

**VICTORIA CITY COUNCIL**  
**May 21, 2002**

**CALL TO ORDER**

A regular meeting of the Victoria City Council was called to order by Mayor Gary Middleton at 5:06 p.m. Tuesday, May 21, 2002 in the Council Chambers, 107 W. Juan Linn, Victoria, Texas. The pledge of allegiance was said, and all citizens were welcomed.

**MEMBERS PRESENT**

Gary Middleton, Mayor  
Philip Guittard  
Lewis Neitsch  
Bill Russell  
Shirley Buckert  
Jim Wyatt  
Wayne Watkins

**STAFF PRESENT**

Denny Arnold, City Manager  
Charles Windwehen, Assistant City Manager  
David Smith, City Attorney  
Miles Risley, Assistant City Attorney  
John Johnston, Director, Public Works  
John Kaminski, Director, Planning  
Wayne Cockroft, Director, Utilities  
Steve Trevino, Director, IMS  
Doug Cochran, Director, Parks and Recreation  
Scarlet Swoboda, City Secretary

**APPROVAL OF MINUTES**

The minutes of the regular meeting of May 7, 2002 were approved as presented.

**CITIZENS COMMUNICATION**

**Street Work in Silver City Neighborhood**

Wilma Edwards, 3503 Callis, with the Silver City Neighborhood Association, expressed concerns about a house located at 2811 Dogwood that was destroyed by fire March 16, 2002. She advised that the resident has no income or way of removing the remains of the house and requested assistance from the City.

Mayor Middleton advised Ms. Edwards that the City Manager and Legal Department would investigate what type of assistance the City could legally provide. He suggested that she leave her telephone number with the City Secretary, so that someone from staff could contact her.

Ms. Edwards also expressed concerns that drainage was not being improved at the same time that the street work was being conducted in the Silver City area. She advised that water does not drain down the streets, but rather backs up into the resident's yards.

John Johnston, Director of Public Works, advised that the project was to resurface the streets only as a maintenance measure, and did not address drainage.

Denny Arnold, City Manager, explained the history of why the streets were built with drainage down the middle of the street. He advised that there was not enough street right-of-way to provide drainage the way it should be built without eliminating the front yards of the residents in the area.

**Perimeter Fencing for Subdivisions**

Tom Tucker, 112 Yucca Drive, addressed concerns about a commercial facility adjoining a residential neighborhood, and the commercial facility needing a privacy fence around it. He questioned whether the developer of a residential neighborhood was required to also put up a perimeter fence around a development? He also questioned if a new development shares a property line with an existing subdivision, if there is a requirement for a privacy fence to be installed?

Miles Risley, Assistant City Attorney, advised that developers have to install perimeter fences when they are up against an adjacent arterial street; however, they do not if they are up against another subdivision.

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Mr. Tucker distributed pictures of his back yard. He advised that his lot is three times the size of the new subdivision lots, and will eventually have three different fences along the back of his property. He also pointed out that trash from the new development blows into the existing subdivision. He suggested that a provision be added to the subdivision code, which would require developers to install perimeter fencing when developing subdivisions adjacent to other subdivisions.

Mayor Middleton suggested referring this concern to the Planning staff and Planning Commission for consideration.

**CITY MANAGER REPORTS**

There were none.

**RESOLUTION 2002-77R – AUTHORIZING BIDS FOR ANNUAL ASPHALT, OILS AND EMULSIONS SUPPLY CONTRACTS**

The resolution authorizes the City Administration to accept the bids of Performance Grade Asphalt, of La Marque, Texas in the amount of \$4,974, Gulf States Asphalt Co., Inc., of South Houston, Texas, in the amount of \$53,550, and Eagle Asphalt Products, of Corpus Christi, Texas in the amount of \$6,030 for annual supply contracts for oils and emulsions. John Johnston.

Cm. Wyatt moved that the resolution be adopted, with Cm. Buckert seconding the motion. The resolution was adopted by the following vote:

AYES: Council Members Guittard, Neitsch, Buckert, Wyatt, Watkins and Mayor Middleton

NAYS: None

Cm. Russell was out of the room when the vote was taken.

**RESOLUTION 2002-78R – APPROVING AND AUTHORIZING AGREEMENT WITH BFI WASTE SYSTEMS**

The resolution approves and authorizes an agreement between BFI Waste Systems of North America, Inc. (BFINA), a Delaware Corporation, and Victoria Landfill TX, LP, a Delaware Limited Partnership, and assigns the operating agreement for the City of Victoria landfill located at 18545 FM 1686, Bloomington, Texas. John Johnston.

The resolution was postponed.

**RESOLUTION 2002-79R – REJECTING BIDS FOR THE NEW FLUORIDE INJECTION SYSTEM**

The resolution rejects all bids for the Aerator Demolition/Installation of the New Fluoride Injection System at Water Treatment Plant 3. Wayne Cockroft.

