

VICTORIA CITY COUNCIL  
November 5, 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, November 5, 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  
Tim Braaten, Chief of Police  
Steve Trevino, Director, IMS  
Gilbert Reyna, Jr., Director, Finance  
Scarlet Swoboda, City Secretary

**APPROVAL OF MINUTES**

The minutes of the special meetings of October 14, 2002 and October 29, 2002 were approved as presented.

**CITIZENS COMMUNICATION**

**VFW Drive**

Justo S. Guerra, Veterans of Foreign Wars, Post 4146, expressed appreciation to the City for changing the name of Lova Drive to Lova Drive/VFW Drive. Mayor Middleton presented Mr. Guerra with a complimentary street sign for display in the VFW Hall.

**OK Corral Nightclub Noise**

Greg Kubecka of 106A Maplewood, Mike Youngblood of 202 Teakwood, Cassandra Gillery of 102 Maplewood, Patricia Reyna of 106 Maplewood, and Leslie Stringham of 112 Stonewood Place, expressed concerns about noise and safety issues associated with the OK Corral Nightclub. They indicated that the Police have been called numerous times a week because of the noise and other activities associated with the nightclub. They advised that their sleep and safety is threatened because of the continuous vibration of the base noise, as well as loud talking, loud music coming from cars, drunken arguing, and shootings in the parking lot. They advised that the neighborhood is a wonderful place to live if it were not for the considerable disruption the nightclub has placed on them. Mr. Kubecka requested that the City Council nullify the City Code that deals with the decibel ordinance, or make it enforceable similar to the ordinance that deals with boom boxes in motor vehicles, so that it also applies to structures. Others indicated that they wanted the nightclub shut down.

Tom Tucker, 112 Yucca, first expressed appreciation for the nice job done on the streets in Tropical Acres Subdivision. He then advised that he owns rental property on Teakwood, adding that his tenants have been complaining about the nightclub. He advised that he had spoken with Texas Alcoholic Beverage Commission and the Chief of Police, they advised the residents to continue to complain. Mr. Tucker advised that if there is not some kind of relief from the City, a temporary injunction would have to be filed to get the nightclub shut down.

David Smith, City Attorney, advised that there are three portions of the ordinance. One being the portion of the ordinance addressing the common law nuisance says any noise that is unreasonably loud to persons of common sensibility... Another portion says that the noise shall not exceed a certain decibel level. The other portion deals with devices in motor vehicles, which if they are plainly audible at a distance of 50 feet or more from the vehicle, then they can be unlawful.

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Frank Salazar, 1107 Alcoa, advised that he was the former manager of the OK Corral, and acknowledged that there had been noise problems when the club first opened. He advised that steps had been taken to pad the walls and put up a 10 foot fence to help with the noise. He advised that cars make more noise than the club, and noted that the owners have done everything within financial means to lower the noise level.

Clara Ramos 1412 Anaqua, inquired whether the City required permits to open a business like the OK Corral? She further inquired why it is not the City's responsibility to check that the business is in compliance with all ordinances before it is allowed to open. Mayor Middleton explained that the types of permits the City deals with involve inspections of the buildings, and as long as the safety codes are met, the type of business is not under the jurisdiction of the City.

Cm. Russell suggested that Council revisit the ordinance so that these concerns could be addressed. He advised that the nightclub needs to do whatever it can to be a good neighbor. Mayor Middleton advised that Council, staff, Police Chief and Legal Department would look at this ordinance and report back with a recommendation.

**PUBLIC HEARINGS**

Mayor Middleton opened a public hearing on the following item:

**ORDINANCE 2002-18 – AMENDING SUBDIVISION REGULATIONS AND DESIGN STANDARDS FOR RURAL SUBDIVISIONS IN AREAS IN EXCESS OF ¼ MILE FROM WATER OR SEWER SERVICES**

The ordinance considers amending Sections 21-3, 21-38, 21-71, and 21-81 of the Victoria City Code to provide for rural subdivisions in areas in excess of ¼ mile from water or sewer services, establish recommended structure elevations, amend the City's Engineering Design Standards to add Figure IX, "Rural Subdivision Standards." John Kaminski.

