

**REGULAR MEETING OF CITY COUNCIL
JUNE 17, 2014 – 1:30 P.M.**

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

STAFF:	Eddie Edwards	City Manager
	Stella E. Sauls	City Secretary
	Danny Richards	EOC Coordinator
	Kenneth Petr	Director, Planning and Zoning
	Bruce Roberts	Chief, Police Department
	Anthony “Bud” Griffin	Captain, Police Department
	Ted B. Dodd	Director, Public Works

VISITORS:	Randy Bartlett	Pastor
	Jesse Shuffield	Lizet Dour
	Lauryn Ammerman	Vannessa Munoz
	Taylor Packebush	Danielle Brittain
	J. T. Conner	Efren Munoz
	Jake Conner	Jackson Schroeder
	Blanet Urizar	Katelyn Smith
	Tasia Washington	Damaris Washington
	Hagen Young	Meryl Barnett
	Dan Redd	Scott Honeyfield
	Ralph Pumphrey	Margaret Pumphrey
	Enrique Mendoza	

NEWS MEDIA:

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 work session and regular meeting of June 3, 2014, motion was made by Council Member Dickson, seconded by Council Member Gillingham, to approve the minutes for the work session and regular meeting of June 3, 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 June 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 June 2014 as submitted. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

TWO NEW BOARD MEMBERS APPOINTED TO THE BORGER ECONOMIC DEVELOPMENT BOARD OF DIRECTORS: Chief Executive Officer of the Borger Economic Development Corporation Dan Redd submitted a letter to the Council requesting Mr. Mike Amos and Mr. Rick McDonald be appointed to the Borger Economic Development Board of Directors. Following discussion, motion was made by Council Member Gillingham, seconded by Council Member Callahan, to appoint Mr. Mike Amos and Mr. Rick McDonald to the Borger Economic Board of Directors. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

BOARD MEMBERS APPOINTED TO THE BUILDING STANDARDS COMMISSION: Director of Planning and Zoning Kenneth Petr submitted the names of Mr. J. R. Pena, Jr. and Mr. Ralph Pumphrey to the Council for appointment to the Building Standards Commission. Following discussion, motion was made by Council Member Dickson, seconded by Council Member Gillingham, to appoint Mr. J. R. Pena and Mr. Ralph Pumphrey to fill the vacancies on the Building Standards Commission. These are four (4) year terms expiring on June 30, 2018. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

RESOLUTION R-012-14 RE-APPOINTING BOARD MEMBERS TO THE ZONING BOARD OF ADJUSTMENT APPROVED: Director of Planning and Zoning Kenneth Petr submitted a recommendation from the Zoning Board of Adjustment regarding the appointment and re-appointment to regular and alternate member status to the same. Following discussion, motion was made by Council Member Callahan, seconded by Council Member Gillingham, to approve Resolution R-012-14, re-appointing Mr. Gene Gallegos and Mr. James Baker to another

regular term and appointing Mrs. Marilyn Archer as an alternate member of the Zoning Board of Adjustment. These are three (3) year terms expiring on June 30, 2017. The motion carried by the following vote:

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

Resolution R-012-14 reads as follows:

RESOLUTION R-012-14

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BORGER, TEXAS RE-APPOINTING TWO REGULAR MEMBERS, AND APPOINTING ONE ALTERNATE MEMBER 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, the City Council desires to re-appoint two regular members, and appoint one alternate member to the Zoning Board of Adjustment, to perform the duties and responsibilities as provided by said Chapter 14.

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

1. **THAT** Gene Gallegos 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, 2017;
and,
2. **THAT** James Baker 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, 2017;
and,
3. **THAT** Marilyn Archer is hereby appointed to serve as an alternate member of the Zoning Board of Adjustment to a term which will expire on June 30, 2017;
and,
4. **THAT** 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, this the 17th day of June, 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.

ONE (1) OPERATION FACELIFT CONTRACT APPROVED: Director of Planning and Zoning Kenneth Petr explained to the Council the property owner has signed an Operation Facelift Contract and paid \$350.00 of the predetermined charges of \$3,500.00. Following discussion, motion was made by Council Member Gillingham, seconded by Council Member Callahan, to approve the Operation Facelift Contract between Mr. and Mrs. Colby Price and the

City of Borger for the removal of the two-story structure at 208 Cottonwood (Lot 10, Block 2, Philview III Addition). The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

RESOLUTION R-013-14 APPROVING THE PROPOSED 2014 COST OF SERVICE ADJUSTMENT BY TEXAS GAS SERVICE APPROVED: City Manager Eddie Edwards, submitted Resolution R-013-14 for the consideration of the Council. The Resolution approves the Texas Gas Service Company's 2014 Proposed Cost of Service Adjustment. Following discussion, motion was made by Council Member Gillingham, seconded by Council Member Dickson, to approve Resolution R-013-14 approving the 2014 Cost of Service Adjustment. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

Resolution R-013-14 reads as follows:

RESOLUTION R-013-14

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BORGER, TEXAS, APPROVING THE PROPOSED 2014 COST OF SERVICE ADJUSTMENT BY TEXAS GAS SERVICE A DIVISION OF ONEOK PURSUANT TO A GOOD CAUSE WAIVER OF THE COST OF SERVICE ADJUSTMENT CLAUSE; FINDING THAT THE REGULAR MEETING OF THE CITY COUNCIL COMPLIES WITH THE OPEN MEETINGS ACT; AND DECLARING AN EFFECTIVE DATE

WHEREAS, Texas Gas Service Company (TGS), a division of ONEOK, Inc. (Company), on or about May 27, 2014, filed a Cost of Service Adjustment (COSA) to change rates under the COSA Tariff as previously approved by the City of Borger, Texas ("City"); and,

