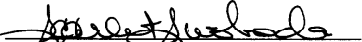


CITY COUNCIL MINUTES
February 23, 2004

ATTEST: 
SCARLET SWOBODA, City Secretary

VICTORIA CITY COUNCIL
March 2, 2004

CALL TO ORDER

A regular meeting of the Victoria City Council was called to order by Mayor Gary Middleton at 5:05 p.m. Tuesday, March 2, 2004 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

STAFF PRESENT

Denny Arnold, City Manager
Charles Windwehen, Assistant City Manager
David A. Smith, City Attorney
Miles Risley, Assistant City Attorney
John Johnston, Director, Public Works
John Kaminski, Director, Planning
Lynn Short, Director, Utilities
Tim Braaten, Chief of Police
Gilbert P. Reyna, Jr., Director, Finance
Doug Cochran, Director, Parks and Recreation
Jerry James, Director, Environmental Services
Scarlet Swoboda, City Secretary

APPROVAL OF MINUTES

The minutes of the regular meeting of January 20, 2004, special meeting of February 10, 2004, regular meeting of February 17, 2004, and special meeting of February 23, 2004 were approved as presented.

CITIZENS COMMUNICATION

No one wished to address Council.

PUBLIC HEARINGS

Mayor Middleton opened a public hearing on the following items:

ORDINANCE 2004-3 – REVIEWING AND RENEWING THE JUVENILE CURFEW SECTION OF THE VICTORIA CITY CODE

The ordinance considers reviewing and renewing Chapter 15, Article III, “Juvenile Curfew”, of the Victoria City Code and amending same to amend Section 15-33. Tim Braaten and Miles Risley.

Miles Risley, Assistant City Attorney, advised that the ordinance includes recommended changes that meet the needs presented by a Seventh Circuit Court of Appeals.

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

CITY COUNCIL MINUTES
March 2, 2004

ORDINANCE 2004-4 – CHANGES TO AEP TEXAS CENTRAL COMPANY’S ELECTRIC TRANSMISSION AND DISTRIBUTION RATES AND CHARGES WITHIN THE CITY

The ordinance of the City of Victoria, Texas considers finding, after reasonable notice and hearing, that AEP Texas Central Company’s electric transmission and distribution rates and charges within the City should be changed. David A. Smith.

David A. Smith, City Attorney, advised that in 2001 the then Central Power and Light Company estimated the cost that they thought it would incur during the oncoming deregulation. The Public Utilities Commission (PUC) accepted that cost estimate and customers have been charged based upon those estimates. Several months ago South Texas Aggregation Project concluded that those cost estimates were too high and needed to be brought back into line with actual expenses. As a result, this City filed a notice of a rate change with the PUC of Texas. Following that AEP Texas Central Company filed a claim that it wanted to increase the rates significantly. The City hired consultants and they have concluded and testified that the rates should be decreased substantially. They determined that there should be changes in certain forms of accounting and tax reporting, and by doing so could reduce the amount of existing rates by 97.715 million dollars. This would be an approximate 21% reduction in the rates for the benefit of rate payers. The City is asked to pass an ordinance to order those changes be made in the rate structure. This matter will be taken before the PUC and they would make a decision and possibly the courts after that.

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

Changes to the Community Center Rental Policies

Doug Cochran, Director of Parks and Recreation, presented an update on a recommendation he had made to the City Manager concerning a policy which requires lessces to obtain insurance policies for their events at the Community Center. He advised that some of the larger groups had asked for a review of the policy, and to eliminate or reduce the provision of insurance coverage due to the costs in obtaining the insurance. He recommended changing this requirement immediately as all contracts have an indemnity clause already included.

Introduction of New Employees

Mr. Cochran introduced Shane Simon, the New Community Center Manager and Lynn Short, Director of Utilities, introduced Ryan Quigley, the New Surface Water Treatment Manager.

Report on Recycling Education Committee

Jerry James, Director of Environmental Services, announced that the “Trash Off Day” event would be held April 3, 2004 in conjunction with the “Keep Texas Beautiful” campaign. The County Commissioners have been asked to come up with three sites to cleanup and the City has identified four sites. He requested that Council Members let him know if there were any sites in their districts that needed cleanup so that volunteers could be coordinated to be in those areas.

Mayor Middleton advised that trash and plastic bags blow into neighboring residential areas from business and requested that the business community be encouraged to participate in the cleanup effort as well.

RESOLUTION 2004-24R – AUTHORIZING CHANGE ORDER NO. 2 TO THE 2002-03 RECLAIM/OVERLAY PROJECT WITH BRANNAN PAVING COMPANY, INC.

