CENTER AT TEXAS STATE UNIVERSITY – SAN MARCOS ON BEHALF OF THE DEPARTMENT OF STATE HEALTH SERVICES, MENTAL HEALTH SUBSTANCE ABUSE DIVISION AND DESIGNATING AN AUTHORIZED REPRESENTATIVE TO ACT IN ALL MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN TOBACCO ENFORCEMENT PROGRAM FUNDING.**

**WHEREAS,** In accordance with Texas Government Code §403.10(c), Permanent Funding for Health and Tobacco Education and Enforcement, the Texas School Safety Center at Texas State University – San Marcos (TxSSC) on behalf of the Department of State Health Services, Mental Health Substance Abuse Division (DSHS) is soliciting applications from local law enforcement agencies for the

purposes of conducting Controlled Buy / Stings and Follow-Up Controlled Buy / Stings of tobacco permitted retail outlets in respective jurisdictions for State Fiscal Year 2013. The Tobacco Enforcement Program (TEP) is a program of the TxSSC and is funded through a contract from DSHS. The amount of funds available to contract with local law enforcement agencies statewide is \$700,000.00. The funding period is September 1, 2012 to August 31, 2013; and,

**WHEREAS**, The purpose of this funding is to enforce Subchapter H, Chapter 161 Texas Health and Safety Code, §161.082 – Sale of cigarettes or tobacco products to persons younger than 18 years of age prohibited: Proof of age required. Enforcement of minors access to tobacco laws ensures that state’s compliance with Section 1926 of the Federal Public Health Service Act (42 U.S.C. Section 300x-26) and implementation of any regulations adopted by the United States Department of Health and Human Services; and,

**WHEREAS**, selected contractors providing services under this agreement will conduct On-site Controlled Buy / Stings and Follow-Up Controlled Buy / Stings involving the use of minors as decoys (i.e., “Stings”), record the Controlled Buy / Sting information on the DSHS Controlled Buy / Sting Report Form, and submit monthly activity reports to TxSSC. TxSSC will reimburse contracted law enforcement agencies \$75.00 for each Controlled Buy / Sting conducted; and,

**WHEREAS**, The City of Borger desires to accept the Contract; if awarded; for the Tobacco Enforcement Program Funding to assist in upholding State and Federal Law in regards to the Illegal Sale or Distribution of cigarettes and tobacco products to persons who are younger than 18 years of age; as well as to reduce these incidents from occurring inside the City Limits of the City of Borger, for the Health and Well Being of the City’s youth population.

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

1. **That**, the Tobacco Enforcement Program Funding Application is hereby authorized to be filed on behalf of the City of Borger with the Texas School Safety Center at Texas State University – San Marcos on behalf of the Department of State Health Services, Mental Health Substance Abuse Division.
2. **That**, the Application be for funding to conduct Controlled Buys / Stings and Follow – Up Controlled Buys / Stings of Tobacco permitted retail outlets inside the City Limits of the City of Borger.
3. **That**, the City Council of the City of Borger directs and designates Lieutenant Anthony B. Griffin or his authorized designee, as the City of Borger’s authorized representative and that he be given the power to apply for, accept, reject, alter, or terminate the Tobacco Enforcement Program Funding on behalf of the City of Borger.

4. **That**, the City of Borger agrees to adhere to all criteria and rules listed and described within the Tobacco Enforcement Program Funding Contract.
5. **That**, in the event the City of Borger Police Department cannot fulfill or no longer desires to fulfill the obligations of the Tobacco Enforcement Program Funding Contract, then it be understood that the City of Borger Police Department will be removed from the program.

**PASSED, APPROVED, AND ADOPTED**, on this the 5<sup>th</sup> day of June, 2012, 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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**RECOMMENDATION FROM THE HUTCHINSON COUNTY TAX ASSESSOR-COLLECTOR APPROVED:** Mayor Brain reminded the other council members that this property has been on the agenda as struck off property before and the bid was denied. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Dickson, to accept a bid of \$1,100.00 from Mr. Joe Clement for the property located at 108 Warner (Lot 9, Block 30, Coronado Terrace). The motion carried by the following vote:

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

**BID FOR DRAINAGE IMPROVEMENTS AWARDED:** City Manager Eddie Edwards explained to the Council that this is the second part of the 2011-2012 Community Block Development Grant. The project will be for drainage improvements to the NW Corner of Coble & West 7<sup>th</sup> Street. Only one bid was received from White Water Construction for a total contract price of \$100,049.13. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Dickson, to award the Drainage Improvements to Whitewater Construction, Inc. The motion carried by the following vote:

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

**EXECUTIVE SESSION:** Mayor Brain state that in compliance with Chapter 551, Texas Govt. Code, (Open Meetings Law), the Council would retire into executive session relative to Section 551.072 Deliberations about Real Property.

- a. Discuss surface lease agreement on real property located in Section 2, T.W.M.G. Survey, Hutchinson County, Texas.

**COUNCIL RETURNED TO OPEN SESSION:** Following the executive session, Mayor Brain reconvened the regular meeting and announced that the Council discussed items relative the Texas Govt. Code, Section 551.072, Deliberations about Real Property.

- a. Discussed surface lease agreement on real property located in Section 2, T.W.M.G. Survey, Hutchinson County, Texas.

No action was taken.

**MEETING ADJOURNED:** There being no further business, motion was made by Council Member Dickson, seconded by Council Member's Callahan and Gillingham. 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