John Kaminski, Director of Planning, advised that these revisions were necessary due to the new agreement with Victoria County, which gives the City sole authority for regulating subdivisions in the 3½ mile Extra Territorial Jurisdiction (ETJ). The purpose of the ordinance is to create a new set of standards for rural subdivisions in areas that will not be served by public water and sanitary sewer. Under the ordinance any new subdivision located within ¼ of a mile of existing City water and sewer mains, whether it is located in or outside of the City limits would be required to meet all City standards. Subdivisions located more than ¼ of a mile from city water and sewer would be allowed to develop under the new rural standards. He advised that these subdivisions would have to have at least one acre lots and they would be served by private water wells and septic systems. Mr. Kaminski further advised that the rural standards would include 24 foot streets, open ditches with 60 foot right-of-way, and sidewalks would not be required. The subdivision would be served by private water wells and septic systems, and franchise utilities would not be required to be installed underground as they are in the city limits.

Mr. Kaminski advised that the ordinance would amend the design and engineering standards to create a new construction standard for rural street and drainage facilities. He reported that the primary issue addressed during public hearings with the Planning Commission was the pavement section that would be required for rural streets. He noted that several comparisons of pavement sections were considered by the Planning Commission, including a cost estimate to construct each of those sections. He advised that the section recommended by the Planning Commission includes eight inches of compacted subgrade, eight inches of stabilized base, and a two course surface treatment, which is the same as the current County standard, except that stabilization is added to the base. He advised that the Planning Commission unanimously recommended adoption.

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

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**CITY MANAGER REPORTS****Citizens on Patrol Program**

Tim Braaten, Chief of Police, presented an outline of the Victoria County Citizens on Patrol (COP) Program, which includes the purpose, general operating rules, training required, and the type of assistance that they give. He advised that they report criminal activity, suspicious persons and vehicles, open doors, property left overnight, disabled vehicles and people in need of assistance. They gather information of certain types of offenses; provide vacation checks, and other support services as assigned by the Sheriff's Department. He advised that this program is an important tool for community involvement and for assisting law enforcement in these times of limited resources. He requested Council support in this activity so that Victoria County Citizens on Patrol can spend more time within the City.

Sheriff Mike Ratcliff advised that currently sixty-one members are in the COP Program and they have put in over 1,000 hours of community service. He advised that they must be a member in good standing of the Civilian Police Academy Alumni Association, with a minimum of 12 hours of specialized training, and eight hours of ride time with law enforcement officers. He advised that the more members there are, the more frequently they can be out in the community, and he is looking forward to continuing the service.

It was the consensus of Council to present a resolution concerning the COP program at a future meeting.

**RESOLUTION 2002-181R – AUTHORIZING A CONTRACT TO PURCHASE UNIFORMS WITH DIRECT ACTION UNIFORMS**

The resolution authorizes the City Manager to enter into a one-year contract with Direct Action Uniforms to provide uniforms for the Police Department. Tim Braaten.

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

**RESOLUTION 2002-182R –AUTHORIZING A FINANCIAL ADVISORY AGREEMENT WITH RBC DAIN RAUSCHER, INC.**

The resolution authorizes a Financial Advisory Agreement with RBC Dain Rauscher, Inc. Gilbert Reyna, Jr.

A lengthy discussion followed concerning the exclusivity clause in the proposed agreement, with David A. Smith, City Attorney, recommending extending the current contract so that Council concerns can be submitted to RBC Dain Rauscher for their review.

Cm. Russell moved to limit the existing contract for thirty days in duration, with Cm. Guittard seconding the motion. The resolution was amended by the following vote:

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

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

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

NAYS: None

Cm. Watkins left the room.

**RESOLUTION 2002-183R – AUTHORIZING A CONTRACT WITH TECOM, INC., FOR FLEET MAINTENANCE SERVICES**

The resolution authorizes a contract with Tecom, Inc. of Austin, Texas to provide fleet maintenance services for the City of Victoria. Charles Windwehen

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, and Mayor Middleton

NAYS: None

Cm. Watkins returned to the room.

**RESOLUTION 2002-184R – SUPPORTING A COOPERATIVE REGIONAL EFFORT REGARDING CHANGES TO THE EDWARDS AQUIFER AUTHORITY ACT**

The resolution authorizes support for a cooperative regional effort regarding changes to the Edwards Aquifer Authority Act. Wayne Cockroft

Cm. Watkins 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

**RESOLUTION 2002-185R – APPOINTING A MEMBER TO THE CULTURAL COUNCIL**

The resolution appoints Steve Hipes to the Cultural Council. Scarlet Swoboda.