The resolution authorizes the Director of Public Works to execute Change Order No. 2 to the 2002-03 Reclaim/Overlay Project with Brannan Paving Company, Inc. of Victoria, Texas to reduce the price by \$95,680 by eliminating curb, gutter, traffic buttons, and traffic markers, and increase the

CITY COUNCIL MINUTES

March 2, 2004

price by \$77,461.27 by adding underground conduit and pull boxes for video detection cameras at signalized intersections, which will bring the total contract amount to \$8,269,101.55. John Johnston.

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

RESOLUTION 2004-25R – AWARDING ANNUAL SUPPLY CONTRACT FOR READY-MIX CONCRETE AND GROUT TO INGRAM READY MIX, INC.

The resolution awards the annual supply contract for Ready-Mix Concrete and Grout to Ingram Ready Mix, Inc. of New Braunfels, Texas in the total amount of \$212,875.00, based on estimated quantities. Lynn Short.

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, and Mayor Middleton
NAYS: None

RESOLUTION 2004-26R – TERMINATING THE AMBULANCE SERVICE BILLING AGREEMENT WITH ALEXANDER BILLING & CONSULTING, INC.

The resolution authorizes the City Manager to execute all necessary documents to terminate the City's ambulance service billing agreement with Alexander Billing & Consulting, Inc. Gilbert P. Reyna, Jr.

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

RESOLUTION 2004-27R – APPLYING AND ACCEPTING GRANTS FROM TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ)

The resolution authorizes the City Manager to execute all documents necessary to apply for and accept grants from Texas Commission on Environmental Quality (TCEQ) via the Golden Crescent Regional Planning Commission (GCRPC) for (1) green waste bags in the amount of \$10,000.00 and (2) disposal and advertising costs for the annual Household Hazardous Waste Day in the amount of \$27,578. Jerry James.

Cm. Buckert 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, and Mayor Middleton
NAYS: None

RESOLUTION 2004-29R – AUTHORIZING CHANGE ORDER NO. 8 FOR THE LONE TREE INDUSTRIAL PARK PROJECT WITH BRANNAN PAVING COMPANY, INC.

The resolution authorizes the City Manager to execute Change Order No. 8 for the Lone Tree Industrial Park project, in the amount of \$154,315.50, with Brannan Paving Company, Inc. Andrew Jacob.

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

CITY COUNCIL MINUTES

March 2, 2004

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

ORDINANCE 2003-2004C – AMENDING THE 2003-2004 FISCAL YEAR BUDGET FOR THE CITY OF VICTORIA

City Attorney, David A. Smith, read the caption of Ordinance 2003-2004C, which amends the 2003-2004 Fiscal Year Budget of the City of Victoria (1) by transferring \$555,000 from the City of Victoria General Fund fund balance to send \$527,000 to the Street Department Street & Roadway Maintenance line item and to send \$28,000 to the Street Department Mains & Hydrants line item, (2) by transferring \$195,344.01 from the Water/Wastewater Fund fund balance to send \$58,336.68 to the Non-Departmental Professional Services line item, to send \$60,000 to the Wastewater Department Mains & Hydrants line item, to send \$26,417.78 to the Water Plant Department Professional Services line item, and to send \$50,589.55 to the Water Plant Department Building Improvements line item, and (3) and by transferring \$59,210.62 from the Environmental Services Fund fund balance to send \$36,410.62 to the Recycling Department Contract Labor line item and to send \$22,800 to the Recycling Department Land line item. Second and Third Reading. Gilbert P. Reyna, Jr.

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, and Mayor Middleton
NAYS: None

Caption:

AN ORDINANCE AMENDING THE 2003-2004 FISCAL YEAR BUDGET OF THE CITY OF VICTORIA (1) BY TRANSFERRING \$555,000 FROM THE CITY OF VICTORIA GENERAL FUND FUND BALANCE TO SEND \$527,000 TO THE STREET DEPARTMENT STREET & ROADWAY MAINTENANCE LINE ITEM AND TO SEND \$28,000 TO THE STREET DEPARTMENT MAINS & HYDRANTS LINE ITEM, (2) BY TRANSFERRING \$195,344.01 FROM THE WATER/WASTEWATER FUND FUND BALANCE TO SEND \$58,336.68 TO THE NON-DEPARTMENTAL PROFESSIONAL SERVICES LINE ITEM, TO SEND \$60,000 TO THE WASTEWATER DEPARTMENT MAINS & HYDRANTS LINE ITEM, TO SEND \$26,417.78 TO THE WATER PLANT DEPARTMENT PROFESSIONAL SERVICES LINE ITEM, AND TO SEND \$50,589.55 TO THE WATER PLANT DEPARTMENT BUILDING IMPROVEMENTS LINE ITEM, AND (3) BY TRANSFERRING \$59,210.62 FROM THE ENVIRONMENTAL SERVICES FUND FUND BALANCE TO SEND \$36,410.62 TO THE RECYCLING DEPARTMENT CONTRACT LABOR LINE ITEM AND TO SEND \$22,800 TO THE RECYCLING DEPARTMENT LAND LINE ITEM; REPEALING ALL CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY; AND DECLARING AN EFFECTIVE DATE.

