

CITY COUNCIL MINUTES

October 16, 2007

(VEDC) were altogether. Mr. Mayfield proceeded to go over the goals highlighting the specific changes, deletions, and additions.

EXECUTIVE SESSION

Mayor Armstrong announced that Council would recess into Executive Session at 6:49 p.m., in accordance with:


Section 551.071, Texas Government Code, consultation with attorney on matter involving pending or contemplated litigation or other matter 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. Miles Risley.

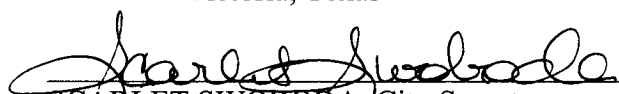
Section 551.072, Texas Government Code, to deliberate the purchase, exchange, lease, or value of real property interests due to the fact that deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third party. Miles Risley.

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. Miles Risley.

Section 551.074, Texas Government Code, with regard to personnel matters (including, but not limited to, appointment of a member to the Victoria County Appraisal District Board of Directors). Scarlet Swoboda.

The Council reconvened in regular session at 7:55 p.m. with no action taken and nothing to report. There being no further business, the meeting was adjourned.

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

ATTEST: 
 SCARLET SWOBODA, City Secretary

**VICTORIA CITY COUNCIL
 November 6, 2007**

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 6, 2007 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
 Paul Polasek
 David Hagan
 Tom Halepaska

MEMBERS ABSENT

Philip Guittard
 Jim Wyatt

STAFF PRESENT

Charles E. Windwehen, City Manager
 Charmelle Garrett, Deputy City Manager
 David A. Smith, City Attorney
 Miles Risley, Senior Assistant City Attorney
 John Johnston, Director, Engineering
 John Kaminski, Director, Planning
 Bruce Ure, Police Chief
 Vance Riley, Fire Chief
 Doug Cochran, Director, Parks and Recreation
 James Stewart, Director, Library

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OTHERS PRESENT

Dale Fowler, Executive Director,
Victoria Economic Development Corporation

Lynn Short, Director, Streets and Utilities
Gilbert P. Reyna, Jr., Director, Finance
Steve Trevino, Director, IMS
Jerry James, Director, Environmental Services
Andrew Jacob, Assistant Finance Director
Scarlet Swoboda, City Secretary

APPROVAL OF MINUTES

The minutes of the regular meeting of October 16, 2007 were approved as presented.

CITIZENS COMMUNICATION

No one wished to address Council.

ITEMS FROM COUNCIL

Mayor Armstrong recognized Boy Scout, Carlton Wauson, who was in attendance.

Mayor Armstrong requested City Attorney, David A. Smith to brief the Council on the special affidavit that the District Attorney was requesting the Police Department and Sheriff's Department to sign. Mayor Armstrong stated that Mr. Smith had advised the Police Department not to sign the affidavit because there were normal procedures that the Police Department already does and other counties do as well.

Mr. Smith reported that as of August there were many cases that the District Attorney had received from various law enforcement agencies, not just the Police Department, but various ones that he was turning back wholesale. The Police Department had 400 cases that were returned to the City in August, but the District Attorney had at least looked those over. What was happening now was that until the Police Department, Sheriff's Department, and Texas Alcoholic Beverage Commission (TABC) sign the affidavit, the District Attorney was not accepting any cases from any of the agencies. As of this morning there were approximately 72 cases that the Police Department was holding that the District Attorney would not even look at, one being a murder case.

Mr. Smith advised that the Sheriff's Office has a procedure that when someone is arrested and jailed, on most charges there is a set bond amount, so if someone is picked up for a particular offense they can look right at that chart and know what bond to set. As far as people who have enough money to get bonded out, they can get their bond and get out of jail that day, but there are about 20 people over there that do not have enough money to pay the stated bond, and have to stay in jail until their case is set on some docket. They presently have over 20 people sitting in jail, some of them for 30 to 37 days who are waiting for the District Attorney to look at their case and put them on a docket, so that they can go before a Judge and ask that their bail be reduced. That would ultimately be up to the Judge, but these are standard offenders, standard offenses for which people are routinely bonded out by someone comparing what they have been charged with to a standard list, but they just do not have enough money to get out. So, these 20 plus individuals are sitting in jail waiting for something to happen from the District Attorney's Office.

What is really going on, is the Sheriff's Department, the Police Department, and TABC are not signing the affidavit, and the reason is it far exceeds anything that the law has ever required of Texas Peace Officers or witnesses. Whether they are a witness on the stand, just off the street, or they are a peace officer who has sworn to uphold the law, or a peace officer who has sworn to give all the facts to the grand jury. Mr. Smith suggested that these affidavits are calculated to try to make the police officer or the sheriff's deputy, or whoever personally liable, even criminally liable if they omit one fact in the case. Mr. Smith stated that he could not authorize or recommend to the police to sign this affidavit.

Mr. Smith stated that the situation was bad and getting worse, the cases were piling up, they were not getting any prosecutions, and the District Attorney was not accepting any cases. As you know he still has not prosecuted the defiling of the synagogue, which occurred in June even though the Police Department brought him the people and their confessions. He has not prosecuted the Dudley School fire which also occurred in June, causing over half a million dollars worth to the

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taxpayers, and the Police Department brought him confessions in that case too. Mr. Smith stated that he did not know what the District Attorney was doing to carry out the duties of his office.

PUBLIC HEARINGS AND ACTION

Mayor Armstrong opened a public hearing on the following items:

ORDINANCE 2007-23 – APPROVING PARTICIPATION IN THE TEXAS ENTERPRISE ZONE PROGRAM AND NOMINATING STARTEK USA

The ordinance considers approving participation in the Texas Enterprise Zone Program; nominating StarTek USA, Inc. for Enterprise Project status. This allows VEDC as a designated liaison to submit an application to the State on the behalf of the City to designate this project as an enterprise zone project. If they are adopted by the State, it allows them to go back to the State and receive some refunds on State sales tax. Emergency Reading. Dale Fowler.

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

ORDINANCE 2007-23 – APPROVING PARTICIPATION IN THE TEXAS ENTERPRISE ZONE PROGRAM AND NOMINATING STARTEK USA

City Attorney, David A. Smith, read the caption of Ordinance 2007-23, which approves participation in the Texas Enterprise Zone Program; nominates StarTek USA, Inc. for Enterprise Project status, provides local incentives that may be provided for a nominated project or activity, designates a liaison for communication with interested parties, and provides an effective date. Emergency Reading. Dale Fowler.

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

Caption:

AN ORDINANCE OF THE CITY OF VICTORIA, TEXAS APPROVING PARTICIPATION IN THE TEXAS ENTERPRISE ZONE PROGRAM; NOMINATING STARTEK USA, INC. FOR ENTERPRISE PROJECT STATUS, PROVIDING LOCAL INCENTIVES THAT MAY BE PROVIDED FOR A NOMINATED PROJECT OR ACTIVITY, DESIGNATING A LIAISON FOR COMMUNICATION WITH INTERESTED PARTIES, AND PROVIDING AN EFFECTIVE DATE.

ORDINANCE 2007-24 – APPROVING THE APPLICATION FOR DESIGNATION OF A REINVESTMENT ZONE AND TAX ABATEMENT OF STARTEK USA, INC., DOLPHIN ASSOCIATES LIMITED PARTNERSHIP, AND WHISPER CAPITAL LLC

The ordinance considers the Application for Designation of a Reinvestment Zone and Tax Abatement of StarTek USA, Inc., Dolphin Associates Limited Partnership, and Whisper Capital, LLC and meets the criteria for designating a reinvestment zone; designates as a reinvestment zone real property and associated structures Tract 6 of Farm Lot 2, Block 3, Range 4, East Above Town in the Four League Grant to the town of Victoria, located at 1309 E. Red River, Victoria, Texas; establishes the boundaries thereof and other matters relating thereto; and determines that the City of Victoria intends to enter into an agreement for Tax Abatement with said entities. This is a substantial investment in a very old and run down facility at one time. Reconstruction is in progress now and the City can anticipate 500 new jobs in that facility over time. Emergency Reading. Dale Fowler.

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

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ORDINANCE 2007-24 – APPROVING THE APPLICATION FOR DESIGNATION OF A REINVESTMENT ZONE AND TAX ABATEMENT OF STARTEK USA, INC., DOLPHIN ASSOCIATES LIMITED PARTNERSHIP, AND WHISPER CAPITAL LLC

City Attorney, David A. Smith, read the caption of Ordinance 2007-24, which determines that the Application for Designation of a Reinvestment Zone and Tax Abatement of StarTek USA, Inc., Dolphin Associates Limited Partnership, and Whisper Capital, LLC meets the criteria for designating a reinvestment zone; designates as a reinvestment zone real property and associated structures Tract 6 of Farm Lot 2, Block 3, Range 4, East Above Town in the Four League Grant to the town of Victoria, located at 1309 E. Red River, Victoria, Texas; establishes the boundaries thereof and other matters relating thereto; and determines that the City of Victoria intends to enter into an agreement for Tax Abatement with said entities. Emergency Reading. Dale Fowler.

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

Caption:

AN ORDINANCE DETERMINING THAT THE APPLICATION FOR DESIGNATION OF A REINVESTMENT ZONE AND TAX ABATEMENT OF STARTEK USA, INC., DOLPHIN ASSOCIATES LIMITED PARTNERSHIP, AND WHISPER CAPITAL, LLC MEETS THE CRITERIA FOR DESIGNATING A REINVESTMENT ZONE; DESIGNATING AS A REINVESTMENT ZONE REAL PROPERTY AND ASSOCIATED STRUCTURES TRACT 6 OF FARM LOT 2, BLOCK 3, RANGE 4, EAST ABOVE TOWN IN THE FOUR LEAGUE GRANT TO THE TOWN OF VICTORIA, LOCATED AT 1309 E. RED RIVER, VICTORIA, TEXAS; ESTABLISHING THE BOUNDARIES THEREOF AND OTHER MATTERS RELATING THERETO; DETERMINING THAT THE CITY OF VICTORIA INTENDS TO ENTER INTO AN AGREEMENT FOR TAX ABATEMENT WITH SAID ENTITIES, ESTABLISHING REQUIREMENTS FOR SAID AGREEMENT, PROVIDING FOR SEVERABILITY, DECLARING AN EMERGENCY, AND DECLARING AN EFFECTIVE DATE.

ORDINANCE 2007-25 – APPROVING THE TAXATION OF GOODS-IN-TRANSIT

The ordinance considers approving the taxation of Goods-in-Transit that are otherwise exempted from taxation by Texas Tax Code § 11.253. This will deny the expanded Freeport tax exemption that was authorized by the Legislature this year. The reason staff is recommending denial of this expanded Freeport tax exemption is now that it is no longer limited to goods that are wholesaled for delivery out of state, it is open to gamesmanship that could occur by a regular retailer. First Reading. Miles Risley.

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

ORDINANCE 2007-25 – APPROVING THE TAXATION OF GOODS-IN-TRANSIT

City Attorney, David A. Smith, read the caption of Ordinance 2007-25, which approves the taxation of Goods-in-Transit that are otherwise exempted from taxation by Texas Tax Code § 11.253, and ordains other provisions related to the subject matter. First Reading. Miles Risley.

Cm. Halepaska moved that the ordinance pass on first reading, with Cm. Hagan seconding the motion. The ordinance passed on first reading by the following vote:

AYES: Council Members Neitsch, Polasek, Hagan, Halepaska, and Mayor Armstrong
 NAYS: None

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Caption:

AN ORDINANCE APPROVING THE TAXATION OF GOODS-IN-TRANSIT THAT ARE OTHERWISE EXEMPTED FROM TAXATION BY TEXAS TAX CODE § 11.253, ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF, REPEALING CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY, AND DECLARING AN EFFECTIVE DATE.

CITY MANAGER REPORTS

- **Sportsplex at Community Center.** Parks and Recreation Director, Doug Cochran reported on the status of Contract 1, which is the construction of the ball fields. The construction of the fields, irrigation, lighting, and fencing was 90% complete, with 80% of the concrete work around the ball fields complete. Contract 2, the concession and maintenance shop foundation was approximately 33% complete. Contract 3, the parking facilities have had 40,000 square feet of cement poured. Also, he has been working on a request for proposals to operate the concession facilities at the Youth Sports Complex and the Adult Softball Complex.
- **Lone Tree Road and Laurent Street Reconstruction Projects.** Director of Engineering, John Johnston reported that the work on Lone Tree Road continues and the section between Ben Jordan and North Street is almost complete. Storm drainage work is going on between Lova and Raab. The signed contracts were received for the section from U.S. 59 to Airline of the Laurent Street Phase I Project and a pre-construction meeting is planned in the next couple of weeks.
- **2007 Street Inventory.** Director of Engineering, John Johnston presented the entire Inventory book, which includes all the sections from previous reports. He pointed out Section 7 where graphs show and overall comparison of previous years. He advised that the inventory dropped a bit, which he attributed to the use of college interns in the past and this years use of drafting engineers from his office, with each group grading a little differently. Another explanation for the drop is the amount of money that our dollars can buy in construction costs. He also reported that a new section, the “pocket version” of worst and best of the inventory.
- **Geographic Information System (GIS) Proclamation.** Director of Planning, John Kaminski reported that the City has participated in GIS activities for a number of years. The intent is to promote geographic literacy in schools, to educate the public on the use of GIS and to make the citizens aware of the tools that are available in Victoria regarding GIS. Each year two schools are selected to take the program to them, the schools chosen this year are Chandler Elementary and Trinity Episcopal School. He introduced Adrian Canas and Jennifer Reyes the GIS staff. Mayor Armstrong presented a proclamation declaring November 14, 2007 “GIS Day.”
- **Widows Support Group of Victoria.** Public Information Officer, O.C. Garza recognized members of the group who were in attendance at the meeting.

RESOLUTION 2007-174R – AWARDING THE SKATEBOARD PARK DESIGN-BUILD PROJECT AT THE COMMUNITY CENTER TO SPA SKATEPARKS

The resolution awards Transcend, Inc., d/b/a SPA Skateparks of Austin, Texas, for the Skateboard Park Design-Build Project at the Community Center, and authorizing the City Manager to execute a design-build contract with said entity, in the amount of \$274,058. Doug Cochran.

Tom Wursthorn, 705 Gardenia, thanked Council for developing a skate park, advising that this had been an ongoing project for him for 15 years. This will be one of the finest skate complexes in the South Texas Crossroads area, and no one will be disappointed with this park. The group he is associated with will plan to keep it a safe and clean environment.

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

AYES: Council Members Neitsch, Polasek, Hagan, Halepaska, and Mayor Armstrong
 NAYS: None

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RESOLUTION 2007-175R – AUTHORIZING A TRAINING AGREEMENT WITH VICTORIA COLLEGE TO PROVIDE AN EMERGENCY MEDICAL SERVICES PROGRAM FOR FIRE DEPARTMENT

The resolution authorizes a Contract Training Agreement with Victoria College to provide an Emergency Medical Services Professions Program for members of the Victoria Fire Department, in the amount of \$24,250. Vance Riley.

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

AYES: Council Members Neitsch, Polasek, Hagan, Halepaska, and Mayor Armstrong

NAYS: None

RESOLUTION 2007-176R – AUTHORIZING THE 14TH AMENDMENT TO THE WASTE MANAGEMENT OF TEXAS, INC. CONTRACT

The resolution authorizes the 14th amendment to the contract between the City of Victoria and Waste Management of Texas, Inc. to modify the allowable fees for commercial solid waste services in the City of Victoria. Gilbert P. Reyna, Jr.

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

AYES: Council Members Neitsch, Polasek, Hagan, Halepaska, and Mayor Armstrong

NAYS: None

RESOLUTION 2007-177R – APPOINTING ONE MEMBER TO THE PARKS AND RECREATION COMMISSION

The resolution appoints Vic Caldwell to the Parks and Recreation Commission. Scarlet Swoboda.

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

AYES: Council Members Neitsch, Polasek, Hagan, Halepaska, and Mayor Armstrong

NAYS: None

RESOLUTION 2007-178R – APPOINTING ONE MEMBER TO THE CULTURAL COUNCIL

The resolution reappoints Adrian Cannady to the Cultural Council. Scarlet Swoboda.

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

AYES: Council Members Neitsch, Polasek, Hagan, Halepaska, and Mayor Armstrong

NAYS: None

RESOLUTION 2007-179R – APPOINTING ONE MEMBER TO THE VICTORIA LIBRARY ADVISORY BOARD

The resolution reappoints Gloria Espitia to the Victoria Library Advisory Board. Scarlet Swoboda.

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

AYES: Council Members Neitsch, Polasek, Hagan, Halepaska, and Mayor Armstrong

NAYS: None

RESOLUTION 2007-180R – GRANTING A VARIANCE TO THE SIGN SETBACK REQUIREMENTS AT 3801 N. NAVARRO ST. OWNED BY JOHN GORDON

The resolution grants a variance from Section 5-153(a)(5) of the Victoria City Code, which requires a minimum setback of 10 feet from the property line for on-premise signs, to a 5' x 10' monument sign to be located at 3801 N. Navarro St., which is owned by John Gordon. Steve Trevino.

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

AYES: Council Members Neitsch, Polasek, Hagan, Halepaska, and Mayor Armstrong

NAYS: None

RESOLUTION 2007-181R – AWARDING BID FOR THE VICTORIA PUBLIC LIBRARY 2007 REMODEL TO ROTH CONSTRUCTION, INC.

The resolution awards a bid for the Victoria Public Library 2007 Remodel – Electrical Items to Roth Construction, Inc. of Victoria, Texas, in the amount of \$145,450. James Stewart.

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

AYES: Council Members Neitsch, Polasek, Hagan, Halepaska, and Mayor Armstrong

NAYS: None

RESOLUTION 2007-182R – APPROVING THE VICTORIA SALES TAX DEVELOPMENT CORPORATION PROGRAMS AND EXPENDITURES FOR FISCAL YEAR 2007-2008

The resolution approves Victoria Sales Tax Development Corporation programs and expenditures for Fiscal Year 2007-2008. Andrew Jacob.

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

AYES: Council Members Neitsch, Polasek, Hagan, Halepaska, and Mayor Armstrong

NAYS: None

EXECUTIVE SESSION

Mayor Armstrong announced that Council would recess into Executive Session at 5:44 p.m., in accordance with:

Section 551.071, Texas Government Code, consultation with attorney on matter involving pending or contemplated litigation or other matter 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. David A. Smith.

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 party. 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.

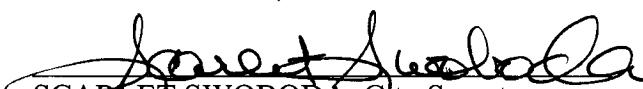
Section 551.074, Texas Government Code, with regard to personnel matters. Scarlet Swoboda.

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The Council reconvened in regular session at 7:00 p.m. with no action taken and nothing to report. There being no further business, the meeting was adjourned.

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

ATTEST: 
SCARLET SWOBODA, City Secretary