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

NAYS: None

**RESOLUTION 2002-186R – AWARDING ANNUAL SUPPLY CONTRACT TO ALVAREZ TRUCKING**

The resolution awards an Annual Supply Contract for Processed Base and Crushed Limestone to Alvarez Trucking of Yorktown, Texas in the amount of \$142,800 FOB, Victoria, Texas. John Johnston.

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

NAYS: None

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**RESOLUTION 2002-187R – AWARDING ANNUAL SUPPLY CONTRACT TO QUALITY HOT MIX, INC.**

The resolution awards an Annual Supply Contract for Hot Mix Cold Laid to Quality Hot Mix, Inc., of El Campo, Texas in the amount of \$28,400. John Johnston.

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

**RESOLUTION 2002-188R – AWARDING A BID FOR DEMOLITION OF UNSAFE BUILDINGS TO AXIS MATERIALS**

The resolution declares Consolidated Service Group an unresponsive bidder and invalidates their bid, and awards the bid for demolition of 10 unsafe buildings to Axis Materials of Victoria, Texas, in the amount of \$38,034. Steve Trevino.

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

NAYS: None

**RESOLUTION 2002-189R – AUTHORIZING THE PURCHASE OF NEW POLICE CARS**

The resolution awards the bid for the purchase of 8 police cars to Philpott Motors, Ltd., of Port Neches, Texas in the amount of \$170,349. Steve Trevino.

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

NAYS: None

**RESOLUTION 2002-190R – GRANTING A VARIANCE TO FAMILY WORSHIP CENTER FOR A SCREENING FENCE**

The resolution grants a variance request to Section 21-102 of the Subdivision and Development Ordinance, which requires any multi-family or non-residential land use that sides or backs to existing or proposed single-family residential to construct an opaque screening fence of 8' in height along the common property line to separate the uses. John Kaminski.

Cm. Russell moved to amend the resolution by changing the wording in Section 1, subject to the condition that the screening fence be placed through the first nine houses, being 3408 through 3208 of Cherry Street, with Cm. Watkins seconding the motion. The resolution was amended by the following vote:

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

NAYS: None

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

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

NAYS: None

**RESOLUTION 2002-191R – GRANTING A VARIANCE TO SECTION 21-54(A) OF THE CITY CODE, WHICH REQUIRES A PAVEMENT WIDTH OF 36’ AND ROW WIDTH OF 60’ FOR NEW LOCAL STREETS TO STEVE KLEIN FOR RIATA AND WATERSTONE SUBDIVISIONS**

The resolution grants a variance to Section 21-54(A) of the City Code, which requires a pavement width of 36’ and ROW width of 60’ for new local streets to Steve Klein for Riata and Waterstone Subdivisions. John Kaminski.

Mayor Middleton moved to amend the resolution to exclude the wording in Section 1, conditioned upon a greater radius is provided on ninety degree turns within the subdivision, with Cm. Buckert seconding the motion. The resolution was amended by the following vote:

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

NAYS: None

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, Russell, Buckert, Wyatt, Watkins and Mayor Middleton

NAYS: None

**RESOLUTION 2002-192R – ADOPTING NEW PROGRAM GUIDELINES FOR THE CDBG OWNER-OCCUPIED HOME REHABILITATION PROGRAM**

The resolution adopts new program guidelines for the CDBG Owner-Occupied Home Rehabilitation Program, which will rehab approximately 20 homes this year. John Kaminski.

Cm. Watkins 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

**RESOLUTION 2002-193R – AUTHORIZING A CONTRACT WITH COMMUNITY ACTION COMMITTEE OF VICTORIA (CAC) TO ADMINISTER THE CDBG OWNER-OCCUPIED HOME REHABILITATION PROGRAM**

The resolution authorizes a contract with Community Action Committee of Victoria (CAC) to administer the CDBG Owner-Occupied Home Rehabilitation Program. 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 2002-19 – DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF 0.7413 ACRE STORMWATER DRAINAGE EASEMENT ON PRIVATELY OWNED PROPERTY**

City Attorney, David Smith, read the caption of Ordinance 2002-19, which declares a public necessity for the acquisition of a 0.7413 acre stormwater drainage easement that is a part of, over,