ORDINANCE 2004-3 - REVIEWING AND RENEWING THE JUVENILE CURFEW SECTION OF THE VICTORIA CITY CODE

City Attorney, David A. Smith, read the caption of Ordinance 2004-3, which reviews and renews Chapter 15, Article III, "Juvenile Curfew", of the Victoria City Code and amends same to amend Section 15-33. Emergency Reading. Tim Braaten and Miles Risley.

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

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

CITY COUNCIL MINUTES

March 2, 2004

Caption:

AN ORDINANCE REVIEWING AND RENEWING CHAPTER 15, ARTICLE III, "JUVENILE CURFEW", OF THE VICTORIA CITY CODE AND AMENDING SAME TO AMEND SECTION 15-33 THEREOF; PROVIDING FOR SEVERABILITY; PROVIDING A PENALTY NOT TO EXCEED \$500.00 UPON CONVICTION, ENFORCEMENT, AND PUBLICATION; PROVIDING FOR CODIFICATION, REPEAL OF CONFLICTING PARTS OF ORDINANCES, AND SAVINGS; DECLARING AN EMERGENCY; AND DECLARING AN EFFECTIVE DATE.

ORDINANCE 2004-4 - CHANGES TO AEP TEXAS CENTRAL COMPANY'S ELECTRIC TRANSMISSION AND DISTRIBUTION RATES AND CHARGES WITHIN THE CITY

City Attorney, David A. Smith, read the caption of Ordinance 2004-4, which finds after reasonable notice and hearing, that AEP Texas Central Company's electric transmission and distribution rates and charges within the City should be changed; determines just and reasonable rates; adjusts street lighting charges; adopts recommendations of consultants; provides for recovery of rate case expenses; and preserves regulatory rights of the City. First Reading. David A. Smith.

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

Caption:

AN ORDINANCE OF THE CITY OF VICTORIA, TEXAS FINDING, AFTER REASONABLE NOTICE AND HEARING, THAT AEP TEXAS CENTRAL COMPANY'S ELECTRIC TRANSMISSION AND DISTRIBUTION RATES AND CHARGES WITHIN THE CITY SHOULD BE CHANGED; DETERMINING JUST AND REASONABLE RATES; ADJUSTING STREET LIGHTING CHARGES; ADOPTING RECOMMENDATIONS OF CONSULTANTS; PROVIDING FOR RECOVERY OF RATE CASE EXPENSES; PRESERVING REGULATORY RIGHTS OF THE CITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.

WORK SESSION

Mayor Middleton announced that Council would recess into the Work Session at 5:34 p.m.

Strategic Implementation Program (SIP) of the City of Victoria Comprehensive Plan

John Kaminski, Director of Planning, presented an updated general scoring sheet for the members of council and explained how each individual ranking related to the score column ranking to determine the top fifteen General CIP Projects. He pointed out that a running total of the cost of the projects was also included on the handout.

Bob Larsen, Facilitator, presented three scoring worksheets that would be used to continue through the process; the General CIP Projects, Utility CIP Projects, and Program Initiatives.

The top fifteen projects for the General CIP Projects as ranked by Council were as follows:

- | | |
|--|--|
| 1. John Stockbauer Reclaim and Overlay | 8. Glasgow Street Extension (to Salem Road) |
| 2. Lone Tree Reconstruction | 9. Downtown Intersection Improvement Project |
| 3. Youth Athletic Center | 10. Fire Department Administration Consolidation |
| 4. Laurent Street Reconstruction | 11. Guadalupe River Levee Repair |
| 5. West Outfall Phase II (Crestwood South) | 12. Berkman Drive Extension |
| 6. New Fire Station | |
| 7. West Outfall Phase IV (Blue Ridge Area) | |

CITY COUNCIL MINUTES

March 2, 2004

13. John Stockbauer Reconstruction
14. Community Center Arena Expansion Project

15. Multi-Purpose Arena

Dr. Larsen advised that some of the street projects should probably be combined with some of the utility projects, which could drive the priority of when a project was done. Members of Council agreed that any water or sewer lines under the streets should be addressed before any street work is done on any of the proposed projects.

