

CITY COUNCIL MINUTES  
September 14, 2004

**EXECUTIVE SESSION**


Mayor Armstrong announced that Council would recess into Executive Session at 5:12 p.m., in accordance with:

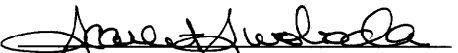
Section 551.071, Texas Government Code, consultation with attorney on matter involving litigation or potential litigation in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act (including, but not limited to, legal considerations surrounding the acquisition of water rights and property and/or easements for all or part of approximately 11.776 acres at or near Hanselman Road or at or near Tract 1 of Farm Lot 4, Block 2, Range 6, East Above Town and the acquisition of property for the Hathaway Street expansion). 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, legal considerations surrounding the acquisition of water rights and property and/or easements for all or part of approximately 11.776 acres at or near Hanselman Road or at or near Tract 1 of Farm Lot 4, Block 2, Range 6, East Above Town and the acquisition of property for the Hathaway Street expansion). David A. Smith.

The Council reconvened in regular session at 6:40 p.m. and had nothing to report.

There being no further business, the meeting was adjourned at 6:41 p.m.

APPROVED:   
WILL ARMSTRONG, Mayor of the City of  
Victoria, Texas

ATTEST:   
SCARLET SWOBODA, City Secretary

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VICTORIA CITY COUNCIL  
September 21, 2004

**CALL TO ORDER**

A regular meeting of the Victoria City Council was called to order by Mayor Will Armstrong at 5:01 p.m. Tuesday, September 21, 2004 in the Council Chambers, 107 W. Juan Linn, Victoria, Texas. The pledge of allegiance was said, and all citizens were welcomed.

**MEMBERS PRESENT**

Will Armstrong, Mayor  
Lewis Neitsch  
Bill Russell  
Shirley Buckert  
Jim Wyatt  
Tom Halepaska

**MEMBERS ABSENT**

Phillip Guittard

**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  
Lynn Short, Director, Utilities  
Steve Trevino, Director, IMS  
Gilbert P. Reyna, Jr., Director, Finance  
Jerry James, Director, Environmental Services  
Wendi DuVall, Deputy City Secretary

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APPROVAL OF MINUTES

The minutes of the special meeting of August 24, 2004, the special meeting of August 31, 2004 and the regular meeting of September 7, 2004 were approved as presented.

CITIZENS COMMUNICATION

No one wished to address council.

PUBLIC HEARINGS

Mayor Armstrong opened a public hearing on the following items:

**ORDINANCE 2004-14 – AUTHORIZING THE TENTH AMENDMENT TO THE REGIONAL SOLID WASTE SANITARY LANDFILL OPERATIONS SERVICES CONTRACT WITH BROWNING-FERRIS, INC.**

The ordinance considers authorizing the City Manager to execute the Tenth Amendment to the Regional Solid Waste Sanitary Landfill Operations Services Contract between the City of Victoria and Browning-Ferris, Inc., which amendment provides for the adjustment of landfill operations services rates; amending Section 24-142 of the Victoria City Code to amend fees for landfill disposal services. First Reading. Jerry James.

Jerry James, Director of Environmental Services advised that the landfill rate adjustments were requested by Browning-Ferris, Inc. to bring the fees up to the consumer price index and the adjustment is a requirement of the city's contract.

Tom Willis, 108 Greenway, expressed support for the rate adjustment, and thanked Council for the way the system was set up so that a rate increase must be brought before Council and justified.

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

**ORDINANCE 2004-14 – AUTHORIZING THE TENTH AMENDMENT TO THE REGIONAL SOLID WASTE SANITARY LANDFILL OPERATIONS SERVICES CONTRACT WITH BROWNING-FERRIS, INC.**

Assistant City Attorney, Miles Risley, read the caption of Ordinance 2004-14, which authorizes the Tenth Amendment to the Regional Solid Waste Sanitary Landfill Operations Services Contract between the City of Victoria and Browning-Ferris, Inc., the amendment provides for the adjustment of landfill operations services rates; amending Section 24-142 of the Victoria City Code to amend fees for landfill disposal services. First Reading. Jerry James.

