

VICTORIA CITY COUNCIL
November 2, 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, November 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

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

STAFF PRESENT

Denny Arnold, City Manager
Charles Windwehen, Assistant City Manager
David A. Smith, City Attorney
Miles Risley, Senior Assistant City Attorney
John Kaminski, Director, Planning
Rick Henrichs, Director, I.T.
Gilbert Reyna, Jr., Finance Director
Scarlet Swoboda, City Secretary

APPROVAL OF MINUTES

The minutes of the regular meeting of September 19, 2004 were approved as presented.

CITIZENS COMMUNICATION

Mayor Armstrong presented a proclamation to D'Cater Joseph, as David A. Smith, City Attorney, read the proclamation declaring November 15, 2004 "Texas Recycles Day."

ITEMS FROM COUNCIL

There were no requests to place an item on a future agenda.

PUBLIC HEARINGS

Mayor Armstrong opened a public hearing on the following items:

TWO PUBLIC HEARINGS FOR ANNEXATION OF HIGHLAND HILLS SUBDIVISION, SECTION III

Two Public Hearings for voluntary annexation of Highland Hills Subdivision, Section III, Phase I, Victoria, Victoria County, Texas currently owned by Robert L. Denison, Jr. and Associated Service Plan. John Kaminski and Miles Risley.

David A. Smith, City Attorney, advised that there are strict time schedules that have to be followed if two separate public hearings are held and State law requires two public hearings for an annexation. Mr. Smith further explained that with the Council meeting the first and third Tuesdays of the month, it is difficult to get the time to fit properly. He stated that it is not only more convenient, but more likely that there is a valid annexation if both hearings are done on the same night. This is a voluntary annexation of undeveloped land and no one would be forcefully annexed.

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

RESOLUTION 2004-184R – AUTHORIZING ZOOLOGICAL PARK MANAGEMENT SERVICES AGREEMENT, AND HOTEL/MOTEL TAX AGREEMENTS WITH THE CULTURAL COUNCIL, AND TEXAS SETTLEMENT TRAILS, INC.

The resolution authorizes (1) a Zoological Park Management Services Agreement with the South Texas Zoological Society, Inc., in the amount of \$135,000, (2) a Hotel-Motel Tax Revenue Arts Promotion Services Agreement with the Cultural Council of Victoria, Inc., in the amount of \$98,137, (3) a Hotel Occupancy Tax Revenue Agreement with the Texas Settlement Trails Inc., for Historical Renovation and Preservation, in the amount of \$8,000, and (4) a Hotel/Motel Occupancy

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Tax Revenue Tourism/Convention Promotion Services Agreement with the Victoria Chamber of Commerce to operate its Convention and Visitor's Bureau, in the amount of \$183,100, and approves the budget and funded activities for the aforementioned entities for the 2004-2005 fiscal year. Gilbert P. Reyna, Jr.

Cm. Russell moved to amend the resolution to delete subsection number four (4) having to do with the Victoria Chamber of Commerce Convention and Visitor's Bureau, until a revised agreement is submitted to the City, with Cm. Guittard seconding the motion. The resolution was amended by the following vote:

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

NAYS: None

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

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

NAYS: None

RESOLUTION 2004-182R – APPROVING THE VICTORIA SALES TAX DEVELOPMENT CORPORATION PROGRAMS AND EXPENDITURES FOR FISCAL YEAR 2004-2005

The resolution approves the Victoria Sales Tax Development Corporation programs and expenditures for Fiscal Year 2004-2005. Charles Windwehen.

Cm. Buckert moved to amend the resolution to increase the Victoria Economic Development Corporation's funding from \$198,000 to \$208,000, which would also change the unallocated funds from \$664,300 to \$654,300, with Cm. Russell seconding the motion. The resolution was amended by the following vote:

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

NAYS: None

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

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

NAYS: None

RESOLUTION 2004-185R – AUTHORIZING THE PURCHASE OF COMPUTERS AND RELATED EQUIPMENT THROUGH THE TEXAS DEPARTMENT OF INFORMATION RESOURCES (DIR)

The resolution authorizes the purchase of computers, computer software, computer peripheral equipment, and phones through the Texas Department of Information Resources (DIR) in the amount not to exceed \$296,575. Rick Henrichs.

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, Halepaska, and Mayor Armstrong

NAYS: None

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ORDINANCE 2004-13 - AMENDING ARTICLE XIII, "SIGNS" OF CHAPTER 5 OF THE VICTORIA CITY CODE

City Attorney, David Smith, 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. Third Reading. Miles Risley.

Reverend Donald Thorp, 603 Pennsylvania Avenue, expressed concerns with the sign ordinance and the use of banners as it would affect local churches. He advised his church as well as other churches put up banners to promote various activities. He requested that Council allow churches to display banners on church property without a permit fee.

Cm. Russell move to amend the ordinance in Section 5-156 to add the following subsection:
(i) Banners allowed at churches, schools, and hospitals. In addition to all banners otherwise allowed by law and by this ordinance, churches, schools, and hospitals may display one banner on property owned or leased by the church, school, or hospital, which banner shall be an exception to this ordinance and not require a permit, so long as the banner in question would not exceed 60 days duration. The motion died for lack of a second.