The top twelve projects for the Utility CIP Projects as ranked by Council were as follows:

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|---|--|
| 1. Lone Tree Road Water and Sewer Line Replacement | 7. Parkwood (Woodlawn) Subdivision Utility Line Replacement |
| 2. Brownson Street Water Line Replacement | 8. Crestwood North and Blue Ridge Subdivision Utility Line Replacement |
| 3. Laurent Street Utility Line Replacement | 9. College Heights Subdivision Utility Line Replacement |
| 4. King Subdivision Utility Line Replacement Project | 10. Boxwood Subdivision Utility Line Replacement |
| 5. Red River Heights II Utility Line Replacement | 11. Magruder Lift Station Rehabilitation Project |
| 6. Crestwood Subdivision South Utility Line Replacement | 12. Plant 4 Water Transmission Line Project |

The top thirteen projects for the Program Initiatives as ranked by Council were as follows:

- | | |
|---|--|
| 1. Downtown Revitalization | 8. Water-Wastewater Treatment Capacity |
| 2. Neighborhood Protection | 9. Guadalupe River Levee Maintenance |
| 3. Sidewalk/ROW maintenance | 10. Police – Traffic Enforcement |
| 4. GIS Mapping of Easements | 11. Trail System Master Plan |
| 5. Drainage | 12. Navarro Street Congestion |
| 6. Police Protection, Crime Prevention | 13. Public Information |
| 7. Increase Funding for Subdivision Streets | |

Following lengthy discussion Council indicated that the Lone Tree, Laurent, Navarro, and West Outfall projects should be looked at in two or more phases. Staff indicated that some areas were in more serious need of water and sewer line replacement, and those sections would be recommended first. Council wished to wait on further discussion concerning the Youth Complex until some of the other entities has been approached about joint funding.

In the discussion over a new fire station the cost estimates only include the building facility and one fire truck. No staffing was included, however, the addition of nine or ten additional employees would increase the general operating budget by \$300,000 to \$400,000. Council requested more information on the proposed new fire station, such as proposed location, building type and ongoing cost estimates before continuing discussion. More information was also requested on the proposed fire department administration consolidation.

There was discussion about the extensions of Glasgow Street and Berkman Drive, with Mr. Kaminski advising that the Glasgow route was already identified in the Master Thoroughfare Plan and the right-of-way would be preserved. There was some question whether the need for the extension of Glasgow fell within the five-year plan. Discussion of Berkman Drive extension indicated that this project would be very expensive because the full box structure would have to be extended and all power, water, and sewer lines would have to be moved.

Council suggested addressing the Guadalupe River repairs a quarter of a mile at a time, and could be achieved over several years instead of one big project. It was suggested that there may be grant monies available for this type of project.

The John Stockbauer Reconstruction Project involves the portion between Business 59 and U.S. 59, which would be a major street for access to the new Industrial Park. It was suggested that this project may need to be ranked higher because of its deteriorated state.

It was concluded during the discussion concerning the Community Center Expansion and Multi-Purpose Arena that more funding possibilities were desired. When asked if a grant could be

CITY COUNCIL MINUTES

March 2, 2004

considered for a Multi-Purpose Arena, Mr. Cochran indicated that it had not been a high priority of the Parks Master Plan. He stated that because it was not a high priority, it probably would not garner many points if it were included in an application for a Parks and Wildlife grant.

The Council then reconvened in regular session at 7:19 p.m.

EXECUTIVE SESSION

Mayor Middleton announced that Council would recess into Executive Session at 7:20 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, but not limited to, legal issues surrounding electric rate cases, effect of U.S. Circuit Court of Appeal's position concerning provision similar to City ordinance, and existing litigation involving West Outfall Drainage Project). 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, proposed lease of property in Riverside Park and acquisition of property for West Outfall Drainage Project adjacent to Navarro Street). David A. Smith.

The Council reconvened in regular session at 8:30 p.m. and considered the following:

RESOLUTION 2004-28R - AUTHORIZING ACQUISITION OF PROPERTY FOR THE WEST OUTFALL DRAINAGE PROJECT

The resolution authorizes the City Manager to execute all documents necessary to acquire property for West Outfall Drainage Project adjacent to Navarro Street. 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 Guittard, Neitsch, Buckert, Wyatt, and Mayor Middleton
NAYS: None

Cm. Russell left the meeting prior to Executive Session.

There being no further business, the meeting was adjourned at 8:31 p.m.

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

ATTEST: 
SCARLET SWOBODA, City Secretary
