

**REGULAR MEETING OF CITY COUNCIL
MAY 7, 2013 – 1:30 P.M.**

PRESENT:	Jeff Brain	Mayor
	Robert Vinyard	Mayor Pro-Tem
	Brandy Callahan	Council Member
	Marvin Dickson	Council Member
	Charles Gillingham	Council Member

STAFF:	Eddie Edwards	City Manager
	Rhonda Miller	I/T Specialist
	Stella E. Sauls	City Secretary
	Kenneth Petr	Director, Planning and Zoning
	Jimmy Adams	Chief, Police Department
	Bruce Roberts	Captain, Police Department
	Ted B. Dodd	Director, Public Works
	Candice Hurst	Clerk, Public Works
	Annadon Keys	Director, Parks and Recreation

VISITORS:	Jeff Hutchison	Pastor, Calvary Baptist Church
	Meryl Barnett	Jesse Shuffield
	Julia Kasch	Judy Flanders
	Janet Huffine	Beverly Benton
	Sara Ramby	Ken Brockett
	Scott W. Honeyfield	Faye Blanks
	Denise Rhea	Angie Mitchell
	Clay Renick	Brad Carpenter
	David Hagler	Robert Bradley
	Donnie Davis	

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.

COUNCIL MEMBER COMMENTARY:

Council Member Callahan gave a detailed report on her trip to the State Capital to speak out against the sale and use of synthetic drugs.

MINUTES APPROVED: Following review of the minutes of the regular meeting of April 16, 2013 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 last half of April 2013 were submitted for the consideration of the Council. Following discussion, motion was made by Council Member Gillingham, seconded by Council Member Dickson, to approve payment of the expenditures for the last half of April 2013 as submitted. The motion carried by the following vote:

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

TOURISM SERVICES REPORT FOR FY 2012-2013 FROM THE TRI-CITY COMMUNITY CONCERT ASSOCIATION AND FRIENDS OF THE HUTCHINSON COUNTY HISTORICAL MUSEUM RECEIVED AND TOURISM SERVICES AGREEMENTS FOR FY 2013-2014 APPROVED:

Judy Flanders, President, Tri-City Community Concert Association, and Treasurer of Friends of the Hutchinson County Historical Museum, submitted the FY 2011-2012 annual tourism service reports for both organizations. Ms. Flanders gave a brief overview on each Association's tourism activities, events, advertising and plans for the future.

Following discussion, motion was made by Council Member Callahan seconded by Council Member Vinyard, to receive the FY 2012-2013 annual tourism service report for the Tri-City Community Concert Association and to approve the new Tourism Services Agreement for FY 2013-2014 between the Tri-City community Concert Association and the City of Borger. The motion carried by the following vote:

Ayes: Council Members Brain, Callahan, Dickson and Vinyard voted aye.
Nays: None.
Abstained: Council Member Gillingham.

Motion was made by Council Member Callahan, seconded by Council Member Vinyard, to receive the FY 2012-2013 annual tourism services report of the Friends of Hutchinson County Historical Museum and approve a new Tourism Services Agreement for F 2013-2014 between

Friends of Hutchinson County Historical Museum and the City of Borger. The motion carried by the following vote:

Ayes: Council Members Brain, Callahan, Dickson and Vinyard voted aye.

Nays: None.

Abstained: Council Member Gillingham.

TOURISM SERVICES REPORT FOR FY 2012-2013 FROM THE BORGER CHAMBER OF COMMERCE RECEIVED AND THE TOURISM SERVICES AGREEMENT FOR

FY 2013-2014 APPROVED: Beverly Benton, CEO of the Borger Chamber of Commerce submitted the Chamber's FY 2012-2013 annual tourism service report and a brief overview on the Chamber's tourism activities, events, and plans for the future. Mrs. Benton thanked the City for their support. Following discussion, motion was made by Council Member Dickson, seconded by Council Member Vinyard, to accept the FY 2012-2013 annual report and approve the FY 2013-2014 Tourism Services Agreement between the Borger Chamber of Commerce and the City of Borger as submitted. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

ORDINANCE O-006-13 DECLARING SPS' EXISTING RATES UNREASONABLE AND ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE SETTLEMENT AGREEMENT INTRODUCED:

