

**CITY COUNCIL MINUTES
December 3, 2002**


Section 551.074, Texas Government Code, with regard to personnel matters including, without limitation, the evaluation and duties of the City Manager. Scarlet Swoboda.


The Council reconvened in regular session at 9:15 p.m. and had nothing to report.

ITEMS FROM COUNCIL

Cm. Buckert inquired about the status of the pay grade study. Mayor Middleton advised that he and Charmelle Garrett, Director of Human Resources were working on it.

There being no further business, the meeting was adjourned at 9:16 p.m.

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

ATTEST: 
SCARLET SWOBODA, City Secretary

**VICTORIA CITY COUNCIL
December 17, 2002**

CALL TO ORDER

A regular meeting of the Victoria City Council was called to order by Mayor Gary Middleton at 5:02 p.m. Tuesday, December 17, 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
Gilbert Reyna, Jr., Director, Finance
Wayne Cockroft, Director, Utilities
Charmelle Garrett, Director, Human Resources
Ray Miller, Assistant Director, Planning
Scarlet Swoboda, City Secretary

APPROVAL OF MINUTES

The minutes of the regular meeting of December 3, 2002 were approved as presented.

CITIZENS COMMUNICATION

Recognition of St. Joseph High School Football Team

Mayor Middleton read a proclamation designating December 17, 2002 St. Joseph High School Football Team Day, and presented it to Coach John Mares and the Team Captains. On behalf of the City Council, he commended the football team on their successful season, adding that the community was very proud of their accomplishments.

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Gone to Texas Cookbook

Sharon Steen, with Victoria Preservation, read a portion of text of the history of Texas and presented the "Gone to Texas Heritage Recipes Cookbook" to the City Manager and members of Council, thanking them for all they do for the community.

PUBLIC HEARINGS

Mayor Middleton opened a public hearing on the following item:

ORDINANCE 2002-23 – AMENDING SECTION 10-22.1 OF THE VICTORIA CITY CODE TO EXPAND THE NOISE DISTANCE LIMIT FOR PLACES OF AMUSEMENT

The ordinance considers amending Section 10-22.1 of the Victoria City Code to prohibit noise that is audible more than 100 feet from restaurants, bars, and other places of amusement. Miles Risley.

Miles Risley, Assistant City Attorney, advised that the 100 foot distance addressed in the ordinance is from the property line of those locations.

Cm. Russell questioned the definition of place of amusement, inquiring whether it applied to restaurants or only places with a Liquor License. Mr. Risley advised that it would apply to all restaurants that are a fixed place of business. Cm. Russell gave examples of places like Sonic and the Country Club that may be affected by this ordinance. He suggested clarification on the part of the ordinance which pertains to Texas Alcoholic Beverage Commission (TABC) liquor licensing. Mr. Risley advised that Council could limit the specifics to restaurants that serve alcoholic beverages for on-premise consumption.

Cm. Russell questioned portions of the ordinance that addressed making the owner of the property responsible for ejecting a tenant for making excessive noise. He suggested that making someone responsible for excessive noise on the premises being leased may be applying blame to the wrong person. David Smith, City Attorney, advised that the ordinance states that if someone has the authority to eject a tenant creating the sound, then he would be considered liable as well. If the owner does not have the authority to control, then he would not fall under this ruling and would not be considered guilty.

Cm. Russell further questioned the portion of the ordinance that addressed making any person named on the liquor license responsible. Tim Braaten, Chief of Police, advised that those listed on the liquor license have the responsibility, and know that they can lose their license if the TABC comes in. He advised that it is well established in nuisance law that you hold the owner accountable, that way if the lease holder isn't responding to the warnings, then there is a ladder to climb of other people to hold responsible, including silent partners.

Mr. Risley suggested changing the wording liquor in the ordinance to alcoholic beverages. Cm. Watkins advised that Mr. Risley had been asked to get a total number of establishments that have had warnings or citations for excessive noise, in order to formulate an ordinance that could be applied consistently. Mayor Middleton suggested amending that portion of the ordinance on the second and third reading.

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

CITY MANAGER REPORTS

Residential Streets Projects

Charles Windwehen, Assistant City Manager, and John Johnston, Director of Public Works, presented discussion points on a multi year plan for providing major maintenance on streets and residential subdivisions. Mr. Windwehen identified possible funding sources:

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- 1) Funding unspent in Fiscal Year 2001-2002 Street Budget
- 2) Funding projected to be available from bonds issued for the Water Treatment Plant contracts and the West Side Line Project (\$700,000 from water and \$700,000 from wastewater)
- 3) Anticipated net proceeds from a \$5 million Certificate of Obligation issue
- 4) Projected amount available from Street Department Budget
- 5) Projected amount available from Water/Wastewater Fund Budgets

Cm. Watkins inquired whether there would be any funds beyond this project for putting in a youth sports complex. Mr. Windwehen advised that in 2006 there would be the potential to vote and issue more General Obligation Bonds and stay within the current \$0.70 tax rate.

