

CITY COUNCIL MINUTES

February 15, 2005

RESOLUTION 2005-20R – APPROVING TAX ABATEMENT AGREEMENT WITH RODNEY A. MUTSCHLER AND ELDER DISTRIBUTING CO., INC.

The resolution approves the terms and conditions of a tax abatement agreement between the City of Victoria, Texas and Rodney A. Mutschler and Elder Distributing, Inc., provides for a commercial/industrial tax abatement for Lot 1, Block 1 of Coors Distributing Subdivision No. 1, for a period of four years, and authorizes execution of the agreement by the City Manager. Dale Fowler.

Cm. Wyatt moved to amend the resolution to read 43 full-time employees in paragraph 6 of the agreement, with Cm. Neitsch seconding the motion. The resolution was amended by the following vote:


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

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

There being no further business, the meeting was adjourned at 7:54 p.m.

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

ATTEST: 
SCARLET SWOBODA, City Secretary

**VICTORIA CITY COUNCIL
March 1, 2005**

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, March 1, 2005 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 Johnston, Director, Public Works
- Richard Jones, Chief of Police
- Doug Cochran, Director, Parks and Recreation
- Lynn Short, Director, Utilities
- Gilbert P. Reyna, Jr., Director, Finance
- Scarlet Swoboda, City Secretary

APPROVAL OF MINUTES

The minutes of the regular meeting of February 15, 2005 were approved as presented.

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March 1, 2005**CITIZENS COMMUNICATION****Smoking Ban Ordinance**

The following individuals expressed opposition to a proposed smoking ban in restaurants and bars:

Lloyd Hurst, 1 Circle Lane, Owner of the Scoreboard Sports Bar
Richard Caputo, 5203 Lilac
Dave Avery Bernard, 1908-A Lawndale
Scott McHaney, 207 W. Power
Karen Dodge, 210 Tracy, Co-owner of Dodge City Night Club
Art Alvarado 1703 E. Morningside
Fred Krebs, 106 Lancaster
Marilyn Keen, 807 W. Nueces
Robert Dillinger, 2907 Clinton Drive, Houston, TX, Operator of Cactus Canyon Night Club
Milton Neitsch, 401 Berkshire

Several of the individuals in opposition stated that it would be detrimental to their business if a smoking ban were adopted. Several stated that it should be up to the business to decide if a smoking ban would be imposed in their establishment, based on the desire of their customers. Some stated that government should not micro-manage businesses. Many of the bar owners advised that they already had enough regulations and did not need anymore.

The following individuals spoke in favor of a proposed smoking ban in restaurants and bars.

Lisa Campbell, 213 Woodlands Lane
Marvin Williamson, 114 Village Green
Taylor Starkey, 404 W. Guadalupe
Gerry McCaskill, 2603 E. Poplar
John Villafranca, 911 W, Constitution, Owner of the Westerner
Douglas Pittman, 240 Eddie St.
Sally Kuecker, 211 Wearden
Tom Willis, 108 Greenway
Tommy and Genevieve Bayer, 765 Moritz Lane

Most of the individuals stated that they understood the concerns of the restaurant and bar owners. One individual presented statistics that showed smoking bans had not affected businesses in other cities. Many expressed the health concerns that asthmatics and others with breathing problems must contend with when exposed to smoke. Further health concerns were expressed for children and individuals with low immune systems, also restaurant, and bar employees that were exposed to secondhand smoke for extended periods of time.

Cm. Buckert advised that she had been asked by many of her constituents to consider a smoking ban. She stated that she knew this topic had been addressed several years ago and was defeated. She expressed the hope that since that time the City had grown to understand that they need to take a stand, and take on the challenge of doing what is best for our citizens.

Mayor Armstrong advised that seven states have enacted no smoking ordinances; California, Connecticut, Delaware, Maine, Massachusetts, New York, and Rhode Island. According to an article he had read, New York restaurant businesses had not been hurt from a smoking ban. He expressed the hope that this would not be a big fight, there may be some hardships, but this may be an opportunity to be a model city. He then asked the Council if they would like to have a work session to discuss the issue further. It was the consensus of Council to hold a work session on March 8, 2005.

CITY MANAGER REPORTS**Update on Weedy Lots**

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Doug Cochran, Director of Parks and Recreation, distributed handouts and presented a power point program showing the 210 properties that had been mowed since October 1, 2004. Mr. Cochran advised that during the rainy periods the mowing staff had addressed 60-70% of the fire hydrants that were obscured by tall grass. Mr. Cochran further advised that the Herbicide Technician had covered approximately 80% of the city, and a marked suppression of tall grasses was observed along the roadways.