Cm. Russell moved that the resolution be adopted, with Cm. Neitsch seconding the motion. The resolution was adopted by the following vote:

AYES: Council Members Guittard, Neitsch, Russell, Buckert, Wyatt, Watkins and Mayor Middleton

NAYS: None

**RESOLUTION 2002-80R – GRANTING VARIANCE FROM SECTION 17-2 WHICH PROHIBITS MOTORIZED VEHICLES IN PARKS**

The resolution grants a variance from Section 17-2 of the Victoria City Code which prohibits the use of motorized vehicles in parks, to residents of Victoria Assisted Living, Ltd., a Texas Limited Partnership, d/b/a Hearthstone at Victoria, and Lutheran Social Services of the South, Inc., a Texas Corporation, d/b/a Copperfield Village. Doug Cochran.

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Cm. Watkins moved that the resolution be adopted, with Cm. Buckert seconding the motion. The resolution was adopted by the following vote:

AYES: Council Members Guittard, Neitsch, Russell, Buckert, Wyatt, Watkins and Mayor  
Middleton  
NAYS: None

**RESOLUTION 2002-81R – GRANTING VARIANCE FROM SECTIONS 20-82(A) AND 20-83(D) TO ROSE YENDREY AT 4811 CAMELLIA – (FAILED)**

The resolution grants a variance from Sections 20-82(a) and Section 20-83(d) of the Victoria City Code, which defines the residential maximum number of driveways afforded to a residential land use and outlines the residential access restriction relative to collector streets and which defines the allowable location of driveways, to the property at 4811 Camellia, which is owned by Rose Yendrey. John Johnston.

Cm. Wyatt moved that the resolution be adopted, with Cm. Guittard seconding the motion. The resolution failed by the following vote:

AYES: None  
NAYS: Council Members Guittard, Neitsch, Russell, Buckert, Wyatt, Watkins and Mayor  
Middleton

**RESOLUTION 2002-82R – GRANTING VARIANCE FROM SECTION 5-153(A) TO JAMES WAYNE AT 4403 HOUSTON HIGHWAY**

The resolution grants a variance to the single sign requirement of Section 5-153(a) of the Victoria City Code, which limits the number of freestanding, on-premise signs to one per lot which fronts a public street, to the property located at 4403 Houston Highway, which is owned by James Wayne. Steve Trevino.

Cm. Watkins moved to amend the resolution to limit the variance to the existing business only, another tenant could not use the sign, without coming back for a variance request, and/or the sign would have to be removed if a variance request were denied at the second request, with Cm. Buckert seconding the motion. The resolution was amended by the following vote:

AYES: Council Members Guittard, Neitsch, Buckert, Wyatt, Watkins and Mayor Middleton  
NAYS: None  
ABSTENTION: Council Member Russell

Cm. Wyatt moved that the resolution be adopted, with Cm. Watkins seconding the motion. The resolution was adopted, as amended, by the following vote:

AYES: Council Members Guittard, Neitsch, Buckert, Wyatt, Watkins and Mayor Middleton  
NAYS: None  
ABSTENTION: Council Member Russell

**RESOLUTION 2002-83R – AUTHORIZING PURCHASE OF A ROSCO CHIP SPREADER FROM CLOSNER EQUIPMENT CO., INC.**

The resolution authorizes the City Administration to accept the bid submitted by Closner Equipment Co., Inc., of San Antonio, Texas, for the purchase of a Rosco Model SPRH-H chip spreader in the amount of \$92,870, minus a trade-in allowance in the amount of \$8,500 for the City's 1974 Koenig chip spreader. Steve Trevino.

Cm. Neitsch moved that the resolution be adopted, with Cm. Wyatt seconding the motion. The resolution was adopted by the following vote:

AYES: Council Members Guittard, Neitsch, Russell, Buckert, Wyatt, Watkins and Mayor  
Middleton  
NAYS: None

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**RESOLUTION 2002-87R – AUTHORIZING AN AGREEMENT WITH THE YMCA OF THE GOLDEN CRESENT TO PROVIDE SUMMER CAMP SCHOLARSHIPS FOR THE YOUTH OF THE SILVER CITY NEIGHBORHOOD**

The resolution authorizes an agreement with the YMCA of the Golden Crescent (YMCA) in the amount of \$10,000, to provide the YMCA with Community Development Block Grant (CDBG) funding for its Summer Day Camp Program; and a Letter of Designation for \$5,000 of CDBG Funds, to be used by the Parks and Recreation Department to provide Summer Camp Scholarships for the youth of the Silver City Neighborhood. John Kaminski.

