

CITY COUNCIL MINUTES
September 26, 2002

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.

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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
John Johnston, Director, Public Works
John Kaminski, Director, Planning
Vance Riley, Director, Fire and EMS
Tim Braaten, Chief of Police
Steve Trevino, Director, IMS
Charmelle Garrett, Director, Human Resources
Doug Cochran, Director, Parks and Recreation
Scarlet Swoboda, City Secretary

CITIZENS COMMUNICATION

No one wished to address Council.

CITY MANAGER REPORTS**Screening Fences**

Greg Williams, 5507 N. Main, questioned why the City would not enforce the ordinance dealing with screening fences for non-residential property as it relates to the storage facility located at 5603 N. Main. He presented a video which advertises the business in question and stressed that he considered the land use non-residential. He advised that he would like the Council's final decision on this matter.

Mayor Middleton advised that the Council relies on the advice of the City's legal staff to advise them in respect to the interpretation of the ordinance and how it is applied. He advised that the way the ordinance is written it is unenforceable to make the adjacent property owner build a screening fence. Cm. Russell advised that the way the ordinance is written the only thing that the City could do is deny a certificate of occupancy or deny permitting, and since the business is located outside the city limits there is nothing to deny.

Carriage Rides

Doug Cochran, Director of Parks and Recreation, introduced Roger and Rhonda Banfield, P.O. Box 586, Karnes City, Texas, and advised that they were interested in starting a carriage ride business. He advised that the business would be housed in Riverside Park, with three routes, one in the park and two in old downtown Victoria. Ms. Banfield advised that that they would also like to work weddings and parties on a reservation basis, and be able to go to any church in the City to perform this service. Mr. Cochran advised that if this venture has Council support, ordinances would need to be changed, a permit fee may need to be developed, and a contract with the Banfield's would need to be drawn up.

Citizen's on Patrol (COPs) Program

Tim Braaten, Chief of Police, advised that the Citizen's on Patrol (COPs) Program is under the direction of the Sheriff's Department. He advised that they do vacation and security checks and provide a valuable service throughout the County as well as in the City. There are 60 members that have gone through the specialized training beyond that of the Civilian Police Academy, which are additional hours on how to recognize and report suspicious activity. Chief Braaten suggested using the COPs to give notice to individuals that use handicap parking spaces, so they understand that the handicap sticker is given to the person and not the vehicle. He also would like to use them to monitor areas of concern in the City, give them crime bulletins to cover those areas, and have them do vacation checks in the City also.

Mayor Middleton suggested bringing back a resolution that Council can endorse with written rules and responsibilities so all involved know the policies and guidelines.

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RESOLUTION 2002-160R – ESTABLISHING AN ADVISORY COMMITTEE ON CITY PAY AND BENEFITS

The resolution establishes an advisory committee on City pay and benefits plans and appoints the following committee members, with Mayor Middleton serving as the facilitator. Charmelle Garrett.

Chuck Simonds, Jerry Irvin, Don Smith, Mark Zafereo Wil Kleck, Katheryn Raley, and Raul Hermosillo.

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 2002-161R – GRANTING VARIANCES TO OAK HAVEN ESTATES OWNED BY TREONCO ENTERPRISES, INC.

The resolution grants variances to Sections 21-54(a) and 21-54(e)(1) of the Victoria City Code, which require local streets to have a minimum pavement width of 36 feet and require sidewalks to be constructed along perimeter streets, to Oak Haven Estates, located on the southeast corner of Ben Jordan and John Stockbauer, which is owned by Treonco Enterprises, Inc. John Kaminski.

The resolution was divided into two different variance requests:

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

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

Cm. Russell moved to amend the sidewalk construction along perimeter streets portion of the resolution subject to Treonco Enterprises, Inc., execution of a contract with the City to construct a sidewalk along the portion of Ben Jordan next to the subdivision, with that construction subsequent to the City's construction of Ben Jordan, at which time Treonco Enterprises, Inc., shall complete said sidewalk construction within 90 days, with Cm. Watkins 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. Wyatt moved that the resolution be adopted, with Cm. Russell 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 2002-162R – AUTHORIZING A TRAINING AGREEMENT WITH VICTORIA COLLEGE FOR FIRE DEPARTMENT MEMBERS

The resolution authorizes a Contract Training Agreement with the Victoria College to provide emergency medical continuing education for the Fire Department members, certified by the Texas Department of Health, in the amount of \$24,865, plus \$37.50 per hour for additional requested instruction. Vance Riley.

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

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

RESOLUTION 2002-163R – AUTHORIZING A CONTRACT WITH CUSTOM TREE TRIMMING AND REMOVAL FOR 2002-2003 RIGHT-OF-WAY TREE TRIMMING

The resolution authorizes a contract with Kenneth Eggemeyer d/b/a Custom Tree Trimming and Removal of Yoakum, Texas for Right-of-Way Tree Trimming Services for Fiscal Year 2002-2003, in an amount not to exceed \$49,230. Doug Cochran.

Cm. Neitsch 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 2002-164R – GRANTING A VARIANCE TO 105 W. STAYTON STREET AND 512 N. BRIDGE ST.

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 105 W. Stayton Street and 512 N. Bridge Street, which is the entire 500 Block of North Main and North Bridge, Victoria, Texas. Scarlet Swoboda.

The resolution was pulled from the agenda.

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. Second and third reading. Steve Trevino.

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

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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. Second Reading. Vance Riley.

Cm. Russell moved that the ordinance pass on second reading, with Cm. Neitsch seconding the motion. The ordinance passed on second 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. Second and third reading. David A. Smith.

Cm. Wyatt moved that the ordinance pass on second and third reading, with Cm. Russell seconding the motion. The ordinance passed on second and third 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

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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 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 6:14 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, the legality of specific economic development incentives for housing development to include sewer tap waiver). 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 the acquisition of property for a possible affordable housing program). David A. Smith.

Section 551.087, Texas Government Code, to discuss or deliberate the offer of a financial or other incentive to a business prospect that the City Council seeks to have, locate, stay, or expand in or near the territory of the City of Victoria and with which the City of Victoria is conducting economic development negotiations. David A. Smith.


The Council reconvened in regular session at 8:03 p.m. and had nothing to report.

There being no further business, the meeting was adjourned at 8:04 p.m.

APPROVED:


GARY MIDDLETON, Mayor of the City of
Victoria, Texas

ATTEST:


SCARLET SWOBODA, City Secretary