Cm. Wyatt 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, Halepaska, and Mayor  
Armstrong  
NAYS: None

Caption:

**AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE THE TENTH AMENDMENT TO THE REGIONAL SOLID WASTE SANITARY LANDFILL OPERATIONS SERVICES CONTRACT BETWEEN THE CITY OF VICTORIA AND BROWNING-FERRIS, INC., WHICH AMENDMENT PROVIDES FOR THE ADJUSTMENT OF LANDFILL OPERATIONS SERVICES RATES; AMENDING SECTION 24-142 OF THE VICTORIA CITY CODE TO AMEND FEES FOR LANDFILL DISPOSAL SERVICES; REPEALING CONFLICTING PARTS OF ORDINANCES;**

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**PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION  
AND SAVINGS; AND DECLARING AN EFFECTIVE DATE.****ORDINANCE 2004-13 - AMENDING ARTICLE XIII, "SIGNS" OF CHAPTER 5 OF THE  
VICTORIA CITY CODE**

Assistant City Attorney, Miles Risley, read the caption of Ordinance 2004-13, which amends Article XIII, "Signs" of Chapter 5 of the Victoria City Code to amend various sign regulations. First Reading. John Kaminski.

It was suggested to add language that would allow temporary signage at a location where a free standing sign was permitted to be installed. The banner could remain until such time as the new sign was erected. Also temporary signs could be used over or in place of a damaged signs until the new sign was erected.

Cm. Russell indicated he would like to see an amendment to section 5-158d in regards to provisions to clean painted signs. He indicated he would like to add to subsection d-2, failing to keep the exposed surfaces of the sign or any supporting poles or supporting structures and make it not only applicable to the sign, but to the structures. Then add a subsection d-4, which would make it unlawful to allow a sign or any pole or supporting structure to have rust visible from a public right-of-way. Council advised they would like to see the above changes made to the proposed ordinance and presented to them at the next meeting.

Cm. Russell also indicated that he would like Council to bring inflatables and balloons up for discussion again and reconsider prohibiting them.

Cm. Wyatt 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, Halepaska, and Mayor  
Armstrong

NAYS: None

Caption:

**AN ORDINANCE AMENDING ARTICLE XIII, "SIGNS" OF CHAPTER 5 OF  
THE VICTORIA CITY CODE TO AMEND VARIOUS SIGN  
REGULATIONS, REPEALING CONFLICTING ORDINANCES,  
PROVIDING FOR SEVERABILITY, PROVIDING A SAVINGS CLAUSE,  
PROVIDING FOR CODIFICATION AND SAVINGS, PROVIDING FOR  
ENFORCEMENT AND A PENALTY NOT TO EXCEED \$500.00 UPON  
CONVICTION, PROVIDING FOR PUBLICATION, AND DECLARING AN  
EFFECTIVE DATE.**

**CITY MANAGER REPORTS**

Reports on possible bond refunding opportunities by Bob Henderson, City Financial Advisor, were postponed until the next meeting.

**RESOLUTION 2004-153R - AWARDING THE 2003-2004 SANITARY SEWER LINE  
CLEANING PROJECT TO UTILITY AND ENVIRONMENTAL SERVICES, INC.**

The resolution awards the 2003-2004 Sanitary Sewer Line Cleaning Project to Utility and Environmental Services, Inc. of Dallas, Texas, in the amount of \$41,385. Lynn Short.

**RESOLUTION 2004-154R - AWARDING THE 2003-2004 LARGE METER  
REPLACEMENT PROJECT TO FALCON LEASE OPERATING COMPANY**

The resolution awards the 2003-2004 Large Meter Replacement Project to Falcon Lease Operating Company of Victoria, Texas in the amount of \$167,080. Lynn Short.

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**RESOLUTION 2004-155R – AWARDING THE 2003-2004 STAYTON STREET AND WHEELER STREET SANITARY SEWER REPLACEMENT PROJECT TO SAENZ UTILITY CONTRACTORS, LTD.**

The resolution awards the 2003-2004 Stayton Street and Wheeler Street Sanitary Sewer Replacement Project to Saenz Utility Contractors, Ltd. of Weslaco, Texas in the amount of \$134,951. Lynn Short.