John Johnston, Director of Public Works, advised that in October a work session was held in which residential street needs were discussed. A list was generated of all the residential street subdivision geographic areas that had a rating of 79 and below, with 80 being the average street rating. A number of those streets were addressed either with the 2001-2002 Sealcoat and Overlay Project or with the General Obligation Bond Project. The remaining streets to be considered by subdivision and year are as follows:

2002-2003 Utility Work

• Carsner Citizens Park	\$3,580,000
• Hillcrest Addition	\$ 545,000
• Country Club	\$ 129,675
• Lone Tree Acres Subdivision	<u>\$ 320,000</u>
Total	\$4,574,675

2002-2003 Street Work

• Mayfair Terrace	\$ 880,000
• Shenandoah Subdivision	\$ 177,000
• East Side Addition	\$ 515,000
• Cimarron	\$ 343,524
• Benchmark and Country Club Village	\$ 979,192
• Meadows Subdivision	<u>\$ 162,670</u>
Total	\$3,810,999

2003-2004 Street Work

• Hillcrest Addition	\$ 402,838
• Northcrest	\$1,747,076
• Fleetwood Subdivision	<u>\$ 645,334</u>
Total	\$2,795,248

2004-2005 Street Work

• Carsner Citizens Park	\$ 516,893
• Country Club	\$ 660,643
• Lone Tree Acres Subdivision	\$ 256,751
• Greens Addition	\$ 253,250
• North Star Park	<u>\$ 85,019</u>
Total	\$1,772,556

2005-2006 Street and Utility Work

• Foster Field	\$2,330,270
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Mayor Middleton expressed appreciation to the staff for the amount of work that has gone into coming up with realistic numbers and timelines. He suggested that before Council gave the word to proceed, he wanted to make sure that there were not drainage concerns in the community

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that needed to be addressed in the next year or two that otherwise might not get funded. Cm. Wyatt agreed, stating that he wants to look at what other major things may need to be done before he gives his blessing. Mayor Middleton suggested having a work session in early January, so that staff has a chance to bring items they are aware of at that time.

Mayor Middleton questioned what was being proposed that may not require any additional water/sewer line replacements, or drainage improvements scheduled for 2002-2003, in addition to whatever else was going to be done on your street budget. Mr. Johnston advised that Mayfair Terrace, Sam Houston Heights, and Shenandoah Subdivision were approved for funding in the current Fiscal Year 2002-2003 Street Budget with everything prepared to go out for bid in February. Mayor Middleton, Cm. Russell, and Cm. Buckert inquired whether Cimarron, Benchmark, Country Club Village, and the Meadows Subdivisions could be included in the current year. Mr. Windwehen advised that Certificates of Obligation would have to be issued in order for them to be included.

Mayor Middleton questioned whether the issuance costs would be prohibitive to do a small amount, and requested that staff analyze whether more could be added to include more projects if Certificates of Obligation have to be issued, that is, if staff would be able to handle the work load, however, he did not want to hold up the proposed bid process. Mr. Windwehen advised that staff could bring back two or three options at different levels.

Mr. Windwehen advised that the report was presented for discussion, so that Council understood that although a \$10 million range for water, sewer, and storm sewer needs had been discussed in past work sessions, it looked more like it was going to be in the \$15 million range.

Cm. Buckert stated that with this information they can go to residents in these subdivisions and tell them what year their street will be done. Cm. Russell requested that the staff reassure the residents in Northcrest that their streets will be fixed once the drainage work is completed.

Residential Development Tax Abatement.

Mayor Middleton advised that Miles Risley, Assistant City Attorney, had been instructed to analyze the legality of granting residential development tax abatements. His findings revealed that with an evaluation of \$10,000 over a three year period per lot, the total abatement would be approximately \$157.50 per lot, and even if all of the other taxing entities participated it would only be a lot of paper work with little savings. He stated that it appeared the concept seemed to be so burdensome that it was not worth the effort.

Cm. Buckert suggested going back to the table and bringing some of the developers in and brainstorming to see what could be done to come up with a way to assist the developers. Mayor Middleton advised that the key issue was to make sure that we are able as a community to offer affordable housing opportunities to our citizens. He noted that the driving force behind the idea was the knowledge that development costs would increase because of the recently adopted street standards.

Cm. Buckert suggested determining what the goals were and what was trying to be accomplished. She inquired whether it was to create encouragement for developers to develop, to place more on the tax rolls, or to bring about affordable housing. She stated that it was her understanding that these abatements would be given for new development, similar to the way it would be given to industry coming in. Cm. Russell stated that he thought the purpose was to give developers incentive to come in and not penalize them while they were increasing the value of the property before it was sold.