Cm. Wyatt moved that the resolution be adopted, with Cm. Neitsch seconding the motion. The resolution was adopted by the following vote:

AYES: Council Members Guittard, Neitsch, Russell, Buckert, Wyatt, Watkins and Mayor Middleton

NAYS: None

**ORDINANCE 2002-11 - AMENDING THE SCHEDULE OF RATES FOR TAXICAB SERVICES**

City Attorney, David Smith, read the caption of Ordinance 2002-11, which amends the schedule of rates for taxicab services. Second and third reading. Miles Risley.

Cm. Russell moved that the ordinance pass on second and third reading, with Cm. Buckert seconding the motion. The ordinance passed on second and third reading by the following vote:

AYES: Council Members Guittard, Neitsch, Russell, Buckert, Wyatt, Watkins and Mayor Middleton

NAYS: None

Caption:

**AN ORDINANCE AMENDING THE SCHEDULE OF RATES FOR TAXICAB SERVICES AND DECLARING AN EFFECTIVE DATE.**

**EXECUTIVE SESSION**

Mayor Middleton announced that Council would recess into Executive Session at 5:57 p.m., in accordance with:

Session 551.071, Texas Government Code, consultation with attorney on matter involving litigation or potential litigation in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act (including, without limitation, potential litigation involving the Northcrest / Highland Hills Drainage Ditch property acquisitions). David A. Smith.

Session 551.072, Texas Government Code, to deliberate the purchase, exchange, lease, or value of real property interests due to the fact that deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person (including, without limitation, proposed acquisition of property in the Northcrest and Highlands subdivisions for drainage purposes). David A. Smith.

Session 551.074, Texas Government Code, with regard to personnel matters (including, without limitation, the appointment, evaluation, and duties of the Municipal Court Clerk, City Manager and members of the Board of Directors of the Victoria Sales Tax Development Corporation, Victoria Development Commission and Victoria Health Facilities Development Corporation). Scarlet Swoboda.

The Council reconvened in regular session at 7:34 p.m. and considered the following:

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RESOLUTION 2002-84R - APPOINTING MEMBERS TO THE VICTORIA DEVELOPMENT COMMISSION

The resolution appoints Philip Guittard, Lewis Neitsch, and Bill Russell to the Victoria Development Commission. Scarlet Swoboda.

Cm. Buckert moved that the resolution be adopted, with Cm. Neitsch seconding the motion. The resolution was adopted by the following vote:

- AYES: Council Members Guittard, Neitsch, Russell, Buckert, Wyatt, Watkins and Mayor Middleton
- NAYS: None

RESOLUTION 2002-85R - APPOINTING MEMBERS TO THE VICTORIA HEALTH FACILITIES DEVELOPMENT CORPORATION

The resolution appoints Mayor Gary Middleton, Philip Guittard, and Shirley Buckert to the Victoria Health Facilities Development Corporation. Scarlet Swoboda.

Cm. Buckert moved that the resolution be adopted, with Cm. Neitsch seconding the motion. The resolution was adopted by the following vote:

- AYES: Council Members Guittard, Neitsch, Russell, Buckert, Wyatt, Watkins and Mayor Middleton
- NAYS: None

RESOLUTION 2002-86R - APPOINTING A MEMBER TO THE VICTORIA SALES TAX DEVELOPMENT CORPORATION

The resolution appoints Vincent Harris to the Victoria Sales Tax Development Corporation. Scarlet Swoboda.

Cm. Buckert moved that the resolution be adopted, with Cm. Neitsch seconding the motion. The resolution was adopted by the following vote:

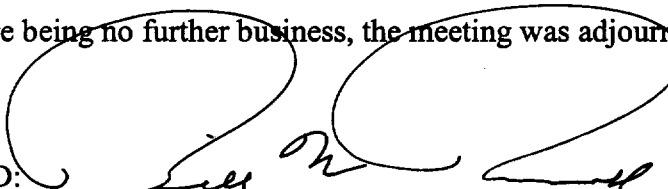
- AYES: Council Members Guittard, Neitsch, Russell, Buckert, Wyatt, Watkins and Mayor Middleton
- NAYS: None

ITEMS FROM COUNCIL

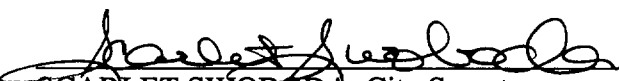
Cm. Neitsch inquired whether staff was aware of the letter requesting an increase in the wrecker rates. He also inquired about the electrical aggregation process and whether it was saving or costing the City money.

David Smith, City Attorney, gave a brief update and advised that the City is still anticipating saving approximately \$344,000 this year. He advised that a month to month comparison could be made available to the Council Members.

There being no further business, the meeting was adjourned at 7:41 p.m.

APPROVED:   
 GARY MIDDLETON, Mayor of the City of  
 Victoria, Texas

MAYOR  
PRO  
TEM

ATTEST:   
 SCARLET SWOBODA, City Secretary