

Public Hearing March 16, 2021

Mayor Dusty Cornelius called the public hearing on substandard structure and public nuisance at 221 N. Berkshire, owned by Olga Barboza to order at 6:15 p.m. Kendra Klassen with Texas Communities Group (TCG) presented information regarding the substandard structure and public nuisance at 221 N. Berkshire. Olga Barboza was not present during the public hearing. The public hearing was adjourned at 6:40p.m.

Mayor Dusty Cornelius called the public hearing for the City of Crosbyton and Crosby County Pioneer Memorial Museum FY 2021/2022 Budgets to order at 6:44 p.m. No one came forward. The public hearing was adjourned at 6:57 p.m.

Regular Council Meeting March 16, 2021

Mayor Dusty Cornelius called the regular meeting to order at 7:00 p.m. with the following council members present: Brad Thornhill, Alva Rodriguez, Doyle Parrish, Heidi Hays, Abel Reyna, and Jim Justus. Also present were: City Administrator Amy Wallace, City Secretary Cheyanne Flores, Public Works Director Chase Longo, Chief of Police John Wilson, Kara Wilson, Jonathan Farley, Jim K. Jopling, Senior Supervising Attorney with CLEAT via ZOOM, and Bryan Guymon, Attorney with Underwood Law Firm via ZOOM.

Approve Minutes of February 23, 2021: Abel Reyna made a motion to approve the February 23, 2021 minutes. Heidi Hays seconded the motion. Motion carried.

Approve Called Meeting Minutes of March 1, 2021: Abel Reyna made a motion to approve the March 1, 2021 minutes. Jim Justus seconded the motion. Motion carried.

Approve February Accounts Payables: Brad Thornhill made a motion to approve the February Accounts Payables, excluding D & H Spraying and Landscape and Fiber Wave Accounts Payables. Jim Justus seconded the motion. Motion carried.

Approve D & H Spraying and Landscape and Fiber Wave February Accounts Payables: Jim Justus made a motion to approve the February D & H Spraying and Landscape and Fiber Wave Accounts Payables. Alva Rodriguez seconded the motion. Motion carried.

Public Forum: Jim K. Jopling, an attorney for CLEAT introduced himself to the council as the attorney representing Chief of Police John Wilson in a personnel matter.

Police Report: No action.

Public Works Report: Public Works Director Chase Longo presented the monthly public works report.

Consider and Take Action on an Order Regarding Substandard Structure and Public Nuisance at 221 N. Berkshire, Owned by Olga Barboza: Brad Thornhill made a motion to order a 30-day

abatement regarding the substandard structure and public nuisance at 221 N. Berkshire, owned by Olga Barboza. Heidi Hays seconded the motion. Abel Reyna abstained. Motion carried.

Certification of Unopposed Candidates for other Political Subdivisions: Acceptance of certification from City Secretary Cheyanne Flores declaring unopposed status of candidates for the General Election to be held on May 1, 2021.

Approve Ordinance No. 03-2021 Declaring Unopposed Candidates in the May 1, 2021 General City Election, Elected to Office, Cancelling the Election; Providing a Severability Clause; and Providing an Effective Date: Doyle Parrish made a motion to approve Ordinance No. 03-2021 Declaring Unopposed Candidates in the May 1, 2021 General City Election, Elected to Office, Cancelling the Election; Providing a Severability Clause; and Providing an Effective Date. Abel Reyna seconded the motion. Motion carried.

ORDINANCE NO. 03-2021

AN ORDINANCE DECLARING UNOPPOSED CANDIDATES IN THE MAY 1, 2021 GENERAL CITY ELECTION, ELECTED TO OFFICE; CANCELING THE ELECTION; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the general city election was called for May 1, 2021, for the purpose of electing members to the city council; and

WHEREAS, the city secretary has certified in writing that no person has made a declaration of write-in candidacy, and that each candidate on the ballot is unopposed for election to office; and

WHEREAS, under these circumstances, Subchapter C, Chapter 2, Election Code, authorizes the city council to declare the candidates elected to the office and cancel the election; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CROSBYTON, TEXAS:

Section 1. The following candidates, who are unopposed in the May 1, 2021 general city election, are declared elected to office, and shall be issued certificates of election following the time the election would have been canvassed.

Alderman, Ward One- Brad Thornhill
Alderman, Ward Two- Kevin Fry
Alderman, Ward Three- Jim Justus

Section 2. The May 1, 2021 general city election is canceled, and the city secretary is directed to cause a copy of this ordinance to be posted on election day at each polling place used or that would have been used in the election.