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across, upon, and under certain privately owned real property located in the following area of Victoria County, Texas and being described as follows:

a 4.4409 acre tract in Subdivision Number Twenty-One (21) of the Welder, Holland, Buhler Subdivision in the S.A. & M.G. RR Company Survey, Abstract No. 324, in Victoria County, Texas, as described in the warranty deed conveyed from Rodney Mutschler, Roy A. Henke, and Edward J. Ganem, individually and as the "John Stockbauer Joint Venture," to Sutherland Lumber Southwest, Inc. by warranty deed dated July 29, 1993, recorded in Volume 74, Page 490 of the Official Records of Victoria County, Texas, and being out of and a part of that certain 46.4995 acre tract conveyed by Levada J. Groll and Doris Stange to Dennis J. Caka, Rodney Mutschler, Roy Henke, Edward J. Ganem, and T. Daniel McCue by deed dated December 2, 1977, and recorded in Volume 958, Page 191, of the Deed Records of Victoria County, Texas

for the public purposes of placing, constructing, operating, inspecting, repairing, maintaining and using stormwater drainage facilities to include ditches, drains, dams, spillways, culverts and outfalls by the City of Victoria on the Easement Tract for the City of Victoria Whispering Creek Improvement Project, all in Victoria County, Texas, authorizing all appropriate action of the City of Victoria in the institution and prosecution of condemnation proceedings to acquire any such needed stormwater drainage easement rights; ratifying and affirming all prior acts and proceedings done or initiated by attorneys, agents and employees of the City of Victoria to acquire such easements, authorizing all other lawful action necessary or incidental to such acquisitions or eminent domain proceedings to survey, specify, define and secure the necessary property rights; declaring the sections of this 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. Second and third reading. David A. Smith.

Cm. Buckert moved that the ordinance pass on second and third reading, with Cm. Neitsch 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 DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF A 0.7413 ACRE STORMWATER DRAINAGE EASEMENT THAT IS A PART OF, OVER, ACROSS, UPON, AND UNDER CERTAIN PRIVATELY OWNED REAL PROPERTY LOCATED IN THE FOLLOWING AREA OF VICTORIA COUNTY, TEXAS AND BEING DESCRIBED AS FOLLOWS:**

**A 4.4409 ACRE TRACT IN SUBDIVISION NUMBER TWENTY-ONE (21) OF THE WELDER, HOLLAND, BUHLER SUBDIVISION IN THE S.A. & M.G. RR COMPANY SURVEY, ABSTRACT NO. 324, IN VICTORIA COUNTY, TEXAS, AS DESCRIBED IN THE WARRANTY DEED CONVEYED FROM RODNEY MUTSCHLER, ROY A. HENKE, AND EDWARD J. GANEM, INDIVIDUALLY AND AS THE "JOHN STOCKBAUER JOINT VENTURE," TO SUTHERLAND LUMBER SOUTHWEST, INC. BY WARRANTY DEED DATED JULY 29, 1993, RECORDED IN VOLUME 74, PAGE 490 OF THE OFFICIAL RECORDS OF VICTORIA COUNTY, TEXAS, AND BEING OUT OF AND A PART OF THAT CERTAIN 46.4995 ACRE TRACT CONVEYED BY LEVADA J. GROLL AND DORIS STANGE TO DENNIS J. CAKA, RODNEY MUTSCHLER, ROY HENKE, EDWARD J. GANEM, AND T. DANIEL MCCUE BY DEED DATED DECEMBER 2, 1977, AND RECORDED IN VOLUME 958, PAGE 191, OF THE DEED RECORDS OF VICTORIA COUNTY, TEXAS**

**FOR THE PUBLIC PURPOSES OF PLACING, CONSTRUCTING, OPERATING, INSPECTING, REPAIRING, MAINTAINING AND USING STORMWATER DRAINAGE FACILITIES TO INCLUDE DITCHES, DRAINS, DAMS, SPILLWAYS, CULVERTS AND OUTFALLS BY THE CITY OF VICTORIA ON THE EASEMENT TRACT FOR THE CITY OF VICTORIA WHISPERING CREEK IMPROVEMENT PROJECT, ALL IN**