City Manager Eddie Edwards explained that this Ordinance as submitted adopts new rates for Southwestern Public Service Company. Mr. Edwards stated that the increase would come in two (2) steps; step one includes meters read on and after May 1, 2013 and step two for meters read on and after September 1, 2013. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Dickson, to introduce Ordinance O-006-13 approving the Settlement Agreement between the Alliance of Xcel Municipalities and Southwestern Public Service Company regarding SPS' Statement of Intent, declaring existing rates unreasonable, and adopting tariffs that reflect rate adjustments consistent with the Settlement Agreement. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

The caption of Ordinance O-006-13 reads as follows:

ORDINANCE O-006-13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BORGER, TEXAS APPROVING A SETTLEMENT AGREEMENT BETWEEN THE ALLIANCE OF XCEL MUNICIPALITIES ("AXM") AND SOUTHWESTERN PUBLIC SERVICE COMPANY ("SPS" OR "COMPANY") REGARDING THE COMPANY'S STATEMENT OF

INTENT TO CHANGE ELECTRIC RATES IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE SETTLEMENT AGREEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; FINDING THE CITY'S RATE CASE EXPENSES REASONABLE; DIRECTING SPS TO REIMBURSE THE CITY ITS REASONABLE RATE CASE EXPENSES; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETING ACT; DECLARING AN EFFECTIVE DATE; REPEALING ANY PRIOR RESOLUTIONS OR ORDINANCES INCONSISTENT WITH THIS ORDINANCE AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND LEGAL COUNSEL

BID ON FOR 5TH STREET AND AUSTIN STREET STORM SEWER IMPROVEMENTS

REJECTED: Scott Honeyfield, Engineer for Parkhill, Smith and Cooper, explained to the Council that the City only received one (1) bid for the project and it significantly exceeded the City's budget and Parkhill, Smith and Cooper's opinion of probable cost. Mr. Honeyfield recommended that the bid be rejected and that the project be slightly modified to accommodate concerns of potential bidders and be re-bid. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Callahan, to reject the bid from Fuller and Sons and re-bid the project with the recommended minor modifications to the plans and specifications. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

PLANNING AND ZONING COMMISSION MEMBER APPOINTED: Director of Planning and Zoning Kenneth Petr submitted a letter of recommendation from the Planning and Zoning Commission requesting the City Council consider appointing Mr. Ralph White to a three (3) year term. Following discussion, motion was made by Council Member Dickson, seconded by Council Member Gillingham, to appoint Ralph White to fill one of the vacancies on the Planning and Zoning Commission to a term ending March 31, 2016. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

OPERATION FACELIFT APPROVED: Director of Planning and Zoning Kenneth Petr explained to the Council that the property owner has signed an Operation Facelift Contract and paid the predetermined amount of \$2,500.00 fee. Following discussion, motion was made by Council Member Gillingham, seconded by Council Member Vinyard, to approve the Operation

Facelift Contract between Mr. Don Christopher Green and the City of Borger for the removal of the small structure at 819 N. Harvey (Lot 7, Block 11, Original Townsite Addition). The motion carried by the following vote:

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

ADVANCED FUNDING AGREEMENT BETWEEN TXDOT AND THE CITY OF BORGER APPROVED:

Director of Planning and Zoning Kenneth Petr reminded the Council of the Advanced Funding Agreement between TxDOT and the City of Borger signed in the fall to rehabilitate Roosevelt Street and explained that Wal-Mart was unable to commit to participation in the project at that time. Mr. Petr stated that Parkhill, Smith and Cooper have now completed the plans for the rehabilitation of Roosevelt Street which have been submitted to TxDOT for a scheduled June bid letting. In the mean time the conditions which prevented Wal-Mart's participation in the project have been settled. Wal-Mart has inquired if the possibility of participation is still available and would like to add some additional features to the project in the area of Roosevelt and Hwy 136. Based upon discussions with TxDOT and PSC there is a slight window of opportunity to add an addendum to the bid to accommodate the addition of these items. Pursuant to the Advanced Funding Agreement which requires full payment of the local portion of the proposed project budget, TxDOT will need an additional \$220,165 to include the Wal-Mart items. The City will be reimbursed for the additional \$220,165 along with any other costs associated with the addition of the Wal-Mart items through a separate agreement between Wal-Mart and the City. The addition of these items will require an amendment to the original Advanced Funding Agreement. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Dickson, to approve Amendment #1 to the Transportation Project Advance Funding Agreement between TxDOT and the City of Borger for the Roosevelt Street upgrades. The motion carried by the following vote:

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

EXECUTIVE SESSION: Mayor Brain stated that in compliance with Chapter 551, Texas Govt. Code, (open Meetings Law), the Council would retire into executive session relative to Section, 551.071 Contemplated Litigation and 551.072 Deliberation Regarding Real Property:

- a. Discuss contemplated litigation
- b. Discuss acquisition of easements and rights-of-way

COUNCIL RETURNED TO OPEN SESSION: Following the executive session, Mayor Brain reconvened the regular meeting and announced that the Council discussed items relative to the Texas Govt. Code, Section 551.071 Contemplated Litigation and 551.072 Deliberation Regarding Real Property:

- a. Discussed contemplated litigation

Motion was made by Council Member Vinyard, seconded by Council Member Dickson, to authorize City Attorney Angelique Weaver to file a suit in Hutchinson County for the collection of a debt against A & R Demolition. The motion carried by the following vote:

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

b. Discussed acquisition of easements and rights-of-way

No action taken.

PRELIMINARY STUDIES REIMBURSEMENT AGREEMENT BETWEEN AGRIMUM AND THE CITY OF BORGER APPROVED: City Manager Eddie Edwards explained to the Council that the previously approved \$200,000 for preliminary studies on the proposed expansion of the Stinnett Well Field in regards to Agrium's proposed plant expansion would not be sufficient to reimburse the City based on Agrium's request to expand the scope of the preliminary design study. Because of the additional anticipated expense of these studies, a request was made to Agrium to renegotiate the Agreement. Agrium has now provided an Agreement to reimburse the City up to \$1,200,000 that the City could spend in preparation for the proposed Well Field Expansion Project should Agrium's project ultimately not be awarded to the Borger site. Following discussion, motion was made by Council Member Dickson, seconded by Council Member's Gillingham and Vinyard, to approve the Preliminary Studies Reimbursement Agreement between Agrium U.S. Inc. and the City of Borger. The motion carried by the following vote:

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

ORDINANCE O-007-13 INTRODUCED: City Manager Eddie Edwards explained that this Ordinance is to amend the FY 2012-2013 Operating Budget. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Gillingham, to introduce Ordinance O-007-13 amending the FY 2012-2013 Operating Budget. The motion carried by the following vote:

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

The caption of Ordinance O-007-13 reads as follows:

ORDINANCE O-007-13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BORGER, TEXAS, AMENDING THE CITY'S BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2012 AND ENDING SEPTEMBER 30, 2013 AS ADOPTED BY ORDINANCE O-009-12; PROVIDING FOR SUPPLEMENTAL APPROPRIATIONS AND TRANSFER OF CERTAIN FUNDS; PROVIDING THAT PRIOR PARTS

**OF ORDINANCE O-009-12 INCONSISTENT WITH OR IN CONFLICT
WITH ANY OF THE PROVISIONS OF THIS ORDINANCE ARE
HEREBY EXPRESSLY REPEALED TO THE EXTENT OF ANY SUCH
INCONSISTENCY OR CONFLICT; PROVIDING FOR
SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE**

FUND TRANSFER TABLED: City Manager Eddie Edwards explained to the Council that the request to transfer funds was from Council Member Vinyard. Council Member Vinyard explained that he requested Council consider transferring \$90,000.00 from the Borger Community Designated Fund to the Borger Multi-Purpose Events Center Fund. These funds are both held in accounts established by the City at the Amarillo Area Foundation. Mr. Vinyard further stated that these funds are sitting unused in an account with no current or future plans for use and that he felt using \$90,000 of these funds would be a good way to kick off the building of the Multi-Purpose Events Center. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Callahan, to table consideration of the transfer of \$90,000 from the Borger Community Designated Fund to the Multi-Purpose Events Center. 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 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.

Mayor

ATTEST:

City Secretary