Section 3. It is declared to be the intent of the city council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause,

sentence, paragraph, or section of this ordinance is declared invalid by the judgement or decree of a court of competent jurisdiction, the invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance since the city council would have enacted them without the invalid portion.

PASSED, APPROVED, and ADOPTED this 16th day of March 2021.

Dusty Cornelius, Mayor

ATTEST:

Cheyenne Flores, City Secretary

Tax Deed-Parcel 10840- Lot 24, BLK 127, Revised East Addition: Doyle Parrish made a motion to deny the \$126.00 bid by Skyline Real Estate Services, LLC. Heidi Hays seconded the motion. Motion carried.

Approve Racial Profiling Report: Jim Justus made a motion to approve the Racial Profiling Report. Heidi Hays seconded the motion. Motion carried.

Approve Crosby County Pioneer Memorial Museum Board Member Appointments-Jonathon Farley and Tanner Mitchell: Doyle Parrish made a motion to approve the appointments of Jonathon Farley and Tanner Mitchell to the Crosby County Pioneer Memorial Museum Board. Alva Rodriguez seconded the motion. Motion carried.

Approve Resolution No. 03-2021-01 Denying Southwestern Public Service's Proposed Rate Increase Request: Abel Reyna made a motion to approve Resolution No. 03-2021-01 denying Southwestern Public Service's Proposed Rate Increase Request. Alva Rodriguez seconded the motion. Motion carried.

RESOLUTION NO. 03-2021-01

A RESOLUTION BY THE CITY OF CROSBYTON, TEXAS ("CITY") DENYING SOUTHWESTERN PUBLIC SERVICE COMPANY'S PROPOSED RATE INCREASE REQUEST IN CONNECTION WITH ITS STATEMENT OF INTENT SUBMITTED ON ABOUT FEBRUARY 8, 2021; AUTHORIZING THE CITY'S CONTINUED PARTICIPATION WITH OTHER CITIES IN THE ALLIANCE OF XCEL MUNICIPALITIES ("AXM") AND PARTICIPATION IN RELATED RATE PROCEEDINGS; 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

WHEREAS, Southwestern Public Service Company (“SPS” or the “Company”) filed a Statement of Intent with the City and with the Public Utility Commission of Texas (“PUCT”) on or about February 8, 2021, to increase its base revenues for its Texas retail service area by approximately \$143.3 million, which is an increase in base revenue of about 23%; 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’s rates, operations, and services within the municipality; and

WHEREAS, under PURA § 33.025(a), the City has standing in each case before the Public Utility Commission of Texas that relates to an electric utility providing service in the City; and

WHEREAS, in order to maximize the efficient use of resources and expertise in reviewing, analyzing, and investigating SPS’s 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, SPS’s rate request consists of a voluminous amount of information including SPS’s rate-filing package, pre-filed direct testimony, exhibits, schedules, and workpapers; and

WHEREAS, SPS proposes to implement its proposed increase in rates on or about March 15, 2021, and

WHEREAS, SPS failed to establish that its overall revenue request resulted in no more than an amount that will permit SPS a reasonable opportunity to earn a reasonable return on the utility’s invested capital used and useful in providing service to the public in excess of the utility’s reasonable and necessary operating expenses; and

WHEREAS, SPS failed to establish that its proposed rates are just and reasonable; and

WHEREAS, SPS may exercise its statutory right to appeal a City decision regarding SPS’s request to increase rates to the Public Utility Commission of Texas; and

WHEREAS, SPS filed its Statement of Intent to raise rates with the City and with the Public Utility Commission of Texas on the same date, February 8, 2021, and it is important to intervene in the proceedings before the PUCT because the PUCT’s decisions will impact rates within the City; and

WHEREAS, in order to maximize the efficient use of resources and expertise in participation in any proceedings at the PUCT or in courts of law regarding SPS’s 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.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL/COMMISSION FOR THE CITY OF CROSBYTON, TEXAS THAT:

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

Section 2. SPS failed to show that its proposed rates are just and reasonable.

Section 3. The City hereby **DENIES** SPS’s request to increase rates and in support thereof finds that:

- a) The Statement of Intent fails to provide sufficient information to justify the requested increase in revenue or to justify the changes set forth in the attached tariffs;
- b) The Statement of Intent fails to provide sufficient information to justify the adoption of the rate base, expenses, investment, return on equity, and other rate issues.

Section 4. The City authorizes intervention in proceedings related to SPS’s Statement of Intent before the Public Utility Commission of Texas and any related proceedings in any courts of law.