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VICTORIA COUNTY, TEXAS, AUTHORIZING ALL APPROPRIATE ACTION OF THE CITY OF VICTORIA IN THE INSTITUTION AND PROSECUTION OF CONDEMNATION PROCEEDINGS TO ACQUIRE ANY SUCH NEEDED STORMWATER DRAINAGE EASEMENT RIGHTS; RATIFYING AND AFFIRMING ALL PRIOR ACTS AND PROCEEDINGS DONE OR INITIATED BY ATTORNEYS, AGENTS AND EMPLOYEES OF THE CITY OF VICTORIA TO ACQUIRE SUCH EASEMENTS, AUTHORIZING ALL OTHER LAWFUL ACTION NECESSARY OR INCIDENTAL TO SUCH ACQUISITIONS OR EMINENT DOMAIN PROCEEDINGS TO SURVEY, SPECIFY, DEFINE AND SECURE THE NECESSARY PROPERTY RIGHTS; DECLARING THE SECTIONS OF THIS 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.

**ORDINANCE 2002-18 - AMENDING SUBDIVISION REGULATIONS AND DESIGN STANDARDS FOR RURAL SUBDIVISIONS IN AREAS IN EXCESS OF ¼ MILE FROM WATER OR SEWER SERVICES**

City Attorney, David Smith, read the caption of Ordinance 2002-18, which amends Sections 21-3, 21-38, 21-71, and 21-81 of the Victoria City Code to provide for rural subdivisions in areas in excess of ¼ mile from water or sewer services, establish recommended structure elevations, amend the City's Engineering Design Standards to add Figure IX, "Rural Subdivision Standards." First Reading. John Kaminski.

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

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

NAYS: None

Caption:

**AN ORDINANCE AMENDING SECTIONS 21-3, 21-38, 21-71, AND 21-81 OF THE VICTORIA CITY CODE TO PROVIDE FOR RURAL SUBDIVISIONS IN AREAS IN EXCESS OF ¼ MILE FROM WATER OR SEWER SERVICES, ESTABLISH RECOMMENDED STRUCTURE ELEVATIONS, AMEND THE CITY'S ENGINEERING DESIGN STANDARDS TO ADD FIGURE IX, "RURAL SUBDIVISION STANDARDS", PROVIDING FOR ENFORCEMENT, REPEALING ALL CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY, PROVIDING A SAVINGS CLAUSE, PROVIDING FOR CODIFICATION, PROVIDING A PENALTY NOT TO EXCEED \$500 UPON CONVICTION, PROVIDING FOR PUBLICATION, AND DECLARING AN EFFECTIVE DATE.**

**EXECUTIVE SESSION**

Mayor Middleton announced that Council would recess into Executive Session at 6:56 p.m., in accordance with:

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, without limitation, the acquisition of property for the Whispering Creek Improvement Project and the acquisition of property next to John Stockbauer Street). 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.

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Section 551.045, Texas Government Code, due to an emergency and urgent public necessity concerning an imminent threat to public health and safety and reasonably unforeseeable situation involving a dangerous potential breach in the levee in the Pecan Grove area along the Guadalupe River combined with rising and frequent flood waters in the Guadalupe and future expected releases of water from Canyon Lake.

The Council reconvened in regular session at 8:14 p.m. and considered the following:

**RESOLUTION 2002-194R – AUTHORIZING AN AGREEMENT TO REPAIR LEVEE AT THE PECAN GROVE AREA ALONG THE GUADALUPE RIVER**

The resolution authorizes the City Manager to execute a Project Agreement between the United States Department of Agriculture Natural Resources Conservation Service and the City of Victoria to repair the levee at the Pecan Grove Area along the Guadalupe River in Victoria County, Texas. David A. Smith.

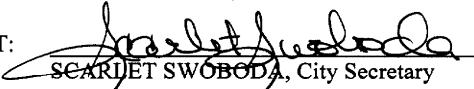
Cm. Buckert moved that the resolution be adopted, with Cm. Neitsch seconding the motion. The resolution was adopted by the following vote:

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

NAYS: None

There being no further business, the meeting was adjourned at 8:15 p.m.

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

ATTEST:   
SCARLET SWOBODA, City Secretary

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VICTORIA CITY COUNCIL  
November 12, 2002

**CALL TO ORDER**

A special meeting of the Victoria City Council was called to order by Mayor Gary Middleton at 4:10 p.m. Tuesday, November 12, 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  
Scarlet Swoboda, City Secretary

**EXECUTIVE SESSION**

Mayor Middleton announced that Council would recess into Executive Session at 4:11 p.m., in accordance with: