

VICTORIA CITY COUNCIL
September 26, 2002

CALL TO ORDER

A special meeting of the Victoria City Council was called to order by Mayor Gary Middleton at 5:01 p.m. Thursday, September 26, 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
 Lewis Neitsch
 Bill Russell
 Shirley Buckert
 Jim Wyatt
 Wayne Watkins

MEMBERS ABSENT

Philip Guittard

STAFF PRESENT

Denny Arnold, City Manager
 Charles Windwehen, Assistant City Manager
 David Smith, City Attorney
 Miles Risley, Assistant City Attorney
 Ken Gill, City Engineer
 Gilbert Reyna, Jr., Director, Finance
 Wayne Cockroft, Director, Utilities
 Rick Henrichs, Dir., Information Technology
 Tim Braaten, Chief of Police
 Doug Cochran, Director, Parks and Recreation
 Steve Trevino, Director, IMS
 Stuart Sherman, Fire Marshal
 Donald Reese, Accountant
 Scarlet Swoboda, City Secretary

APPROVAL OF MINUTES

The minutes of the special meetings of August 22, 2002, and August 27, 2002 and the regular meeting of September 3, 2002 were approved as presented.

CITIZENS COMMUNICATION

James Wayne, 15 Spring Creek Road, expressed appreciation to Denny Arnold, City Manager, the City Council, and City staff for their cooperation and professionalism in the handling of various projects he has had with the City. He expressed special appreciation to Rick Madrid from Inspections, John Kaminski and Ray Miller from Planning and commended Jan Scott for her positive leadership as Chairperson of the Planning Commission.

PUBLIC HEARINGS

Mayor Middleton opened a public hearing on the following items:

ORDINANCE 2002-15 – ADOPTING THE 2000 EDITION OF THE INTERNATIONAL BUILDING CODE AND THE INTERNATIONAL ENERGY CONSERVATION CODE

The ordinance considers amending Chapter 5 to adopt the 2000 Edition of the International Building Code and the International Energy Conservation Code. Steve Trevino.

Steve Trevino, Director of Inspection and Maintenance Services, advised that both codes are mandated by the State. He reported that the Building Board of Adjustment and Appeals had reviewed them and recommended approval. He noted that the codes are proposed to become effective immediately upon adoption.

Mayor Middleton asked if there were any questions from Council or the audience. There were none.

ORDINANCE 2002-16 – ADOPTING THE 2000 EDITION OF THE INTERNATIONAL FIRE CODE

The ordinance considers amending Sections 9-1, 9-2, and 9-3 of the Victoria City Code to adopt the 2000 Edition of the International Fire Code. Stuart Sherman.

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Stuart Sherman, Fire Marshal, advised that this code is also mandated by the State, and would replace the 1991 Code. He advised that this code goes along with the building codes and was also reviewed by the Building Board of Adjustments and Appeals and they recommended approval.

Harvey Knezek, Member of the Building Board of Adjustment and Appeals, advised that adoption of these new codes would make the building standards consistent across the state. He advised the initial costs associated with the energy code would be recaptured over time in energy savings.

Mayor Middleton asked if there were any questions from Council or the audience. There were none.

ORDINANCE 2002-17 – DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF 16,977.87 SQUARE FOOT TRACT OF LAND IN THE BOULEVARD ADDITION

The ordinance considers declaring a public necessity for the acquisition of 16,977.87 square foot tract of land in Block M of the Boulevard Addition to the City of Victoria, Texas. David A. Smith.

David A. Smith, City Attorney, advised that the negotiations for the purchase of Stan's Texaco are almost complete. The acquisition of this property would allow for improvements to the intersection of Ben Jordan and Rio Grande by increasing the turn radius of those corners.

Mayor Middleton asked if there were any questions from Council or the audience. There were none, and Mayor Middleton closed the public hearing.

RESOLUTION 2002-148R – AWARDING BIDS FOR INSURANCE COVERAGE TO TEXAS MUNICIPAL LEAGUE AND HIBBS, HALLMARK AND COMPANY

The resolution awards bids for insurance coverage to Texas Municipal League for total premiums not to exceed \$329,710 and to Hibbs, Hallmark & Company of Tyler, Texas, for total premiums not to exceed \$51,399. Donald Reese

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

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

RESOLUTION 2002-149R – GRANTING A VARIANCE TO SECTION 5-153(A)(1) TO 2203 HOUSTON HIGHWAY OWNED BY MILTON KILLEBREW

The resolution grants a variance to Section 5-153(a)(1) of the Victoria City Code, which prohibits a property from having more than one on-premise sign, to 2203 Houston Highway, Victoria, Texas, which is owned by Milton Killebrew. Steve Trevino.

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

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

RESOLUTION 2002-150R – AUTHORIZING A LETTER OF INTENT TO THE VICTORIA AREA NETWORK (VAN) FOR ADDITIONAL EQUIPMENT

The resolution authorizes a letter of intent to the Victoria Area Network (VAN) which will allow additional equipment to be placed on the tower at the 911 Communications Center and allow the replacement of the existing tower at 8505 N. Navarro Street (Navarro del Norte) with a 100' monopole tower and additional VAN equipment. Rick Henrichs.

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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 Neitsch, Russell, Buckert, Wyatt, Watkins and Mayor Middleton
NAYS: None

RESOLUTION 2002-151R – AUTHORIZING A CONTRACT WITH SOUTHWESTERN BELL TELEPHONE COMPANY FOR IMPROVEMENTS TO THE 911 COMMUNICATIONS CENTER

The resolution authorizes a contract with Southwestern Bell Telephone Company for the purchase and installation of two 1.25" ducts and one 4" duct for the 911 Communications Center from the 700 Main Center along Liberty Street to Goodwin and Liberty Streets, in an amount not to exceed \$59,680. Rick Henrichs and Tim Braaten.

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

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

RESOLUTION 2002-152R – AUTHORIZING A ONE-YEAR INTERLOCAL AGREEMENT FOR E9-1-1 SERVICE WITH GOLDEN CRESCENT REGIONAL PLANNING COMMISSION (GCRPC)

The resolution authorizes a one-year Interlocal Agreement for E9-1-1 Service with Golden Crescent Regional Planning Commission (GCRPC). Tim Braaten.

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

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

RESOLUTION 2002-154R – REJECTING ALL BIDS FOR THE 2001-2002 SANITARY SEWER LINE CLEANING PROJECT

The resolution rejects all bids received for the 2001-02 Sanitary Sewer Line Cleaning Project. Wayne Cockroft.

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 Neitsch, Russell, Buckert, Wyatt, Watkins and Mayor Middleton
NAYS: None

RESOLUTION 2002-155R – AWARDING BID FOR THE MAYFAIR/MEADOWVIEW SUBDIVISION IMPROVEMENTS PROJECT TO BRANNAN PAVING COMPANY, INC.

The resolution awards the bid for the Mayfair/Meadowview Subdivision Improvements Project to Brannan Paving Company, Inc., of Victoria, Texas, in the amount of \$4,963,543.40. Ken Gill.

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

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

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RESOLUTION 2002-156R – AUTHORIZING A CHANGE ORDER TO THE CONTRACT WITH M.K. MARLOW COMPANY, INC., FOR THE COMMUNITY CENTER CAPITAL IMPROVEMENTS PROJECT 2001

The resolution authorizes the execution of a Change Order to the contract for the Capital Improvements Project – 2001, Victoria Community Center, with M.K. Marlow Company, Inc., in the amount of \$2,724.77. The change order would provide for new acoustical grid & tile in stage area, demolition of existing ceiling & supporting light fixtures, and installation of grills, egg crate, and switchable light fixtures, bringing the total contract amount to \$513,757.52, and ratifies and authorizes further change orders in amounts not to exceed the amount authorized pursuant to Tex. Local Gov't Code § 252.048. Doug Cochran.

Cm Wyatt moved to amend the resolution to delete the 25% for change orders on this contract, with Cm. Neitsch seconding the motion. The resolution was amended by the following vote:

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

NAYS: None

Cm. Russell moved to amend the amendment to say prior change orders are ratified and future change orders are authorized in the total aggregate amount not to exceed \$25,000 without Council approval, with Cm. Buckert seconding the motion. The amendment was amended by the following vote:

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

NAYS: None

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

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

NAYS: None

RESOLUTION 2002-157R – AUTHORIZING PURCHASE OF PROPERTY AND/OR EASEMENTS FROM SUTHERLAND LUMBER SOUTHWEST, INC., ON 5600 BLOCK OF NORTH JOHN STOCKBAUER

The resolution authorizes the City Manager to execute offers and contracts for the purchase of property and/or easements from Sutherland Lumber Southwest, Inc., and successor and other owners of a 0.5392 acre tract of property in or near the 5600 Block of North John Stockbauer Drive, Victoria, Texas, and authorizes the acceptance of deeds and joinder of other persons with rights in the aforementioned properties and adjacent areas. David A. Smith.