WHEREAS, the Company's COSA filing supports an increase in revenues of \$345,860 driven by capital investment made by the Company to modernize infrastructure, upgrade its system, maintain quality service and comply with regulatory safety standards including Railroad Commission of Texas leak management requirements and line locate requests; and,

WHEREAS, Section C of the COSA Tariff limits the percentage change in total calendar year operating expenses in any year to the greater of 3.5% or the percentage change experienced in the Consumer Price Index; and,

WHEREAS, the Company has requested a good cause exception to the 3.5% cap contained in Section C of the COSA Tariff because the operating expense increase has been driven by an increase in line locate activities within the City, as well as increased leak survey and leak repair activity, all of which are activities necessary to ensure the safety and reliability of the Company's system and to comply with regulatory requirements; and,

WHEREAS, said schedules and tariffs are consistent with recommendations of the National Association of Regulatory Utility Commissioners; and,

WHEREAS, the City has exclusive original jurisdiction over the rates, operations, and services of a gas utility within the municipality under Section 103.001, Texas Utility Code; and,

WHEREAS, the City has reviewed the books, records, and data provided by TGS, and based upon the review, agrees with TGS that good cause exists to waive the 3.5% cap contained in Clause C of the COSA Tariff and finds that the COSA filing request should be approved; and,

WHEREAS, the effective date for the TGS rate increase request is for meters read on and after June 27, 2014.

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

PART 1. FINDINGS

- (A) On or about May 27, 2014, TGS filed a COSA to change rates under the COSA Tariff as previously approved by the City of Borger, Texas.
- (B) The increased service area revenue requirement of \$345,860 exceeds the calculated cap of \$255,890 as established by the COSA Tariff.
- (C) TGS’ proposed rate schedules and tariffs are consistent with recommendations of the National Association of Regulatory Utility Commissioners.
- (D) Based on company-provided information, TGS’ proposal would impact the per Ccf rate of customers within the City of Borger for the following classes of service:

Service Class	2013/2014 Rate	2014/2015 Rate	Per Ccf increase
Residential	\$0.1513	\$0.2105	\$0.0592
Commercial	\$0.2113	\$0.2705	\$0.0592
Public Authority	\$0.2013	\$0.2605	\$0.0592
School/Municipal	\$0.2413	\$0.3005	\$0.0592

- (E) The City, under Section 103.001, Texas Utility Code et seq., has exclusive original jurisdiction to evaluate TGS’ proposed rates and tariffs within the municipality.
- (F) The City has not surrendered its jurisdiction to the Railroad Commission under Section 103.03, Texas Utility Code.
- (G) The City Council after consideration of TGS’s explanation for a good cause waiver approves TGS’s requested COSA adjustment in the amount of \$345,860 and the new tariffs attached to this Resolution are just and reasonable.

PART 2. Based upon the foregoing findings the amended rate schedules as attached hereto in Exhibit A, are hereby approved in all respects with an effective date of June 27, 2014.

PART 3. This Resolution shall become effective from and after its passage.

PASSED, APPROVED, AND ADOPTED, on this the 17th day of June, 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.

BID AWARD FOR THE 2014 SEAL COAT PROJECT: Public Works Director Ted B. Dodd explained to the Council that there was only one bid receive from Lewis Construction Co.,

Inc. of Dumas, Texas. Mr. Dodd stated the cost would be \$196,401.80. Following discussion, motion was made by Council Member Callahan, seconded by Council Member Gillingham, to award the contract for the 2014 Seal Coat Project to Lewis Construction Co., Inc. of Dumas, Texas based on their bid of \$196,401.80. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

EXECUTIVE SESSION: Mayor Vinyard stated that in compliance with Chapter 551, Texas Govt. Code, (Open Meetings Law), the Council would retire into executive session relative to the Texas Govt. Code, Section 552.071 Consultations with Attorney and 552.072 Real Property:

- a. Discuss contemplated litigation to initiate condemnation proceedings to acquire Rights-of-Way for the Northwest Well Field Project from the following property owners:
 - a. Burgess
 - b. Yake
 - c. Huddleston
- b. Discuss contemplated litigation to initiate condemnation proceedings to acquire Rights-of-Way and Sanitary Control Easements for water wells on the J.P. Price property from Momentum Oil Co.

COUNCIL RETURNED TO OPEN SESSION: Following the executive session, Mayor Vinyard reconvened the regular meeting and announced that the Council discussed items related to the Texas Govt. Code, Section 551.071 Consultations with Attorney and 552.072 Real Property:

- a. Discussed contemplated litigation to initiate condemnation proceedings to acquire Rights-of-Way of the Northwest Well Field Project from the following property owners:
 - a. Burgess
 - b. Yake
 - c. Huddleston

Following discussion, motion was made by Council Member Callahan, seconded by Council Member Gillingham, to direct staff to continue negotiating with the Burgess, Yake, and Huddleston property owners as long as time permits. In addition, to authorize staff through legal representation, the authority to initiate condemnation proceedings on any or all of the Burgess, Yake or Huddleston properties in order not to unduly delay the start of the construction phase of the Project. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

- b. Discussed contemplated litigation to initiate condemnation proceedings to acquire

Rights-of-Way and Sanitary Control Easements for water wells on the J.P. Price property from Momentum Oil Co.

Following discussion, motion was made by Council Member Callahan, seconded by Council Member Dickson, to direct staff to continue negotiating with Momentum Oil to reach an amicable agreement. In addition, to authorize staff through legal representation, the authority to initiate condemnation proceedings to obtain the easements should negotiations not be successful. 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 Felker, seconded by Council Member Dickson, to adjourn the meeting. The motion carried by the following vote:

Ayes: All members present voted aye.

Nays: None.

Mayor

ATTEST:

City Secretary