

**REGULAR MEETING OF CITY COUNCIL  
JANUARY 21, 2014 – 1:30 P.M.**

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

<b>STAFF:</b>	Eddie Edwards	City Manager
	Danny Richards	E.O.C. Coordinator
	Stella E. Sauls	City Secretary
	Scott Radach	Director, Finance
	Annadon Keys	Youth/Recreation Coordinator
	Shelby McCarty	Assistant Supervisor
	Kenneth Petr	Director, Planning and Zoning
	Larry Byrd	Combination Builder Inspector
	Bruce Roberts	Chief, Police Department
	Anthony “Bud” Griffin	Captain, Police Department
	Ted B. Dodd	Director, Public Works
	Ralph Earles	Assistant Director, Public Works
	Rhonda Miller	I/T Specialist

<b>VISITORS:</b>	Charles Griffin	Pastor, Valley View Baptist Church
	Gilbert A. Martinez	
	Jesse Shuffield	

**NEWS MEDIA:** J. C. Cortez

**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.

Youth and Recreation Coordinator Annadon Keys presented a flyer to the Council advertising an free admission open house on Saturday, February 1, 2014, to show the public the new inflatable bounce houses and allow citizens the opportunity to participate in the climbing wall and jumping in the bounce houses. Mrs. Keys also explained to the Council the other activities that are

available to the public, such as volleyball, and to come bounce house Tuesday.

City Manager Eddie Edwards took the time to recognize Mrs. Keys and Miss McCarty and congratulate them on receiving their certification as Instructors with the National Aquatic Safety Company.

**MINUTES APPROVED:** Following review of the minutes of the regular meeting of January 7, 2014, motion was made by Council Member Dickson, seconded by Council Member Gillingham, to approve the minutes for the regular meeting of January 7, 2014 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 January 2014 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 first half of January 2014 as submitted. The motion carried by the following vote:

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

**RESOLUTION R-001-14 SUSPENDING SPS' PROPOSED EFFECTIVE DATE FOR 90 DAYS IN CONNECTION WITH THE RATE INCREASE APPROVED:** City Manager Eddie Edwards explained to the Council that this suspension allows the cities more time to make sure the citizens are getting a fair rate in the rate increase. Following discussion, motion was made by Council Member Vinyard, seconded by Council Member Callahan, to approve Resolution R-001-14 suspending SPS' proposed effective date as allowed by statute; authorizing the City to join with the other cities in the Alliance of Xcel Municipalities to direct the activities of lawyers and consultants; and requiring reimbursement of reasonable legal and consultant fees. The motion carried by the following vote:

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

The Resolution reads as follows:

**RESOLUTION R-001-14**

**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 MADE ON OR ABOUT JANUARY 7, 2014; AUTHORIZING THE CITY TO JOIN WITH OTHER CITIES IN THE ALLIANCE OF XCEL MUNICIPALITIES ("AXM") 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**, Southwestern Public Service Company (“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 \$81.5 million and to reconcile its fuel cost for the period July 1, 2012 through June 30, 2013; 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 or about January 7, 2014, consists of a voluminous amount of information including SPS’ rate-filing package, pre-filed direct testimony, exhibits, schedules, and workpapers; and,

**WHEREAS**, SPS proposed February 11, 2014 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/COMMISSION FOR THE CITY OF BORGER, TEXAS THAT:**

**Section 1.** The findings set out in the preamble are in all things hereby approved.

**Section 2.** SPS’s proposed effective date of February 11, 2014 for its filing of January 7, 2014, is

hereby suspended for an additional ninety (90) days, or at least until May 12, 2014.

**Section 3.** The statutory suspension period will be extended automatically day for day should SPS extend its proposed effective date, and may be further extended if SPS does not provide timely, meaningful, and proper public notice of its request to increase rates, or if its rate-filing package is materially deficient.

**Section 4.** 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.** 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.** 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.** 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.** The City Secretary or other appropriate city official shall notify SPS of this Resolution by sending a copy of the Resolution to Evan Evans, Regional Vice President, Rates and Regulatory Affairs, and Brooke Trammell, Rate Case Manager, Southwestern Public Service Company, P.O. Box 1261 Amarillo, Texas 79105-1261 and also Stephen Fogel and Matthew Loftus, Xcel Energy Services, Inc., 816 Congress Ave., Suite 1650, Austin, Texas 78701-2471; 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.** This resolution shall become effective from and after its passage.