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 Neitsch, Russell, Buckert, Wyatt, Watkins and Mayor Middleton

NAYS: None

RESOLUTION 2002-158R – AUTHORIZING A LEGAL REPRESENTATION AGREEMENT WITH COLE, COLE AND EASLEY, P.C. AND PAUL D. ANDREWS, P.C.

The resolution authorizes the City Manager to execute a Legal Representation Agreement with Cole, Cole & Easley, P.C. and Paul D. Andrews, P.C., to represent the City in relation to unpaid pipeline taxes, rentals, and fees. David A. Smith.

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

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

NAYS: None

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RESOLUTION 2002-159R – GRANTING A VARIANCE FROM SECTION 14-10(B) TO 704 MALLETT DRIVE

The resolution grants a variance from Section 14-10(b) of the Victoria City Code, which prohibits the sale of alcoholic beverages within 300 feet of a church, public school, or public hospital, to 704 Mallett Drive, Victoria, Texas. Scarlet Swoboda.

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

AYES: Council Member Russell

NAYS: Council Members Neitsch, Buckert, Wyatt, and Watkins

ABSTENTION: Mayor Middleton

ORDINANCE 2002-15 – ADOPTING THE 2000 EDITION OF THE INTERNATIONAL BUILDING CODE AND THE INTERNATIONAL ENERGY CONSERVATION CODE

City Attorney, David Smith, read the caption of Ordinance 2002-15, which amends Chapter 5 of the Victoria City Code by modifying (1) Article V to amend Sections 5-60 through 5-63 to adopt the International Building Code, 2000 Edition, and make modifications thereto, and (2) Article XII to amend Sections 5-130 through 5-145 to adopt the International Energy Conservation Code, 2000 Edition. First Reading. Steve Trevino.

Cm. Russell moved that the ordinance pass on first reading, with Cm. Watkins seconding the motion. The ordinance passed on first reading by the following vote:

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

NAYS: None

Caption:

AN ORDINANCE AMENDING CHAPTER 5 OF THE VICTORIA CITY CODE BY MODIFYING (1) ARTICLE V TO AMEND SECTIONS 5-60 THROUGH 5-63 TO ADOPT THE INTERNATIONAL BUILDING CODE, 2000 EDITION, AND MAKE MODIFICATIONS THERETO, AND (2) ARTICLE XII TO AMEND SECTIONS 5-130 THROUGH 5-145 TO ADOPT THE INTERNATIONAL ENERGY CONSERVATION CODE, 2000 EDITION; PROVIDING FOR A PENALTIES NOT TO EXCEED \$2,000 AND \$500, RESPECTIVELY, UPON CONVICTION; PROVIDING FOR ENFORCEMENT; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY; PROVIDING FOR SAVINGS; PROVIDING FOR CODIFICATION; PROVIDING FOR PUBLICATION; AND DECLARING AN EFFECTIVE DATE.

ORDINANCE 2002-16 – ADOPTING THE 2000 EDITION OF THE INTERNATIONAL FIRE CODE

City Attorney, David Smith, read the caption of Ordinance 2002-16, which amends Sections 9-1, 9-2, and 9-3 of the Victoria City Code to adopt the "International Fire Code, 2000 Edition, published by the International Code Council, as amended herein. First Reading. Vance Riley.

Cm. Russell moved that the ordinance pass on first reading, with Cm. Neitsch seconding the motion. The ordinance passed on first reading by the following vote:

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

NAYS: None

Caption:

AN ORDINANCE AMENDING SECTIONS 9-1, 9-2, AND 9-3 OF THE VICTORIA CITY CODE TO ADOPT THE "INTERNATIONAL FIRE CODE, 2000 EDITION, PUBLISHED BY THE INTERNATIONAL CODE COUNCIL, AS AMENDED HEREIN, PROVIDING A PENALTY NOT TO EXCEED \$2,000.00 UPON CONVICTION; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SEVERABILITY; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR CODIFICATION; PROVIDING FOR PUBLICATION; AND DECLARING AN EFFECTIVE DATE.