**RESOLUTION 2004-160R – AMENDING THE AGREEMENT WITH THE COMMUNITY ACTION COMMITTEE (CAC) FOR THE CDBG OWNER-OCCUPIED HOME REHABILITATION PROGRAM TO EXTEND THE TERMINATION DATE**

The resolution amends the Programmatic Agreement between the Community Action Committee (CAC) and the City of Victoria for administration of the Community Development Block Grant (CDBG) Owner-Occupied Home Rehabilitation Program, which extended the termination date of the Agreement from September 17, 2004 to November 26, 2004. John Kaminski.

**RESOLUTION 2004-161R – AUTHORIZING AMENDMENT NUMBER ONE TO THE ADVANCED FUNDING AGREEMENT WITH TXDOT**

The resolution authorizes the City Manager to execute Amendment One to the Advance Funding Agreement with the Texas Department of Transportation (TxDot) executed on June 6, 2001 to change the geographic limits of the project. John Kaminski.

**RESOLUTION 2004-162R – AWARDING THE BID FOR A 2005 REGENERATIVE AIR STREET SWEEPER TO KINLOCH EQUIPMENT AND SUPPLY, INC.**

The resolution awards a bid for the purchase of (1) one Year Model 2005 Regenerative Air Street Sweeper to Kinloch Equipment and Supply, Inc. of Pasadena, Texas, in the amount of \$117,320, plus optional fiberglass liner and hand hose hydraulic control in the amount of \$2,540, minus trade-in allowance of \$8,500 for a 1995 Ford L7000 Cab & Chassis with a Tymco Year Model 1998 Model 600 Regenerative Air Sweeper, for a total cost of \$111,360, (2) awards a bid for the purchase of one Year Model 2005 Heavy Duty Bucket Truck to Versalift SW of Waco, Texas, in the amount of \$112,130, and (3) awards a bid for the purchase of one Year Model 2005 33,000 pound Cab and Chassis to Gulf International Trucks of Victoria, Texas, in the amount of \$43,973.08. Steve Trevino.

**RESOLUTION 2004-163R – AUTHORIZING THE ELEVENTH AMENDMENT TO THE CONTAINERIZED COMMERCIAL SOLID WASTE COLLECTION AND DISPOSAL SERVICE CONTRACT WITH WASTE MANAGEMENT OF TEXAS TO INCREASE FEES**

The resolution authorizes the City Manager to execute the Eleventh Amendment to the Containerized Commercial Solid Waste Collection and Disposal Services Contract between the City of Victoria and Waste Management of Texas, Inc., to allow increased fees for commercial solid waste collection services. Jerry James.

**RESOLUTION 2004-164R – AWARDING BIDS FOR THE DEMOLITION OF 16 UNSAFE BUILDINGS TO ALLSTATE SERVICES D/B/A A&R DEMOLITION AND STEVE WILLIAMS**

The resolution authorizes contracts for a total amount of \$43,950 for the demolition of substandard buildings in the amount of \$24,600 to Allstate Services dba A&R Demolition of Del Valle, Texas and \$19,350 to Steve Williams of Victoria, Texas. Jerry James.

**RESOLUTION 2004-165R – AUTHORIZING THE AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT WITH ASSOCIATED ENGINEERS & SURVEYORS FOR THE LONE TREE CREEK DRAINAGE IMPROVEMENT PROJECT**

The resolution amends to the Professional Services Contract with Associated Engineers & Surveyors of Victoria, Texas, for the design and construction of the Lone Tree Creek Drainage

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Improvement Project, to increase the scope of the project and increase the amount by \$91,000. John Johnston.

**RESOLUTION 2004-166R – AUTHORIZING THE PURCHASE OF PROPERTY AND/OR EASEMENTS FOR THE HIGHWAY 59 BUSINESS UTILITIES ACCESS PROJECT**

The resolution authorizes the City Manager to execute offers and contracts for the purchase of property and/or easements for the Highway 59 Business Utilities Access Project, from the Texas Mexican Railway Company and the heirs and recipients of property from the Estate of Marie Craig Mahon, in the amount of \$4,435, authorizes the acquisition of interests from other owners of said properties, and authorizes the acceptance of deeds and other documents granting interests in the aforementioned properties. Miles Risley.

