

**CITY COUNCIL MINUTES
November 1, 2005**

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

ATTEST: Scarlet Swoboda
SCARLET SWOBODA, City Secretary

**VICTORIA CITY COUNCIL
November 15, 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, November 15, 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
John Kaminski, Director, Planning
Richard Jones, Chief of Police
Doug Cochran, Director, Parks and Recreation
Gilbert P. Reyna, Jr., Director, Finance
Scarlet Swoboda, City Secretary

APPROVAL OF MINUTES

The minutes of the regular meeting of November 1, 2005 were approved as presented.

CITIZENS COMMUNICATION

Smoking Ban

The following individuals spoke in favor of the ordinance to ban smoking in restaurants. It was the expression of most that they would like smoking banned in all public buildings eventually, but banning it in restaurants was a starting point and would benefit everyone.

Leon Gilner, M.D., 206 CreekrIDGE; Robert Harvey, M.D., 115 Creekside; Pauline Bowen, 6042 Country Club Drive; Richard Fritz, 104 Woodwind Drive; and Jennifer Harvey, 101 Turtle Rock, Chairperson of the Crossroads Progressive Women Organization.

The following individuals spoke in favor of a total smoking ban in all public businesses:

Stephen Hougen, FACS, 113 Masters Court, representing the Victoria County Medical Society; and Milton Neitsch, 401 Berkshire.

ORDINANCE 2005-22 – ADDING SECTION 10-69 TO THE CITY CODE TO PROHIBIT SMOKING IN RESTAURANTS

City Attorney, David A. Smith, read the caption of Ordinance 2005-22, which amends Article III, "Food Establishments", of the Victoria City Code to add Section 10-69 to prohibit smoking and require signage in restaurants other than bars. Third Reading. Cm. Philip Guittard.

Cm Russell moved to amend the ordinance as follows:

Section (a)

It shall be unlawful for any person to perform the following acts in *any public building in the City of Victoria or within twelve (12) feet of any entrance to any public building*:

- (1) smoke,
- (2) carry a lighted cigarette, cigar, or tobacco-containing pipe, or
- (3) light a cigarette, cigar, or tobacco-containing pipe.

Section (b) - Remains unchanged

Section (c)

It shall be unlawful for any owner or operator of any public building to place or allow to be placed any of the following items in any public building or within twelve (12) feet from an entrance to any public building:

- (1) ashtrays
- (2) smoking paraphernalia, or
- (3) signs that indicate that smoking is permitted.

Section (d)

In this ordinance, a public building is defined to mean any building other than a building used as a private residence. If portions of a building are used as a private residence and another portion of the building is used for business purposes or commercial activities, then "public building" as used herein shall apply to the portions of the building used for business purposes or commercial purposes, but not the portion used solely as a residence.

Cm. Neitsch seconded the motion. The motion to amend **failed** by the following vote:

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

Cm. Buckert moved to amend the ordinance by defining a "private club" in Section (e) of the ordinance; a "private club" is an establishment owned or operated by a voluntary association of members organized for a common object, at which establishment, service is limited to (a) members of that association who are obligated to pay a membership fee and (b) the guests of said members, with Cm. Wyatt seconding the motion. The ordinance was amended by the following vote:

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

Cm. Russell moved to postpone the ordinance until the next meeting so that there may be more discussion about whether there should be a full city ban, with Cm. Neitsch seconding the motion. The motion to postpone **failed** by the following vote:

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

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

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

Caption:

AN ORDINANCE AMENDING ARTICLE III, "FOOD ESTABLISHMENTS", OF THE VICTORIA CITY CODE TO ADD SECTION 10-69 TO PROHIBIT SMOKING AND REQUIRE SIGNAGE IN RESTAURANTS OTHER THAN BARS; PROVIDING FOR SEVERABILITY; PROVIDING FOR SAVINGS AND CODIFICATION; PROVIDING FOR A PENALTY AND PUBLICATION; AND DECLARING AN EFFECTIVE DATE.

CITY COUNCIL MINUTES
November 15, 2005**ITEMS FROM COUNCIL**

Cm. Russell requested that an ordinance for a city wide smoking ban be prepared and placed on the next City Council agenda.

PUBLIC HEARINGS

Mayor Armstrong opened a public hearing on the following items:

RESOLUTION 2005-180R – APPROVING THE TAX ABATEMENT WITH THE HANOVER COMPANY

The resolution considers a proposed tax abatement agreement with The Hanover Company, for a proposed 33,825 square foot shop and paint facility to be located at 8193 Lone Tree Road. Adrian Cannady.

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

ORDINANCE 2005-2006C – AMENDING THE 2005-2006 BUDGET OF THE CITY OF VICTORIA FOR ENCUMBRANCES OUTSTANDING AT SEPTEMBER 30, 2005

The ordinance considers amending the 2005-2006 Budget of the City of Victoria to authorize carrying forward encumbrances outstanding at September 30, 2005. Gilbert P. Reyna, Jr.

