

VICTORIA CITY COUNCIL
December 7, 2004

CALL TO ORDER

A regular meeting of the Victoria City Council was called to order by Mayor Will Armstrong at 5:00 p.m. Tuesday, December 7, 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 Rislely, Senior Assistant City Attorney
 Vance Riley, Director, Fire and EMS
 Ray Miller, Assistant Director, Planning
 John Johnston, Director, Public Works
 Scarlet Swoboda, City Secretary

APPROVAL OF MINUTES

The minutes of the regular meeting of November 16, 2004 were approved as presented.

CITIZENS COMMUNICATION

Flooding on Cypress and Cedar Streets

The following citizens addressed Council about the flooding that occurred in their neighborhood following a recent heavy rainfall: Donna Henderson, 3201 Cypress, Charles Zapata, 3105 N. Cedar, Michelle Perez, 3007 Cypress, Ruben Rodriguez, 3103 Cedar, Henry Postel, 3101 Cypress, Brian James, 3002 Cypress, Norma Valdarama, 3108 Cedar, Calvin McMullin, 3307 Cedar, and Malida Hernandez, 3004 Cypress.

The residents listed above expressed concerns with the drainage project that was scheduled for completion, but as yet was not finished in their neighborhood. There were also concerns about the flooding of their homes that occurred during recent rains, which the residents felt was a direct result of the incomplete drainage project. It was stated that the drains were covered with some sort of covering to keep debris out of the lines during construction, but that with all of the rain the water backed up, and flooded their homes. The Council was asked why the City engineer and staff were not aware that the contractor was not making any effort to finish the project. There were also concerns expressed about the inability to get anyone from the City to block off the streets from through traffic, which they felt contributed to additional water damage to their homes. Several residents inquired why it took so long to address the drainage problems in their neighborhood.

John Johnston, Director of Public Works, distributed information outlining the process of the drainage project. Mayor Armstrong advised that this type of project was bid with the lowest bidder usually getting the contract. He stated that it had been a very wet year, the ground was very saturated, and then there was a horrendous rain over a very short period of time. Unfortunately this neighborhood took the brunt, however, there were other people that had water in their houses too.

David A. Smith, City Attorney, advised that the project was supposed to be completed in 210 days, and stated that once the contractor takes over a project the City can not interfere. He advised that the 210 day timeline would have been completed 30 days ago, but in July a change order was approved, which added additional work to the contract. The allotted time period comes to an end at midnight tonight at which time an \$800 a day penalty would go into affect. It was explained to those in attendance that the City tries to protect its citizens by requiring the contractors to be bonded and have liability insurance, that way the City is protected and the contractor is responsible for any damages. Mr. Smith suggested that the residents contact the contractor and make their complaints known to the company, and let the company's insurance adjuster start dealing with the situation. The audience was told that if they wanted the address and phone number of the contractor's insurance company they could contact the City Legal Department.

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When the Council was asked why the drains were not uncovered to allow the water to drain, Mr. Smith explained that the Environmental Protective Agency requires the contractor to cover the drains when doing a project. The contractor was complying with federal law, and the City is not allowed to interfere with the contract.

Denny Arnold, City Manager, responded to the question of why it took so long to address the drainage problems in the neighborhood. He advised that this project was planned in 2000, and as to why nothing was done from 1991 to 2000 was a matter of prioritizing the funds available. He explained that there are a lot of street and drainage priority needs around town, and it takes a long time to spread the money out to plan and do the work on a project. He stated that there were lots of other streets that flooded, there were other homes that had water in them, which did not have construction work going on in their neighborhoods. Members of Council stated that they were aware of drainage needs in their neighborhood for a long time, which is why they had begun planning a number of years ago to address the problem. Unfortunately the rains came before the project was completed.

Mayor Armstrong requested that staff compile a list to identify the addresses of the homes that were flooded. Cm. Wyatt requested an updated report on the status of the various drainage projects planned or underway.

PUBLIC HEARINGS

Mayor Armstrong opened a public hearing on the following items:

RESOLUTION 2004-199R – AUTHORIZING THE ISSUANCE OF MEDICAL TRANSFER SERVICES PERMITS

The resolution considers issuing Medical Transfer Services permits to Coastal Transportation Services, Inc., d/b/a Coastal Medical Service of Texas, ALS Ambulance Services, Inc., d/b/a Regional Ambulance Service, Debra and Craig Le Blanc d/b/a Southerncross Ambulance, Inc., and Charles Sargent d/b/a Quality Ambulance Service. Scarlet Swoboda.

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

ORDINANCE 2004-18 – AUTHORIZING THE ANNEXATION OF APPROXIMATELY 10.7785 ACRES OF LAND AS REQUESTED BY ROBERT L. DENISON

The ordinance considers providing for the extension of certain boundary limits of the City of Victoria, Texas and the annexation of certain territory consisting of approximately 10.7785 acres of land, at the request of Robert L. Denison, Jr. Ray Miller.

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

RESOLUTION 2004-197R – AUTHORIZING EMERGENCY MEDICAL COURSES FOR FIRE DEPARTMENT MEMBERS AT VICTORIA COLLEGE

The resolution authorizes a Training Agreement with Victoria College for Emergency Medical Courses for members of the Victoria Fire Department, in the amount of \$24,860, plus \$37.50 per hour of additional instruction. Vance Riley.

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

RESOLUTION 2004-198R – AUTHORIZING THE SALE OF TWO USED POLICE CARS TO THE VICTORIA COUNTY SHERIFF’S OFFICE

The resolution was removed from the agenda.

RESOLUTION 2004-199R – AUTHORIZING ISSUANCE OF MEDICAL TRANSFER SERVICES PERMITS

The resolution authorizes the issuance of Medical Transfer Services permits to Coastal Transportation Services, Inc., d/b/a Coastal Medical Service of Texas, ALS Ambulance Services, Inc., d/b/a Regional Ambulance Service, Debra and Craig Le Blanc d/b/a Southerncross Ambulance, Inc., and Charles Sargent d/b/a Quality Ambulance Service. Scarlet Swoboda.

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

RESOLUTION 2004-200R – APPOINTING THREE COUNCIL MEMBERS TO THE VICTORIA HOUSING FINANCE CORPORATION

The resolution re-appoints Bill Russell, Philip Guittard, and Shirley Buckert to the Victoria Housing Finance Corporation. Scarlet Swoboda.

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

RESOLUTION 2004-203R – APPOINTING ONE MEMBER TO THE LIBRARY ADVISORY BOARD

The resolution appoints Larry Young to the Library Advisory Board. Scarlet Swoboda.

Cm. Guittard 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

RESOLUTION 2004-204R – APPOINTING TWO MEMBERS TO THE VICTORIA HOUSING AUTHORITY

The resolution re-appoints Bill Ruddock and Howard Goode to the Victoria Housing Authority. Scarlet Swoboda.

Cm. Guittard 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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RESOLUTION 2004-205R – GRANTING RIGHT OF WAY VARIANCES TO 1802 – 1806 VINE STREET, OWNED BY TREY AND CHRISTI PALL

The resolution grants variances to Sections 21-54(b)(2), 21-82(e)(5), and 21-82(e)(9) of the Victoria City Code, which require the dedication of the right-of-way necessary to bring a street into conformity with the Master Thoroughfare Plan, a minimum exterior side yard setback of 15 feet, and a minimum of four patio home lots within a patio home project, to the Linn Addition, Resubdivision No. 7, located at 1802-1806 Vine Street, which is owned by Trey and Christi Pall. Ray Miller.

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

RESOLUTION 2004-181R – APPROVING MODIFIED INSURANCE REQUIREMENTS FOR CITY CONTRACTS

The resolution approves modified insurance requirements for City contracts. Miles K. Risley.