**PASSED, APPROVED, AND ADOPTED,** on this the 21<sup>st</sup> day of January, 2014, 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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**AMENDMENTS TO THE WATER PRICING AGREEMENTS APPROVED:** City Manager Eddie Edwards explained the amendment to the Water Pricing Agreement as a

housekeeping item. Following discussion, motion was made by Council Member Callahan, seconded by Council Member Vinyard, to approve the Water Pricing Agreements with the following companies:

- a. Sid Richardson Carbon Co. – Amendment #9
- b. Orion Engineered Carbons – Amendment #5

The motion carried by the following votes:

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

**SALE OF “STRUCK OFF” PROPERTY APPROVED:** City Manager Eddie Edwards presented the following “struck off” properties to the Council:

- a. 307 E. Jefferson St. (Lot 9, Block 2, Isom Addition) - \$ 1,250; Mario Rodriguez
- b. 311 E. Jefferson St. (Lot 10, Block 2, Isom Addition) - \$ 1,250; Mario Rodriguez

Following discussion, motion was made by Council Member Gillingham, seconded by Council Member Callahan, to accept a bid of \$2,500 from Mario Rodriguez for the property located 307 & 311 E. Jefferson St. (Lots 9 & 10, Block 2, Isom Addition). The motion carried by the following vote:

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

**PUBLIC HEARING CONDUCTED - RECOMMENDATION FROM THE BUILDING STANDARDS COMMISSION AFFIRMED – RESOLUTION R-002-14 APPROVED:** Code Enforcement Officer Larry Byrd submitted a request from Mr. Lloyd Weatherford to appeal the recommendation to demolish the structure(s) at 1007 Pine (S/50’ of Lot 5 & all of 6, Block 42, Isom Addition).

Mayor Brain opened the public hearing to hear an appeal and allow public comment. Mr. Gilbert Martinez spoke about the condition of the structure and explained that he has witnessed young people going in and out of the property. There being no further comments Mayor Brain closed the public hearing.

Following discussion, motion was made by Council Member Vinyard, seconded by Council Member’s Dickson and Callahan, to by order affirm the decision for demolition by the Building Standards Commission and approve Resolution R-002-14, affirming the recommendation of the Building Standards Commission, after appeal, for the demolition of 1007 Pine (S/50’ of Lot 5 and all of 6, Block 42, Isom Addition). The motion carried by the following vote:

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

The Resolution reads as follow as follows:

**RESOLUTION**  
**R- 002-14**

**A RESOLUTION DECLARING THAT CERTAIN IMPROVEMENTS DESCRIBED HEREIN ARE UNSAFE AND UNFIT FOR HUMAN HABITATION, AND REQUIRING THE DEMOLITION AND REMOVAL OF SUCH IMPROVEMENTS.**

**WHEREAS**, the City of Borger, after proper notice and hearings, has determined the structures at 1007 Pine, Lot S/50' of 5 & all of 6, Block 42, Isom Addition from to the City of Borger, to be unsafe and unfit for human habitation; and

**WHEREAS**, the owner, Mr. Lloyd Weatherford, has failed to comply with the request from the Building Official and the Building Standards Commission to repair and secure the structure to minimum standards; and

**WHEREAS**, the City of Borger affirms, the decision of the Building Standards Commission to demolish said structure.

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

**THAT**, the improvements located at 1007 Pine, Lot S/50' of 5 & all of 6, Block 42, Isom Addition to the City of Borger be demolished and removed as recommended by the Building Standards Commission.