Mayor Middleton advised that the explanation from the Appraisal District was that the appraised cost of the property and the improvements go on the rolls at the end of the calendar year. So, even when the subdivision is complete, with the streets, the sewer, the water, the storm sewer, the fire hydrants assigned, everything in place, the property is still appraised at the cost of the development at that time, until it is sold with the house. He advised that Mr. Risley had put a lot of time and effort into this research, but after having seen his conclusion, he did not think that it is the direction the City should go either. He suggested having a work session the end of January.

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Home Depot

Jay Williams, President of Property Commerce, advised that his real estate company planned to develop the property East of Victoria Mall starting January 2003. He advised that the property is proposed to be re-developed to build a retail shopping center, which would include Home Depot as the anchor tenant. He advised that the closing of the property was scheduled for the first week in January 2003, with Home Depot starting construction shortly thereafter. He added that part of the project would be to dedicate a strip of property across the old Cinemark Theater property to build an access road onto the property, which would assist in improvements being made to the entrance to the mall at the John Stockbauer intersection.

RESOLUTION 2002-207R – AWARDING STOP-LOSS BID INSURANCE FOR HEALTH CLAIMS TO HCC BENEFITS CORPORATION

The resolution awards the bid for stop-loss insurance for health claims exceeding \$115,000 per employee to HCC Benefits Corporation, a Delaware Corporation, in the amount of \$13.33 per employee per month and \$40.46 per dependent family per month, in an estimated total annual amount of \$196,550 with a \$115,000 deductible. Charmelle Garrett.

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

ORDINANCE 2002-21 – WAVING PRE-STUBBED WATER AND WASTEWATER CONNECTION FEES

City Attorney, David Smith, read the caption of Ordinance 2002-21, which amends Sections 24-124 and 24-125 of the Victoria City Code to waive pre-stubbed water and wastewater connection fees for persons who receive building permits to construct new residences between December 31, 2002 and January 1, 2006. Second and third reading. Wayne Cockroft.

Cm. Wyatt 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 AMENDING SECTIONS 24-124 AND 24-125 OF THE VICTORIA CITY CODE TO WAIVE PRE-STUBBED WATER AND WASTEWATER CONNECTION FEES FOR PERSONS WHO RECEIVE BUILDING PERMITS TO CONSTRUCT NEW RESIDENCES BETWEEN DECEMBER 31, 2002 AND JANUARY 1, 2006, REPEALING CONFLICTING PARTS OF ORDINANCES, PROVIDING FOR SEVERABILITY, PROVIDING FOR CODIFICATION, AND DECLARING AN EFFECTIVE DATE.

ORDINANCE 2002-22 – AUTHORIZING SALE OF STREETS TO DETAR HOSPITAL

City Attorney, David Smith, read the caption of Ordinance 2002-22, which authorizes the City Manager to execute a Special Warranty Deed to transfer the following parcels of property to Victoria of Texas, L.P., a Delaware limited partnership, d/b/a Detar Hospital, which is the abutting property owner, in exchange for \$125,000 and other consideration:

- (1) Cameron Street between the intersections of Guadalupe and San Antonio Streets,
- (2) San Antonio Street between the intersections of Cameron and Depot Streets,
- (3) the intersection of San Antonio and Depot Streets, and

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(4) Depot Street between the intersections of San Antonio and Nueces Streets,
Second and third reading. John Johnston.

Cm. Russell 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 AUTHORIZING THE CITY MANAGER TO EXECUTE A SPECIAL WARRANTY DEED TO TRANSFER THE FOLLOWING PARCELS OF PROPERTY TO VICTORIA OF TEXAS, L.P., A DELAWARE LIMITED PARTNERSHIP, D/B/A DETAR HOSPITAL, WHICH IS THE ABUTTING PROPERTY OWNER, IN EXCHANGE FOR \$125,000 AND OTHER CONSIDERATION:

- (1) CAMERON STREET BETWEEN THE INTERSECTIONS OF GUADALUPE AND SAN ANTONIO STREETS,
- (2) SAN ANTONIO STREET BETWEEN THE INTERSECTIONS OF CAMERON AND DEPOT STREETS,
- (3) THE INTERSECTION OF SAN ANTONIO AND DEPOT STREETS,
AND
- (4) DEPOT STREET BETWEEN THE INTERSECTIONS OF SAN ANTONIO AND NUECES STREETS,

REPEALING ALL CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY, AND DECLARING AN EFFECTIVE DATE.