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

ORDINANCE 2005-24 – CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE JOINT SPECIAL ELECTION HELD ON NOVEMBER 8, 2005 TO ESTABLISH AD VALOREM TAX LIMITATION ON HOMESTEADS OF PERSONS WHO ARE DISABLED OR 65+ YEARS OF AGE

The ordinance considers canvassing the returns and declaring the results of the election to establish ad valorem tax limitation on homesteads of persons who are disabled or 65+ years of age. The results of the election showed 84% of the votes in favor of the proposition. Scarlet Swoboda.

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**Geographic Information Systems (GIS) Proclamation**

John Kaminski, Director of Planning, read a proclamation declaring November 16, 2005 “National GIS Day.”

2005 Street Inventory

John Johnston, Director of Public Works, distributed the 2005 Street Inventory and pointed out maps that showed the improvements of streets throughout the city. He announced that in 1994 there were 17,816 linear feet of gravel streets in the City, in 2000 there were 10,800 linear feet still with gravel and in 2005 there are zero feet of gravel streets.

CenterPoint Energy Update

David A. Smith, City Attorney, reported that on November 8, 2005 the Mayor was presented with a letter from CenterPoint Energy, which was the topic of discussion at the meeting. In the letter was a proposal that CenterPoint was making to the City of Victoria, which was the same proposal that was recently accepted by the City of Laredo. Their proposal was for the City to approve the rate

**CITY COUNCIL MINUTES
November 15, 2005**

increase as originally proposed and they would not come back and ask for a rate increase for five years. Mr. Smith advised that they are not allowed to increase their rates for five years anyway.

Mr. Smith stated that the letter gives the City absolutely nothing, and the rates are currently frozen and will remain frozen until there is either a settlement or a final determination by the Texas Railroad Commission because of the action of the City Council. The citizens within Victoria's jurisdiction will get the benefit of this freeze for at least a year regardless of the outcome of the case. He advised that CenterPoint Energy were trying to shift 84% of the cost to residential customers from their large commercial customers, which would be a significant shift in who would pay their rates. He asked the Council to bear in mind that their cost for natural gas are passed on to their customers without a profit markup. Secondly, what they are seeking in rate increases are not based on natural gas cost, but upon some other set of cost figures that they are proposing. Finally, whatever the City gets out of this along with Refugio, Goliad, and Mathis who have joined with Victoria will benefit in some measure all 65 cities in South Texas. The other cities will not get the benefit that the City voted, but they will get the benefit of any lower rates after this decision is made.

RESOLUTION 2005-180R – APPROVING THE PROPOSED TAX ABATEMENT WITH THE HANOVER COMPANY

The resolution approves the terms and conditions of a tax abatement agreement between the City of Victoria, Texas and Hanover Compressor Company, a Delaware corporation, provides for a commercial/industrial tax abatement for a proposed 33,825 square foot shop and paint facility to be located at 8193 Lone Tree Road, for a period of five years, and authorizes execution of the agreement by the City Manager. Miles 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 2005-181R – AUTHORIZING THE APPLICATION AND ACCEPTANCE OF A 2005 STATE HOMELAND SECURITY LAW ENFORCEMENT TERRORISM PREVENTION PROGRAM GRANT (LETPP)

The resolution authorizes all documents necessary to apply for and accept a 2005 State Homeland Security Law Enforcement Terrorism Prevention Program (LETPP) grant from the U.S. Department of Homeland Security and the Governor's Division of Emergency Management, in the amount of \$88,847. Richard Jones.

RESOLUTION 2005-182R – RENEWING THE CITY'S CONTRACT FOR POLICE UNIFORMS WITH LONE STAR UNIFORMS, INC.

The resolution renews the City's annual supply contract for Police Uniforms with Lone Star Uniforms, Inc., and authorizes changes to the contract in an estimated total amount of \$32,881.65 in the upcoming year. Richard Jones.

RESOLUTION 2005-183R – EXCLUDING THE CITY OF VICTORIA FROM THE OPTIONAL PROVISIONS OF THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT ("HIPAA")

The resolution authorizes the city administration to execute all necessary documents to exclude the City of Victoria from the optional provisions of the Health Insurance Portability and Accountability Act ("HIPAA"). Charmelle Garrett.

CITY COUNCIL MINUTES
November 15, 2005

RESOLUTION 2005-184R – AMENDING THE EMERGENCY MANAGEMENT PROGRAM COORDINATOR SERVICES AGREEMENT WITH VICTORIA COUNTY AND DAVID MARTYN

The resolution amends the Emergency Management Program Coordinator Services Agreement with Victoria County and David Martyn to increase compensation paid for emergency management coordinator services to \$42,000 per year. Gilbert P. Reyna, Jr.