Cm. Wyatt moved that the resolution be adopted, with Cm. Guittard 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

RESOLUTION 2004-206R – AUTHORIZING A CONTRACT FOR THE CITY'S HEALTH PLAN STOP-LOSS INSURANCE TO HCC LIFE INSURANCE COMPANY

The resolution authorizes the City Manager to award a contract for the City's Health Plan Stop-Loss Insurance to HCC Life Insurance Company of Kennesaw, Georgia, in the amount of \$16.65 per employee per month and \$49.93 per dependent family per month, in an estimated total amount of \$249,089, with a \$115,000 deductible. Charmelle Garrett

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

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 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. Second and Third Reading. Miles Risley.

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, 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 2004-18 – AUTHORIZING THE ANNEXATION OF APPROXIMATELY 10.7785 ACRES OF LAND AS REQUESTED BY ROBERT L. DENISON

City Attorney, David A. Smith, read the caption of Ordinance 2004-18, which authorizes the extension of certain boundary limits of the City of Victoria, Texas and the annexation of certain territory consisting of approximately 10.7785 acres of land, at the request of Robert L. Denison, Jr., and adopts a service plan for the territory to be annexed. First Reading. John Kaminski.

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

Caption:

AN ORDINANCE PROVIDING FOR THE EXTENSION OF CERTAIN BOUNDARY LIMITS OF THE CITY OF VICTORIA, TEXAS AND THE ANNEXATION OF CERTAIN TERRITORY CONSISTING OF APPROXIMATELY 10.7785 ACRES OF LAND, AT THE REQUEST OF THE ROBERT L. DENISON, JR., ADOPTING A SERVICE PLAN FOR THE TERRITORY TO BE ANNEXED; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

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ITEMS FROM COUNCIL

Cm. Buckert moved to cancel the regular Council meeting scheduled for December 21, 2004, with Cm. Guittard seconding the motion. The motion to cancel the meeting was passed by the following vote:

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

NAYS: None

EXECUTIVE SESSION

Mayor Armstrong announced that Council would recess into Executive Session at 6:15 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, *Heyl Construction, Ltd. vs. City of Victoria*). David A. Smith.

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 Victoria Housing Finance Corporation, Victoria Sales Tax Development Corporation, Planning Commission, and the Victoria Housing Authority). 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.

Cm. Buckert left the meeting before Council reconvened.

The Council reconvened in regular session at 7:10 p.m. and considered the following:

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 setting a public hearing for consideration of such application. Dale Fowler.

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

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

NAYS: None

RESOLUTION 2004-201R – APPOINTING THREE MEMBERS TO THE VICTORIA SALES TAX DEVELOPMENT CORPORATIONS BOARD OF DIRECTORS

The resolution appoints Bob Martin and re-appoints Philip Guittard, and Vincent Harris to the Board of Directors of the Victoria Sales Tax Development Corporation. Scarlet Swoboda.

Cm. Guittard 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, Wyatt, Halepaska, and Mayor Armstrong

NAYS: None

RESOLUTION 2004-202R – APPOINTING ONE MEMBER TO THE CITY OF VICTORIA PLANNING COMMISSION

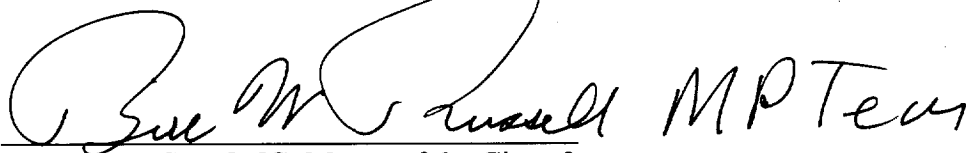
The resolution appoints Matt Alvarez to the City of Victoria Planning Commission. Scarlet Swoboda.

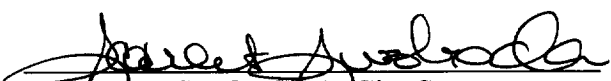
Cm. Halepaska moved that the resolution be adopted, with Cm. Russell seconding the motion. The resolution was adopted by the following vote:

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

NAYS: None

There being no further business, the meeting was adjourned at 7:17 p.m.

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

ATTEST: 
SCARLET SWOBODA, City Secretary