**RESOLUTION 2004-167R – AUTHORIZING THE PURCHASE OF 11.776 ACRES OF FARMLAND FROM DAN COLEMAN**

The resolution authorizes the City Manager to execute all necessary documents to purchase all of Block 2, Range 6, East Above Town, Tract 1, Farm-Lot 1 and Tract 1, Farm-Lot 4, to the City of Victoria, Victoria County, Texas and containing 11.776 acres more or less from Dan Coleman of Victoria County, Texas. Miles Risley.

Cm. Wyatt moved that resolutions 2004-153R through 2004-155R and resolutions 2004-160R through 2004-167R be adopted, with Cm. Buckert seconding the motion. The resolutions were adopted by the following vote:

AYES: Council Members Neitsch, Russell, Buckert, Wyatt, Halepaska, and Mayor  
Armstrong  
NAYS: None

**RESOLUTION 2004-156R – NOMINATING A CANDIDATE FOR APPOINTMENT TO THE VICTORIA COUNTY APPRAISAL DISTRICT BOARD OF DIRECTORS**

The resolution nominates Vincent Harris as a candidate for appointment to the Victoria County Appraisal District Board of Directors. Wendi DuVall.

Cm. Neitsch 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, Halepaska, and Mayor  
Armstrong  
NAYS: None

**RESOLUTION 2004-157R – APPOINTING A MEMBER TO THE CULTURAL COUNCIL**

The resolution re-appoints Don Truman to the Cultural Council. Wendi DuVall.

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 Neitsch, Russell, Buckert, Wyatt, Halepaska, and Mayor  
Armstrong  
NAYS: None

**RESOLUTION 2004-158R – APPOINTING MEMBERS TO THE VICTORIA PARKS AND RECREATION COMMISSION**

The resolution re-appoints Tom Kolle and Marvin O'Neill and appoints Roger De La Garza to the Victoria Parks and Recreation Commission. Wendi DuVall.

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

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AYES: Council Members Neitsch, Russell, Buckert, Wyatt, Halepaska, and Mayor  
Armstrong  
NAYS: None

**RESOLUTION 2004-159R – APPOINTING ONE MEMBER TO THE VICTORIA PUBLIC  
LIBRARY ADVISORY BOARD**

The resolution appoints Gloria Espitia to the Victoria Public Library Advisory Board. Wendi DuVall.

Cm. Russell 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, Halepaska, and Mayor  
Armstrong  
NAYS: None

**ORDINANCE 2004-2005 - APPROVING AND ADOPTING A BUDGET FOR THE CITY OF  
VICTORIA FOR FISCAL YEAR 2004-2005**

Assistant City Attorney, Miles Risley, read the caption of Ordinance 2004-2005, which approves and adopts a budget for operating the municipal government of the City of Victoria for the Fiscal Year beginning October 1, 2004, and ending on September 30, 2005; appropriates money for the various funds and purposes of such budget including appropriations of money to pay interest and principal sinking fund requirements on all indebtedness. Third Reading. Gilbert P. Reyna, Jr.

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

AYES: Council Members Neitsch, Russell, Buckert, Wyatt, Halepaska, and Mayor  
Armstrong  
NAYS: None

Caption:

**AN ORDINANCE APPROVING AND ADOPTING A BUDGET FOR OPERATING THE MUNICIPAL GOVERNMENT OF THE CITY OF VICTORIA FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2004, AND ENDING ON SEPTEMBER 30, 2005; APPROPRIATING MONEY FOR THE VARIOUS FUNDS AND PURPOSES OF SUCH BUDGET INCLUDING APPROPRIATIONS OF MONEY TO PAY INTEREST AND PRINCIPAL SINKING FUND REQUIREMENTS ON ALL INDEBTEDNESS; REPEALING ALL CONFLICTING ORDINANCES AND APPROPRIATIONS; PROVIDING FOR SEVERABILITY; AND DECLARING AN EFFECTIVE DATE.**