ORDINANCE 2002-23 – AMENDING SECTION 10-22.1 OF THE VICTORIA CITY CODE TO EXPAND THE NOISE DISTANCE LIMIT FOR PLACES OF AMUSEMENT

City Attorney, David Smith, read the caption of Ordinance 2002-23, which amends Section 10-22.1 of the Victoria City Code to expand the application of the distance limit on sound produced by sound amplifying devices to places of amusement. First Reading. Miles Risley.

Cm. Buckert moved that the ordinance pass on first reading, with Cm. Wyatt 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 SECTION 10-22.1 OF THE VICTORIA CITY CODE TO EXPAND THE APPLICATION OF THE DISTANCE LIMIT ON SOUND PRODUCED BY SOUND AMPLIFYING DEVICES TO PLACES OF AMUSEMENT, REPEALING CONFLICTING PARTS OF ORDINANCES, PROVIDING FOR SEVERABILITY, PROVIDING A SAVINGS CLAUSE, PROVIDING FOR CODIFICATION, PROVIDING A PENALTY NOT TO EXCEED \$500 UPON CONVICTION, PROVIDING FOR ENFORCEMENT, PROVIDING FOR PUBLICATION, AND DECLARING AN EFFECTIVE DATE.

EXECUTIVE SESSION

Mayor Middleton announced that Council would recess into Executive Session at 6:03 p.m., in accordance with:

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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, legality of proposed residential development tax abatement policies). Miles Risley.

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 next to John Stockbauer Street). Miles Risley.

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. Miles Risley.

The Council reconvened in regular session at 7:58 p.m. and considered the following:

RESOLUTION 2002-208R – ACCEPTING PROPERTY DEDICATION AS A PUBLIC STREET ON LOOP 463 NEAR JOHN STOCKBAUER

The resolution accepts the dedication of property as a public street from Property Commerce (Home Depot) that is located north of Loop 463 near an extension of John Stockbauer, and authorizes the City Manager to execute a security agreement to ensure the completion of a street on said property that conforms with the City’s standards and specifications. Miles Risley.

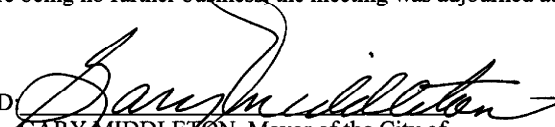
Cm. Russell moved to amend the resolution to strike wording in number two of the resolution and replace that portion with a payment to the City of Victoria of \$250,000, with Cm. Buckert seconding the motion. The resolution was amended by the following vote:

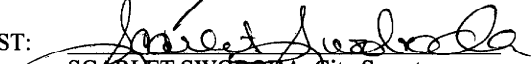
- AYES: Council Members Guittard, Neitsch, Russell, Buckert, Wyatt, Watkins and Mayor Middleton
- NAYS: None

Cm. Russell moved that the resolution be adopted, with Cm. Buckert 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

There being no further business, the meeting was adjourned at 8:03 p.m.

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

ATTEST: 
 SCARLET SWOBODA, City Secretary

**CITY COUNCIL MINUTES
December 26, 2002**

reimburse the City or to pay directly any expense, including any condemnation costs, if any, to acquire any land, to build roadways and to construct a 5 lane entrance and exit to The Victoria Mall. A contract shall be prepared and any obligations of the City of Victoria under contract and any obligations to the City of Victoria shall be adequately secured so that in no event shall there be any expense to the taxpayers of the City, with Mayor Middleton seconding the motion. The resolution was amended by the following vote:

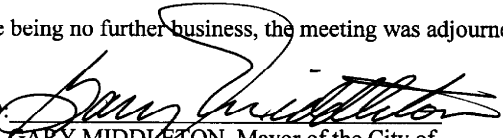
AYES: Council Members Guittard, Russell, Buckert, Wyatt, Watkins and Mayor Middleton
NAYS: None

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

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

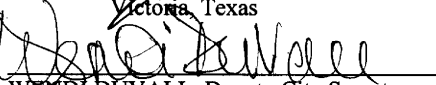
There being no further business, the meeting was adjourned at 6:05 p.m.

APPROVED:



GARY MIDDLETON, Mayor of the City of
Victoria, Texas

ATTEST:



WENDI DUVALL, Deputy City Secretary

**VICTORIA CITY COUNCIL
January 7, 2003**

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, January 7, 2003 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
Miles Risley, Assistant City Attorney
John Johnston, Director, Public Works
John Kaminski, Director, Planning
Wayne Cockroft, Director, Utilities
Steve Trevino, Director, IMS
Wendi DuVall, Deputy City Secretary

APPROVAL OF MINUTES

None were presented.

CITIZENS COMMUNICATION

No one wished to address Council.

PUBLIC HEARINGS

Mayor Middleton opened a public hearing on the following item: