

**CITY COUNCIL MINUTES
November 2, 2004**

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

**VICTORIA CITY COUNCIL
November 16, 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 16, 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
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
Charmelle Garrett, Director, Human Resources
Ray Miller, Assistant Planning Director
Andrew Jacob, Assistant Finance Director
Doug Cochran, Director, Parks and Recreation
Jerry James, Director, Environmental Services
Scarlet Swoboda, City Secretary

MEMBERS ABSENT

Philip Guittard
Bill Russell

APPROVAL OF MINUTES

The minutes of the regular meeting of November 2, 2004 were approved as presented.

CITIZENS COMMUNICATION

HEB Donation

Gus Kroos, Unit Director of H-E-B, advised that it was the 100 year anniversary of the H-E-B Company. He stated that on behalf of Charles Butt and H-E-B a check for \$2,500 was being presented to the City of Victoria to assist in the renovation of the bandstand currently under construction on DeLeon Plaza.

Rigamonti Property

Cornelius Hoogendam, 938 Moss Spring Lane, Houston, Texas, expressed concerns about the City's intent to purchase one acre of family land, referred to as the Rigamonti Property for drainage improvements. He stated his opposition to the drainage plan, which he stated would threaten a 100 year old farm road, and suggested that there would be no need to purchase his property if the City had maintained the ditch all along.

Proclamation

David A. Smith, City Attorney, read a proclamation declaring November 16, 2004 "Victoria Chamber of Commerce Day."

ITEMS FROM COUNCIL

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

Cm. Wyatt thanked members of the City staff for interpreting the International Fire Code so that housing for Victoria's homeless could be addressed by the Interfaith Coalition.

Mayor Armstrong thanked Cm. Halepaska and David A. Smith, City Attorney, for attending a two day legal seminar in Austin concerning water law.

PUBLIC HEARINGS

Mayor Armstrong opened a public hearing on the following items:

ORDINANCE 2004-17 – AUTHORIZING THE ACQUISITION OF APPROXIMATELY 95,864 SQUARE FEET OF PROPERTY FOR DRAINAGE PURPOSES

The ordinance considers declaring a public necessity for the acquisition of property rights in tracts of land under and across a total of approximately 95,864 square feet in Block 5, Range 4, East Above Town in the Original Four League Grant to the Town of Victoria. Miles Risley.

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

ORDINANCE 2004-2005A – AMENDING THE 2004-2005 FISCAL YEAR BUDGET TO CARRY FORWARD OUTSTANDING ENCUMBRANCES

The ordinance considers amending the 2004-2005 Budget of the City of Victoria to carry forward encumbrances outstanding at September 30, 2004. Andrew Jacob.

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

CITY MANAGER REPORTS

Denny Arnold, City Manager, read a proclamation declaring November 17, 2004 "National GIS Day."

RESOLUTION 2004-186R – OPTING OUT OF THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) DURING THE 2005 CALENDAR YEAR

The resolution authorizes the City Manager to opt out of the Health Insurance Portability and Accountability Act (HIPAA) during calendar year 2005. Charmelle Garrett.

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

CITY COUNCIL MINUTES
November 16, 2004

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

RESOLUTION 2004-187R – AUTHORIZING DESIGNATION OF A REINVESTMENT ZONE AND TAX ABATEMENT AGREEMENT FROM FROST INSURANCE AGENCY, INC., AND SETTING A PUBLIC HEARING

The resolution authorizes designation of a Reinvestment Zone and a Tax Abatement Agreement from Frost Insurance Agency, Inc. and KDT Partnership, a Texas General Partnership of Kevin R. Krueger, Donice Axelson, and Tracy Krueger, and sets a public hearing for consideration of such application. Dale Fowler

Cm. Wyatt moved that the resolution be tabled until the next meeting, with Cm. Neitsch seconding the motion. The resolution was tabled by the following vote:

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

RESOLUTION 2004-188R – GRANTING VARIANCES TO VENDORS OPERATING AT THE VICTORIA REGIONAL MUSEUM ASSOCIATION FUNDRAISER IN DOWNTOWN VICTORIA

The resolution grants variances to Sections 14-52(a), 14-55(a), 14-56(a), 14-60, 20-20, 20-22 and 20-23 of the Victoria City Code, which govern the City's requirements for itinerant vendors, solicitors, and outdoor sales, nuisance, merchandise and peddlers, to persons operating at the Victoria Regional Museum Association Fundraiser-Downtown Victoria on December 10, 2004. Scarlet Swoboda.

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

RESOLUTION 2004-189R – APPROVING TAX RESALE OF PROPERTY AT 1620 E. SYCAMORE TO JUAN TOMAS GONZALEZ

The resolution approves the sale of tax resale property at 1620 E. Sycamore to Juan Tomas Gonzalez, in the amount of \$3,000. Chip Sutton.

RESOLUTION 2004-190R – APPROVING TAX RESALE OF PROPERTY AT 505 W. CONVENT TO TIRSO ALVAREZ

The resolution approves the sale of tax resale property at 505 W. Convent to Tirso Alvarez, in the amount of \$2,500. Chip Sutton.