RESOLUTION 2005-185R – RENEWING THE MAINTENANCE MOWING OF DRAINAGE DITCHES & OUTFALLS WITH GANT'S LAND MAINTENANCE

The resolution renews the City's contract for Maintenance Mowing of Drainage Ditches & Outfalls with George E. Gant d/b/a Gant's Land Maintenance in an estimated amount of \$76,104.28 for the upcoming year. Doug Cochran.

RESOLUTION 2005-186R – AUTHORIZING THE 2005-2006 RIGHT OF WAY TREE TRIMMING CONTRACT TO CUSTOM TREE TRIMMING & REMOVAL

The resolution authorizes a contract with Kenneth Eggemeyer, d/b/a Custom Tree Trimming & Removal, of Yoakum, Texas, for the Fiscal Year 2005-2006 Trimming of Trees in City Right of Way, in the amount of \$53,470. Doug Cochran.

RESOLUTION 2005-187R – AWARDING THE 2005-2006 HERBICIDING OF DRAINAGE DITCHES & OUTFALLS TO WEED PRO, L.L.C.

The resolution awards a contract for the 2005-2006 Herbiciding of Drainage Ditches & Outfalls with Weed Pro, L.L.C., of Swartz, Louisiana, in the amount of \$32,860. Doug Cochran.

Cm. Wyatt moved that resolutions 2005-181R, 2005-182R, 2005-183R, 2005-184R, 2005-185R, 2005-186R, and 2005-187R be adopted, with Cm. Buckert seconding the motion. The resolutions were adopted by the following vote:

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

ORDINANCE 2005-2006C – AMENDING THE 2005-2006 BUDGET OF THE CITY OF VICTORIA FOR ENCUMBRANCES OUTSTANDING AT SEPTEMBER 30, 2005

City Attorney, David A. Smith, read the caption of Ordinance 2005-2006C, which amends the 2005-2006 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. Wyatt moved that the ordinance pass on emergency reading; with Cm. Buckert seconding the motion. The ordinance passed on emergency reading by the following vote:

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

Caption:

AN ORDINANCE AMENDING THE 2005-2006 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.

CITY COUNCIL MINUTES

November 15, 2005

ORDINANCE 2005-24 – CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE JOINT SPECIAL ELECTION HELD ON NOVEMBER 8, 2005 TO ESTABLISH AD VALOREM TAX LIMITATION ON HOMESTEADS OF PERSONS WHO ARE DISABLED OR 65+ YEARS OF AGE

City Attorney, David A. Smith, read the caption of Ordinance 2005-24, which canvasses the returns and declares the results of a Joint Special Election of the City of Victoria, Victoria County, County of Victoria Junior College District, and Victoria County Groundwater District held on November 8, 2005 to establish ad valorem tax limitation on homesteads of persons who are disabled or 65+ years of age; approves said election and the results thereof, and delegates authority. Emergency Reading. Scarlet Swoboda.

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

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

NAYS: None

Caption:

AN ORDINANCE CANVASSING THE RETURNS AND DECLARING THE RESULTS OF A JOINT SPECIAL ELECTION OF THE CITY OF VICTORIA, VICTORIA COUNTY, COUNTY OF VICTORIA JUNIOR COLLEGE DISTRICT, AND VICTORIA COUNTY GROUNDWATER DISTRICT HELD ON NOVEMBER 8, 2005; APPROVING SAID ELECTION AND THE RESULTS THEREOF, DELEGATING AUTHORITY, DECLARING AN EMERGENCY, AND PROVIDING AN EFFECTIVE DATE.

EXECUTIVE SESSION

Mayor Armstrong announced that Council would recess into Executive Session at 6:11 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 (potential claims involving construction at/near intersection of Navarro Street and West Outfall). 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 Judge of the Municipal Court of the City of Victoria). David A. Smith.

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. David A. Smith.

The Council reconvened in regular session at 7:23 p.m. and considered the following:

RESOLUTION 2005-188R – APPOINTING A JUDGE OF THE MUNICIPAL COURT

The resolution reappoints Steven Kidder as the Judge of the Municipal Court of the City of Victoria. Scarlet Swoboda.

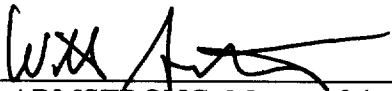
Cm. Guittard moved that the resolution be adopted, with Cm. Russell seconding the motion. The resolution was adopted by the following vote:


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

NAYS: None

CITY COUNCIL MINUTES
November 15, 2005

There being no further business, the meeting was adjourned at 7:24 p.m.

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

ATTEST: 
SCARLET SWOBODA, City Secretary