**ORDINANCE 2004-12 – SETTING THE TAX RATE FOR 2004 TAX YEAR AT \$0.69 PER  
\$100 OF PROPERTY VALUATION**

Assistant City Attorney, Miles Risley, read the caption of Ordinance 2004-12, which sets the Tax Rate at a total rate of \$0.69 per \$100 of property valuation and levy's a tax upon all property subject to taxation within the City of Victoria, Texas for the 2004 Tax Year for the use and support of Municipal Government of the City of Victoria, provides for the assessment and collection of taxes, apportions said levy among the various funds and items for which revenue must be raised including providing a sinking fund for the retirement of the bonded debt of the city, provides for penalties and interest for delinquent taxes as prescribed by the Texas Tax Code. 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:

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AYES: Council Members Neitsch, Russell, Buckert, Wyatt, Halepaska, and Mayor  
Armstrong

NAYS: None

Caption:

**AN ORDINANCE SETTING THE TAX RATE AT A TOTAL RATE OF \$0.69 PER \$100 OF PROPERTY VALUATION AND LEVYING A TAX UPON ALL PROPERTY SUBJECT TO TAXATION WITHIN THE CITY OF VICTORIA, TEXAS FOR THE 2004 TAX YEAR FOR THE USE AND SUPPORT OF MUNICIPAL GOVERNMENT OF THE CITY OF VICTORIA, PROVIDING FOR THE ASSESSMENT AND COLLECTION OF TAXES, APPORTIONING SAID LEVY AMONG THE VARIOUS FUNDS AND ITEMS FOR WHICH REVENUE MUST BE RAISED INCLUDING PROVIDING A SINKING FUND FOR THE RETIREMENT OF THE BONDED DEBT OF THE CITY, PROVIDING FOR PENALTIES AND INTEREST FOR DELINQUENT TAXES AS PRESCRIBED BY THE TEXAS TAX CODE, REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND DECLARING AN EFFECTIVE DATE.**

**ORDINANCE 2004-11 - AMENDING SECTIONS 24-121 AND 24-122 OF THE VICTORIA CITY CODE TO CHANGE WATER AND SEWER FEES**

Assistant City Attorney, Miles Risley, read the caption of Ordinance 2004-11, which amends Sections 24-121 and 24-122 of the Victoria City Code to change water and sewer fees therein. Third Reading. Lynn Short.

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

AYES: Council Members Neitsch, Russell, Buckert, Wyatt, Halepaska, and Mayor  
Armstrong

NAYS: None

Caption:

**AN ORDINANCE AMENDING SECTIONS 24-121 AND 24-122 OF THE VICTORIA CITY CODE TO CHANGE WATER AND SEWER FEES THEREIN; REPEALING PARTS OF CONFLICTING ORDINANCES; PROVIDING FOR CODIFICATION AND SAVINGS; PROVIDING FOR SEVERABILITY; AND DECLARING AN EFFECTIVE DATE.**

**EXECUTIVE SESSION**

Mayor Armstrong announced that Council would recess into Executive Session at 5:58 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, potential condemnation of easements across Texas Mexican Railway Company right-of-way next to U.S. Highway 59 and *Heyl v. City of Victoria*). 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, but not limited to, acquisition of easements across Texas Mexican Railway Company right-of-way next to U.S. Highway 59 and *Heyl v. City of Victoria*). Miles Risley.

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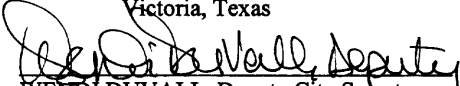
**September 21, 2004**

Section 551.074, Texas Government Code, with regard to personnel matters (including, without limitation, the appointment, employment, evaluation, and duties of the members of the Board of Directors of the Victoria County Appraisal District). Scarlet Swoboda.

The Council reconvened in regular session at 6:45 p.m. and had nothing to report.

There being no further business, the meeting was adjourned at 6:46 p.m.

APPROVED:   
WILL ARMSTRONG, Mayor of the City of  
Victoria, Texas

ATTEST:   
WENDI DUVALL, Deputy City Secretary

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