RESOLUTION 2004-191R – APPROVING TAX RESALE OF PROPERTY ON SOUTH LAURENT TO WALKING BIRD, INC.

The resolution approves the sale of tax resale property on South Laurent (vacant lot) to Walking Bird, Inc., in the amount of \$1,000. Chip Sutton.

RESOLUTION 2004-192R – APPROVING TAX RESALE OF PROPERTY ON JEWETT DRIVE TO CANDELARIA FLORES

The resolution approves the sale of tax resale property on Jewett Drive (vacant lot) to Dimas and Candelaria Flores, in the amount of \$2,000. Chip Sutton.

RESOLUTION 2004-193R – APPROVING THE TAX RESALE OF PROPERTY AT 1102 SAN ANTONIO TO JEFFERY MOORE

The resolution approves the sale of tax resale property at 1102 San Antonio to Jeffery Moore, in the amount of \$7,000. Chip Sutton.

RESOLUTION 2004-194R – APPROVING THE TAX RESALE OF PROPERTY AT 801 MURRAY TO CEDRICK CUNNINGHAM

The resolution approves the sale of tax resale property at 801 Murray to Cedrick Cunningham, in the amount of \$750. Chip Sutton.

Cm. Wyatt moved that resolutions 2004-189R through 2004-194R be adopted, with Cm. Neitsch seconding the motion. The resolutions were adopted by the following vote:

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

RESOLUTION 2004-195R – GRANTING VARIANCES TO THE MINIMUM LOT SIZE REQUIREMENTS TO 2513 BENNETT ROAD OWNED BY DOSHIE M. FILLMORE

The resolution grants variances to Sections 21-82(a)(1) and 21-82(a)(2) of the Victoria City Code, which requires a minimum lot size of 6,000 square feet and a minimum lot width of 50 feet for a single-family residential lot, to Lot 1, Block 1, Fillmore Subdivision No. 2, located at 2513 Bennett Road, which is owned by Doshie M. Fillmore. Ray Miller.

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

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

RESOLUTION 2004-196R – AUTHORIZING AN AGREEMENT WITH HABITAT FOR HUMANITY FOR PROPERTIES LOCATED AT 2302 AND 2306 OZARK STREET

The resolution authorizes an agreement with Habitat for Humanity, Victoria, a Texas nonprofit corporation, to grant real properties located at 2302 and 2306 Ozark Street (that were obtained with CDBG funds) to Habitat in exchange for Habitat's agreement to construct at least three single-family housing units thereon and transfer said units to heads of low-income households in accordance with the regulations of the U.S. Department of Housing and Urban Development. Ray Miller.

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

ORDINANCE 2004-17 - AUTHORIZING THE ACQUISITION OF APPROXIMATELY 95,864 SQUARE FEET OF PROPERTY FOR DRAINAGE PURPOSES

City Attorney, David A. Smith, read the caption of Ordinance 2004-17, which declares a public necessity for the acquisition of property rights in tracts of land under and across a total of approximately 95,864 square feet in Block 5, Range 4, East Above Town in the Original Four League Grant to the Town of Victoria, for the public purposes of providing permanent subsurface drainage to the area and temporary access for construction of drainage structures therein. The ordinance authorizes all appropriate action of the City of Victoria in the institution and prosecution of condemnation proceedings to acquire the needed property, authorizes the City Manager to execute offers and contracts for the purchase of property interests from the owners, authorizes the acceptance of deeds and other instruments, authorizes the joinder of all persons with rights in the

CITY COUNCIL MINUTES

November 16, 2004

aforementioned property, authorizes 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, and declares 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. First Reading. Miles Risley.

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, 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 95,864 SQUARE FEET IN BLOCK 5, RANGE 4, EAST ABOVE TOWN IN THE ORIGINAL FOUR LEAGUE GRANT TO THE TOWN OF VICTORIA, FOR THE PUBLIC PURPOSES OF PROVIDING PERMANENT SUBSURFACE DRAINAGE TO THE AREA AND TEMPORARY ACCESS FOR CONSTRUCTION OF DRAINAGE STRUCTURES THEREIN, 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, AND DECLARING AN EFFECTIVE DATE.

ORDINANCE 2004-2005A - AMENDING THE 2004-2005 FISCAL YEAR BUDGET TO CARRY FORWARD OUTSTANDING ENCUMBRANCES

City Attorney, David A. Smith, read the caption of Ordinance 2004-2005A, which amends the 2004-2005 Fiscal Year Budget of the City of Victoria to provide for the funding of certain encumbrances outstanding at the end of the previous fiscal year. Emergency Reading. Gilbert P. Reyna, Jr.

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

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

Caption:

AN ORDINANCE AMENDING THE 2004-2005 FISCAL YEAR BUDGET OF THE CITY OF VICTORIA TO PROVIDE FOR THE FUNDING OF CERTAIN ENCUMBRANCES OUTSTANDING AT THE END OF THE PREVIOUS FISCAL YEAR; DECLARING AN EMERGENCY; AND DECLARING AN EFFECTIVE DATE.

WORK SESSION

Mayor Armstrong announced that Council would recess into a Work Session at 5:50 p.m.

The following items were discussed:

Update on Mowing, Building Demolition, and Weedy Lot Liens

Doug Cochran, Director of Parks and Recreation, and Jerry James, Director of Environmental Services presented information showing the number of properties mowed in October and the estimated costs that were billed to the property owners. They presented a flow chart that showed the process from the time of a complaint until it was resolved, and a map of the locations mowed by City crews and contractors. They explained that properties were mowed based on complaints as well as the normal enforcement process. Mr. Cochran advised that the herbicide program started in October seemed to be doing a good job so far.

Modified Insurance Requirements for City Contracts

Miles Risley, Senior Assistant City Attorney presented proposed changes to the City's insurance requirements for contractors as requested by the Environmental Services and Parks and Recreation Departments.

1. Eliminating the workers compensation insurance requirement for contractors who are not engaged in construction contracts of less than \$100,000.
2. Eliminating the requirement for motor vehicle liability insurance in excess of State – required limits for contractors who merely use their motor vehicles to transport themselves and their equipment to worksites.
3. Eliminating the requirement for umbrella coverage for contracts less than \$100,000.
4. Eliminating the stated requirement for non-workers' comp-covered construction employees to obtain employer's general liability insurance.
5. Reducing the notification of insurance change requirements from 30 days to 10 days for non-construction contracts of less than \$100,000 and construction contracts of less than \$25,000.

It was the consensus of Council to eliminate all of the above, with the exception of number one, which requires workers compensation for contractors. A resolution would be presented and brought back to Council at a future meeting for formal action.

Police Officer Program

Richard Jones, Chief of Police, advised that as part of his effort to have more officers patrolling the streets he has reallocated five officers from the Community Service Unit, Housing Authority, and Crime Stoppers in the morning and afternoon hours in the school zones and for backup calls. He further advised that the new budget approved five new patrol officers, one investigator and one warrant officer in Municipal Court. The warrant officer position and the investigator position were filled from the patrol division, so he was currently trying to hire seven patrol officers. Also, with recent retirements and attrition, there are thirteen officers to hire. He reported that in an effort to fill the vacancies the department has been actively recruiting at the police academies and universities.

Brush Site Composting

Jerry James, Director of Environmental Services, advised that the City has looked at composting for a number of years, but part of the problem has been whether it would be cost effective. There are companies that have moved into Texas and approached the City about a public-private partnership to do composting. The private company would manage the site, do all the permitting on the site, produce and market the product, make a profit on the product, and return a royalty back to the City. Mr. James was given approval from Council to go out for proposals to evaluate the feasibility of this type of project.

CITY COUNCIL MINUTES

November 16, 2004

Mr. James also advised that three companies were interested in methane recovery at the City landfill. He indicated that this could also be a financial benefit to the City, and requested going out for proposals. The Council agreed.

Coleman Property Low Income Housing Initiative

Ray Miller, Assistant Planning Director, presented a brief update on the status of Low Income Housing Initiative. He advised that the approximate 12 acres had been purchased, the Planning Staff had completed the environmental review, public notices have been published, and meetings have been held with Urban Engineering and the Builders Association. He reminded Council that the funds being used on this project are Community Development Block Grant (CDBG) funds.

The Work Session was adjourned and the Council reconvened in regular session at 7:06 p.m.

EXECUTIVE SESSION

Mayor Armstrong announced that Council would recess into Executive Session at 7:07 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 the West Outfall Drainage Project– Phase II area [part of West Outfall Drainage Ditch near Airline and Laurent], and legal aspects of West Outfall Drainage Project permitting issues). Miles Risley.

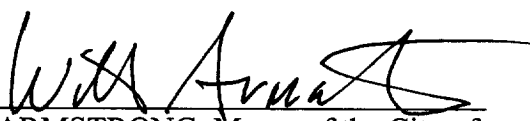
Section 551.072, Texas Government Code, to deliberate the purchase, exchange, lease, or value of real property interests due to the fact that deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person (including, but not limited to, the acquisition of easements and other property rights in the West Outfall Drainage Project– Phase II area [part of West Outfall Drainage Ditch near Airline and Laurent] and adjacent to the City of Victoria’s Regional Solid Waste Disposal Facility [landfill]). Miles Risley.


Section 551.074, Texas Government Code, with regard to personnel matters (including, without limitation, the appointment, employment, evaluation, and duties of the directors of the Victoria Housing Finance Corporation, the members of the Chamber of Commerce Convention and Visitors Bureau, and the directors of the Victoria Sales Tax Development Corporation). Scarlet Swoboda.

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.

The Council reconvened in regular session at 8:30 p.m. and had nothing to report.

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

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

ATTEST: 
SCARLET SWOBODA, City Secretary