ORDINANCE 2002-17 – DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF 16,977.87 SQUARE FOOT TRACT OF LAND IN THE BOULEVARD ADDITION

City Attorney, David Smith, read the caption of Ordinance 2002-17, which declares a public necessity for the acquisition of real property located in the following areas of Victoria County, Texas and being described as follows:

A 16,977.87 square foot tract of land in Block M of the Boulevard Addition to the City of Victoria, Texas, and being out of Lots 1 and 2, Block 3, Range 5, East Above Town in the Victoria Four League Grant, Victoria County, Texas, as more particularly described in Section 1 of this ordinance – for the public purpose of intersection changes to Ben Jordan Street. The ordinance authorizes all appropriate action of the City of Victoria in the institution and prosecution of condemnation proceedings to acquire this needed property. It authorizes the city manager to execute offers and contracts for the purchase of this property and/or other easements from the owners thereof, authorizes the acceptance of deeds and joinder of other persons with rights in the aforementioned properties and adjacent areas; authorizes all other lawful action necessary or incidental to such acquisitions or eminent domain proceedings to survey, test, specify, define and secure the necessary property rights; declares the sections of the ordinance to be severable one from the other in the event any section of this ordinance is determined to be invalid. First Reading. David A. Smith.

Cm. Wyatt moved that the ordinance pass on first reading, with Cm. Watkins seconding the motion. The ordinance passed on first reading by the following vote:

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

Caption:

AN ORDINANCE DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF REAL PROPERTY LOCATED IN THE FOLLOWING AREAS OF VICTORIA COUNTY, TEXAS AND BEING DESCRIBED AS FOLLOWS: A 16,977.87 SQUARE FOOT TRACT OF LAND IN BLOCK M OF THE BOULEVARD ADDITION TO THE CITY OF VICTORIA, TEXAS, AND BEING OUT OF LOTS 1 AND 2, BLOCK 3, RANGE 5, EAST ABOVE TOWN IN THE VICTORIA FOUR LEAGUE GRANT, VICTORIA COUNTY, TEXAS, AS MORE PARTICULARLY DESCRIBED IN SECTION 1 OF THIS ORDINANCE – FOR THE PUBLIC PURPOSE OF INTERSECTION CHANGES TO BEN JORDAN STREET; AUTHORIZING ALL APPROPRIATE ACTION OF THE CITY OF VICTORIA IN THE INSTITUTION AND PROSECUTION OF CONDEMNATION PROCEEDINGS TO ACQUIRE THIS NEEDED PROPERTY; AUTHORIZING THE CITY MANAGER TO EXECUTE OFFERS AND CONTRACTS FOR THE PURCHASE OF THIS PROPERTY AND/OR OTHER EASEMENTS FROM THE OWNERS THEREOF, AUTHORIZING THE ACCEPTANCE OF DEEDS AND JOINDER OF OTHER PERSONS WITH RIGHTS IN THE AFOREMENTIONED PROPERTIES AND ADJACENT AREAS; AUTHORIZING ALL OTHER LAWFUL ACTION NECESSARY OR INCIDENTAL TO SUCH ACQUISITIONS OR EMINENT

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DOMAIN PROCEEDINGS TO SURVEY, TEST, SPECIFY, DEFINE AND SECURE THE NECESSARY PROPERTY RIGHTS; DECLARING THE SECTIONS OF THE ORDINANCE TO BE SEVERABLE ONE FROM THE OTHER IN THE EVENT ANY SECTION OF THIS ORDINANCE IS DETERMINED TO BE INVALID; AND DECLARING AN EFFECTIVE DATE.

EXECUTIVE SESSION

Mayor Middleton announced that Council would recess into Executive Session at 6:21 p.m., in accordance with:

Section 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, pending and potential litigation involving possible condemnation actions and litigation involving collection of unpaid pipeline taxes, rentals, and fees). David A. Smith.

Section 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, but not limited to, possible acquisition of property along Whispering Creek and at 2101 E. Houston Hwy.). David A. Smith.

The Council reconvened in regular session at 7:30 p.m. and considered the following:


RESOLUTION 2002-153R – APPOINTING MEMBERS TO THE VICTORIA PUBLIC LIBRARY ADVISORY BOARD


The resolution re-appoints Mary Ann Pratt, appoints Cliff Kuykendall, and Sally Delgado-Francis to the City of Victoria Public Library Advisory Board. Scarlet Swoboda.

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

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

There being no further business, the meeting was adjourned at 7:32 p.m.

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

ATTEST: 
SCARLET SWOBODA, City Secretary

VICTORIA CITY COUNCIL
October 1, 2002

CALL TO ORDER

A regular meeting of the Victoria City Council was called to order by Mayor Gary Middleton at 5:04 p.m. Tuesday, October 1, 2002 in the Council Chambers, 107 W. Juan Linn, Victoria, Texas. The pledge of allegiance was said, and all citizens were welcomed.