Jerry James, Director of Environmental Services, advised that as properties came into compliance, by filing liens or foreclosures, they could be taken off the rolls, enabling other properties to be addressed. He stated that the cycle was not going to go away, but it would get better over time. Mr. James advised that another environmental officer was hired and was currently going through open weedy lot cases back to 1984. He advised that old demolition buildings were also being worked on.

Miles Risley, Senior Assistant City Attorney, reported on the foreclosure process. He advised that more than 80% go into tax deficiency and get so severe into tax deficiency that a lawsuit is filed. He advised that the weedy tax liens have been turned over to the tax office and can now be combined with the tax foreclosure suits, and then turned into tax seizures. The hope is that within a year approximately 200 of the lots for tax seizure would be foreclosed on.

Speed Control on Country Club Drive

John Johnston, Director of Public Works, presented a handout that listed a number of traffic calming options that could be done on city streets. Denny Arnold, City Manager, advised that historically management and staff have been very opposed to speed bumps on streets. He advised that since the last meeting selective nighttime enforcement by police officers had been implemented. He stated that there were some minor things that could be done on the street, but anything placed permanently on the pavement across the street is not recommended to correct driver's bad habits.

Dr. James Dotter, 6022 Country Club Drive, presented signed handouts from residents that reside on Country Club Drive between Whispering Creek and Spring Creek. The question on the handout was whether those residents were in favor of a low-height hump/cushion installed across the width of the street in order to alert drivers to slow down. Dr. Dotter advised that this was a representation of a vast majority of residents living on this stretch of street that were in favor of something to slow traffic. He stated that this is a permanent situation and needs to be addressed with a permanent solution. He suggested using some type of raised reflectorized pavement markers.

Bob Coffey, 6019 Country Club Drive, stated that at one time there were speed bumps on this street and he supported something being done to slow down the traffic.

Mayor Armstrong asked Dr. Dotter how many and how frequently spaced did he envision the raised reflectorized pavement markers be placed to solve the problem? Dr. Dotter suggested determining the number and spacing that it would take to span the width of the street, and then every 700 feet or so along that stretch of street. He stated that he was asking for something permanent to be placed on this street, because this is a unique street and unique problem.

Denny Arnold, City Manager, responded that this problem was not unique to this street; there were many other streets in the city with the very same problem. He advised that as soon as something is done on this street other streets would want the same thing. Cm. Buckert agreed with Mr. Arnold that this was definitely not unique, she stated that she works all over the city and there are at least four main streets that have the same problem. She stated that this is a concern for safety not only for Country Club Drive, but all over the city.

Mayor Armstrong suggested considering this issue at the work session that will be held on March 8, 2005.

Gravel Streets

John Johnston, Director of Public Works, reported on the following streets that were still gravel: Bell Street, Herrod Avenue, Avenue A, Joshua Street, Caroline Street, Third Street.

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He advised that in 1994 there was almost 18,000 linear feet of gravel streets in the community. In 1998 it jumped to 20,988 linear feet, but in 2004 it had improved to 1,557 linear feet. Mr. Johnston advised that there has been some question as to whether the above mentioned streets are owned by the city. He explained that most of the subdivision plats were done in the 1930's and 1940' and filed as deeds. He advised that these subdivisions were not platted in the plat records, and do not appear to be acknowledged by the signature of the city engineer of that time. It is a strong possibility that these subdivisions were filed at the county without going through the city process.

Council instructed Mr. Johnston to determine whether the streets were ever deeded to the city and if not, to take them off the street inventory and discontinue maintenance.

Windcrest Subdivision Paving

John Johnston, Director of Public Works, advised that in response to Council concerns with the deteriorated condition of the entrance to the Windcrest Subdivision, paving of that entrance way be included in the 2004-05 Reclaim Overlay Projects list. He also reported that the Victoria Public Library driveway would be included as well.

RESOLUTION 2005-26R – AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH VICTORIA ENGINEERING, INC. D/B/A URBAN ENGINEERING FOR THE BROWNSON STREET WATERLINE REPLACEMENT PROJECT

The resolution authorizes a Professional Services Agreement with Victoria Engineering, Inc., d/b/a Urban Engineering to design, bid, and administer the Brownson Street Waterline Replacement Project in the amount of \$36,000, and execute a Professional Services Agreement with Urban Surveying, Inc., to prepare a topographic survey along Brownson Street in the design of the Brownson Street Waterline Replacement Project, in the amount of \$18,500. Lynn Short.

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 2005-27R – AUTHORIZING A ONE-YEAR INTERLOCAL AGREEMENT WITH GOLDEN CRESCENT REGIONAL PLANNING COMMISSION FOR E-911 SERVICE

The resolution authorizes a one-year Interlocal Agreement with the Golden Crescent Regional Planning Commission for E-911 Service. Richard Jones.

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 2005-28R – ENDORSING LEGISLATIVE CHANGES TO SENATE BILL 7

The resolution endorses certain legislative changes to Senate Bill 7 supported by South Texas Aggregation Project, Inc. David A. Smith.

The resolution was postponed due to technical difficulties.

ORDINANCE 2004-2005B – AMENDING 2004-2005 FISCAL YEAR BUDGET TO TRANSFER FUNDS FROM STREET DEPARTMENT STREETS AND ROADWAYS TO DEVELOPER PARTICIPATION CONTRACTS

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City Attorney, David A. Smith, read the caption of Ordinance 2004-2005B, which amends the 2004-2005 Fiscal Year Budget of the City of Victoria by transferring \$101,116.47 from the General Fund fund balance to the Street Department Streets & Roadways line item for the Fiscal Year 2004-2005 developer participation contracts. Second and Third Reading. Gilbert P. Reyna, Jr.

Cm. Wyatt moved that the ordinance pass on second and third reading, with Cm. Buckert 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 AMENDING THE 2004-2005 FISCAL YEAR BUDGET OF THE CITY OF VICTORIA BY TRANSFERRING \$101,116.47 FROM THE GENERAL FUND FUND BALANCE TO THE STREET DEPARTMENT STREETS & ROADWAYS LINE ITEM FOR THE FISCAL YEAR 2004-2005 DEVELOPER PARTICIPATION CONTRACTS; REPEALING ALL CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY; AND DECLARING AN EFFECTIVE DATE.

ORDINANCE 2005-5 – AUTHORIZING DEVELOPER PARTICIPATION CONTRACT WITH DENISON CONSTRUCTION

City Attorney, David A. Smith, read the caption of Ordinance 2005-5, which authorizes the City Manager to execute a Developer Participation Contract between the City of Victoria and Robert L. Denison, Jr., d/b/a Denison Construction for funding part of the Developer's Cost of Complying with the City's Adopted Street Standards in the Development of Phase I of Highland Hills Subdivision, Section III, in an amount not to exceed \$79,296.87 payable to said developer. Second and Third Reading. John Johnston.

Cm. Buckert moved that the ordinance pass on second and third reading, with Cm. Guittard 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 AUTHORIZING THE CITY MANAGER TO EXECUTE A DEVELOPER PARTICIPATION CONTRACT BETWEEN THE CITY OF VICTORIA AND ROBERT L. DENISON, JR., D/B/A DENISON CONSTRUCTION FOR FUNDING PART OF THE DEVELOPER'S COST OF COMPLYING WITH THE CITY'S ADOPTED STREET STANDARDS IN THE DEVELOPMENT OF PHASE I OF HIGHLAND HILLS SUBDIVISION, SECTION III, IN AN AMOUNT NOT TO EXCEED \$79,296.87 PAYABLE TO SAID DEVELOPER; AND DECLARING AN EFFECTIVE DATE.

EXECUTIVE SESSION

Mayor Armstrong announced that Council would recess into Executive Session at 7:39 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, lease of property around Church Street Landfill). 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, lease of property around Church Street Landfill). 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 Board of Health, Building Board of Adjustment and Appeals, Electrical Board of Adjustment and Appeals, Mechanical Board of Adjustment and Appeals and Plumbing Board of Adjustment and Appeals). Scarlet Swoboda.

The Council reconvened in regular session at 8:09 p.m. and had nothing to report.

There being no further business, the meeting was adjourned at 8:10 p.m.

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

ATTEST: 
SCARLET SWOBODA, City Secretary

**VICTORIA CITY COUNCIL
March 8, 2005**

CALL TO ORDER

A special meeting of the Victoria City Council was called to order by Mayor Will Armstrong at 5:01 p.m. Tuesday, March 8, 2005 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 Johnston, Director, Public Works
Scarlet Swoboda, City Secretary

RESOLUTION 2005-28R – ENDORSING LEGISLATIVE CHANGES TO SENATE BILL 7

The resolution endorses certain legislative changes to Senate Bill 7 supported by South Texas Aggregation Project, Inc., which is an effort to modify the electric deregulation legislation to improve competition and reduce costs to cities and their residents. David A. Smith.

David A. Smith, City Attorney, advised that the resolution asks Council to oppose Nodal pricing, until there is more generation and transmission. He advised that this proposed legislation is trying to get franchise fees to escalate automatically based upon a consumer price index, so as prices go up more local franchise fees can be collected. It is also attempting to go back to a federal regulation that does not allow any one utility to own more than 20% of a generation within an entire market. This proposal would also allow aggregation groups to be formed in smaller communities, where individuals themselves and not just the community could band together and bargain for cheaper electric prices.