Cm. Russell moved to amend the ordinance in Section 5-156 to add the following subsection:
(i) Banners allowed at churches, schools, and hospitals. That provides for an exclusion as to one banner for a church, school, or hospital, with Cm. Buckert seconding the motion. The motion to amend failed by the following vote:

AYES: Council Members Buckert and Russell,

NAYS: Council Member Guittard, Neitsch, Wyatt, Halepaska, and Mayor Armstrong

Cm. Buckert moved to amend Section 5-152(a)(2) "Banners and Flags" to add; churches, schools, and hospitals are exempt from this section, with Cm. Russell seconding the motion. The motion to amend failed by the following vote:

AYES: Council Members Buckert, Russell, and Mayor Armstrong

NAYS: Council Member Guittard, Neitsch, Wyatt, and Halepaska

The majority of Council expressed the desire for consistency in the application and enforcement of the sign ordinance, whether it is a business, church, or non-profit organization. They advised that the ordinance allows for variance requests.

Cm. Russell moved to amend the ordinance to incorporate the green sections of the ordinance as presented, with Cm. Wyatt seconding the motion. The ordinance was amended by the following vote:

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

NAYS: Council Member Buckert

Cm. Guittard moved that the ordinance pass on third reading, with Cm. Russell seconding the motion. The ordinance passed, as amended, on third reading by the following vote:

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

NAYS: Council Member Buckert

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

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CONVICTION, PROVIDING FOR PUBLICATION, AND DECLARING AN EFFECTIVE DATE.

ORDINANCE 2004-16 – DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF APPROXIMATELY 1.095 ACRES OF PROPERTY

City Attorney, David A. Smith, read the caption of Ordinance 2004-16, which declares a public necessity for the acquisition of property rights in tracts of land under and across a total of approximately 1.095 acres in the James Reed Survey, Abstract 286, and in the J. Pointevent Survey No.3. Abstract 280, Victoria County, Texas, for the public purposes of providing underground utility access and public access to areas annexed by the City of Victoria. Second and Third Reading. Miles Risley.

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, Halepaska, and Mayor Armstrong

NAYS: None

Caption:

AN ORDINANCE DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF PROPERTY RIGHTS IN TRACTS OF LAND UNDER AND ACROSS A TOTAL OF APPROXIMATELY 1.095 ACRES IN THE JAMES REED SURVEY, ABSTRACT 286, AND IN THE J. POINTEVENT SURVEY NO. 3. ABSTRACT 280, VICTORIA COUNTY, TEXAS, FOR THE PUBLIC PURPOSES OF PROVIDING UNDERGROUND UTILITY ACCESS AND PUBLIC ACCESS TO AREAS ANNEXED BY THE CITY OF VICTORIA, AUTHORIZING ALL APPROPRIATE ACTION OF THE CITY OF VICTORIA IN THE INSTITUTION AND PROSECUTION OF CONDEMNATION PROCEEDINGS TO ACQUIRE THIS NEEDED PROPERTY, AUTHORIZING THE CITY MANAGER TO EXECUTE OFFERS AND CONTRACTS FOR THE PURCHASE OF PROPERTY INTERESTS FROM THE OWNERS THEREOF, AUTHORIZING THE ACCEPTANCE OF DEEDS AND OTHER INSTRUMENTS, AUTHORIZING THE JOINDER OF ALL PERSONS WITH RIGHTS IN THE AFOREMENTIONED PROPERTY, AUTHORIZING ALL OTHER LAWFUL ACTION NECESSARY OR INCIDENTAL TO SUCH ACQUISITIONS OR EMINENT DOMAIN PROCEEDINGS TO SURVEY, TEST, SPECIFY, DEFINE AND SECURE THE NECESSARY PROPERTY RIGHTS, DECLARING THE SECTIONS OF THE ORDINANCE TO BE SEVERABLE ONE FROM THE OTHER IN THE EVENT ANY SECTION OF THIS ORDINANCE IS DETERMINED TO BE INVALID.

EXECUTIVE SESSION

Mayor Armstrong announced that Council would recess into Executive Session at 5:59 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 and other property rights in approximately 1.095 acres in the James Reed Survey, Abstract 286, and in the J. Pointevent Survey No.3, Abstract 280, in the West Outfall Drainage Project– Phase II area [part of West Outfall Drainage Ditch near Airline and Laurent], and in the Lone Tree Acres Subdivision Drainage Ditch Project area [Patrick Dowlen Survey, Abstract 156, next to the Lone Tree Acres Subdivision]). David A. Smith.

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Section 551.072, Texas Government Code, to deliberate the purchase, exchange, lease, or value of real property interests due to the fact that deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person (including, but not limited to, the value of 1202 E. Sabine and the acquisition of easements and other property rights in approximately 1.095 acres in the James Reed Survey, Abstract 286, the J. Pointevent Survey No.3, Abstract 280, in the West Outfall Drainage Project- Phase II area [part of West Outfall Drainage Ditch near Airline and Laurent], and in the Lone Tree Acres Subdivision Drainage Ditch Project area [Patrick Dowlen Survey, Abstract 156, next to the Lone Tree Acres Subdivision]). David A. Smith.

The Council reconvened in regular session at 6:25 p.m. and had nothing to report.

There being no further business, the meeting was adjourned at 6:26 p.m.

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

ATTEST: Scarlet Swoboda
SCARLET SWOBODA, City Secretary