Section 5. 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 6. The City hereby retains Herrera Law & Associates, PLLC as Special Counsel to represent the City with regard to SPS's requested increase in rates 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's rate application.

Section 7. 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 8. 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 9. The City Secretary or other appropriate city official shall provide a copy of this Resolution to **Mr. Alfred R. Herrera, Herrera Law & Associates, PLLC, 4524 Burnet Road, Austin, Texas 78756**, and as a courtesy, provide SPS a copy of this Resolution by **sending a copy of the Resolution to William A. Grant, Regional Vice President, Regulatory and Strategic Planning, and Jeremiah W. Cunningham, Rate Case Manager, Southwestern Public Service Company, 790 S. Buchanan St. Amarillo, Texas 79101.**

Section 10. The meeting at which this Resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 11. To the extent any Resolution previously adopted by the City Council is inconsistent with this Resolution, it is hereby superseded.

Section 12. The findings set out in the preamble are in all things hereby approved.

Section 13. This Resolution shall become effective from and after its passage.

PASSED AND APPROVED this 16th day of March 2021.

Dusty Cornelius, MAYOR

ATTEST:

Cheyenne Flores, CITY SECRETARY

Approve Ordinance to Adopt FY 2021/2022 City of Crosbyton and Crosby County Pioneer

Museum Budgets: Doyle Parrish made a motion to approve the Ordinance to Adopt FY 2021/2022 City of Crosbyton and Crosby County Pioneer Museum Budgets. Jim Justus seconded the motion. Motion carried.

CITY OF CROSBYTON, TEXAS FOR THE FISCAL YEAR BEGINNING APRIL 1, 2021 AND ENDING MARCH 31, 2022 ADOPTING THE ANNUAL BUDGET OF THE CITY OF CROSBYTON, TEXAS AND CROSBY COUNTY PIONEER MUSEUM FOR THE 2021-2022 FISCAL YEAR.

Whereas, the City of Crosbyton and the Crosby County Pioneer Museum's budgets, appended here as Exhibit A, for the fiscal year beginning April 1, 2021, and ending March 31, 2022, was duly presented to the City Council and a public hearing was ordered by the City Council and a public notice of said hearing was caused to be given by the City Council and said notice was published in the Crosby County News and said public hearing was held according to said notice; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CROSBYTON, TEXAS:

SECTION 1. That the appropriations for the fiscal year beginning April 1, 2021, and ending March 31, 2022, for the support of the general government of the City of Crosbyton, Texas be fixed and determined for said terms in accordance with the expenditures shown in the City's and the Crosby County Pioneer Museum Fiscal Year 2021-2022 Budget, a copy of which is appended hereto as Exhibit A.

SECTION 2. That the Budgets, as shown in words and figures in Exhibit A, is hereby approved in all respects and adopted as the City of Crosbyton and the Crosby County Pioneer Museum's Budgets for the fiscal year beginning April 1, 2021 and ending March 31, 2022.

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PASSED AND APPROVED this, the 16th day of March 2021.

APPROVED:

Dusty Cornelius, Mayor

ATTEST:

Cheyenne Flores, City Secretary

Equipment for New Fire Truck: No action.

Approve Ordinance No. 03-2021-02 Amending the City of Crosbyton Code of Ordinances Chapter 1 Article 1.08 Crosby County Pioneer Memorial: No action.

Approve Resolution No. 03-2021-02 Extension of Declaration of Local Disaster: Brad Thornhill made a motion to approve Resolution No. 03-2021-02 Extension of Declaration of Local Disaster. Alva Rodriguez seconded the motion. Motion carried.

RESOLUTION NO. 03-2021-02

**CITY OF CROSBYTON, TEXAS
EXTENSION OF DECLARATION OF LOCAL DISASTER**

WHEREAS, a novel coronavirus (COVID-19) has been recognized globally as a contagious respiratory virus; and

WHEREAS, on March 17, 2020, the Mayor of the City of Crosbyton, Dusty Cornelius, declared a local state of disaster for public health emergency pursuant to Section 418.108(a) of the Texas Government Code, based upon the need for extraordinary measures to contain COVID-19 and to prevent its spread throughout the City of Crosbyton with such declaration being extended by Resolutions of the City Council of the City of Crosbyton; and

WHEREAS, on March 2, 2021, the Governor of the State of Texas issued Executive Order GA-34, superseding Executive Order GA-32, further expanding the reopening of businesses, activities, nursing homes and related facilities, and services throughout most of Texas; and