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

**PASSED AND APPROVED** this the \_\_\_\_ day of \_\_\_\_\_, 2014.

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**RESOLUTION R-003-14, REVIEWING THE CITY'S CURRENT INVESTMENT POLICY APPROVED:** City Manager Eddie Edwards explained to the Council that pursuant to the Texas Government Code the City is required to review our current investment policy and pass a resolution modifying the policy or stating it is good for another year. Following discussion motion was made by Council Member Vinyard, seconded by Council Member Gillingham, to approve Resolution R-003-14, reviewing the City's current Investment Policy pursuant to the Public Funds Investment Act and authorizing representatives to act on the City's behalf in matters pertaining to the City's public funds. The motion carried by the following vote:

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

The Resolution reads as follows:

**RESOLUTION R-003-14**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BORGER, TEXAS, REVIEWING THE CITY OF BORGER'S INVESTMENT POLICY PURSUANT TO THE PUBLIC FUNDS INVESTMENT ACT; AND DESIGNATING AUTHORIZED**

**REPRESENTATIVES TO ACT ON BEHALF OF THE CITY IN ALL  
MATTERS PERTAINING TO THE CITY'S PUBLIC FUNDS**

**WHEREAS**, the Public Funds Investment Act (Texas Government Code, Chapter 2256) requires that a municipality annually review its investment policy with respect to the investment of public funds; and,

**WHEREAS**, City staff has reviewed the City of Borger's ("City") current Investment Policy dated April 2010 ("Policy") and recommends that no changes be made to said Policy; and,

**WHEREAS**, the City Council of the City of Borger, Texas, having reviewed said Policy, concurs with staff's recommendation and finds that it is in the public interest to continue said Policy as hereinafter attached; and,

**WHEREAS**, the City Council of the City of Borger, Texas, hereby designates the hereinafter mentioned individuals to act on behalf of the City in matters pertaining to the City's public funds.

**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**, the Investment Policy dated April 2010 continues to be the approved Policy of the City of Borger.

**Section 3**

**That**, the individuals, whose signatures appear in this Resolution, are Authorized Representatives of the City and are each hereby authorized as designated hereinafter to take actions deemed necessary and appropriate with the City's public funds.

The following listing of City staff is hereby approved as Authorized Representatives to open, close, deposit, withdraw, transfer, and perform any other legal or necessary action whether by paper or electronic methods for Obligations of, or Obligations Guaranteed by Governmental Entities; Certificates of Deposit and Share Certificates; Repurchase Agreements; Bankers Acceptances; Commercial Paper; Mutual Funds; Investment Pools; Checking Accounts; Lease Purchase and or Installment Loan Accounts:

Eddie E. Edwards  
City Manager  
806-273-0954

\_\_\_\_\_  
Authorized Signature

Scott M. Radach  
Director of Finance  
806-273-0912

\_\_\_\_\_  
Authorized Signature

The following listing of City staff is hereby approved as Authorized Representatives with the limited ability to be signatories of written checks on the City's Checking Accounts:

James W. Harder  
Director of Utilities  
806-273-0906

\_\_\_\_\_  
Authorized Signature

Stella Sauls  
City Secretary  
806-273-0902

\_\_\_\_\_  
Authorized Signature

Kenneth Petr  
Director of Planning & Zoning  
806-273-0910

\_\_\_\_\_  
Authorized Signature

The following listing of City staff is hereby approved as Authorized Representatives with the limited ability of electronic access to the City's Checking Accounts for the purpose of uploading EFTs, Drafts, Direct Deposits; and/or the transfer of funds between accounts:

Kristi Powell  
Administrative Assistant  
806-273-0921

\_\_\_\_\_  
Authorized Signature

Rhonda Miller  
IT Specialist  
806-273-0903

\_\_\_\_\_  
Authorized Signature

**Section 4**

**That**, an Authorized Representative may be deleted by a written instrument signed by two Authorized Representatives provided that the deleted Authorized Representative is assigned job duties that no longer require access to the City's public funds, or is no longer employed by the City.

**Section 5**

**That**, this Resolution and its authorization shall be effective immediately upon its passage and shall continue in full force and effect until amended, revoked, or superseded by the City Council of the City of Borger, Texas; and until the participating institution receives a copy of any such amendment or revocation.

**This Resolution supersedes all prior Authorized Representative designations.**

**PASSED, APPROVED, AND ADOPTED**, on this the 21<sup>st</sup> day of January, 2014, 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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**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 the Texas Govt. Code, Section 551.072 Deliberation Regarding Real Property.

- a. Discuss the acquisition of rights-of-way across Big Creek Ranch.

**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 Deliberation Regarding Real Property.

- a. Discussed the acquisition of rights-of-way across Big Creek Ranch.

Motion was made by Council Member Callahan, seconded by Council Member Gillingham, to approve the easement right-of-way between the Big Creek Ranch and the City of Borger. 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, 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