WHEREAS, the Governor of the State of Texas has stated that there has been a steady decline in hospitalizations and the rate of new COVID-19 cases due to the millions of Texans who have voluntarily been vaccinated, including many within the City of Crosbyton, the natural immunity of many within the community, improved medical treatments for COVID-19 patients, abundant supplies of testing and personal protective equipment, and Texans' adherence to safe practices like social distancing, hand sanitizing, and use of face coverings; and

WHEREAS, the Texas Department of State Health Services has notified the counties that comprise Trauma Service Area B, which includes Crosby County, that the hospitalization rate has been consistently below five percent (5%) over the past week; and

WHEREAS, effective March 10, 2021, Executive Order GA-34 opens all businesses in trauma service regions that are not considered areas of high hospitalization to 100% capacity and removes any mandatory mask wearing; and

WHEREAS, the Declaration of Local Disaster extended in the latest Resolution of the City Council is set to expire at 11:59 p.m. on March 16, 2021; and

WHEREAS, due to the improving and evolving circumstances and the desire of the City of Crosbyton to continue to safely re-open businesses in the City of Crosbyton, improve local economic conditions while still maintaining the ability to protect against COVID-19 and pursuant to Texas Government Code §418.108, the City Council believes it to be in the best interest of the City and its citizens, in order to protect and preserve the public health, safety and welfare, to continue the extension of the Declaration of Local Disaster, and adopt the measures outlined herein;

NOW THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY COUNCIL OF THE CITY OF CROSBYTON, TEXAS, THAT:

SECTION 1. The recitals set forth above are true and correct and are incorporated as if fully set forth herein.

SECTION 2. All terms and conditions of Governor's Executive Order GA-34 are hereby adopted, and the Mayoral Declaration of Local Disaster initially signed and executed by the Mayor on March 17, 2020 and extended by the City Council is renewed and extended to the extent it does not directly conflict with this resolution.

SECTION 3. Pursuant to §418.108(c) of the Texas Government Code, this Resolution shall be given prompt and general publicity and shall be filed promptly with the City Secretary of the City of Crosbyton.

SECTION 4. All individuals are strongly encouraged to wear face coverings over the nose and mouth wherever it is not feasible to maintain six feet of social distancing from another person not in the same household and businesses or other establishments may, but are not ordered, to require employees or customers to follow additional hygiene measures, including the wearing of a face covering.

SECTION 5. This Resolution shall go into effect immediately upon approval and continue until 11:59 p.m., Thursday, April 15, 2021, unless renewed, extended, amended or cancelled by the Mayor or City Council of the City of Crosbyton.

SECTION 6. This resolution and order authorizes the Mayor, pursuant to applicable provisions of Texas Government Code Chapter 418 and Texas Health and Safety Code § 122.006, on behalf of the City of Crosbyton, to take any actions necessary to promote health and suppress the COVID-19 virus, including enforcing applicable orders issued by the Crosby County Judge, the Governor of the State of Texas or the Texas Department of State Health Services related to suppressing the COVID-19 virus, and insuring compliance for those who do not comply with the City's rules and directives.

SECTION 7. To the extent permitted by law, any local ordinance or administrative rule prescribing the procedures for conduct of City business or any local ordinance or administrative rule that would in any way prevent, hinder, or delay necessary action in coping with this disaster,

including any local ordinance or administrative rule regarding contracting or procurement which would impede the City's emergency response necessary to cope with this declared disaster, are hereby suspended, but only for the duration of this declared local disaster and only for that limited purpose.

SECTION 8. To the extent this resolution conflicts with the Governor's Executive Order GA-34, GA-34 controls and the Mayor may comport and amend this resolution and order and any subsequent order to be consistent with Executive Order GA-34., or any applicable executive order that may be issued by the Governor of the State of Texas.

SECTION 9. The Mayor is authorized to use all available resources of the City of Crosbyton reasonably necessary to comply with this resolution.

READ, APPROVED AND ADOPTED by the City Council this the 16th day of March, 2021.

CITY OF CROSBYTON

By: _____
Dusty Cornelius, Mayor

ATTEST:

Cheyanne Flores, City Secretary

Mayor Dusty Cornelius called the council into executive session to discuss and consider the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of Chief of Police, John Wilson at 7:48 p.m. and called the council out of executive session at 8:19 p.m.

Chief of Police: No action.

Administrative Report: City Administrator Amy Wallace updated the council on the status of city projects.

With no further business before the council, the meeting adjourned at 9:06 p.m.

Dusty Cornelius, Mayor

ATTEST:

Cheyanne Flores, City Secretary

